

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
In the Court of Common Pleas

Dale Atkinson, Presiding Judge

Appellate Case No. 2020-000782

RECEIVED

Oct 26 2020

SC Court of Appeals

In the Matter of Estate of Herbert Franklin Dickson, Jr.

Milton Oakley Dickson, ... Appellant,

v.

Arthur B. Beasley, Jr., as Personal Representative

of the Estate of Herbert F. Dickson, Sr., ... Respondent.

RECORD ON APPEAL

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803-796-9160
Attorneys for Appellant

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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In the Court of Common Pleas

Dale Atkinson, Presiding Judge

Appellate Case No. 2020-000782

In the Matter of Estate of Herbert Franklin Dickson, Jr.
Milton Oakley Dickson, ... Appellant,

v.

Arthur B. Beasley, Jr., as Personal Representative
of the Estate of Herbert F. Dickson, Sr., ... Respondents,
.

RECORD ON APPEAL

s/S. Jahue Moore
S. Jahue Moore, SC Bar #4063
John C. Bradley, Jr., SC Bar #7869
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Attorneys for Appellant

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I certify that this designation contains no matter which is irrelevant to this appeal.

s/S. Jahue Moore
S. Jahue Moore, SC Bar #4063
John C. Bradley, Jr., SC Bar #7869
MOORE TAYLOR LAW FIRM, PA
1700 Sunset Boulevard
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803-796-9160
Attorneys for Appellant

DALE ATKINSON
PROBATE COURT JUDGE
IN THE PROBATE COURT
2011 SEP 21 AM 9:58
Docket No.: 2008- ES-43-00411

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)
Milton Oakley Dickson,)
Petitioner,)
vs.)
Arthur B. Beasley, Jr.,)
Respondent.)
IN RE: Estate of Herbert Franklin)
Dickson, Sr.,)

SUMTER COUNTY, S.C.

ORDER CERTIFIED TRUE COPY OF ORIGINAL
FILED IN THIS OFFICE.
Dale Atkinson
DALE ATKINSON - Judge of Probate
Sumter County
South Carolina

This case involves the Estate of Herbert Franklin Dickson, Sr., who was born on April 29, 1928 and died on August 20, 2008. The Petition for Probate of Will and Appointment was filed with this Court on August 26, 2008.

The Petition For Probate shows that the heirs of Mr. Dickson's Estate are Herbert Franklin Dickson, Jr., son; Milton Oakley Dickson, son; Finley Mylo Dickson, son; Byron Eugene Dickson, son; Arthur B. Beasley, Jr., step-son; and Linda B Chaplin, step-daughter.

The Last Will And Testament Of Herbert Franklin Dickson, Sr., under ITEM VI, clearly appoints his wife, Melba McSween Dickson as his Personal Representative to serve without bond. If she is unable or unwilling to serve he appointed Arthur B. Beasley as Alternate Personal Representative to serve without bond. This Court has been informed that the Testator's wife predeceased him.

On September 5, 2008, this Court issued its Order for a Formal Probate and Order Of Appointment appointing Arthur B. Beasley, Jr., as the Personal Representative of the Estate of

Herbert Franklin Dickson, Sr.

On September 19, 2008, one of the Testator's sons, Milton Oakley Dickson, filed a Petition with this Court stating that he was not challenging the validity of his father's Will or the distribution under the Will, but wanted this Court to decide the rights of the parties and to prohibit Arthur B. Beasley, Jr., from serving as the Personal Representative of this Estate. The Petitioner also raised several other issues which will each be dealt with in this Order.

The Respondent, Arthur B. Beasley, Jr., as Personal Representative of the Estate of Herbert Franklin Dickson, Sr., timely filed his Answer dated October 28, 2008, denying the allegations of the Petitioner's Petition and raising the Incontestability Clause contained the Testator's Will Item V. As stated above this Court will deal each issue of Mr. Beasley's Answer in this Order.

This Court held several hearings with the Final Hearing being held on June 2, 2011, and has considered all of the testimony, evidence submitted, motions, and arguments of counsel, and makes the following Finding of Facts and Conclusions of Law.

FINDING OF FACTS AND CONCLUSION OF LAW

1. I find as a matter of law that this matter is properly before the Court and that this Court has jurisdiction of the parties and the subject matter hereto.
2. The Petitioner is one of the sons of the Testator who died on August 20, 2008. On September 5, 2008, this Court issued its Order for Informal Probate and Order of Appointment appointing Arthur B. Beasley, Jr., as the Personal Representative of the Estate and accepted into the records of this Court the Will of the Testator which was executed on March 9, 2007.
3. Petitioner's Petition first states that he does not challenge the validity of the Will or

the distributions thereunder. There has been no other challenge to the Last Will and Testament of Herbert Franklin Dickson, Sr., or the distributions thereunder. The testimony confirmed that the Will submitted to the Court has been accepted by all of the parties and heirs as the authentic Last Will And Testament of Herbert Franklin Dicks on, Sr. The Petitioner states that there are issues regarding the construction of the Will, and based upon the pleadings and testimony of the parties this Court specifically finds that the Will submitted to the Court is in fact the Last Will and Testament of Herbert Franklin Dicks on, Sr., and the distributions contained thereunder should be complied with by the Personal Representative subject to the issues of construction being resolved.

4. The second issue raised by the Petitioner's Petition was to declare the rights of the parties and to prohibit Arthur B. Beasley, Jr., as serving as the Personal Representative of his father's estate. The Respondent filed a general denial to this allegation and submits that there has been insufficient evidence to warrant prohibiting him from acting as the Personal Representative of this Estate. As to the Declarations Of Rights To The Parties, this Court is charged with the responsibility of ensuring that the Last Will And Testament of the Testator are carried out within the parameters of the laws of this State.

5. Petitioner has alleged that the Personal Representative, Arthur B. Beasley, Jr., should be prohibited from serving as the Personal Representative. Respondent has denied this allegation and therefore the Petitioner has the burden of proving to the Court by the preponderance of the evidence that the Respondent should be removed as the Personal Representative. The Court has reviewed the testimony of the parties and can find no evidence that would rise to the level of removal of the Respondent as the Personal Representative of this Estate. The Court realizes that the Petitioner may resent the fact that his father chose the Respondent, a

step-son, to be the Personal Representative of his Estate, but the Court also realizes that the Testator has an absolute right to select the Personal Representative of his choice, unless the Personal Representative for some legitimate reason is not qualified to serve.

6. Petitioner next asserts that prior to the death of the Testator, Herbert Franklin Dickson, Sr., came under domination and control of his wife and the Respondent. Respondent, denied this allegation and alleged that the Petitioner had failed to state sufficient facts to substantiate the allegation. Taking into consideration all of the testimony presented by the parties, this Court finds that there is not sufficient evidence to establish that Herbert Franklin Dickson, Sr., came under the domination and control of his wife, the Respondent, or anyone else.

7. The Petitioner then alleges that the Respondent used a Power of Attorney to remove assets from the decedent prior to his death and that the Respondent owed the Estate significant amounts of money. This Court has again reviewed the testimony of the parties and the evidence presented and finds no evidence that the Respondent used the Power of Attorney that he did have to remove assets from the Testator, or that the Respondent owes the Estate significant amounts of money. Petitioner has the burden of proving these allegations and this he has failed to do.

8. Petitioner next alleges that the Respondent has a conflict of interest and is not fit to serve as Personal Representative on the basis that the Personal Representatives converted money from the Estate and owes money to the Estate. As stated in the previous paragraph the Petitioner has failed to prove these two allegations to the satisfaction of this Court and therefore the Court finds that these allegations have no merit.

9. In paragraph 10, of Petitioner's Petition, the Petitioner asked the Court to appoint

another individual to serve as the Personal Representative of the Estate so that person might assert a claim against the respondent for the monies owed at the time of the death of the Testator, Herbert Franklin Dickson, Sr. As stated above, there has been no evidence which would warrant this Court's removal of the Respondent as the Personal Representative of this Estate, and that request is respectfully denied.

10. It was next alleged, that ITEM V of the Will contained an "Incontestability Clause" and ask the Court to issue a Declaratory Judgment as such a provision is contrary to the public policy of the State of South Carolina. In the Respondent's Answer he asked for the clause to be enforced but during his testimony the Respondent said that he would not enforce the terms of the Incontestability Clause. This issue is therefore not before the Court and no longer a concern of this Court.

11. The Petitioner also request that the Court issue a Declaratory Ruling as to ITEM III, No. 2, of the Will, that Herbert Franklin Dickson, Sr., did not own property in Santee, South Carolina and that ITEM III, No. 2, be declared a nullity as the property never existed. Respondent answered stating that the only reasonable interpretation of the descendants use of the term "Santee Property" in the Last Will and Testament of the decedent is the way the decedent used the term, which was his property in the Santee portion of Clarendon County, South Carolina. All parties agree that the Testator owned no property in Santee, South Carolina at the time of his death and never had owned property in Santee, South Carolina. It is clear from the evidence presented that the Testator clearly intended to convey the property that he referred to as the "Santee Property", the property in Clarendon County to the Respondent as evidenced by the language in his Will. The Court will also take judicial notice of the fact that all property bordering the Lake Moultrie

and Lake Marion properties located in Clarendon County are commonly referred to as Santee Property by individuals from Sumter and Clarendon Counties. Therefore, this Court declares that the words "Santee Property" as used in the Will of Herbert Franklin Dickson, Sr., was in fact the property owned by the Testator at the time of his death located in Clarendon County, South Carolina.

THEREFORE, it is hereby

ORDERED,

1. I find that there is no justifiable reason to remove the Personal Representative from this Estate and he is hereby instructed to bring this Estate to a close as soon as practicable and to make all distributions in accordance with the terms of the Last Will and Testament of Herbert Franklin Dickson, Sr.;
2. That the Incontestable Clause contained in ITEM V of the Last Will And Testament of Herbert Franklin Dickson, Sr., is no longer an issue before this Court, in light of the fact, that the Personal Representative has stated that he does not intend to enforce the provisions of ITEM V. Should the Personal Representative attempt to enforce the provisions of ITEM V, then any aggrieved party may petition this Court for relief;
3. That the provisions under ITEM III, No. 2, of the Last Will And Testament of Herbert Franklin Dickson, Sr., describing the "Santee Property" is in fact the

Testator's property which was located in Clarendon County, South Carolina at the time of his death and the Personal Representative of the Estate may issue a Deed of Distribution in accordance with the terms of Mr. Dickson's Will.

IT IS SO ORDERED!

5/
DALE ATKINSON
Judge, Sumter County Probate Court

In Chambers,
Sept 21
~~August~~ _____, 2011
Sumter, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

Milton Oakley Dickson,

Petitioner,

Vs.

Arthur B. Beasley, Jr.,

Respondent.

IN RE: Estate of Herbert Franklin
Dickson, Sr.,

) IN THE PROBATE COURT FOR
) THE THIRD JUDICIAL CIRCUIT

) Docket No.: 2008-ES-43-00411

) **NOTICE OF MOTION AND MOTION**
) **TO DISMISS**

FILED
2011 OCT 28 PM 2:55
SUMTER COUNTY, S.C.

TO: THE PETITIONER AND THEIR ABOVE REFERENCED ATTORNEY:

YOU WILL PLEASE TAKE NOTICE that the Respondent, by and through his and her undersigned attorney, will move before this Court within ten (10) days from the date of this Motion, or as soon thereafter as this matter can be heard, for an Order to dismiss the Petitioner's Motion for Reconsideration that was mailed on October 11, 2011, which is more than ten days after the filing of the Final Order. A copy of the envelope is attached as "Exhibit A". This matter should be dismissed pursuant to Rule 59 of the South Carolina Rules of Civil Procedure.

Respectfully Submitted,


KENNETH R. YOUNG, JR.
Attorney for the Respondent
23 West Calhoun Street
Sumter, South Carolina 29150
(803) 773-4371 (Telephone)
(803) 773-4374 (Facsimile)

Sumter, South Carolina
October 27, 2011

MTLF000008

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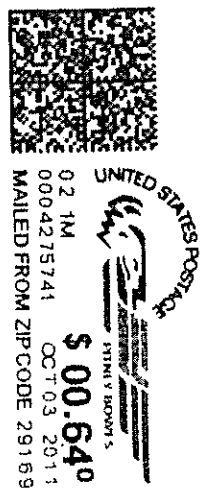
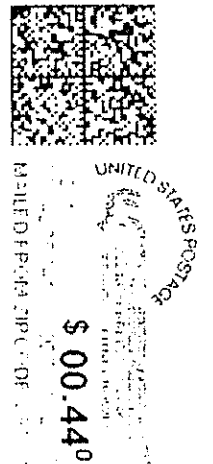
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Moore, Taylor & Thomas, P.A.
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WEST COLUMBIA, SOUTH CAROLINA 29171

Kenneth R. Young, Esq.
Young, Keffler & Donald, PA
23 West Calhoun Street
Sumter, SC 29150



MTLF000010

STATE OF SOUTH CAROLINA

COUNTY OF: SUMTER

IN THE MATTER OF: ESTATE OF HERBERT
FRANKLIN DICKSON

2011 DEC 14 PM 3:42

IN THE PROBATE COURT

NOTICE OF: HEARING

) CASE NUMBER: 2008-ES-43-00411

DATE: January 12, 2012

TIME: 1:00 p.m.

PLACE: Sumter County Probate Court

DESCRIPTION OF ATTACHED PLEADINGS (example: petition for formal appointment, filing of bond, hearing to determine heirs, etc.):

Executed this day of 20

Signature:

Name: Kenneth R. Young, Jr.

Address: 23 West Calhoun Street

Sumter, SC 29150

Telephone (O): 803-773-4371

(H):

E-mail: kyoung@sumterattorney.com

Signature:

Name:

Address:

Telephone (O):

(H):

E-mail:

FORM #110PC (1/89)

62-1-401 62-3-201 62-3-310 62-3-403 62-3-414 62-3-611 62-3-721 62-3-1001
62-3-1002 62-3-1003 62-3-1102 62-4-203 62-4-303 62-5-301 62-5-305 62-5-309
62-5-401 62-5-402 62-5-405 62-5-406 62-5-412 62-5-413 62-5-422 62-7-206, etc

MTLF000011

STATE OF SOUTH CAROLINA)

COUNTY OF: SUMTER)

IN THE MATTER OF: ESTATE OF HERBERT)
FRANKLIN DICKSON)

IN THE PROBATE COURT

NOTICE OF: HEARING

) CASE NUMBER: 2008-ES-43-00411

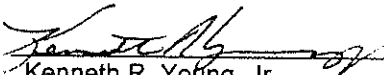
DATE: March 26, 2012

TIME: 2:00 p.m.

PLACE: Sumter County Probate Court

DESCRIPTION OF ATTACHED PLEADINGS (example: petition for formal appointment, filing of bond, hearing to determine heirs, etc.):

Executed this day of 20 .

Signature: 

Name: Kenneth R. Young, Jr.

Address: 23 West Calhoun Street
Sumter, SC 29150

Telephone (O): 803-773-4371

(H): _____

E-mail: kyoung@sumterattorney.com

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

E-mail: _____

FORM #110PC (1/89)

62-1-401, 62-3-201, 62-3-310, 62-3-403, 62-3-414, 62-3-611, 62-3-721, 62-3-1001,
62-3-1002, 62-3-1003, 62-3-1102, 62-4-203, 62-4-303, 62-5-301, 62-5-305, 62-5-309,
62-5-401, 62-5-402, 62-5-405, 62-5-406, 62-5-412, 62-5-413, 62-5-422, 62-7-206, etc

MTLF000012

STATE OF SOUTH CAROLINA

COUNTY OF: SUMTER

IN THE MATTER OF: ESTATE OF HERBERT
FRANKLIN DICKSON

)
) 2012 JUL 12 11:05 AM IN THE PROBATE COURT
)
)
) NOTICE OF: HEARING

) CASE NUMBER: 2008-ES-43-00411

DATE: July 3, 2012

TIME: 2:00 p.m.

PLACE: Sumter County Probate court

DESCRIPTION OF ATTACHED PLEADINGS (example: petition for formal appointment, filing of bond, hearing to determine heirs, etc.):

Executed this day of 20

Signature:

Name: Kenneth R. Young, Jr.

Address: 23 West Calhoun Street
Sumter, SC 29150

Telephone (O): 803-773-4371

(H):

E-mail: kyoung@sumterattorney.com

Signature:

Name:

Address:

Telephone (O):

(H):

E-mail:

FORM #110PC (1/89)

62-1-401, 62-3-201, 62-3-310, 62-3-403, 62-3-414, 62-3-611, 62-3-721, 62-3-1001,
62-3-1002, 62-3-1003, 62-3-1102, 62-4-203, 62-4-303, 62-5-301, 62-5-305, 62-5-309,
62-5-401, 62-5-402, 62-5-405, 62-5-406, 62-5-412, 62-5-413, 62-5-422, 62-7-206, etc.

MTLF000013

Probate Court



DALE ATKINSON
Probate Court Judge

BETTY P. BROWN
Associate Probate Judge

Sumter County
Sumter, South Carolina
29150

Room 111
Courthouse
141 North Main Street
803.436.2166
Fax 803.436.2407

October 17, 2012

Mr. S. Jahue Moore
Moore, Taylor and Thomas
P O Box 5709
West Columbia, SC 29171

Mr. Kenneth R. Young, Jr.
Young & Keffer
23 West Calhoun Street
Sumter, SC 29150

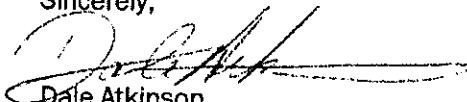
InRe: Estate of Herbert Franklin Dickson, Sr.
File No: 2008ES4300411

Dear Mr. Moore and Mr. Young,

On July 3, 2012 a hearing was held in response to a Motion for Reconsideration filed by Mr. S. Jahue Moore. This court previously ruled that the property owned by the decedent located on Lake Marion in Clarendon County, South Carolina was indeed the property referred to in the decedent's Last Will and Testament as "in Santee, SC". In the Motion for Reconsideration, Mr. Moore states that the Will was clear and unambiguous. This court had found that the Will was ambiguous, in part, because Lake Marion and surrounding properties, including properties in Sumter, Clarendon and Orangeburg counties in South Carolina are commonly referred to as "Santee". After hearing Mr. Moore's Motion for Reconsideration, it is still the opinion of this court that the decedent was referring to his property on Lake Marion when he mentioned his property in Santee, SC.

Therefore, the Motion for Reconsideration is denied.

Sincerely,


Dale Atkinson
Probate Court
Sumter County

MTLF000014

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

Milton Oakley Dickson,

Appellant/Petitioner,

vs.

Arthur B. Beasley,

Respondent

IN RE: Estate of Herbert Dickson Franklin, Jr.

RECORDED

2012 DEC -4 PM 2:40

JAMES CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

DALE ATKINSON
PROBATE COURT JUDGE

2012 DEC -6 PM 1:07
IN THE CIRCUIT COURT
SUMTER COUNTY, S.C.

Case No.: 2012-CP-43-2148

APPEAL FROM THE PROBATE
COURT CASE NO.
2008-ES-43-00411

**Appellant Milton Oakley Dickson's
Grounds for Appeal**

Pursuant to Section 62-1-308(a) of the South Carolina Code of Laws, Appellant/Petitioner Milton Oakley Dickson, hereby sets forth the following grounds for his Appeal from the Order of the Honorable Dale Atkinson, Judge of the Sumter County Probate Court dated September 21, 2011 and the Order of October 17, 2012 denying Appellant/Petitioner's Motion for Reconsideration:

1. The Order of the Probate Court was not supported by the factual record in this case and is therefore erroneous and should be reversed by this Court.
2. The Probate Court's Order is not supported by the facts presented before the Court;
3. The Testator's Will was clear and unambiguous on its face and the Probate Court erred as a matter of law by admitting extrinsic evidence to interpret the Testator's will.
4. The Probate Court erred in allowing Arthur B. Beasley, Jr. to serve as Personal Representative of the above-captioned Estate;
5. The Probate Court's Order allowing Arthur B. Beasley, Jr. to serve as Personal Representative of the above-captioned Estate is contrary to the facts presented before the Court and contrary to the laws and public policy of the State of South Carolina;

6. The Probate Court erred in determining and ruling that prior to the death of the Testator, Herbert Franklin Dickson, Sr. came under domination and control of his wife and the Respondent. Such finding and ruling was contrary to the evidence presented before the Court and the Probate Court erred as a matter of law in making this determination.
7. The Probate Court erred in determining and ruling that Respondent did not use a Power of Attorney to remove assets from the Decedent prior to his death. Such finding and ruling was contrary to the evidence presented before the Court and the Probate Court erred as a matter of law in making that determination.
8. The Probate Court erred in determining that the Respondent did not have a conflict of interest and was fit to serve as Personal Representative. This ruling was not supported by the facts presented to the Court and is contrary to South Carolina Law.
9. The Probate Court erred in failing to appoint another individual to serve as the Personal Representative of the Estate so that person might assert a claim against Respondent for the monies owed at the time of the death of the Testator. This ruling was contrary to the evidence presented to the Probate Court and is contrary to South Carolina Law.
10. The Probate Court erred in determining that the property owned by the decedent located on Lake Marion, South Carolina in Clarendon County, South Carolina was the property referred to in the Decedent's last will and testament as "in Santee, South Carolina." This ruling is not supported by the clear and unambiguous language contained in the Testator's Last Will and Testament.
11. The Probate Court erred as a matter of law by finding that the provisions contained in the Testator's will regarding real property owned in Santee, South Carolina was

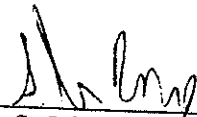
ambiguous, and erred as a matter of law in admitting extrinsic evidence in order to interpret these clear and unambiguous provisions of the Testator's will.

12. The Probate Court's Order violates the clear intent of the Testator's will, is unsupported by the facts of this case, and is based on an erroneous interpretation of South Carolina Law.

13. The Probate Court erred in failing to grant Appellant's Motion for Reconsideration.

Based upon the above, the Appellant/Petitioner submits that the Order of the Sumter County Probate Court in the above-referenced matter should be reversed by this Court.

MOORE, TAYLOR & THOMAS, P.A.

BY: 

S. Jahue Moore
1700 Sunset Boulevard
Post Office Box 5709
West Columbia, SC 29171
Telephone: (803) 796-9160
Attorney for Milton Oakley Dickson

West Columbia, South Carolina
December 4, 2012

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

Milton Oakley Dickson,

Appellant/Petitioner,

vs.

Arthur B. Beasley,

Respondent

IN RE: Estate of Herbert Dickson Franklin, Jr.

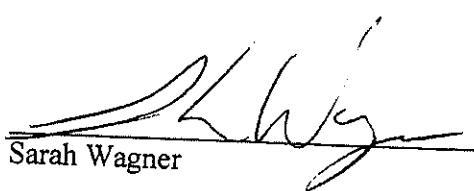
IN THE CIRCUIT COURT

Case No.: 2012-CP-43-2148

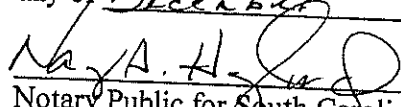
APPEAL FROM THE PROBATE
COURT CASE NO.
2008-ES-43-00411

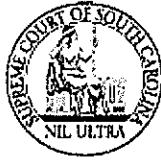
CERTIFICATE OF SERVICE

PERSONALLY APPEARED before me Sarah Wagner, who upon first being duly sworn, says that she hand delivered **Appellant Milton Oakley Dickson's Grounds for Appeal** upon Counsel for Respondent Kenneth R. Young, Jr., by hand delivering and leaving a copy of said document with the Receptionist who accepted service at 23 W. Calhoun Street, Suite 3, Sumter, SC 29150, on the 4th day of December 2012, and also delivered a copy of same document to the Sumter County Probate Court, leaving said copy with the Clerk of Court.


Sarah Wagner

SWORN to before me this 4th
day of December, 2012.

 (SEAL)
Notary Public for South Carolina
My Commission Expires: 5/28/2018



The Supreme Court of South Carolina

(Milton Oakley Dickson
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TITLE OF (V. 2012CP4302148
CASE (
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(Arthur Beasley
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Notice

Upon request and for good cause shown, Margaret Sullivan, Court Reporter, is hereby granted an extension up to and including May 22, 2013 to prepare and deliver the Transcript of Record in the above case.

Desiree Allen
Court Services Manager
South Carolina Court Administration

Columbia, South Carolina
04/25/2013

cc: Jahue Moore, Esq.

Margaret Sullivan

MTLF000019

STATE OF SOUTH CAROLINA IN THE COMMON PLEAS COURT
COUNTY OF SUMTER FOR THE THIRD JUDICIAL CIRCUIT

RECORDED
2014 AUG 12 PM 3:46

DOCKET NO: 2012-CP-43-2148

Milton Oakley Dickson,

PETITIONER,

vs.

Arthur B. Beasley,

RESPONDENT.

APPEAL FROM THE PROBATE
COURT CASE NO.
2008-ES-43-00411

ORDER

CERTIFIED TRUE COPY
OF ORIGINAL FILED

DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

IN RE: ESTATE OF HERBERT
FRANKLIN DICKSON, SR.

This case came before the Court as an appeal from the Sumter County Probate Court (Docket Number: 2008-ES-43-00411).

By agreement of the parties, oral arguments were waived and both parties submitted the following documents to the court: (1) Application for Probate of Will and Appointment; (2) Transcript from Hearing held on July 21st, 2010; (3) Transcript from Hearing held on July 3rd, 2012; (4) Probate Court Order; (5) Appeal from Probate Court; (6) Appellant, Milton Oakley Dickson's Grounds for Appeal; (7) Respondent's Return to Appellant's Appeal; (8) Case Law (Fenzel v. Floyd, 289 S.C. 495, 347 S.E. 2d 105 (1986)); and (9) Pictures of the property known as "Santee Property".

This Court has reviewed the transcripts, the Last Will and Testament of the Decedent, Herbert Franklin Dickson, Sr., the Order of the Probate Court, Appellant's Grounds for Appeal, Respondent's Return to Appellant Milton Oakley Dickson's Grounds for Appeal, and the case law submitted. While the Appellant states in his grounds for appeals that the Order was not supported by the record, this Court finds that the Order of the Probate Court was supported by the testimony given at two separate hearings. It is apparent from the record that the Appellant failed to prove his allegations.

As to the 10th ground for appeal, involving the property owned by the Decedent located on Lake Marion in Clarendon County, State of South Carolina, referred to in the Decedent's Last Will and Testament as "Santee, South Carolina", the Appellant had requested that the Probate Court issue a Declaratory Ruling that item 3, number 2, of the Will, that the decedent did not own property in Santee, South Carolina and item

MTLF000020

3, number 2 be declared inutility. If the Court had done that the "Santee Property" would have handled in the residuary clause of the Last Will and Testament and the Appellant and his siblings would have then shared in the ownership of the property.

The Probate Court found that all of the parties agreed that the decedent owned no property in Santee, South Carolina and this is supported in the transcript of the two hearings. The Respondent took the position that the only reasonable interpretation of the decedent use of the term "Santee Property" in his Last Will and Testament is the way the Decedent used the term which was his property in the Santee portion of Clarendon County, State of South Carolina.

"In construing a Will, purpose of the Court is to discover and give a effect to the intent of the Testator, May v. Riley, 279, S.C. 248, 305 S.E. 2d 777 (1983)". When the terms of the Will are ambiguous, the Court may resort to extrinsic evidence to resolve the ambiguity Shelley vs. Shelley 244, S.C. 244, S.C. 598, 137 S.E. 2d 851 (1964).

The Sumter Probate Court properly found from the evidence presented that the Testator clearly intended to convey the property that he referred to as "Santee Property" to the Respondent as evidenced by the language in his Last Will and Testament. This is obvious from the fact that he had never owned property in Santee, South Carolina, which was agreed to by all parties concerned. It would have been error to find otherwise.

The Probate Court Order of September 21, 2011, is hereby affirmed and it is

ORDERED that the Sumter County Probate Court Order of September 21, 2011, is hereby affirmed.

IT IS SO ORDERED.

/s/ R. Ferrell Cotthran, Jr.
R. FERRELL COTHRAN, JR.
JUDGE, COMMON PLEAS OF THE
THIRD JUDICIAL CIRCUIT

At Chambers
Clarendon, South Carolina
August 11, 2014

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

IN THE COMMON PLEAS COURT FOR
THE THIRD JUDICIAL CIRCUIT

Milton Oakley Dickson,)

DOCKET NO: 2012-CP-43-2148

PLAINTIFF,)

vs.)

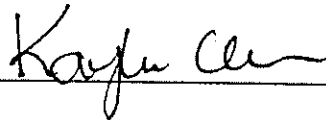
Arthur B. Beasley,)

DEFENDANT.)

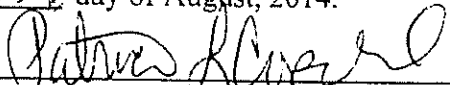
CERTIFICATE OF SERVICE

I, the undersigned employee of Young, Keffer & Associates, P.A., attorneys for Arthur B. Beasley, do hereby certify that I have served the following parties in this action with a copy of the **Order** by mailing a copy of same by United States Mail, postage prepaid, to the following address:

S. Jahue Moore, Esquire
Post Office Box 5709
West Columbia, SC 29171



SWORN to before me this
15th day of August, 2014.



Notary Public for South Carolina
My Commission Expires: 8/27/17



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

September 10, 2014

Mr. S. Jahue Moore, Esquire
PO Box 5709
West Columbia SC 29171

Re: Milton Oakley Dickson v. Arthur Beasley
Appellate Case No. 2014-001903

Dear Counsel:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/portal/orders/HTMLFiles/2014-04-17-02.htm. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.

MTLF000023

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

Milton Oakley Dickson, Appellant,

v.

Arthur B. Beasley, Jr., Respondent.

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,

A handwritten signature in black ink that reads "Jonny Abbott Kitchings". The signature is written in a cursive, somewhat informal style. The word "Jonny" is written in a larger, more prominent script, followed by "Abbott" and "Kitchings". There is a small, stylized flourish or mark at the end of the signature.

CLERK

cc: John Calvin Bradley, Jr., Esquire
Kenneth R. Young, Jr., Esquire



The Supreme Court of South Carolina

(Milton Oakley Dickson
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TITLE OF (V. 2012CP4302148
CASE (
(
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(Arthur Beasley
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Notice

Upon request and for good cause shown, Margaret Sullivan, Court Reporter, is hereby granted an extension up to and including May 22, 2013 to prepare and deliver the Transcript of Record in the above case.

Desiree Allen
Court Services Manager
South Carolina Court Administration

Columbia, South Carolina
04/25/2013

cc: Jahue Moore, Esq.

Margaret Sullivan

MTLF000025

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM SUMTER COUNTY
In the Court of Common Pleas

SC Court of Appeals

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

Milton Oakley Dickson,.....Appellant,

v.

Arthur B. Beasley, Jr.,.....Respondents,

**MOTION FOR EXTENSION OF TIME TO FILE APPELLANT'S INITIAL
BRIEF AND DESIGNATION OF MATTER**

The undersigned, as counsel for Appellant Milton Oakley Dickson, hereby moves for a Thirty (30) day extension of time to file its Initial Brief(s) and Designation of Matter. This Motion is made on the grounds that John C. Bradley, Jr., the undersigned counsel for Appellant Milton Oakley Dickson will be out of the country on Personal Vacation beginning Tuesday, September 30th and because of this vacation, additional time is needed to prepare and file the Initial Brief(s) and Designation of Matter. This extension request is not intended for purposes of delay. Further, there would be no prejudice to the parties by an extension of time. By the undersigned's calculations the extension, if granted, would extend Appellant's deadline for filing the initial brief and designation of matter to Tuesday, November 9, 2014. Appellant will not request any

additional time to prepare and file its Initial Brief and Designation of Matter beyond that date.

WHEREFORE, Appellant respectfully prays that this Court extend the deadline for the service and filing its Initial Brief(s) and Designation of Matter to November 9, 2014.

Respectfully submitted,

By: 

S. Jahue Moore
John C. Bradley, Jr.
MOORE TAYLOR LAW FIRM, PA
1700 Sunset Boulevard
West Columbia, SC 29169
803-796-9160
803-791-8410 (Fax)
john@mttlaw.com
Attorneys for Appellant
Milton Oakley Dickson

West Columbia, SC
September 23, 2014

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM SUMTER COUNTY
In the Court of Common Pleas

SC Court of Appeals

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

Milton Oakley Dickson,.....Appellant,

v.

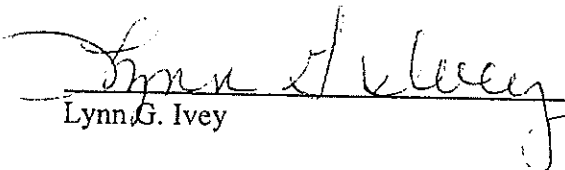
Arthur B. Beasley, Jr.,.....Respondents,

PROOF OF SERVICE

I, Lynn G. Ivey, an employee of Moore Taylor Law Firm, P.A., certify that I have on this day effected service of the below Motion for Extension of Time to File Appellant's Initial Brief and Designation of Matter upon counsel of record, by placing a copy of same in the United States mail in an envelope with sufficient postage affixed thereto, addressed as listed below.

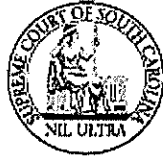
Kenneth R. Young, Jr., Esquire
YOUNG, KEFFER & ASSOCIATES, P.A.
23 West Calhoun Street
Sumter, SC 29150

DOCUMENT(S): 1. Motion for Extension of Time to File Appellant's Initial
Brief and Designation of Matter


Lynn G. Ivey

West Columbia, South Carolina
September 23, 2014

MTLF000028



The Supreme Court of South Carolina

(Milton Oakley Dickson
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TITLE OF (V. 2012CP4302148
CASE (
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(Arthur Beasley
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Notice

Upon request and for good cause shown, Margaret Sullivan, Court Reporter, is hereby granted an extension up to and including May 22, 2013 to prepare and deliver the Transcript of Record in the above case.

Desiree Allen
Court Services Manager
South Carolina Court Administration

Columbia, South Carolina
04/25/2013

cc: Jahue Moore, Esq.

Margaret Sullivan

MTLF000029

STATE OF SOUTH CAROLINA) IN THE PROBATE COURT
COUNTY OF SUMTER) 2008-ES-43-00411

IN THE MATTER OF THE ESTATE OF
HERBERT FRANKLIN DICKSON, SR.

Hearing held before the Honorable Dale Atkinson,
Judge of Probate for Sumter County, at his Chambers,
Sumter County Courthouse, Sumter, South Carolina,
on the 21st day of July, 2010, commencing at 2:03 P.M.
and taken by Doris Tompkins Brown, Certified Verbatim
Reporter and Notary Public in and for the State of
South Carolina.

APPEARANCES

ON BEHALF OF:

ARTHUR B. BEASLEY

Kenneth R. Young, Jr.
Young, Keffer & Associates
23 West Calhoun Street
Sumter, South Carolina

ON BEHALF OF:

Milton Oakley Dickson

S. Jahue Moore, Sr.
Moore and Taylor
Post Office Box 5709
West Columbia, South Carolina

Doris Tompkins Brown

COPY

Certified Verbatim Reporter
Post Office Box 853
Sumter, South Carolina 29151
(803) 499-7434

COPY

EXHIBIT INDEX

Copy of Will	Pet. Ex. 1
BB&T Financial Statement	Resp. Ex. 1
Photographs	Resp. Ex. 2
Bank Account Information	Resp. Ex. 3

* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION,
INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

1 THE COURT: The Hearing before the Court
2 today is in the Estate of Mr. Herbert Franklin
3 Dickson, Senior. What I would like to do first
4 is ask attorneys for the record to introduce
5 yourself and tell the Court who you are
6 representing. Mr. Moore.

7 MR. MOORE: Your Honor, my name is Jahue
8 Moore. S. Jahue Moore. It's J-A-H-U-E. I am
9 here today on behalf of Milton Oakley Dickson.

10 THE COURT: Mr. Young.

11 MR. YOUNG: If it please the Court. My name
12 is Kenneth R. Young, Junior, and I am here on
13 behalf of the Respondent, Arthur B. Beasley, who
14 is the Personal Representative of the Estate of
15 Herbert Franklin Dickson, Senior.

16 THE COURT: Thank you. Do any of you wish
17 to make any opening statements to the Court?

18 MR. YOUNG: No opening statement at this
19 time.

20 MR. MOORE: No, sir, Your Honor.

21 THE COURT: Okay. I believe in Chambers we
22 spoke and, Mr. Moore, were you going to call the
23 first witness?

24 MR. MOORE: I believe Mr. Young was going to
25 call the first witness, Your Honor. Mr. Seth is

IN THE MATTER OF THE ESTATE OF
HERBERT FRANKLIN DICKSON, SR.

MTLF000032

1 here and we had not planned to call him as a
2 witness, Your Honor. But, as the Court is aware
3 after our discussions in Chamber -- Chambers,
4 there may be some questions in regard to the
5 degree to which he would be allowed to testify as
6 to whether or not the testimony may need to be
7 suspended in order to get the appropriate
8 Discovery done.

9 THE COURT: Okay. Mr. Young.

10 MR. YOUNG: Please the Court. During Mr.
11 J Seth's deposition, questions were asked which
12 raised the issue of attorney/client privilege.
13 I think it would be beneficial to have the
14 benefit of that knowledge; therefore, I would
15 like to call Mr. Seth on the issue of
16 attorney/client privilege to see if we can reach
17 a point where the Court is comfortable with the
18 record that he develops and what knowledge he has
19 with respect to attorney/client privilege in the
20 preparation and execution of Mr. Dickson's Will.

21 THE COURT: Call him.

22 MR. YOUNG: I call J Seth to the stand.

23 THE COURT: Good morning. How are you, Mr.
24 Seth? Left hand on the Bible, raise your right
25 hand, please. Do you solemnly swear the

1 information you give in this case will be the
2 truth, the whole truth and nothing but the truth
3 so help you God?

4 MR. SETH: I do.

5 THE COURT: Thank you. Have a seat, please,
6 and answer any questions Mr. Young might have.

7 EXAMINATION BY MR. YOUNG:

8 Q. Good afternoon, J.

9 A. Good afternoon.

10 Q. Would you please state your full name for the record,
11 please?

12 A. J Cabot Seth.

13 Q. And you're a practicing lawyer here in Sumter, South
14 Carolina?

15 A. Correct.

16 Q. And what firm do you practice with?

17 A. Jones, Seth, Shuler and Killen.

18 Q. And how long have you all been in practice together?

19 A. Well, I have been in practice since July of '75. I
20 joined Dickie Jones in '83, and the other partners
21 have been added after that.

22 Q. All right. And what is the primary role of your
23 practice in this community?

24 A. My part is predominantly Wills and Estates and some
25 Social Security. A little bit of military law.

IN THE MATTER OF THE ESTATE OF
HERBERT FRANKLIN DICKSON, SR.

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1 Q. Okay. And did you have an occasion to meet with and
2 prepare the Will of Herbert Dickson?

3 A. Correct. I did.

4 Q. And do you recall your deposition being taken on June
5 29th, 2010?

6 A. I do.

7 Q. And do you recall certain questions being put to you
8 by Mr. Moore at which time you informed him that you
9 could not answer those questions because of the
10 attorney/client privilege?

11 A. I did refuse to answer some questions as the answer
12 would divulge what my client told me.

13 Q. All right. And I believe Mr. Moore asked you whether
14 or not you had divulged that information to anybody
15 else including the Personal Representative, and your
16 answer was "No." Is that still correct?

17 A. That's still correct.

18 Q. All right. Another question that was put to you was
19 about notes that were used in the preparation of the
20 Will. Those were notes taken during your
21 conversations with Mr. Dickson; is that correct?

22 A. That is right.

23 Q. And once again, you raised the issue of
24 attorney/client privilege; is that correct?

25 A. That's correct.

IN THE MATTER OF THE ESTATE OF
HERBERT FRANKLIN DICKSON, SR.

MTLF000035

1 Q. Once again, Mr. Moore asked you whether or not you
2 have divulged that or shown those notes to anyone
3 including the Personal Representative, Mr. Beasley,
4 and your answer was, "No". Is that still correct?

5 A. That's still correct.

6 Q. All right. You understand that one of the issues
7 raised in these proceedings is how the Will was
8 drafted with respect to some property which I call
9 Santee, South Carolina, which is in Clarendon County
10 as opposed to the town of Santee, which is in
11 Orangeburg County?

12 A. Correct.

13 Q. And what your notes would contain and what you were
14 told about certain properties and holdings at that
15 time. Do you realize that's the critical factor in
16 these proceedings?

17 A. Right.

18 Q. There's also another issue of if someone challenged
19 this Will, they would be disinherited and could only
20 receive a Dollar (\$1.00); is that right?

21 A. Correct.

22 Q. And did you receive certain instructions from Mr.
23 Dickson with regard to that?

24 A. I drafted his Will consistent with what he told me,
25 and that is in his Will.

1 Q. Okay.

2 MR. YOUNG: If it please the Court,
3 obviously, Mr. Moore may have some questions for
4 him, but these are the reasons and why it is a
5 focal point and we need to know and have
6 testimony from Mr. Seth as to what instructions
7 he had, what knowledge he had with respect to the
8 Santee property. The Will says "At Santee, South
9 Carolina" as opposed to -- in Santee -- or -- at
10 Santee" and that becomes a very critical factor
11 as far as this property is concerned. And so, I
12 would ask the Court and I respectfully move that
13 Mr. J Seth be allowed to tell this Court under
14 oath and subject to cross-examination what he was
15 told by Mr. Dickson with respect to the Santee
16 property and what he was told concerning the
17 paragraphs that disinherit an individual who may
18 challenge this Will.

19 THE COURT: Mr. Moore?

20 MR. MOORE: Your Honor, I do -- if I might
21 at this time ask the Court to allow me to make a
22 part of the record the Will which is the subject
23 of this Action. I'd like to show it to Mr. Young
24 and ask if he might make sure this is actually
25 made a part of the record.

1 MR. YOUNG: I think the Court already has
2 the original Will.

3 THE COURT: I have the original in front of
4 me now.

5 MR. MOORE: I just wanted to make sure it's
6 a part of the record, Your Honor.

7 THE COURT: All right, sir.

8 MR. MOORE: Yes. As -- as an abundance of
9 caution, Your Honor, I just offer it as a -- as
10 a Petitioner's Exhibit.

11 THE COURT: Yes, sir, you can. Subject to
12 any objections by Mr. Young.

13 MR. YOUNG: No objections. You've already
14 got that in your file

15 MR. MOORE: Your Honor, apparently, my
16 friend, Mr. Young, is operating under a
17 misconception as to the language of the Will, and
18 if I might just point out to the Court that the
19 Will does not actually read I don't think as Mr.
20 Young just told you; unless what I have been
21 given is different, it doesn't say "At Santee,
22 South Carolina;" it does actually use the word
23 "In".

24 MR. YOUNG: I said that. I said that's a
25 focal point as to whether or not -- it says, "At

1 Santee, South Carolina," and the question is
2 whether or not it's in or at, and those are --
3 that's my focal point.

4 MR. MOORE: I was under the impression Mr.
5 Young was advising the Court that the Will
6 basically said the property at South Carolina --
7 "At Santee." The actual language of the Will
8 reads, "In the event my wife, Melba McSwain
9 Dickson, predeceases me, I will give, devise and
10 bequeath any property which I own at the time of
11 my death in Santee -- in Santee, South Carolina
12 and its contents to Arthur B. Beasley, Junior, if
13 he shall survive me. In the event he shall not
14 survive me, then this bequest shall lapse and
15 pass by the residuary clause below." Your Honor,
16 as I understand the situation, if -- with the
17 testimony that has just been offered, I would not
18 have any cross-examination of this gentleman, but
19 I believe what Mr. Young has purported to do is
20 to provide some sort of a mechanism to where the
21 attorney/client privilege could be waived. If
22 that is -- first of all, our position would be it
23 is -- the language of the Will is clear. The
24 language in the four corners of the document are
25 clear and, therefore, there would be no need to

IN THE MATTER OF THE ESTATE OF
HERBERT FRANKLIN DICKSON, SR.

MTLF000039

1 resort to any type of extrinsic or outside
2 evidence in order to clarify what was meant by
3 what was written in the document. If I am
4 incorrect in that, then I believe what is being
5 sought is some sort of waiver of the privilege so
6 that Mr. Seth, who is -- I understand previously
7 represented the Personal Representative -- to
8 testify as to what the Testator basically said.
9 As a matter of fact, Mr. Seth, actually filed
10 Responsive Pleadings in this case. It would be
11 our position that several old issues would
12 preclude such testimony. First, what the
13 Testator may or may not have said would be
14 hearsay. And certainly, the contents of notes
15 that Mr. Seth prepared, if they were the words
16 used by the Testator, would also be hearsay. We
17 also believe that once Mr. Seth undertook to
18 represent the Personal Representative in this
19 case, that in fact he has disqualified himself
20 from being a witness in a litigated matter.
21 There are also significant cases dealing with
22 Contracts which clearly indicate that a lawyer
23 should not represent a party in regards to a
24 Contract which he has prepared, and I know that
25 what happened -- I mean, I'm not casting any

1 stones at Mr. Seth, but I do believe that by
2 filing the Answer in the case, he disqualified
3 himself. I think the Will is clear on its face
4 and would not be and should not be subject to
5 extrinsic evidence. We also have a situation
6 that if the attorney/client privilege is going to
7 be waived in some fashion, I would assume that
8 waiver would be done by Mr. Beasley. However, we
9 have the unfortunate situation of having
10 requested Mr. Beasley be removed as the Personal
11 Representative because of some conduct we allege
12 took place prior to the actual death of the
13 Decedent. So, I believe with the prior testimony
14 of Mr. Seth taking the attorney/client privilege
15 and refusing to answer the questions, I believe
16 that this testimony should not be allowed, but if
17 it is allowed, if there is some mechanism that is
18 actually put in place to allow for a waiver by I
19 would assume the Personal Representative, we
20 should basically suspend his testimony until such
21 time as I would be in a position to depose the
22 gentleman fully because, obviously, when he was
23 refusing to answer my questions there was nothing
24 I could do if he was doing it on the
25 attorney/client privilege and there was no

1 mechanism to waive. Thank you.

2 THE COURT: Mr. Young?

3 MR. YOUNG: If it please the Court. The
4 testimony becomes important and, of course, Mr.
5 Moore read part of the Will to you. He's also
6 agreed to stipulate that I have a young lady here
7 by the name of Kelly Josey who is an abstractor
8 to stipulate that Mr. Dickson had no property in
9 the county of Orangeburg, South Carolina where
10 Santee, South Carolina is located as far as the
11 town of Santee. It becomes critical as to what
12 Santee property we're talking about in this Will.
13 There's only one piece of Santee property that
14 Mr. Dickson owned, and that's the property
15 located in Clarendon County and that's where it
16 becomes important as to what property we're
17 talking about which is called the Santee
18 property. We also have photographs that were
19 taken by Mr. and Mrs, Dickson which identify the
20 property as Santee property. We have photographs
21 of some of the Dickson children in there where
22 it's written "Santee property." We have loan
23 application forms for BB&T which show that he
24 owns property at Santee property, and these are
25 part of his debt structure of what he owed. The

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1 only property he owned in that locale of this
2 state is Santee, South Carolina which is Santee
3 proper which is in Clarendon County, not which is
4 Santee in the county of Orangeburg or the town of
5 Santee. He's never owned any property there, and
6 so, it becomes important to what Mr. Seth was
7 told, and I think it's proper for a waiver of the
8 attorney/client privilege.

9 MR. MOORE: And the problem that they have
10 there is that we have a Will that was drafted by
11 a competent attorney which is clear on its face.
12 It creates a class gift. It doesn't say -- my
13 property in Santee. It doesn't say -- the
14 property I own in Santee. What it says is, "Any
15 property I own in Santee." Actually, the
16 language used says, as I recall, it says, "Any
17 property which I own at the time of my death in
18 Santee -- in Santee, South Carolina." So, what
19 you basically have there is a class gift which
20 doesn't indicate that he has any present
21 ownership in anything nor any specific
22 description of any specific piece of property.
23 It just says, "Any property in Santee." Now, we
24 know that Santee, South Carolina has a
25 geographical map. There is a South Carolina --

1 I think the Court can take judicial notice of the
2 fact that Santee, South Carolina is located in
3 Orangeburg County and is a municipality of the
4 state of South Carolina. The evidence is going
5 to basically show that he didn't have any
6 property in Santee, South Carolina. And as a
7 matter of fact, the property that they claim was
8 disposed by this Will is located even in another
9 county. So, what we have here is a situation
10 where, apparently, the attorney -- the prior
11 attorney for the Estate -- is now going to get up
12 and say -- well, he really meant property that he
13 owned in Clarendon County. But that is extrinsic
14 testimony. The first -- the first question truly
15 is, is this provision ambiguous. If someone
16 makes a class gift of property and one can read
17 the English language and understand it and it is
18 determined that there is no property that fits
19 into the definition of the class gift, then there
20 is nothing which is actually effectively disposed
21 of by virtue of the Will. We don't even get to
22 the issue of extraneous testimony until such time
23 as we come to a conclusion that the language used
24 in the Will is ambiguous. And Mr. Seth has --
25 has written a very clear Will. It simply isn't

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1 ambiguous. It basically says, "If I own property
2 in Santee, South Carolina," then that's what's
3 basically given. I would respectfully submit
4 anyone can pick up this Will, read it and
5 understand that there's a class gift which is
6 contingent upon property being in Santee, South
7 Carolina and at the time of his death. A
8 specific property was not devised under the terms
9 of that Will. If we look at the way it's written
10 and the expert testimony will show this, that the
11 provision -- the expert testimony we believe will
12 show that the provisions of the Will are clear,
13 that extraneous testimony is not allowed and that
14 there was a class gift which simply became
15 ineffective because the qualifications to be
16 included in the class didn't exist. So, we have
17 an evidentiary question that the ruling on the
18 evidentiary question depends upon the ruling the
19 Court gives in regard to the definition of what's
20 written. If the Court determines that that
21 language is ambiguous, then extraneous testimony
22 would be allowed, then you would have a situation
23 to determine what mechanisms would be available
24 to allow for a waiver of the attorney/client
25 privilege which has been taken until today, and

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1 then we would have to set up a mechanism to allow
2 with leave of the Court, of course, the
3 deposition of the deponent prior to his testimony
4 being heard. I thank you for listening.

5 THE COURT: Thank you. Due to the fact that
6 there is a geographical location called Santee,
7 South Carolina and also there is a lake area that
8 is called Santee, which there are thousands and
9 thousands of people that will tell you they are
10 going to Santee, and they're going to the lake.
11 They're not crossing I-95 and going into the town
12 of Santee. I think that there is some ambiguity
13 because of the fact that they're -- they can be
14 talking about either location whenever you
15 mention going to Santee or at Santee or in
16 Santee. So, based on that, I do feel that it
17 could be proper or would be proper for Mr. Seth
18 to testify if his testimony could clear up any
19 questions as far as the intent of the Testator.
20 If it's your desire, Mr. Moore, to completely
21 depose Mr. Seth prior to his testimony, then
22 certainly, that can be arranged and we will not
23 move forward with it today.

24 MR. MOORE: Thank you.

25 THE COURT: But I do feel that this is a

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1 case where the attorney/client privilege could be
2 released so that the testimony could help clear
3 up any questions about the Will.

4 MR. YOUNG: Thank you.

5 MR. MOORE: Thank you, Your Honor.

6 MR. YOUNG: I take it then that with the
7 ruling of the Court, that Mr. Seth is released
8 until we can take his deposition at some future
9 date.

10 THE COURT: If Mr. Moore wants to get the
11 deposition prior to his testimony, that's up to
12 you.

13 MR. MOORE: I would like that, Your Honor.
14 I think in order to properly protect my client,
15 I need to do that.

16 THE COURT: Okay.

17 MR. SETH: To whom am I to release this
18 information?

19 THE COURT: At a deposition.

20 MR. SETH: Only at a deposition?

21 THE COURT: At a deposition or at a future
22 Hearing involving this case.

23 MR. YOUNG: And -- and talk about notes as
24 well?

25 THE COURT: Yes.

1 MR. MOORE: Could we agree that we could go
2 ahead and have Mr. Seth provide us a copy of the
3 contents? I have -- I would -- I would certainly
4 prefer those in light of -- and I know Mr. Young
5 would.

6 MR. YOUNG: Sure.

7 THE COURT: That will be fine.

8 MR. MOORE: Thank you, Your Honor.

9 MR. YOUNG: Thank you, Judge.

10 MR. SETH: Thank you, gentlemen. It's
11 different sitting in that seat.

12 THE COURT: Yes, it is.

13 MR. YOUNG: I'll see you.

14 MR. MOORE: Good to see you, J.

15 MR. SETH: I'll have the copies available
16 when you finish.

17 MR. MOORE: Thank you.

18 MR. YOUNG: Thank you.

19 THE COURT: Mr. Young, I understand you
20 wouldn't have any problems with the other
21 witness; is that correct?

22 MR. YOUNG: No, sir. I think that Mr. Moore
23 is now going to go forward with his case, and
24 then we'll -- if in fact we finish in time,
25 which, quite frankly, I don't see why we

1 couldn't, then I'd like to put Mr. Beasley up and
2 let him testify and then we'll hopefully have Mr.
3 Seth and the expert witness.

4 MR. MOORE: Yes, we have as we explained to
5 the Court, Mr. Gertz, our expert is in a
6 mediation in Greenville and we would agree that
7 we would reconvene at some point in time for that
8 purpose, too. Your Honor, I'd call Milton
9 Dickson to the stand, please.

10 THE COURT: Yes, sir. Mr. Dickson, come on
11 up, please. Place your left hand on the Bible
12 and raise your right hand. Do you solemnly swear
13 the information you will give in this case will
14 be the truth, the whole truth and nothing but the
15 truth so help you God?

16 MR. DICKSON: Yes, sir.

17 THE COURT: Have a seat, please sir, and
18 answer any questions Mr. Moore has.

19 EXAMINATION BY MR. MOORE:

20 Q. What is your name?

21 A. Milton Oakley Dickson.

22 Q. And Milton, you have a tendency to talk on a little
23 bit; so, if you will try to confine your answers to my
24 questions, we'll do pretty well; okay?

25 A. Yes, sir.

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1 Q. Where do you live?

2 A. Irmo, South Carolina. Columbia, South Carolina.

3 Sorry.

4 Q. How long have you lived there?

5 A. Ten years.

6 Q. And how old are you?

7 A. I will be sixty (60) on the 23rd of July.

8 Q. And how are you related to Herbert Franklin Dickson,
9 Senior?

10 A. That's my dad.

11 Q. The -- your mother passed away when?

12 A. She's still living.

13 Q. I'm sorry. Your mother was divorced from your dad
14 when?

15 A. I don't know the exact date.

16 Q. It's been a long time.

17 A. Thirty (30) plus years.

18 Q. And after that divorce, did your father remarry?

19 A. Four different times.

20 Q. Okay. Did your father eventually marry the mother of
21 the Personal Representative, Arthur B. Beasley,
22 Junior?

23 A. Yes, sir.

24 Q. And what was that wife's name?

25 A. Melba McSwain Beasley, I think.

1 Q. How long ago did they marry?

2 A. Sixteen (16) years ago, before -- before their death.

3 Q. And I believe that Mrs. Beasley is dead; is that
4 correct?

5 A. Yes, sir.

6 Q. And Arthur Beasley has a sister; is that correct?

7 A. Yes, sir.

8 Q. So, there are the four boys and there is the boy and
9 girl from your father's wife at the time of his death?

10 A. Yes, sir.

11 Q. Was Mrs. Beasley or was she dead at the time he died,
12 your father died?

13 A. She had passed away the month prior to him.

14 Q. So, his wife died, and a month later, he died?

15 A. Yes, sir.

16 Q. Roughly, how old was he?

17 A. Eighty (80) years old.

18 Q. Now, during the lifetime of your father, were you
19 close to him?

20 A. Yes, sir.

21 Q. How about your brothers, were they close to him?

22 A. As close as they could be, yes, sir.

23 Q. When you say "As close as you can be," were you a
24 tight family, a close family?

25 A. Yes, sir.

- 1 Q. Now, before the Will, which is the subject of this
2 Action, your father had another Will; is that correct?
- 3 A. Yes, sir.
- 4 Q. Who were the beneficiaries under that Will?
- 5 A. Melba McSwain was to get the property in Sumter, and
6 we were to get the property in Santee.
- 7 Q. All right.
- 8 A. As they so called it.
- 9 Q. As they call it, but basically the lake property.
10 Now, let's talk about this so called Santee property.
- 11 A. Yes, sir.
- 12 Q. Where is it actually located?
- 13 A. Well, when I lived in Orangeburg, I'd come across down
14 to Santee, South Carolina, cross over the dam into the
15 Summerton area and go to Goslin Pond in the
16 subdivision of Goslin Pond, and we would have family
17 get-togethers and ---
- 18 Q. The subdivision is known as Goslin Pond; is that
19 correct?
- 20 A. Yes, sir.
- 21 Q. What is the closest town to Goslin Pond?
- 22 A. Summerton, South Carolina.
- 23 Q. The mailing address for this piece of property, what
24 is the mailing address?
- 25 A. I'm not quite sure. I know it's Goslin Pond.

1 Q. All right. Is it Santee, South Carolina?

2 A. No, sir.

3 Q. Is there any official document that you know of that
4 lists this particular property as being in Santee,
5 South Carolina?

6 A. Not that I know of.

7 Q. How far is Goslin Pond from Santee, South Carolina?

8 A. I would say eight miles.

9 Q. And how far is it from Summerton?

10 A. Six miles. I mean, I'm not quite sure.

11 Q. Now, during the period of time, say, a year before
12 your daddy died, how was his health?

13 A. Not good.

14 Q. When you say "not good," just give me -- I'm not
15 asking you as a doctor -- but just tell the Judge the
16 condition of your daddy physically in the year before
17 he passed away.

18 A. He was on dialysis. He'd had several strokes. He had
19 a heart attack. He might call me Uncle George when I
20 would go into the hospital room with him; he might
21 call me Franklin.

22 Q. And the Will that we're talking about was written in
23 2007. Would he have been in that condition at the
24 time he wrote this Will?

25 A. Yes, sir.

1 Q. Now, some days, he had good days; is that right?

2 A. Yes, sir.

3 Q. Some days, he had bad days?

4 A. Yes, sir.

5 Q. Some days, he was lucid, and some days, he wasn't?

6 A. Yes, sir.

7 MR. YOUNG: I'm going to object to the
8 leading.

9 THE COURT: Rephrase your question,
10 please.

11 Q. Were there times he was lucid and other times that he
12 was not lucid?

13 A. I think after dialysis, he appeared to be pretty wiped
14 out.

15 Q. All right. How long was he on dialysis before he
16 passed away?

17 A. Five or six years.

18 Q. Now, before he passed away, did there ever come a time
19 that you began having difficulty in being able to see
20 your daddy?

21 A. Yes, sir.

22 Q. Was that isolated to you or was anyone else having
23 those problems?

24 A. I think his brothers and sisters were having that
25 problem and my immediate family.

1 Q. Would you please describe to the Court the problems
2 that you were having getting access to your daddy in
3 the couple years before he passed away?

4 A. Exactly four years prior to passing away, I went over
5 there to see him on Father's Day and called him the
6 night before that I would see him after church. We
7 spent two and a half hours at the house and there was
8 no daddy present.

9 Q. What, if anything, was done by his then wife or her
10 son, Mr. Beasley, to keep you all away?

11 A. There was numerous times I would call during the night
12 to talk with Dad, and she'd say, "He's not well enough
13 to talk" or "he's sleeping." I called him on his
14 birthday yearly, and I could not talk to him on his
15 birthday.

16 Q. Now, how much effort did you guys, you and your
17 brothers, make to actually get access to your daddy?

18 A. Well, Dad put us in a -- in a job when we were very
19 young that required us to work Monday through
20 Saturday, and Arthur can verify that I was in church
21 on Sunday because I was in church with them for ten
22 years and I pretty much, you know, was in church and
23 maybe I would see my mom or my dad during
24 Thanksgiving, Easter, Mother's Day, Father's Day,
25 Christmas, and that's -- you know.

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1 Q. Now, during the period let's say a month or so before
2 he died, was he off and on in the hospital?

3 A. Yes, sir.

4 Q. What if any problems did you have getting access to
5 your dad while he was in the hospital?

6 A. I was not even notified sometimes he was even in the
7 hospital.

8 Q. Was there any steps taken by anybody to prevent you
9 from seeing your dad in the hospital?

10 A. No, sir, but I just didn't know he was in the
11 hospital.

12 Q. All right. Now, I believe that Mr. Beasley had a
13 Power of Attorney for your father for some period of
14 time before he died; is that correct?

15 A. So, he's saying.

16 Q. All right. That's what you understand to be the case?

17 A. Well, I take that back. I knew that we sat in a
18 nursing home in Sumter, South Carolina the day after
19 his mother passed away, and he denied that he had
20 Power of Attorney of any kind.

21 Q. Hold on. Do you know that for a couple of years
22 before your dad died Arthur had a Power of Attorney?

23 A. No.

24 Q. Is that what your understanding is?

25 A. Yes, sir.

1 Q. All right. Now, do you also understand that he
2 conducted business on behalf of your dad for a couple
3 of years?

4 A. No, sir.

5 Q. He didn't do anything under the Power of Attorney?

6 A. No.

7 Q. Okay. Do you question anything that Arthur did
8 business-wise before your daddy died?

9 A. Yes, sir. I don't question business-wise, but I think
10 he took over everything after his mother died.

11 Q. Well, would you please describe that to the Judge?

12 A. He changed the locks on my father's door that we could
13 not be a part of -- come into the house after his
14 mother's funeral. My daddy passed away; we could not
15 even go to the house because we were not welcome. We
16 had -- we had to go to the church to have my daddy set
17 up. I think there was personal items taken off my
18 daddy while he was in his casket as well as his mother
19 that we ---

20 MR. YOUNG: I'm going to object to
21 this speculation. If he's got any proof
22 then -- but I believe it's not proper
23 testimony and I object to it.

24 Q. Let me ask you this question. Do you want somebody
25 independent to review what Mr. Beasley did in regard

1 to your dad's finances before your dad passed away?

2 A. Yes, sir.

3 Q. Why do you want that?

4 A. Because I really think what he told us the day after
5 his mother passed away sitting in my dad's dining room
6 that they set up just to take everything my daddy had.

7 Q. All right. You, not being the Personal Representative
8 of the Estate, are you in a position to look at those
9 things and bring the appropriate actions against Mr.
10 Beasley if one is warranted?

11 A. Yes, sir.

12 Q. Without Court approval, you can't do that, can you?

13 A. No, sir.

14 Q. All right. What you're asking the Court to do is to
15 appoint somebody to review the conduct of Mr. Beasley
16 in your father's business affairs before he died to
17 make sure everything was like it should be?

18 A. Yes, sir.

19 Q. And do you trust Mr. Beasley to do that, to
20 investigate himself in that regard?

21 A. No, sir.

22 Q. Now, let's take a look at this property in Goslin
23 Pond.

24 A. Yes, sir.

25 Q. How many lots are there?

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1 A. There's a double-wide and buildings on two lots and
2 there's six other lots around that piece of property.

3 Q. And the buildings, are they fancy buildings or are
4 they something that are not very fancy?

5 A. I think it's considered a pretty good, you know,
6 Morton type building with bedroom and everything and
7 a kitchen set up in one end of it with three bays.

8 Q. From your standpoint, is that property located in
9 Santee, South Carolina?

10 A. No, sir.

11 Q. Why do you say that?

12 A. Because it's in Summerton, South Carolina. The
13 address and that's where we always went.

14 Q. So, you brought this Action to do two things. One, to
15 get a clarification ---

16 MR. YOUNG: Objection to leading.

17 Q. Have you -- have you brought this Action to get a
18 clarification on the Santee property, what it is and
19 what it isn't?

20 A. Yes, sir. A clarification on that.

21 Q. And have you brought this Action seeking to have a
22 look-see at the business dealings of Mr. Beasley prior
23 to your dad's death?

24 A. Yes, sir.

25 MR. MOORE: I don't have any further

1 questions. Thank you, Your Honor.

2 THE COURT: Answer any questions Mr. Young
3 may have, please sir.

4 A. Okay.

5 MR. YOUNG: Please the Court.

6 EXAMINATION BY MR. YOUNG:

7 Q. Mr. Dickson, are you upset that your father chose to
8 appoint your stepbrother, Mr. Art Beasley, as the
9 Personal Representative?

10 A. No, sir.

11 Q. Okay. In fact, your father and Art Beasley became
12 very close during the course of his latter years in
13 life?

14 A. And I know they had some in and outs.

15 Q. They had some in and outs?

16 A. Yes, sir.

17 Q. Okay. You had some in and outs, too, didn't you?

18 A. No, sir, because the last thing I did is -- is come in
19 and work on his machinery when he sold the business,
20 and I didn't know he was even selling it. So, we had
21 in and outs. I worked all the time he worked.

22 Q. You have indicated that you think some things were
23 wrong. Do you have any proof at all that Mr. Beasley
24 has done anything improper?

25 A. Just from my personal?

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1 Q. Have you got any proof?

2 A. Proof?

3 Q. Proof.

4 A. I have discovered some -- what do you call them --
5 LLC's that mentions my name, Arthur Beasley, Melba
6 Beasley throughout the United States of America, and
7 I have not had anybody answer the question -- why are
8 there LLC's and why my name was attached to them. I
9 signed no LLC's; it was put in my name.

10 Q. Do you have any documentation to show that to the
11 Court today?

12 A. I think we have addressed that, sent a letter to you
13 and to J Seth to find out what they pertain to, and as
14 of yet, you all have not answered those questions.

15 Q. Mr. Dickson, do you have any proof that these things
16 even exist?

17 A. I think I have a copy of them.

18 Q. Where are they today?

19 A. I may have them in my brother's car outside.

20 Q. Did you contact the Secretary of State to see if there
21 was anything in existence like this?

22 A. No, sir, I didn't. I didn't know anything about an
23 LLC other than I do have a personal LLC with my
24 business.

25 Q. Okay.

1 A. That an attorney drew up for me.

2 Q. But you say these LLC's were generated by somebody,
3 but you don't know who generated them?

4 A. Yes, sir.

5 Q. You do know who generated them?

6 A. I do not know who generated them.

7 Q. All right. And if you had contacted the Secretary of
8 State, you could have gotten copies of the initial
9 papers which would have shown the incorporator of
10 those LLC's, wouldn't it?

11 A. I have no idea.

12 Q. You didn't even try, did you?

13 A. I didn't know anything about how to do that, sir.
14 That's why I hired a attorney and sent a letter to
15 you.

16 Q. Did you ask him to get that for you?

17 A. I think he requested, sent a letter to you to -- to
18 find out or J Seth, and we had no response back.

19 Q. I'm unaware of what letter you're talking about; so,
20 I'll just put that on the record. With respect to any
21 other misconduct on the part of Mr. Beasley, do you
22 have any evidence whatsoever of any misconduct on his
23 part? Any proof?

24 A. Well, I would say that, when you have checking
25 accounts that have zero balances still in my daddy's

1 name and he's probably the only one can go into banks,
2 since I do a lot of business with banks, to close
3 those accounts and all the money had been depleted
4 from those accounts, I think that would be some
5 evidence that something's going on that shouldn't be
6 going on.

7 Q. What evidence do you have? That's speculation on your
8 part. Do you have any evidence?

9 A. I think I've got some documents outside.

10 Q. Outside?

11 A. Uh-huh (affirmative response).

12 Q. Did you bring them in the courtroom to testify today?

13 A. No, sir, but I can get them.

14 Q. Isn't it true that you really have no evidence at all
15 that Mr. Beasley has done anything improper and wrong
16 in this situation?

17 A. On my -- only what I feel because I think my dad was
18 eighty (80) years old. I think he drew Social
19 Security all his life from sixty-two (62) until he was
20 eight (80). He sold property and not to have a dime
21 in his name, and I wouldn't be challenging it today if
22 Art Beasley had not told me the day after his mother
23 died that my daddy didn't have anything. The water
24 could have went under the bridge if Art wouldn't have
25 made that statement.

1 Q. All right. Well, Mr. Dickson, you have come into this
2 Court and asked that Mr. Beasley be removed as the
3 Personal Representative?

4 A. Yes, sir.

5 Q. All right. What has Mr. Beasley done that you would
6 not have done to ---

7 A. For sure, I wouldn't have changed the lock on the
8 doors of my daddy's house while he was still living.

9 Q. Okay.

10 A. And why didn't I have a set of keys?

11 Q. Has your father ever owned property in the town of
12 Santee, South Carolina?

13 A. No, sir, not that I know of.

14 Q. Okay. In fact, do you know if he's ever owned
15 property in Orangeburg County, South Carolina?

16 A. Yes, sir.

17 Q. In the town of Orangeburg, though; right?

18 A. No, sir. Branchville.

19 Q. Branchville?

20 A. Yes, sir.

21 Q. What did he own down there?

22 A. Before my mother and father separated, he basically
23 owned property in Branchville, South Carolina.

24 Q. That was ---

25 A. And there's two cemetery plots I believe still at our

1 cemetery that's in my daddy's name.

2 Q. Okay. But no property in the town of Santee, South
3 Carolina?

4 A. In Orangeburg County?

5 Q. Yes, sir.

6 A. None that I know of. Maybe he was trying to buy a
7 parcel when he drew up this Will before he -- I don't
8 know.

9 Q. And you have even referred to the property at Santee
10 and the property that has been the lake house and
11 these lots that you talked about as Santee, South
12 Carolina, haven't you?

13 A. I may have said Santee out of talking, but I know that
14 the Will says "Santee, South Carolina." But I know
15 that the property was not in Santee; I knew it was in
16 Summerton beside of the lake.

17 Q. In fact, it's not even in the town of Summerton, is
18 it?

19 A. It's ---

20 Q. It's in Clarendon County.

21 A. It's in Clarendon County and got a Summerton address.

22 Q. Well, that's a mailing address?

23 A. Yes, sir.

24 Q. Okay. But ---

25 A. But it doesn't have a Santee address.

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1 Q. All right. But when your father says -- I'm leaving
2 the property at Santee -- you knew it to be the lake
3 property, didn't you?

4 A. No, sir.

5 Q. You didn't know of any property he had in the town of
6 Santee, did you?

7 A. There's a -- there was times I didn't know my daddy
8 had bought another lot for several years.

9 Q. Okay.

10 A. You know.

11 Q. But your father's not the type of person who would
12 make up lots that he doesn't own or anything, is he?

13 A. No, sir, I don't think so.

14 Q. Okay.

15 A. I don't know, you know, what he was trying to buy
16 next.

17 Q. One second, please, sir.

18 MR. YOUNG: No further questions.

19 THE COURT: All right, sir. Mr. Moore?

20 MR. MOORE: No further questions, Your
21 Honor.

22 THE COURT: You can step down, sir.

23 MR. MOORE: Your Honor, we call as an
24 adverse witness, Mr. Arthur B. Beasley, Junior.

25 THE COURT: All right. Please place your

1 left hand on the Bible and raise your right hand.
2 Do you solemnly swear the information that you
3 give in this case will be the truth, the whole
4 truth and nothing but the truth so help you God?

5 MR. BEASLEY: I do.

6 THE COURT: Have a seat, please, sir and
7 answer any questions Mr. Moore may have.

8 MR. BEASLEY: Thank you.

9 EXAMINATION BY MR. MOORE:

10 Q. I believe that your name is Arthur B. Beasley, Junior;
11 is that correct?

12 A. It is.

13 Q. And you are the person who presently is performing as
14 the Personal Representative in this case; correct?

15 A. I am.

16 Q. Now, as I understand it, you are a Baptist preacher?

17 A. I am.

18 Q. And how long have you done that?

19 A. Thirty-five (35) years.

20 Q. There was a period of time that you actually lived in
21 Orangeburg prior to February of 2000; is that correct?

22 A. There is.

23 Q. And it would be fair to say that you would have
24 visited your mother and Mr. Herbert Dickson, Senior on
25 a regular basis; is that correct?

1 A. That's correct.

2 Q. Now, I believe that you have taken the position
3 previously that prior to Mr. Dickson's death, he had
4 a Power of Attorney; is that correct?

5 A. He had a Power of Attorney?

6 Q. That he had given you -- he prepared a Power of
7 Attorney naming you as the Power of Attorney.

8 A. I take the position that when he -- when my mother
9 passed away, I was informed that Power of Attorney he
10 had named me specifically at the National Healthcare
11 Centers.

12 Q. All right. Well, do you know ---

13 A. I ---

14 Q. Have you ever seen the Power of Attorney?

15 A. I did after we found the Will.

16 Q. Before the death of Mr. Dickson, had you ever seen the
17 Power of Attorney?

18 A. No.

19 Q. Before the death of Mr. Dickson, had the Power of
20 Attorney ever been delivered to you?

21 A. No.

22 Q. So, we know that there was a Power of Attorney which
23 was signed, but never delivered before Mr. Dickson
24 passed away?

25 A. That's correct.

1 Q. Now, Mr. Seth's law firm, you basically consider them
2 your lawyer, too; is that correct?

3 A. I retained J Seth because he wrote the Will.

4 Q. So, if you retained him, I'm assuming you retained him
5 to be your attorney?

6 A. The attorney for the Estate, yes.

7 Q. Well, sir, you have previously testified, have you
8 not, that you consider Mr. Seth to be your attorney?

9 A. No. I stated in the prior deposition that I knew
10 Dickie Jones, and he is the lead attorney in that
11 particular field. He and I played ball together. I
12 did not know J Seth.

13 Q. And you considered Dickie Jones to be your attorney?

14 A. I never retained him.

15 Q. All right, sir. You don't have any knowledge of Mr.
16 Dickson ever having signed any Power of Attorney;
17 correct? You weren't there; you don't know when he
18 signed it?

19 A. No, I wasn't.

20 Q. As a matter of fact, you testified that you never even
21 saw any Power of Attorney before Mr. Dickson passed
22 away?

23 A. That's correct.

24 Q. This Power of Attorney, was it a Healthcare Power of
25 Attorney or a general Power of Attorney or a Durable

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1 Power of Attorney or do you know?

2 A. The -- I did see it after I think my mother passed
3 away and I believe it was like a -- it was a Living
4 Will/Durable Power of Attorney, something like that.

5 Q. Now, when Mr. Dickson signed the Will that is the
6 subject of this Action, was he communicative, alert
7 and responsive?

8 A. I was not there; so, ---

9 Q. That was my question to you. So, you were not there
10 at the time; correct?

11 A. That is correct.

12 Q. So, there's no way that you could have testified that
13 at the time he signed his Will, he was communicative,
14 alert and responsive; correct?

15 A. Even though I was not there in '07 whenever the thing
16 was signed, from '07 until he passed away, I spent
17 time on the phone with him, visiting in the home,
18 caring for him, and I could testify between that time
19 and up until the time that he went into the nursing
20 home, he was clear-minded and precise in his thought
21 processes.

22 Q. My question is, at the time he had executed the Will,
23 is it your position that he was communicative, alert
24 and responsive and friendly or do you know?

25 A. Since I was not there, I would not know.

1 Q. Thank you, sir. Now, the property that we are arguing
2 about consists of -- is it six lots?

3 A. It's six lots.

4 Q. And those lots are located in a subdivision known as
5 Goslin Pond; correct?

6 A. That's correct.

7 Q. And on one lot, there is some sort of a shed or
8 building and another lot there's kind of a double-wide
9 mobile home; is that correct?

10 A. On one lot, there is a double-wide mobile home, and on
11 that same lot, at the back of that lot there is a
12 Morton building that has three bays.

13 Q. And did your mother and Mr. Dickson live there for a
14 period of time?

15 A. Yes.

16 Q. Did he live there at the time of his death?

17 A. No, he did not.

18 Q. And you say you've been there regularly; correct?

19 A. Yes.

20 Q. And you handled business matters for your mother and
21 Mr. Dickson; is that right?

22 A. No.

23 Q. The address, the mailing address for the property in
24 Goslin Pond, it's Summerton, South Carolina, is it
25 not?

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- 1 A. You know, I've never seen any -- them receive any mail
2 there, but I understand after the fact that the
3 address is Goslin Pond, Summerton, South Carolina.
- 4 Q. So, that for purposes of the United States Post
5 Office, the property has a Summerton mailing address?
- 6 A. Physical address. They don't have a mailbox up.
7 Never have and, as far as I know, haven't received --
8 they receive everything in Sumter.
- 9 Q. But we can agree that for purposes of the United
10 States of American Postal Service the property is
11 deemed to be in Summerton, South Carolina?
- 12 A. Not in the city. Close to it.
- 13 Q. And you make a distinction, don't you, between
14 something being in the city and close to it; correct?
15 I'm not trying to be funny. Is the answer yes?
- 16 A. I know.
- 17 Q. And you perceived me as trying to be funny with ---
- 18 A. Well, the -- any time ---
- 19 Q. Is the answer yes?
- 20 A. The answer what?
- 21 Q. That you thought I was -- that I was trying to be
22 funny? You were laughing at my question. My question
23 very succinctly is this, you just made a distinction
24 between something being in a city and near a city;
25 correct?

1 A. Well, I made the same distinction that your client
2 did, Milton, when he was talking about the distance
3 there.

4 Q. Yes, sir, I'm simply asking you, is the answer to my
5 question yes?

6 A. And your question was?

7 Q. You made a distinction between something being located
8 in a city and near a city; correct? Because you told
9 us it's not located in Summerton, but it's located
10 close to Summerton; correct?

11 A. It's located closer to Santee.

12 Q. So, do you know that for sure? It's certainly not
13 even in the same county as Santee, South Carolina.

14 A. I realize that.

15 Q. Santee, South Carolina is located in Orangeburg, South
16 Carolina, isn't it?

17 A. I know that.

18 Q. And the piece of property that we're talking about,
19 Goslin Pond, is actually located in Clarendon County;
20 correct?

21 A. Correct.

22 Q. And the property, is it actually located adjoining
23 water? Does it have any water frontage?

24 A. No.

25 Q. So, as far as the property actually being on a lake or

1 a body of water known as Santee, it's not on any
2 Santee Lake as far as any water frontage; correct?

3 A. Correct.

4 Q. Now, you -- can we agree that at the time Mr. Dickson
5 died, he did not own any property located in Santee,
6 South Carolina?

7 A. In the city of Santee, South Carolina;---

8 Q. Yes.

9 A. -- is that your question?

10 Q. That's right.

11 A. Right.

12 Q. And the property that we're talking about, how far is
13 it from Summerton?

14 A. I'm not exactly sure, but when -- but I would say it
15 would be probably ten miles.

16 Q. How far is it from Santee?

17 A. I'd say around six to eight.

18 Q. So, we can agree that it's a fairly good distance from
19 South Carolina, the -- from, I'm sorry, from Santee,
20 these six lots that we're talking about; correct?

21 A. Well, a good distance, six to eight miles.

22 Q. All right.

23 A. Yeah, it's ---

24 Q. Have you previously testified that you don't even know
25 where Santee lies? That you don't even know where --

1 that's all right. Let me back up. On the Will, you
2 have seen the Will; correct?

3 A. Yes.

4 Q. Mr. Dickson's name was Herbert Franklin Dickson; is
5 that right? Senior.

6 A. Senior.

7 Q. And yet, the Will itself actually has his name listed
8 as Herbert Franklin Dickson, Senior, Senior, does it
9 not?

10 A. It's typed in Senior, Senior, and it's signed Herbert
11 Franklin Dickson.

12 Q. Right. So, -- but his name wasn't Herbert Franklin
13 Dickson, Senior, Senior; right?

14 A. Apparently not.

15 Q. And the way he signed it is not the way his name is
16 actually typed on the Will; correct?

17 A. I would say yes to that, but at the same time, if you
18 would ask me is that his signature, I would also have
19 to say that's Herbert Franklin Dickson, Senior's
20 signature.

21 Q. Now, is it not true that before Mr. Dickson's death,
22 that your mother and he had banking accounts together?

23 A. They had a banking account at BB&T.

24 Q. Were there others?

25 A. SAFE Federal, I believe.

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1 Q. And they put your name on those accounts; correct?

2 A. Yes.

3 Q. And the reason why they put those names on those
4 accounts was so that you could help them in case they
5 got to where they couldn't manage their own affairs;
6 right?

7 A. Yes.

8 Q. And you then understood that the money in those
9 accounts belonged to your parents or to -- to your
10 mother and Mr. Dickson?

11 A. Well, the understanding is, legally, any time a name
12 is added, you know, you become a part -- they added me
13 simply in case something happened.

14 Q. Right. They added you to those accounts in case
15 something happened to them that you could get access
16 to the funds and do the right thing with them?

17 A. Correct.

18 Q. And as a matter of fact, before Mr. Dickson died, you
19 did write some checks on that account, did you not?

20 A. July 12th.

21 Q. Is the answer to my question yes?

22 A. And that would be yes.

23 Q. All right. So, then we know that you wrote checks on
24 their money before he died.

25 MR. YOUNG: Objection to the form of

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1 the question. He says "checks." Mr. Beasley
2 said "check".

3 Q. A check on their money.

4 A. I wrote the first check on the account three days
5 after my mother passed away, and it was to David Lowe,
6 who cuts their grass and has been cutting their grass
7 for years. And the reason for that is, it needed to
8 be cut in time for the funeral which was on Sunday.
9 First check.

10 Q. At the time Mr. Dickson died, the BB&T account had
11 roughly Twenty-five Thousand Dollars (\$25,000.00) in
12 it?

13 A. That would be approximate. Correct.

14 Q. And you have taken that money?

15 A. No, I haven't.

16 Q. Where is it?

17 A. That -- the insurance money was moved to an Estate
18 Account.

19 Q. And the Estate of Mr. Dickson?

20 A. Correct.

21 Q. Now, the BB&T account, upon your mother's death, Mr.
22 Dickson was the beneficiary of a Fifty Thousand Dollar
23 (\$50,000.00) policy; is that right?

24 A. Correct.

25 Q. And were you also the PR of that?

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1 A. The -- and what is the question?

2 Q. Were you the Personal Representative for your mother?

3 A. Yes, I was.

4 Q. Part of the Fifty Thousand Dollars (\$50,000.00) that
5 belonged to Mr. Dickson was used to pay your mother's
6 burial expenses; is that correct?

7 A. That's correct.

8 Q. Did you have anything to do with that?

9 A. Pay the burial expenses?

10 Q. Yes, with the money that belonged to Mr. Dickson.

11 A. I turned the insurance policy, which is common, over
12 to the insurance company. They contacted the
13 insurance company. The insurance company releases a
14 check to the funeral home, and the balance came back
15 to the Estate or to Herbert Dickson and it was put in
16 the BB&T account and later transferred to an Estate
17 account.

18 Q. The Will that is there basically seems to talk about
19 three major assets. A house, that would be your
20 sister's; is that right?

21 A. In Sumter, yes. The Santee house and then the store.

22 Q. Whatever property there may be in Santee, a house and
23 then a shoe shop; is that right? Besides the ---

24 MR. MOORE: I don't have any further
25 questions. Thank you, Your Honor, very much.

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1 THE COURT: Yes, sir.

2 MR. BEASLEY: I just -- the shoe shop wasn't
3 mentioned in Herbert Dickson's Will. I don't
4 think the shoe shop was mentioned in the Will.

5 MR. MOORE: I don't have any further
6 questions. Thank you, Your Honor.

7 THE COURT: All right, sir. Mr. Young.

8 MR. YOUNG: If it please the Court.

9 EXAMINATION BY MR. YOUNG:

10 Q. Mr. Beasley, with respect to the money in the
11 accounts, have you gone through these and made an
12 analysis of the accounts on a month-to-month basis?

13 A. The BB&T account in question, I asked the -- because
14 there seemed to be some question about the amount of
15 money that was in there, I did contact a BB&T
16 representative up in Kentucky and asked him if he
17 would go back to January of 2000, and I would like to
18 have copies of all of the monthly balances on those
19 accounts and -- and then bring it forward. I think
20 there was an estimation or statement made by Milton
21 that there was a Hundred and Five Thousand Dollars
22 (\$105,000.00) in the BB&T account, and as you can tell
23 from the copies that was sent to me and then I typed
24 up what you have in your hand there to show the
25 monthly balances with the Social Security check being

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1 added of what the ongoing balances were going back to
2 January of 2000. At such time, there probably -- the
3 highest balance was about Eleven or Twelve Hundred
4 Dollars.

5 Q. All right. And has there ever been the amounts of
6 money that Mr. Milton Dickson claimed?

7 A. No.

8 Q. In checking the records of Mr. Dickson, did you find
9 that he listed property on Loan Applications or in his
10 personal Financial Statement that show the property
11 located at the lake as being the Santee property?

12 A. Yes, there were two. One from NBSC, but then there
13 was the most recent one was from BB&T I think dated
14 the year 2000 where they were -- I think they were --
15 may have been refinancing, and they listed property
16 and liabilities, and I think it said something --
17 Santee house and then another piece of property, maybe
18 the store.

19 Q. Let me show you this document and ask you whether or
20 not that's the Financial Statement filed in 2001 that
21 you're making reference to?

22 A. That is. It says, "Store, Santee home and two lots."
23 And shows the liability.

24 Q. These pictures were attached to that. What are those
25 pictures of?

1 A. These pictures are of the garage that was being built
2 at Santee, and it's labeled, "Santee garage." These
3 were taken June the 3rd, 1996. And there are four
4 pictures showing as it's being -- as it's going up.

5 Q. Do you know who ---

6 MR. MOORE: Your Honor, again, I
7 want to make sure that my position is
8 preserved on the record that any sort
9 of extrinsic testimony such as this
10 would be irrelevant as the document
11 is clear on its face.

12 THE COURT: All right, sir..

13 MR. YOUNG: We would like to introduce
14 that.

15 THE COURT: Subject to their objection,
16 yes, sir.

17 MR. YOUNG: Okay. Can I get it marked?

18 THE COURT: After you finish with it.

19 Q. Mr. Beasley, have you ever removed any funds from Mr.
20 Dickson's account improperly?

21 A. No.

22 Q. Have you ever made any improper expenditures?

23 A. No.

24 Q. Did you get all of the past records?

25 A. On the BB&T account, yes.

1 Q. Okay. Was there anything that would show any improper
2 expenditure at all?

3 A. No.

4 Q. Even in the Pleadings that were filed by Mr. Milton
5 Oakley Dickson, he stated and acknowledged that Mr.
6 Dickson had never owned any property in Santee, South
7 Carolina, the town of Santee?

8 A. Correct.

9 Q. That was alleged in his Pleadings. Do you know of any
10 property that Mr. Dickson owned in Santee, South
11 Carolina, the town?

12 A. No, I don't.

13 Q. They asked about the Power of Attorney that Mr.
14 Dickson had prepared. Did you know anything about its
15 preparation?

16 A. No, I did not.

17 Q. Did you even know of its existence until such time as
18 your mother passed?

19 A. No.

20 Q. Did you ever use that Power of Attorney?

21 A. No, I did not.

22 Q. You understand that the Power of Attorney ceased to
23 have any effect whatsoever upon the death of Mr.
24 Dickson?

25 A. Correct.

1 Q. Have you in any way operated outside of the scope of
2 your duties as the Personal Representative of Mr.
3 Dickson's estate?

4 A. No.

5 Q. In your Pleadings, you have asked the Court to enforce
6 the provisions in the Will that exclude someone who
7 challenges this Estate.

8 A. Yes.

9 Q. Okay. Would you please tell the Court why you think
10 it's appropriate that the paragraph under Item 5,
11 Incontestability Clause, should be enforced by this
12 Court?

13 A. It's obviously I think Dick put that in there for a
14 particular reason.

15 MR. MOORE: Objection, Your Honor, as
16 to speculating as to why someone may have
17 done -- what he thinks about why someone
18 put something in would be irrelevant.

19 MR. YOUNG: If it please the Court, I
20 would submit that it's a proper statement
21 because, obviously, it didn't accidentally
22 get in there and somebody would have a reason
23 for putting it in there or it wouldn't have
24 been in there to begin with.

25 THE COURT: I'll let him answer the

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1 question.

2 Q. Please answer the question.

3 A. The section in question in the Will was put in there
4 with intent and purpose, and so as to I guess
5 discourage any type of challenge to that and,
6 therefore, be a challenge to it.

7 THE COURT: Stop just a second.

8 MR. MOORE: When he says, "I guess it
9 was put in there to do that," Your Honor,
10 that's speculation on his part.

11 THE COURT: You can't testify as to
12 what you guess to.

13 A. It was put in there for -- with intent and purpose,
14 and I chose to enforce the section that was in Mr.
15 Dickson's Will, Dick's Will.

16 Q. One person has brought this Action, Mr. Milton Oakley
17 Dickson. Do you feel it should be enforced against
18 the other three brothers?

19 A. My response to that would be yes.

20 Q. And tell the Court why.

21 A. At each deposition, all of them were present, and on
22 a couple of occasions when we stepped out of the room,
23 there was discussion between the parties talking back
24 and forth and -- at mine and also Milton's. To me, it
25 spoke to the situation of collusion.

1 MR. MOORE: Objection, Your Honor.

2 Q. Did you see what actively -- I'm sorry.

3 MR. MOORE: Whether he is of the opinion
4 that there was collusion would be irrelevant
5 to the facts of this case.

6 MR. YOUNG: May it please the Court. I
7 would submit that while they had a point man in
8 the name of Mr. Milton Oakley Dickson, they were
9 acting in concert, and I would submit to the
10 Court that during the depositions and both at Mr.
11 Moore's office, there was suggested questions
12 coming from the brothers, there was encouragement
13 coming from the brothers, there was a general
14 concert of all brothers acting together in the
15 questioning of my client. And he saw that.

16 MR. MOORE: Your Honor, these people are --
17 have been served with copies of the Pleadings,
18 and under the law, have a right to be there. I
19 have spoken with Mr. Young on a number of
20 occasions in private about the case. Hopefully,
21 the fact that we have spoken does not mean that
22 we're in collusion with anybody. The fact that
23 we may have spoken to one or more or all of the
24 brothers at various times doesn't mean that these
25 folks are anything other than named people who

1 have basically been named as beneficiary and
2 served with Notices of this Hearing. I believe
3 the Court served Notices of the Hearing. Someone
4 served them with Notices of the Hearing. I guess
5 they take the fact that -- the fact that the
6 Court served them with Notice of a Hearing as
7 fact -- as evidence they're in collusion with the
8 Court. This testimony would appear to me to have
9 no relevance.

10 MR. YOUNG: If it please the Court.

11 THE COURT: Yes, sir.

12 MR. YOUNG: I would simply ask the Court to
13 take judicial notice of the language of Item 5,
14 Incontestability Clause, which states -- I'll
15 read it for the record -- "In the event any
16 person whomsoever shall challenge the validity of
17 this Will or the distributions thereunder or
18 shall cooperate with or in any manner assist
19 another in doing so, such person or persons shall
20 take as their full and complete share of my
21 Estate the sum of One Dollar (\$1.00) and no
22 more." That's the language of the Will
23 Incontestability Clause. I ask the Court to just
24 take note of that.

25 THE COURT: All right, sir.

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1 MR. YOUNG: Thank you.

2 Q. Mr. Beasley, to clear up for the Court so the Court
3 will know what's going on, is there a mortgage or are
4 you in the process of selling and collecting income
5 from a buyer of the old shoe shop on Broad Street?

6 A. Am I in the process -- yes, they are -- Russell Purvis
7 purchased the shoe shop from Dick Dickson in '05, and
8 he has been making payments on that property since
9 that date.

10 Q. Okay.

11 A. And there is an outstanding balance. I'm not sure of
12 the exact amount.

13 Q. Can you give us the approximate amount?

14 A. Around Ninety Thousand (\$90,000.00), I would assume.

15 Q. And how many years do we have to go on that?

16 A. Seven, maybe.

17 Q. Seven?

18 A. Yeah.

19 Q. Okay.

20 A. I'd have to look at the exact amortization table to
21 see what it is.

22 Q. Okay.

23 MR. YOUNG: I would like the Court to
24 take judicial notice that after our brief
25 talk about the incontestability clause that

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1 all the brothers have left the courtroom
2 except for Mr. Milton Oakley Dickson for
3 whatever reason; I do not know.

4 THE COURT: All right.

5 MR. MOORE: I think he's correct. For
6 whatever reason that -- if that -- that's fine.

7 MR. DICKSON: Am I under oath still?

8 MR. MOORE: Hush.

9 THE COURT: No, sir.

10 MR. DICKSON: Okay.

11 MR. MOORE: If you've got something to say,
12 you say it to me.

13 MR. DICKSON: Okay.

14 Q. Based on the -- one second, Your Honor, I want to make
15 sure -- prior to the death of Mr. Herbert Franklin
16 Dickson, did you ever try to dominate or control him
17 in any manner whatsoever?

18 A. No.

19 Q. In Paragraph Seven of the Petition, it says that,
20 "Arthur B. Beasley, Junior had a Power of Attorney
21 prior to the death of Herbert Dickson, Senior and used
22 the Power of Attorney in order to strip significant
23 assets from the decedent." You've testified that you
24 didn't even know about it until your mother's death
25 and never used it prior to the death of Mr. Dickson?

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1 A. That's correct.

2 Q. Did you ever take any significant assets or any assets
3 whatsoever?

4 A. No.

5 Q. Paragraph Eight, it states, "That you owe the Estate
6 significant amounts of money which are rightfully the
7 property of the Petitioner," which I guess is Mr.
8 Milton Oakley Dickson. Do you owe the Estate any
9 money?

10 A. No, I do not.

11 Q. Paragraph Nine, it says, "That you have a conflict of
12 interest and are not fit to serve as Personal
13 Representative and that you converted money of the
14 Estate and owes money to the Estate." First of all,
15 do you know of any conflict that you would have with
16 the Estate?

17 A. No.

18 Q. Do you know of any reason why you would not be fit to
19 serve as Personal Representative of the Estate?

20 A. No.

21 Q. Do you owe the Estate any money?

22 A. No, I do not.

23 Q. Is it your position that the property at the lake in
24 Clarendon County is the Santee property that he makes
25 reference to?

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1 A. That's correct. And what's interesting is that we do
2 have pictures of a family outing where the Dickson
3 boys came; I believe it was at Thanksgiving and
4 there's pictures of Franklin's family, and I'm not
5 sure if -- taken in '96 or '94, whenever it was -- and
6 they're labeled "Santee" and these are Polaroids taken
7 with a camera that they owned.

8 Q. Let me show you these photographs and ask you if you
9 can identify those.

10 A. Now, that's the garage at Santee labeled "Garage,"
11 "Santee garage." This is Father's Day '94, Santee,
12 where we were down there. Actually, we were praying
13 at the time. And then there's Franklin Dickson and
14 his family in '94; it's -- and it says "Santee" right
15 here. And then there's Franklin -- actually, Dick's
16 in the picture and it says, "Santee, Dick and
17 Franklin's family." And that's the erection of the
18 Santee garage.

19 Q. Who wrote the "Santee" on these pictures?

20 A. My mother did and they're dated -- some of these are
21 dated '96, and the fellowship time, see, there it's
22 '94.

23 MR. MOORE: And I would object, Your
24 Honor, if -- if -- for two reasons. A,
25 same relevance objections as previously

1 made, but if this was labeled basically
2 by his mother and not by Mr. Dickson,
3 they would basically have no relevance
4 and the fact that the -- the writing on
5 these photographs is nothing more than
6 hearsay. I can't cross-examine whoever
7 it is that apparently wrote this.
8 Obviously, this is no admission by Mr.
9 Dickson that he acknowledged anything to
10 be anything, but certainly, if this is
11 not his handwriting it's going to have
12 absolutely no relevance to the facts
13 of the case at all.

14 THE COURT: Mr. Young.

15 MR. YOUNG: If it please the Court.
16 We offer this to show general verbiage
17 of the location of this property and
18 what it was called by everyone. In fact,
19 I would remind the Court that we have
20 offered and it has gone into evidence
21 Exhibit One which is the BB&T Personal
22 Financial Statement which is signed by
23 Mr. Dickson, which shows it as Santee
24 property. And so, this is a furtherance
25 of that.

1 MR. MOORE: Your Honor, and that came
2 in over our objection, but I disagree with
3 my friend that the -- that that shows it's
4 Santee property, but we'll -- that's for
5 another -- that's for cross-examination.
6 Right now we're talking about these documents.
7 I don't have any objection to the photographs
8 coming in showing the property as long as
9 whatever is alleged to have been written by
10 his mother is eradicated.

11 THE COURT: I'll allow you to enter the
12 pictures with the writing on them not to be
13 taken into consideration.

14 MR. YOUNG: All right.

15 MR. MOORE: Thank you, Your Honor.

16 MR. YOUNG: We would ask that they be
17 marked just as one Exhibit so we don't have
18 to mark everything. Your Honor, I don't
19 want to burden the Court's record, but we
20 have all of those BB&T account statements,
21 month by month. I think to make the record
22 complete, we've got to put them in, but I
23 would like to substitute a copy of that.
24 I'll make Mr. Moore a copy as well.

25 MR. MOORE: No objection.

1 THE COURT: All right, sir.

2 MR. YOUNG: All right, sir. Let me have
3 this marked and ---

4 THE COURT: All right, sir.

5 MR. YOUNG: -- and for the record and
6 to clean up.

7 Q. Are these the BB&T account records that you received?

8 A. That's correct.

9 Q. Okay.

10 MR. YOUNG: Your Honor, after we break,
11 I'll -- I'll go get copies made for you and
12 Mr. Moore.

13 THE COURT: All right.

14 Q. Mr. Beasley, Mr. Moore asked you about the check that
15 was written and you testified about the first check
16 that you wrote?

17 A. That's correct.

18 Q. Let me show you this and ask you whether or not that
19 is the check that you were talking about?

20 A. That is. It's a check to David Lowe written the 12th
21 of July, '08.

22 Q. Is that the first check you wrote?

23 A. Correct.

24 MR. YOUNG: We would offer this into
25 evidence.

1 MR. MOORE: No objection.

2 Q. Mr. Beasley, do you want to continue as the Personal
3 Representative of the Dickson Estate?

4 A. I do.

5 Q. Do you know of any reason why you should not be
6 allowed to continue to do that?

7 A. I do not.

8 Q. Are you asking this Court to make a determination as
9 to the property shown as Santee property and allow
10 that to go ahead and be disbursed in accordance with
11 the Will?

12 A. Yes, sir.

13 Q. Are you asking this matter come to a conclusion so
14 that you can go ahead and proceed to close the Estate?

15 A. Yes, sir.

16 MR. YOUNG: Answer any other questions
17 that Mr. Moore or Judge Atkinson may have
18 for you, please.

19 EXAMINATION BY MR. MOORE:

20 Q. I'm interested if we might to talk about this BB&T
21 document. There's some photographs that came in. The
22 handwriting on the photographs appear to be the same
23 handwriting on the photographs that we talked about
24 just a moment ago; is that correct?

25 A. Yes.

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1 Q. That would be your mother's handwriting on there then,
2 not Mr. Beasley's?

3 A. Mr. Dickson's.

4 Q. I'm sorry, Mr. Dickson's.

5 A. Herbert F. Dickson, Senior.

6 Q. Yes, sir. Obviously, you understood that I made a
7 mistake in regard to the -- the last name, didn't you?

8 A. Correct.

9 Q. All right. That's your mother's handwriting?

10 A. It is.

11 MR. MOORE: Your Honor, I would move
12 to strike that portion of these that was
13 written by his mother and not by Mr. Dickson.

14 MR. YOUNG: Based upon the Court's previous
15 ruling, we have no objection to that.

16 THE COURT: All right, sir.

17 Q. Now, let's take a look at this Financial Statement
18 that you've placed into evidence. How many lots did
19 Mr. Dickson, Senior have in Goslin Pond?

20 A. There are six total.

21 Q. And he bought them along with your mother sometime in
22 the early 1990's at the same time; correct?

23 A. Not all of the lots at the same time. I understand
24 they were staggered out.

25 Q. They were all purchased before 2001; correct?

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1 A. I'm not certain of that. I think they were.

2 Q. To the best of your knowledge, as a matter of fact, I
3 believe you previously testified they were all
4 purchased some time around 1994, didn't you? Let me
5 find the deposition. They were all purchased before
6 2001, were they not, to the best of your knowledge?

7 A. As I said, before I think so.

8 Q. All right. Well, then in the year 2001, according to
9 you, there was this Financial Statement given, and it
10 lists in regard to the Santee property, "Santee home
11 and two lots." Is that right?

12 A. What you have here are liabilities. It says a store,
13 Santee home and two lots. My assumption would be is
14 that apparently there were outstanding balances to the
15 total of Ninety Thousand, Three Hundred Fifty-one
16 Dollars and Fifteen Cents (\$90,351.15) which would
17 lead me to believe if there -- the other lots may have
18 been paid for at that time.

19 Q. Yes, sir. And, actually, if we look at the document
20 that has been placed into evidence, Schedule 6 shows
21 that he makes a distinction between Santee and North
22 Santee because he lists the property in Goslin Pond as
23 North Santee; correct?

24 A. That is correct.

25 Q. So, we know then ---

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1 A. And that's interesting that he didn't put Summerton.

2 Q. Yes, sir, but he didn't put Santee either. He put
3 North Santee; correct?

4 A. And the reason he did that -- well, on that one, you
5 know, it's still down and it's North Santee. He
6 referred to his property as Santee.

7 MR. MOORE: Your Honor, I move to strike
8 the hearsay portion of that.

9 A. That's not hearsay, sir. That is fact.

10 MR. MOORE: I would as soon let the
11 Judge rule on that. Your Honor, I would
12 basically make a Motion to strike the
13 hearsay testimony.

14 THE COURT: So moved.

15 Q. Now, Reverend, let me ask you this. We know now, when
16 Mr. Dickson was referring in writing on official
17 documents, at least on the only official document we
18 know of, he listed the property in Goslin Pond as
19 being in North Santee; correct?

20 A. He listed it here as being the Santee house and he
21 listed it there at a direct physical address.

22 Q. Well, he listed something as being a Santee home and
23 two lots, but it's impossible to look at this document
24 and tell exactly what he's talking about there, isn't
25 it?

1 A. No.

2 Q. But if we look at the Goslin Pond, it all indicates
3 Lot 10, Lot 9, Lot 12. These are all listed as North
4 Santee properties; correct?

5 A. That is correct.

6 Q. So, it is clear based upon a writing that we have from
7 2001 that he made a distinction between property
8 located in Santee and North Santee according to papers
9 that you placed into evidence; correct?

10 A. He made a distinction -- well, he made a statement
11 here that the house that he owned was a Santee house.

12 Q. Right.

13 A. And he owed money on that particular house and then
14 you've got a physical address as to where the
15 properties are located.

16 Q. Well, the house and the lot that he's referring to
17 under the liabilities section, do you have any idea
18 where that is?

19 A. In Santee. And I would even further say that when the
20 family had the reunion back in '94 to '96, the boys
21 were not invited to Santee, South Carolina. They were
22 invited to the house at Santee.

23 Q. Did I ask you that?

24 A. You did not, but I volunteered that information.

25 Q. Do you understand that when you're on the witness

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1 stand, that it differs from like preaching in a
2 church; you're supposed to basically answer the
3 questions that are asked of you?

4 A. I -- I do.

5 Q. And that you're really not supposed to be preaching or
6 just volunteering ---

7 A. I'm not preaching, sir.

8 Q. Or volunteering ---

9 A. I'm just stating facts.

10 Q. Yes, sir. Well, if you state facts, one thing is for
11 certain: Lots 9 Goslin Pond, 10 Goslin Pond and 12
12 Goslin Pond, he referred to him in 2001 as being in
13 North Santee, South Carolina; correct?

14 A. That is.

15 Q. And you recognize there's a difference between North
16 Santee and Santee, South Carolina, do you not?

17 A. North Santee and the city of Santee, South Carolina?

18 Q. Yes, sir, they're different places. One's in
19 Clarendon County, and one is actually in Orangeburg
20 County, are they not?

21 A. I answered correct while you were repeating that same
22 question.

23 Q. That's yes; is that correct?

24 A. Correct.

25 Q. Right. Now, you talked about contesting the Will. Do

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1 you understand that Milton Dickson has not contested
2 the Will?

3 A. He's not contesting the Will?

4 Q. You understand that all he has asked the Court to do
5 is to provide a clarification as to what the item
6 means, if anything, in regard to my property in
7 Santee, South Carolina. Did you know that?

8 A. Yes.

9 Q. All right. So, even though you know he's not
10 contesting the Will, you still want his share of the
11 Will taken from him.

12 A. My understanding is that he is challenging me as a
13 Personal Representative for the Will, wants me
14 removed; that would be contesting the Will as it is
15 written.

16 Q. That ---

17 A. I'm not trying to deny him any shares at all. I'm
18 just simply trying to enforce the Will as Herbert
19 Franklin Dickson, Senior wrote the Will.

20 Q. Well, you're saying you're not trying to deny him any
21 shares at all and yet part of the Petition you have
22 with the Court is to destroy his right to take any
23 money at all. You can't have it both ways, can you,
24 Reverend?

25 A. I can -- my response to that would be simply this; I

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1 would like to simply enforce the Will as it was
2 written.

3 Q. Yes, sir, well, that's actually -- if you look at the
4 Petition that was filed, that's actually the only
5 thing that this man has asked to be done is to enforce
6 the Will as written and to remove you as Personal
7 Representative so someone can look at what you
8 actually have or have not done with the finances;
9 correct?

10 A. I would assume if that's your interpretation, that
11 would be correct.

12 Q. Well, you've read the Pleadings; correct?

13 A. Yes, sir.

14 Q. So, your position is that, not only should Milton be
15 denied his share of the Estate, but all the brothers,
16 too. I guess that means, Reverend, you and your
17 sister get it all; is that right?

18 A. My desire from the very beginning is to enact the Will
19 as it was written.

20 Q. And actually, all this man does, if you read the
21 Petition, it says, "Wherefore the Petitioner prays for
22 an Order prohibiting Arthur Beasley from serving as
23 PR. A declaration as to the validity of Item Five and
24 as to whether or not such provision is in compliance
25 with the public policy for an Order declaring Item

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1 Three to bequeath nothing and for such other relief as
2 appropriate." Do you see that?

3 A. What is Item Three?

4 Q. Item Three is the clause which basically refers to the
5 Santee property, whatever that is.

6 A. Okay. Their house at Santee?

7 Q. Well, sure.

8 A. Sure.

9 Q. Is -- let me ask you this. Is it your testimony that
10 you can read that Will and know for sure exactly what
11 he meant by Item Three?

12 A. Item Three being the property at Santee?

13 Q. Sure.

14 A. Absolutely.

15 Q. And that's why, when you function as Personal
16 Representative, you basically claimed it belonged to
17 you. Right?

18 A. It does not belong to me. It's part of the Estate.

19 Q. Well, yes, sir, but after the Estate is over, your
20 position is, you all get that, too?

21 A. Why would I get something that the Will directs that
22 I would receive?

23 Q. Well, sir, you would basically get that pursuant to
24 the Will; right?

25 A. Right.

1 Q. So, ---

2 A. The property at Santee as the Will directs.

3 Q. So, you clearly read it as belonging to you in your
4 role as Personal Representative and otherwise;
5 correct?

6 A. If the Will is enforced as and the Judge so rules,
7 that will become -- come to me, yes.

8 Q. Yes, sir.

9 MR. MOORE: Thank you very much, Your
10 Honor. I have no further questions.

11 THE COURT: Yes, sir.

12 MR. MOORE: And if Mr. Young has some
13 more, can I hit the restroom for one second?

14 THE COURT: Yes, sir.

15 MR. YOUNG: It won't take but two seconds.

16 MR. MOORE: All right.

17 EXAMINATION BY MR. YOUNG:

18 Q. Mr. Beasley, did you go through and this will clarify
19 this document here, you went through and got the
20 monthly balances on the account at BB&T; is that
21 correct?

22 A. That's correct.

23 Q. And that's what these figures are?

24 A. Yes.

25 MR. YOUNG: We offer this into

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1 evidence, please.

2 Q. Mr. Beasley, likewise, did you do the same thing with
3 the SAFE Federal Credit Union account?

4 A. That's correct.

5 Q. And is that -- are these the figures?

6 A. Let me make sure.

7 Q. I'm sorry.

8 A. I think that is, yes. Yeah, beginning in '05 and,
9 apparently, the store was sold in August of '05, and
10 that's it and it's the running balances.

11 Q. Are they accurate figures?

12 A. Correct.

13 MR. YOUNG: We offer this into evidence.

14 MR. MOORE: No objection.

15 MR. YOUNG: That would be our testimony,
16 Your Honor.

17 THE COURT: All right.

18 MR. MOORE: I have nothing further, Your
19 Honor.

20 THE COURT: Okay. Do you all want to take
21 a five minute break?

22 MR. MOORE: Yes, sir.

23 THE COURT: Okay. Go ahead.

24 (OFF THE RECORD).

25 THE COURT: We've got to wait before any

1 Rulings are made, we need to wait for the
2 deposition of J Seth and any testimony he may
3 present unless you all just want to present his
4 deposition as his testimony.

5 MR. YOUNG: I thought J's suggestion was a
6 good one in that to prevent us from having to
7 come back and we just make our objections there
8 as if for trial.

9 THE COURT: All right. And also, I think
10 you've got another witness that ---

11 MR. MOORE: Yes, sir.

12 THE COURT: -- could not be here today.

13 MR. MOORE: And we may be able to submit
14 Professor Gertz's testimony by deposition, too.

15 MR. YOUNG: In fact, we might as well try
16 that and then we'll see how that goes.

17 MR. MOORE: Sure.

18 THE COURT: Okay. Well, I'll just wait
19 until I hear back from you all.

20 MR. YOUNG: Thank you very much.

21 MR. MOORE: Thank you, sir.

22 THE COURT: Thank you all.

23 (THERE BEING NOTHING FURTHER, THE HEARING WAS CONCLUDED AT
24 4:28 P.M.).

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SUMTER) CERTIFICATE

I, Doris Tompkins Brown, Notary Public in and for the State of South Carolina, certify that I did take the within hearing held before the Honorable Dale V. Atkinson, Probate Judge for Sumter County, at his Chambers, Sumter County Courthouse, 141 North Main Street, Sumter, South Carolina, commencing at 2:03 P.M. on July 21, 2010. I certify that the foregoing pages are a true and accurate transcript of the testimony given at that time and place.

I further certify that I am not of counsel or kin to any of the parties to this action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 31st day of May, 2013.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 5-02-2015

IN THE MATTER OF THE ESTATE OF
HERBERT FRANKLIN DICKSON, SR.

MTLF000106

STATE OF SOUTH CAROLINA) IN THE PROBATE COURT
COUNTY OF SUMTER) 2008-ES-43-00411

IN THE MATTER OF THE ESTATE OF
HERBERT FRANKLIN DICKSON, SR.

Hearing held before the Honorable Dale V.
Atkinson, Judge of Probate for Sumter County, at his
Chambers, Sumter County Courthouse, Sumter, South Carolina,
scheduled for 2:03 P.M. on July 3, 2012, and taken
by Doris Tompkins Brown, Certified Verbatim Reporter
and Notary Public in and for the State of South
Carolina.

APPEARANCES

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ON BEHALF OF:
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MTLF000107

1 THE COURT: This is the matter of Herbert
2 Franklin Dickson, Sr. There was previously an
3 Order issued by the Court, and after that Order
4 was issued, a Motion for Reconsideration was
5 presented and then a Motion to Dismiss that Motion
6 for Reconsideration. It was scheduled I think
7 in January and then again in March, and both
8 times had to be continued until today. What I
9 would like to do is start by giving each of the
10 attorneys the opportunity to make any opening
11 remarks that you would like to make.

12 MR. YOUNG: I would.

13 THE COURT: Okay. Go ahead.

14 MR. YOUNG: If it please the Court. Your
15 Honor, after the Court issued its ruling and
16 sent everything out, you sent the Order and,
17 of course, the inference I got is that Mr.
18 Moore received the Order on September 28th, 2011,
19 after which he attempted to file a Motion for
20 Reconsideration, which was dated October the 3rd,
21 2011, postmarked on October the 11th, 2011. It was
22 received by my office on October the 13th, 2011.
23 I checked with the Offices of the Probate Court
24 and learned that it was received by your office
25 on October the 12th, 2011. A review of Rule 59 (b)

1 of the South Carolina Rules of Civil Procedure show
2 that the Motion for Reconsideration has to be filed
3 no later than ten (10) days after receipt of written
4 notice of entry of judgment. I have a copy of the
5 envelope that I received showing two postmarks.
6 One postmark is October 3rd, 2011, and a second
7 postmark which is October the 11th, 2011 but showing
8 additional postage. And at this time, I would pass
9 this up and offer this into evidence to show the
10 filing of it. (Document passed to Judge). And our
11 position is simply that the Motion for Reconsideration
12 comes too late; it is outside the Statutory
13 limitations, and so, therefore, I object to it and
14 ask that we go ahead and be allowed to implement the
15 Court's Order as you passed that to us back last
16 October -- last September; excuse me.

17 THE COURT: All right.

18 MR. MOORE: Your Honor, basically, you have got
19 in your file, the Court's file, an Affidavit of
20 Amber Kerry, who is a young associate in my office.
21 Amber was the person who was given the responsibility
22 for drafting and filing the Motion for
23 Reconsideration. In that Affidavit, she indicates
24 that we have a prior stamp indicating we received
25 your Order on September 22nd, which would have made

1 October 1st the date the document was scheduled to
2 be filed. That being a Saturday, the next day being
3 a Sunday, that would extend the date necessary for
4 service until October the 3rd; the matter was placed
5 in the mail on October the 3rd, 2011 with the
6 appropriate postage, with an appropriate stamp.
7 Why there are two stamps on there, I don't know.
8 The envelope shows an October 3rd and an October 4th
9 on there. I am told by Amber, and she has sworn to
10 the Court as an officer of this Court, that the
11 document was placed in the mail in the appropriate
12 time which would have been October the 3rd, 2011.
13 I did not bring her with me for purposes of
14 examination, but she certainly is available should
15 the Court decide, or anybody who wants to cross-
16 examine her Affidavit. We have an officer of the
17 Court swearing that she basically has complied with
18 the Rule and has placed the document in the mail
19 in accord with the Rule, and we have an envelope
20 which clearly shows the October 3rd date on it.
21 It would appear to me that we would be within the
22 time frame and that it would be appropriate for
23 us to hear the Motion for Reconsideration. Thank
24 you.

25 THE COURT: Give me just a minute and look

1 at a couple dates in our file. (Judge reviews
2 file). Am I correct that Ms. Kerry is
3 stating in her Affidavit, and I haven't been able
4 to find it, that your office received the Order
5 on the 22nd?

6 MR. MOORE: Yes, Your Honor.

7 MR. YOUNG: It does not say that; it says the
8 28th.

9 MR. MOORE: I'm sorry?

10 MR. YOUNG: I think on the corrected copy,
11 it says ---

12 MR. MOORE: Yes, I do apologize; the 28th.
13 That's correct.

14 MR. YOUNG: And ---

15 MR. MOORE: And she says in the corrected
16 Affidavit, we received it on the 28th.

17 THE COURT: Okay.

18 MR. YOUNG: It also says in her original
19 Affidavit, Paragraph Three. "On September the
20 28th, 2012, Mr. Moore received a copy of this
21 Court's Order in this matter."

22 MR. MOORE: Your Honor, I can tell the Court
23 that, as an officer of the Court, I am duty-
24 bound to tell the truth, and that is obviously a
25 scribbler's error. We received the document on

1 September the 22nd.

2 THE COURT: September the 22nd?

3 MR. MOORE: We did. We received it on
4 September the 22nd; that's the date stamp. That's
5 obviously in error. The document was in our
6 office on the 22nd.

7 THE COURT: I'm looking at her Affidavit; she
8 first stated that she received it on the 28th, and
9 then corrected that date and said that your office
10 received it on the 22nd.

11 MR. MOORE: There you go.

12 THE COURT: Is that correct?

13 MR. MOORE: That would be correct. Yes, sir.
14 I think that what happened was, there was a confusion
15 with her in regard to when the thing was actually
16 received, and -- but I will tell the Court that I
17 pulled out my original and read the stamp and it says
18 that it came in -- this document would normally get
19 to our desk as soon as it got to the mail room, it
20 was basically opened and stamped. So, we got it
21 on the 22nd; that's correct. And I think her
22 Amended Affidavit makes good sense.

23 THE COURT: Which would mean?

24 MR. MOORE: It would have been due on that
25 Saturday, and we put it in the mail that Monday

1 which should comply with the Rule, I believe.

2 And she is available if the Court would care to
3 have her come.

4 THE COURT: My office received your Motion
5 on October the 12th.

6 MR. MOORE: All right.

7 THE COURT: You are not aware of why the
8 second stamp is on the envelope for October the
9 11th, are you?

10 MR. MOORE: I have no idea, Your Honor. I
11 do not know the answer to that question. I do
12 know that it was placed in the United States
13 mail by Amber on the 3rd. It is entirely possible
14 that there was additional postage we were told
15 needed; that's certainly possible. Those
16 sorts of things do happen from time to time, but
17 I can't imagine how it would be additional postage
18 on something that is as small as this. But there
19 are two postmarks on the envelope. What happened,
20 it is possible that the Post Office somehow
21 another had a snafu and re-postmarked it; I don't
22 know. I do know that I believe Amber Kerry; she
23 is a very fine young lawyer, and she is not going
24 to lie. There is no doubt in my mind that this
25 was placed in the mail on that Monday, and postage

1 affixed. It's ---

2 THE COURT: Well, it's clear that it was
3 placed in the mail on that date.

4 MR. MOORE: Yes, sir.

5 THE COURT: With a Sixty-four Cent stamp
6 to it.

7 MR. MOORE: And there's no way in the world
8 that this would have taken more than a Sixty-four
9 Cents stamp; I can't imagine. And how the second
10 postmark got on there, I don't know. The Post
11 Office sometimes works in strange ways. And I
12 think it is pretty clear it was placed in the mail
13 with the appropriate stamp on the 3rd.

14 THE COURT: Mr. Young.

15 MR. YOUNG: I think the document speaks for
16 itself. There is no question that it was stamped
17 on October the 3rd. Whether or not it stayed in
18 the office -- she said she put it in the postal
19 system; I don't know that. But there is no
20 question but there is another stamp on it
21 two days later which shows something different.
22 I think Mr. Moore is speculating it may have
23 been returned for additional postage; that may have
24 been the case. I don't know. I don't think it
25 absolves the responsibility of getting that to the

1 Court in a timely fashion. I don't think it does
2 that.

3 THE COURT: Since the Motion for Reconsideration
4 was placed in the mail on October the 3rd, 2011,
5 it appears that they obviously did attempt to get
6 it to the Probate Court in a timely manner. For
7 some unknown reason, I don't know whether you blame
8 it on the Post Office of who the blame should go to,
9 but since there is a question about it, I am going
10 to allow the Motion for Reconsideration to go
11 forward.

12 MR. MOORE: Thank you, Judge.

13 THE COURT: If you would like, we can go
14 straight into that.

15 MR. MOORE: Yes, Your Honor. The Motion for
16 Reconsideration is very, very -- is very straight-
17 forward and very simple. Your Honor, I just want
18 to make it positive that we have adequately
19 urged upon the Court our basic position in regard
20 to the actual content of the Will and what was
21 actually before the Court and not before the Court.
22 I think we tried this in two separate areas. There
23 are two words that I think are the whole crux of this
24 case, and I think Mr. Young and I have agreed and I
25 think we have enjoyed working with each other on

1 this case as several others we have had, even
2 though it throws a Jonah in this case. But I think
3 that both of us agree that it all comes down to
4 the interpretation of what does it mean, "In the
5 event my wife, Melba McSwain Dickson, predeceases
6 me, I will, give and devise and bequeath any
7 property which I own at the time of my death in
8 Santee, South Carolina and its contents to
9 Arthur B. Beasley if he survives me." The problem
10 with the word is "any" and "in". Those two words
11 basically follow the crux of what we are looking
12 at. If he had said -- my property in Santee,
13 South Carolina, that might have made a difference.
14 But he doesn't say -- my property. He doesn't
15 claim in his Will to own any property in Santee.
16 He says "Any property that I own in Santee,
17 South Carolina." Now, obviously, this property
18 is not located in Santee, South Carolina. So,
19 we have a situation of simply reading the plain
20 language of the document. As we understand the
21 law, if the language is plain, then effect is to
22 be given the plain language. You don't even look
23 to four letters in order -- you don't even
24 look to four letters in order to determine whether
25 there is ambiguity. If it is non-ambiguous,

1 then four letters has zero work in regard
2 to consideration. Here when he uses the word
3 "any," it seems to contemplate that he may or
4 may not have some. He may have some in the
5 future; he may be contemplating some. But the
6 word "any" doesn't tend to imply in any stretch
7 of the words that he actually presently owns
8 property in Santee, South Carolina. Then the
9 next problem we have is the word, "In Santee, South
10 Carolina." What in the word does that mean. The
11 term, "In," is -- I guess it's like -- what does "is"
12 mean? The term "in" is very specific. It means
13 "inside." The term "in" is not an ambiguous
14 term. Santee, South Carolina is a definable,
15 locatable place. If we pull up the definition
16 of Santee, South Carolina, it has defined geographical
17 limits. At the time of this man's death, he did
18 not have any property in Santee, South Carolina.
19 He had -- he had property which was a good ways
20 away from Santee, South Carolina, closer to
21 Summerton than it would be to Santee, South
22 Carolina. It is the Summerton property which
23 the -- our opponents claim is what is being
24 referred to here. Now, we have a situation
25 to where the testator is dead. We don't know

1 what he meant by what he wrote. But we do know
2 that there is no ambiguity in the actual wording
3 which was used. Any property means any -- not
4 my property but any. And in Santee means within
5 Santee; it is not ten miles from Summerton or
6 in a place known as Goslin Pond. The property
7 that they claim this is referring to is
8 actually located in an area known as Goslin
9 Pond. Goslin Pond is not in Santee, South
10 Carolina; Goslin Pond is closer to Summerton
11 than it is Santee. The problem we have is, when
12 do we begin to use -- when I was a little boy
13 running around Moore's Crossroads, South
14 Carolina right outside of Lake City, when
15 people referred to Santee, it could run anywhere
16 from Columbia to Charleston. You know, -- let's
17 go down to Santee; I mean, Santee was everywhere.
18 Santee is in Orangeburg; Santee is in Williamsburg,
19 Lake -- Clarendon. Santee is a generic term.
20 But that's the Santee area. When we talk about
21 Santee, South Carolina, that is a specific town.
22 There is a town known as Santee, South Carolina,
23 and then there is basically the lake. We also
24 have a situation where there is an inference or
25 a presumption which should have been raised

1 against the other side. If there is in fact
2 an ambiguity here -- we don't think there is one --
3 we think it is very clear. I could basically
4 do a Will and say that I leave any property
5 I own in New York City to Mr. Young. I don't
6 own any property in New York City. But a Will
7 is written post death. So, if I write a Will
8 that says -- any property that I may have in
9 New York City goes Mr. Young, that Will is
10 perfectly fine. It is anticipatory. Who knows;
11 he may have been contemplating buying property
12 in Santee, South Carolina, or, it may not have
13 been written as he intended. However, we have
14 to presume that it was intended as it reads. And
15 if it is not ambiguous, the wrong evidence
16 makes no difference whatsoever. So, the
17 question in regard to this paragraph is, is it
18 ambiguous or is it not? If it is not, then
19 what was devised here is any property he may
20 have had at the time of his death located within
21 the corporate limits of Santee, South Carolina.
22 If we wind up going to parol testimony, then
23 we have the question in regard to -- we know
24 the person who wrote this Will; we know there was
25 a lawyer here in Sumter who actually wrote the

1 Will. What was meant by what was written. If
2 the Court determines that it is ambiguous, and we
3 don't think it is, and that is really the real
4 question is, is it ambiguous. If it is not
5 ambiguous, then there is nothing basically which
6 has been granted by that Will. If it is
7 ambiguous, then the best parol evidence would
8 basically have been the use of the party who
9 actually wrote the Will. Now, the Personal
10 Representative stands in the shoes of the
11 Decedent. The attorney/client privilege belongs
12 to the Testator. Therefore, it is not
13 exercisable by an attorney; it is exercisable
14 by the Testator or his Representative. We
15 have a Personal Representative who has been
16 appointed. The Personal Representative could
17 very easily have waived the attorney-client
18 privilege at which time there could have been
19 an explanation of what was meant by what was
20 written. As we understand the law, that if
21 there is a party who is peculiarly within the
22 control of one side of the other who has relevant
23 information, and if that party chooses not
24 to call them, then there is an inference
25 which arises that that testimony would be

1 unfavorable to the non-calling party. We
2 could not call the lawyer who wrote this
3 because we didn't have the power to waive
4 the attorney/client privilege. Mr. Young's
5 client could have called him, and they did
6 have the power to waive the attorney/client
7 privilege. So, there is no doubt but that
8 the lawyer that wrote the Will would have been
9 peculiarly within the control of the other
10 side in this case because they are the one
11 who had the authority to free him to testify
12 as to four letters if in fact the clause is
13 found to be ambiguous. For whatever reason,
14 they elected not to call him as a witness to
15 testify of what was the intent of what the
16 testator wrote through him in the Will. So,
17 then we have a situation where, summing up, clear
18 language, not ambiguous; it left nothing to
19 anybody. The man simply did not have anything
20 like this at the time he died. If it is not
21 ambiguous, then we have to look of parol
22 evidence; they have the parol evidence which
23 should have been conclusive on the issue,
24 the guy who wrote it and never even called
25 him. So, the evidence would be that the

1 testimony would have been unfavorable if
2 that inference is basically followed by the
3 Court as a matter of evidence now. Then, if
4 the testimony would be in our favor, then, at that
5 point in time, the Court would have to assume
6 that the property that we are talking about
7 in Goslin Pond is not located in Santee,
8 South Carolina, and is not the specific property,
9 if there is specific property actually
10 mentioned in the Will. It is a very interesting
11 case, and we enjoyed appearing before you. And I
12 sincerely thank you for your courtesy of
13 listening to me.

14 THE COURT: All right. Mr. Young.

15 MR. YOUNG: The Court in Paragraph Eleven
16 of its Order correctly surmised the word I would
17 submit was the Santee property. I don't think
18 there is any question about that. And it is
19 common usage in this community; Mr. Dickson
20 used it to convey it to the person that he
21 wanted to convey it to. I think the Court properly
22 found, and I would ask the Court to stand by its
23 decision.

24 THE COURT: Thank you.

25 MR. MOORE: And if I may. And that's the

1 problem. There is the crux of the problem with
2 this case. Mr. Young says "in common usage in
3 this community." That is not the law. The law
4 doesn't say that it is giving its ordinary meaning
5 within some colloquial meaning within a community.
6 That is the position that is being urged upon
7 this Court. Basically, the law says you give words
8 their plain meaning according to their common
9 and ordinary meaning, period, not as my friend,
10 Mr. Young says, as might be used in a particular
11 community; that is not what the law says.
12 And therein is the whole of the problem that the
13 Court is faced with in this case. If we give
14 words their common and ordinary meaning -- if you
15 were to go to New York City -- I use New York
16 City -- and say -- here is a map, here is Goslin
17 Pond. Is Goslin Pond located in Summerton, in
18 Santee, South Carolina or in the county. And
19 the ordinary meaning, anywhere in this country,
20 you are going to look at that and it is
21 going to be -- that is located in the county; it
22 is not in Santee. But Mr. Young urges that you
23 give it its common and ordinary meaning for an
24 area which would be different from its generally
25 accepted common and ordinary meaning. Here is the

1 problem -- and when you wind up with a Judge having
2 to hear the case, the Judge has to be able to
3 separate the common ordinary meaning in general from
4 the common ordinary meaning the way I would consider
5 it living in Sumter, South Carolina, because that is
6 not what the law says. You give it its common and
7 ordinary meaning. The -- the danger, the problem
8 here is that there is an assumption by the Court
9 that there is a colloquial meaning that should be
10 given in reading the Will, and with all due
11 respect, I think that is what the Court did.
12 It basically said -- well, everybody around here
13 thinks that Santee is near Summerton or is
14 Summerton and everybody around here would call that
15 Santee. That's the problem; it's not an everybody
16 around here test. It's its general ordinary
17 meaning in English as read throughout. If you
18 give it a Sumter County reading, it might be stretched
19 to mean that. If you give it an English reading,
20 it can't possibly, and the law doesn't say -- its
21 common and ordinary meaning in Sumter; the law
22 says -- it has to be given its common and ordinary
23 meaning. And the danger there is basically this:
24 If we start saying that you give it its common
25 and ordinary meaning in Sumter, well, where is

1 Sumter -- does that mean the city, does that mean
2 the county, does that mean the Pee Dee -- does
3 that mean -- you know, people live in Sumter who
4 actually live in Williamsburg County or Clarendon
5 County. My family lived in Williamsburg County
6 their whole life, but they would tell you that
7 they lived in Lake City. Where do you draw the
8 lines -- you can't. And therein is why the law says
9 -- you don't use regional or local interpretations;
10 you give it its plain generally accepted meaning.
11 That's the problem with the case and therein is
12 where I've got a problem in trying to convince the
13 Court that you have to be able to step back from
14 the local slang or the local means and give the
15 real interpretation that the law says it is
16 supposed to have its plain, average and
17 ordinary meaning. If we do that, then it is clear
18 that he had no property located in Santee, South
19 Carolina at the time of his death. If you ask
20 twenty people from around here -- where is Goslin
21 Pond, several of them are going to say -- it's over in
22 Summerton; some of them may say -- it is down in
23 Santee. Some may say -- it's over in the county;
24 some may say -- it is near Santee. Some may say
25 -- it is near Summerton. But that is not the test.

1 And therein is why I made the Motion for
2 Reconsideration because I do believe it is a very
3 real question of wrong in regards to the
4 interpretation. And Mr. Young's argument is great;
5 people around here refer to that as Santee. And
6 if the law says that you give the interpretation
7 the plain and ordinary language as it would be read
8 in the county where it is written, he would have
9 a great argument. That's not what the law says.
10 Therefore, I made a Motion for Reconsideration,
11 and I have talked way too much and I thank you
12 for listening to me. I appreciate it very much.

13 THE COURT: Yes, sir. Mr. Young.

14 MR. YOUNG: The Court was called upon to
15 interpret the language of the Will. Why would a man
16 leave something like in New York City if he didn't
17 have property in New York City. It is clear that
18 he meant Santee. He calls it Goslin Pond because he
19 wants to misdirect the Court, and by the same token,
20 the location of the property -- it is in Santee; it
21 was conveyed by the Will to the person he intended
22 to have it. What he is trying to do is to twist
23 the facts. If he had not property in Santee, what
24 he intended, he wouldn't have said that. Why would
25 he have said -- in the city of Santee or anything

1 like that; he didn't. He said, "Santee." The
2 Court has properly found and I would submit that
3 the Court properly interpreted the Will, and I ask
4 the Court to stand by its Order.

5 MR. MOORE: Judge, if he had said -- the Santee
6 area, okay, but they weren't specific words,
7 "Santee, South Carolina," and that has defined
8 boundaries. And thank you for letting me --
9 he looked at me and he gave me the last word. I'm
10 not supposed to be talking. Thank you.

11 THE COURT: Anything else?

12 MR. YOUNG: That's all, Judge.

13 MR. MOORE: Nothing further.

14 THE COURT: All right. I am going to review
15 the comments that were made today and read the
16 Order again, and I will make a decision and let you
17 know the decision.

18 MR. MOORE: Thank you, sir.

19 MR. YOUNG: Thank you, Judge.

1
2
3

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) CERTIFICATE

I, Doris M. Tompkins, Notary Public in and for the State of South Carolina, certify that I did take the within hearing held before the Honorable Dale V. Atkinson, Probate Judge for Sumter County, at his Chambers, Sumter County Courthouse, 141 North Main Street, Sumter, South Carolina, commencing at 2:03 P.M. on July 3, 2012. I certify that the foregoing pages are a true and accurate transcript of the testimony given at that time and place.

I further certify that I am not of counsel or kin to any of the parties to this action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 31st day of May, 2013.

Doris Tompkins Brown CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 5-02-2015

STATE OF SOUTH CAROLINA IN THE COMMON PLEAS COURT
COUNTY OF SUMTER FOR THE THIRD JUDICIAL CIRCUIT

Milton Oakley Dickson,

PETITIONER,

vs.

Arthur B. Beasley,

RESPONDENT.

IN RE: ESTATE OF HERBERT
FRANKLIN DICKSON, SR.

RECORDED
2014 AUG 12 PM 3:46
CLERK OF COURT
SUMTER COUNTY, S.C.

DOCKET NO: 2012-CP-43-2148

APPEAL FROM THE PROBATE
COURT CASE NO.
2008-ES-43-00411

ORDER

CERTIFIED TRUE COPY
OF ORIGINAL FILED

DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

This case came before the Court as an appeal from the Sumter County Probate Court (Docket Number: 2008-ES-43-00411).

By agreement of the parties, oral arguments were waived and both parties submitted the following documents to the court: (1) Application for Probate of Will and Appointment; (2) Transcript from Hearing held on July 21st, 2010; (3) Transcript from Hearing held on July 3rd, 2012; (4) Probate Court Order; (5) Appeal from Probate Court; (6) Appellant, Milton Oakley Dickson's Grounds for Appeal; (7) Respondent's Return to Appellant's Appeal; (8) Case Law (Fenzel v. Floyd, 289 S.C. 495, 347 S.E. 2d 105 (1986)); and (9) Pictures of the property known as "Santee Property".

This Court has reviewed the transcripts, the Last Will and Testament of the Decedent, Herbert Franklin Dickson, Sr., the Order of the Probate Court, Appellant's Grounds for Appeal, Respondent's Return to Appellant Milton Oakley Dickson's Grounds for Appeal, and the case law submitted. While the Appellant states in his grounds for appeals that the Order was not supported by the record, this Court finds that the Order of the Probate Court was supported by the testimony given at two separate hearings. It is apparent from the record that the Appellant failed to prove his allegations.

As to the 10th ground for appeal, involving the property owned by the Decedent located on Lake Marion in Clarendon County, State of South Carolina, referred to in the Decedent's Last Will and Testament as "Santee, South Carolina", the Appellant had requested that the Probate Court issue a Declaratory Ruling that item 3, number 2, of the Will, that the decedent did not own property in Santee, South Carolina and item

MTLF000129

3. number 2 be declared inutility. If the Court had done that the "Santee Property" would have handled in the residuary clause of the Last Will and Testament and the Appellant and his siblings would have then shared in the ownership of the property.

The Probate Court found that all of the parties agreed that the decedent owned no property in Santee, South Carolina and this is supported in the transcript of the two hearings. The Respondent took the position that the only reasonable interpretation of the decedent use of the term "Santee Property" in his Last Will and Testament is the way the Decedent used the term which was his property in the Santee portion of Clarendon County, State of South Carolina.

"In construing a Will, purpose of the Court is to discover and give a effect to the intent of the Testator, May v. Riley, 279, S.C. 248, 305 S.E. 2d 777 (1983)". When the terms of the Will are ambiguous, the Court may resort to extrinsic evidence to resolve the ambiguity Shelley vs. Shelley 244, S.C. 244, S.C. 598, 137 S.E. 2d 851 (1964).

The Sumter Probate Court properly found from the evidence presented that the Testator clearly intended to convey the property that he referred to as "Santee Property" to the Respondent as evidenced by the language in his Last Will and Testament. This is obvious from the fact that he had never owned property in Santee, South Carolina, which was agreed to by all parties concerned. It would have been error to find otherwise.

The Probate Court Order of September 21, 2011, is hereby affirmed and it is

ORDERED that the Sumter County Probate Court Order of September 21, 2011, is hereby affirmed.

IT IS SO ORDERED.

/s/ R. Ferrell Cuthran, Jr.
R. FERRELL COTHRAN, JR.
JUDGE, COMMON PLEAS OF THE
THIRD JUDICIAL CIRCUIT

At Chambers
Clarendon, South Carolina
August 11, 2014

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

Milton Oakley Dickson,

PLAINTIFF,

vs.

Arthur B. Beasley,

DEFENDANT.

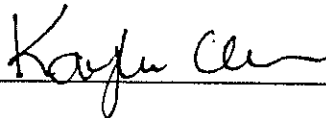
IN THE COMMON PLEAS COURT FOR
THE THIRD JUDICIAL CIRCUIT

DOCKET NO: 2012-CP-43-2148

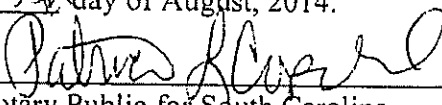
CERTIFICATE OF SERVICE

I, the undersigned employee of Young, Keffer & Associates, P.A., attorneys for Arthur B. Beasley, do hereby certify that I have served the following parties in this action with a copy of the **Order** by mailing a copy of same by United States Mail, postage prepaid, to the following address:

S. Jahue Moore, Esquire
Post Office Box 5709
West Columbia, SC 29171



SWORN to before me this
15th day of August, 2014.



Notary Public for South Carolina
My Commission Expires: 4/27/17

MTLF000131

The South Carolina Court of Appeals

Milton Oakley Dickson, Appellant,

v.

Arthur B. Beasley, Jr., Respondent.

Appellate Case No. 2014-001903

The Honorable R. Ferrell Cothran, Jr., The Honorable Dale Atkinson
Sumter County

Trial Court Case No. 2012CP4302148, 2008ES4300411

ORDER

Appellant has filed a motion with the Court for a thirty day extension for submission of its initial brief and designation of matter. The time for serving and filing the appellant's initial brief and designation of matter is hereby extended until November 9, 2014.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

S. Jahue Moore, Esquire

John Calvin Bradley, Jr., Esquire

Kenneth R. Young, Jr., Esquire

FILED

25 Sep 2014

LC

MTLF000132

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
In the Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

Milton Oakley Dickson,.....Appellant,

v.

Arthur B. Beasley, Jr.,.....Respondents.

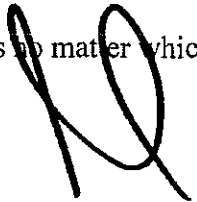
**APPELLANT'S DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellant Milton Oakley Dickson, proposes the following be included in the
Record on Appeal:

1. Order of the Honorable R. Ferrell Cothran, Jr., dated August 11, 2014;
2. Order of the Honorable Dale Atkinson denying Motion for Reconsideration dated October 17, 2012;
3. Order of the Honorable Dale Atkinson dated September 21, 2011;
4. Summons and Petition dated September 19, 2008;
5. Answer and Counterclaim;
6. Reply to Counterclaim dated November 13, 2008;
7. Transcript of Hearing before the Honorable Dale Atkinson, Probate Judge of Sumter County dated July 21, 2010;

8. Transcript of Hearing before the Honorable Dale Atkinson, Probate Judge of Sumter County dated July 3, 2012;
9. Petitioner Exhibit 1 – Copy of Will;
10. Respondent Exhibit 1 – BB&T Financial Statements;
11. Respondent Exhibit 2 – Photographs;
12. Respondent Exhibit 3 – Bank Account Information;
13. Motion for Reconsideration dated October 1, 2011;
14. Notice of Appeal dated October 31, 2012;
15. Grounds for Appeal dated December 4, 2012.

I certify that this designation contains no matter which is irrelevant to this appeal.



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November 7, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

Milton Oakley Dickson,.....Appellant,

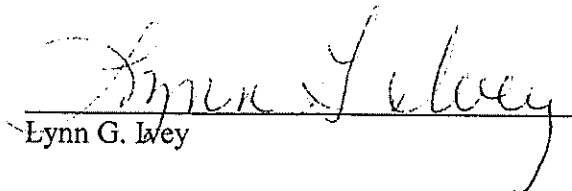
v.

Arthur B. Beasley, Jr.,.....Respondents.

PROOF OF SERVICE

I, Lynn G. Ivey, an employee of Moore Taylor Law Firm, PA, certify that I have served the Designation of Matter of Appellant, by United States mail, in an envelope with sufficient postage affixed thereto, upon all counsel of record on November 7, 2014.

Kenneth R. Young, Jr., Esquire
YOUNG, KEFFER & ASSOCIATES, P.A.
23 West Calhoun Street
Sumter, SC 29150


Lynn G. Ivey

West Columbia, South Carolina
November 7, 2014

MTLF000135

The South Carolina Court of Appeals

Milton Oakley Dickson, Appellant,

v.

Arthur B. Beasley, Jr., Respondent.

Appellate Case No. 2014-001903

The Honorable R. Ferrell Cothran, Jr., The Honorable
Dale Atkinson
Sumter County
Trial Court Case No. 2012CP4302148, 2008ES4300411

ORDER

The time for serving and filing the respondent's initial brief and designation of matter is hereby extended until January 7, 2015.

FOR THE COURT

BY *V. Claire Allen, Deputy*
CLERK

Columbia, South Carolina

cc:

S. Jahue Moore, Esquire

John Calvin Bradley, Jr., Esquire

Kenneth R. Young, Jr., Esquire

FILED
8 Dec 2014
CC

MTLF000136

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

Milton Oakley Dickson,.....Appellant,

v.

Arthur B. Beasley, Jr.,.....Respondents.

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

- A. DID THE PROBATE COURT AND CIRCUIT COURT ERR IN FAILING TO ENFORCE THE CLEAR AND UNEQUIVICAL LANGUAGE OF TESTATOR'S WILL?
- B. DID THE LOWER COURTS ERR IN ALLOWING EXTRINSIC EVIDENCE OF THE TESTATOR'S INTENT?
- C. DID THE LOWER COURTS ERR IN THEIR INTERPRETATION OF TESTATOR'S WILL?

STATEMENT OF THE CASE

This is an appeal from the Order of the Honorable R. Ferrell Cothran, Jr., Presiding Judge of the Third Judicial Circuit, affirming an Order of the Honorable Dale Atkinson, Sumter County Probate Court Judge, dated September 21, 2011. (Order of the Honorable Dale Atkinson, R. ____; Order of the Honorable Ferrell Cothran, dated August 11, 2014, R. ____).

This matter was instituted pursuant to the filing of a Summons and Petition by Appellant/Petitioner ("Appellant") on September 25, 2008, in the Sumter County Probate Court. (Complaint, R. ____). In his Complaint, Appellant Milton Oakley Dickson alleges that Item III, number 2 of Testator Herbert Dickson, Sr.'s will should be declared a nullity, as it purports to will items, specifically property located in Santee, South Carolina ("The Santee Property"), which do not exist, have never existed and, thus, cannot be willed to anyone.

Respondent Arthur B. Beasley, Jr., responded to Appellant's Complaint and denied Appellant's claims relating to the "Santee" property. Respondent also counterclaimed, asserting Appellant was contesting the will of the Testator and was therefore only entitled to One Dollar (\$1.00) based upon the provisions of the will. (Answer, R. ____). The matters raised in Respondent's counterclaim are not before this Court. (Order of the Honorable Dale Atkinson, R. ____; Order of the Honorable R. Ferrell Cothran, Jr., R. ____).

This matter was heard on two separate hearings before Judge Atkinson in the Sumter County Probate Court. (Transcript of Record dated ____, R. ____; Transcript of Record dated ____, R. ____). On September 21, 2011, Judge

Atkinson issued his Order finding that the provisions under Item III, No. 2 of the Last Will and Testament of Herbert Dickson, Sr., describing the "Santee Property" was, in fact, real property and improvements owned by the Testator at the time of his death, located in Summerton, Clarendon County, South Carolina. (Order of the Honorable Dale Atkinson, R. ____). Judge Atkinson ruled that the Personal Representative may issue a Deed of Distribution in accordance with the terms of Mr. Dickson's will. (Order of the Honorable Dale Atkinson, R. ____).

Appellant moved for reconsideration on October 1, 2011. (Motion for Reconsideration, R. ____). On October 17, 2012, Judge Atkinson denied Appellant's Motion by letter/Order. (Order R. ____). Appellant timely perfected his Appeal in the Court of Common Pleas (Notice of Appeal, R. ____; Grounds for Appeal, R. ____). The parties agreed for this appeal to be ruled upon pursuant to the written record. (Order of the Honorable Ferrell Cothran, R. ____).

On August 11, 2014, Judge Cothran issued his Order affirming Judge Atkinson's decision. (Order of the Honorable Ferrell Cothran, R. ____). Judge Cothran first ruled that the testator's will was "ambiguous." (Order of the Honorable Ferrell Cothran, Jr., R. ____). Judge Cothran's Order further provided that, "The Sumter Probate Court properly found from the evidence presented that the Testator clearly intended to convey the property he referred to as the 'Santee Property' to the Respondent as evidenced by the language in his last will and testament." Judge Cothran further found that, "This is obvious from the fact he had never owned property in Santee, South Carolina which is agreed to by all the parties concerned." Judge Cothran concluded, "It would have been

error to find otherwise.” (Order of the Honorable Ferrell Cothran, Jr., R. ____). This appeal timely followed (Notice of Appeal, R. ____).

STATEMENT OF THE FACTS

Appellant Milton Oakley Dickson is the son of the Testator, Herbert Dickson, Sr., who died on August 20, 2008. Appellant’s mother divorced Mr. Dickson, Sr., prior to his death, (Transcript of Hearing, July 21, 2010, p. 21, ll. 8-18; R. ____). Testator married four times after the divorce. (Transcript of Hearing, July 21, 2010, p. 21, ll. 18-19, R. ____). Respondent Arthur Beasley, Jr., is the son of one of these marriages. (Transcript of Hearing, July 21, 2010, p. 21, ll. 20-23).

Evidence was presented at the hearing that the Testator had a will prior to the one at issue in this case. (Transcript of Hearing, July 21, 2010, p. 23, ll. 1-3). Pursuant to the terms of this will, Testator’s first wife was to receive property owned by the Testator in Sumter, South Carolina, and Testator’s children, including Appellant, were to receive the property at issue in this action. (Transcript of Hearing, July 21, 2010, p. 23, ll. 4-7, R. ____).

The will at issue here was executed on March 9, 2007, and filed on September 5, 2008. (Petitioner’s Exhibit 1, R. ____). Item III, Number 2 of this will contains the following language: “In the event my wife, Melba McSween Dickson, predeceases me, I will, give, devise and bequeath *any property which I own at the time of my death in Santee, South Carolina* and its contents to Arthur B. Beasley, Jr., if he shall survive me.” (Emphasis added).

The parties to the appeal agree that at the time of Testator’s death, Testator owned no property in Santee, South Carolina. (Transcript of Hearing, July 21, 2010, p. 45, ll. 4-

11). Santee is a municipality and is located several miles from the property purported to be devised. (Transcript of Hearing, July 21, 2010, p. 24, ll. 7-11, R. _____).

At the time of his death, Testator did own, and had for many years owned, property located in Summerton, South Carolina, located in the Goslin Pond subdivision, specifically Goslin Pond Lot #11 and three additional lots on Goslin Pond (Lot #s 9, 10, and 12) ("Goslin Pond"), located miles from Santee, South Carolina. (Transcript of Hearing, July 21, 2010, p. 23, ll. 13-22, R. ____). This property is not located in Santee or Sumter County, but is in Clarendon County and has a Summerton, South Carolina, address. (Transcript of hearing, July 21, 2010, p. 23, ll. 23-25, R. ____; p. 36, ll. 17-25, R. ____; p. 44, ll. 18-21, R. ____). It contains a double wide and several outbuildings on one lot, as well as other surrounding lots. (Transcript of Hearing, July 21, 2010, p. 30, ll. 1-8). It is not located on Lake Santee. It is not located on any water. (Transcript of Hearing, July 21, 2010, p. 44, ll. 22-25; p. 45, ll. 1-3; R. ____).

STANDARD OF REVIEW

Appeal from the probate court is governed by the provisions of the Probate Code. *In re Howard*, 315 S.C. 356, 434 S.E.2d 254 (1993). The Probate Code requires appeals from the probate court be to the circuit court. S.C. Code Ann. 62-1-308 (Supp. 2004). The Probate Code further instructs the circuit court to "hear and determine the appeal according to the rules of law." S.C. Code Ann. 62-1-308(d) (Supp. 2004). "As used in this statute, the phrase 'according to the rules of law' means according to the rules governing appeals." *In re Howard*, 315 S.C. at 360, 434 S.E.2d at 257. "[I]f there is neither a statute nor a rule of court expressly prescribing a different standard of review, the circuit court must apply the same standard that [the appellate court] would apply were

the appeal taken directly to either [the supreme court or court of appeals].” *Id.* at 361, 434 S.E.2d at 25.

The standard of review applicable to cases originating in the probate court depends upon whether the underlying cause of action is in law or equity. *In re Estate of Hyman*, 362 S.C. 20, 606 S.E.2d 205 (Ct. App. 2004); *In re Thomas*, 344 S.C. 564, 544 S.E.2d 854 (Ct. App. 2001). An issue regarding will construction is a question of law. See, *Bob Jones University v. Strandell*, 344 S.C. 224, 543 S.E.2d 251 (Ct. App. 2001). Thus, 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. The standard of review at law is the same whether the facts are found by a jury or by a judge sitting without a jury. *In re Howard*, 315 S.C. at 361, 434 S.E.2d at 257; *see also, In re Estate of Pallister*, 363 S.C. 437, 611 S.E.2d 250 (2005); *In re Howard*, 315 S.C. at 361, 434 S.E.2d at 257.

ARGUMENT

The Probate Court and Circuit Court erred in failing to enforce the clear and unambiguous will of Arthur Dickson, Sr. Instead of interpreting and enforcing the document as clearly written, the Court created an ambiguity where none was present and erroneously admitted extrinsic evidence in order to give the will an interpretation that the Testator never intended. The Probate Court’s Order and the subsequent Order of Judge Cothran affirming it are clearly erroneous and should be reversed by this Court.

I. THE LANGUAGE OF TESTATOR’S WILL WAS CLEAR AND UNAMBIGUOUS.

To determine a testator’s intent when referring to property in Santee, South Carolina, testator’s intent must be ascertained according to the four corners of the will. *Allison v. Wilson*, 306 S.C. 274, 411 S.E.2d 433, 436 (Sup. Ct. 1991). Based upon the

four corners of this document, no land in Goslin Pond was intended to be devised to Respondent. Additionally, when construing a will, “[i]t is the general rule of construction that the words of a will are to be taken in their ordinary plain import.” *Buist v. Walton*, 104 S.C. 95, 88 S.E.357, 358 (Sup. Ct. 1916). When applied to the phrase “property which I own at the time of my death in Santee, South Carolina,” the plain-meaning rule prohibits the devise of any property to Respondent because no such property exists.

The Sumter Probate Court and Judge Cothran ignored the plain and clear language of the will and created an ambiguity where none was present. The language contained in the will was clear and unambiguous. There was no need for the Court to look beyond the clear and plain language of Testator’s will to determine his intent. Both the Probate Court and Judge Cothran erred by failing to enforce the Testator’s will as written.

II. THE PROBATE COURT ERRED IN ALLOWING EXTRINSIC EVIDENCE OF TESTATOR’S INTENT.

The Probate Court and Circuit Court Orders plainly overlooked and ignored the plain, clear and unambiguous language of the Testator’s will and considered extrinsic evidence in support of its ruling that the property described and bequeathed in Testator’s will was, in fact, the Goslin Pond lots located in Summerton, South Carolina. The Courts, however, overlooked and ignored the will’s plain and unequivocal language and held that the property described in Testator’s will (“any property which I own, at the time of my death in Santee, South Carolina”) was, in fact, the Summerton Property. The Probate Court found that, “it is clear from the evidence presented that the testator clearly intended to convey the property that he referred to as the ‘Santee Property,’ the property in Clarendon County to the respondent as evidenced by the language in his will.” (Order

of Honorable Dale Atkinson, R. ____). The Probate Court further supported this ruling by, “....take(ing) judicial notice of the fact that all property bordering the Lake Moultrie and Lake Marion properties located in Clarendon County are commonly referred to as Santee Property by individuals in Sumter and Clarendon Counties.” (Order of the Honorable Dale Atkinson, R. ____).

These rulings are clearly erroneous and misconstrue the language in Testator’s will. It should have been reversed on appeal by the Circuit Court.

First, the Testator did not refer to this property as the “Santee property.” The language of the will, ignored by the Court, describes this property as, “*any* property which I own, at the time of my death *in* Santee, South Carolina.” (Emphasis added). The language used in the will is far more definite and specific than that used by Judge Atkinson in his Order and subsequently affirmed by Judge Cothran.

The Testator, by the clear language of his will, is not bequeathing any specific piece of property. He is bequeathing *any* property that he may or may not own at the time of his death. Judge Atkinson and Judge Cothran misconstrued this provision to, in effect, find that while Testator did not own property at the time of his death in Santee, other property that he did own, but was not described or bequeathed in his will, must be substituted in its place. Judge Atkinson and Judge Cothran in effect rewrote Testator’s will and substituted their own interpretation in direct contravention of the language used by the Testator. This is clearly erroneous.

Further, the will bequeaths any property that Testator owns, at the time of his death, in Sumter, South Carolina. As set forth above, at the time of his death the Testator owned no property in Santee, South Carolina. The evidence is clear on this point. (Order

of the Honorable Dale Atkinson, R. ____; Order of the Honorable Ferrell Cothran, R. ____). There was no need for the Court to resort to extrinsic evidence to interpret or enforce this clearly written provision.

If a will contains no ambiguity and the testator's intent can be determined from the language of the will, there is no need to resort to extrinsic testimony. *Foreign Mission Board of South Baptist Convention v. Gaines*, 42 F. Supp. 85 (E.D.S.C. 1941); *Holcombe – Burdette v. Bank of America*, 371 S.C. 648, 640 S.E.2d 480 (S.C. App. 2006); *In re Estate of Hyman*, 362 S.C. 20; 606 S.E.2d 205 (2004); *Henkel v. Winn*, 346 S.C. 14, 550 S.E.2d 577 (2001).

In the present instance, the Testator's will was clear and unambiguous. There was no ambiguity in the devisee. The Court erred by resorting to extrinsic evidence to find as a matter of law that the Testator intended to convey the Summerton, South Carolina, property in his will.

III. THE EVIDENCE PRESENTED DUES NOT SUPPORT THE COURT'S INTERPRETATION AND ENFORCEMENT.

Finally, even if intrinsic evidence was necessary to interpret and enforce the Testator's will, which the Appellant argues it was not, the evidence presented before Judge Atkinson and reviewed by Judge Cothran does not support the Courts' rulings in this case.

There is no dispute as to the fact that the Testator owned no property in Santee, South Carolina at the time of his death. (Order of the Honorable Dale Atkinson, R. ____; Order of the Honorable R. Ferrell Cothran, Jr., R. ____). The only property owned by the Testator was located some distance away in Summerton, South Carolina, in Clarendon County.

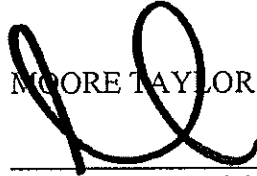
The Probate Court and Judge Cothran both ignored this fact and held that the Testator “must” have intended to bequeath the Summerton Property instead of the Santee Property in his will. However, there was no evidence presented before Judge Atkinson to support such a contention. The Probate Court and the Circuit Court both substituted their own interpretation of the Testator’s intent without any evidentiary support. The record is simply devoid of any evidence upon which either Court could base such an assumption. The Courts’ Orders are based solely on conjecture and speculation.

Finally, the Court erred by relying on “judicial notice” that all property bordering the Lake Moultrie and Lake Marion properties located in Clarendon County are commonly referred to as Santee Property by individuals in Sumter and Clarendon Counties.” First off, as set forth above, the language of the will is plain and unambiguous and there is no need to resort to extrinsic evidence. Secondly, there is no evidence in this case that the Goslin lots “bordered the Lake Moultrie and Lake Marion properties located in Clarendon County.” There is no evidence that this property borders either lake. To the contrary, Appellant presented evidence that these properties do not border either of these lakes. (Transcript of Hearing, R. ____). There was no evidence presented in the record that these properties were anywhere near either Lake Moultrie or Lake Marion.

CONCLUSION

The Probate Court and Circuit Court erred in failing to rule as a matter of law that Item III, number 2 of Testator’s will were an *ineffective* devise of property to Respondent. The Courts erred by failing to enforce the clear and plain language of the Testator’s will. The Order of the Sumter County Probate Court, and Judge Cothran’s

Order affirming it, should be overturned and reversed and this case should be remanded to the Sumter County Probate Court.


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November 7, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

Milton Oakley Dickson,.....Appellant,

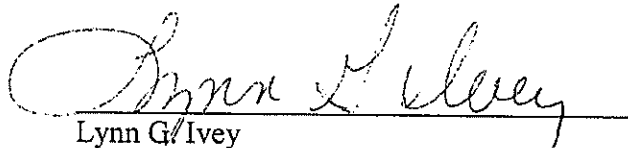
v.

Arthur B. Beasley, Jr.,.....Respondents.

PROOF OF SERVICE

I, Lynn G. Ivey, an employee of Moore Taylor Law Firm, PA, certify that I have served the Initial Brief of Appellant, by United States mail, in an envelope with sufficient postage affixed thereto, upon all counsel of record on November 7, 2014.

Kenneth R. Young, Jr., Esquire
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Lynn G. Ivey

West Columbia, South Carolina
November 7, 2014

MTLF000151

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No.: 2014-001903

Milton Oakley Dickson.....Appellant

v.

Arthur B. Beasley, Jr.,.....Respondent

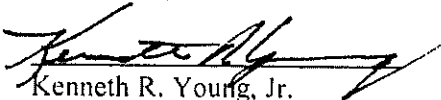
MOTION FOR EXTENSION OF TIME

Respondent's Brief of Respondent is due on December 11, 2014. The Respondent respectfully requests the Court to grant an extension of thirty (30) days or until January 11, 2014 to serve and file the Respondent's Brief of Respondent.

Counsel for the Respondent requests an extension due to a heavy work load and extensive court schedule.

Accordingly, the Respondent respectfully requests a thirty (30) day extension of time in which to serve and file Respondent's Brief of Respondent.

Respectfully submitted,



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November 24, 2014

MTLF000152

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Docket No.: 2014-001903

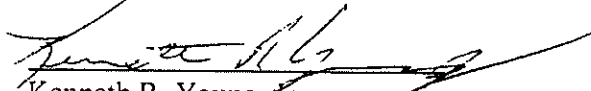
Milton Oakley Dickson..... Appellant

v.

Arthur B. Beasley, Jr. Respondent.

PROOF OF SERVICE

I certify that I have served the Motion for Extension on Time on Milton Oakley Dickson by depositing a copy of it in the United States Mail, postage prepaid, on November 25, 2014, addressed to his attorney of S. Jahue Moore, by depositing same in the United States Mail with sufficient postage affixed and addressed to his attorney of record S. Jahue Moore, at 1700 Sunset Boulevard, West Columbia, on Tuesday, November 25, 2014.



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November 25, 2014.

MTLF000153

The South Carolina Court of Appeals

Milton Oakley Dickson, Appellant,

v.

Arthur B. Beasley, Jr., Respondent.

Appellate Case No. 2014-001903

The Honorable R. Ferrell Cothran, Jr., The Honorable
Dale Atkinson
Sumter County

Trial Court Case No. 2012CP4302148, 2008ES4300411

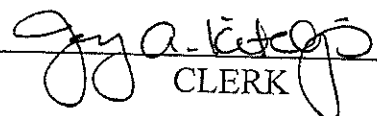
ORDER

The time for serving and filing the respondent's initial brief and designation of matter is hereby extended until February 8, 2015.

No further extensions will be granted absent extraordinary circumstances.

FOR THE COURT

BY


CLERK

Columbia, South Carolina

cc:

S. Jahue Moore, Esquire

John Calvin Bradley, Jr., Esquire

Kenneth R. Young, Jr., Esquire

FILED

13 Jan 2015

cc

MTLF000154

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No.: 2014-001903

Milton Oakley Dickson Appellant,

v.

Arthur B. Beasley, Jr. Respondent.

INITIAL BRIEF OF RESPONDENT

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MTLF000155

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STATEMENT OF ISSUES ON APPEAL

A. Did the probate court and the circuit court err in finding that a provision in a testator's Will was ambiguous and was intended to devise the testator's real property located in the subdivision known as Goslin Pond in Clarendon County, South Carolina, where the Will stated the testator devised and bequeathed real property located in Santee, South Carolina to the beneficiary?

B. Did the lower courts err in allowing extrinsic evidence of the testator's intent concerning the identity of the parcel of real property he meant to convey to the beneficiary?

C. Did the lower courts err in interpreting the testator's will as validly conveying real property he owned in the subdivision known as Goslin Pond in Clarendon County, South Carolina to the beneficiary under a provision that stated the testator devised and bequeathed real property located in Santee, South Carolina to that beneficiary?

COUNTER-STATEMENT OF THE FACTS¹

This case involves a family dispute concerning the interpretation of a Will that bequeathed the testator's real property located "in Santee," South Carolina, to the testator's stepson, Respondent Arthur B. Beasley Jr. ("Beasley"). Appellant Milton

¹The Statement of the Case set forth in the Initial Brief of Appellant accurately sets forth the underlying proceedings in the present case. As a result, Respondent has not filed a separate Counter-Statement of case proceedings.

Oakley Dickson ("Dickson") contends that the description of the real property in the Will is fatally flawed and failed to specifically convey any asset to Beasley.

The testator, Herbert Dickson Sr. ("Herbert"), died on August 20, 2008, at the approximate age of 80. (Transcript of Hearing ["Tr."] p. 22, lines 16-17, July 21, 2010.) Earlier in life, while married to Dickson's mother, Herbert had four sons, one of whom was Dickson. (Pet'r's Ex. 1, Item III(1), R. ____; Tr. p. 21, lines 8-10, p. 22, lines 8-10.)

Herbert subsequently divorced Dickson's mother and later married Melba McSween Dickson ("Melba"). (Pet'r's Ex. 1, Item IV, R. ____; Tr. p. 21, lines 20-25.) Melba was the mother of Beasley and Linda B. Chaplin ("Chaplin"). (Tr. p. 21, lines 20-23, p. 22, lines 6-10.) Thus, Beasley was Herbert's stepson.

Herbert and Melba were married for approximately 16 years prior to their deaths. (Tr. p. 22, lines 1-2.) During this period, Herbert developed a close relationship with Beasley. (Tr. p. 31, lines 11-14, p. 41, lines 16-18.) Melba passed away one month before Herbert died. (Tr. p. 22, lines 11-15.)

At the time of his death, Herbert owned three major assets: a shoe shop business and real property parcels in two separate locations. (Tr. p. 49, lines 18-23.)

The first parcel of real property consisted of Herbert's major home residence located in Sumter, South Carolina. (Tr. p. 23, line 5, p. 49, lines 18-21.) The second parcel consisted of six lots located in a subdivision known as Goslin Pond in Clarendon

County, South Carolina. (Tr. p. 23, lines 9-25, p. 29, line 22 to p. 30, line 7, p. 36, lines 20-21, p. 42, lines 1-12, p. 44, lines 18-21.)

Herbert and Melba purchased the Goslin Pond lots during their marriage. (Tr. p. 66, line 21 to p. 67, line 7.) The couple resided at one of the Goslin Pond lots for a period of time. (Tr. p. 42, lines 13-15.) However, Herbert did not reside at that location at the time of his death. (Tr. p. 42, lines 16-17.)

The city of Santee, South Carolina, is located in Orangeburg County, South Carolina. (Tr. p. 17, lines 2-4, p. 44, lines 15-17.) Herbert's Goslin Pond lots are not located within the physical boundaries of the city of Santee. (Prob. Ct. Order, Sept. 21, 2011, p. 5, R. ____.)

However, Herbert and his family colloquially referred to the Goslin Pond lots as the "Santee" property. For example, a financial statement that Herbert filed in 2001 referred to his "Santee home and two lots." (Tr. p. 51, lines 19-23, p. 67, lines 8-13.) Photographs taken of Herbert's Goslin Pond property in 1996 also contained handwritten labels describing the geographic location as "Santee." (Tr. p. 51, line 24 to p. 52, line 4.) During the hearing of July 21, 2010, Dickson conceded that even he "may have said Santee out of talking[.]" (Tr. p. 36, line 13.)

On March 9, 2007, Herbert executed the Last Will and Testament (the "Will") at issue in this case. (Pet'r's Ex. 1, R. ____.) Item III of the Will contains three specific devises and bequests. First, Herbert devised and bequeathed the sum of \$1,000 to each of his four sons, including Dickson. (Pet'r's Ex. 1, Item III(1), R.

____.) The third specific devise and bequest states that in the event Melba predeceased Herbert, then Herbert devised and bequeathed his "homeplace and its contents" to Chaplin. (Pet'r's Ex. 1, Item III(3), R. ____.)

The second specific devise and bequest of Item III of the Will provides:

In the event my wife, Melba McSween Dickson, predeceases me, I will, give, devise and bequeath any property which I own at the time of my death in Santee, South Carolina and its contents to **Arthur B. Beasley, Jr.**, if he shall survive me. In the event he shall not survive me, then this bequest shall lapse and pass by the Residuary clause below.

(Pet'r's Ex. 1, Item III(2), R. ____ (emphasis in original).)

The residuary clause of the Will devises and bequeaths the residue of Herbert's estate to Melba. (Pet'r's Ex. 1, Item IV, R. ____.) In the event that Melba should predecease Herbert, the residuary clause provides that the residue of the estate should be divided equally amongst six children: Herbert's four sons (including Dickson), Beasley, and Chaplin. (Pet'r's Ex. 1, Item IV, R. ____.) The Will appointed Melba to serve as personal representative and directed that Beasley was to serve as successor personal representative. (Pet'r's Ex. 1, Item VI, R. ____.)

Dickson contends that because Herbert never owned any real property located within the physical boundaries of the city of Santee, South Carolina, the second specific devise and bequest contained in Item III, No. 2 of Herbert's Will failed to convey any property to Beasley. In his Complaint, Dickson asked the court to issue a declaratory ruling that the specific devise and bequest to Beasley contained in Item III, No. 2 of the Will be declared a nullity. (Pet'r's Ex. 4, R. ____.)

A hearing on the matter was held on July 21, 2010. During that hearing, the parties discussed the geographic location of "Santee," South Carolina, as applied to the description of the "Santee" property that Herbert devised and bequeathed to Beasley. (Tr. p. 13, line 3 to p. 17, line 4.) The probate court judge then concluded:

THE COURT: Thank you. Due to the fact that there is a geographical location called Santee, South Carolina and also there is a lake area that is called Santee, which there are thousands and thousands of people that will tell you they are going to Santee, and they're going to the lake. They're not crossing I-95 and going into the town of Santee. I think that there is some ambiguity because of the fact that they're—they can be talking about either location whenever you mention going to Santee or at Santee or in Santee.

(Tr. p. 17, lines 5-16.)

In the probate court's written Order dated September 21, 2011, the court found that it was "clear from the evidence presented that the Testator clearly intended to convey the property that he referred to as the 'Santee Property', the property in Clarendon County, to [Beasley] as evidenced by the language in his Will." (Prob. Ct. Order, Sept. 21, 2011, p. 5, R. ____.) Toward this end, the court took judicial notice of the fact that "all property bordering the Lake Moultrie and Lake Marion properties located in Clarendon County are commonly referred to as Santee Property by individuals from Sumter and Clarendon Counties." (Prob. Ct. Order, Sept. 21, 2011, pp. 5-6, R. ____.)

Based on these findings, the probate court declared that the words "Santee Property," as used in the Will, referred to "the property owned by [Herbert] at the time of his death located in Clarendon County, South Carolina." (Prob. Ct. Order, Sept.

21, 2011, p. 6, R. ____.) Thus, the court concluded that the Will validly bequeathed Herbert's Goslin Pond property to Beasley such that a Deed of Distribution should issue in Beasley's favor. (Prob. Ct. Order, Sept. 21, 2011, pp. 6-7, R. ____.)

Dickson filed a motion for reconsideration. A hearing on this motion was held on July 3, 2012. In a letter opinion issued on October 17, 2012, the probate court denied Dickson's motion. (Prob. Ct. Order, Oct. 17, 2012, R. ____.) In so doing, the court ruled that it was still its opinion that the language of the Will was ambiguous and that Herbert "was referring to his property on Lake Marion when he mentioned his property in Santee, SC" in the Will. (Prob. Ct. Order, October 17, 2012, R. ____.)

Dickson appealed the probate court's decision to the Common Pleas Court for the Third Judicial Circuit. In an Order dated August 11, 2014, and entered on August 12, 2014, the circuit court affirmed the probate court's Order dated September 21, 2011. (Cir. Ct. Order, Aug. 11, 2014, p. 2, R. ____.) In so doing, the circuit court stated:

The Sumter Probate Court properly found from the evidence presented that the Testator clearly intended to convey the property that he referred to as "Santee Property" to [Beasley] as evidenced by the language in his Last Will and Testament. This is obvious from the fact that he had never owned property in Santee, South Carolina, which was agreed to by all parties concerned. It would have been error to find otherwise.

(Cir. Ct. Order, Aug. 11, 2014, p. 2, R. ____.)

Dickson now appeals the decisions of the probate court and the circuit court in favor of Beasley to the Court of Appeals. As he did in the lower courts, Dickson contends that the language of the Will is unambiguous and that the purported conveyance of any real property to Beasley in Item III, No. 2 of that instrument is a nullity.

STANDARD OF REVIEW

"In an action at law, tried without a jury, the trial court's factual findings will not be disturbed on appeal unless found to be without evidence that reasonably supports the court's findings." *Alexander's Land Co. v. M&M&K Corp.*, 390 S.C. 582, 592, 703 S.E.2d 207, 212 (2010). The appellate court's standard of review "extends only to the correction of errors of law." *Electro Lab of Aiken, Inc. v. Sharp Constr. Co. of Sumter*, 357 S.C. 363, 367, 593 S.E.2d 170, 172 (Ct. App. 2004); *see also Bob Jones Univ. v. Strandell*, 344 S.C. 224, 230, 543 S.E.2d 251, 253 (Ct. App. 2001).

A case involving the interpretation of a will is classified as an action at law. *Bob Jones Univ.*, 344 S.C. at 230, 543 S.E.2d at 253; *NationsBank of S.C. v. Greenwood*, 321 S.C. 386, 392, 468 S.E.2d 658, 662 (Ct. App. 1996). As a result, the factual findings of the probate court and the circuit court as to the present dispute must be upheld so long as evidence exists that reasonably supports those findings. *Alexander's Land Co.*, 390 S.C. at 592, 703 S.E.2d at 212. Appellate review is limited

to the correction of an error of law. *Electro Lab of Aiken*, 357 S.C. at 367, 593 S.E.2d at 172; *Bob Jones Univ.*, 344 S.C. at 230, 543 S.E.2d at 253.

ARGUMENT

I. THE LOWER COURTS CORRECTLY RULED THAT THE LANGUAGE OF HERBERT'S WILL WAS AMBIGUOUS AND WAS INTENDED TO DEVISE AND BEQUEATH HERBERT'S GOSLIN POND LOTS TO BEASLEY

In South Carolina, "[t]he cardinal rule of will construction is the determination of the testator's intent." *Bob Jones Univ.*, 344 S.C. at 230, 543 S.E.2d at 254. In this regard, "every effort must be made to determine the intentions of the testator and carry out such intentions." *In re Estate of Prioleau*, 361 S.C. 627, 632, 606 S.E.2d 769, 772 (2004).

"In construing a will, a court's first reference is always to the will's language itself." *Bob Jones Univ.*, 344 S.C. at 230, 543 S.E.2d at 254. The court must determine "what the testator meant by the terms used in the written instrument itself[.]" *Allison v. Wilson*, 306 S.C. 274, 278, 411 S.E.2d 433, 435 (1991).

Notably, the testator's intent "is to be ascertained upon construction of the entire will." *Prioleau*, 361 S.C. at 631, 606 S.E.2d at 772. "[E]ach item of [the] will must be considered in relation to the other portion." *Epworth Children's Home v. Beasley*, 365 S.C. 157, 166, 616 S.E.2d 710, 715 (2005). In addition, the court is to "give the words contained in the document their ordinary and plain meaning unless it is clear the testator intended a different sense or such meaning would lead to an

inconsistency with the testator's declared intention." *Bob Jones Univ.*, 344 S.C. at 230, 543 S.E.2d at 254; *accord Prioleau*, 361 S.C. at 632, 606 S.E.2d at 772.

If the terms or provisions of the will are clear and unambiguous, the will must be enforced as written. *Wise v. Poston*, 281 S.C. 574, 577, 316 S.E.2d 412, 414 (Ct. App. 1984). On the other hand, if an ambiguity exists, the court "may resort to extrinsic evidence to resolve the ambiguity." *Fenzel v. Floyd*, 289 S.C. 495, 498, 347 S.E.2d 105, 107 (Ct. App. 1986); *accord Prioleau*, 361 S.C. at 632, 606 S.E.2d at 772.

In the present case, Dickson incorrectly argues that the language of Item III, No. 2 of Herbert's Will is clear and unambiguous and served to convey to Beasley only such property (if any) that Dickson owned within the geographic boundaries of the city of Santee at the time of his death. According to Dickson, the specific devise in Item III, No. 2 of the Will failed to convey any real property to Beasley because the Goslin Pond lots lie outside the boundaries of the city of Santee. This argument lacks legal merit and must be rejected.

Dickson's contentions fail to recognize the concept and meaning of a legal ambiguity. In contravention to Dickson's suggestions, ambiguities in a will may be either patent or latent in nature. *See Prioleau*, 361 S.C. at 632, 606 S.E.2d at 772. A patent ambiguity arises from the words of the instrument in themselves, "before any attempt is made to apply them to the object which they describe[.]" *In re Estate of Fabian*, 326 S.C. 349, 353, 483 S.E.2d 474, 476 (Ct. App. 1997); *accord Prioleau*,

361 S.C. at 632, 606 S.E.2d at 772. A latent ambiguity, on the other hand, exists when an uncertainty arises, not based on the language of the will in itself, "but upon those words when applied to the object or subject which they describe." *Fabian*, 326 S.C. at 353, 483 S.E.2d at 476; *accord Prioleau*, 361 S.C. at 632, 606 S.E.2d at 772. In other words, "[a] latent ambiguity exists when there is no defect arising from the face of the instrument, but arising when attempting to apply the words of the instrument to the object or subject described." *Beaufort County Sch. Dist. v. United Nat'l Ins. Co.*, 392 S.C. 506, 526, 709 S.E.2d 85, 95 (Ct. App. 2011).

A latent ambiguity arises, for example, where a will clearly names a beneficiary, but the evidence shows the existence of two potential beneficiaries with that name. *Smith v. Coxe*, 183 S.C. 509, 191 S.E. 422, 425 (1937). "A latent ambiguity may also arise when a will contains a misdescription of the object or subject." *Id.* (internal quotation marks omitted); *see Fenzel*, 289 S.C. at 496-97, 347 S.E.2d at 106-07 (latent ambiguity existed where will bequeathed property on "Suber Street" to testator's four daughters, but evidence showed testator did not own any property on the named street, and testator owned other lots the family referred to as "Suber property").

In the present case, the probate court and the circuit court correctly found that a latent ambiguity arose from the language of the Will as applied to description of the real property that Herbert specifically devised and bequeathed to Beasley. Item III, No. 2 of the Will states that Herbert devised and bequeathed to Beasley "any property

which I own at the time of my death in Santee, South Carolina and its contents[.]” (Pl.’s Ex. 1. Item III(2), R. ____.) A latent ambiguity exists because the meaning of the phrase “in Santee” is unclear when applied to the real property that Herbert actually owned at the time of his death. *See Smith*, 183 S.C. 509, 191 S.E. at 425; *Fenzel*, 289 S.C. at 496-97, 347 S.E.2d at 106-07.

In this regard, the evidence shows it was well-known to all members of Herbert’s family that Herbert owned two discrete parcels of real property during his lifetime. The first parcel was his major home residence in Sumter, South Carolina. (Tr. p. 23, line 5, p. 49, lines 18-21.) The second parcel consisted of six lots located in the Goslin Pond subdivision of Clarendon County, South Carolina. (Tr. p. 23, lines 9-25, p. 29, line 2 to p. 30, line 7, p. 36, lines 20-21, p. 42, lines 1-12, p. 44, lines 18-21.)

The city of Santee, South Carolina is located in Orangeburg County, South Carolina. (Tr. p. 17, lines 2-4, p. 44, lines 15-17.) However, the lower courts took judicial notice of the fact that “all property bordering the Lake Moultrie and Lake Marion properties located in Clarendon County are commonly referred to as Santee property by individuals from Sumter and Clarendon Counties.” (Prob. Ct. Order, Sept. 21, 2011, pp. 5-6, R. ____.) Herbert’s Goslin Pond lots are located within this general area commonly referred to as “Santee.” (Prob. Ct. Order, Oct. 17, 2012, R. ____.) In addition, the record evidence showed that Herbert and his family, including

Dickson, colloquially referred to Herbert's Goslin Pond lots as "Santee" property. (Tr. p. 36, line 13, p. 51, line 19 to p. 52, line 4, p. 67, lines 8-13.)

The lower courts correctly found that a latent ambiguity in the language of Item III, No. 2 of the Will existed in regard to the identification of the real property Herbert devised and bequeathed to Beasley, and that Herbert intended to bequeath his Goslin Pond lots to Beasley in that provision. Accordingly, Dickson's contention that the language of the Will is clear and unambiguous and failed to devise any real property to Beasley must be rejected.

This point is illustrated in the factually analogous case of *Fenzel*. In that case, three of the testator's four daughters filed a declaratory judgment action asking the court to interpret the will of their mother, Miriam Marshall. Item VII of the will devised to all four daughters "all the lots that I own on Suber Street, Columbia, South Carolina, except those hereinabove devised, under Item VI, share and share alike." 289 S.C. at 496, 347 S.E.2d at 106. At the time of her death, Mrs. Marshall did not own any lots on Suber Street except those devised under Item VI. However, Mrs. Marshall owned 17 other lots in the city of Columbia that were not named in any other section of her will. These lots were part of a large tract that the family referred to as the "Suber property." *Id.* at 497, 347 S.E.2d at 106-07. The evidence showed that Mrs. Marshall's mother was a Suber, and the "Suber property" was known as a large acreage of land that Mrs. Marshall had inherited from her mother. *Id.*

The three plaintiff-daughters contended that the reference to "Suber Street" in Item VII of the will was a misdescription resulting from a scrivener's error, and that Mrs. Marshall's true intent was to devise and bequeath the 17 lots she owned in the city of Columbia to all four daughters. *Id.* at 497, 347 S.E.2d at 107. The objecting daughter contended that the language of Item VII was unambiguous on its face and failed to convey to the beneficiaries any lots Mrs. Marshall owned that were not on Suber Street. *Id.*

The court of appeals ruled that although the words "all the property I own on Suber Street" were unambiguous on their face, a latent ambiguity existed because Mrs. Marshall owned no lots on Suber Street. *Id.* at 498, 347 S.E.2d at 107. Thus, the trial court erred in refusing to look beyond the "four corners" of the will to identify the property that Mrs. Marshall intended to convey to her four daughters jointly. *Id.*

Fenzel is directly applicable to the present case. As occurred in that case, the Will at issue here contains a misdescription of the property that the testator intended to specifically devise and bequeath to the named beneficiary. *See id.* As *Fenzel* demonstrates, a latent ambiguity arose from the fact that the testator, Herbert, did not own any property that fit the description set forth in the Will (i.e., property owned "in Santee"). Thus, the probate court and the circuit court correctly looked beyond the "four corners" of the Will to identify the real property that Herbert intended to specifically devise and bequeath to Beasley. *See id.*

As also occurred in *Fenzel*, the testator (Herbert) owned real property that was located near the misdescribed location and was not specifically mentioned in any other section of the Will. Further, in both *Fenzel* and the present case, the testator's real property was commonly referred to by the family in a manner that at least partially accorded with the description set forth in the Will. *See id.* Just as Mrs. Marshall's reference in her will to her "Suber" properties applied to the nearby lots that Mrs. Marshall acquired from her mother, Herbert's reference to his "Santee" property likewise should be applied to the lots he owned in Goslin Pond. *See id.*

As the foregoing analysis reveals, the probate court and the circuit court correctly found that a latent ambiguity existed in Item III, No. 2 of Herbert's Will pertaining to the description of the real property that was specifically devised and bequeathed to Beasley. The courts properly interpreted this ambiguous language as conveying the lots Herbert owned in the Goslin Pond subdivision of Clarendon County to Beasley.

II. THE LOWER COURTS PROPERLY ADMITTED EXTRINSIC EVIDENCE TO AID IN INTERPRETING HERBERT'S WILL

Dickson's contention that the lower courts erred in admitting extrinsic evidence to aid in the interpretation of Herbert's Will must be rejected as contrary to established precepts of South Carolina law. As detailed in Argument Part I, *supra*, a latent ambiguity exists in the Will concerning the identification of the real property Herbert

intended to convey to Beasley through the specific devise and bequest set forth in Item III, No. 2.

"A court may admit extrinsic evidence to determine whether a latent ambiguity exists." *Bob Jones Univ.*, 344 S.C. at 231, 543 S.E.2d at 254; *accord Fabian*, 326 S.C. at 353, 483 S.E.2d at 476. Indeed, the existence of a latent ambiguity is almost always revealed only upon the admission of extrinsic evidence. *Smith*, 183 S.C. 509, 191 S.E. at 422.

"Once the court finds a latent ambiguity, extrinsic evidence is . . . permitted to assist the court in determining the testator's intent." *Fabian*, 326 S.C. at 353, 483 S.E.2d at 476. It is error for the trial court to refuse to admit such evidence as an aid in resolving the ambiguity. *Fenzel*, 289 S.C. at 498-99, 347 S.E.2d at 107. In cases where a latent ambiguity exists, the court must look beyond the "four corners" of the will to determine the meaning of the language used. *Id.*

In the present case, the probate court and the circuit court properly considered extrinsic evidence of Herbert's intent concerning the identity of the real property he desired to devise and bequeath to Beasley in Item III, No. 2 of the Will. The courts correctly utilized this evidence to interpret the reference to Herbert's real property located "in Santee" as conveying the lots Herbert owned in the Goslin Pond subdivision of Clarendon County to Beasley. *See Prioleau*, 361 S.C. at 632, 606 S.E.2d at 772; *Smith*, 183 S.C. 509, 191 S.E. at 422; *Bob Jones Univ.*, 344 S.C. at 231,

543 S.E.2d at 254; *Fabian*, 326 S.C. at 353, 483 S.E.2d at 476; *Fenzel*, 289 S.C. at 498-99, 347 S.E.2d at 107.

III. THE LOWER COURTS CORRECTLY INTERPRETED ITEM III, NO. 2 OF HERBERT'S WILL AS VALIDLY BEQUEATHING HERBERT'S GOSLIN POND LOTS TO BEASLEY

Dickson incorrectly alleges that the record evidence does not support the lower courts' interpretation of Item III, No. 2 of Herbert's Will as devising and bequeathing Herbert's Goslin Pond lots to Beasley. Contrary to Dickson's contentions, the lower courts' interpretation of the Will is reasonable and accords with both the record evidence and with well-established precepts of South Carolina law.

A. Interpretation Of The Will As A Whole

As explained in Argument Part I, *supra*, the paramount consideration in interpreting a will is to ascertain and effectuate the intent of the testator. *Prioleau*, 361 S.C. at 632, 606 S.E.2d at 772; *Bob Jones Univ.*, 344 S.C. at 231, 543 S.E.2d at 254. Dickson's interpretation of Item III, No. 2 of Herbert's Will is contrary to Herbert's evident intent to devise and bequeath his Goslin Pond lots to Beasley.

"Arriving at the intent of the testator requires that every item be considered in relation to the other portions of the will." *Holcombe-Burdette v. Bank of Am.*, 371 S.C. 648, 657, 640 S.E.2d 480, 484 (Ct. App. 2006). In effect, the testator's intent can be ascertained only upon consideration of the will as a whole. *Epworth Children's*

Home, 365 S.C. at 165, 616 S.E.2d at 714; *Prioleau*, 361 S.C. at 632, 606 S.E.2d at 772.

Toward this end, "[a] court may not consider the will piecemeal, but must give due weight to all its language and provisions, giving effect to every part when, under a reasonable interpretation, all the provisions may be harmonized with each other and with the will as a whole." *Epworth Children's Home*, 365 S.C. at 166, 616 S.E.2d at 715. If possible by any reasonable interpretation, "all clauses must be harmonized with each other and with the will as a whole." *McGirt v. Nelson*, 360 S.C. 307, 311, 599 S.E.2d 620, 622 (Ct. App. 2004) (quoting *Shevlin v. Colony Lutheran Church*, 227 S.C. 598, 603, 88 S.E.2d 674, 677 (1955)).

According to Dickson, the phrase "any property which I own, at the time of my death in Santee, South Carolina" was intended to limit Herbert's specific devise and bequest to Beasley to real property located within the geographic boundaries of the city of Santee. (Pet'r's Ex. 1, Item III(2), R. ____.) This interpretation, however, is piecemeal in nature and is not in harmony with the Will as a whole. Specifically, Dickson's construction of Herbert's second specific devise and bequest set forth in Item III, No. 2 completely ignores the language of the third specific devise and bequest set forth in Item III, No. 3 of the Will. (Pl.'s Ex. 1, Item III(3), R. ____.)

Item III, No. 3 of the Will states that in the event Melba predeceased Herbert, then Herbert devised and bequeathed "my homeplace and its contents" to Chaplin. (Pl.'s Ex. 1, Item III(3), R. ____.) Reading the second and third specific bequests

together, as the Court is required to do, it is clear that the reference to Herbert's "Santee" property in Item III, No. 2 of the Will was not intended to limit the bequest to Beasley to property located within the physical bounds of the city of Santee but rather was meant to distinguish Herbert's Goslin Pond lots from his "homeplace" in Sumter, South Carolina. *See Epworth Children's Home*, 365 S.C. at 166, 616 S.E.2d at 715; *McGirt*, 360 S.C. at 311, 599 S.E.2d at 622.

Further, when the second and third specific bequests are considered in conjunction with the first specific bequest set forth in Item III, No. 1 of Herbert's Will, it is evident that Herbert intended to devise and bequeath the Goslin Pond lots to Beasley, the Sumter property to Chaplin, and to make specific bequests in cash to each of his four sons, including Dickson. *See Epworth Children's Home*, 365 S.C. at 165-66, 616 S.E.2d at 714-15; *Prioleau*, 361 S.C. at 631, 606 S.E.2d at 772; *Holcombe-Burdette*, 371 S.C. at 657, 640 S.E.2d at 484. This interpretation gives effect to and harmonizes all provisions of the Will and, therefore, must be preferred over Dickson's piecemeal and inharmonious construction. *See Epworth Children's Home*, 365 S.C. at 166, 616 S.E.2d at 715; *McGirt*, 360 S.C. at 311, 599 S.E.2d at 622.

Accordingly, the Court should affirm the lower courts' ruling that the "Santee property" referred to in Item III, No. 2 of the Will consists of the six Goslin Pond lots that Herbert owned at the time of his death. This interpretation "fits into the whole scheme or plan of the will" and, therefore, is "most likely to be the correct

interpretation of the intent of the testator." *Epworth Children's Home*, 365 S.C. at 166, 616 S.E.2d at 715.

B. Taking Of Judicial Notice

Next, Dickson incorrectly argues that the probate court and circuit courts erred in taking judicial notice of the fact that "all property bordering the Lake Moultrie and Lake Marion properties located in Clarendon County are commonly referred to as Santee property by individuals from Sumter and Clarendon Counties." (Prob. Ct. Order, Sept. 21, 2011, pp. 5-6, R. ____.) Again, Dickson misconstrues the law on this point.

A court may properly take judicial notice of a fact that is "of such common knowledge that it is accepted by the general public without qualification or contention[.]" *Eadie v. H.A. Sack Co.*, 322 S.C. 164, 172, 470 S.E.2d 397, 401 (Ct. App. 1996). Further, a trial judge "is not prohibited in taking judicial notice of a collateral fact of which he has personal knowledge." *Gamble v. Price*, 289 S.C. 538, 541, 347 S.E.2d 131, 132 (Ct. App. 1986). Thus, judicial notice may be taken of the location or geographic bounds of a certain place. *People's Bank of Rock Hill v. People's Bank of Anderson*, 122 S.C. 476, 115 S.E. 736, 737 (1923). Judicial notice may also be taken of local usages and customs. *Brookhart v. Langford*, 128 S.C. 350, 122 S.E. 866, 867 (1924).

During the hearing of July 21, 2010, the parties debated the meaning of the word "Santee" as applied to a given location in South Carolina. The probate court judge resolved this point by stating:

Due to the fact that there is a geographical location called Santee, South Carolina and also there is a lake area that is called Santee, which there are thousands and thousands of people that will tell you they are going to Santee, and they're going to the lake. They're not crossing I-95 and going into the town of Santee. I think that there is some ambiguity because of the fact that they're—they can be talking about either location whenever you mention going to Santee or at Santee or in Santee.

(Tr. p. 17, lines 5-16.)

As this statement reflects, the probate court recognized the widespread and common custom of local residents to refer to the geographic location known as "Santee" in a manner that could include either the municipality or the lake area outside of the boundaries of the city of Santee. In its written Order, the probate court properly took judicial notice of the fact that properties located in Clarendon County that border Lake Moultrie and Lake Marion properties are within the geographic area commonly referred to as "Santee" by residents of Sumter and Clarendon Counties. *See Brookhart*, 128 S.C. 350, 122 S.E. at 867; *People's Bank of Rock Hill*, 122 S.C. 476, 115 S.E. at 737; *Gamble*, 289 S.C. at 541, 347 S.E.2d at 132; *Eadie*, 322 S.C. at 172, 470 S.E.2d at 401.

Herbert's Goslin Pond lots are located in the Lake Marion area. (Prob. Ct. Order, Oct. 17, 2012, R. ____.) Further, the record evidence showed that Herbert and his family, including Dickson, colloquially referred to those Goslin Pond lots as being

located in "Santee." (Tr. p. 36, p. line 13, p. 51, line 19 to p. 52, line 4, p. 67, lines 8-13.) Thus, the lower courts correctly recognized that Herbert's customary use of the word "Santee" in describing his Goslin Pond lots impacted the description of the real property he intended to bequeath to Beasley in Item III, No. 2 of the Will. *See Bob Jones Univ.*, 344 S.C. at 231, 543 S.E.2d at 254.

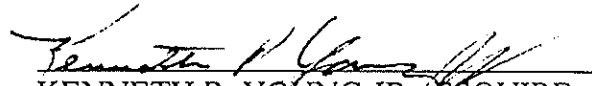
C. Factual Findings Of Lower Courts

In contravention to Dickson's contentions, evidence in the record clearly exists to support the lower courts' factual finding that the phrase "in Santee," as applied to the description of the real property Herbert devised and bequeathed to Beasley in Item III, No. 2 of the Will, was ambiguous and was intended to describe the Goslin Pond lots that Herbert owned at the time of his death. This factual finding is not subject to review on appeal. *Alexander's Land Co.*, 390 S.C. at 592, 703 S.E.2d at 212. Hence, it must be concluded that the lower courts' interpretation of Herbert's Will was correct, and that Item III, No. 2 of the Will validly conveyed Herbert's Goslin Pond lots to Beasley. *See id.*

CONCLUSION

For the foregoing reasons, the Orders of the Sumter County Probate Court and the Circuit Court should be affirmed.

Respectfully submitted,



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(803) 773-4371 (Telephone)

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kyoung@sumterattorney.com

Sumter, South Carolina

January 13, 2015

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No.: 2014-001903

Milton Oakley Dickson Appellant,

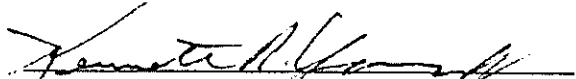
v.

Arthur B. Beasley, Jr. Respondent.

PROOF OF SERVICE

I hereby certify that a true and correct copy of Initial Brief of Respondent was served this day by depositing the same in the U.S. mail, in an envelope with sufficient postage affixed thereto, upon the following counsel of record:

S. Jahue Moore, S.C. Bar No. 4063
John C. Bradley, Jr., S.C. Bar No. 7869
MOORE TAYLOR LAW FIRM, PA
1700 Sunset Boulevard
West Columbia, SC 29169
Attorneys for Appellant


KENNETH R. YOUNG, JR., ESQUIRE

Sumter, South Carolina
January 13, 2015

MTLF000181

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JAN 22 2015

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
In the Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

Milton Oakley Dickson,.....Appellant,

v.

Arthur B. Beasley, Jr.,.....Respondents,

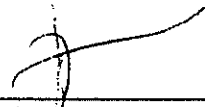
MOTION FOR EXTENSION OF TIME TO FILE APPELLANT'S REPLY BRIEF

The undersigned, as counsel for Appellant Milton Oakley Dickson, hereby moves for a Ten (10) day extension of time to file its Reply Brief. This Motion is made on the grounds that John C. Bradley, Jr., the undersigned counsel for Appellant Milton Oakley Dickson was out of state for depositions beginning Monday, January 19th through January 22nd. In addition, there is an apparent issue in regards to the date of service of the Initial Brief of the Respondent. The proof of service was signed on January 13, 2015. However, the cover letter and postmark are dated January 14, 2015. Due to Mr. Bradley being out of state, and the issue with the date of service, additional time is needed to prepare and file the Reply Brief. This extension request is not intended for purposes of delay. Further, there would be no prejudice to the parties by an extension of time. By the undersigned's calculations the extension, if granted, would extend Appellant's deadline

for filing the reply brief to Tuesday, February 3, 2015. Appellant will not request any additional time to prepare and file its Reply Brief beyond that date.

WHEREFORE, Appellant respectfully prays that this Court extend the deadline for the service and filing its Initial Brief(s) and Designation of Matter to February 3, 2015.

Respectfully submitted,

By: 

S. Jahue Moore

John C. Bradley, Jr.

MOORE TAYLOR LAW FIRM, PA

1700 Sunset Boulevard

West Columbia, SC 29169

803-796-9160

803-791-8410 (Fax)

john@mttlaw.com

Attorneys for Appellant

Milton Oakley Dickson

West Columbia, SC
January 22, 2015

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
In the Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

Milton Oakley Dickson,.....Appellant,

v.

Arthur B. Beasley, Jr.,.....Respondents,

PROOF OF SERVICE

I, Lynn G. Ivey, an employee of Moore Taylor Law Firm, P.A., certify that I have on this day effected service of the below Motion for Extension of Time to File Appellant's Initial Brief and Designation of Matter upon counsel of record, by placing a copy of same in the United States mail in an envelope with sufficient postage affixed thereto, addressed as listed below.

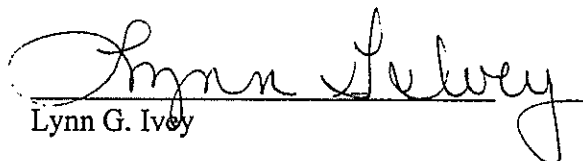
Kenneth R. Young, Jr., Esquire
YOUNG, KEFFER & ASSOCIATES, P.A.
23 West Calhoun Street
Sumter, SC 29150

RECEIVED

JAN 22 2015

SC Court of Appeals

DOCUMENT(S): 1. Motion for Extension of Time to File Appellant's Reply Brief


Lynn G. Ivey

West Columbia, South Carolina
January 22, 2015

MTLF000184

The South Carolina Court of Appeals

Milton Oakley Dickson, Appellant,

v.

Arthur B. Beasley, Jr., Respondent,

IN Re: Estate of Herbert Franklin Dickson, Sr.

Appellate Case No. 2014-001903

The Honorable R. Ferrell Cothran, Jr., The Honorable
Dale Atkinson
Sumter County
Trial Court Case No. 2012CP4302148, 2008ES4300411

ORDER

The time for serving and filing the appellant's initial reply brief is hereby extended until February 2, 2015.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

S. Jahue Moore, Esquire

John Calvin Bradley, Jr., Esquire

Kenneth R. Young, Jr., Esquire

FILED

27 Jan 2015

2c

MTLF000185

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
In the Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

Milton Oakley Dickson,.....Appellant,

v.

Arthur B. Beasley, Jr.,.....Respondent,

IN Re: Estate of Herbert Franklin Dickson, Sr.

REPLY BRIEF OF APPELLANT

S. Jahue Moore
John C. Bradley, Jr.
MOORE TAYLOR LAW FIRM, PA
1700 Sunset Boulevard
West Columbia, SC 29169
803-796-9160
803-791-8410 (Fax)
john@mttlaw.com
Attorneys for Appellant

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TABLE OF AUTHORITIES

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ARGUMENT

I. THE LANGUAGE OF TESTATOR'S WILL WAS CLEAR AND UNAMBIGUOUS.

As set forth in Appellant's Brief, the Sumter Probate Court and Judge Cothran ignored the plain and clear language of the testator's will and created an ambiguity where none was present. There was no need for the Court to look beyond the clear and plain language of Testator's will to determine his intent. Both the Probate Court and Judge Cothran erred by failing to enforce the Testator's will as written. Respondent's arguments to the contrary are not persuasive and not controlling.

Respondent correctly recognizes that in South Carolina the cardinal rule of will construction is the determination of the testator's intent as ascertained from the language of the will itself. *See, Bob Jones University v. Strandell*, 344, S.C. 224, 543 S.E.2d 251 (Ct. App. 2001). However, Respondent's arguments in his brief overlook and ignore the plain, clear, and unambiguous language of the testator's will.

There was no latent ambiguity in the Testator's will. The evidence is clear, contrary to Respondent's position, that the Testator was not referring to the Goslin Pond property when he made the bequest at issue in this case.

First, the Testator did not refer to this property as *the* "Santee property." He did not use the words, "all the property I own" to describe this property. The language of the will, ignored by the Court, and by Respondent in his Brief, describes this property as, "*any* property which I own, at the time of my death *in* Santee, South Carolina." (Emphasis added). The language used in the will is far more definite and specific than that at issue in the case of *Fenzel v. Floyd*, 289 S.C. 495, 347 S.E.2d 105 (Ct. App. 1986), cited and relied upon by Respondent in its brief.

Contrary to Respondent's argument, the Testator is not bequeathing any specific piece of property in his will. He is bequeathing *any* property that he may own in Santee at the time of his death. Judge Atkinson and Judge Cothran misconstrued this provision to, in effect, find that while Testator did not own property at the time of his death in Santee, other property that he did own, but was not described or bequeathed in his will, must be substituted in its place. Judge Atkinson and Judge Cothran in effect rewrote Testator's will and substituted their own interpretation in direct contravention of the language used by the Testator. This is clearly erroneous.

Further, the will bequeaths any property that Testator owns, at the time of his death, *in* Sumter, South Carolina. As set forth above, at the time of his death the Testator owned no property in Santee, South Carolina. The evidence is clear on this point. (Order of the Honorable Dale Atkinson, R. ____; Order of the Honorable Ferrell Cothran, R. ____). There was no need for the Court to rewrite the Testator's will.

II. THE PROBATE COURT ERRED IN ALLOWING EXTRINSIC EVIDENCE OF TESTATOR'S INTENT.

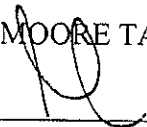
Because the Testator's will was clear and unambiguous and there was no latent ambiguity present, there was no need for the Court to resort to extrinsic evidence to attempt to interpret the Testator's will. There was no ambiguity in the devisee. The Court erred by resorting to extrinsic evidence to find as a matter of law that the Testator intended to convey the Summerton, South Carolina, property in his will.

III. THE LOWER COURT MISCONSTRUED AND MISINTERPRETED THE TESTATOR'S WILL

The Lower Court misconstrued and misinterpreted the Testator's will. Respondent's arguments to the contrary are not controlling. In this case Testator was very specific in the bequest at issue and the language used in his will. There is no need to

resort to a tortured interpretation of the Testator's will or extrinsic evidence to determine what he meant to do, or not do. The language used by Testator was not an effort to distinguish this property from that property as argued by the Respondent in his Brief. Testator's will clearly manifests an intent to bequest any property that he may own at the time of his death in Santee at the time of his death. Because he owned no property in Santee at the time of his death, the bequest fails. The Lower Courts erred in ruling otherwise and the Orders of the Lower Court should be reversed.

MOORE TAYLOR LAW FIRM, PA

By: 

S. Jahue Moore, SC Bar No. 4063
John C. Bradley, Jr., SC Bar No. 7869
1700 Sunset Boulevard
West Columbia, SC 29169
803-796-9160
803-791-8410 (Fax)
john@mttlaw.com
Attorneys for Appellant
Milton Oakley Dickson

West Columbia, South Carolina

February 2, 2015

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
In the Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

Milton Oakley Dickson,.....Appellant,

v.

Arthur B. Beasley, Jr.,.....Respondent,

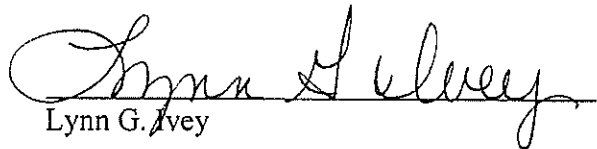
IN Re: Estate of Herbert Franklin Dickson, Sr.

PROOF OF SERVICE

I, Lynn G. Ivey, an employee of Moore Taylor Law Firm, P.A., certify that I have on this day effected service of the below listed document upon counsel of record, by placing a copy of same in the United States mail in an envelope with sufficient postage affixed thereto, addressed as listed below.

Kenneth R. Young, Jr., Esquire
YOUNG, KEFFER & ASSOCIATES, P.A.
23 West Calhoun Street
Sumter, SC 29150

DOCUMENT(S): 1. Reply Brief of Appellant


Lynn G. Ivey

West Columbia, South Carolina
February 2, 2015

MTLF000192

Jones, Seth, Shuler & Jones, LLP

Richard Cogburn Jones

J Cabot Seth

Franklin Maury Shuler

Richard Thomas Jones

Law Offices

5 Law Range

P.O. Box 1268

Sumter, South Carolina 29151-1268

Tel:

(803) 773-8676

Fax:

(803) 775-3461

Real Estate Fax:

(803) 774-2025

January 30, 2015

The Honorable Dale Atkinson
Sumter County Probate Court
141 North Main Street, Room 111
Sumter, South Carolina 29150

RE: Estate of Herbert Franklin Dickson, Sr.
Case No.: 2008-ES-43-00411
Our File No.: 14762.00-JS420



Dear Judge Atkinson:

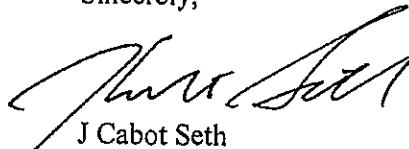
Mr. Jake Moore has written to you regarding this estate. This letter is in response. He is asking for an interim accounting and the Court's intervention regarding the distribution of assets of the estate.

1. **Interim Accounting.** We had previously provided the court an interim accounting. Another accounting will be filed soon.
2. **Distribution of Income.** Income to the estate from the note, which is part of the estate, is being used to pay for the Personal Representative's expenses. Please know that the primary expenses in this case have been caused by his clients in the litigation over the Santee property. The estate cannot resolve until such time as this litigation is over. His Clients have been denied relief by your court and on appeal by Judge Cothran. They are now appealing the case to the Court of Appeals. This kind of litigation is very expensive and is not born by the Personal Representative personally.

I hope this response is adequate. Certainly if Mr. Moore needs some formal relief from this Court, he should file a proper pleading.

If you have any questions, please do not hesitate to contact me.

Sincerely,



J Cabot Seth
Attorney at Law

JCS/

cc: Arthur B. Beasley, Jr.
Mr. Jake Moore, Esq.

MTLF000193

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
In the Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

RECEIVED

MAR 10 2015

SC Court of Appeals

Milton Oakley Dickson,.....Appellant,

v.

Arthur B. Beasley, Jr.,.....Respondent,

MOTION FOR EXTENSION OF TIME TO FILE RECORD ON APPEAL

The undersigned, as counsel for Appellant Milton Oakley Dickson, hereby moves for a Twenty (20) day extension of time to file its Record on Appeal. This Motion is made on the grounds that John C. Bradley, Jr., the undersigned counsel for Appellant Milton Oakley Dickson, has an unusually heavy workload this month including two other Court of Appeal matters requiring briefs, a matter before The South Carolina Supreme Court, and out of state depositions. This is the first extension request for the Record on Appeal and is not intended for purposes of delay. Further, there would be no prejudice to the parties by an extension of time. By the undersigned's calculations, the extension, if granted, would extend Appellant's deadline for filing the Record on Appeal to Tuesday, March 24, 2015.

WHEREFORE, Appellant respectfully prays that this Court extend the deadline for the service and filing its Record on Appeal to March 24, 2015.

Respectfully submitted,

By: _____

S. Jahue Moore
John C. Bradley, Jr.
MOORE TAYLOR LAW FIRM, PA
1700 Sunset Boulevard
West Columbia, SC 29169
803-796-9160
803-791-8410 (Fax)
john@mttlaw.com
Attorneys for Appellant
Milton Oakley Dickson

West Columbia, SC
February 24, 2015

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
In the Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

RECEIVED

APR 14 2015

SC Court of Appeals

Milton Oakley Dickson,.....Appellant,

v.

Arthur B. Beasley, Jr.,.....Respondent,

MOTION FOR EXTENSION OF TIME TO FILE RECORD ON APPEAL

The undersigned, as counsel for Appellant Milton Oakley Dickson, hereby moves for a Twenty (20) day extension of time to file its Record on Appeal. This Motion is made on the grounds that John C. Bradley, Jr., the undersigned counsel for Appellant Milton Oakley Dickson, has an unusually heavy workload this month including two other Court of Appeal matters requiring briefs, a matter before The South Carolina Supreme Court, and out of state depositions. This is the first extension request for the Record on Appeal and is not intended for purposes of delay. Further, there would be no prejudice to the parties by an extension of time. By the undersigned's calculations, the extension, if granted, would extend Appellant's deadline for filing the Record on Appeal to Tuesday, March 24, 2015.

WHEREFORE, Appellant respectfully prays that this Court extend the deadline for the service and filing its Record on Appeal to March 24, 2015.

Respectfully submitted,

By: _____

S. Jahue Moore
John C. Bradley, Jr.
MOORE TAYLOR LAW FIRM, PA
1700 Sunset Boulevard
West Columbia, SC 29169
803-796-9160
803-791-8410 (Fax)
john@mttlaw.com
Attorneys for Appellant
Milton Oakley Dickson

West Columbia, SC
February 24, 2015

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
In the Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

RECEIVED

SC Court of Appeals

Milton Oakley Dickson,.....Appellant,

v.

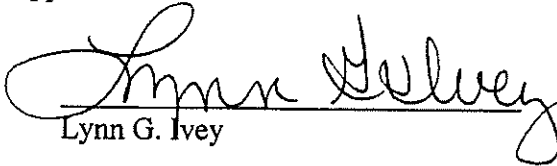
Arthur B. Beasley, Jr.,.....Respondent,

PROOF OF SERVICE

I, Lynn G. Ivey, an employee of Moore Taylor Law Firm, P.A., certify that I have on this day effected service of the below Motion for Extension of Time to File Appellant's Record on Appeal upon counsel of record, by placing a copy of same in the United States mail in an envelope with sufficient postage affixed thereto, addressed as listed below.

Kenneth R. Young, Jr., Esquire
YOUNG, KEFFER & ASSOCIATES, P.A.
23 West Calhoun Street
Sumter, SC 29150

DOCUMENT(S): 1. Motion for Extension of Time to File Appellant's Record on Appeal


Lynn G. Ivey

West Columbia, South Carolina
February 24, 2015

MTLF000198

The South Carolina Court of Appeals

Milton Oakley Dickson, Appellant,

v.

Arthur B. Beasley, Jr., Respondent,

IN Re: Estate of Herbert Franklin Dickson, Sr.

Appellate Case No. 2014-001903

The Honorable R. Ferrell Cothran, Jr., The Honorable
Dale Atkinson
Sumter County

Trial Court Case No. 2012CP4302148, 2008ES4300411

ORDER

The time for serving and filing the proof of service for the record on appeal is hereby extended until March 24, 2015.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

S. Jahue Moore, Esquire

John Calvin Bradley, Jr., Esquire

Kenneth R. Young, Jr., Esquire

FILED
4 MAR 2015
LC

MTLF000199

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
In the Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

Milton Oakley Dickson,.....Appellant,

v.

Arthur B. Beasley, Jr.,.....Respondent,

IN Re: Estate of Herbert Franklin Dickson, Sr.

MOTION TO AMEND RECORD ON APPEAL FILED WITH COURT

The undersigned, as counsel for the Appellant hereby moves for leave of the Court to amend the Record on Appeal filed with the Court on March 23, 2015, by removing the Last Will and Testament of Melba McSween Dickson (existing pages ROA000121 – 000129) and replacing this with the Last Will and Testament of Herbert Franklin Dickson, Sr. (new pages ROA000121 – 000129).

The Last Will and Testament of Mrs. Dickson was inadvertently put into the Record on Appeal instead of Mr. Dickson's Last Will and Testament. This motion is made on the grounds that leave of the Court to physically replace these pages in the existing filed Record on Appeal will prevent the Appellant from supplementing the

MTLF000200

Record on Appeal, and will also prevent the Appellant and/or Respondent from having to re-file Final Briefs. Respondent Attorney Kenneth Young, Jr., by and through his paralegal, has consented to the replacement of Mrs. Dickson's Will with Mr. Dickson's Will. A copy of the email correspondence to this effect is attached as Exhibit A.

WHEREFORE, Appellant respectfully prays that this Court grant Appellant's counsel leave of the Court to replace the above-referenced pages in the filed Record on Appeal.



S. Jahue Moore, SC Bar #4063
John C. Bradley, Jr., SC Bar #7869
MOORE TAYLOR LAW FIRM, PA
1700 Sunset Boulevard
West Columbia, SC 29169
803-796-9160
Attorneys for Appellant

West Columbia, South Carolina

April 13, 2015

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
In the Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

Milton Oakley Dickson,.....Appellant,

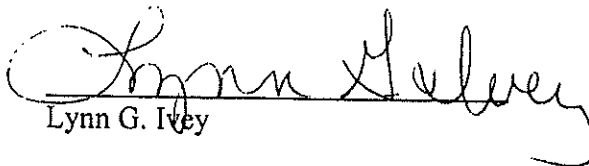
v.

Arthur B. Beasley, Jr.,.....Respondent,

IN Re: Estate of Herbert Franklin Dickson, Sr.

PROOF OF SERVICE

I certify that I have served the Motion to Amend Record on Appeal Filed with Court on Kenneth R. Young, Jr., Esquire by depositing a copy of it in the United States Mail, postage prepaid, on April 13, 2015, addressed to Kenneth R. Young, Jr., 23 West Calhoun Street, Sumter, SC, 29150.


Lynn G. Ivey

West Columbia, South Carolina
April 13, 2015

MTLF000202

The South Carolina Court of Appeals

Milton Oakley Dickson, Appellant,

v.

Arthur B. Beasley, Jr., Respondent,

IN Re: Estate of Herbert Franklin Dickson, Sr.

Appellate Case No. 2014-001903

The Honorable R. Ferrell Cothran, Jr., The Honorable
Dale Atkinson
Sumter County
Trial Court Case No. 2012CP4302148, 2008ES4300411

ORDER

Counsel for the appellant filed a motion to amend the record on appeal filed with the Court. The motion indicates consent was given by the respondent. The motion is granted. The appellant must make the correction to the record on appeal within ten days of the date of this order.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

MTLF000203

cc:

S. Jahue Moore, Esquire

John Calvin Bradley, Jr., Esquire

Kenneth R. Young, Jr., Esquire

FILED

SP 4/23/15

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
In the Court of Common Pleas

R. Ferrell Cothran, Jr., Presiding Judge

Appellate Case No. 2014-001903

Milton Oakley Dickson,.....Appellant,

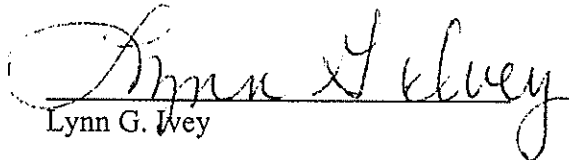
v.

Arthur B. Beasley, Jr.,.....Respondent,

IN Re: Estate of Herbert Franklin Dickson, Sr.

PROOF OF SERVICE

I certify that I have served a copy of the Amended Record on Appeal on Kenneth R. Young, Jr., Esquire by depositing a copy of it in the United States Mail, postage prepaid, on April 27, 2015, addressed to Kenneth R. Young, Jr., 23 West Calhoun Street, Sumter, SC, 29150.


Lynn G. Ivey

West Columbia, South Carolina
April 27, 2015

MTLF000205



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11829
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

May 11, 2016

Mr. S. Jahue Moore, Esquire
PO Box 5709
West Columbia SC 29171

Mr. John Calvin Bradley, Jr., Esquire
PO Box 5709
West Columbia SC 20171

Mr. Kenneth R. Young, Jr., Esquire
23 W. Calhoun St.
Sumter SC 29150

Re: Milton Oakley Dickson v. Arthur Beasley
Appellate Case No. 2014-001903

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: The Honorable Dale Atkinson

MTLF000206

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Milton Oakley Dickson, Appellant,

v.

Arthur B. Beasley, Jr., Respondent,

In re: Estate of Herbert Franklin Dickson, Sr.

Appellate Case No. 2014-001903

Appeal From Sumter County
R. Ferrell Cothran, Jr., Circuit Court Judge

Unpublished Opinion No. 2016-UP-197
Submitted February 1, 2016 – Filed May 11, 2016

AFFIRMED

S. Jahue Moore and John Calvin Bradley, Jr., both of
Moore Taylor Law Firm, P.A., of West Columbia, for
Appellant.

Kenneth R. Young, Jr., of Sumter, for Respondent.

PER CURIAM: Milton Oakley Dickson appeals the circuit court's order
affirming the probate court's order that found a latent ambiguity existed regarding a

MTLF000207

230, 543 S.E.2d at 253 ("If a proceeding in the [p]robate [c]ourt is in the nature of an action at law, review by the [c]ircuit [c]ourt and this [c]ourt extends merely to the correction of errors of law."); *id.* at 230, 543 S.E.2d at 253-54 ("The factual findings of the [p]robate [c]ourt will not be disturbed on appeal unless a review of the record reveals there is no evidence reasonably supporting the court's findings."); *id.* at 230, 543 S.E.2d at 254 ("The cardinal rule of will construction is the determination of the testator's intent."); *id.* ("In construing the language of a will, the reviewing tribunal must give the words contained in the document their ordinary and plain meaning unless it is clear the testator intended a different sense or such meaning would lead to an inconsistency with the testator's declared intention."); *Kemp*, 358 S.C. at 34, 594 S.E.2d at 849 ("The rules of construction are subservient to the primary consideration of ascertaining what the testator meant by the terms used in the written instrument itself, and each item of a will must be considered in relation to other portions.").

AFFIRMED.

WILLIAMS, LOCKEMY, and MCDONALD, JJ., concur.

The South Carolina Court of Appeals

Milton Oakley Dickson, Appellant,

v.

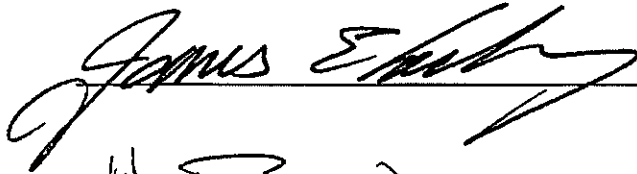
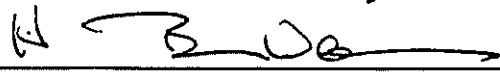
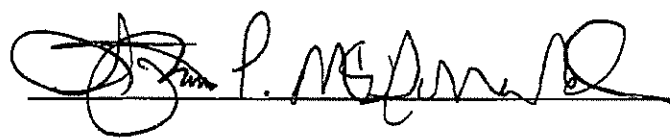
Arthur B. Beasley, Jr., Respondent,

In re: Estate of Herbert Franklin Dickson, Sr.

Appellate Case No. 2014-001903

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 C.J.
 J.
 J.

Columbia, South Carolina

cc:
S. Jahue Moore, Esquire
John Calvin Bradley, Jr., Esquire

FILED

June 23, 2016

MTLF000209

Kenneth R. Young, Jr., Esquire
The Honorable Dale Atkinson

MTLF000210

The South Carolina Court of Appeals

Milton Oakley Dickson, Appellant,

v.

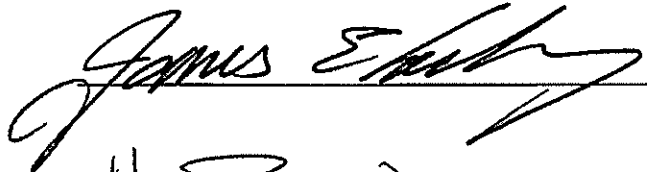
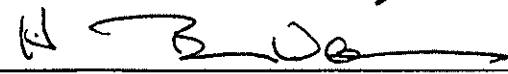
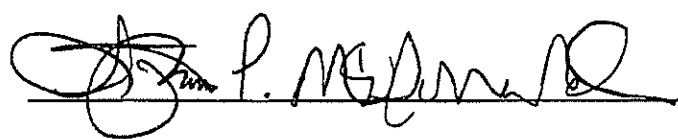
Arthur B. Beasley, Jr., Respondent,

In re: Estate of Herbert Franklin Dickson, Sr.

Appellate Case No. 2014-001903

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 C.J.
 J.
 J.

Columbia, South Carolina

cc:

S. Jahue Moore, Esquire

John Calvin Bradley, Jr., Esquire

FILED

June 23, 2016

MTLF000211

Kenneth R. Young, Jr., Esquire
The Honorable Dale Atkinson

MTLF000212



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
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www.sccourts.org

August 02, 2016

The Honorable James C. Campbell
Sumter County Judicial Center
215 North Harvin Street
Sumter SC 29150-4974

REMITTITUR

Re: Milton Oakley Dickson v. Arthur Beasley
Lower Court Case No. 2012CP4302148, 2008ES4300411
Appellate Case No. 2014-001903

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: S. Jahue Moore, Esquire
John Calvin Bradley, Jr., Esquire
Kenneth R. Young, Jr., Esquire

MTLF000213

August 2, 2016

Mr. S. JaHUE Moore
1700 Sunset Boulevard
P.O. Box 5709
West Columbia, SC 29171

RE: In the Matter of: Herbert Franklin Dickson, Sr.

Dear Jake,

I would like to thank you for the time and effort that you gave to our family. I was informed by Milton that we lost our appeal on the Property at Goslin Pond Drive, Summerton SC.

I would like for you or one of your staff to look over my father will and please let me know why we have not received any information since August 20, 2008 in the Inventory and Appraisement Document about \$99,959.94 (yellow tab). I'm questioning Items IV Residuary from my father Will, which was dated on March 9th 2007. (Page 2 of 9) orange tab. I have documents to support Items IV Residuary that the balance of \$95,000 was being collect from the sale of the Shoe Shop and no accounting info has been share with any of my family.

These are a list of Document that I'm forwarding to you:

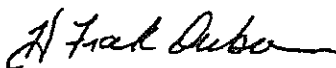
1. Herbert last Will and Testament Herbert F Dickson Sr. March 7, 2007
2. Herbert F Dickson Death Certificate August 20 2008
3. Melba McSween Beasley Dickson Obituaries July 9 2008
4. Melba McSween Dickson Will March 9, 2007
5. Mortgage of Real Estate \$95,000 August 30, 2015 (green tab)
6. Proof of Delivery August 8, 2008 (page 2 of 3) pink tab
7. Inventory and Appraisement August 20 2008 (page 1 of 6) yellow tab

The mortgage was signed on August 8, 2005 and Mr. Russel Purvis has been making payment twice a month until mortgage was paid off on August 30th 2015. It has been eight years on August 20th that our father has died and no financial reports shared with our family. On August 30th of this month it will have been one year that has pasted according to the terms and conditions of the Promissory Note due date August 30 2015.

My brothers and I would appreciate anything that you and your office can share in helping us get closure.

If you have any questions or needs please give me a call at 803-531-1302 ext.111.

Sincerely,



H. Frank Dickson

MTLF000214

Herbert Franklin Dickson Jr.
Milton Oakley Dickson
Finley Milo Dickson
Byron Eugene Dickson

281 Carpenter St. Branchville SC 29432
101 Guild Hall, Columbia SC 29212
1030 Russell St. Orangeburg SC 29115
330 Camp Edisto Rd. Branchville SC 29432

Last Will and Testament
of
Herbert Franklin Dickson, Sr.

J. Cabot Seth, Esq.

Jones, Seth, Shuler & Killen, L.L.P.

Attorneys at Law

5 Law Range – P. O. Box 1268
Sumter, South Carolina 29151-1268
803-773-8676

LAST WILL AND TESTAMENT
OF
HERBERT FRANKLIN DICKSON, SR.

I, Herbert Franklin Dickson, Sr., of the State of South Carolina, County of Sumter, being of sound and disposing mind and memory, do hereby make, publish and declare this instrument to be and contain my Last Will and Testament, hereby expressly revoking any former Wills or Codicils heretofore made by me.

ITEM I
DIRECTION TO PAY DEBTS

I direct that all my just debts, my funeral expenses (including the cost of a suitable gravestone) in an amount to be determined reasonable by my Personal Representative and the cost of the administration of my estate shall be paid as soon after my death as may be possible. The Personal Representative shall not be required to secure court approval of her expenditures for my burial and memorial or for perpetual care of my grave site although such expenditures exceed the limitations otherwise imposed by law. This clause is not to be construed to mean that debts barred by the Statute of Limitations or a non-claim statute must be paid. Further, this clause is not to be construed to force a pay-out of the mortgage on my home.

ITEM II
PERSONAL PROPERTY

I may leave written memoranda disposing of certain items of my tangible personal property. Any such item of tangible personal property shall pass according to the terms of such memoranda in existence at the time of my death. If no such written memoranda is found or identified by my Personal Representative within ninety (90) days after my Personal Representative's qualification, it shall be conclusively presumed that there is no such memoranda, and any subsequently discovered memoranda shall be ineffective. Any property given and devised to a beneficiary who is not living at the time of my death and for whom no effective alternate provision has been made shall pass according to the provisions of the Residuary provision below, and not pursuant to any anti-lapse statute.

ITEM III
SPECIFIC BEQUESTS AND DEVISES

I hereby make the following specific bequests and devises:

HFD

1. I will, give, devise and bequeath One Thousand and no/100s (\$1,000.00) Dollars to each of my issue, **Herbert Franklin Dickson, Jr.; Milton Oakley Dickson; Finley Mylo Dickson and Byron Eugene Dickson**; surviving me.
2. In the event my wife, Melba McSween Dickson, predeceases me, I will, give, devise and bequeath any property which I own at the time of my death in Santee, South Carolina and its contents to **Arthur B. Beasley, Jr.**, if he shall survive me. In the event he shall not survive me, then this bequest shall lapse and pass by the Residuary clause below.
3. In the event my wife, Melba McSween Dickson, predeceases me, I will, give, devise and bequeath my homeplace and its contents, if I own such property at the time of my death, to **Linda B. Chaplin**, if she shall survive me. In the event she shall not survive me, then this bequest shall lapse and pass by the Residuary clause below.

ITEM IV RESIDUARY

I will, give, devise and bequeath all the rest, residue and remainder of my estate, real, personal and mixed, of every kind and nature whatsoever, and wheresoever situate, unto my wife, **Melba McSween Dickson**. In the event my wife, Melba McSween Dickson, predeceases me, I will, give, devise and bequeath all of the above property to **Linda B. Chaplin; Arthur B. Beasley, Jr.; Herbert Franklin Dickson, Jr.; Milton Oakley Dickson; Finley Mylo Dickson and Byron Eugene Dickson**; in equal shares, provided, however, the issue of a deceased beneficiary surviving me shall take, by representation, the share their parent would have taken had he or she survived me.

ITEM V INCONTESTABILITY CLAUSE

In the event any person whomsoever shall challenge the validity of this Will or the distributions thereunder or shall cooperate with or in any manner assist another in doing so, such person or persons shall take as their full and complete share of my estate the sum of One and no/100s (\$1.00) Dollar and no more.

ITEM VI APPOINTMENT OF PERSONAL REPRESENTATIVE

I hereby nominate, constitute and appoint as Personal Representative of this my Last Will and Testament **Melba McSween Dickson** and direct that she shall serve without bond. If for any reason she is unable or unwilling to serve or continue to serve, then I hereby nominate, constitute and appoint as substitute or successor Personal Representative **Arthur B. Beasley, Jr.** to serve and direct that he shall serve without bond. If for any reason he is unable or unwilling to serve or

HFD
Last Will and Testament of Herbert Franklin Dickson, Sr.

Page 2 of 9

MTLF000218

continue to serve, then I hereby nominate, constitute and appoint as substitute or successor Personal Representative **Linda B. Chaplin** to serve and direct that she shall serve without bond.

ITEM VII
POWERS OF PERSONAL REPRESENTATIVES AND TRUSTEES

My Personal Representative and Trustee is authorized in its fiduciary discretion (which shall be subject to the standard of reasonableness and good faith to all beneficiaries) with respect to any property, real or personal, at any time held under any provision of this my Will and without authorization by any court and in addition to any other rights, powers, authority and privileges granted by any other provision of this my Will or by statute or general rules of law:

1. To retain any property or undivided interests in property owned by me at the time of my death, including residential property and shares of my Personal Representative's or Trustee's own stock, regardless of any lack of diversification, risk or non-productivity, as long as it deems advisable, and to exchange any such security or property for other securities or properties and to retain such items received in exchange, although such property represents a large percentage of the total property of my estate or the Trust Estate or even the entirety thereof.
2. To invest and reinvest all or any part of my Estate or the Trust Estate in any property and undivided interests in property, wherever located, including bonds, debentures, notes, secured or unsecured, stocks of corporations regardless of class, interests in limited partnerships, real estate or any interest in real estate whether or not productive at the time of investment, interests in trusts, investment trusts, whether of the open and/or closed fund types, and participation in common, collective or pooled trust funds of my Personal Representative or Trustee, insurance contracts on the life of any beneficiary or annuity contracts for any beneficiary, without being limited by any statute or rule of law concerning investments by fiduciaries.
3. To sell or dispose of or grant options to purchase any property, real or personal, constituting a part of my estate or the Trust Estate, for cash or upon credit, to exchange any property of my estate or the Trust Estate for other property, at such times and upon such terms and conditions as it may deem best, and no person dealing with it shall be bound to see to the application of any monies paid.
4. To hold any securities or other property in its own name as Personal Representative or Trustee, in its own name, in the name of a nominee (with or without disclosure of any fiduciary relationship) or in bearer form.
5. To keep, at any time and from time to time, all or any portion of my Estate or the Trust Estate in cash and uninvested for such periods or periods of time as it may deem advisable, without liability for any loss in income by reason thereof.
6. To sell or exercise stock subscription or conversion rights.

7. To refrain from voting or to vote shares of stock owned by my Estate or the Trust Estate at shareholders' meetings in person or by special, limited, or general proxy and in general to exercise all the rights, powers and privileges of an owner in respect to any securities constituting a part of my Estate or the Trust Estate.
8. To participate in any plan or reorganization or consolidation or merger involving any company or companies whose stock or other securities shall be part of my Estate or the Trust Estate, and to deposit such stock or other securities under any plan of reorganization or with any protective committee and to delegate to such committee discretionary power with relation thereto, to pay a proportionate part of the expenses of new securities received by my Personal Representative or Trustee pursuant to any such plan, to exercise all conversion, subscription, voting and other rights, of whatsoever nature pertaining to such property, and to pay any amount or amounts of money as it may deem advisable in connection therewith.
9. To borrow money and to encumber, mortgage or pledge any asset of my estate or the Trust Estate for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in my Personal Representative or Trustee.
10. To enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the trust.
11. To subdivide, develop, or dedicate real property to public use or to make or obtain the vacation of plats and adjust boundaries, to adjust differences in valuation on exchange or partition by giving or receiving consideration, and to dedicate easements to public use without consideration.
12. To make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings.
13. To continue to operate any business owned by me at my death and to do any and all things deemed needful or appropriate by my Personal Representative or Trustee, including the power to incorporate the business and to put additional capital into the business, for such time as it shall deem advisable, without liability for loss resulting from the continuance or operation of the business except for its own negligence; and to close out, liquidate or sell the business at such time and upon such terms as it shall deem best.
14. To collect, receive, and receipt for rents, issues, profits, and income of my Estate or the Trust Estate.
15. To insure the assets of my Estate or of the Trust Estate against damage or loss and my Personal Representative or Trustee against liability with respect to third persons.

H F D

16. In buying and selling assets, in lending and borrowing money, and in all other transactions, irrespective of the occupancy by the same person of dual positions, to deal with itself in its separate, or any fiduciary, capacity.
17. To compromise, adjust, arbitrate, sue on or defend, abandon, or otherwise deal with and settle claims in favor of or against my Estate or the Trust Estate as my Personal Representative or Trustee shall deem best.
18. To employ and compensate agents, accountants, investment advisers, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, realtors, and other assistants and advisors deemed by my Personal Representative or Trustee needful for the proper administration of my Estate or the Trust Estate, and to do so without liability for any neglect, omission, misconduct, or default of any such agent or professional representative provided such person was selected and retained with reasonable care.
19. To determine what shall be fairly and equitably charged or credited to income and what to principal.
20. To hold and retain the principal of my Estate or the Trust Estate undivided until actual division shall become necessary in order to make distributions; to hold, manage, invest, and account for the several shares or parts thereof by appropriate entries on my Personal Representative's or Trustee's books of account; and to allocate to each share or part of share its proportionate part of all receipts and expenses; provided, however, the carrying of several trusts as one shall not defer the vesting in title or in possession of any share or part of share thereof.
21. To make payment in cash or in kind, or partly in cash and partly in kind upon any division or distribution of my Estate or the Trust Estate (including the satisfaction of any pecuniary distribution) without regard to the income tax basis of any specific property allocated to any beneficiary and to value and appraise any asset and to distribute such asset in kind at its appraised value; and when dividing fractional interests in property among several beneficiaries to allocate entire interests in some property to one beneficiary and entire interests in other property to another beneficiary or beneficiaries.
22. To exercise any power herein granted with reference to the control management, investment or disposition of my Estate or the Trust Estate either as Personal Representative or Trustee without having to declare in which capacity it is acting.
23. In general, to exercise all powers in the management of my Estate or the Trust Estate which any individual could exercise in his own right, upon such terms and conditions as it may reasonably deem best, and to do all acts which it may deem reasonably necessary or proper to carry out the purposes of this my Will.
24. To combine assets of two or more trusts if the provisions and terms of each trust are substantially identical, and to administer them as a single trust, if my trustee

reasonably determines that the administration as a single trust is consistent with my intent, and facilitates the trusts's administration without defeating or impairing the interests of the beneficiaries.

25. To divide any trust into separate shares or separate trusts or to create separate trusts if my Trustee reasonably deems it appropriate and the division or creation is consistent with my intent, and facilitates the trust's administration without defeating or impairing the interests of the beneficiaries.
26. To elect or to allocate any portion or all of my generation-skipping transfer exemption provided for in Internal Revenue Code (IRC) section 2631 or under similar future legislation, in effect at the time of my death, to any portion or all of any other trusts or bequests in my Will or any other transfer which I am the transferor for purposes of the generation-skipping tax and to make the special election under IRC section 2652(a)(3) to the extent my Personal Representative deems in the best interest of my estate.

ITEM VIII TRUST FOR MINORS

If any principal of my estate shall become distributable to a person under the age of twenty-one (21) years of age, I designate and appoint **Arthur B. Beasley, Jr.** as Trustee for such beneficiaries, to serve without bond, to take title and possession of the portion of my estate designated for such persons, with power and duty to manage this property and to use the income and such part of the principal as in his judgment may be necessary and proper from time to time for the comfort, support, maintenance and education of such persons. Whenever my Trustee determines it appropriate to pay money for the benefit of a beneficiary for whom a trust is created hereunder, then such amounts shall be paid out by my Trustee in such of the following ways as my Trustee deems best:

1. Directly to such beneficiary;
2. To the legally appointed guardian of such beneficiary;
3. To some relative or friend for the care, support and education of such beneficiary;
4. By my Trustee using such amounts directly for such beneficiary's care, support and education.

Any unapplied principal and income shall be paid over to such devisee or distributee upon his attaining age twenty-one (21), or, if he shall die before attaining that age, to his estate. However, no one of these children shall for any reason receive for himself or for his benefit any amount exceeding his or her equal share according to the provisions of this Will. Should **Arthur B. Beasley, Jr.** predecease me or should we die simultaneous deaths, I designate and appoint **Linda B. Chaplin** to serve as substitute Trustee without bond.

Herbert Franklin Dickson, Sr.
Last Will and Testament of Herbert Franklin Dickson, Sr.

**ITEM IX
VOLUNTARY DISCLAIMER**

Any person may irrevocably disclaim and renounce any part of my estate to which such person is entitled, whether or not passing under this Will, or any power in his or her favor. In the event any person disclaims any part or all of any legacy or devise, then I direct that such disclaimed property shall be disposed of as if such person had not survived me. Any further interest in said property that takes possession or enjoyment following the interest disclaimed, including the determination of takers and the vesting of their interest, shall take effect as if the person making the disclaimer died before me. In the event of a disclaimer the "anti-lapse statute" [S.C. Code § 62-2-603 (1976, as amended)] shall not be applicable. This right to disclaim may also be exercised by the Personal Representative, administrator, Trustee, guardian, committee, attorney-in-fact, or other legal representative of any person entitled to disclaim hereunder.

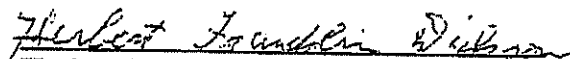
**ITEM X
COMMON DISASTER PROVISION**

In the event that any of my beneficiaries and I should meet our deaths in a common disaster whereby it is impossible to determine who died first, then it shall be conclusively presumed that such beneficiaries predeceased me.

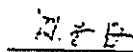
**ITEM XI
DEFINITIONS**

As used in this Will, the masculine, feminine or neuter gender, and the singular or plural number shall be deemed to include the other whenever the context so indicates.

IN WITNESS WHEREOF I have set my hand and seal to this instrument at Sumter, South Carolina this 9 day of Mar, 2007.


Herbert Franklin Dickson, Sr., Sr.

The foregoing Will consisting of eight (8) typewritten pages, including Proof of Will, were this 9th day of March, 2007, signed, sealed, published and declared by the Testator as and for his Last Will and Testament in our presence, who in his presence, and in the presence of each other, at his request, have hereunto subscribed our names as witnesses.


Last Will and Testament of Herbert Franklin Dickson, Sr.

Page 7 of 9

MTLF000223

Andrea Marcella of Sumter, SC
John H. H. of Sumter, SC

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

PROOF OF WILL

I, Andrea Marcelina, on oath state that I am one of the two subscribing witnesses to the attached written instrument dated the 9th day of March, 2007, which purports to be the Last Will and Testament of **Herbert Franklin Dickson, Sr.** On the execution date of the instrument, the Testator, in my presence, signed the instrument at the end thereof and declared the instrument to be his Will, and requested that I attest to the execution thereof whereupon, in the presence of the Testator I signed my name as an attesting witness. At the time of the execution of the instrument, the Testator appeared to be over eighteen (18) years of age, of sound mind, and acting without undue influence, fraud or restraint.

Dated this 9th day of March, 2007.

Andrea Marcelina

SWORN to before me this 9th
day of March, 2007.

[Signature]
Notary Public for South Carolina
My Commission Expires: 3-9-14

MTLF000226



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Thursday • September 11, 2008

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Date Published: July 11, 2008

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MELBA DICKSON

Melba Ellyn McSween Beasley Dickson, age 80, beloved wife of 16 years to Herbert Franklin Dickson, died Wednesday, July 9, 2008, at her home.

Mrs. Dickson was born in Newton, Ala., a daughter of the late James Malcolm McSween Jr. and Blirle Lee Stephens McSween. She was co-owner of Dickson's Master Shoe Rebuilders. Mrs. Dickson retired from the S.C. Department of Social Services after 20 years and previously worked for S.C. Farm Bureau for more than 10 years. She was a former member of the board of State Federal Credit Union and the S.C. State Employees Association. She was an active member of Alice Drive Baptist Church.



Survivors in addition to her husband are a son, ~~Dr. Arthur B. Beasley~~ and his wife Sandy, of Winchester, Ky.; a daughter, Lynda Carol Chaplin of Windsor, Calif., and her fiancé, Carl Nale, of Foster City, Calif.; and seven grandchildren, Jennifer Elizabeth Chaplin Purcell, Allison Carole Chaplin, Rachel Anne Beasley, Mary Ellyn Beasley, Laura Catherine Beasley, Stephanie Michelle Beasley and Arthur B. "Quinn" Beasley III.

She was preceded in death by her first husband, Arthur B. Beasley Sr., and a sister, Ernestine McSween Perdue.

A funeral service will be held at 2 p.m. Sunday at the Bullock Funeral Home Chapel with the Rev. Dr. Clay Smith officiating. Burial will follow at Evergreen Memorial Park.

Honorary pallbearers will be members of the DuPree Sunday School class.

The family will receive friends from 6 to 8 p.m. Saturday at Bullock Funeral Home and other times at the residence.

Memorials may be made to Alice Drive Baptist Church, Building Fund, 1305 Loring Mill Road, Sumter, SC 29150.

Online memorial messages may be sent to the family at www.bullockfuneralhome.com.

The family has chosen Bullock Funeral Home of Sumter for the arrangements.

[previous page](#)

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 ■ MARY ELLEN M. OGDEN
 ■ MARION BENJAMIN
 ■ JOHN PINCKNEY Sr.
 ■ IDA JOE MATTHEWS
 ■ HELEN S. PEARSON
 ■ EDITH WRIGHT
 ■ CAREY LEE RAWLINSON Sr.
 ■ BERTHA S. FORTUNE
 ■ WILLIAM ROGERS Jr.
 ■ MAUDE T. MARTIN
 ■ MATTIE LEE S. EDWARDS
 ■ MARION BENJAMIN
 ■ JOHNNIE LEE TENTION

<http://www.worship>



TELEPHONE:
 (803) 934-3200

Edible
 ARRANGEMENTS

Dickson Family
not Listed!

LAST WILL AND TESTAMENT

OF

MELBA MCSWEEN DICKSON

I, Melba McSween Dickson, of the State of South Carolina, County of Sumter, being of sound and disposing mind and memory, do hereby make, publish and declare this instrument to be and contain my Last Will and Testament, hereby expressly revoking any former Wills or Codicils heretofore made by me.

ITEM I DIRECTION TO PAY DEBTS

I direct that all my just debts, my funeral expenses (including the cost of a suitable gravestone) in an amount to be determined reasonable by my Personal Representative and the cost of the administration of my estate shall be paid as soon after my death as may be possible. The Personal Representative shall not be required to secure court approval of his expenditures for my burial and memorial or for perpetual care of my grave site although such expenditures exceed the limitations otherwise imposed by law. This clause is not to be construed to mean that debts barred by the Statute of Limitations or a non-claim statute must be paid. Further, this clause is not to be construed to force a pay-out of the mortgage on my home.

ITEM II PERSONAL PROPERTY

I may leave written memoranda disposing of certain items of my tangible personal property. Any such item of tangible personal property shall pass according to the terms of such memoranda in existence at the time of my death. If no such written memoranda is found or identified by my Personal Representative within ninety (90) days after my Personal Representative's qualification, it shall be conclusively presumed that there is no such memoranda, and any subsequently discovered memoranda shall be ineffective. Any property given and devised to a beneficiary who is not living at the time of my death and for whom no effective alternate provision has been made shall pass according to the provisions of the Residuary provision below, and not pursuant to any anti-lapse statute.

ITEM III SPECIFIC BEQUESTS AND DEVISES

I hereby make the following specific bequests and devises:

Melba Dickson
Last Will and Testament of Melba McSween Dickson

Page 1 of 8

MTLF000228

1. In the event my husband, Herbert Franklin Dickson, Sr., predeceases me, I will, give, devise and bequeath any property which I own at the time of my death in Santee, South Carolina and its contents to Arthur B. Beasley, Jr., if he shall survive me. In the event he shall not survive me, then this bequest shall lapse and pass by the Residuary clause below.
2. In the event my husband, Herbert Franklin Dickson, Sr., predeceases me, I will, give, devise and bequeath my homeplace and its contents, if I own such property at the time of my death, to Linda B. Chaplin, if she shall survive me. In the event she shall not survive me, then this bequest shall lapse and pass by the Residuary clause below.

ITEM IV RESIDUARY

I will, give, devise and bequeath all the rest, residue and remainder of my estate, real, personal and mixed, of every kind and nature whatsoever, and wheresoever situate, unto my husband, Herbert Franklin Dickson, Sr. In the event my husband, Herbert Franklin Dickson, Sr., predeceases me, I will, give, devise and bequeath all of the above property to Linda B. Chaplin and Arthur B. Beasley, Jr., in equal shares, provided, however, the issue of a deceased issue of mine surviving me shall take, by representation, the share their parent would have taken had he or she survived me.

ITEM V APPOINTMENT OF PERSONAL REPRESENTATIVE

I hereby nominate, constitute and appoint as Personal Representative of this my Last Will and Testament Herbert Franklin Dickson, Sr. and direct that he shall serve without bond. If for any reason he is unable or unwilling to serve or continue to serve, then I hereby nominate, constitute and appoint as substitute or successor Personal Representative Arthur B. Beasley, Jr. to serve and direct that he shall serve without bond. If for any reason he is unable or unwilling to serve or continue to serve, then I hereby nominate, constitute and appoint as substitute or successor Personal Representative Linda B. Chaplin to serve and direct that she shall serve without bond.

ITEM VI POWERS OF PERSONAL REPRESENTATIVES AND TRUSTEES

My Personal Representative and Trustee is authorized in its fiduciary discretion (which shall be subject to the standard of reasonableness and good faith to all beneficiaries) with respect to any property, real or personal, at any time held under any provision of this my Will and without authorization by any court and in addition to any other rights, powers, authority and privileges granted by any other provision of this my Will or by statute or general rules of law:

Melba M. Dickson

Last Will and Testament of Melba McSween Dickson

Page 2 of 8

MTLF000229

1. To retain any property or undivided interests in property owned by me at the time of my death, including residential property and shares of my Personal Representative's or Trustee's own stock, regardless of any lack of diversification, risk or non-productivity, as long as it deems advisable, and to exchange any such security or property for other securities or properties and to retain such items received in exchange, although such property represents a large percentage of the total property of my estate or the Trust Estate or even the entirety thereof.
2. To invest and reinvest all or any part of my Estate or the Trust Estate in any property and undivided interests in property, wherever located, including bonds, debentures, notes, secured or unsecured, stocks of corporations regardless of class, interests in limited partnerships, real estate or any interest in real estate whether or not productive at the time of investment, interests in trusts, investment trusts, whether of the open and/or closed fund types, and participation in common, collective or pooled trust funds of my Personal Representative or Trustee, insurance contracts on the life of any beneficiary or annuity contracts for any beneficiary, without being limited by any statute or rule of law concerning investments by fiduciaries.
3. To sell or dispose of or grant options to purchase any property, real or personal, constituting a part of my estate or the Trust Estate, for cash or upon credit, to exchange any property of my estate or the Trust Estate for other property, at such times and upon such terms and conditions as it may deem best, and no person dealing with it shall be bound to see to the application of any monies paid.
4. To hold any securities or other property in its own name as Personal Representative or Trustee, in its own name, in the name of a nominee (with or without disclosure of any fiduciary relationship) or in bearer form.
5. To keep, at any time and from time to time, all or any portion of my Estate or the Trust Estate in cash and uninvested for such periods or periods of time as it may deem advisable, without liability for any loss in income by reason thereof.
6. To sell or exercise stock subscription or conversion rights.
7. To refrain from voting or to vote shares of stock owned by my Estate or the Trust Estate at shareholders' meetings in person or by special, limited, or general proxy and in general to exercise all the rights, powers and privileges of an owner in respect to any securities constituting a part of my Estate or the Trust Estate.
8. To participate in any plan or reorganization or consolidation or merger involving any company or companies whose stock or other securities shall be part of my Estate or the Trust Estate, and to deposit such stock or other securities under any plan of reorganization or with any protective committee and to delegate to such committee discretionary power with relation thereto, to pay a proportionate part of the expenses of new securities received by my Personal Representative or Trustee pursuant to any such plan, to exercise all conversion, subscription, voting and other rights, of

whatsoever nature pertaining to such property, and to pay any amount or amounts of money as it may deem advisable in connection therewith.

9. To borrow money and to encumber, mortgage or pledge any asset of my estate or the Trust Estate for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in my Personal Representative or Trustee.
10. To enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the trust.
11. To subdivide, develop, or dedicate real property to public use or to make or obtain the vacation of plats and adjust boundaries, to adjust differences in valuation on exchange or partition by giving or receiving consideration, and to dedicate easements to public use without consideration.
12. To make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings.
13. To continue to operate any business owned by me at my death and to do any and all things deemed needful or appropriate by my Personal Representative or Trustee, including the power to incorporate the business and to put additional capital into the business, for such time as it shall deem advisable, without liability for loss resulting from the continuance or operation of the business except for its own negligence; and to close out, liquidate or sell the business at such time and upon such terms as it shall deem best.
14. To collect, receive, and receipt for rents, issues, profits, and income of my Estate or the Trust Estate.
15. To insure the assets of my Estate or of the Trust Estate against damage or loss and my Personal Representative or Trustee against liability with respect to third persons.
16. In buying and selling assets, in lending and borrowing money, and in all other transactions, irrespective of the occupancy by the same person of dual positions, to deal with itself in its separate, or any fiduciary, capacity.
17. To compromise, adjust, arbitrate, sue on or defend, abandon, or otherwise deal with and settle claims in favor of or against my Estate or the Trust Estate as my Personal Representative or Trustee shall deem best.
18. To employ and compensate agents, accountants, investment advisers, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, realtors, and other assistants and advisors deemed by my Personal Representative or Trustee needful for the proper administration of my Estate or the Trust Estate, and to do so without liability for any


Last Will and Testament of Melba McSween Dickson

neglect, omission, misconduct, or default of any such agent or professional representative provided such person was selected and retained with reasonable care.

19. To determine what shall be fairly and equitably charged or credited to income and what to principal.
20. To hold and retain the principal of my Estate or the Trust Estate undivided until actual division shall become necessary in order to make distributions; to hold, manage, invest, and account for the several shares or parts thereof by appropriate entries on my Personal Representative's or Trustee's books of account; and to allocate to each share or part of share its proportionate part of all receipts and expenses; provided, however, the carrying of several trusts as one shall not defer the vesting in title or in possession of any share or part of share thereof.
21. To make payment in cash or in kind, or partly in cash and partly in kind upon any division or distribution of my Estate or the Trust Estate (including the satisfaction of any pecuniary distribution) without regard to the income tax basis of any specific property allocated to any beneficiary and to value and appraise any asset and to distribute such asset in kind at its appraised value; and when dividing fractional interests in property among several beneficiaries to allocate entire interests in some property to one beneficiary and entire interests in other property to another beneficiary or beneficiaries.
22. To exercise any power herein granted with reference to the control management, investment or disposition of my Estate or the Trust Estate either as Personal Representative or Trustee without having to declare in which capacity it is acting.
23. In general, to exercise all powers in the management of my Estate or the Trust Estate which any individual could exercise in his own right, upon such terms and conditions as it may reasonably deem best, and to do all acts which it may deem reasonably necessary or proper to carry out the purposes of this my Will.
24. To combine assets of two or more trusts if the provisions and terms of each trust are substantially identical, and to administer them as a single trust, if my trustee reasonably determines that the administration as a single trust is consistent with my intent, and facilitates the trusts's administration without defeating or impairing the interests of the beneficiaries.
25. To divide any trust into separate shares or separate trusts or to create separate trusts if my Trustee reasonably deems it appropriate and the division or creation is consistent with my intent, and facilitates the trust's administration without defeating or impairing the interests of the beneficiaries.
26. To elect or to allocate any portion or all of my generation-skipping transfer exemption provided for in Internal Revenue Code (IRC) section 2631 or under

similar future legislation, in effect at the time of my death, to any portion or all of any other trusts or bequests in my Will or any other transfer which I am the transferor for purposes of the generation-skipping tax and to make the special election under IRC section 2652(a)(3) to the extent my Personal Representative deems in the best interest of my estate.

ITEM VII TRUST FOR MINORS

If any principal of my estate shall become distributable to a person under the age of twenty-one (21) years of age, I designate and appoint **Arthur B. Beasley, Jr.** as Trustee for such beneficiaries, to serve without bond, to take title and possession of the portion of my estate designated for such persons, with power and duty to manage this property and to use the income and such part of the principal as in his judgment may be necessary and proper from time to time for the comfort, support, maintenance and education of such persons. Whenever my Trustee determines it appropriate to pay money for the benefit of a beneficiary for whom a trust is created hereunder, then such amounts shall be paid out by my Trustee in such of the following ways as my Trustee deems best:

1. Directly to such beneficiary;
2. To the legally appointed guardian of such beneficiary;
3. To some relative or friend for the care, support and education of such beneficiary;
4. By my Trustee using such amounts directly for such beneficiary's care, support and education.

Any unapplied principal and income shall be paid over to such devisee or distributee upon his attaining age twenty-one (21), or, if he shall die before attaining that age, to his estate. However, no one of these children shall for any reason receive for himself or for his benefit any amount exceeding his or her equal share according to the provisions of this Will. Should **Arthur B. Beasley, Jr.** predecease me or should we die simultaneous deaths, I designate and appoint **Linda B. Chaplin** to serve as substitute Trustee without bond.

ITEM VIII VOLUNTARY DISCLAIMER

Any person may irrevocably disclaim and renounce any part of my estate to which such person is entitled, whether or not passing under this Will, or any power in his or her favor. In the event any person disclaims any part or all of any legacy or devise, then I direct that such disclaimed property shall be disposed of as if such person had not survived me. Any further interest in said property that takes possession or enjoyment following the interest disclaimed, including the determination of takers and the vesting of their interest, shall take effect as if the person making the

EMD
Last Will and Testament of Melba McSween Dickson

disclaimer died before me. In the event of a disclaimer the "anti-lapse statute" [S.C. Code § 62-2-603 (1976, as amended)] shall not be applicable. This right to disclaim may also be exercised by the Personal Representative, administrator, Trustee, guardian, committee, attorney-in-fact, or other legal representative of any person entitled to disclaim hereunder.

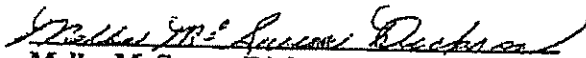
**ITEM IX
COMMON DISASTER PROVISION**

In the event that any of my beneficiaries and I should meet our deaths in a common disaster whereby it is impossible to determine who died first, then it shall be conclusively presumed that such beneficiaries predeceased me.

**ITEM X
DEFINITIONS**

As used in this Will, the masculine, feminine or neuter gender, and the singular or plural number shall be deemed to include the other whenever the context so indicates.

IN WITNESS WHEREOF I have set my hand and seal to this instrument at Sumter, South Carolina this 9th day of March, 2007.


Melba McSween Dickson

The foregoing Will consisting of eight (8) typewritten pages, including Proof of Will, were this 9th day of March, 2007, signed, sealed, published and declared by the Testatrix as and for her Last Will and Testament in our presence, who in her presence, and in the presence of each other, at her request, have hereunto subscribed our names as witnesses.

Andrea Marcella of Sumter, SC

John Lee of Sumter, SC

Melba McSween Dickson
Last Will and Testament of Melba McSween Dickson

Page 7 of 8

MTLF000234

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

PROOF OF WILL

I, Andrea Marcella, on oath state that I am one of the two subscribing witnesses to the attached written instrument dated the 9th day of March, 2007, which purports to be the Last Will and Testament of Melba McSween Dickson. On the execution date of the instrument, the Testatrix, in my presence, signed the instrument at the end thereof and declared the instrument to be her Will, and requested that I attest to the execution thereof whereupon, in the presence of the Testatrix I signed my name as an attesting witness. At the time of the execution of the instrument, the Testatrix appeared to be over eighteen (18) years of age, of sound mind, and acting without undue influence, fraud or restraint.

Dated this 9th day of March, 2007.

Andrea Marcella

SWORN to before me this 9th
day of March, 2007.

[Signature]
Notary Public for South Carolina
My Commission Expires: 3-9-14

[Signature]
Last Will and Testament of Melba McSween Dickson

FILED, RECORDED, INDEXED
08/08/2005 09:56:42 AM
REC. FEE: 10.00 CO FEE:
STATE FEE: .00 TOTAL FEES: 10
PAGES: 4
VICKI M. MCCARTHY - REGISTER OF DEEDS
SUMTER COUNTY

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) MORTGAGE OF REAL ESTATE

TO ALL WHOM THESE PRESENTS MAY CONCERN: IN THE STATE AFORESAID -
SEND GREETING:

WHEREAS RUSSELL T. PURVIS PROPERTIES, LLC, hereinafter also styled the
mortgagor, in and by that certain Note or obligation bearing even date herewith, stand firmly held
and bound unto:

HERBERT F. DICKSON and MELBA M. DICKSON,
whose address is: 2785 Powhatan Drive, Sumter, SC 29150;

hereinafter also styled the mortgagee, in the sum of **Ninety-Five Thousand and 00/100
(\$95,000.00) Dollars**, as evidenced by and according to the terms and conditions of a Promissory
Note of even date herewith, as in and by the said Note and Condition(s) thereof, reference being
thereunto had, will more fully appear, and which provides for monthly payments, with the full debt,
if not paid earlier, due and payable on **August 30, 2015**.

NOW, KNOW ALL MEN, that the said mortgagor in consideration of the said debt, and for
the better securing the payment thereof, according to the conditions of the said Note; which with
all its provisions is hereby made a part hereof; and also in consideration of Five Dollars to the said
mortgagor in hand well and truly paid, by the said mortgagee, at and before the sealing and
delivery of these Presents, the receipt whereof is hereby acknowledged, have granted, bargained,
sold and released, and by these presents do grant, bargain, sell and release unto the said
mortgagee the following described property:

All that certain piece, parcel, or lot of land, together with the building and
improvements thereon, lying and being situate in the City County of Sumter, State
of South Carolina, being shown and delineated as **Lot No. 9** on that certain plat
prepared by Lee & McLellan, Surveyors, dated October 23, 1907 and recorded in
the Sumter County Register of Deeds Office in **Plat Book F-4 at Page 9**. Aforesaid
plat is specifically incorporated herein and reference is craved thereto for a more
complete and accurate description of the metes, bounds, courses and distances of
the property concerned herein. This description is made in lieu of metes and
bounds as permitted by law under § 30-5-250 of The Code of Laws of South
Carolina (1976), as amended. Be all said measurements a little more or a little less
and according to aforesaid plat. This being the property known as **330 Broad
Street, Sumter**.

RETURN TO:-

JOHNSON, MCKENZIE & ROBINSON, LLC
16 NORTH BROOKS STREET
MANNING, SC 29102

JSSK

The depth of said Lot is somewhat less than shown on the above referenced plat due to the widening of Broad Street and the acquisition of additional right-of-way by the South Carolina Highway Department and/or the City of Sumter.

Tax Parcel No. 229-14-05-022.

This being the identical property conveyed to Russell T. Purvis and Sharon M. Purvis by that deed of Herbert F. Dickson and Melba M. Dickson dated August ____, 2005 and recorded August 8, 2005 in Deed Book 911 at Page 1985, aforesaid records.

This conveyance is subject to all visible and recorded easements, covenants and rights of way affecting said property.

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said premises unto the said Mortgagee, its heirs, successors and assigns forever.

AND Mortgagors do hereby bind Mortgagor's heirs, successors, executors and administrators, to procure or execute any further necessary assurances of title to the said premises, the title to which is unencumbered, and also to warrant and forever defend all and singular the said Premises unto the said mortgagee, mortgagee's heirs, successors, and assigns, from and against Mortgagor and Mortgagor's heirs, successors, executors and administrators and all persons lawfully claiming, or to claim the same or any part thereof.

AND IT IS AGREED, by and between the said parties, that if all or any part of the property or any interest in it is sold or transferred (or if a beneficial interest in mortgagor is sold or transferred and mortgagor is not a person) without mortgagee's prior written consent, mortgagee may, at its option, require immediate payment in full of all sums secured by this security instrument. However, this option shall not be exercised by mortgagee if exercise is prohibited by federal law as of the date of this security instrument.

AND IT IS AGREED, by and between the said parties, that if mortgagee exercise this option, mortgagee shall give mortgagor notice of acceleration. This notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which mortgagor must pay all sums secured by this security instrument. If mortgagor fails to pay these sums prior to the expiration of this period, mortgagee may invoke any remedies permitted by this security instrument without further notice or demand on mortgagor.

AND IT IS AGREED, by and between the parties hereto, that the said mortgagor, mortgagor's heirs, successors, executors, or administrators, shall keep the building erected, or to be erected on said premises, insured against loss or damage by fire, for the benefit of the said mortgagee, for an amount not less than the value of the building is such company as shall be approved by the said mortgagee, and shall deliver the policy to the said mortgagee, and in default thereof, the said mortgagee, mortgagee's heirs, successors, or assigns, may effect such insurance and reimburse themselves under this mortgage for the expense thereof, with interest thereon, from

the date of its payment. And it is further agreed, in the event of other insurance and contribution between the insurers, that the said mortgagee, mortgagee's heirs, successors, or assigns shall be entitled to receive from the aggregate of the insurance moneys to be paid, a sum equal to the amount of the debt secured by this mortgage.

AND IT IS AGREED, by and between the said parties, that if the said mortgagor, mortgagor's heirs, successors, executors, administrators, or assigns, shall fail to pay all taxes and assessments upon the said premises when the same shall first become payable, then the said mortgagee, mortgagee's heirs, successors, or assigns, may cause the same to be paid, together with all penalties and costs incurred thereon, and reimburse themselves under this mortgage for the sums so paid, with interest thereon, from the dates of such payments.

AND IT IS AGREED, by and between the said parties, that upon any default being made in the payment of the interest on the said Note, or of the insurance premiums, or of the taxes, or of the assessments hereinabove mentioned, when the same shall severally first become payable, or in any other of the provision of this mortgage, that then the entire amount of the debt secured, or intended to be secured hereby, shall forthwith become due, at the option of the said mortgagee, mortgagee's heirs, successors, or assigns, although the period for the payment of the said debt may not then have expired.

AND IT IS AGREED, that if the holder of the Note secured hereby is compelled to pay any taxes upon the debt represented by said note, or by this mortgage, then, and in that event, unless, the said taxes are paid by some party other than the said holder, that then the entire amount of the debt secured, or intended to be secured, shall forthwith become due at the option of the said mortgagee, mortgagee's heirs, successors, or assigns, although the period for its payment may not then have expired.

AND IT IS AGREED, by and between the said parties, that should legal proceedings be instituted for the foreclosure of this mortgage, or for any purpose involving this mortgage, or should the debt hereby secured be placed in the hands of an attorney at law for collection, by suit or otherwise, that all costs and expenses incurred by the mortgagee, mortgagee's heirs, successors, or assigns, including a reasonable counsel fee (of not less than ten percent of the amount involved) shall thereupon become due and payable as a part of the debt secured hereby, and may be recovered and collected hereunder.

PROVIDED ALWAYS, and it is the true intent and meaning to the parties to these Presents, that when the said mortgagor, mortgagor's heirs, successors, executors, or administrators shall pay, or cause to be paid unto the said mortgagee, mortgagee's certain attorney's, heirs, successors or assigns, the said debt, with the interest thereon, if any shall be due, and also all sums of money paid by the said mortgagee, mortgagee's heirs, successors, or assigns, according to the conditions and agreements of the said note, and of this mortgage and shall perform all the obligations according to the true intent and meaning of the said note and mortgage, and the conditions thereunder written, then this Deed of Bargain and Sale shall cease, determine and be void, otherwise it shall remain in full force and virtue.

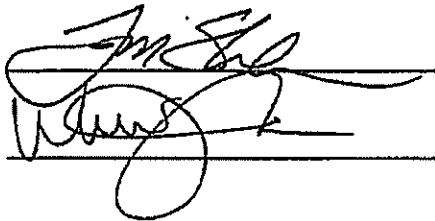
AND IT IS AGREED, that in the event of default, failure by the mortgagee to immediately enforce any provisions hereof shall not constitute a waiver of the mortgagee's right to enforce them thereafter.

AND IT IS LASTLY AGREED, by and between the said parties, that the said mortgagor is to hold and enjoy the said premises until default of payment shall be made.

WITNESS our hands and seals this 5th day of August, 2005.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

RUSSELL T. PURVIS PROPERTIES, LLC



Russell T. Purvis, (L.S.)
RUSSELL T. PURVIS, Member

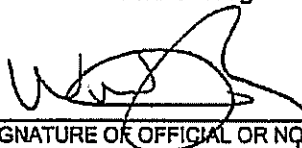
Sharon M. Purvis, (L.S.)
SHARON M. PURVIS, Member

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

ACKNOWLEDGMENT

I, William H. Johnson {name of official}, Notary Public in and for the State of South Carolina, do hereby certify that Russell T. Purvis and Sharon M. Purvis, as members of Russell T. Purvis Properties, LLC. {name of grantor or maker} personally appeared before me this 05 day of August, 2005 and acknowledged the due execution of the foregoing instrument.


SIGNATURE OF OFFICIAL OR NOTARY PUBLIC

My Commission Expires: 10/19/2010

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)
)
IN THE MATTER OF:)
HERBERT FRANKLIN DICKSON, SR.,)

IN THE PROBATE COURT
CASE NO.: 2008GC4300037
and 2008GC4300038

PROOF OF DELIVERY

On the 12th day of August, 2008, I mailed or delivered a copy of the **PETITION FOR PROTECTIVE ORDER AND APPOINTMENT OF CONSERVATOR; PETITION FOR FINDING APPOINTMENT OF GUARDIAN; AND NOTICE OF HEARING**, a copy of which is attached hereto and incorporated herein, by the following method:

- ☐ Personal Delivery
☒ Ordinary First Class Mail
☐ Certified Mail
☐ Registered Mail

to each of the following persons at the addresses shown:

Frank Dickson, Jr.	350 Avenue of Oaks, Moncks Corner, SC 29461
Milton Dickson	101 Guild Hall, Columbia, SC 29212
Finley Milo Dickson	1030 Russell Street, Orangeburg, SC 29115
Byron Eugene Dickson	151 Orange Street, Branchville, SC 29432
Arthur B. Beasley	3203 Ecton Road, Winchester, KY 40391-9490
Linda D. Chaplin	630 Porter Fino Lane, Foster, City, CA 94404

SWORN to before me this 12th
day of August, 2008.

Deane M. L. Coker
Notary Public For South Carolina
My Commission Expires: 3-31-2018

S. Jahue Moore, Esquire
1700 Sunset Boulevard
P. O. Box 5079
West Columbia, SC 29171
(803) 796-9160

STATE OF SOUTH CAROLINA)
)
COUNTY OF: SUMTER)
)
IN THE MATTER OF:)
HERBERT FRANKLIN DICKSON, SR.)

IN THE PROBATE COURT

PETITION FOR

CASE NUMBER: 2008FGC 430003

- ☒ PROTECTIVE ORDER
☒ APPOINTMENT OF CONSERVATOR

DALE ATKINSON
PROBATE COURT JUDGE
2008 AUG -6 PM 12:01
SUMTER COUNTY, S.C.

Applicant/Petitioner: Milton Dickson

Address: 101 Guild Hall, Columbia, SC 29212

Telephone: 803-360-0050

1. Nature of interest of undersigned:
Biological son.

2. Information -- Minor/Incapacitated Person

Name: Herbert Franklin Dickson, Sr. Age: 80
Date of Birth: 4-29-1928
Social Security Number: 247-83-3101
Address: 2785 Powhatan Drive
City/State/Zip: Sumter, SC 29150-2251
Telephone (Home): (Office/other):

To my knowledge, the above-named ☒ DOES ☐ DOES NOT have a will

To my knowledge, the above-named ☒ DOES ☐ DOES NOT have a power of attorney

3. Venue for this proceeding is proper in this county because the above minor/incapacitated person:
☒ resides in this county
☐ does not reside in this county but has property in this county

4. The name and address of the above person's guardian, if any, is:
Arthur B. Beasley, 3203 Ecton Road, Winchester, KY 40391-9490

5. Information -- Family (list nearest relative first) of allegedly incapacitated person, including dates of birth of minors:

Name	Date of Birth	Address	Relationship
Frank Dickson, Jr.	1/3/1949	350 Avenue of Oaks, Moncks Corner, SC 29461	Son
Milton Dickson	7/23/1950	101 Guild Hall, Columbia, SC 29212	Son
Finley Milo Dickson	8/28/1954	1030 Russell St., Orangeburg, SC 29115	Son
Byron Eugene Dickson	9/21/1973	151 Orange St., Branchville, SC 29432	Son
Arthur B. Beasley		3203 Ecton Rd., Winchester, KY 40391-9490	Step-Son
Linda B. Chaplin		630 Porter Fino Lane, Foster City, CA 94404	Step-Daughter

(use additional sheet if necessary)

6. The following is a general statement of the property, assets and income of the above person, together with an estimate of the value thereof: (A full inventory, Form #550PC, shall be completed and filed with the Court within thirty days of appointment.)

Description	Value
2785 Powhatan Dr., Sumter, SC 29150-2251	225,000.00
Goslin Pond Drive, Summerton, SC	750,000.00
10 Year Note from Sale of Dickson's Master Shoe Builders	95,000.00

7. The appointment of a conservator for the above person is necessary because (state reasons justifying appointment):

Herbert Franklin Dickson, Sr.'s current Power of Attorney, Arthur B. Beasley, currently resides in Kentucky and is not in the best position to manage Mr. Dickson, Sr.'s affairs. Further, it is believed Arthur Beasley has breached his fiduciary duty as Mr. Dickson, Sr.'s power of attorney.

8. I request the appointment of:

Name: Milton Dickson
 Address: 101 Guild Hall
Columbia, SC 29212
 Telephone (O): _____
 Telephone (H): 803-360-0050

whose priority for appointment as conservator for the above person is as follows:

- ☐ fiduciary appointed or recognized by the appropriate court of any other jurisdiction in which the protected person resides
☐ individual or corporation nominated by the protected person (if fourteen or more years of age and deemed mentally capable of making such a choice)
☐ attorney-in-fact appointed by protected person (Pursuant to S.C. Code Ann. Section 62-5-501)
☐ spouse of protected person
☒ adult child of protected person
☐ parent of protected person or person nominated by will of deceased parent
☐ other relative of protected person (specify): _____
☐ person nominated by the person who is caring for protected person or paying benefits to him/her
☐ nominated by one with priority to serve in his/her stead (specify): _____
☐ other (specify): _____

9. The following persons are required by statute to be given notice of the time and place of hearing on this Petition:

	Address	Relationship
Frank Dickson, Jr.	350 Avenue of Oaks, Moncks Corner, SC 29461	Son
Milton Dickson	101 Guild Hall, Columbia, SC 29212	Son
Finley Milo Dickson	1030 Russell St., Orangeburg, SC 29115	Son
Byron Eugene Dickson	151 Orange St., Branchville, SC 29432	Son
Arthur B. Beasley	3203 Eclon Rd., Winchester, KY 40391-9490	Step-Son
Linda B. Chaplin	630 Porter Fino Lane, Foster City, CA 94404	Step-Daughter

10. I request that the Court set a time and place of hearing on this Petition; that the Court determine that the above person is a person for whom appointment of a conservator is property; that the Court appoint Milton Dickson as the conservator for the above minor/incapacitated person; and that letters of Conservatorship be issued to the conservator.

Executed this 5th day of Aug, 2008

Signature: [Signature]

VERIFICATION

The undersigned, being sworn, states: That the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief.

SWORN to before me this 5th day of AUGUST, 2008

Kayla Corbett
Notary Public for South Carolina
My Commission Expires: 5/17/2018

Signature: [Signature]

Name: Milton Dickson

Address: 101 Guild Hall
Columbia, SC 29212

E-mail: _____

Telephone (O): _____

(H): _____

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Conservator of the conservatorship of Harriet Franklin Dickson, Jr.

Executed this 5th day of Aug, 2008

SWORN to before me this 5th day of AUGUST, 2008

Kayla Corbett
Notary Public for South Carolina
My Commission Expires: 5/17/2018

Signature: [Signature]

Name: Milton Dickson

Address: 101 Guild Hall
Columbia, SC 29212

E-mail: _____

Telephone (O): _____

(H): _____

Signature: _____

Name: _____

Address: _____

E-mail: _____

Telephone (O): _____

(H): _____

Signature: _____

Name: _____

Address: _____

E-mail: _____

Telephone (O): _____

(H): _____

STATE OF SOUTH CAROLINA

COUNTY OF: SUMTER

IN THE MATTER OF:

HERBERT FRANKLIN DICKSON, SR.

IN THE PROBATE COURT

PETITION FOR FINDING

CASE NUMBER:

2008604300138

- ☐ INCAPACITY
☒ APPOINTMENT OF
☒ GUARDIAN
☐ SUCCESSOR GUARDIAN

Applicant/Petitioner: Milton Dickson

Address: 101 Guild Hall, Columbia, SC 29212

Telephone: 803-360-0050

I. ALL PETITIONERS MUST COMPLETE THIS SECTION.

1. Nature of interest of undersigned: Biological Son
2. Information — Allegedly Incapacitated Person

Name: Herbert Franklin Dickson, Sr.

Age: 88

Date of Birth: 4/29/1928

Address: 2785 Powhatan Drive

City/State/Zip: Sumter, SC 29150-2251

Telephone: _____

To my knowledge, above named ☐ DOES ☐ DOES NOT have a health care power of attorney.

To my knowledge, above named ☐ DOES ☐ DOES NOT have a living will (Declaration of a Desire for a Natural Death.)

At this time, the Petitioner is uncertain.

3. Venue for this proceeding in this county because the subject:

- ☒ resides in this county.
☐ is present in this county.
☐ is admitted to an institution pursuant to an order of a court of competent jurisdiction in this county.

4. Information—Family of allegedly incapacitated person, including dates of birth of minors. If there are no minors, so state.

Name	Date of Birth	Address	Relationship to Incapacitated Person
<u>Frank Dickson, Jr.</u>	<u>1/3/1949</u>	<u>350 Avenue of Oaks, Moncks Corner, SC 29461</u>	<u>Son</u>
<u>Milton Dickson</u>	<u>7/23/1950</u>	<u>101 Guild Hall, Columbia, SC 29212</u>	<u>Son</u>
<u>Finley Milo Dickson</u>	<u>8/28/1954</u>	<u>1030 Russell St., Orangeburg, SC 29115</u>	<u>Son</u>
<u>Byron Eugene Dickson</u>	<u>9/21/1973</u>	<u>151 Orange St., Branchville, SC 29432</u>	<u>Son</u>
<u>Arthur B. Beasley</u>		<u>3203 Ecton Rd., Winchester, KY 40391-9490</u>	<u>Step-Son</u>
<u>Linda B. Chaplin</u>		<u>630 Porter Fino Lane, Foster City, CA 94404</u>	<u>Step-Daughter</u>

(use additional sheet if necessary)

5. The nature and degree of incapacity is as follows:

II. COMPLETE THIS SECTION IF APPOINTMENT IS SOUGHT.

1. Is it your belief that the allegedly incapacitated person is in need of a guardian/successor guardian as a means of providing continuing care and supervision of the person of said incapacitated person?
☒ YES ☐ NO If no, please explain.
2. The extent to which the guardian should be permitted to give consents or approvals that may be necessary to enable the allegedly incapacitated person to receive medical or other professional care, counsel, treatment or services is as follows:
The guardian should be given full authority to make any and all healthcare decisions concerning Mr. Dickson, Sr.
3. The nature and extent of the care, assistance, protection, or supervision which is necessary or desirable for the allegedly incapacitated person under the circumstances is as follows:
Mr. Dickson, Sr. is 80 years old and has suffered multiple strokes. He is currently in a nursing home. He is unable to make any sort of healthcare decision for himself. A guardian is needed to make any and all healthcare decisions concerning Mr. Dickson, Sr.
4. Has a guardian appointed by a Will accepted such appointment?
☐ NO ☐ YES If yes, please explain.
At this time the Petitioner is uncertain.
5. I request the appointment of:

Name: Milton Dickson
Address: 101 Guild Hall
Columbia, SC 29212
Telephone (O): _____
(H): 803-360-0050
E-mail: _____

whose priority for appointment as guardian for the subject is as follows:

- ☐ a person nominated to serve as guardian by the allegedly incapacitated person
 - ☐ an attorney-in-fact appointed by the allegedly incapacitated person pursuant to Section 62-5-501
 - ☐ spouse of the allegedly incapacitated person
 - ☒ adult child of the allegedly incapacitated person
 - ☐ parent of the allegedly incapacitated person
 - ☐ other relative of the allegedly incapacitated person (Specify): _____
 - ☐ nominated by the person who is caring for the allegedly incapacitated person or paying benefits to him/her
 - ☐ Other (specify) _____
6. Is it necessary to appoint a temporary guardian for the subject until a hearing can be held on this Petition?
☐ NO ☒ YES If yes, please state reasons.

III. ALL PETITIONERS MUST COMPLETE THIS SECTION.

1. ☒ I request that the Court set a time and place of hearing on this Petition and that the Court determine that the above person is incapacitated.
2. ☒ I request that the Court determine that the need for the appointment of a guardian is proper, and that the Court appoint Milton Dickson as the guardian for the above person; and that Letters of Guardianship be issued to the guardian.
3. The following persons are required by statute to be given notice of the time and place of hearing on this Petition: (SCPC 5-309)

Name	Address	Relationship
Frank Dickson, Jr.	350 Avenue of Oaks, Moncks Corner, SC 29461	Son
Milton Dickson	101 Guild Hall, Columbia, SC 29212	Son
Finley Milo Dickson	1030 Russell St., Orangeburg, SC 29115	Son
Byron Eugene Dickson	151 Orange St., Branchville, SC 29432	Son
Arthur B. Beasley	3203 Ecton Rd., Winchester, KY 40391-9490	Step-Son
Linda B. Chaplin	630 Porter Fino Lane, Foster City, CA 94404	Step-Daughter

VERIFICATION

The undersigned, being sworn states: That the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief.

SWORN to before me this 5th day of August, 2008
Karen C. Webb
Notary Public for South Carolina
My Commission Expires: 5/17/2018

Signature: [Signature]
Name: Milton Dickson
Address: 101 Guild Hall
Columbia, SC 29212

E-mail: _____
Telephone (O): _____
(H): _____

Attorney: _____
Address: _____

E-mail: _____
Telephone (O): _____

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Guardian of the incapacitated person of

SWORN to before me this 5th day of August, 2008
Karen C. Webb
Notary Public for South Carolina
My Commission Expires: 5/17/2018

Signature: [Signature]
Name: Milton Dickson
Address: 101 Guild Hall
Columbia, SC 29212

E-mail: _____
Telephone (O): _____
(H): _____

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

PROBATE COURT

IN THE MATTER OF HERBERT FRANKLIN DICKSON, SR.

CASE NUMBER 2008-ES-43-00411

INVENTORY AND APPRAISEMENT

☐ ORIGINAL

☒ SUPPLEMENTAL # 1

Personal Representative(s): Arthur B. Beasley, Jr.
Decedent's Social Security No.: 247-38-3101 Was there a will? ☒ Yes ☐ No
Decedent's Date of Death: August 20, 2008 Domicile at death: Sumter, South Carolina
(county) (state)

The undersigned, being sworn, states, That the following schedules contain a complete and accurate inventory and appraisal of all real and personal property of this estate so far as the undersigned is informed, that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

SWORN to before me this 24th day of January, 2009
John K. Crum
Notary Public for Kentucky
My Commission Expires: 6-17-2012

Signature: Arthur B. Beasley, Jr.
Name: Arthur B. Beasley, Jr.
Address: 3203 Ecton Road
Winchester, KY 40391
E-Mail: _____
Telephone (O): _____
(H): 859-771-7848

Attorney: J Cabot Seth, Jones, Seth, Shuler & Killen, LLP
Address: P. O. Box 1268 - 5 Law Range
Sumter, South Carolina 29151-1268
Telephone: 803-773-8676

Signature: _____
Name: _____
Address: _____
E-Mail: _____
Telephone (O): _____
(H): _____

For estates of decedents, the gross fair market valuation of all assets, regardless of situs, should be given as of the date of death. List all out-of-state assets on appropriate schedules. A Supplemental Inventory should be utilized for correcting, adjusting or adding to an original inventory. A qualified and disinterested appraiser may be employed to ascertain the value of any asset, the value of which may be subject to reasonable doubt. If an appraiser is employed, his/her name and address should be indicated with the item or items he/she appraised.

Within ninety (90) days following appointment, a copy of the inventory and appraisal shall be sent to each interested person who requests it, and the original inventory filed with the Probate Court.

RECAPITULATION

	Non-Probate	Probate
Schedule A - Real Estate		\$288.17
Schedule B - Stocks and Bonds		\$0.00
Schedule C - Mortgages, Notes and Cash		\$99,959.94
Schedule D - Insurance on Decedent's Life:		\$0.00
Part 1 - Payable to Estate		
Part 2 - Payable to Beneficiary	\$100,000.00	
Schedule E - Jointly Owned Property	\$10,574.37	
Schedule F - Other Miscellaneous		\$61,880.00
Schedule G - Transfers During Decedent's Life		\$0.00
Schedule H - Powers of Appointment		\$0.00
Schedule I - Annuities	\$0.00	
TOTAL GROSS VALUE	\$560,584.31	
ENCUMBRANCES	\$46.62	
TOTAL NET WORTH	\$560,537.69	

MTLF000248

NOTE: WHEN COMPLETING THE FOLLOWING SCHEDULES, PLEASE REMEMBER TO LIST ALL ASSETS, REGARDLESS OF SITUS. ALL OUT-OF-STATE ASSETS MUST BE DISCLOSED.

SCHEDULE A – Real Estate (All interest in real property except those held with right of survivorship) (If none, so state.) (For jointly owned property with a right of survivorship, see Schedule E)

Item No.	Description	Tax Assessor's Fair Market Value for year of Decedent's Death	Appraised Value	Appraised Value of Decedent's Interest
1.	2785 Powhatan Drive Sumter, South Carolina TM#: 204-16-02-014	\$172,320.00		
2.	Lot 9, Gosling Pond S/D Clarendon County, SC TM#: 063-00-00-056-00	\$15,000.00		
3.	Lot 10, Gosling Pond S/D Clarendon County, SC TM#: 063-00-00-057-00	\$15,000.00		
4.	½ Int. – Lot 11, Gosling Pond Clarendon County, SC TM#: 063-00-00-058-00	\$7,500.00		
5.	Lot 12, Gosling Pond S/D Clarendon County, SC TM#: 063-00-00-059-00	\$15,000.00		
6.	Lot 148, The Oaks, Sect. C Clarendon County, SC TM#: 064-01-01-001-00	\$15,000.00		
7.	Lot 149, The Oaks, Sect. C Clarendon County, SC TM#: 064-01-01-002-00	\$15,000.00		
8.	½ Int. – Lot 11, Gosling Pond Clarendon County, SC TM#: 063-00-00-058-01	\$33,350.00		

TOTAL SCHEDULE A
(also enter under recapitulation, page 1)

\$288,170.00

SCHEDULE B – Stocks and Bonds (If none, so state.) (For jointly owned property with a right of survivorship, see Schedule E)

Item No.	Description	Face Value	Appraised Value

None.

TOTAL SCHEDULE B
(also enter under recapitulation, page 1)

\$0.00

SCHEDULE C – Notes due to Decedent, and Money on hand and in banks (If none, so state.) (For jointly owned property with a right of survivorship, see Schedule E)

Item No.	Description	Value
1.	Coins	\$427.35
2.	Note for Business	\$99,532.59

TOTAL SCHEDULE C
(also enter under recapitulation, page 1)

\$99,959.94

(If more space is required, insert tax schedules or additional sheets of same size.)

SCHEDULE D – Insurance (If none, so state.)
Part 1 – Life Insurance Payable to the Estate

Item No.	Description	Value

TOTAL PART 1 \$0.00
(also enter under recapitulation, page 1)

Part 2 – Life Insurance Payable to Beneficiaries

Item No.	Description	Beneficiary	Appraised Value
1.	Mutual Life Insurance Company	Herbert Franklin Dickson, Jr.	\$50,000.00
2.	Southwest Life	Herbert Franklin Dickson, Jr.; Milton Oakley Dickson; Finley Mylo Dickson; and Byron Eugene Dickson	\$50,000.00

TOTAL PART 2 \$100,000.00
(also enter under recapitulation, page 1)

SCHEDULE E – Jointly Owned Property (with right of survivorship) (If none, so state.)

NOTE: You must complete Schedule E if the decedent owned any property jointly with right of survivorship at the time of death, whether or not the decedent's interest is includible in the gross estate.

Percentage includible:

1 – Joint interest held by decedent and spouse – the amount included is one-half (50%) of the value in all cases.

2 – Other joint interest – Generally you must include the full value of the jointly owned property in the gross estate. However, the full value should not be included if you can show that a part of the property originally belonged to the other tenant(s). The amount included is the amount of the decedent's contribution to the joint account(s).

Item No.	Description	Joint Owner(s)	Percentage Includible	Appraised Value of Decedent's Interest
1.	SAFE FCU Savings	Arthur B. Beasley, Jr.	50%	\$521.38
2.	SAFE FCU Checking	Arthur B. Beasley, Jr.	50%	\$2,065.30
3.	BB&T Checking	Arthur B. Beasley, Jr.; Herbert F. Dickson and Linda B. Chaplin	33%	\$7,987.69

TOTAL SCHEDULE E \$10,574.37
(also enter under recapitulation, page 1)

(If more space is required, insert tax schedules or additional sheets of same size.)

SCHEDULE F – Miscellaneous Personal Property - (tangible personal property, employment bonus or award, interest in a partnership or unincorporated business, articles of collections having either artistic or intrinsic value, etc.) (If none, so state.) (For jointly owned property with right of survivorship, see Schedule E.)

Item No.	Description	Value
1.	2002 Ford Explorer	\$8,000.00
2.	1991 Johnson Motor	\$700.00
3.	1991 Stratos Boat	\$1,200.00
4.	1996 Evinrude Motor	\$800.00
5.	1996 Prince Craft Boat	\$2,800.00
6.	1993 Palm Harbor MBH (28' x 72') - PH144216AEB	\$26,680.00
7.	Small John Boat	\$200.00
8.	1983 Pace Arrow	\$1,500.00
9.	Miscellaneous Personal Property	\$20,000.00

TOTAL SCHEDULE F
(also enter under recapitulation, page 1)

\$61,880.00

NOTE: FOR SCHEDULES G, H AND I, LIST VALUES ONLY IF PAYABLE TO ESTATE.

SCHEDULE G – Transfers During Decedent's Life - Transfers intended to take effect at death. United States Government Bonds "Payable on Death," Trust created by Decedent in which income for life was retained, life insurance transfers, Lifetime transfers of real property in which Decedent retains a life estate or other incidents of ownership. (If none, so state.)

Did Decedent make any transfers during lifetime as described above?

☐ YES ☒ NO

If "yes", please give date and type of transfer and list total amount payable to estate:
(If more space is required, insert additional sheet of same size.)

None.

TOTAL SCHEDULE G
(also enter under recapitulation, page 1)

\$0.00

(If more space is required, insert tax schedules or additional sheets of same size.)

SCHEDULE H – Powers of Appointment - Property, both real and personal, over which Decedent possessed a Power of Appointment whether Testamentary or otherwise. (If none, so state.)

Did Decedent possess a Power of Appointment?

☐ YES ☒ NO

If "yes", did Decedent exercise the power of appointment in favor of estate?

☐ YES ☐ NO

If "yes", please describe and list total amount payable to estate.
(If more space is required, insert additional sheets of same size.)

\$ _____

None.

TOTAL SCHEDULE H

(also enter under recapitulation, page 1)

\$0.00

SCHEDULE I – Annuities and Retirement - (IRA's, 401(k), Etc.)

Did Decedent own any accounts as described above?

☐ YES ☒ NO

If "yes", is the estate designated as the beneficiary of these accounts?

☐ YES ☐ NO

If "yes", please describe and list total amount payable to estate.
(If more space is required, insert additional sheets of same size.)

\$ _____

None.s

TOTAL SCHEDULE I

(also enter under recapitulation, page 1)

\$0.00

(If more space is required, insert tax schedules or additional sheets of same size.)

ENCUMBRANCES (e.g., mortgages, liens, judgements, etc., but not general debts of the estate) – List specific assets encumbered.

Item No.	Schedule and Item Number Encumbered Thereby	Description & Amount
1.	BB&T Visa	Credit Card – \$46.62

TOTAL ENCUMBRANCES
(also enter under recapitulation, page 1)

\$46.62

MANIFESTLY NON-TAXABLE

(To be executed by the Probate Court Judge in those cases where it appears that the estate is not REPORTABLE to the South Carolina Tax Commission under the provisions of the Estate Tax Laws of the State of South Carolina, i.e., the total gross value is indicated to be less than prescribed limits.)

It appears from the foregoing record of the above captioned estate on file in the Probate Court of this County, such estate is not reportable to the South Carolina Tax Commission

Executed this _____ day of _____, 20_____.

Dale Atkinson, Probate Court Judge

(If more space is required, insert tax schedules or additional sheets of same size.)

Probate Court



DALE ATKINSON
Probate Court Judge

THERESA A. DUGGAN
Associate Probate Judge

Sumter County
Judicial Center
215 N. Harvin Street
803.436.2166
Fax 803.436.2407

Sumter County
Sumter, South Carolina
29150

July 25, 2018

Mr. S. Jahue Moore
1700 Sunset Boulevard
West Columbia, SC 29169

InRe: Estate of Herbert Franklin Dickson, Sr.
File No.2008ES4300411

Dear Mr. Moore,

Enclosed please find the Notice of Hearing in reference to the Demand for Hearing that was filed with the Probate Court on July 16, 2018. The hearing for this matter has been scheduled for Wednesday, August 29, 2018 at 9:00am in Courtroom 1A of the Sumter County Judicial Center.

Please notify all interested parties of the hearing and file a Proof of Delivery stating as such. Also, since this is a contested matter, please schedule a court reporter for the hearing.

Thank you for your prompt attention in this matter.

Sincerely,

Theresa A. Duggan
Associate Judge of Probate
Sumter County

Cc: J Cabot Seth
P O Box 1268
Sumter, SC 29151

MTLF000254

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF: SUMTER

NOTICE OF HEARING

IN THE MATTER OF:

2018 JUL 25 11:43

HERBERT FRANKLIN DICKSON, SR.
(Decedent)

SUMTER COUNTY, S.C.
CASE NUMBER: 2008ES4300411

DATE: AUGUST 29, 2018

TIME: 9:00AM

PLACE: SUMTER COUNTY JUDICIAL CENTER SUMTER, 215 NORTH HARVIN ST., COURTROOM 1

PURPOSE:

DEMAND FOR HEARING FILED BY MILTON OAKLEY DICKSON. SEE ATTACHED

(attach additional sheets if necessary)

Executed this 25th day of July 2018.

Signature: [Signature]

Print Name: SUMTER COUNTY PROBATE COURT

Address: 215 NORTH HARVIN STREET

SUMTER, SC 29150

Telephone (Work):

(Home):

(Cell):

Email:

Relationship to Decedent/Estate:

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

*When sending Notice of Hearing to interested parties upon whom pleadings were not required to be served, attach the petition or motion to be held.

STATE OF SOUTH CAROLINA

COUNTY OF: SUMTER

IN THE MATTER OF:
HERBERT FRANKLIN DICKSON, SR.
(Decedent)

IN THE PROBATE COURT

DEMAND FOR HEARING (ESTATES ONLY)
Pursuant to Notice of Right to Demand Hearing

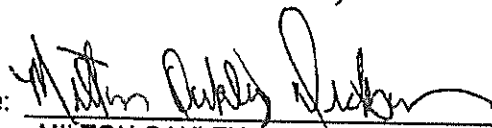
CASE NUMBER: 2008-ES-43-411

Pursuant to SCPC 62-3-1001, I demand a hearing in the above-referenced estate.

The estate issues I would like addressed are:
CONTESTED ACCOUNTING OF ASSETS AND DISTRIBUTION OF RESIDUARY

(attach additional sheets if necessary)

Executed this 13 day of JUNE, 2018.

Signature: 
Print Name: MILTON OAKLEY DICKSON
Address: 101 GUILD HALL
COLUMBIA, SC 29212
Telephone (Work):
(Home):
(Cell): 803-360-0050
Email:
Relationship to Decedent/Estate: BENEFICIARY/SON

Attorney: S. JAHUE MOORE
Address: 1700 SUNSET BOULEVARD
WEST COLUMBIA, SC 29169
Telephone: 803-796-9160
Email: JAKE@MTTLAW.COM

2018 JUL 15 PM 2:19
SUMTER COUNTY, S.C.

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF: SUMTER

2018 JUL 30 PM 12:15

NOTICE OF HEARING

IN THE MATTER OF:

HERBERT FRANKLIN DICKSON, SR.
(Decedent)

SUMTER COUNTY S.C.

CASE NUMBER: 2008ES4300411

DATE: SEPTEMBER 11, 2018

TIME: 9:00AM

PLACE: SUMTER COUNTY JUDICIAL CENTER SUMTER, 215 NORTH HARVIN ST. COURTROOM 1

PURPOSE:

SEE ATTACHED

(attach additional sheets if necessary)

Executed this 30th day of July 2018

Signature: [Handwritten Signature]

Print Name: SUMTER COUNTY PROBATE COURT

Address: 215 NORTH HARVIN STREET

SUMTER, SC 29150

Telephone (Work): 803-436-2167

(Home): _____

(Cell): _____

Email: _____

Relationship to Decedent/Estate: _____

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

*When sending Notice of Hearing to interested parties upon whom pleadings were not required to be served, attach the petition or motion to be held.

STATE OF SOUTH CAROLINA
COUNTY OF: SUMTER
IN THE MATTER OF:
HERBERT FRANKLIN DICKSON, SR.

)
)
)
)
)

IN THE PROBATE COURT

PROOF OF DELIVERY

2018 AUG 17 11:42
CASE NUMBER: 2008ES4300414

SUMTER COUNTY, S.C.

On the 14 day of August, 2018, I mailed or delivered the following document, Notice of Hearing

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

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

- ☐ personal delivery
☐ certified mail
☒ ordinary first class mail
☐ registered mail

to each of the following persons at the address shown:

NAME	ADDRESS
Frank Dickson, Jr.	1424 Gue Road, Orangeburg, SC 29115
Milton Dickson	101 Guild Hall, Columbia, SC 29212
Finley Milo Dickson	1030 Russell Street, Orangeburg, SC 29115
Byron Eugene Dickson	151 Orange Street, Branchville, SC 29432
Arthur B. Beasley	3203 Ecton Road, Winchester, KY 40391-9490
Linda D. Chaplain	630 Porter Fino Lane, Foster City, CA 94404

SWORN to before me this 15th day of
August, 2018

Angela Jones
Notary Public for South Carolina
My Commission Expires: Aug. 15, 2026

Signature: [Signature]
Name: S. Jahue Moore
Address: Post Office Box 5709
West Columbia, South Carolina 29171
Telephone (O): 803-796-9160
(H):
E-mail: jake@mttlaw.com

Signature: _____
Name: _____
Address: _____
Telephone (O): _____
(H): _____
E-mail: _____

STATE OF SOUTH CAROLINA

COUNTY OF: SUMTER

IN THE MATTER OF:

HERBERT FRANKLIN DICKSON, SR.
(Decedent)

IN THE PROBATE COURT

2018 OCT 2 AM 8:34 NOTICE OF HEARING

SUMTER COUNTY, S.C.

CASE NUMBER: 2008ES4300411

DATE: NOVEMBER 13, 2018

TIME: 2:00PM

PLACE: SUMTER COUNTY JUDICIAL CENTER 215 NORTH HARVIN STREET COURTROOM 1A

PURPOSE:

SEE ATTACHED DEMAND FOR HEARING

(attach additional sheets if necessary)

Executed this 2nd day of October 2018.

Signature: [Signature]
Print Name: SUMTER COUNTY PROBATE COURT

Address: 215 NORTH HARVIN STREET

SUMTER, SC 29150

Telephone (Work): 803-436-2167

(Home):

(Cell):

Email:

Relationship to Decedent/Estate:

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

*When sending Notice of Hearing to interested parties upon whom pleadings were not required to be served, attach the petition or motion to be held.

Probate Court



DALE ATKINSON
Probate Court Judge

THERESA A. DUGGAN
Associate Probate Judge

Sumter County

Sumter, South Carolina

29150

Sumter County
Judicial Center
215 N. Harvin Street
803.436.2166
Fax 803.436.2407

November 16, 2018

Mr. J Cabot Seth
P O Box 1368
Sumter, SC 29151

Mr. S. Jahue Moore
P O Box 5709
West Columbia, SC 29171

InRe: Estate of Herbert Franklin Dickson, Sr.
File No. 2008ES4300411

Dear Mr. Seth and Mr. Moore,

A hearing on the validity of the Accounting and Proposal for Distribution for this estate was held on November 13, 2018. After reviewing testimony and evidence this court has determined that the following changes need to be made:

The following items and the amounts listed should be deducted from the amount going to Arthur Beasley:

- o \$2,481.86 paid to Sandy Beasley
- o \$1,998.59 paid to Sears for a lawnmower
- o \$4,200.00 paid for HVAC system for the lake house

The Personal Representative fee is changed to \$8,092.00.

The amount paid on the mortgage for the Sumter property (\$2,894.05) should be paid by Linda Chaplin.

The Palm Harbor mobile home should be transferred to Arthur Beasley.

I am requesting Mr. Seth to prepare a new Proposal for Distribution allowing for the above changes and to prepare an Order reflecting this decision.

Sincerely,

Dale Atkinson
Judge of Probate
Sumter County

MTLF000260

STATE OF SOUTH CAROLINA IN THE PROBATE COURT

COUNTY OF SUMTER

2018 FEB 25 PM 2:26

2008-ES-43-00411

SUMTER COUNTY, S.C.

IN THE MATTER OF ESTATE OF
HERBERT FRANKLIN DICKSON, JR.

Milton Oakley Dickson

Petitioner,

v.

Arthur B. Beasley, Jr., as Personal
Representative of the Estate of
Herbert F. Dickson, Sr.,

Respondent.

MOTION TO RECONSIDER

COMES NOW the Petitioner, Milton Oakley Dickson, by and through his attorneys, and respectfully moves this Court to reconsider its Order, entered on February 13, 2018. In support of this motion, the Petitioner would show the following:

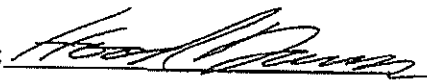
1. The Personal Representative, Arthur B. Beasley, Jr., filed an Application for Settlement on June 13, 2018.
2. The Petitioner timely requested a hearing, which was eventually heard on November 13, 2018.
3. Following the hearing, the Court ordered that the moneys paid to Sandy Beasley, for the lawn mower and HVAC shall be deducted from the reimbursements to the Personal Representative; the mortgage for the Sumter property shall be deducted from Linda Chaplin's store; and the Personal Representative fee shall be reduced to \$8,092.00. This was all to be memorialized in a new Proposal for Distribution.

MTLF000261

4. In the Order following the hearing, the Court did not set forth sufficient facts and conclusions of law to support the new impositions;
5. The Court improperly shifted the burden of proof to the Petitioner to prove the accounting of expenses. The burden of proof is on the moving party, which in this case was the Personal Representative. Thus, the burden of proof to produce additional testimony as to the accounting was on the Personal Representative, not the Petitioner.

WHEREFORE, for the reasons stated above and for any other reasons the Court finds sufficient, the Petitioner respectfully moves this Court to reconsider the Order entered on February 13, 2018 or that a hearing be scheduled as soon as possible for Petitioner to be heard on this matter.

MOORE TAYLOR LAW FIRM, P.A.

BY:  #102225
For Jake Moore
S. Jahue Moore, SC Bar No. 4063
1700 Sunset Boulevard
P. O. Box 5709
West Columbia, SC 29171
(803) 796-9160
ATTORNEY FOR THE PETITIONER

West Columbia, South Carolina

February 22, 2019

MTLF000262

STATE OF SOUTH CAROLINA) COURT ORDER IN THE PROBATE COURT

COUNTY OF SUMTER 2018 FEB 13 AM 8:15 2008-ES-43-00411

IN THE MATTER OF ESTATE OF SUMTER COUNTY, S.C.
HERBERT FRANKLIN DICKSON, JR.

Milton Oakley Dickson,

Petitioner,

v.

Arthur B. Beasley, Jr., as Personal
Representative of the Estate of
Herbert F. Dickson, Sr.,

Respondent.

ORDER

CERTIFIED TRUE COPY OF ORIGINAL
FILED IN THIS OFFICE.


Theresa A. Duggan, Associate Judge of Probate
Sumter County
South Carolina

This matter comes before me on an Application for Settlement filed by the Personal Representative on June 13, 2018, with a Notice of Right to Demand Hearing to the beneficiaries. The Petitioner timely requested a hearing on July 13, 2018. All interested parties were notified. It was originally scheduled for August 29, 2018, and rescheduled to September 11, 2018, and then subsequently rescheduled to November 13, 2018, and heard at 2:00 p.m. on that date.

Present at the hearing were Milton Oakley Dickson, the Petitioner, and his attorney S. Jahue Moore, Esq. of the Lexington County Bar; Arthur B. Beasley, Jr., as Personal Representative, and his attorney, J Cabot Seth, Esq., of the Sumter County Bar. Unrepresented, but present, were the following: Finley Mylo Dickson, Byron Eugene Dickson and Sandy Beasley, wife of the Respondent. The only missing interested party was Linda Chapman, and she was properly served with notice of the hearing.

The Demand for Hearing contested the Final Accounting of the assets and distribution of the residuary without any further detail.

FINDING OF FACTS

1. **Venue.** Under South Carolina Code § 62-3-201, this Court has proper venue in Sumter County as the Decedent was domiciled in Sumter County at the time of his death.
2. **Jurisdiction.** Under South Carolina Code § 62-1-302, this Court has jurisdiction as the Decedent was a resident of Sumter County.
3. The Petitioner first called Respondent, inquiring into the detail of the final accounting. Of the questions raised by the various witnesses, the Court finds the following facts:

- a. **Money paid to Sandy Beasley.** The testimony established that the Personal Representative paid his wife, Sandy Beasley, for assistance in the maintenance of the Santee property in the amount of \$2,481.86.
- b. **Mortgage on the Sumter Property.** Uncontroverted testimony was that the mortgage was paid out of the Estate in the amount of \$2,481.86. The Will of the Decedent does not provide that the distributee is entitled to exoneration.
- c. **Money Paid on Lawnmower at Santee Property.** The testimony established that the property, at the time of the Decedent's passing, had a lawnmower to maintain the property. The Personal Representative purchased a new one when the original was no longer functional.
- d. **Money Paid on HVAC for Lake House.** The testimony established that the property at the time of the Decedent's passing had a functioning HVAC which had to be replaced in order to rent the property to aid in the expenses of the Estate.
- e. **Personal Representative Fee.** The Personal Representative had requested approval of the fee of \$17,715.00 based on the extraordinary time and effort required in the litigation caused by the Petitioner and the length of time required in attending hearings and depositions as well as the maintenance of the Estate property.
- f. **Palm Harbor Mobile Home.** The testimony established that the Palm Harbor home was billed by the tax office as personal property, i.e. a mobile home; however, it was permanently affixed to the real property by two (2) additions and could not be moved.

CONCLUSIONS OF LAW

4. **Section 62-3-709.** The Code makes statutory the common law rule that upon the death of a South Carolina Decedent, title to his real property passes at death to his devisees and/or heirs. As contrasted with the common law, however, the Code grants to the Personal Representative broad powers to possess and maintain the real property during administration. (S.C. Code Ann. §62-3-709)
 - a. Except as otherwise provided by a Decedent's Will, every Personal Representative has a right to, and shall take possession or control of, the Decedent's property, except that any real property or tangible personal property may be left with or surrendered to the person presumptively entitled thereto unless or until, in the judgment of the Personal Representative, possession of the property by him will be necessary for purposes of administration. The Personal Representative shall pay taxes on, and take all steps reasonably necessary for the management, protection, and preservation of, the Estate in his possession.
 - b. If the Estate's real property contains residences or buildings, the Personal Representative must consider insurance and, if the structures on the real property have become vacant, whether existing insurance, by its terms, continues to cover vacant structures. It is important for the Personal Representative to deal with the

insurance coverage immediately upon taking office so that losses on improvements to real property are covered by insurance at all times.

5. **SECTION 62-3-814 - Encumbered Assets.** If any assets of the estate are encumbered by mortgage, pledge, lien, or other security interest, the personal representative may pay the encumbrance or any part thereof, renew, or extend any obligation secured by the encumbrance or convey or transfer the assets to the creditor in satisfaction of his lien, in whole or in part, whether or not the holder of the encumbrance has presented a claim, if it appears to be for the best interest of the estate. Payment of an encumbrance does not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration.
6. **Section 62-3-719 - Personal Representative Fee.** The Probate Court has broad discretion to approve fees in excess of the statutory amount of five percent (5%).
7. **Burden of Proof is on the Moving Party.** Generally, the burden of proof rests upon the party who asserts the affirmative of an issue - the moving party. Am. Jur. 2d, Evidence Section 127. Mr. Moore asked many questions. The exhibits on the accounting of expenses were available for Mr. Moore to review. He chose not examine or review the available evidence. Further, questions are not evidence. The answers are uncontested unless proof was presented otherwise. The proof offered on other allegations or issues was inconclusive. For example, his witnesses could not identify when or where an alleged group of coins were last seen or accounted for by their father to them.

ORDER

THEREFORE, it is ordered as follows:

1. Mr. Seth will prepare a new Proposal for Distribution allowing for the following changes
 - a. The moneys paid to Sandy Beasley, for the lawn mower and HVAC shall be deducted from the reimbursements to the Personal Representative.
 - b. The mortgage for the Sumter property shall be deducted from Linda Chaplin's share.
 - c. The Personal Representative fee shall be reduced to \$8,092.00.
2. Otherwise, the Application for Settlement, Proposal for Distribution and Final Accounting are approved.

AND, IT IS SO ORDERED!

Date: Jan 23, 2019
Sumter, South Carolina

S/Dale Atkinson
Dale Atkinson, Judge
Sumter County Probate Court

STATE OF SOUTH CAROLINA

COUNTY OF: SUMTER

IN THE MATTER OF:

HERBERT FRANKLIN DICKSON, SR.

(Decedent)

IN THE PROBATE COURT

PROOF OF DELIVERY

CASE NUMBER: 2008-ES-43-00411

On the 15th day of February, 2019, I mailed or delivered the following document,
Order dated January 23, 2019.

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

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

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

to each of the following persons at the addresses shown:

NAME

ADDRESS

S. Jahue Moore, Esq.

Post Office Box 5709, W. Columbia, SC 29171

Herbert Franklin Dickson, Jr.

350 Avenue of Oaks, Moncks Corner, SC 29461

Finley Mylo Dickson

1080 Russell Street, Orangeburg, SC 29115

Byron Eugene Dickson

151 Orange Street, Branchville, SC 29432

Milton Oakley Dickson

101 Guild Hall, Columbia, SC 29212

Linda B. Chaplin

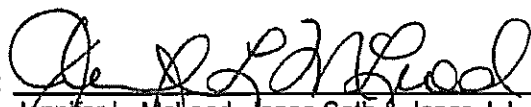
630 Porter Fino Lane, Foster City, CA 94404

SWORN to before me this 15 day of
February, 2019.

Vivian C. Hunter

Notary Public for South Carolina

My Commission Expires: 1/20/21

Signature: 

Name: Jennifer L. McLeod, Jones Seth & Jones, L.L.P.

Address: P. O. Box 1268 - 5 Law Range

Sumter, South Carolina 29151-1268

Telephone (O): 803-773-8676

(H): n/a

E-mail: jmcLeod@jonessethjones.com

Probate Court



DALE ATKINSON
Probate Court Judge

THERESA A. DUGGAN
Associate Probate Judge

Sumter County
Judicial Center
215 N. Harvin Street
803.436.2166
Fax 803.436.2407

Sumter County
Sumter, South Carolina
29150

April 15, 2019

Mr. J Cabot Seth
P O Box 1268
Sumter, SC 29151

Mr. S. Jahue Moore
P O Box 5709
West Columbia, SC 29171

InRe: Estate of Herbert Franklin Dickson, Sr.
File No: 2008ES4300411

Dear Mr. Seth and Mr. Moore,

This letter is to confirm that the hearing for the Motion for Reconsideration for the Estate of Herbert Franklin Dickson, Sr. is scheduled for **May 9 at 10:00am in courtroom 1A** at the Sumter County Judicial Center. The hearing was originally scheduled for May 6, 2019 but needed to be changed. I emailed both attorneys on April 9 to confirm the change in the date but I did not receive a confirmation that the email was read. Mr. Moore will need to schedule a court reporter for the hearing.

Sincerely,

Theresa A. Duggan
Associate Judge of Probate
Sumter County

Cc:

MTLF000267

May 7, 2019

VIA E-MAIL: tduggan@sumtercountysc.org
VIA U. S. MAIL

The Honorable Theresa A. Duggan
Sumter County Probate Court
215 N. Harvin Street
Sumter, SC 29150

RE: In the Matter of: Herbert Franklin Dickson, Sr.
C/A No.: 2008-ES-43-00411

Dear Judge Duggan:

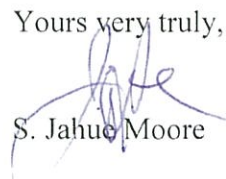
I represent the Petitioners with regard to the above-referenced matter. A Hearing is scheduled before you on Thursday, May 9th, at 10:00 o'clock a.m.

I have a scheduled doctor's appointment for a medical exam on Thursday, May 9th. The doctor's appointment is very necessary. As I will be at my doctor's appointment, I will be unable to attend the Hearing in the above matter. I respectfully request that the Hearing be continued to a later date and time in order that I can be present on behalf of my client. Any consideration you can give this matter would be greatly appreciated.

We certainly have no problem appearing at a later date and time for the Hearing.

As always, your understanding and cooperation are greatly appreciated.

Yours very truly,


S. Jahue Moore

SJM:dc

cc: J. Cabot Seth, Esquire (via U.S. Mail and E-mail jseth@jonessethjones.com)

S. Jahue Moore[†]
J. Mark Taylor^{*}
C. Vance Stricklin, Jr.
James Edward Bradley[†]
Sheila McNair Robinson
Christian G. Spradley
William H. Edwards
Stanley L. Myers
Jane H. Downey^{*}
S. Jahue Moore, Jr.
John C. Bradley, Jr.
Melissa K. Moore
William B. Fortino
Ralph Nichols Riley, Jr.
Amber Cary Fulmer
Lester McGill Bell, Jr.
Bryan C. Letteer
Edward Hood Dawson

Robert D. Hazel
RETIRED
Billy C. Coleman
RETIRED
C. David Sawyer, Jr.
RETIRED

1700 Sunset Boulevard, West Columbia SC 29169 | PO Box 5709, West Columbia SC 29171

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MTLF000268

Probate Court



DALE ATKINSON
Probate Court Judge

THERESA A. DUGGAN
Associate Probate Judge

Sumter County

Sumter, South Carolina
29150

Sumter County
Judicial Center
215 N. Harvin Street
803.436.2166
Fax 803.436.2407

December 17, 2019

Mr. S. Jahue Moore
P O Box 5709
West Columbia, SC 29171

InRe: Estate of Herbert Franklin Dickson, Sr.
File No: 2008ES4300411

Dear Mr. Moore,

A Motion for Reconsideration hearing was held on May 20, 2019 in regards to the estate for Herbert Franklin Dickson, Sr. It was decided you would have the court reporter prepare a transcript from the hearing held on November 18, 2018 and the transcript would be filed with the Probate Court no later than four weeks (by June 20, 2019). Upon receipt, the transcript would be reviewed in order to rule on the motion.

As of today's date, the Probate Court has not received a copy of the transcript. Please have a copy of the transcript filed no later than January 24, 2020 so this matter can be resolved.

Sincerely,

Theresa A. Duggan
Associate Judge of Probate
Sumter County

Cc: J Cabot Seth
P O Box 1268
Sumter, SC 29151

MTLF000269

Probate Court



DALE ATKINSON
Probate Court Judge

THERESA A. DUGGAN
Associate Probate Judge

Sumter County

Sumter, South Carolina

29150

Sumter County
Judicial Center
215 N. Harvin Street
803.436.2166
Fax 803.436.2407

January 24, 2020

Mr. S. Jahue Moore
P O Box 5709
West Columbia, SC 29171

InRe: Estate of Herbert Franklin Dickson, Sr.
File No: 2008ES4300411

Dear Mr. Moore,

The Probate Court sent a letter to you on December 17, 2019 requesting the transcript from the hearing held on November 18, 2018 be filed with the court no later than January 24, 2020. A Motion for Reconsideration was held on May 20, 2019 in regards to the estate of Herbert Franklin Dickson, Sr. It was decided at this hearing you would have the court reporter prepare a transcript of the hearing held November 18, 2018 and file the transcript with the court no later than four weeks (by June 20, 2019).

Please have the transcript filed with the court no later than February 21, 2020.

Sincerely,

Theresa A. Duggan
Associate Judge of Probate
Sumter County

Cc: J. Cabot Seth
P O Box 1268
Sumter, SC 29151

2nd Notice

MTLF000270

Probate Court



DALE ATKINSON
Probate Court Judge

THERESA A. DUGGAN
Associate Probate Judge

Sumter County

Sumter, South Carolina
29150

Sumter County
Judicial Center
215 N. Harvin Street
803.436.2166
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April 6, 2020

Mr. S. Jahue Moore
P O Box 5709
West Columbia, SC 29171

Mr. J Cabot Seth
P O Box 1268
Sumter, SC 29151

InRe: Estate of Herbert Franklin Dickson, Jr.
Case No: 2008ES4300411

Dear Mr. Moore and Mr. Seth,

A Motion for Reconsideration was held on May 20, 2019 in regards to an Order filed with the court on February 13, 2019. It was decided at the hearing for the motion that a court reporter would prepare a transcript from the hearing held on November 13, 2018. The transcript of the hearing was filed with the Sumter County Probate Court on February 24, 2020.

I have reviewed the transcript from the hearing and I am hereby denying the Motion for Reconsideration in this matter.

Sincerely,

Dale Atkinson
Judge of Probate
Sumter County

Cc:

MTLF000271

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER) IN THE PROBATE COURT
CASE NO: 2008-ES-43-00411

Milton Oakley Dickson,)
Petitioner,) HEARING
v.) November 13, 2018
Arthur B. Beasley, Jr., as)
Personal Representative of)
the Estate of Herbert F.)
Dickson, Sr.,)
Respondent.)

The hearing before the Honorable Dale
Atkinson, as the Probate Judge for Sumter County,
was taken at the Sumter County Courthouse, 215
North Harvin Street, Sumter, South Carolina on the
13th day of November, 2018, before Mary H.
Occhipinti, Court Reporter and Notary Public in and
for the State of South Carolina.

MARY H. OCCHIPINTI, COURT REPORTER
75 Rocky Cove Road, Lexington, SC 29072 / (803)730-1661 / occhipintimary@gmail.com

MTLF000272

11/13/2018

HEARING

APPEARANCES

Representing the Petitioner:

S. Jahue Moore, Esquire
Moore Taylor Law Firm
1700 Sunset Boulevard
West Columbia, South Carolina 29169

Representing the Respondent:

J. Cabot Seth, Esquire
Jones, Seth & Jones, LLP
5 Law Range
Sumter, South Carolina 29150

MARY H. OCCHIPINTI, COURT REPORTER

75 Rocky Cove Road, Lexington, SC 29072 / (803)730-1661 / occhipintimary@gmail.com

MTLF000273

11/13/2018

HEARING

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MTLF000274

11/13/2018

HEARING

* * * * *

EXHIBIT INDEX

(Please note that the court retained all exhibits
in this case.)

Petitioner's Exhibit Number 1 7

(Last will and testament of Melba Dickson)

Petitioner's Exhibit Number 2 23

(Mortgage to Mr. Russell Purvis)

Petitioner's Exhibit Number 3 108

(Letter to Mr. Seth)

MARY H. OCCHIPINTI, COURT REPORTER

75 Rocky Cove Road, Lexington, SC 29072 / (803)730-1661 / occhipintimary@gmail.com

MTLF000275

11/13/2018

HEARING

1 THE COURT: Okay. We have a hearing before the
2 Court this afternoon in the Estate of
3 Herbert Franklin Dickson, Sr. The Personal
4 Representative is Mr. Arthur Beasley who is
5 represented by Mr. Seth and has provided
6 and distributed a proposal for distribution
7 and an accounting. And Mr. Moore, on
8 behalf of his client, has filed a Demand
9 for Hearing in reference to that proposal
10 for distribution and accounting. Mr.
11 Moore, I will be glad to hear from you.

12 MR. MOORE: Thank you, Your Honor. May it
13 please, at this time we would like to call
14 as an adverse witness under the rules Mr.
15 Arthur B. Beasley.

16 THE COURT: All right, sir. Come on up, Mr.
17 Beasley. Come around here please.

18 Whereupon,

19 ARTHUR B. BEASLEY, JR., being duly sworn
20 and cautioned to speak the truth, the whole
21 truth, and nothing but the truth, testified
22 as follows:

23 THE COURT: All right, sir. Have a seat please.
24 And if you'll state your full name for the
25 record, please.

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MTLF000276

11/13/2018

HEARING

1 MR. BEASLEY: Arthur B. Beasley, Jr.

2 THE COURT: Answer any questions that Mr. Moore
3 may have for you please.

4 MR. BEASLEY - DIRECT EXAMINATION BY MR. MOORE
5 BY MR. MOORE:

6 Q. Mr. Beasley, I believe that you are the son
7 of Melba McSween Beasley, is that correct?

8 A. Correct.

9 Q. And you are also the stepson of Herbert
10 Franklin Dickson, Sr., correct?

11 A. Correct.

12 Q. And as I understand it, Mr. and Mrs. Dickson
13 died in close proximity to each other, is
14 that right?

15 A. Yes.

16 Q. I think it was roughly 20 or 40 days before
17 the death of one and the death of the other,
18 is that correct?

19 A. July 9th and August 20th, 2008.

20 Q. About 30 days, correct?

21 A. Forty days.

22 Q. Forty days. So they died within 40 days of
23 each other?

24 A. Yes.

25 Q. And your mother left a will, is that right?

MARY H. OCCHIPINTI, COURT REPORTER

75 Rocky Cove Road, Lexington, SC 29072 / (803)730-1661 / occhipintimary@gmail.com

MTLF000277

11/13/2018

HEARING

1 A. Yes.

2 Q. Would this be a copy of your mother's will?

3 A. Yes, it is.

4 MR. MOORE: We would like to offer this into
5 evidence please, Your Honor. Mary, would you
6 mark that for me please?

7 MR. SETH: No objection, Your Honor, other than
8 relevance.

9 (Petitioner's Exhibit Number 1 was entered
10 into evidence.)

11 Q. Sir, I'm going to hand you what has been
12 marked as Exhibit Number 1. And it indicates
13 in there that you were the personal
14 representative of your mother's will, is that
15 right?

16 A. I am the what now?

17 Q. The personal representative, the executor.

18 A. Correct.

19 Q. And in that will she left everything that she
20 owned to the -- to her husband, Mr. Dickson,
21 is that right?

22 A. Whatever the will says went to him would,
23 except for -- yeah, that would be correct.

24 Q. All right. So then -- and of course when Mr.
25 Dickson died, your mother's will had not been

MARY H. OCCHIPINTI, COURT REPORTER

75 Rocky Cove Road, Lexington, SC 29072 / (803)730-1661 / occhipintimary@gmail.com

MTLF000278

11/13/2018

HEARING

1 completely administered, had it?

2 A. Of course not.

3 Q. Now, I have looked at the accounting you have
4 filed in this case. We know that the assets
5 of your mother were left to your stepfather,
6 Mr. Dickson. Where can I look on the
7 accounting you have filed and see where your
8 mother's assets came into the estate of Mr.
9 Dickson?

10 A. What assets are you talking about, sir?

11 Q. All of them. We know according to the will
12 and according to your testimony, sir, that
13 all of your mother's assets were left to your
14 stepfather, Mr. Dickson. I have looked at
15 the accountings you have filed --

16 A. Uh-huh.

17 Q. -- and I see nothing to indicate that at the
18 conclusion of your mother's estate any assets
19 that belonged to Mr. Dickson from your mother
20 came into the estate. Now, in regard to an
21 accounting, sir, are you telling me that upon
22 your mother's death she owned nothing?

23 A. They shared everything.

24 Q. That was not my question.

25 A. Uh-huh.

MARY H. OCCHIPINTI, COURT REPORTER

75 Rocky Cove Road, Lexington, SC 29072 / (803)730-1661 / occhipintimary@gmail.com

MTLF000279

11/13/2018

HEARING

1 Q. Did your mother have assets?

2 A. Any asset that she had that his name was on
3 went to him.

4 Q. No, sir. I'm not talking about anything that
5 his name was on, I'm talking about assets
6 that her name was on.

7 A. Uh-huh.

8 Q. We know that according to this will your
9 mother left all of the assets in her name to
10 Mr. Dickson. Now, we know that. We also
11 know that not one piece of paper that you
12 have filed with the County and this Court
13 shows where anything from your mother found
14 its way into the estate of her late husband
15 who died after her. Now, I'm asking you,
16 what did she own and where can I look to see
17 what happened to the assets that she had?

18 A. If you would specifically state what asset
19 you're talking about, I would be glad to do
20 that.

21 Q. Well, let's do it this way. We know that you
22 were the personal representative of your
23 mother's estate, correct?

24 A. That is correct.

25 Q. You handled the administration of your

MARY H. OCCHIPINTI, COURT REPORTER

75 Rocky Cove Road, Lexington, SC 29072 / (803)730-1661 / occhipintimary@gmail.com

MTLF000280

11/13/2018

HEARING

1 mother's estate, correct?

2 A. That is.

3 Q. And since you're the person who handled that
4 estate, you would be the person who would
5 know what your mother owned at the date of
6 her death. So let me ask this question.

7 A. Sure.

8 Q. Would you please explain to the Judge every
9 asset that your mother owned that you were
10 aware of at the date of her death?

11 A. My mother owned a car.

12 Q. All right. What else?

13 A. She had a insurance policy, but that goes to
14 the beneficiaries. And also -- let me see.
15 They shared the Santee property.

16 Q. Did she have furniture?

17 A. Sir?

18 Q. Did she have furniture?

19 A. Did she have furniture? It was in the Sumter
20 house.

21 Q. I guess the answer would be yes, then, she
22 had furniture. Okay. Did she have jewelry?

23 A. She did.

24 Q. Tell me what kind of jewelry she had?

25 A. I have no idea. I didn't look through the

MARY H. OCCHIPINTI, COURT REPORTER

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MTLF000281

11/13/2018

HEARING

1 jewelry. It was in the Sumter house.

2 Q. Well, sir, it may have been in the Sumter
3 house, but the jewelry certainly was not part
4 of the furnishings in that house, was it?

5 A. I guess not.

6 Q. All right. Then, of course, as you've told
7 us, your mother's will -- could I see that
8 for a moment?

9 A. Well, let me look through it.

10 Q. No, let me look please. I'll show you what I
11 want you to look at.

12 A. Sure.

13 Q. I assume you will give it to me?

14 A. I'll give it to you in just a minute.

15 Q. Thank you, sir.

16 MR. MOORE: Your Honor, may I ask the Court to
17 instruct him to hand me the will?

18 Q. Actually, I wanted to see her will if I
19 could. Actually, if we look at your mother's
20 will, it says in effect that the contents of
21 the homeplace and the homeplace were left to
22 Mr. Dickson, does it not?

23 A. And what paragraph are you pointing to?

24 Q. Certainly, I'll be more than happy to help
25 you. We'll read this together. In the event

MARY H. OCCHIPINTI, COURT REPORTER

75 Rocky Cove Road, Lexington, SC 29072 / (803)730-1661 / occhipintimary@gmail.com

MTLF000282

11/13/2018

HEARING

1 my husband, Herbert Franklin Dickson,
2 predeceases me --

3 A. Uh-huh.

4 Q. -- I will give and devise my homeplace and
5 its contents, if I own such property at the
6 time of my death, to Lynda Chaplin, if she
7 survives me. In the event she shall not
8 survive me, then this bequeath shall lapse
9 and pass to the residuary clause. This
10 basically says that Ms. Chaplin gets the
11 house and the contents if Herbert Franklin
12 Dickson doesn't survive, right?

13 A. Yeah. The homeplace was in Sumter and also
14 Santee and that's a part of the will.

15 Q. Right. I was just wanting to know about the
16 property in Sumter. So you tell me that all
17 this jewelry was located in the home place in
18 Sumter, South Carolina. And all I want you
19 to do, since you were the personal
20 representative, is to describe for me the
21 jewelry that passed to Mr. Dickson.

22 A. It has been -- was at the Sumter house.

23 Q. What happened to it? You were the personal
24 representative and responsible for it.

25 A. It was at the Sumter house, yes.

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HEARING

1 Q. Where is it now? What happened to it? This
2 is an action for an accounting. Those assets
3 belonged to Mr. Dickson. What happened to
4 them? You were the person responsible for
5 them, tell me what happened to them?

6 MR. SETH: If it please the Court, I object on the
7 grounds of relevance. I have to impose, and
8 certainly I don't want to try Mr. Moore's
9 case, but what's relevant is what was in Mr.
10 Dickson's will. And I believe, and I'm going
11 from memory, but it said the house and the
12 contents to the stepdaughter at which point
13 it's irrelevant whether or not it's reflected
14 on this accounting because the house and deed
15 is going to or has passed to the stepdaughter
16 with the contents. I don't see the relevance
17 at this point as to that. I understand the
18 issue.

19 MR. MOORE: Well, Your Honor, obviously, at the time
20 of this lady's death, any jewelry she had
21 should have come under the care and control
22 of this gentlemen who is testifying. It was
23 his responsibility to take possession of it
24 and it was his responsibility to have
25 accounted for it. Now, apparently what he

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1 did was just left it sitting there for
2 reasons totally unknown to anybody, but that
3 property should have been taken possession
4 of. It should have been inventoried, it
5 should have been accounted for, upon the
6 death of Ms. Dickson. And it should have
7 been either sold and given to Mr. Dickson or
8 it should have been given to him in kind.
9 Now, whether or not jewelry equates to
10 contents, may or may not eventually be a
11 question, but one thing is for certain, upon
12 the death of Mrs. Dickson, the items I'm
13 asking about became the property of Mr.
14 Dickson. And they came into his possession
15 and control and we are entitled to know where
16 they are and what happened to them and what
17 they are.

18 MR. SETH: And the second element of my objection,
19 Your Honor, is the inventory and appraisement
20 was filed ten years ago and we're just
21 getting this objection now? If they didn't
22 like the way the inventory and appraisement
23 was filed ten years ago, it would have been
24 nice to know then as opposed to the point
25 where we're going through a complete

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1 settlement of the estate. I don't have the
2 inventory and appraisalment directly in front
3 of me at the moment, Your Honor. Personal
4 effects were accounted for and lumped, as
5 often we would do, and that would be the
6 location of any jewelry. Ordinarily you
7 wouldn't list it out unless it was very
8 expensive.

9 MR. MOORE: Your Honor, I have looked at the
10 accounting and there are some personal
11 effects and I don't really see anything on
12 the accounting which basically would cover
13 that. However, this estate has been open for
14 a number of years because of the litigation
15 involved and the question of is Santee
16 located in another county. And then, of
17 course, the Court instructed me very well
18 that Santee includes other places besides
19 Santee, and the Court of Appeals agreed with
20 you, and that's why this estate has been open
21 for so long. However, that begs the
22 question, this gentleman came in charge of
23 some apparently right significant assets
24 which he elected, apparently, to do
25 absolutely nothing with and has yet to this

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1 day to account to the heirs in this case. My
2 clients were not related to Mrs. Dickson. My
3 clients were the children of Mr. Dickson.
4 They have a question, and it's a legitimate
5 question. Mrs. Dickson left everything she
6 had to Mr. Dickson. They died within 48 days
7 of each other, which means his obligation as
8 the personal representative of both estates
9 was to take possession to inventory and to
10 account for assets of Mr. Dickson. Upon his
11 mother's death, that jewelry and the other
12 items in that home belonged to Mr. Dickson
13 exclusively. The question is, what happened
14 to them? And I'm not sure he can answer that
15 question. I've asked him if he could answer
16 the question, I'm not certain that he will
17 answer the question. But I do know this, at
18 no time on any piece of paper filed under
19 oath pursuant to statute in this courthouse
20 has this gentleman ever accounted for the
21 items I'm asking about.

22 MR. BEASLEY: Judge Atkinson?

23 THE COURT: Let me respond to that. This is not a
24 question for you.

25 MR. BEASLEY: Okay.

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HEARING

1 THE COURT: The question about the assets that were
2 owned by Mr. Dickson I feel is a legitimate
3 question and I think that you can certainly
4 answer questions about any assets that were
5 owned by Mr. Dickson at the time of his
6 death.

7 MR. MOORE: Thank you, Your Honor.

8 Q. So, sir, Mr. Beasley?

9 A. Sure.

10 Q. Answer my question please. What happened to
11 Mr. Dickson's jewelry?

12 A. If you'll remember, if I'm not mistaken, and
13 J. Seth can provide that for you, but there
14 was an accounting and I think there was a
15 lump sum totaling either \$25,000 or \$35,000
16 for contents. Everything that was in that
17 house was in that particular lump sum. My
18 mother had no valuable piece of jewelry per
19 se that I was aware of. Everything remained
20 in the house, nothing was taken from the
21 house, and all of the contents, some of which
22 were pieces that she brought forward, much of
23 it was brand new, that remained in the house.
24 I don't have any of it or that type of thing.
25 And so it was on the I&A that was provided

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HEARING

- 1 when Mr. Dickson passed away.
- 2 Q. Sir, would you please tell me what you -- let
- 3 me ask you this, who appraised the jewelry
- 4 that belonged to Mr. Dickson?
- 5 A. I didn't have any of it appraised.
- 6 Q. Who inventoried it?
- 7 A. Inventoried?
- 8 Q. The jewelry, the jewelry that I'm asking
- 9 about, who inventoried it?
- 10 A. Tell me what kind of jewelry. Obviously
- 11 you've been told something about jewelry.
- 12 What jewelry are you talking about? Are you
- 13 talking about bracelets, rings, what?
- 14 Q. Sir, you told me under oath --
- 15 A. Uh-huh.
- 16 Q. -- that when your mother died, her jewelry
- 17 passed to her husband.
- 18 A. I didn't say that, you said that.
- 19 Q. Well --
- 20 A. According to the will, and also when he
- 21 passed away, it passed to my sister. She
- 22 might could give you an accounting of that.
- 23 Q. Well, that may or may not be the case. I
- 24 simply want to know, upon your mother's
- 25 death, since you were the personal

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1 representative charged with taking possession
2 of his assets, inventorying them and
3 reporting to the Court, what jewelry did she
4 have?

5 A. Costume jewelry.

6 Q. How did you arrive at the generalized lump
7 sum figure that you used to account for
8 whatever these personal assets were?

9 A. It was an estimation.

10 Q. Whose estimation?

11 A. Mine.

12 Q. I see. Now, so we know then that your
13 estimation of her personal assets that passed
14 to Mr. Dickson included a bunch of costume
15 jewelry that wasn't worth very much, right?

16 A. Yes.

17 Q. Well, then, the number that you lumped
18 together as your personal estimate with
19 regard to the personal items that she owned,
20 what number did you use?

21 A. I'm not sure what was on the will and
22 testament, but we did include a lump sum
23 value. I thought it was \$25,000, \$35,000.

24 Q. Well, of that \$25,000 or \$35,000, how much of
25 that was the jewelry?

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HEARING

- 1 A. I'm not certain.
- 2 Q. Well, how much of it was other things?
- 3 A. It would have included furniture.
- 4 Q. Right.
- 5 A. Anything in the house that belonged to her,
6 clothes and, you know, jewelry. My mother
7 was not a wealthy lady. She didn't have very
8 much. She worked at the Department of Social
9 Services and had a little over \$800, I think,
10 maybe less than that, Social Security check
11 coming in.
- 12 Q. Well, she had a banking account, didn't she?
- 13 A. She did.
- 14 Q. How much was in the banking account?
- 15 A. Dick's name was not on the banking account.
- 16 Q. I didn't ask you that, sir. I asked you how
17 much was in the banking account that she had
18 when she died?
- 19 A. I would estimate maybe \$1,000.
- 20 Q. Now, that money then would have belonged to
21 Mr. Dickson upon the death of Mrs. Dickson,
22 right?
- 23 A. No.
- 24 Q. Well, who would it have belonged to?
- 25 A. My name was on that account.

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HEARING

1 Q. Well, was your name on there as an and or for
2 or whatever?

3 A. For.

4 Q. Why was your name on that account?

5 A. I'm her son.

6 Q. Well, you were basically -- your name was put
7 on there then in case something happened that
8 you would look after her, right?

9 A. Yes.

10 Q. Okay. So your name was there as an
11 accommodation to your mother like you've
12 testified, right?

13 A. Correct.

14 Q. Well, when I look at the accountings in both
15 of these, that checking account doesn't
16 appear. Why is that?

17 A. Right of survivorship.

18 Q. Well, yes, sir, but things that are passed by
19 virtue of survivorship are supposed to be
20 accounted for too, are they not?

21 A. No.

22 Q. And your mother had a vehicle, didn't she?

23 A. She did.

24 Q. What kind of car was it?

25 A. It's a Delta 88, 1990.

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HEARING

1 Q. And that car then would have passed to Mr.
2 Beasley upon her death, right?

3 A. Mr. who?

4 Q. I'm sorry, Mr. Dickson. I do apologize.

5 A. It did.

6 Q. Where is the car?

7 A. The car has been sold, and if you'll notice
8 on the I&A, there is a \$700 value posted for
9 that.

10 Q. I don't really see that.

11 A. On the left-side deposit.

12 Q. On the left-side deposit in regard to the
13 final accounting?

14 A. On the I&A, yes.

15 Q. I don't really see that down there, but I --
16 one thing for certain, we had \$700 worth of
17 automobile and that belonged to Mr. Dickson,
18 right?

19 A. Correct.

20 Q. And it certainly should have been accounted
21 for because you got the \$700?

22 A. I did not.

23 Q. Where did the \$700 go?

24 A. It went into the estate account.

25 Q. I see. Now, I believe that upon Mr.

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HEARING

1 Dickson's death, he was owed a right
2 significant sum of money from a gentleman by
3 the name of Russell T. Purvis, is that
4 correct?

5 A. It is.

6 Q. And would this be a copy of a mortgage that
7 would evidence the debt that Mr. Purvis owed
8 Mr. Dickson at the time of death?

9 A. It looks like it would be.

10 MR. MOORE: I would like to offer this into evidence
11 please, Your Honor.

12 (Petitioner's Exhibit Number 2 was entered
13 into evidence.)

14 Q. And Mr. Purvis paid, as I understand it, a
15 sum of money each month to you following the
16 death of Mr. Dickson, correct?

17 A. He did not pay it to me. He wrote out the
18 check to the Estate of Herbert Dickson.

19 Q. Well, did he give the check to you?

20 A. He mailed it.

21 Q. He sent it to you?

22 A. Correct.

23 Q. How much money did he pay per month?

24 A. About six hundred and some odd dollars.

25 Q. And how long did he pay that \$600 a month?

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1 A. Between July of '09 and January of this year.

2 Q. So that would be roughly seven or eight years
3 he paid that much?

4 A. At least, yes.

5 Q. So that would be some \$50,000 worth of cash
6 that would come into the estate during that
7 period of time from the mortgage, right?

8 A. Correct.

9 Q. And then I believe he eventually paid the
10 mortgage, is that right?

11 A. He did.

12 Q. How much money did he pay in cash to pay the
13 mortgage off?

14 A. It was \$30,900.

15 Q. So if we take \$50,000 in monthly payments and
16 \$30,000 in lump sum, that's roughly \$80,000
17 in cash that came into the estate during the
18 period of time that you were the personal
19 representative, is that correct?

20 A. Actually, it would have been more than that.

21 Q. How much actually did --

22 A. Well, if you notice at the very top on the
23 inventory and assessment, there are payments
24 that Russell Purvis paid, a little over
25 \$70,000. And if you'll look at the last

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HEARING

1 accounting there, it's \$30,900. That is what
2 he paid into the account.

3 Q. So roughly \$100,000 came into the estate from
4 this mortgage?

5 A. Correct.

6 Q. As I understand it, you also were the power
7 of attorney for Mr. Dickson prior to his
8 death, is that correct?

9 A. That is correct.

10 Q. Before his death, did you as power of
11 attorney do anything to close any of his
12 banking accounts?

13 A. No.

14 Q. Did he have banking accounts that were closed
15 prior to his death?

16 A. Not that I'm aware of.

17 Q. Did he have any banking accounts upon the
18 date of his death?

19 A. He had BB&T.

20 Q. I would assume then the answer to that
21 question is yes?

22 A. Yes.

23 Q. How much money was in the BB&T account?

24 A. Approximately \$700.

25 Q. And did he have any other money that you know

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1 of?

2 A. Well, when my mother passed away, there was
3 an insurance policy and the money went to
4 him, out of which was paid \$12,000 for the
5 funeral and then \$1,197 for the internment.
6 And then when Dick died, we paid \$11,000
7 plus, or the estate paid \$11,000, for his
8 funeral and \$1,000 for the internment. So
9 that money was all placed in a -- the balance
10 of the money was placed in an estate account.
11 I think it was opened either in September of
12 '08 or October of '08 and the balance brought
13 forward or started with was around \$21,000.

14 Q. I'm looking at an inventory and appraisal
15 which appears to have been filed in May of
16 2009 and it actually indicates that the
17 amount of money that was in the banking
18 accounts would have been \$10,574.37. Now,
19 that's a lot more than \$700, isn't it?

20 A. Well, yes.

21 Q. All right. Can I hold that back? So when I
22 asked you if he had any money in the bank,
23 you told me \$700, and the real answer to that
24 question is \$10,574, right?

25 A. That would be.

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HEARING

1 Q. Right?

2 A. Correct. May I add something Judge Atkinson?

3 The seven hundred and seventy plus dollars
4 would have been, I think, the balance in his
5 BB&T account probably in July of '07. I
6 recall looking at a statement for that and so
7 that's where that figure came from.

8 Q. But that number we know now was inaccurate
9 because you reported to the Court under oath
10 that the actual amount was \$10,500, right?

11 A. Correct.

12 Q. And if we add that \$10,000 to the over
13 \$100,000 that came from the mortgage, that
14 comes up to about \$110,000 cash, right?

15 A. If you exclude the insurance money.

16 Q. Right. Well, it was actually \$100,000 of
17 insurance money, right? There was one that
18 came from Mutual Life Insurance for \$50,000
19 and there was one from Southwest Life for
20 \$50,000.

21 A. Well, that was not a part of the estate.

22 Q. Right, I understand. You said it was
23 excluding the insurance money.

24 A. Well, no.

25 Q. Excluding the insurance money --

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HEARING

1 A. I'm talking about the insurance money when my
2 mother died that went into the account, the
3 other policies were given to the boys.

4 Q. Right. Now, the mortgage in question that
5 we've talked about that the \$100,000 came
6 from, as I understand it, was on the shoe
7 shop that Mr. Dickson had run for many years
8 before he sold it, right? Correct?

9 A. Yes.

10 Q. And that shoe shop was almost a museum if you
11 walked in. It was more like a museum then it
12 was a shoe shop, wasn't it?

13 A. If you had been in there, yes.

14 Q. Mr. Dickson had many items of antique origin
15 that were sitting all over the shoe shop, did
16 he not?

17 A. He did.

18 Q. As a matter of fact, if you counted them, it
19 probably would have exceeded what, two or
20 three hundred such items?

21 A. I do not know.

22 Q. Well, they belonged to Mr. Dickson upon the
23 day of his death, did they not?

24 A. No, it didn't, because at the day of his
25 death, Russell Purvis owned the shoe shop.

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MTLF000299

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HEARING

1 Q. Well, yes, sir, Russell Purvis owned the shoe
2 shop.

3 A. Yeah.

4 Q. But the mortgage didn't transfer the antiques
5 that Mr. Dickson owned, did it?

6 A. Well, he sold it in 2005.

7 Q. Right.

8 A. And so as far as what was in the shoe shop
9 and what was not in the shoe shop is not on
10 me.

11 Q. Well, yes, sir, it is on you.

12 A. No, it's not.

13 Q. Because you were the personal representative,
14 correct?

15 A. I am the personal representative, but I'm not
16 representing material that may or may not
17 have been in the shoe shop.

18 Q. And you would have been responsible for
19 collecting and preserving and accounting for
20 all of the assets that belonged to Mr.
21 Dickson, wouldn't you?

22 A. I'm not sure I follow your reasoning.

23 Q. Well, when you became the personal
24 representative of the estate, did you do
25 anything to determine who actually owned all

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HEARING

1 those antiques that Mr. Dickson had in the
2 shoe shop?

3 A. Again, the shoe shop was sold in March of
4 2005, so I'm assuming all of that transaction
5 -- and when he died in August of 2008, what
6 was in the shoe shop Russell Purvis owned.

7 Q. Oh, so you simply assumed that all of the
8 antiques went with the shoe shop, right?

9 A. He didn't own -- Herbert Dickson did not own
10 the shoe shop in August of 2008.

11 Q. Have you ever seen any bill of sale where
12 Herbert Dickson ever transferred the antique
13 items in the shoe shop to the gentleman who
14 owned the shoe shop.

15 A. I'm not aware of antique items.

16 Q. Well, you just testified to them.

17 A. Well, I said I've seen some. You numbered in
18 the 200's, so you're more familiar with that
19 than I am.

20 Q. Right. My question is, did you ever see
21 anything, any bill of sale, which would show
22 that Mr. Dickson transferred his personal
23 property to the gentleman who bought the shoe
24 shop?

25 A. That would be an issue for Mr. Purvis. As I

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HEARING

1 said before -- and when he passed away in
2 2008, that transaction took place in 2005.
3 And so I'm not going to go back to anything
4 that was in the shoe shop at that particular
5 time. I would assume that Dick would have
6 moved stuff out of the shoe shop and placed
7 it somewhere if he wanted it. Some things
8 were not.

9 Q. What happened to Mr. Dickson's silver
10 dollars?

11 A. I have no idea what you're talking about.

12 Q. Coins, the antique coins that he had that
13 were located at this home. What happened to
14 those coins?

15 A. I am not aware of any money.

16 Q. Well, did you look to see if there were
17 coins?

18 A. (Laughter is heard.)

19 Q. I can promise you sir, I'm not trying to be
20 funny.

21 A. I know, but this is --

22 Q. I'm not trying to be funny.

23 A. I don't understand the question and where
24 you're going with this.

25 Q. Well, I'll explain the question.

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HEARING

1 A. Yeah.

2 Q. I understand that there were 500 silver
3 dollars that belonged to Mr. Dickson upon the
4 day of his death and they were in a jar and
5 you took them. I want to know is that true
6 or do you dispute that?

7 A. I do dispute it and, no, I didn't take them.

8 Q. Were there any antique coins there?

9 A. No, not that I'm aware of.

10 Q. Well, was there a Pace Arrow?

11 A. A Pace Arrow what?

12 Q. A 1983 Pace Arrow, was there one?

13 A. A 1983 Pace Arrow. Are you talking about the
14 motor home?

15 Q. I'm just asking you about a Pace Arrow.

16 A. Yeah, we'll that's a motor home that they had
17 purchased and, because of lack of use, it had
18 dilapidated.

19 Q. So the answer is yes, there was one.

20 A. Sitting out beside -- no, it wasn't at the
21 Sumter house, it was sitting to the right of
22 the Santee house.

23 Q. Did I ask you where it was?

24 A. You did not, but I'm telling you where it
25 was.

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MTLF000303

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HEARING

1 Q. I want you to answer what I ask you instead
2 of what I don't ask you.

3 A. Okay. What was -- state your question.

4 Q. Did Mr. Dickson own a 1983 Pace Arrow?

5 A. Yes, he did.

6 Q. Did he own a Jon boat?

7 A. He did.

8 Q. Did he own a Palm Harbor?

9 A. He did.

10 Q. Did he own a Chris-Craft?

11 A. He did.

12 Q. Did he own an arrowroot (sp) motor?

13 A. Yes, he did.

14 Q. A Stratos boat?

15 A. Yes.

16 Q. A Johnson motor?

17 A. I'm assuming that there was a Johnson motor
18 on it.

19 Q. And a Ford Explorer?

20 A. Yes, he did.

21 Q. Where is the Ford Explorer?

22 A. If you'll look on the inventory and
23 assessment on the left side, you'll see it
24 was sold for \$6,000 and went into the estate.

25 Q. Let me --

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MTLF000304

11/13/2018

HEARING

1 A. If you look on -- also on the inventory and
2 assessment on the deposits, you'll see that
3 three of the boats were sold for \$11,350 and
4 that went into the estate.

5 Q. I simply asked you where was the Ford
6 Explorer?

7 A. It has been sold.

8 Q. Who was it sold to?

9 A. It was sold to a pastor in Kentucky for
10 \$6,000.

11 Q. Now, on the inventory you had it listed as
12 being worth \$8,000 but you sold it for
13 \$6,000?

14 A. Correct. When did he die?

15 Q. Sir, I simply --

16 A. He died in '08 and it was sold probably three
17 or four years later.

18 Q. Mr. Beasley, let me explain to you how this
19 works.

20 A. Yeah.

21 Q. I ask the questions and you answer them. You
22 don't ask me questions, okay? Unless you
23 don't understand the question, answer my
24 questions.

25 A. I will try to do that.

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MTLF000305

11/13/2018

HEARING

1 Q. Why did you sell the car for less than it was
2 worth?

3 A. It had aged.

4 Q. How much did you pay yourself as the personal
5 representative fee?

6 A. You will see it down there listed.

7 Q. I'm asking you, sir.

8 A. I haven't.

9 Q. You haven't been paid anything as a personal
10 representative fee?

11 A. Huh-uh.

12 Q. What happened to the rest of the money?

13 A. What money are you talking about?

14 Q. Well, the \$100,000 that came in from the
15 mortgage and \$11,000 that came in from the
16 boats, the money that came -- the \$6,000 that
17 came from the sale of the Explorer, the money
18 that came from the sale of your momma's car,
19 the monies that were in the bank -- the
20 \$10,000 that was in the banking accounts, the
21 money for the jewelry and the other personal
22 property that passed that should have gone
23 into your father's estate. I calculated
24 about \$175,000 to \$200,000 worth of assets
25 that you reported. I just want to know what

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MTLF000306

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HEARING

1 happened to them, what did you do with the
2 money?

3 A. If you'll look on the right side of the
4 inventory and assessment, you'll see the
5 accounting, \$176,000 plus.

6 Q. Yes, sir. As a matter of fact, a lot of that
7 money went to pay the expenses for the
8 property in Santee, South Carolina, didn't
9 it?

10 A. Some of it did.

11 Q. Sir, if that property in Santee, South
12 Carolina belonged to you as you claim and as
13 the Court agreed with you, why would you have
14 taken estate money to pay expenses on your
15 property?

16 A. Say that again?

17 Q. Yes, sir. You've told us that you spent
18 money on the Santee property or it's actually
19 located --

20 A. No. I spent money on the estate. That
21 property is not in my name. It hopefully
22 will go in that direction, but not now. And
23 so my desire was simply to care for the
24 estate. And over the years there have been
25 three pieces of property, the Sumter house,

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MTLF000307

11/13/2018

HEARING

1 the Russell Purvis and the estate. And then
2 also coming down here to various probate
3 hearings.

4 Q. Did you pay taxes on the Sumter house out of
5 the estate?

6 A. Correct.

7 Q. Did you pay taxes on the Santee property out
8 of the estate?

9 A. Correct.

10 Q. Did you pay the power bill on the home in
11 Sumter?

12 A. Yes.

13 Q. Did you pay the power bill on the property in
14 Santee out of the estate?

15 A. Correct.

16 Q. Did you pay maintenance on the property in
17 Sumter out of the estate?

18 A. Yes.

19 Q. Did you pay maintenance out of the property
20 in Santee out of the estate?

21 A. Yes.

22 Q. Now, sir, as I understand it, according to
23 the will, all that realty went to either you
24 or this other lady, correct?

25 A. Correct.

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MTLF000308

11/13/2018

HEARING

1 Q. How is this other lady kin to you?

2 A. She's my sister.

3 Q. Now, tell me this. If -- how long did you
4 pay taxes, insurance, expenses, power and
5 maintenance on those pieces of property out
6 of Mr. Dickson's estate?

7 A. How long?

8 Q. How many years did you pay those sorts of
9 things for yours and your sister's property
10 out of the estate?

11 A. Let me remind you that I had been paying and
12 tending to the estate for ten years.

13 Q. I just asked you, sir, how long you did it?

14 A. I've been taking care of the estate for ten
15 to eleven years.

16 Q. How long did you pay the taxes on your
17 sister's home in Sumter out of the estate?

18 A. Until it passed to her.

19 Q. Well, sir, it passed to her, according to the
20 law, upon death. So it passed to her
21 immediately upon death. So my question then
22 is, are you telling me you paid the taxes on
23 that house in Sumter for your sister from the
24 time Mr. Dickson died until now?

25 A. Huh-uh.

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MTLF000309

11/13/2018

HEARING

1 Q. When did you stop?

2 A. Probably three or four years ago.

3 Q. So -- and he died in what year?

4 A. In '08.

5 Q. So you would have paid the taxes on your
6 sister's house for ten to twelve years out of
7 the estate?

8 A. I would have paid the taxes on the estate
9 house for that long.

10 Q. Sir, I'm just going to -- indulge me. I'm
11 going to call it your sister's house, because
12 according to the law, when a person --

13 MR. SETH: Object to the form of the question. It
14 doesn't pass free and clear until that
15 distribution is done, until the estate is out
16 of it. If he's going to typify the law, sir,
17 and question, I would submit that he needs to
18 do it correctly.

19 MR. MOORE: Actually, Your Honor, the statute says
20 that all property vests in full to the one
21 year of the date of death. The statute
22 actually says that.

23 MR. SETH: It's subject to the claims of the estate.
24 This estate was in litigation until very
25 recently.

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MTLF000310

11/13/2018

HEARING

1 MR. MOORE: There can be an equitable charge on a
2 specific piece of property, but there's
3 always in fee simple a person living or a
4 legal entity that owns a piece of property.
5 It passes upon death, it vests no later than
6 one year after death according to the
7 statute. I simply am trying to ask a
8 question factually in regard to what has
9 happened. And if the Court would indulge me,
10 I'll rephrase the question.

11 THE COURT: Yes, sir. If you'll rephrase the
12 question, not as to when the house passed or
13 ownership passed but how long he paid the
14 taxes on it.

15 Q. I just want to know how long you paid the
16 taxes on the piece of property in Sumter that
17 was left to your sister?

18 A. Probably from '08 until it passed to her.

19 Q. How long or how many years would that be?

20 A. I'm not exactly certain, but probably as I
21 said before, three or four years ago.

22 Q. That would make it how many years then that
23 you estimate that you paid the taxes on the
24 property?

25 A. Maybe six.

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MTLF000311

11/13/2018

HEARING

1 Q. How many?

2 A. Six.

3 Q. How many years --

4 A. That would be an estimate.

5 Q. -- would you have paid the insurance on the
6 house?

7 A. Probably the same amount of time.

8 Q. How many years did you provide the
9 maintenance on the house?

10 A. A gentleman kept up the yard for about three
11 or four years and then I stopped it.

12 Q. How many years did you pay the power bill for
13 that house?

14 A. Maybe four or five years.

15 Q. Who was consuming the power?

16 A. Sir?

17 Q. Who was consuming the power? We know Mr. and
18 Mrs. Dickson were dead. Who was consuming
19 the power that you were paying for out of the
20 estate?

21 A. Number one, I was not going to cut the power
22 off and just let it sit there. So it would
23 be a minimal amount on that particular house.
24 So when we would come down for hearings, we
25 stayed at the Sumter house so we wouldn't

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MTLF000312

11/13/2018

HEARING

1 have to pay for a hotel and I would leave the
2 power on for that. Everything else was
3 pretty much off.

4 Q. Now, how long did you use the estate money to
5 pay for the taxes and the insurance and the
6 maintenance on the property that you
7 inherited, the so-called Santee properties?

8 A. I haven't inherited the Santee property yet,
9 but we are still and I'm due, the estate is
10 due, tax bills from Clarendon County as we
11 speak. So I have been paying the Clarendon
12 County tax on that estate property since
13 2008.

14 Q. That would be ten years?

15 A. Yes, sir.

16 Q. And you have been paying that out of the
17 estate?

18 A. Correct.

19 Q. And you've also been paying the insurance out
20 of the estate?

21 A. No, it doesn't have insurance on the house.

22 Q. Have you been paying maintenance out of the
23 estate?

24 A. For about three or four years, yes.

25 Q. How much estate money have you paid out of

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MTLF000313

11/13/2018

HEARING

1 the ten years since Mr. Dickson died?

2 A. The I&A would show that with you.

3 Q. I didn't ask you that, sir.

4 A. Okay.

5 Q. Are you able to tell me how much money you
6 have paid out?

7 A. Approximately I would say \$156,000. I know
8 the I&A is \$176,000 but that's with the
9 settlement figures and things like that.

10 Q. Of that \$156,000 you've paid, how much of
11 that would have gone towards the Sumter
12 house?

13 A. I'm not certain of the breakdown.

14 Q. Could you estimate?

15 A. No.

16 Q. How much of that would have gone towards the
17 Santee properties?

18 A. I'm not certain.

19 Q. Now, your mother, did she own property, real
20 estate in Alabama?

21 A. She did not.

22 Q. She had no interest in property in Alabama?

23 A. No. It was sold to her son.

24 Q. You?

25 A. Not to her son but her -- I'm not sure the

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MTLF000314

11/13/2018

HEARING

1 purpose of the question, but she and her
2 sister divided up her mother's estate and my
3 mother sold her half of the estate to her
4 sister's son.

5 Q. What happened to the money?

6 A. What happened to the money?

7 Q. That's my question. Yes, sir.

8 A. This was probably years ago and so it had
9 been spent.

10 Q. In Summerton, South Carolina, was there a
11 mobile home? Was there a mobile home?

12 A. Whose mobile home?

13 Q. Was there a mobile home that either your
14 mother or Mr. Dickson or both owned in
15 Summerton, South Carolina?

16 A. They owned in North Santee the Goslin Pond
17 property. Is that what you're asking about?

18 Q. No, sir. I'm asking about, in Summerton,
19 South Carolina, call it Santee or whatever,
20 was there a mobile home on any of those
21 properties?

22 A. I'm not certain what you're talking about.

23 Q. A mobile home. You don't know what a mobile
24 home is?

25 A. I do, but you're not specifying a property.

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MTLF000315

11/13/2018

HEARING

1 If you could give me an address, I'll respond
2 to it.

3 Q. Let's just say the Goslin Pond property.

4 A. Yes, it's still there.

5 Q. All right. Let's talk about that mobile
6 home. Whose name was it titled in?

7 A. Whose name was it titled in?

8 Q. Sure. It was in Mr. Dickson's name, wasn't
9 it?

10 A. I would assume. I haven't looked at that
11 legally.

12 Q. Well, sir, you get tax bills, a separate tax
13 bill, on the mobile home every year, don't
14 you?

15 A. Yes, I do.

16 Q. All right. So we know then that the mobile
17 home was taxed as personal property and the
18 land would have been taxed as real property,
19 right?

20 A. Correct.

21 Q. All right. And we know that, according to
22 the estate, the real estate in Santee,
23 Summerton, wherever we're calling it, but the
24 will didn't say that the personal property in
25 Summerton went to you, did it?

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MTLF000316

11/13/2018

HEARING

1 A. What personal property are you talking about?

2 Q. Just answer that question, please. The will
3 didn't say that the personal property in
4 Santee went to you, did it?

5 A. The -- I think that would be the -- well,
6 it's either in the house or in the barn, so
7 the personal property, if you say it's not in
8 the will, then that's fine with me.

9 Q. Well, sir, did you know that a mobile home is
10 considered personal property?

11 A. That's fine.

12 Q. Did you know that it was taxed as personal
13 property?

14 A. It could be.

15 Q. So we know then, that since the mobile home
16 was personal property, it was taxed as such
17 and you agree that it was such, have you used
18 that mobile home?

19 A. Have I used it?

20 Q. Sure.

21 A. In what way?

22 Q. Have you been in it, rented it, lived in it,
23 slept in it, let somebody else use it?

24 A. I slept in it and I did rent it.

25 Q. How much money did you get for it?

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MTLF000317

11/13/2018

HEARING

1 A. Renting?

2 Q. Yes.

3 A. It's on the I&A.

4 Q. And you basically considered then the real
5 money you got for that mobile home as money
6 that belonged to the estate, right?

7 A. Correct.

8 Q. And that's because the trailer, as we know,
9 is personal property, right?

10 A. Correct.

11 Q. So you would agree then that since it's
12 personal property and not real property, that
13 it would go partially to my clients?

14 A. Not if it's designated in the will that the
15 Santee property goes to me. No, I would not.

16 Q. Well, sir, the Santee property would
17 basically be real estate. We're talking here
18 about personal property.

19 A. Yeah.

20 Q. Can you show me in the will where it says
21 personal property in Santee goes to you?

22 A. I would say that Item 2, you know, refers to
23 that.

24 Q. Well, let's see what it says. Let me hold
25 that for half a moment.

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MTLF000318

11/13/2018

HEARING

1 A. And I'm not sure because I just read it, but
2 the Santee property, it does state in the
3 will, would go on when the estate is settled,
4 come into my name.

5 Q. Well, let's talk about that. There were
6 boats that were at Santee, right?

7 A. Correct.

8 Q. You sold them and put the money in the
9 estate?

10 A. Correct.

11 Q. There were boat motors down there and you
12 sold those and put the money in the estate,
13 right?

14 A. Correct.

15 Q. There were cars down there and you sold those
16 and put the money in the estate?

17 A. There were no cars down there.

18 Q. What happened to the Pace Arrow?

19 A. The -- it was over time dilapidated. They
20 bought it used. And then eventually, to get
21 rid of it, I had a guy come and get it and he
22 towed it off the property just for parts.

23 Q. I see. So then you considered the personal
24 property down there as belonging to the
25 estate, right? Right?

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MTLF000319

11/13/2018

HEARING

1 A. Personal property belonging to the estate,
2 yes.

3 Q. Now, Item 2 you were talking about, personal
4 property, it says, I may leave a written
5 memoranda disposing of certain items of my
6 tangible personal property. Any such item of
7 tangible personal property shall pass
8 according to the terms of such memoranda. If
9 no such memoranda is found or identified by
10 my PR within 90 days, it shall be
11 conclusively presumed there is no such
12 memoranda and any subsequently discovered
13 memoranda shall be ineffective. Any property
14 given and devised to a beneficiary who was
15 not living at the time of my death and for
16 whom no effective alternative provision has
17 been made, shall pass according to the
18 provisions, the residuary provisions below,
19 and not pursuant to any statute. Now, as I
20 understand it, there were no written
21 memoranda that dictated what to do with the
22 mobile home, right?

23 A. Other than it being referred to the Santee
24 property.

25 Q. There is no written memoranda. There's a

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MTLF000320

11/13/2018

HEARING

1 will.

2 A. Okay, right, there's a will. And ...

3 Q. As I understand it, it's your position that
4 the real estate in Santee consists of what?
5 What does it consist of?

6 A. The --

7 Q. How many lots are there?

8 A. There are six.

9 Q. And those six lots are what you contend
10 passed to you pursuant to the will of Mr.
11 Dickson?

12 A. The lots and the house would eventually, yes.

13 Q. The lots and the house, but in regard to the
14 mobile home, there's no specific mention of
15 that, correct?

16 A. The house is the mobile home.

17 Q. Well, sir, the house is a separately titled
18 piece of personal property as we've already
19 determined by your testimony, correct?

20 A. No.

21 Q. It's taxed separately as personal property,
22 right?

23 A. The house and the property, I get six tax
24 bills and also a bill for the mobile home.
25 No, for the home plus the outbuilding.

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MTLF000321

11/13/2018

HEARING

1 Q. Sure. You get a separate tax bill for the
2 mobile home that is on the property?

3 A. For structures that are on Lot 11.

4 Q. Right. The mobile home is such that it can
5 be moved, can't it?

6 A. No.

7 Q. You couldn't haul it off?

8 A. No.

9 Q. I see. Well, one thing is certain, you
10 treated it as personal property all these
11 years because you've paid taxes on it as
12 personal property, haven't you?

13 A. I've paid taxes on it.

14 Q. And it's assessed as personal property too by
15 the Tax Assessor of the County, is it not?

16 A. I pay tax bills on that property and also on
17 the land.

18 Q. And bills that come to you for that mobile
19 home come to you as personal property bill
20 and then a realty tax bill, don't it?

21 A. I'm not certain about that.

22 Q. One thing is certain, you've been paying all
23 those expenses for that mobile home out of
24 the estate, haven't you?

25 A. I have.

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MTLF000322

11/13/2018

HEARING

1 Q. Well, now, if the mobile home belongs to you,
2 why would you have been paying taxes on the
3 mobile home out of the estate?

4 A. The estate (laughter is heard) is not closed.

5 Q. Sir, I promise, I'm not trying to be funny.
6 You keep laughing at me.

7 A. I do not understand the logic of some of your
8 questions, but until the estate closes and
9 the personal executive, the personal
10 representative of the State of South
11 Carolina, I do want to do due diligence and
12 pay the taxes for all of the said property,
13 whether it was the Sumter house, whether it
14 was the Santee property.

15 Q. You keep indicating that I can look at a
16 document regarding to the accounting and I
17 don't think I was ever given the actual sheet
18 you keep taking about in regard to the
19 specific expenditures you've made. Do you
20 know where I can find one of those?

21 A. It was given -- it was part of the inventory
22 and assessment that was filed with the
23 Probate Court.

24 Q. Well, to my knowledge, that's never been
25 afforded to me or to my clients. Do you have

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MTLF000323

11/13/2018

HEARING

1 any idea why such a document would not have
2 been given to us?

3 MR. SETH: Your Honor, that would have been my
4 responsibility, and to my knowledge, we sent
5 it as part of the closing package.

6 MR. MOORE: We do not have it, but I would love to
7 see a copy of it if I might, Your Honor.

8 THE COURT: I think they can provide you with a copy
9 right here. It was filed shortly before in
10 June.

11 MR. MOORE: I certainly --

12 THE COURT: This is the only copy I have here, but I
13 can certainly have my assistant make some
14 others.

15 MR. MOORE: I appreciate that very, very much.

16 Q. Well, let's then go over this list of
17 disbursements. And I appreciate counsel --

18 THE COURT: Mr. Moore, could you wait just a second
19 please?

20 MR. MOORE: Yes, sir.

21 THE COURT: I'm looking to see if there's a proof of
22 delivery for those items where they were
23 mailed to you. If you would give me just a
24 minute, please.

25 MR. MOORE: And if Mr. Seth says he sent them, I'll

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MTLF000324

11/13/2018

HEARING

1 take his word for it, but I don't have them
2 in my file because I've looked at it.

3 MR. SETH: I had said it was my responsibility to
4 send it. I mean, if it wasn't sent, I
5 greatly apologize.

6 THE COURT: Did you receive the accounting that was
7 sent out with the proposal for distribution?

8 MR. MOORE: I would have received the front piece of
9 paper that says, accounting. I would not
10 have received the detailed piece of paper
11 that I'm holding. All I ever got was
12 something that looked like this.

13 MR. SETH: Judge, if he received it that way, I know
14 now that it was a photostatic error. We
15 would have sent that all out at the same
16 time, but the application for settlement, the
17 final accounting, the proposal for
18 distribution, all would have been sent out at
19 the same time.

20 THE COURT: All right, sir.

21 MR. MOORE: I fully accept Mr. Seth's word on that.
22 If it was a mistake, it was a mistake.

23 Q. Mr. Beasley, let's talk about this piece of
24 paper you keep telling me I'm supposed to
25 look at.

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MTLF000325

11/13/2018

HEARING

- 1 A. Uh-huh.
- 2 Q. One of these things says a USAA credit card
3 for property taxes, \$9,906.10.
- 4 A. Uh-huh.
- 5 Q. Is that a yes?
- 6 A. That's correct.
- 7 Q. Well, did you -- is that a one time that you
8 put the property taxes on there or is that
9 more than one time or is that just a
10 compilation or --
- 11 A. That is several times.
- 12 Q. So we know now then that you spent \$9,906.10
13 paying the property taxes on the Santee
14 property and the Sumter property?
- 15 A. The Sumter property.
- 16 Q. And the mobile home?
- 17 A. Correct.
- 18 Q. Now, the next thing says \$4,200 spent on
19 HVAC?
- 20 A. Correct.
- 21 Q. That would be heating and air, right?
- 22 A. That's right.
- 23 Q. Was that for the Sumter house?
- 24 A. No, that was for the Santee house.
- 25 Q. When did you spend \$4,200 on the house at

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MTLF000326

11/13/2018

HEARING

1 Santee which was ultimately declared to be
2 yours?

3 A. We were looking to rent the house and the air
4 conditioning unit was out. I had Stukes Air
5 Conditioning look at it and they replaced it.

6 Q. When did you do that?

7 A. That would have been '14 or '15, something
8 like that.

9 Q. In 2014 or 2015?

10 A. Correct. It was something in that
11 neighborhood. I don't remember the exact
12 dates.

13 Q. So the estate spent \$4,200 to replace a
14 heating and air conditioning system on
15 property that you were left. Mr. Dickson
16 died in what year?

17 A. 2008.

18 Q. So he had been dead about seven years when
19 you spent \$4,200 to put a new air
20 conditioning unit in the house at Santee?

21 A. Correct.

22 Q. Here's another \$445.81 that appears to have
23 been spent out of the estate for a Sumter
24 trip, correct?

25 A. That's right. I came down here and used my

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MTLF000327

11/13/2018

HEARING

1 credit card and reimbursed that.

2 Q. Now, here's one for \$19,572.15 to the
3 Clarendon County Treasurer.

4 A. Correct.

5 Q. We know that the property taxes were \$9,900.
6 This \$19,000 that you paid out of the estate
7 funds to the County Treasurer, what did you
8 spend that money on?

9 A. I have been paying taxes on the Clarendon --
10 on the Sumter -- excuse me, the Santee
11 property for ten years.

12 Q. So we know now that on the properties that
13 were left to you or your sister or you, that
14 comes out to about \$29,000 that you've paid,
15 right?

16 A. That's correct.

17 Q. Here is \$12, 250 that you paid to Bob
18 Haggerty to maintain the property you
19 inherited in Santee, is that correct?

20 A. That is. Bob Haggerty worked for Dick and
21 Mema, well, my mother. And he would keep the
22 property, cut the grass, they paid him a fee.
23 I maintained that up until a period of time
24 in ...

25 Q. Well, sir, if I wanted to know when you paid

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1 Mr. Haggerty this \$12,000 to maintain the
2 property you inherited, how would I know when
3 you actually paid him?

4 A. How would I know?

5 Q. How would I know? How could I look at this
6 piece of paper and know when you paid Mr.
7 Haggerty this \$12,000 to maintain the
8 property that you inherited in Santee?

9 A. Because I've got a copy of checks and every
10 receipt that I've written going back to them.

11 Q. Where are those?

12 A. In that box right over there.

13 Q. So I could look at those checks?

14 A. You sure could.

15 Q. And I could tell when you wrote Mr. Haggerty
16 that \$12,000? And it came out exactly to
17 \$12,250, is that right?

18 A. That's what it says, yes.

19 Q. All right. Now, this appears, the next
20 thing, to be Creech Roddey Watson Insurance.
21 That's another \$9,000, is that right?

22 A. That's correct.

23 Q. What were you paying to insure?

24 A. Homes and/or vehicles and boats.

25 Q. How do I know how much of that \$9,000 is for

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1 homes, how much is for vehicles, and how much
2 is for boats?

3 A. It may be written on the checks, but you
4 could check with them.

5 Q. The next thing is \$7,344 to Santee Electric.
6 Would that be for the property you inherited
7 in Santee or your sister's property or both?

8 A. No, that would be for the estate property in
9 Santee.

10 Q. That's the property you inherited?

11 A. That's the estate's property in Santee.

12 Q. That's the property that was left to you
13 pursuant to the will?

14 A. I will inherit, but I have yet to inherit.

15 Q. Right. You've yet to get a deed of
16 distribution.

17 A. Correct.

18 Q. I see. But your name is on the will,
19 correct?

20 A. That's right, but the estate owns it at this
21 time.

22 Q. I see. But that money has been spent over
23 what, ten years?

24 A. Yes.

25 Q. So you've used the estate account to pay the

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1 power bill on property that was left to you
2 in Santee?

3 A. Is that what?

4 Q. It's \$7,344.

5 A. To Santee Electric, yes.

6 Q. All right. And then we've got a David Rowe
7 that got paid \$3,615, what was that for?

8 A. He was the caretaker of the yard for the
9 Sumter house.

10 Q. That was on the property that your sister
11 inherited?

12 A. That's on the estate property in Sumter, yes.

13 Q. That's the property that was left to your
14 sister?

15 A. Correct.

16 Q. And then we've got Little River Electric Co-
17 op, we've got \$3,571. Is that the power bill
18 for the property that was left to your
19 sister?

20 A. That would have been the Sumter house, yes.

21 Q. And then we've got BB&T final mortgage
22 payment, \$2,894. Is that on the Sumter house
23 or on the Santee property?

24 A. That would have been the Sumter house.

25 Q. Sir, I want to make sure I understand

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1 something. You took Mr. Dickson's estate
2 money and paid off the mortgage that -- on
3 the property that was left to your sister?

4 A. I took -- there were five payments, August,
5 September, October, November and December, or
6 six or seven or whatever that is, and paid
7 that mortgage off in December of 2008.

8 Q. And if we look at Item 1 of the will it says,
9 this clause is not to be construed to force a
10 payment of the mortgage on my home. Do you
11 see that?

12 A. The estate property, that the estate owned
13 that home, and I made payments until the
14 thing was paid off.

15 Q. Well, this says the final mortgage payment to
16 BB&T was \$2,894. Was that the final mortgage
17 payment?

18 A. There were five, there were six that were
19 made between August, September, October,
20 November and December. So all of those
21 payments totaled that amount.

22 Q. The next bill here is USAA, \$2,696 home
23 insurance premium.

24 A. That's correct.

25 Q. Was that on the property that you inherited

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1 or on the property that your sister
2 inherited?

3 A. I think that was the property down at Santee.

4 Q. All right. So the \$2,696 would be to insure
5 the property that was left to you in Santee,
6 correct?

7 A. That would have been the estates property in
8 Santee. Yes, sir.

9 Q. The next bill is for \$2,405.42 to the Farmers
10 Telephone Cooperative. Now, Mr. Dickson was
11 dead, right?

12 A. Yes. He died in August of 2008.

13 Q. And Ms. Dickson was dead, right?

14 A. Correct.

15 Q. What use did they have for a telephone?

16 A. Well, at the Santee property they required a
17 land line to have the security system on.
18 And since they had the land line and the
19 security system on, I maintained that since I
20 was not down there. And I took care of that
21 until I cancelled that.

22 Q. And we've got another \$2,554 to the Sumter
23 County Treasurer. What was that for?

24 A. Sumter County taxes.

25 Q. On which property, the house in Sumter?

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1 A. Correct.

2 Q. And then there's \$2,468.40 and that's to
3 Caroline Security Systems.

4 A. That would be the security system for the
5 Santee house.

6 Q. And that's the property that was left to you
7 in the will?

8 A. That's correct.

9 Q. And you used the estate money to pay that?

10 A. I used the estate money to pay the estate
11 fees on the house at Santee, yes.

12 Q. All right. And then we've got a Sears lawn
13 mower.

14 A. Correct.

15 Q. Now, you paid \$1,998.59 for a lawn mower?

16 A. I did.

17 Q. Did Mr. Dickson have any use for a lawn
18 mower?

19 A. He did not, but Mr. Haggerty did that took
20 care of the property.

21 Q. Mrs. Dickson didn't have any use for a lawn
22 mower either, did she?

23 A. No.

24 Q. So you bought a \$1,900, almost \$2,000, lawn
25 mower from Sears so that the yard man that

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1 was maintaining the property that you
2 inherited could cut the grass?

3 A. That's correct.

4 Q. And you used estate money to do that?

5 A. That is.

6 Q. Now, according to this will, the Dickson boys
7 would have gotten \$1,000 a piece. They
8 didn't get that, did they?

9 A. It hasn't been closed. They will.

10 Q. I see. Well, how much money do you have
11 left?

12 A. It's written down in here.

13 Q. Well, according to this, you had -- you were
14 going to give them \$468 a piece.

15 A. Correct. No, that's the money that's left
16 over.

17 Q. I see. I got it. Now, let's go back and
18 talk about it. We have another, after you
19 bought the lawn mower with estate money, you
20 paid \$1,660 to the City of Sumter. What was
21 that for?

22 A. The water bill at the Sumter house.

23 Q. Well, who was using the water? Mr. Dickson
24 wasn't using it and Mrs. Dickson wasn't using
25 it, right?

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1 A. Correct.

2 Q. Well, who was using \$1,600 worth of water?

3 A. (Laughter is heard.)

4 Q. I promise, I'm not trying to be funny.

5 A. I know.

6 Q. Why did you find that funny?

7 A. I just am kind of amazed maybe the thinking

8 on this.

9 Q. Sir, you recognize that you have fiduciary

10 responsibilities, don't you?

11 A. I do and I maintain that greatly.

12 Q. Right, I see. Just like we're talking about

13 here today, you maintain your fiduciary --

14 okay, good. The \$1,600 was for what?

15 A. The water bill.

16 Q. And then the Mr. Watson was to appraise

17 something. What did Mr. Watson appraise?

18 A. Your clients requested that the property down

19 in Santee and the Sumter house be appraised

20 and that paid for that.

21 Q. Here's a check to Sandy Beasley --

22 A. Uh-huh.

23 Q. -- for \$2,481 out of the estate. Who is

24 Sandy Beasley?

25 A. My wife.

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1 Q. How old is she?

2 A. How old is she?

3 Q. That's my question. Yes, sir.

4 A. She's 62.

5 Q. And you paid her \$2,481 out of the estate for
6 yard work?

7 A. I paid her over ten years of time. She would
8 come down with me and worked her tail off.
9 And, actually, there are 500 hours that I
10 have not paid her to do and that's she's just
11 -- but yes, I would reimburse her when she
12 would come down here and work.

13 Q. Does she have a business license?

14 A. She does not.

15 Q. Did she pay income taxes on that \$2,400?

16 A. She probably does, yes.

17 Q. Did you withhold any tax?

18 A. I did not.

19 Q. Did you pay her by the hour?

20 A. I did.

21 Q. She's not in that particular line of work, is
22 she?

23 A. What?

24 Q. Yard work?

25 A. She's excellent.

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1 Q. That's not her line of work, though, she's
2 not in that business?

3 A. No. She works for a caterer.

4 Q. I see. Well, does she do yard work for
5 anybody else except for work on the property
6 that was left to you in Santee, South
7 Carolina?

8 A. She works around the house.

9 Q. And, of course, you pay her for that, right?

10 A. She's my wife, yeah. I pay her in love, I
11 sure do.

12 Q. I'm talking about money. Do you pay her for
13 the work that she does around the house?

14 A. No.

15 Q. I see. Clarendon Exterminating, you paid
16 them \$800 to do what?

17 A. Service the -- I guess it would be the Santee
18 property extermination.

19 Q. And here is \$732 to Greens Toyota paid out of
20 the estate.

21 A. Yeah.

22 Q. What did you pay them for?

23 A. That would have been on the Ford Explorer,
24 new tires before I sold it and also just
25 servicing it.

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1 Q. But you never drove that, did you?

2 A. No.

3 Q. Nobody in your family ever drove it?

4 A. No.

5 Q. HR Aven (sp) and Associates, \$765, who are
6 they?

7 A. HR Aven, that's bookkeeping. She would do, I
8 guess, their book work.

9 Q. Whose book work?

10 A. Dick and Mema's, their income taxes, but
11 that's also filing income taxes for the
12 estate too.

13 Q. Boykin Air Conditioning, \$539, which property
14 was that on?

15 A. Probably Boykin, that would have been the
16 Sumter property.

17 Q. When did you pay that money for the house
18 that your sister was left?

19 A. When did I pay that?

20 Q. Sure.

21 A. I'm not certain of the date or time, but that
22 would have been the contract to service the
23 air conditioning unit on the Sumter house.

24 Q. The \$489 to Terminix, what was that for?

25 A. That would have been the Sumter house.

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1 Q. Stukes Heating and Air, \$491, what was that
2 for?

3 A. That would have been the Santee property.

4 Q. Wholesale Tires, what was that for?

5 A. That would have been servicing and probably a
6 tire or two on the Delta.

7 Q. Lowes, what was that for?

8 A. That would have been purchasing items for
9 either the Sumter or the Santee house, fixing
10 fixtures and things like that.

11 Q. Roy's Electric and Plumbing, what was that
12 for?

13 A. Roy's Electric and Plumbing, that may have
14 been some of the issues at the Santee house
15 and/or the Sumter house. I would have to
16 look at that.

17 Q. Now, sir, neither Mr. or Mrs. Dickson weren't
18 watching television, were they?

19 A. What was that?

20 Q. Mr. and Mrs. Dickson weren't watching
21 television, were they?

22 A. They did before they died.

23 Q. After they died? After they died, they
24 didn't do that, did they?

25 A. Right.

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1 Q. Here is \$182.96 for Time Warner Cable.

2 A. Correct.

3 Q. So you paid the cable bill for one of these
4 two houses out of the estate, which house was
5 that for?

6 A. That would have been the Sumter house.

7 Q. So the house that your sister inherited kept
8 cable tv and that was paid for out of the
9 estate?

10 A. I left it on probably for three or four
11 months after his death because we were in and
12 out fairly quickly and then closed it out
13 towards the end of the year, 2008.

14 Q. Here is Walmart, \$125.75, what was that for?

15 A. That would have been items purchased for
16 either the Santee or the Sumter property.

17 Q. Hill Plumbing?

18 A. That's correct.

19 Q. What was that for.

20 A. That would be for plumbing.

21 Q. At one of the two houses?

22 A. Correct.

23 Q. Quinn B. with yard work. Who is Quinn?

24 A. That's my son.

25 Q. You paid your son \$80.00?

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1 A. I did. He put in about eight hours at the
2 Sumter house. I probably owe him for another
3 hundred or so hours, but I did reimburse him
4 for that.

5 Q. Here is the -- I'll just go ahead -- Art
6 Beasley --

7 A. Uh-huh.

8 Q. -- was paid \$24,444.23 for what so-called
9 reimbursement. Do you see that?

10 A. I sure do.

11 Q. When did you get paid that?

12 A. I began paying myself mileage and food coming
13 down here for estate business.

14 Q. You ate \$24,000 worth of food.

15 A. Mileage and food.

16 Q. Well, how many times did you come down here?

17 A. (Laughter is heard). I averaged about --

18 Q. You're laughing again.

19 A. I am, because remember you are responsible
20 for a lot of this because we would come down
21 for a probate hearing and it would be
22 cancelled three times. I was already in the
23 state. And so, therefore, the mileage for
24 the trip down here and the food that I ate on
25 the trip, was that.

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1 Q. Sir, we've had about seven or eight different
2 hearings in this case and that basically is
3 all. So you're telling me that mileage and
4 food is what that \$24,000 reimbursement was
5 for?

6 A. That's correct.

7 Q. If I wanted to see the mileage log and the
8 food bills that that \$24,000 represents,
9 where can I go to see it?

10 A. Right over there (indicating).

11 Q. And here is Art Beasley, \$17,715 PR fee. I
12 thought you told me that you hadn't charged a
13 PR fee?

14 A. This is inventory and assessment, if it's
15 approved, that would be the check that would
16 be written.

17 Q. Oh, well, this thing says disbursements and
18 distributions. That distribution has not
19 been made yet, correct?

20 A. Correct.

21 Q. How do you arrive at \$17,715?

22 A. I kept a log of my time. And I put in a
23 minimal amount 1,288 hours.

24 Q. Sir, if I look at these expenditures --

25 A. And I reimbursed myself about \$14.00 an hour

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1 for that particular time and it would come up
2 to about that amount.

3 Q. If I look at the expenditures that you have
4 listed on that sheet, it appears that
5 somewhere in the neighborhood of \$100,000 of
6 estate money was spent on property left to
7 either you or your sister. Are you charging
8 a commission based upon expenditures of money
9 or money that went in to preserve your
10 property or property left to you or your
11 sister?

12 A. I'm charging expenditures based on my time.
13 And this would have been a lot quicker, but
14 probably 20 to 22 of those trips are directly
15 related to legal aspects and trips down here
16 that get cancelled. And, therefore, you
17 know, that was just the way the game was
18 played.

19 Q. Are you retired?

20 A. No, I'm not.

21 Q. You're a minister?

22 A. Correct.

23 Q. What church do you purport to be a minister
24 of?

25 A. Do I purport to be?

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1 Q. That's my question, yes, sir. What church do
2 you purport to be a minister of?

3 A. Do you want to know where I serve?

4 Q. No, sir. I want to know what denomination
5 you claim to be ordained by.

6 A. I hold two ordinations, one in Southern
7 Baptist and one in Missionary Lives.

8 Q. All right. And are you employed full-time as
9 a pastor?

10 A. I'm a transitional pastor, yes.

11 Q. How much do you make a year as a pastor?

12 MR. BEASLEY: Do I need to answer that?

13 THE COURT: Yes, sir.

14 MR. BEASLEY: Okay.

15 A. About \$72,000.

16 Q. And how many hours do you claim to have spent
17 to have earned \$17,715?

18 A. In my previous answer, I said 1,288 hours,
19 and that's less than \$14.00 an hour.

20 Q. If you take a 40 hour week and multiply it by
21 30, that would basically be 1,200 hours. I
22 want to make sure that I understand that you
23 have spent the equivalent of 30 weeks working
24 full-time on this estate?

25 A. I have, over the course of 11 years, spent

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1 about 120 hours a year on this particular
2 stuff, driving up here, answering questions,
3 submitting information, making deposits,
4 making payments.

5 Q. Where are the silver dollars.

6 A. I have no idea what you're talking about.

7 MR. MOORE: Your Honor, may ask that this lady
8 either be asked to restrain herself from
9 snickering or laughing at me or that she be
10 asked to leave the courtroom?

11 THE COURT: Okay. Please keep the noise down in the
12 courtroom.

13 Q. What happened to Mr. Dickson's silver
14 dollars?

15 A. I do not know.

16 Q. Thank you, Pastor.

17 MR. MOORE: Nothing further, Your Honor.

18 THE COURT: Mr. Seth?

19 MR. SETH: Thank you, Your Honor. If I may, do you
20 still have the accounting paperwork?

21 THE COURT: Correct.

22 MR. SETH: Your Honor, is your file complete? Have
23 you got the inventory?

24 THE COURT: I do have that.

25 MR. SETH: Both pages?

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HEARING

1 THE COURT: Both pages.

2 MR. SETH: All right. Thank you.

3 ARTHUR B. BEASLEY, JR. - CROSS-EXAMINATION BY MR.

4 SETH:

5 Q. Did you rent out the Santee property?

6 A. I did.

7 Q. And -- you don't have it in front of you, do
8 you?

9 A. I do not.

10 Q. That line three on the receipts, is that the
11 amount of rent money that you received?

12 A. That is, \$16,960.

13 Q. And that was part of the cash flow that
14 allowed you to pay --

15 A. Correct.

16 Q. -- taxes and insurance along with the sale of
17 the other various assets?

18 A. Yeah. One of the -- at a portion during all
19 of this, the cash flow got tight. Therefore,
20 I put some things on personal credit cards.
21 And after the cash flow built up, shortly
22 after that, I sold the pontoon and the speed
23 boats for \$11,300 and also the Ford Explorer,
24 and I was able to pay the property taxes and
25 the HVAC and that put it in better standing.

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1 And then the rent money and also what Russell
2 was paying in was able to carry that down the
3 road well.

4 Q. And by Russell, you mean Russell Purvis?

5 A. Yeah, Russell Purvis, yeah, from the
6 business.

7 Q. So essentially the asset that you -- was
8 generating income was the Santee property?

9 A. Yes.

10 Q. And the second was the note from the sale of
11 Master Shoe Rebuilders?

12 A. Correct.

13 Q. That's the only asset that you had from
14 Master Shoe Rebuilders was the note with the
15 mortgage attached?

16 A. That's right.

17 Q. You answered the questions about the boats.
18 I was very confused by the examination that
19 was given on what is on the property in
20 Santee. So if you could please tell the
21 Court what is it? We understand six lots.

22 A. Correct.

23 Q. There was a Pace Arrow. Is that a mobile
24 home or an old car or --

25 A. No, actually, when they got married, they

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1 wanted to actually kind of home down there on
2 the Santee property but it had no house on
3 the property. And Dick bought a used Pace
4 Arrow and put it up on the property. He put
5 a septic tank in, it went right on. And
6 after they got married, later that evening,
7 they went down there to it. The only problem
8 with that is they left it sitting. And then
9 they put a mobile home, they put a porch on
10 the front, they added a Florida room on the
11 back. And so it's a permanent, it cannot be
12 moved, with an open carport. And he left the
13 Pace Arrow just sitting to the right of the
14 mobile home and they kept it closed up. It
15 deteriorated over time. And I looked in it
16 and I wouldn't sell it because the ceiling
17 was coming down. And a guy came by that
18 actually Mr. Bob Haggerty suggested that
19 there might be a gentleman that might want
20 some of it for parts. And I negotiated with
21 him, if he would come look at it, and I would
22 give him the Pace Arrow if he would pull it
23 off the property so that I didn't have to pay
24 anything from the estate. And he said he
25 would take it, he would like it for parts,

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1 and he moved it. There was really no value
2 at that particular time. It was just not
3 kept in good condition.

4 Q. Clear up for me the money that BB&T. Your
5 recollection was there was \$700 in the
6 account. In the inventory and appraisement,
7 some \$10,500 was listed. Do you know where
8 that additional cash came from?

9 A. You know, I'm not sure, other than payments
10 were made. When my mother died, there was a
11 check on the table when I got there for --
12 oh, from Russell, for the business. And I
13 deposited that, I think, in Dick's account.
14 And he got his Social Security money. So,
15 you know, cash that would have come in at
16 that particular time.

17 Q. Okay. Now, the life insurance policy that
18 you were talking about, that was -- it paid
19 your mother's funeral bill.

20 A. Uh-huh.

21 Q. It paid Dick's, your father, your
22 stepfather's bill, and then the rest of the
23 money went into the account as well and it's
24 accounted for?

25 A. It went into Dick's checking account at BB&T.

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MTLF000350

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HEARING

1 And then it eventually slid over into the
2 estate account.

3 Q. The boats that you talked about. The deed of
4 distribution was filed with the Court so it
5 would be of record, it would be on record
6 here in the courthouse, and that would be the
7 best date as to how long that was in the
8 estate. Why didn't you deed it out to your
9 sister before the estate was finished?

10 A. The reason I chose to do that was that they
11 were getting I think a homestead or a
12 homeowners tax exemption. So the tax on the
13 Sumter's house was about \$900. And I paid
14 that for two or three years and then all of a
15 sudden it ballooned up to \$4,000. And
16 because it was a part of the estate, and I
17 chose at that time, that was a lot of money,
18 that since that piece of property was not in
19 question, I wanted to go ahead and give it to
20 my sister and she could absorb the tax cost.
21 And that was really a good thing for the
22 estate. It allowed us to function well.

23 Q. And why then did you not deed the property
24 out to yourself on the Santee property?

25 A. I was told that until this got settled it

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1 would not be wise to do that. If we could
2 have done that, it would have saved a lot of
3 money. But, you know ...

4 Q. The litigation regarding the Santee property,
5 it went up through the Court of Appeals?

6 A. Correct.

7 Q. And that was resolved, if you recall, when?

8 A. Was it 2016 or -- 2016 or something like
9 that. And then it came back to us to then
10 begin to do an I&A. And so we began to work
11 on that and then that's when I began to
12 provide your secretary, Jennifer McLeod, the
13 checks with the receipts with each statement
14 going all the way back to October of 2008.

15 Q. Now, much ado has been made about your
16 mother's personal effects. We don't have
17 mother's inventory and appraisal here, but
18 all of that went to father, your stepfather,
19 and it stayed in the house?

20 A. Correct.

21 Q. The property that was in the house, do you
22 have the language in the will as to your
23 stepfather to sister?

24 A. All of that I would assume --

25 Q. Just a second. Okay. That would be Item 3,

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1 Paragraph 3. If you would just read that
2 briefly. And then does it not say that the
3 house and the contents of the Sumter property
4 go to your sister Lynda?

5 A. It does.

6 Q. And then similarly, Item 3, Paragraph 2, does
7 it also say the Santee property and the
8 contents?

9 A. It does.

10 Q. Thank you. Much ado has been made about a
11 jar of silver coins or silver dollars. Are
12 you aware of any?

13 A. I am not.

14 Q. Have you seen a jar of silver dollars? Are
15 you aware of Mr. Dickson having antique coins
16 of that nature?

17 A. I am not.

18 Q. How long did you know Mr. Dickson before he
19 passed away?

20 A. Eighteen years. I was with him when he
21 passed away.

22 Q. Now, I don't ask this question to cast
23 dispersion on her sons, but how often did the
24 sons visit to be aware of what personal
25 property their father owned over the last

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1 three years of his life?

2 A. I'm not certain about that. I'm not sure it
3 was a regular basis. I do know --

4 Q. If you're not sure, I don't want to put you
5 on the spot.

6 A. Yeah.

7 Q. That's fine. Twenty-four thousand dollars
8 sounds like a heck of a lot of money. How
9 much does it cost in mileage and meals that
10 you were -- you were stationed in Kentucky?

11 A. I was in Kentucky and the last year I've been
12 traveling from Ohio, and that's about 625
13 miles one way.

14 Q. And then roughly what is that per trip?

15 A. It would be about \$800 on average, I guess,
16 depending on, you know, travel around here
17 and expense. Sometimes I would drive down
18 and go straight back, other times I would try
19 to piggyback, you know, legal stuff, probate
20 hearings and things like that, bunch it
21 together.

22 Q. And in a question or comment from Mr. Moore,
23 he said that there were only about six
24 hearings that you would have been involved in
25 coming from Kentucky for litigation that he

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1 or his office was in charge of. Is that your
2 recollection?

3 A. Well, the normal thing was this. We would
4 set up a probate hearing and it would be
5 cancelled three times. We would have a
6 probate hearing and then they appealed it.
7 Cancelled three times, we'd have a probate
8 hearing. And even in the civil court, there
9 was a cancellation and then there was another
10 civil court hearing and then this has had two
11 hearings. So there were several
12 cancellations. Plus you had depositions,
13 litigation, etcetera, etcetera.

14 Q. The cancellations, when would you get notice
15 of these cancellations?

16 A. Normally after I was already here.

17 Q. Now, are there other reimbursements in there
18 other than travel and meals? I think you had
19 said at one point you stayed at the hotel
20 versus the Sumter house.

21 A. Correct. There -- some of the -- we would
22 purchase like -- you know, after the renters
23 left we wanted to come down and look at it.
24 And we purchased cleaning materials and
25 things like that for the property down there,

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1 to clean it and etcetera. I think one time I
2 bought a cheap vacuum cleaner from Walmart
3 for about \$40 so that we could vacuum it and
4 etcetera.

5 Q. And the information is available there if the
6 Court needs to see it as to any of those
7 expenditures. Do you stand behind the
8 accounting and proposal for the
9 distributions, the exact amounts that would
10 go out?

11 A. Yes, I do.

12 Q. And I think you handled it well on direct as
13 an adverse witness as to the justification
14 for the \$17,000. Do you know the statutory
15 fee would be five percent?

16 A. Correct.

17 Q. The litigation has extended this estate file
18 for ten years?

19 A. Correct.

20 Q. And your hours that you -- have you logged
21 them or how did you keep track of those?

22 A. I wrote them down. I have itemized time from
23 I think it's November of 2011 to June of 2018
24 when we filed the I&A. And --

25 Q. Actually it's the accounting.

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- 1 A. Oh, excuse me, the accounting. And I
2 estimated that the previous three-and-a-half
3 years, which were the most time intensive,
4 was about 350. So there's 950 plus
5 documented hours and I estimated based on
6 that about 125 hours per year for three years
7 before that and added that to the 950 coming
8 up with 1288. And I've got that over there.
- 9 Q. And that was administering the Santee
10 property, providing for the guy to lease it,
11 administering the income producing note.
12 You supervised the sale or I guess the
13 closeout of that loan?
- 14 A. Correct.
- 15 Q. And was he always a steady pay, always on
16 time?
- 17 A. Yes. When I took it over he was several
18 months behind, but he paid consistently up
19 until then. And I think he began to realize
20 he was losing a desire to run the business,
21 but he was ...
- 22 Q. And you had to deal with the lawyer for his
23 lawyer to close out the --
- 24 A. Correct.
- 25 Q. You had to deal with me as the attorney for

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1 the estate. I'm sure that was very pleasant.

2 A. Yeah.

3 Q. You also had to deal with Mr. Young, who is
4 the lawyer for -- he represented you on those
5 appeals, is that correct?

6 A. Yes. And I'm sure there are a lot of lost
7 hours, you know, in answering questions from
8 your secretary who was itemizing things and
9 clarifying and, you know, just work that you
10 do that is actually estate related.

11 Q. Are you requesting that the Judge approve the
12 \$17,750?

13 A. I would, yes.

14 Q. And you're asking that he approve the
15 accounting and allow those other
16 distributions to go to the other
17 beneficiaries --

18 A. Correct.

19 Q. -- per the will?

20 A. Correct.

21 Q. Thank you.

22 THE COURT: Mr. Moore?

23 ARTHUR B. BEASLEY, JR. - RE-DIRECT EXAMINATION BY

24 MR. MOORE:

25 Q. Sir, you were asked a question about how

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1 often my clients visited. The last three
2 years of these people's lives, where were you
3 living?

4 A. I was living in Kentucky.

5 Q. Thank you, sir.

6 MR. MOORE: Nothing further, Your Honor.

7 MR. SETH: No further questions, Your Honor.

8 THE COURT: All right. You can step back to your
9 seat.

10 MR. MOORE: Your Honor, we call Milton Dickson, very
11 briefly.

12 Whereupon,

13 MILTON DICKSON, being duly sworn and
14 cautioned to speak the truth, the whole
15 truth, and nothing but the truth, testified
16 as follows:

17 THE COURT: All right, thank you, sir. Have a seat,
18 please, sir. And please state your full name for
19 the record please.

20 MR. DICKSON: Milton Oakley Dickson, Jr., I mean Sr.

21 THE COURT: Please answer any questions that Mr.
22 Moore may have for you, sir.

23 MILTON DICKSON - DIRECT EXAMINATION BY MR. MOORE:

24 Q. You forgot if you were a junior or a senior?

25 A. Exactly, yeah.

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HEARING

1 Q. What do you do for a living?

2 A. Shoe cobbler.

3 Q. How long have you been a shoe cobbler?

4 A. Since I was ten years old.

5 Q. All right. Now, there are some things that
6 I'm not going to ask you about. Your
7 stepmomma was married to your daddy for how
8 long?

9 A. Sixteen, seventeen years.

10 Q. What did you call her?

11 A. Melba.

12 Q. Melba had a diamond ring?

13 A. Yes, sir.

14 Q. Was it a fake diamond or was it a real
15 diamond?

16 A. It was a real diamond.

17 Q. How big was it?

18 A. It was a pretty good size.

19 Q. When she died, did you ever talk to Mr.
20 Beasley about what happened to that ring?

21 A. Yes, I did.

22 Q. What did he tell you?

23 A. He took it off her finger out of the casket
24 and put it in a bag because it was her ring.

25 Q. Have you ever seen that ring again?

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HEARING

1 A. No, sir.

2 Q. Did your daddy have a watch?

3 A. Yes, sir.

4 Q. What kind of watch was it?

5 A. A Rolex.

6 Q. When this whole thing first started, did Mr.
7 Beasley give you a watch and tell you it was
8 your daddy's?

9 A. We were in Seth's office and we were sitting
10 there and Art came in and threw the watch
11 across the table to my younger brother,
12 Eugene, and said this is your daddy's watch
13 as a joke. Daddy didn't own a Timex, daddy
14 owned a Rolex.

15 Q. What kind of watch was it, was it a Timex or
16 a cheap watch?

17 A. Yes, sir.

18 Q. Do you know what ever happened to your
19 daddy's Rolex?

20 A. No, sir.

21 Q. But daddy had a Rolex when daddy died?

22 A. As far as I know.

23 Q. Silver dollars?

24 A. Yes, sir.

25 Q. Did these two have a bag of silver dollars?

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HEARING

- 1 A. Yes, sir.
- 2 Q. I was calling it a jar, but it was a bag?
- 3 A. It was a bag.
- 4 Q. Tell me roughly how many silver dollars were
- 5 in that bag?
- 6 A. Five hundred to six hundred silver dollars.
- 7 Q. It must have been a big bag.
- 8 A. It was a pretty good bag.
- 9 Q. Show me about how big the bag was.
- 10 A. Well, I mean, so big that him and her
- 11 couldn't tote it from the shoe shop when
- 12 Russell PUrvis give it to him.
- 13 Q. Were you there when Russell gave it to them?
- 14 A. No, sir.
- 15 Q. But you've seen it?
- 16 A. I've seen it. Yes, sir. It stayed in my
- 17 daddy's freezer for years.
- 18 Q. All right. Now, I want to talk about the
- 19 antiques that were in the shoe shop. Did
- 20 your daddy have a bunch of antiques in the
- 21 shoe shop?
- 22 A. Yes, sir.
- 23 Q. Now, he was kind of an antique collector,
- 24 wasn't he?
- 25 A. Yes, sir.

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HEARING

1 Q. Now, are we talking about furniture or
2 something else?

3 A. Furniture and anything you could imagine from
4 jugs, bottles.

5 Q. Where was his shoe shop?

6 A. In Sumter, South Carolina.

7 Q. What street?

8 A. All I can -- I can't think of the name of the
9 street right this minute but going out to
10 Shaw Air Force Base on the left-hand side.

11 Q. Did you learn how to fix shoes there?

12 A. No, sir. In Brightsville, South Carolina.

13 Q. All right. How many different pieces of
14 stuff did he have accumulated?

15 A. Hundreds. I mean, he had them in his shoe
16 shop, he had them in his shed in Santee. He
17 had them all over both houses, so there were
18 hundreds of them.

19 Q. Tell me what happened to those?

20 A. I have no idea.

21 Q. Now, Melba's estate was left to your dad, is
22 that right?

23 A. That's correct.

24 Q. And even for today, do you have any
25 accounting of what came into your dad's

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1 estate through Melba's estate?

2 A. No, sir.

3 Q. To your knowledge did Melba have a good bit

4 of money of her own?

5 A. Yes, sir.

6 Q. Is there a mobile home in Sumter?

7 A. Yes, sir.

8 Q. Is it underpinned?

9 A. Yes, sir.

10 Q. Is it moveable?

11 A. Yes, sir.

12 Q. And is today the first time you've seen this

13 breakdown with the money that he claims to

14 have spent?

15 A. Yes, sir. I actually haven't seen it, but

16 hear about it, yeah.

17 Q. Thank you, Milton. Would you answer any

18 questions they may have for you.

19 MILTON DICKSON - CROSS-EXAMINATION BY MR. SETH:

20 Q. So part of the personal property that you're

21 concerned about is in the Santee house and in

22 the house in Sumter?

23 A. I don't know where all the antiques are. We

24 were locked out. After daddy's death, we

25 were not able to go into the house at all or

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1 the Santee property. We have not been in it
2 in 11 years.

3 Q. From your prior knowledge, I thought you
4 testified that those antiques were all over?

5 A. Yes, sir.

6 Q. When was the last time you saw this bag of
7 silver coins?

8 A. Years ago. I haven't seen it since he's
9 passed away.

10 Q. I understand.

11 A. Yes.

12 Q. When you say years ago, do you mean years
13 before your father passed?

14 A. All I can tell you is I have not seen it
15 since he's passed, no.

16 Q. What I'm trying to establish --

17 A. Right.

18 Q. -- you're making a serious allegation and I
19 want to treat it seriously.

20 A. Yes, sir.

21 Q. You identified the bag, an unknown quantity,
22 just a large bag of silver coins.

23 A. Uh-huh.

24 Q. When did you last see it?

25 A. Years ago. I don't know exactly how many

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1 years ago. I mean, I could say --

2 Q. Please put it in relation to your father's
3 passing, how many months or years prior to
4 your father's passing did you see it?

5 A. Probably 20 years ago.

6 Q. And your dad has been deceased for ten years?

7 A. Yes. But can I make a comment?

8 Q. No.

9 A. No, okay.

10 Q. I mean, if it answers my question, I don't
11 want to cut you off.

12 A. Okay. Art's handling Russell Purvis' money
13 and stuff. Russell Purvis gave the bag to
14 Melba and Herbert at the shoe shop before
15 they passed away and that's the last time I
16 know of anybody seeing the bag. Russell
17 Purvis seen the bag of money and had it in
18 his hand.

19 Q. Okay.

20 A. And he gave it to them.

21 Q. So Russell must have told you that, but --

22 A. I knew that he had that. I mean, I provided
23 that --

24 Q. But you've not seen it?

25 A. No.

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HEARING

1 Q. Is Mr. Purvis here?

2 A. No, sir.

3 Q. The three gentlemen are --

4 A. Are my brothers.

5 Q. -- your brothers?

6 A. Right.

7 Q. Okay. I see. When you say -- do you
8 understand the difference between probate
9 property and non-probate property? For
10 instance, the life insurance on your father's
11 life?

12 A. Right.

13 Q. That you and your brothers received the
14 benefit of, that was non-probate property
15 that passed outside of the will.

16 A. Yes.

17 Q. And it doesn't get reported in the will, you
18 understand that?

19 A. I understand that. Yes, sir.

20 Q. So if Ms. Melba had money, but she had her
21 son survivorship on the account, that
22 wouldn't get reported in her estate and you
23 understand that?

24 A. Yes.

25 Q. Okay. And when you say she had good money,

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1 what are you inferring?

2 A. Property that she had that I knew about when
3 she lived with my daddy, talking about the
4 property that she had in Alabama and
5 apparently it was sold. She had a house
6 prior to their getting married, she sold that
7 house and came into the house where my daddy
8 was living. There's none of that money that
9 showed up on any estate.

10 Q. Okay.

11 A. But I reckon she spent all of that too.

12 Q. Were your parents, it's been my experience
13 and I don't know if it's yours, but --

14 A. Yes.

15 Q. -- but folks of your dad's generation were
16 generally very tight with any financial
17 information as to their wherewithal, what
18 they were doing, what they were paying, what
19 they owed.

20 A. Yes.

21 Q. Was your dad that way?

22 A. I can tell you my dad was that way.

23 Q. I got you. I understand.

24 A. Uh-huh.

25 Q. So if he sold the shop in 2005, for example,

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1 and I'm assuming that he got some kind of
2 lump sum down payment, and then we have no
3 idea what he did with it. We do know that he
4 was pretty debt free.

5 A. Yes, sir.

6 Q. He only had about \$2,800 owing at the time of
7 his passing.

8 A. As a matter of fact, yeah, he was debt free
9 from the time he moved to Sumter.

10 Q. Well, I thought you said your dad was very
11 tight about his financial information.

12 A. Knowing that he was debt free and didn't owe
13 anything, yes, I know he didn't owe any money
14 other than the first shop he was in. He had
15 to rent and pay for it before he moved out
16 there where the shop was now that he sold to
17 Purvis.

18 Q. He paid cash for the Santee property?

19 A. For the Santee property, I pretty much think
20 he did pay cash for the Santee properties.

21 Q. He didn't owe \$2,800 on the Sumter house?

22 A. He didn't owe \$2,800? No, I'm not talking
23 about the Sumter house, I mean, I'm talking
24 about the shoe shop. He probably had
25 finances on the house, but I don't know about

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1 that.

2 Q. Oh, okay.

3 A. That's in that statement, yeah.

4 Q. On his business, he tried to operate that
5 debt free as best he could?

6 A. Yes, sir.

7 Q. All right. Other than the watch you talked
8 about, was there any other personal property
9 delivered to any of your brothers?

10 A. Not that I know of. No, sir.

11 Q. Was there any specific outreach to say if
12 there was something that you wanted or needed
13 specifically to let him know, to let Mr.
14 Beasley know?

15 A. No, sir, other than Art told us we could have
16 all his western boots. And we said, no, we
17 didn't want to do it at that time, that was
18 the day that he passed away. And --

19 Q. Did any of you make inquiry, even through
20 counsel or otherwise, requesting specific
21 things of your fathers?

22 A. Yes, sir. My older brother sent a letter to
23 you requesting information about where
24 everything was and that was never answered.
25 We had no response whatsoever from --

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1 Q. I wasn't asking where things were, I was
2 asking for specific items.

3 A. I don't know what his letter to you
4 addressed.

5 Q. Okay.

6 A. But I know he showed me a letter out in the
7 hall that he had mailed to you that never was
8 answered.

9 Q. And I don't want to argue with you --

10 A. No.

11 Q. -- I'm just asking a simple question. You
12 never requested with Mr. Beasley any specific
13 items of your fathers?

14 A. No, sir.

15 Q. Okay.

16 A. The only thing that I would want from Mr. Art
17 Beasley is that my daddy would be alive and
18 in the house too. I said the same thing in
19 February when my momma passed away and I'm
20 working with her estate right now.

21 Q. It's not in any of our power, is it?

22 A. No, sir. We all have to answer and stand
23 before him one day.

24 Q. No further questions.

25 A. Okay.

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11/13/2018

HEARING

1 MILTON DICKSON - RE DIRECT EXAMINATION BY MR. MOORE:

2 Q. Milton, you talked about the letter that was
3 sent that did not have a response. Was it
4 this letter dated January 29, 2009 be the one
5 you're talking about?

6 MR. SETH: Objection. Your Honor, it can only be
7 hearsay.

8 MR. MOORE: He basically identified it as an actual
9 document --

10 MR. DICKSON: I can see that this --

11 MR. MOORE: No, don't talk for a second. I'm simply
12 asking him that this document is in fact the
13 letter that he was talking about when he was
14 on cross-examination by Mr. Seth. He could
15 identify it and the document can speak for
16 itself. It's a document.

17 MR. SETH: It's an out of court statement to
18 establish that it was sent. I have no doubt
19 that his brother sent the letter, but if he
20 wants the letter in evidence, he needs to
21 call the brother and I would like to see what
22 it says.

23 THE COURT: I'll sustain the objection.

24 MR. MOORE: Thank you, sir.

25 THE COURT: Yes, sir.

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HEARING

1 MR. MOORE: Your Honor, if I might call Eugene
2 Dickson?

3 (OFF THE RECORD)

4 EUGENE DICKSON - DIRECT EXAMINATION BY MR. MOORE:
5 Whereupon,

6 EUGENE DICKSON, being duly sworn and
7 cautioned to speak the truth, the whole
8 truth, and nothing but the truth, testified
9 as follows:

10 THE COURT: Okay. Have a seat please, sir.

11 Q. Your name is?

12 A. Eugene Dickson.

13 Q. You're Mr. Dickson's son?

14 A. The youngest, yes.

15 Q. A short time before Mr. Dickson passed away,
16 did you see the silver dollars?

17 A. I never seen them opened up. I knew what
18 they were because Ms. Melba, she couldn't
19 pick them up, he couldn't pick them up. He
20 had just come from dialysis and I was working
21 at the shoe shop.

22 Q. How long was it before he died that you saw
23 the container?

24 A. Probably a month.

25 Q. Thank you, sir.

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1 THE COURT: Answer any questions that Mr. Seth may
2 have.

3 EUGENE DICKSON - CROSS-EXAMINATION BY MR. SETH:

4 Q. When Mrs. Dickson died, your stepmother, did
5 you all go over to the house?

6 A. I guess you could say after the funeral,
7 yeah.

8 Q. And went into the home?

9 A. Uh-huh.

10 Q. Did any of your brothers go into the home?

11 A. All of us was there.

12 Q. Do you have any idea where this bag, you say
13 you didn't look in it, but do you know where
14 it was kept?

15 A. It was kept at the shoe shop. I was working
16 at the shoe shop when I seen it. And I asked
17 what it was because I was working on the
18 shoes, gluing them together and letting them
19 dry. I probably had five or six pair. And
20 like I said, he couldn't pick them up, she
21 couldn't pick them up. So they asked a black
22 man that worked for him, his name was
23 Charlie, Charlie go back there. Well, he had
24 layers and layers of sole in sheets on top of
25 it. And I had been working right over them

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1 and they pulled them out. And I said, what
2 is that? They had it in an ammunition case
3 about like that and a big guy, 200 plus
4 pounds, couldn't even hardly pick it up. And
5 I said, what's in it? And --

6 Q. I'm not asking you for what Mr. Dickson said.

7 A. He couldn't talk hardly.

8 Q. I'm not asking what Mr. Dickson said, let's
9 make that clear. I don't want that hearsay
10 in the courtroom. You've got to paint the
11 painting better for me because the shoe shop
12 was sold in 2005.

13 A. 2005. He had gone to dialysis. He was on
14 dialysis.

15 Q. So the last you saw it, your father was
16 working in the shop?

17 A. Well, he had come in to get what he was
18 after. He was taking his stuff, I guess his
19 personal belongings. He knew he was going to
20 sell the shop and he was probably getting
21 them out of there.

22 Q. So it was before 2005?

23 A. Probably before. I don't know exactly how
24 long.

25 Q. And that's the last time you saw those?

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1 A. The last time I saw those.

2 Q. The only time you saw them?

3 A. No, I've seen them all through my life.

4 Q. Okay.

5 A. I've seen them all through my life. He's had
6 them, like they said, kept in a freezer, hid
7 in the freezer under food. He got them from
8 his grandmother, you know, and I mean they've
9 been passed down for generations.

10 Q. So from 2005 until he passed in 2008, you
11 didn't see it and you don't know what
12 happened to it?

13 A. It was that 2005. It wasn't 2005. It
14 couldn't have been that long.

15 Q. Well --

16 A. When he got sick I was working for him. I
17 can't tell you what date it was, but he was
18 real sick. He couldn't hardly walk into the
19 shop. When he walked in, he sit down at his
20 sewing machine. He couldn't even walk to the
21 bathroom or nothing. He told the fellow to
22 go back there and look under there and bring
23 the --

24 Q. I don't want to know --

25 A. Okay. I see what you're saying.

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1 Q. -- anything as to what your dad said. I'm
2 sorry.

3 A. Yeah.

4 Q. I need for you to paint this better. Do you
5 know when your father sold the shop?

6 A. I really don't. It really didn't make no --

7 Q. At the time that you were working in there,
8 were you working for your father?

9 A. Yes, I was.

10 Q. So it logically then follows that if he had
11 sold the shop --

12 A. Yeah. And he was getting his stuff out of
13 there.

14 Q. -- you wouldn't be working -- so if we know
15 from prior testimony that it was sold in
16 2005, the last you saw of that case of
17 whatever it was, was before then?

18 A. Well, as soon as I come out of there, he went
19 to a home very shortly after that. I'm just
20 not getting your date down. I'm not getting
21 your date down. When the business was sold,
22 I don't know.

23 Q. All right. The house -- the house was open
24 and some of you all went in after your
25 stepmother died and then after your father

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1 died as well, did you not?

2 A. Not when my father died. No, sir.

3 Q. You all didn't go by there and go in?

4 A. Not me.

5 Q. But after your mom passed or your stepmother
6 died?

7 A. Yeah.

8 Q. So you went in?

9 A. All of us went in.

10 Q. Okay. No further questions.

11 THE COURT: Anything else, Mr. Moore?

12 MR. MOORE: Just one -- not from this witness.

13 THE COURT: Okay.

14 MR. MOORE: I've got one witness and I'll ask him
15 one question and that will be my case.

16 Herbert Dickson.

17 MR. SETH: I never could get away with just one
18 question.

19 MR. MOORE: Maybe two.

20 Whereupon,

21 HERBERT DICKSON, JR., being duly sworn and
22 cautioned to speak the truth, the whole
23 truth, and nothing but the truth, testified
24 as follows:

25 THE COURT: All right, sir. Thank you very

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1 much and have a seat, please, sir and give us your
2 full name for the record.

3 HERBERT DICKSON, JR. - DIRECT EXAMINATION BY MR.
4 MOORE:

5 Q. In January of 2009 did you write this letter
6 to Mr. Seth?

7 A. Yes, I did.

8 Q. Did you send it?

9 A. Yes, I did.

10 Q. Did you ever get a response to it?

11 A. I did not.

12 MR. MOORE: We would like to offer this letter into
13 evidence, please, Your Honor.

14 THE COURT: All right, sir.

15 (Petitioner's Exhibit Number 3 was entered
16 into evidence.)

17 MR. SETH: I have no basis for objection as to what
18 it says, but I do have some questions, Your
19 Honor.

20 MR. MOORE: Thank you, Your Honor.

21 Q. Herbert, you can answer any questions Mr.
22 Seth might have for you.

23 HERBERT DICKSON, JR. - CROSS-EXAMINATION BY MR.

24 SETH:

25 Q. The address was 5 Law Range on the letter?

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1 A. Yes, I guess. Yeah.

2 Q. You know my mailing address is P.O. Box 1268.

3 A. Well, I got that address off of stuff that
4 was sent to me.

5 Q. Sure. I mean, it's on the letterhead and we
6 have gotten mail there.

7 MR. SETH: And, Your Honor, I'm going to have to
8 check to see if I've received that. I don't
9 have any independent recollection of -- and
10 I'm not in the habit of not answering mail,
11 but if I didn't -- if I could see the
12 Exhibit?

13 Q. At what point had the case -- I think it was
14 your brother Milton who hired Mr. Moore to
15 pursue -- to pursue --

16 A. That's right. Yes.

17 Q. -- the Lexington property. Do you know
18 yourself when that was?

19 A. I don't know what the date was. I know the
20 response to this was when we had met with
21 you, myself and my brothers had met with you
22 a couple of times. And I know Mr. Beasley,
23 my stepbrother, had gotten him an attorney
24 and at the time you advised us to get an
25 attorney and we got Mr. Moore. Through this

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1 mailing and everything we got this
2 information and we never got any records of
3 my stepmother, Ms. Melba's information.
4 There were different things about the
5 property and I took it on myself, as the
6 oldest named after my daddy with a son named
7 after my daddy and my grandson named after my
8 daddy, to write this letter on behalf of my
9 brothers.

10 Q. Okay. I need to go back, because it makes a
11 big deal of difference as to whether I could
12 answer the letter. And you said, when we
13 all, I assume meaning your brothers hired Mr.
14 Moore?

15 A. No. When Mr. Moore -- I started getting
16 letters. We've got copies on everything that
17 you sent, that Mr. Young sent and Mr. Moore
18 sent. This came from me wanting to know what
19 was going on. I mean, I didn't -- my brother
20 had hired Mr. Moore. I wanted to know from
21 my point should I get a lawyer, and I was
22 asking you because you were representing dad
23 with this here. And your answer to me the
24 next time we met that you were representing
25 dad. If I needed information, I needed to go

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1 get a lawyer.

2 Q. And that was the response to this letter?

3 A. No. You never responded. It was just
4 conversation with the two of us. I never got
5 a response back, any answers on that letter.

6 Q. Well, if I didn't answer the letter, I
7 apologize to you.

8 MR. SETH: I would have to check my file, Your
9 Honor, to see what, if any, response or if I
10 had even received it.

11 MR. DICKSON: Well, it's been ten years and today is
12 the first time I've heard anything about Ms.
13 Melba's estate. As a son named after my dad,
14 worked with my dad for 30 years in the shoe
15 business, in Bamberg in the shoe business,
16 and today is the first time that I've heard
17 anything about Ms. Melba's estate, which my
18 dad died 48 days after my momma. I have twin
19 granddaughters. And when you asked earlier
20 what involvement we were, I have twin
21 granddaughters that were born in May and on
22 father's day those twins were in my dad's
23 arms. My grandson was born on July the 3rd
24 of the year before he died, named after him.
25 I was involved with my daddy. The question

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1 was asked if we were involved, I was. I was
2 working with him for 30 years. One last
3 thing. The last thing, we went to Ms.
4 Melba's funeral in respect because she was
5 our stepmother. She was with my dad for 11
6 years, 10 or 11 years. The last time that me
7 and my brothers were asked in the house was
8 when we walked out from that funeral that
9 day. When Mr. Beasley's mother died, he was
10 in Kentucky. I left home and the next door
11 neighbor opened the house for me to get in
12 there. Art got mad because I was in the
13 house that night. What are you doing in the
14 house? I'm coming down. My dad was in a
15 nursing home. I didn't want him to hear from
16 anybody else that Ms. Melba died because they
17 were a married couple. And you talk about
18 involvement, I was involved with my daddy.

19 Q. I appreciate your telling us that you were in
20 the house after Ms. Melba died. I appreciate
21 that.

22 A. And Art was there the next morning and my dad
23 was in the nursing home.

24 MR. SETH: No further questions.

25 MR. MOORE: Nothing further, Your Honor, and that

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1 would be our case.

2 THE COURT: All right, sir. Mr. Seth?

3 MR. SETH: I would defer to the moving party, I
4 would defer, but we have nothing in reply.

5 MR. MOORE: Your Honor, I would love nothing better
6 than to make an elegant closing argument, but
7 His Honor has certainly had the same benefit
8 we've all had in accordance with hearing the
9 evidence that we have. The Court is
10 certainly much more up on the probate law of
11 South Carolina than I could ever be. I thank
12 the Court for your courtesy, but if the Court
13 will excuse me, I think that I certainly
14 respect the Court well enough to understand
15 that you understand the issues and that you
16 will issue the appropriate ruling.

17 THE COURT: Thank you, sir. Mr. Seth?

18 MR. SETH: Thank you, Your Honor. In the
19 application for settlement, we put in a
20 specific request for the approval of the fee
21 over and above. That would be my only
22 comment for the most part, but we ask that
23 that be considered reasonable under the ten
24 years that this has been open with
25 significant litigation and such. And lastly,

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1 Your Honor, if the Court wishes, we can open
2 up that box and look at any one of these
3 individual expenditures to document and we
4 believe them to be reasonable.

5 THE COURT: All right. Thank you, sir. I'm going
6 to spend some time going through the file,
7 going over the testimony that was presented
8 today and going over the accounting that was
9 presented to the Court. And as soon as I've
10 done that, I'll make a ruling and I will let
11 you know what the ruling is.

12 MR. MOORE: Thank you so much, Your Honor.

13 MR. SETH: Thank you, Your Honor.

14 (There being nothing further, the hearing was
15 adjourned at 4:10 p.m.)

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CERTIFICATE

Be it known that I, Mary H. Occhipinti, do hereby certify that I took the foregoing hearing at the time and place aforesaid by means of stenomask with backup; that I was then and there a notary public in and for the State of South Carolina and that by virtue thereof, I was duly authorized to administer an oath; and that the witnesses were by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth.

I further certify that the foregoing transcript represents a true, accurate, and complete transcript of said hearing. This transcript may contain quoted material; said material is transcribed as read or quoted by the speaker.

I further certify that I am neither employed by nor related to any of the parties in this matter nor their counsel; nor do I have any interest, financial or otherwise, in the outcome of this action.

Witness my hand and seal this 15th day of January, 2020.

Mary H. Occhipinti
Notary Public for South Carolina
My Commission Expires: 10/18/2020

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
PROBATE COURT

CASE NO. 2008-ES-43-00411

RECEIVED

MAY 07 2020

SC Court of Appeals

IN THE MATTER
OF ESTATE OF HERBERT FRANKLIN DICKSON, JR.,

Milton Oakley Dickson,

APPELLANT,

vs.

Arthur B. Beasley, Jr., as Personal Representative of the
Estate of Herbert F. Dickson, Sr.,

RESPONDENT.

NOTICE OF APPEAL

Milton Oakley Dickson appeals the Order of the Honorable Dale Atkinson, dated February 13, 2019. Appellant received written notice of entry of this Order on April 13, 2020.

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MTLF000404

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF SUMTER

2018 FEB 13 AM 8:15

2008-ES-43-00411

IN THE MATTER OF ESTATE OF UNREPRESENTED SUMTER COUNTY, S.C.

HERBERT FRANKLIN DICKSON, JR.

Milton Oakley Dickson,

Petitioner,

v.

Arthur B. Beasley, Jr., as Personal
Representative of the Estate of
Herbert F. Dickson, Sr.,

Respondent.

ORDER

CERTIFIED TRUE COPY OF ORIGINAL
FILED IN THIS OFFICE.

Theresa A. Duggan
Theresa A. Duggan, Associate Judge of Probate
Sumter County
South Carolina

This matter comes before me on an Application for Settlement filed by the Personal Representative on June 13, 2018, with a Notice of Right to Demand Hearing to the beneficiaries. The Petitioner timely requested a hearing on July 13, 2018. All interested parties were notified. It was originally scheduled for August 29, 2018, and rescheduled to September 11, 2018, and then subsequently rescheduled to November 13, 2018, and heard at 2:00 p.m. on that date.

Present at the hearing were Milton Oakley Dickson, the Petitioner, and his attorney S. Jahue Moore, Esq. of the Lexington County Bar; Arthur B. Beasley, Jr., as Personal Representative, and his attorney, J Cabot Seth, Esq., of the Sumter County Bar. Unrepresented, but present, were the following: Finley Mylo Dickson, Byron Eugene Dickson and Sandy Beasley, wife of the Respondent. The only missing interested party was Linda Chapman, and she was properly served with notice of the hearing.

The Demand for Hearing contested the Final Accounting of the assets and distribution of the residuary without any further detail.

FINDING OF FACTS

1. **Venue.** Under South Carolina Code § 62-3-201, this Court has proper venue in Sumter County as the Decedent was domiciled in Sumter County at the time of his death.
2. **Jurisdiction.** Under South Carolina Code § 62-1-302, this Court has jurisdiction as the Decedent was a resident of Sumter County.
3. The Petitioner first called Respondent, inquiring into the detail of the final accounting. Of the questions raised by the various witnesses, the Court finds the following facts:

- a. **Money paid to Sandy Beasley.** The testimony established that the Personal Representative paid his wife, Sandy Beasley, for assistance in the maintenance of the Santee property in the amount of \$2,481.86.
- b. **Mortgage on the Sumter Property.** Uncontroverted testimony was that the mortgage was paid out of the Estate in the amount of \$2,481.86. The Will of the Decedent does not provide that the distributee is entitled to exoneration.
- c. **Money Paid on Lawnmower at Santee Property.** The testimony established that the property, at the time of the Decedent's passing, had a lawnmower to maintain the property. The Personal Representative purchased a new one when the original was no longer functional.
- d. **Money Paid on HVAC for Lake House.** The testimony established that the property at the time of the Decedent's passing had a functioning HVAC which had to be replaced in order to rent the property to aid in the expenses of the Estate.
- e. **Personal Representative Fee.** The Personal Representative had requested approval of the fee of \$17,715.00 based on the extraordinary time and effort required in the litigation caused by the Petitioner and the length of time required in attending hearings and depositions as well as the maintenance of the Estate property.
- f. **Palm Harbor Mobile Home.** The testimony established that the Palm Harbor home was billed by the tax office as personal property, i.e. a mobile home; however, it was permanently affixed to the real property by two (2) additions and could not be moved.

CONCLUSIONS OF LAW

- 4. **Section 62-3-709.** The Code makes statutory the common law rule that upon the death of a South Carolina Decedent, title to his real property passes at death to his devisees and/or heirs. As contrasted with the common law, however, the Code grants to the Personal Representative broad powers to possess and maintain the real property during administration. (S.C. Code Ann. §62-3-709)
 - a. Except as otherwise provided by a Decedent's Will, every Personal Representative has a right to, and shall take possession or control of, the Decedent's property, except that any real property or tangible personal property may be left with or surrendered to the person presumptively entitled thereto unless or until, in the judgment of the Personal Representative, possession of the property by him will be necessary for purposes of administration. The Personal Representative shall pay taxes on, and take all steps reasonably necessary for the management, protection, and preservation of, the Estate in his possession.
 - b. If the Estate's real property contains residences or buildings, the Personal Representative must consider insurance and, if the structures on the real property have become vacant, whether existing insurance, by its terms, continues to cover vacant structures. It is important for the Personal Representative to deal with the

insurance coverage immediately upon taking office so that losses on improvements to real property are covered by insurance at all times.

5. **SECTION 62-3-814 - Encumbered Assets.** If any assets of the estate are encumbered by mortgage, pledge, lien, or other security interest, the personal representative may pay the encumbrance or any part thereof, renew, or extend any obligation secured by the encumbrance or convey or transfer the assets to the creditor in satisfaction of his lien, in whole or in part, whether or not the holder of the encumbrance has presented a claim, if it appears to be for the best interest of the estate. Payment of an encumbrance does not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration.
6. **Section 62-3-719 - Personal Representative Fee.** The Probate Court has broad discretion to approve fees in excess of the statutory amount of five percent (5%).
7. **Burden of Proof is on the Moving Party.** Generally, the burden of proof rests upon the party who asserts the affirmative of an issue - the moving party. Am. Jur. 2d, Evidence Section 127. Mr. Moore asked many questions. The exhibits on the accounting of expenses were available for Mr. Moore to review. He chose not examine or review the available evidence. Further, questions are not evidence. The answers are uncontroverted unless proof was presented otherwise. The proof offered on other allegations or issues was inconclusive. For example, his witnesses could not identify when or where an alleged group of coins were last seen or accounted for by their father to them.

ORDER

THEREFORE, it is ordered as follows:

1. Mr. Seth will prepare a new Proposal for Distribution allowing for the following changes
 - a. The moneys paid to Sandy Beasley, for the lawn mower and HVAC shall be deducted from the reimbursements to the Personal Representative.
 - b. The mortgage for the Sumter property shall be deducted from Linda Chaplin's share.
 - c. The Personal Representative fee shall be reduced to \$8,092.00.
2. Otherwise, the Application for Settlement, Proposal for Distribution and Final Accounting are approved.

AND, IT IS SO ORDERED!

Date: Jan 23, 2019
Sumter, South Carolina

S/Dale Atkinson
Dale Atkinson, Judge
Sumter County Probate Court

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
PROBATE COURT

CASE NO. 2008-ES-43-00411

RECEIVED

MAY 07 2020

SC Court of Appeals

IN THE MATTER
OF ESTATE OF HERBERT FRANKLIN DICKSON, JR.,

Milton Oakley Dickson,

APPELLANT,

vs.

Arthur B. Beasley, Jr., as Personal Representative of the
Estate of Herbert F. Dickson, Sr.,

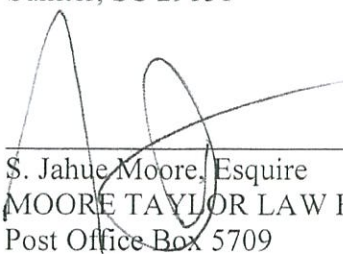
RESPONDENT.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal by depositing a copy of it in the United States Mail,
postage prepaid, on May 4, 2020, to the following individuals:

J. Cabot Seth, Esquire
JONES SETH & JONES, LLP
Post Office Box 1268
Sumter, SC 29151

The Honorable Dale Atkinson
Sumter County Probate Judge
215 N. Harvin Street
Sumter, SC 29151



S. Jahue Moore, Esquire
MOORE TAYLOR LAW FIRM, PA
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West Columbia, SC 29169
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ATTORNEYS FOR APPELLANT

MTLF000408

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY
PROBATE COURT

Appellate Case No. 2020-000782

RECEIVED

Oct 26 2020

SC Court of Appeals

In the Matter of Estate of Herbert Franklin Dickson, Jr.

Milton Oakley Dickson, ... Appellant,

v.

Arthur B. Beasley, Jr., as Personal Representative

of the Estate of Herbert F. Dickson, Sr., ... Respondent,

CERTIFICATE OF COUNSEL

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

s/S. Jahue Moore

S. Jahue Moore, Esquire

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