

DOCKET NO. 10-4577

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

LAVONA HILL

v.

BERT BELL/PETE ROZELLE NFL PLAYER RETIREMENT PLAN, et al.

v.

BARBARA SULLIVAN

On appeal from the Judgment and Order of the United States District Court for the Eastern District of Pennsylvania in *Hill v. Bert Bell/Pete Rozelle NFL Player Retirement Plan, et al.*, C.A. No. 09-4051, entering judgment with respect to the NFL Defendants' Interpleader Complaint in favor of Lavona Hill

BRIEF AND JOINT APPENDIX
VOLUME I OF II (Pages A1-A18)

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Statement of Subject Matter Jurisdiction

The district court had subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1331.

Statement of Appellate Jurisdiction

This Court has jurisdiction over this appeal pursuant to 28 U.S.C. §1291 in that this is an appeal from a final order of the district court.

Statement of Issues

1. whether the district court's findings of fact concerning the date of separation of Thomas Sullivan and Lavona Hill was clearly erroneous.

The district court found that Thomas Sullivan and Lavona Hill separated around 1983.

2. Whether the district court's conclusion of law that the marriage between Thomas Sullivan and Barbara Sullivan was void under South Carolina law was in error.

The district court concluded that the marriage between Thomas Sullivan and Barbara Sullivan was void under South Carolina law.

3. Whether the district court's conclusion of law that South Carolina has not adopted the putative spouse doctrine was in error.

The district court concluded that South Carolina has not adopted the putative spouse doctrine.

Statement of the Case

This case was initiated by the filing of a complaint by Lavona Hill ("Hill") against the Bert Bell/Pete Rozelle NFL Player Retirement Plan and the Retirement Board of the Bert Bell NFL Player Retirement Plan (the "NFL Defendants") on August 13, 2009 in the Philadelphia Court of Common Pleas. On September 4, 2009, the NFL Defendants removed the case to the United States District Court for the Eastern District of Pennsylvania because the Plan was governed by the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1001, et seq. ("ERISA"). Hill filed an Amended Complaint on September 24, 2009 under ERISA against the NFL Defendants. On October 13, 2009, the NFL Defendants answered the Amended Complaint and filed an interpleader counterclaim (the "Interpleader Complaint") against Hill and Barbara Sullivan ("Barbara"). Hill and Barbara answered the Interpleader Complaint. On November 4, 2010, the district court entered judgment with respect to the Interpleader Complaint in favor of Hill. On December 3, 2010, Barbara timely filed a notice of appeal to this Court.

Statement of Facts

The Bert Bell/Pete Rozelle NFL Player Retirement Plan ("Plan") is a multi-employer employee benefit plan governed by the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. §§ 1001, et seq. The Plan provides pension and welfare benefits to former National Football League ("NFL") players and their beneficiaries. Thomas Sullivan ("Thomas"), a Plan participant, played professional football from 1972 through 1978. Under the Terms of the Plan, he had seven years of service, or "Credited Seasons", by virtue of his NFL career.

When a Plan participant dies, the Plan pays death benefits to the surviving spouse or children. As of the date of Thomas' death, the benefit provided by the Plan was as follows:

7.2 Widow's and Surviving Children's Benefit.

If a Player dies before the date his retirement benefits begin, and he was, at the time of his death, (a) an Active Player, (b) a Vested Inactive Player who was vested solely because of Credited Seasons, and not by reason of Years of Service after ceasing to be an Active Player, or (c) entitled to disability benefits under Article 5 or 6 (regardless of when such entitlement is determined), his surviving Spouse, or if there is no surviving Spouse, his surviving minor children, if any, will, subject to [an election by the Plan beneficiary], receive a monthly widow's and surviving children's benefit equal to the greater of (a) 50% of the Player's Benefit Credits, or (b) \$1,200. Further, for the first 48 months following such Player's death, the amount of this benefit will be (a) for a Player who is an

Active Player after the 1976 Plan Year, no less than \$2,000 per month, and (b) for a Player who is an Active Player after the 1981 Plan Year, no less than \$3,000 per month.

Effective April 1, 2006, certain benefits under the Plan were increased. Pursuant to that amendment, a qualifying beneficiary would receive

A monthly widow's and surviving children's benefit equal to the greater of (a) 50% of the Player's Benefit Credits, or (b) \$3,600. Further, for the first 48 months following such a Player's death, the amount of this benefit will be (a) for a Player who is an Active Player after the 1981 Plan Year, no less than \$9,000 per month. For payments with respect to benefits prior to April 1, 2006, the Widow's and Surviving Children's Benefit will be determined based on the Plan in effect for such periods.

As of the suspension of benefits pending the interpleader, and based upon a 25% early pension payment to Thomas, benefits payable were \$2,700 per month.

On or about March 15, 1986, Thomas married Barbara Sullivan (nee Carson) ("Barbara") in the State of South Carolina. In May 1991, in connection with a pension benefit election, Thomas submitted a notarized marital status questionnaire identifying Barbara as his "current legal spouse". At the same time, Barbara submitted a notarized statement confirming that she was Thomas' "legal spouse". Thomas also indicated having been in a previous marriage.

The Plan investigated the prior marriage identified by Thomas. Specifically, the Plan reviewed a divorce decree dated April 4, 1973, evidencing a divorce between Thomas and Cynthia Lloyd Sullivan. This divorce decree did not govern distribution of Thomas' pension benefits because it did not address such benefits.

Thomas died on October 10, 2002. On or about October 25, 2002, Barbara submitted a claim for Widow's and Surviving Children's Benefit to the Plan. The claim included a License and Certificate for Marriage issued by the State of South Carolina confirming that Barbara and Thomas were married on March 15, 1986. The claim also included a Certificate of Death issued by the State of South Carolina indicating that Barbara was Thomas' Surviving Spouse. Barbara also submitted a statement certifying that she "was still his wife at the time of his death".

Based on the application and documentation submitted by Barbara, the Plan began to pay her the Widow's and Surviving Children's Benefit in November 2002. From that date through October 23, 2006, on multiple occasions, Barbara certified her eligibility to receive the Plan benefit for widows.

Then, by letter dated November 28, 2006, Hill submitted a request for any benefits under the Plan to which she may be entitled as the surviving spouse of Thomas. The Plan had no

knowledge of Hill's existence until this time. By letter dated February 22, 2007, Hill submitted a Certificate of Marriage issued by the State of Maryland indicating that she and Thomas were married in 1979, and, therefore, before the marriage between Barbara and Thomas.

By letter dated March 13, 2007, the Plan invited Hill "to submit any and all evidence and argument" that would assist the Plan in determining whether Hill was the surviving spouse of Thomas. In response to the Plan's invitation, by letter dated March 28, 2007, Hill submitted arguments, but no new evidence, reiterating the information that she provided previously. Hill requested treatment of her correspondence as a formal application for benefits due to the surviving spouse of Thomas.

On April 24, 2007, Hill resubmitted copies of the documents that she had previously provided in support of her request for benefits. Also on April 24, 2007, the Plan wrote to Hill and Barbara requesting that they pursue a court order addressing the question of which person is the surviving spouse of Thomas. Effective May 2007, the Plan suspended payment of benefits to Barbara.

On October 11, 2007, Barbara certified her eligibility to receive the Plan benefit for widows for the fifth time. Hill did not respond to the Plan's letter dated April 24, 2007. In

February 2008, the Plan resumed payment of the Widow's and Surviving Children's Benefit to Barbara retroactive to May 2007.

On or about August 19, 2008, more than 15 months after the Plan's letter of April 24, 2007, Hill resumed her pursuit of benefits due to the surviving spouse of Thomas, without ever having obtained the court order sought by the Plan. On October 28, 2008, Barbara certified her eligibility to receive the Plan benefit for widows for the sixth time.

On August 13, 2009, Hill filed a state-court action against the Plan and its administrator raising Pennsylvania state-law causes of action in relation to her entitlement to Plan benefits. The Plan removed the action to the United States District Court for the Eastern District of Pennsylvania. The Plan suspended benefit payments to Barbara and filed the Interpleader Complaint to permit Hill and Barbara to resolve their dispute.

Barbara had no knowledge of Hill until the Plan suspended benefits payments in May 2007. (A64-A65) Barbara and Thomas had been together since 1981 when they began working for Exxon Chemical in South Carolina. (A69)

Title 20 of the South Carolina Code of Laws relates to domestic relations. Section 20-1-80 provides as follows:

Section 20-1-80. Bigamous marriage shall be void; exceptions.

All marriages contracted while either of the parties has a former wife or husband living shall be void. But this section shall not extend to a person whose husband or wife shall be absent for the space of five years, the one not knowing the other to be living during that time, not (sic) to any person who shall be divorced or whose first marriage shall be declared void by the sentence of a competent court.

S.C. Code Ann. Section 20-1-80 (Supp. 2007)

Thomas never mentioned Hill to Barbara. Other than Hill's testimony at trial, there is no evidence that Thomas knew whether Hill was alive at the time he returned to South Carolina in 1981. The marriage between Thomas and Barbara took place in March 1986, more than five (5) years after 1979.

Statement of Related Cases and Proceedings

There are no related cases or proceedings pending before this Court.

Statement of the Standard of Review

This Court's review of the district court's conclusions of law is plenary. *Lansing v. Southeastern Pa. Transp. Authority*, 308 F.3d 286, 290 (3d Cir. 2002). The district court's factual findings are reviewed for clear error. *Id.*

Summary of Argument

The district court's finding of fact that Thomas and Hill separated in 1983 is clearly erroneous. The evidence established that Thomas and Hill separated in 1981, when Thomas and Barbara began working together at Exxon Chemical in South Carolina.

The district court erred in concluding that the marriage between Thomas and Barbara was void under South Carolina law. Thomas was entitled to the presumption that Hill was absent from the marriage for five years. Therefore, the exception to the South Carolina bigamy law applied and the district court should have concluded that the marriage between Barbara and Thomas was valid.

In the alternative, the district court should have either found that South Carolina would adopt the putative spouse doctrine and that Barbara was Thomas' putative spouse, and thus distribute Thomas' benefits between Barbara and Hill appropriately under the circumstances, or it should have certified the question to the South Carolina Supreme Court and reserved judgment until the issue had been decided.

Argument

I. THE DISTRICT COURT'S FINDING OF FACT CONCERNING THE DATE OF SEPARATION OF THOMAS SULLIVAN AND LAVONA HILL WAS CLEARLY ERRONEOUS

The district court found that Thomas Sullivan and Lavona Hill separated in about 1983. (A6) That finding of fact is clearly erroneous because of Hill's counsel's stipulation that Barbara and Thomas first met in 1981 when they began working together for Exxon Chemical in South Carolina. (A69) The district court's finding that Thomas and Hill separated in 1983 simply is not plausible given this stipulation. The district court made a mistake in finding that Thomas and Hill separated in about 1983. Based upon the stipulation, it is clear that they separated in 1981.

II. THE DISTRICT COURT'S CONCLUSION OF LAW THAT THE MARRIAGE BETWEEN THOMAS AND BARBARA WAS VOID UNDER SOUTH CAROLINA LAW WAS IN ERROR

This Court's review of the district court's conclusions of law is plenary. *Stilwell v. Smith & Nephew, Inc.*, 482 F.3d 1187, 1193 (9th Cir. 2007). Below, Hill had the burden of proving the invalidity of the marriage between Thomas and Barbara. Section 20-1-80 of the South Carolina Domestic Code, as interpreted by the South Carolina Supreme Court, requires a court to look to the *status quo* at the time the marriage in question was contracted to determine its validity. See *Lukich v. Lukich*, 666 S.E.2d 906, 907 (S.C. 2008). Under South

Carolina law at the relevant time, a marriage between a man and a woman, where one of them has a living wife or husband, is void. *Day v. Day*, 58 S.E.2d 83, 85 (S.C. 1950). Thus, at first blush, it would appear that because Hill was alive at the time Thomas married Barbara, and Hill and Thomas had not divorced nor had their marriage been declared void, the marriage between Thomas and Barbara was void. However, because of the first exception set forth in Section 20-1-80, the marriage between Thomas and Barbara was valid and not bigamous. Specifically, because Hill and Thomas separated in 1981 and there was no credible evidence that they had been in contact after that time, Thomas was entitled to the presumption that Hill was absent from the marriage for five years.

The district court concluded that even if Hill had abandoned Thomas, he was not entitled to the presumption of five-year abandonment because there was no evidence that Thomas had diligently searched for and inquired about Hill during that five-year period. It is not surprising that no such evidence was introduced at trial because the only person who could have done so - Thomas - was deceased. Thus, it was unfair to place that burden of production on Barbara, who had never heard of Hill until 2007. The district court should have required Hill to come forward with more than her self-serving testimony at trial that she had been in contact with Thomas after 1981, which

evidence Barbara was in no position to refute, such as some evidence corroborating her alleged contacts with Thomas after 1981. Had the district court properly imposed the burden of production on Hill, it would have concluded that Thomas was entitled to the five-year abandonment presumption, and therefore that his marriage to Barbara fit within the first exception described in the South Carolina bigamy statute.

Accordingly, this Court should reverse the Judgment and Order of the district court dated November 4, 2010 and remand this case to the district court with direction to enter judgment in favor of Barbara on the Interpleader Complaint.

III. IN THE ALTERNATIVE, THE DISTRICT COURT SHOULD HAVE APPLIED THE PUTATIVE SPOUSE DOCTRINE AND DISTRIBUTED THOMAS' BENEFITS AS APPROPRIATE UNDER THE CIRCUMSTANCES AND IN THE INTERESTS OF JUSTICE

Below, Barbara argued that the district court should apply Section 209 of the Uniform Marriage and Divorce Act, which codifies the putative spouse doctrine. The putative spouse doctrine holds that any person living with another with a good faith but legally incorrect belief that they are married acquires that same rights as are conferred upon a legal spouse, whether or not the marriage is prohibited or declared void.

It is beyond doubt that Barbara had a good faith belief that she was legally married to Thomas. If the district court had found that Barbara was the "putative" spouse of Thomas, the

district court would not have been compelled to decide that Hill was *not* entitled to any retirement benefits in the future. Rather, because the purpose of the putative spouse doctrine is to protect the "marital" interests of persons who innocently establish a stable family relationship with a person who was under a legal impediment to marry, the district court could have apportioned Thomas' benefits between Hill and Barbara as appropriate under the circumstances and in the interests of justice.

There was no impediment to the district court applying the putative spouse doctrine. First, an intermediate appellate court in South Carolina had indicated that the "putative spouse" doctrine is a viable doctrine. See Lovett v. Lovett, 494 S.E.2d 823, 826 (S.C. Ct. App. 1997) (recognizing that some jurisdictions have adopted the putative spouse doctrine but declining to address the issue).¹ The district court was not bound to follow the opinion of the Fourth Circuit Court of Appeals in *Boyd v. Waterfront Employers ILA Pension Plan*, 182 F.3d 907 (4th Cir. 1999). To the contrary, *Lovett* indicates that the district court reasonably could have predicted that, given the proper case, the South Carolina Supreme Court would adopt the putative spouse doctrine. The exception to the South

¹ The putative spouse concept has been codified in California, Colorado, Illinois, Louisiana, Minnesota and Montana, and case law provides for putative spouse rights in Nebraska, Washington and Nevada.

Carolina bigamy statute proves that South Carolina takes a realistic view of marital relations, which viewpoint undergirds the putative spouse doctrine. Thus, the district court's conclusion of law that South Carolina had not adopted the putative spouse doctrine was incorrect.

More importantly, to the extent that the district court was not persuaded by *Lovett*, Barbara requested that the question be certified to the South Carolina Supreme Court, as the Second Circuit Court of Appeals had certified a similar question regarding ERISA benefits and the putative spouse doctrine. See *Grabois v. Jones*, 77 F.3d 574 (2d Cir. 1996). Nothing prevented the district court from following this course.

Accordingly, this Court should reverse the Judgment and Order of the district court dated November 4, 2011 and remand this case to the district court with direction to certify the question of whether South Carolina would adopt the putative spouse doctrine to the South Carolina Supreme Court.

V. CONCLUSION

For the foregoing reasons, Appellant, Barbara Sullivan, respectfully requests that this Court reverse the district court Judgment and Order dated November 4, 2011, granting judgment on the Interpleader Complaint and remand this case to the district court with direction to the district court to either enter judgment in favor of Barbara Sullivan on the Interpleader Complaint or to certify the question of whether South Carolina would adopt the putative spouse doctrine to the South Carolina Supreme Court.



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Certification of Bar Membership

I hereby certify that I am a member in good standing of the bar of the United States Court of Appeals for the Third Circuit.


Robert T Vance Jr

Certificate of Service and Compliance

I hereby certify that the foregoing Brief and Joint Appendix (Volume I of II) and Joint Appendix (Volume II) were filed electronically this January 17, 2012 through the Court's CM/ECF system and are available for viewing and downloading thereon by the following counsel of record, to whom 2 copies of the Brief were sent to the address below by first class mail, postage prepaid:

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I further certify that the E-Brief filed on January 17, 2012 and the 10 hard copies of the Brief that will be delivered to the Clerk's Office on January 18, 2012 upon the completion of printing and binding are identical.

I further certify that:

1. This Brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because it contains 3,319 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii);

2. This Brief complies with the typeface requirements of Fed. R. App. 32(a)(5) and the type style requirements of Fed. R. App. R. 32(a)(5) because it was prepared in a monospaced typeface using Courier New, 12 pt.;

3. This Brief complies with the electronic filing requirements of L.A.R. 31.1(c) because the Norton Anti-virus detection program has been run on the file containing the electronic version of this Brief and no viruses have been detected.



Robert T Vance Jr
Attorney for Appellant

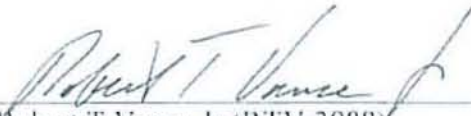
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Lavona Hill	:	
	:	
v.	:	Civil Action No. 09-4051
	:	
Bert Bell/Pete Rozelle NFL Player Retirement Plan, et al.	:	
	:	
v.	:	
	:	
Barbara Sullivan	:	

NOTICE OF APPEAL

PLEASE TAKE NOTICE that Barbara Sullivan, Interpleader Defendant in the above-captioned case, hereby appeals to the United States Court of Appeals for the Third Circuit from the Judgment and Order of the district court dated November 4, 2010 entering judgment with respect to the NFL Defendants' Interpleader Complaint in favor of Lavona Hill.

Date: December 3, 2010


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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LAVONA HILL,	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	
	:	
BERT BELL/PETE ROZELLE NFL	:	
PLAYER RETIREMENT PLAN, et al.,	:	No. 09-4051
Defendants.	:	

JUDGMENT

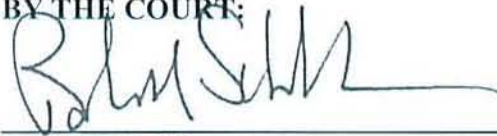
AND NOW, this 4th day of November, 2010, following a bench trial on October 21, 2010, upon consideration of the letter briefs of Barbara Sullivan and Lavona Hill, and for the reasons provided in this Court's Memorandum of November 4, 2010, it is hereby **ORDERED** that:

1. Judgment is entered in favor the Bert Bell/Pete Rozelle NFL Player Retirement Plan and the Retirement Board of the Bert Bell/Pete Rozelle NFL Player Retirement Plan on all claims brought against them.
2. With respect to the NFL Defendants' Interpleader Complaint, the Court enters judgment in favor of Lavona Hill.
3. Lavona Hill is entitled to the interpled funds in the amount of \$29,700 and shall be entitled to collect future benefits under the Plan as the surviving spouse of Thomas Sullivan.
4. This Court takes no position on whether Hill is entitled to collect any past benefits from Barbara Sullivan.
5. The NFL Defendants' Motion in Limine to Limit Evidence to the Administrative Record (Document No. 25) is **DENIED as moot**.

AZ

6. The Clerk of Court is directed to close this case.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Berle M. Schiller", written over a horizontal line.

Berle M. Schiller, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LAVONA HILL,	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	
	:	
BERT BELL/PETE ROZELLE NFL	:	
PLAYER RETIREMENT PLAN, et al.,	:	No. 09-4051
Defendants.	:	

MEMORANDUM

Schiller, J.

November 4, 2010

Who is entitled to the benefits of former National Football League running back Thomas Sullivan (“Thomas”)? The Bert Bell/Pete Rozelle NFL Player Retirement Plan and the Retirement Board of the Bert Bell/Pete Rozelle NFL Player Retirement Plan (collectively “the NFL Defendants”) filed an interpleader action to answer that question. Barbara Sullivan was married to Thomas at the time of his death and was receiving benefits from the NFL Defendants. Unbeknownst to her, Thomas had been married to Lavona Hill and had never secured a divorce from her prior to marrying Barbara. The Court conducted a bench trial on October 21, 2010, and pursuant to Federal Rule of Civil Procedure 52(a), the Court enters the following findings of fact and conclusions of law.

I. FINDINGS OF FACT

Lavona Hill met Thomas Sullivan in the 1970s through a friend of her family. (Trial Tr. at 15.) They dated in the mid-1970s. (*Id.* at 16.) Thomas had been married and divorced once before, although Hill was unaware of that fact. (*Id.* at 36.) Hill had been married to Arthur Wells in 1975 but the couple divorced in 1978. (*Id.* at 29, 32.) Hill married Thomas in Baltimore, Maryland on March 15, 1979. (Admin. R. Ex. 4 [MD Marriage License].) Neither Thomas Sullivan nor Lavona

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Hill divorced or annulled the marriage. (Trial Tr. at 17, 22.) They lived as husband and wife in Media, Pennsylvania as well as in Ohio during their marriage. (*Id.* at 17-18.)

Thomas played professional football from 1972 to 1978 for the Philadelphia Eagles and the Cleveland Browns. Based on his years of service in the NFL, he and his beneficiaries were entitled to certain benefits, including death benefits. Specifically, the Bert Bell/Pete Rozelle NFL Player Retirement Plan (“the Plan”) provided:

- 7.2 Widow’s and Surviving Children’s Benefit.** If a Player dies before the date his retirement benefits begin, and he was, at the time of his death, (a) an Active Player, (b) a Vested Inactive Player who is vested solely because of Credited Seasons, and not by reason of Years of Service after ceasing to be an Active Player, or (c) entitled to disability benefits under Articles 5 or 6 (regardless of when such entitlement is determined), his surviving Spouse, or if there is no surviving Spouse, his surviving minor children, if any, will, subject to Section 7.4. below, receive a monthly widow’s and surviving children’s benefit equal to the greater of (a) 50% of the Player’s Benefit Credits, or (b) \$1,200. Further, for the first 48 months following such Player’s death, the amount of this benefit will be (a) for a Player who is an Active Player after the 1976 Plan Year, no less than \$2,000 per month, and (b) for a Player who is an Active Player after the 1981 Plan Year, no less than \$3,000 per month.

(Interpleader Compl. ¶ 12.) Effective April 1, 2006, certain benefits under the Plan were increased such that a qualified individual would:

receive a monthly widow’s and surviving children’s benefit equal to the greater of (a) 50% of the Player’s Benefit Credits, or (b) \$3,600. Further, for the first 48 months following such Player’s death, the amount of this benefit will be (a) for a Player who is an Active Player after the 1976 Plan Year, no less than \$6,000 per month, and (b) for a Player who is an Active Player after the 1981 Plan Year, no less than \$9,000 per month. For payments with respect to months prior to April 1, 2006, the Widow’s and Surviving Children’s Benefit will be determined based on the Plan in effect for such periods.

(Interpleader Compl. Ex. 1 [Plan].) The Plan defines “Spouse” as “a Player’s lawful spouse, as

recognized under applicable state law . . . or a former spouse to the extent provided under a Qualified Domestic Relations Order.” (*Id.*)

According to Hill, Thomas suffered from drug and alcohol problems throughout their relationship, problems that Hill unsuccessfully tried to help him overcome. (Trial Tr. at 19.) She also testified that they planned to build a home together in Pennsylvania but that never occurred. (*Id.* at 21.) They would at times travel to South Carolina, where they would stay as husband and wife. (*Id.* at 20.) Sometime around 1983, Thomas went to South Carolina “on a more permanent basis” to help his family build a home. (*Id.* at 19-20.) Thomas and Hill stopped living together as husband and wife around 1983 and last had contact with each other around 1985. (*Id.* at 20-21, 36.)

On March 15, 1986, Thomas married Barbara Hicks Carson (née Hicks) in South Carolina. (Admin. R. Ex. 9 [SC Marriage License].) Both the bride and groom listed the marriage as their second. (*Id.*) In 1991, Thomas designated Barbara as his current living spouse. (*Id.* Ex. 20 [Marital Status Questionnaire and Consent].) Barbara also submitted a notarized statement confirming that she was Thomas’s “legal spouse.” (*Id.*)

Thomas Sullivan died on October 10, 2002. Hill learned about his death from her son. (Trial Tr. at 36-37.) Thereafter, Hill attempted to claim social security benefits as his widow but she was too young. (*Id.* at 27.) In 2006, she again applied for widow’s insurance benefits through social security. The Social Security Administration determined that Hill was entitled to benefits as Thomas’s widow. (Pl.’s Tr. Ex. 2 [Soc. Sec. Determination].) Hill was also notified that she may be entitled to benefits as a result of Thomas’s professional football career. (Admin. R. Ex. 80 [Potential Private Pension Benefit Info.]; Trial Tr. at 25-26.) She eventually learned that Barbara Sullivan was receiving benefits under the Plan.

Shortly after Thomas's death, Barbara made a claim for benefits under the Plan. (Admin. R. Ex. 50 [Application for Widow's Death Benefits].) Her claim included her 1986 South Carolina marriage license to Thomas Sullivan and stated that she was Thomas's wife at the time of his death. (*Id.*) Beginning in November of 2002, the Plan began paying Barbara benefits. (*Id.* Ex. 56 [Nov. 5, 2002 Letter].) On a number of subsequent occasions, Barbara certified her eligibility to receive benefits under the Plan.

On November 28, 2006, Hill sent a letter to the Plan seeking benefits as the surviving spouse of Thomas Sullivan. (*Id.* Ex. 71 [Nov. 28, 2006 Letter].) Hill later submitted her 1979 Maryland marriage certificate to Thomas as proof of her marriage and entitlement to benefits as Thomas's surviving spouse. (*Id.* Ex. 72 [Feb. 22, 2007 Letter].) Although the Plan invited Hill to submit additional evidence, she failed to do so. (*Id.* Ex. 75 [Mar. 13, 2007 Letter].) The Plan requested that Hill seek a court order that identified Thomas's surviving spouse. (*Id.* Ex. 79 [Apr. 24, 2007 Letter].) Effective May 1, 2007, the Plan suspended payments to Barbara "pending a judicial decision instructing the Plan as to where to send future benefit payments." (*Id.*) Barbara subsequently reiterated her eligibility to receive Thomas's benefits and Hill failed to seek a court order; the Plan therefore resumed payments to Barbara retroactive to May 2007. (*Id.* Ex. 87 [Sullivan Statement]; *Id.* Ex. 95 [Feb. 20, 2008].)

In 2008, Hill again wrote to the Plan seeking benefits. (*Id.* Ex. 97 [Aug. 19, 2008 Letter].) On August 13, 2009, Hill sued the NFL Defendants in the Philadelphia Court of Common Pleas. The Complaint accused the NFL Defendants of acting in bad faith by having failed to pay benefits to Hill. The Complaint alleged no wrongdoing on the part of Barbara Sullivan nor did it include a cause of action against her. On September 4, 2009, the NFL Defendants removed the case to this

Court because the Plan was governed by ERISA. Hill filed an Amended Complaint on September 24, 2009, under ERISA against the NFL Defendants. The Amended Complaint made no allegations and pled no causes of action against Barbara Sullivan. In fact, the name "Barbara Sullivan" does not appear in the Amended Complaint. On October 13, 2009, the NFL Defendants answered the Amended Complaint and filed an interpleader counterclaim against Hill and Barbara Sullivan. Hill answered the interpleader counterclaim. Once again, she raised no claim against Barbara Sullivan.

According to the NFL Defendants, the Plan has made \$192,900 in payments to Barbara, has interpled \$29,700 beginning November 2, 2009, and will pay a total of \$2,700 per month to either Hill or Barbara going forward. (Trial Tr. at 48.)

II. CONCLUSIONS OF LAW

A. Interpled and Prospective Benefits

Barbara and Thomas Sullivan were married in South Carolina; the Court will therefore apply South Carolina law to determine whether Hill or Barbara is entitled to interpled and future benefits.

South Carolina's bigamy law reads:

All marriages contracted while either of the parties has a former wife or husband living shall be void. But this section shall not extend to a person whose husband or wife shall be absent for the space of five years, the one not knowing the other to be living during that time, not to any person who shall be divorced or whose first marriage shall be declared void by the sentence of a competent court.

S.C. Code Ann. § 20-1-80. The South Carolina bigamy statute considers the couple's marital status at the time of the marriage. *Lukich v. Lukich*, 666 S.E.2d 906, 907 (S.C. 2008). Thus, "a marriage ceremony between a man and a woman, where one of them has a living wife or husband, is not a marriage at all. Such a marriage is absolutely void, and not merely voidable." *Day v. Day*, 58 S.E.2d

83, 85 (S.C. 1950); *see also Johns v. Johns*, 420 S.E.2d 856, 858 (S.C. Ct. App. 1992) (noting that an illicit relationship does not ripen into a valid one once the impediment to validity is removed).

Hill was alive at the time Thomas and Barbara married. There is nothing in the record to suggest Hill or Thomas Sullivan ever divorced or had their marriage declared void by a competent court. Thus, according to South Carolina law, the marriage of Barbara and Thomas is void unless Hill or Thomas Sullivan was absent for a period of five years and the one spouse was not aware whether or not the other spouse was living during that time. Barbara Sullivan argues that, based on a document in which Hill told the Social Security Administration that she left Thomas sometime around February of 1979, Hill walked out on the marriage.¹ Regardless of which spouse left the other or whether it was a mutual split, the Court concludes that the ultimate result would still be a void marriage under South Carolina law.

If Thomas abandoned Hill or their separation was mutual, Thomas is not entitled to a presumption that Hill was absent from the marriage for five years. “[T]he presumption of death after a lapse of seven years enures to the benefit of the spouse who has been abandoned.”² *Day*, 58 S.E.2d at 85. South Carolina law never intended for a husband or wife to become legally divorced after a statutory waiting period by walking away from their union. The Court would not apply the absence exception if Hill left Thomas Sullivan because “in order to obtain the benefit of the presumption, evidence must be introduced that diligent search and inquiry have been made.” *Id.*; *see also In re Duncan’s Estate*, 2 S.E.2d 388, 391 (S.C. 1939) (noting that inquiry “should embrace all reasonably

¹ This time frame cannot be correct given that Thomas and Hill married in March of 1979.

² The South Carolina bigamy law was amended in 1990. It previously required a seven year absence.

patent sources of information which the circumstances of the case suggest, including an inquiry made of the persons and at the places where news of him, if living, would most probably be had"). The only evidence before this Court is that neither woman had any knowledge of the existence of the other until after Thomas Sullivan died. There is nothing to suggest that Thomas attempted to find Hill after she left him. Barbara Sullivan invites the Court to presume Thomas searched for Hill because Hill abandoned Thomas. This presumption finds no support in South Carolina law. Furthermore, the record shows that Hill lived with her family and could have readily been located. The Court cannot speculate that Thomas searched for Hill when no shred of evidence exists to bolster that speculation. Thus, no exception to the South Carolina bigamy law applies here.

This case is factually similar to *Day*. Maggie Lee Day sought worker's compensation benefits after her husband, James Day, died on the job. Maggie and James married on November 3, 1934. However, Maggie Lee had married Marion Duncan on February 4, 1919. They lived as husband and wife in Greenwood County for a couple of years but soon separated. Maggie Lee moved away to Greenville, South Carolina but in 1923 she saw Marion; Marion told Maggie that he had remarried and Maggie therefore believed that Marion was no longer her husband. Maggie Lee remained in Greenville until 1930 and then returned to live in Greenwood County. At the time of her marriage to James, Maggie Lee made no inquiry about Marion's whereabouts or whether he was alive. James and Maggie Lee lived as husband and wife until James died in 1948. Apparently, during the marriage of James and Maggie Lee, Marion lived in Greenwood County, only five miles from the Days.

The Supreme Court of South Carolina determined that Maggie Lee was not entitled to benefits as James's wife because there was no evidence that Marion abandoned Maggie Lee or was

absent for a period of seven years. Marion stayed in the same area and Maggie never tried to find him. Her marriage to James was thus bigamous and void from its inception. The court rejected any equitable argument Maggie Lee could put forward as counter to South Carolina's public policy against bigamy. *Day*, 58 S.E.2d at 88.

Although the Court sympathizes with Barbara's Sullivan's position, her suggested reading of South Carolina law is inconsistent with the state's strong stance against bigamy. Two people cannot dissolve a marriage by simply being apart for five years and thus forego the formal avenues created by South Carolina law to dissolve a marriage. Additionally, Barbara Sullivan's good faith belief that she was legally married is insufficient to validate her marriage. *See Lukich v. Lukich*, 627 S.E.2d 754, 758 (S.C. Ct. App. 2006). Finally, Barbara Sullivan suggests that this Court apply Section 209 of the Uniform Marriage and Divorce Act. This law codifies the putative spouse doctrine, which states that any person living with another with a good faith but legally incorrect belief that they are married "acquires the rights conferred upon a legal spouse . . . whether or not the marriage is prohibited or declared void." South Carolina has not adopted the putative spouse doctrine. *Boyd v. Waterfront Emp'rs ILA Pension Plan*, 182 F.3d 907 (S.C. 1999). Thus, it remains the law in South Carolina that a second marriage is a legal nullity if the first marriage is not dissolved. *See id.* (citing *Day*, 58 S.E.2d at 85).

B. Previously Paid Benefits

At trial, Hill's lawyer argued that Hill was entitled to a ruling from this Court that Barbara Sullivan should be required to pay back the \$192,900 in benefits she has received. He argued that Hill had raised this claim and it would thus be expeditious to handle the previous benefits paid in the instant case. While this may be Hill's preferred method of resolution, this Court is not persuaded

that disposing of a potpourri of claims in one proceeding is factually, legally, or equitably warranted. The Court has reviewed the record and finds no evidence that Hill has at any point sued Barbara Sullivan for past benefits paid to her. Hill sued the NFL Defendants. It was the NFL Defendants who interpleaded Sullivan so the Court could resolve which woman is entitled to the interpleaded funds and future benefits. At no point has Barbara Sullivan been properly notified that she may be subject to an order from this Court requiring her to return close to \$200,000 in benefits that she had no reason to believe might rightfully belong to somebody else. Both Sullivan and Hill have absolved the NFL Defendants of any liability for their actions, a position with which the Court agrees as a matter of law. (Trial Tr. at 5-6.) But if the NFL Defendants did not fumble Thomas Sullivan's benefits, then Hill must pursue her claims against Barbara Sullivan in the appropriate forum. The parties have not briefed or even raised what specifically Hill's claims against Barbara Sullivan would be and whether Barbara would have any legal or equitable defenses to such claims. This Court will not adjudicate an issue not properly before it and will therefore not address the issue of any money already paid to Barbara Sullivan.

III. CONCLUSION

Because Thomas Sullivan remained married to Lavona Hill at the time he married Barbara, the marriage between Thomas and Barbara runs afoul of South Carolina's bigamy law. Thus, the Court concludes that Lavona Hill is entitled to the interpleaded funds as well as any prospective benefits under the Plan. The Court declines to address the issue of whether she is entitled to benefits already paid to Barbara Sullivan. The Court shall enter judgment in accordance with this Memorandum.

CLOSED, APPEAL, REF-LR, STANDARD

**United States District Court
Eastern District of Pennsylvania (Philadelphia)
CIVIL DOCKET FOR CASE #: 2:09-cv-04051-BMS**

HILL v. BERT BELL/PETE ROZELLE PLAYER RETIREMENT
PLAN et al
Assigned to: HONORABLE BERLE M. SCHILLER
Case in other court: USCA FOR THE THIRD CIRCUIT, 10-04577
Cause: 29:1132 E.R.I.S.A.-Employee Benefits

Date Filed: 09/04/2009
Date Terminated: 11/04/2010
Jury Demand: None
Nature of Suit: 791 Labor: E.R.I.S.A.
Jurisdiction: Federal Question

Plaintiff**LAVONA HILL**

represented by **DAVID B. SHERMAN**
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ATTORNEY TO BE NOTICED

V.

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Defendant**RETIREMENT BOARD OF THE BERT
BELL NFL PLAYER RETIREMENT
PLAN**

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(See above for address)
LEAD ATTORNEY

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ATTORNEY TO BE NOTICED

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ThirdParty Plaintiff

**BERT BELL/PETE ROZELLE NFL
PLAYER RETIREMENT PLAN**

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ATTORNEY TO BE NOTICED

JAMES C. BAILEY
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V.

ThirdParty Defendant

BARBARA H SULLIVAN

represented by **ROBERT T. VANCE , JR.**
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ATTORNEY TO BE NOTICED

Counter Claimant

**BERT BELL/PETE ROZELLE NFL
PLAYER RETIREMENT PLAN**

represented by **JAMES C. BAILEY**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

ThirdParty Plaintiff

**RETIREMENT BOARD OF THE BERT
BELL NFL PLAYER RETIREMENT
PLAN**
TERMINATED: 10/14/2009

represented by **JAMES C. BAILEY**
(See above for address)
TERMINATED: 10/14/2009
LEAD ATTORNEY

V.

ThirdParty Defendant

LAVONA HILL
TERMINATED: 10/14/2009

represented by **DAVID B. SHERMAN**
(See above for address)

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TERMINATED: 10/14/2009

LEAD ATTORNEY

Counter Defendant

LAVONA HILL

represented by **DAVID B. SHERMAN**
 (See above for address)
 LEAD ATTORNEY
 ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/04/2009	<u>1</u>	NOTICE OF REMOVAL by BERT BELL/PETE ROZELLE PLAYER RETIREMENT PLAN, RETIREMENT BOARD OF THE BERT BELL NFL PLAYER RETIREMENT PLAN from Philadelphia CCP, case number August 2009 No. 1619. (Filing fee \$ 350 receipt number 008455), Certificate of Service.(tj,) (Entered: 09/04/2009)
09/04/2009	<u>2</u>	Disclosure Statement Form pursuant to FRCP 7.1 by BERT BELL/PETE ROZELLE PLAYER RETIREMENT PLAN, RETIREMENT BOARD OF THE BERT BELL NFL PLAYER RETIREMENT PLAN.(tj,) (Entered: 09/04/2009)
09/04/2009		Case Eligible for Arbitration(tj,) (Entered: 09/04/2009)
09/14/2009	<u>3</u>	MOTION to Dismiss filed by BERT BELL/PETE ROZELLE PLAYER RETIREMENT PLAN.Memorandum, Certificate of Service. (Attachments: # <u>1</u> Memorandum of Law in Support, # <u>2</u> Text of Proposed Order)(BAILEY, JAMES) (Entered: 09/14/2009)
09/14/2009	<u>4</u>	Arbitration Certification that case exceeds the sum of \$150,000.00 exclusive of interest and costs (BAILEY, JAMES) (Entered: 09/14/2009)
09/14/2009	<u>5</u>	DEFENDANTS MOTION TO DISMISS, MEMORANDUM OF LAW, EXHIBITS (FILED IN HARD COPY), CERTIFICATE OF SERVICE filed by BERT BELL/PETE ROZELLE PLAYER RETIREMENT PLAN, RETIREMENT BOARD OF THE BERT BELL NFL PLAYER RETIREMENT PLAN.. (Attachments: # <u>1</u> memo)(rf,) (Entered: 09/14/2009)
09/24/2009	<u>6</u>	ANSWER TO THE MOTION TO DISMISS COMPLAINT, MEMORANDUM OF LAW, CERTIFICATE OF SERVICE by LAVONA HILL. (rf,) (Entered: 09/25/2009)
09/24/2009	<u>7</u>	AMENDED COMPLAINT against BERT BELL/PETE ROZELLE PLAYER RETIREMENT PLAN, RETIREMENT BOARD OF THE BERT BELL NFL PLAYER RETIREMENT PLAN, filed by LAVONA HILL.(rf,) (Entered: 09/25/2009)
09/24/2009		2 Summons Issued as to BERT BELL/PETE ROZELLE PLAYER RETIREMENT PLAN, RETIREMENT BOARD OF THE BERT BELL NFL PLAYER RETIREMENT PLAN. forwarded to Plaintiffs Counsel on 9/24/09. (rf,) (Entered: 09/25/2009)
09/29/2009	<u>8</u>	ORDER THAT DEFENDANTS MOTION TO DISMISS COMPLAINT IS GRANTED. PLAINTIFF IS GRANTED LEAVE TO AMEND HER COMPLAINT AND DEFENDANTS SHALL ANSWER, MOVE, OR OTHERWISE PLEAD TO PLAINTIFFS AMENDED COMPLAINT (DOC. 7) IN ACCORDANCE WITH THE FEDERAL RULES OF CIVIL PROCEDURE.SIGNED BY HONORABLE BERLE M. SCHILLER ON 9/29/09. 9/30/09 ENTERED AND COPIES EMAILED.(rf,) (Entered: 09/30/2009)
10/13/2009	<u>9</u>	ANSWER to <u>7</u> Amended Complaint, THIRD PARTY COMPLAINT against all plaintiffs,

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		COUNTERCLAIM against LAVONA HILL by RETIREMENT BOARD OF THE BERT BELL NFL PLAYER RETIREMENT PLAN.(BAILEY, JAMES) Modified on 10/14/2009 (rf,). (FILED IN ERROR BY ATTORNEY) (Entered: 10/13/2009)
10/13/2009	<u>10</u>	ANSWER TO AMENDED COMPLAINT/THIRD PARTY COMPLAINT against BARBARA H SULLIVAN, filed by BERT BELL/PETE ROZELLE NFL PLAYER RETIREMENT PLAN, EXHIBITS, CERTIFICATE OF SERVICE. (Attachments: # <u>1</u> EX 1) (rf,) Modified on 10/14/2009 (rf,). (Entered: 10/14/2009)
10/13/2009		1 Third Party Summons Issued as to BARBARA H SULLIVAN. forwarded to Defendant/Third Party Plaintiffs Counsel on 10/14/09. (rf,) (Entered: 10/14/2009)
10/23/2009	<u>11</u>	<i>Reply to Affirmative Defenses Answer to Complaint for Interpleader</i> ANSWER to Complaint together with to complaint for interpleader by LAVONA HILL.(SHERMAN, DAVID) (Entered: 10/23/2009)
11/09/2009	<u>12</u>	Original Record together with certified copy of docket entries received from Court of Common Pleas of PHILADELPHIA County. (rf,) (Entered: 11/09/2009)
11/18/2009	<u>13</u>	WAIVER OF SERVICE Returned Executed by BERT BELL/PETE ROZELLE NFL PLAYER RETIREMENT PLAN. BARBARA H SULLIVAN waiver sent on 10/13/2009, answer due 12/14/2009. (BAILEY, JAMES) (Entered: 11/18/2009)
12/08/2009	<u>14</u>	ORDER THAT DEFENDANTS MOTION TO DISMISS (DOC. 5) IS DENIED AS MOOT.SIGNED BY HONORABLE BERLE M. SCHILLER ON 12/8/09. 12/9/09 ENTERED AND COPIES MAILED, E-MAILED.(rf,) (Entered: 12/09/2009)
12/21/2009	<u>15</u>	STIPULATION by BERT BELL/PETE ROZELLE NFL PLAYER RETIREMENT PLAN. (BAILEY, JAMES) (FILED IN ERROR BY ATTORNEY; COPY FORWARDED TO JUDGE FOR APPROVAL) Modified on 12/23/2009 (nd). (Entered: 12/21/2009)
03/10/2010	<u>16</u>	<i>Request for Planning/Status Conference</i> by BERT BELL/PETE ROZELLE NFL PLAYER RETIREMENT PLAN, Certificate of Service. (BAILEY, JAMES) Modified on 3/11/2010 (lisad,). (Entered: 03/10/2010)
03/11/2010	<u>17</u>	ORDER STATUS CONFERENCE SET FOR 4/26/2010 04:30 PM BEFORE HONORABLE BERLE M. SCHILLER.). SIGNED BY HONORABLE BERLE M. SCHILLER ON 3/10/10. 3/11/10 ENTERED AND COPIES MAILED TO 3RD PARTY UNREP, EMAILED.(rf,) Modified on 3/15/2010 (rf,). (Entered: 03/11/2010)
04/21/2010	<u>18</u>	MOTION for Pro Hac Vice filed by BERT BELL/PETE ROZELLE NFL PLAYER RETIREMENT PLAN, BERT BELL/PETE ROZELLE PLAYER RETIREMENT PLAN, RETIREMENT BOARD OF THE BERT BELL NFL PLAYER RETIREMENT PLAN.Application.(BAILEY, JAMES) (Entered: 04/21/2010)
04/23/2010	<u>19</u>	ORDER FOR THAT MOTION FOR PRO HAC VICE ADMISSION OF HISHAM AMIN IS GRANTED AS OUTLINED HEREIN.SIGNED BY HONORABLE BERLE M. SCHILLER ON 4/22/10. 4/26/10 ENTERED AND COPIES MAILED TO BARBARA SULLIVAN, COUNSEL, EMAILED(rf,) (Entered: 04/26/2010)
04/23/2010		Filing fee: \$ 40, receipt number PPE021547 (rf,) (Entered: 04/26/2010)
04/26/2010	<u>20</u>	NOTICE of Appearance by ROBERT T. VANCE, JR on behalf of BARBARA H SULLIVAN (VANCE, ROBERT) (Entered: 04/26/2010)

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04/27/2010	<u>21</u>	ORDER THAT DISCOVERY DUE BY 8/9/2010, BY 8/16/10 PARTIES SHALL SUBMIT TO CHAMBERS A JOINT STATUS UPDATE VIA FAX, AS OUTLINED HEREIN.. SIGNED BY HONORABLE BERLE M. SCHILLER ON 4/27/10. 4/28/10 ENTERED AND COPIES MAILED TO AMIN, EMAILED.(rf,) (Entered: 04/28/2010)
08/17/2010	<u>22</u>	SCHEDULING ORDER THAT: ALL FACT DISCOVERY SHALL BE COMPLETED BY 8/31/10. FINAL PRETRIAL MOTIONS ARE DUE 9/3/10. A BENCH TRIAL IN THE ABOVE CAPTIONED CASE IS SET FOR 9/7/10 AT 1:30 P.M. IN COURTROOM 13B, ETC.. SIGNED BY HONORABLE BERLE M. SCHILLER ON 8/17/10. 8/17/10 ENTERED AND COPIES MAILED AND E-MAILED.(fb) Modified on 8/18/2010 (fb). (Entered: 08/17/2010)
08/24/2010	<u>23</u>	ORDER THAT SETTLEMENT CONFERENCE SET FOR 9/7/2010 01:30 PM. FURTHER ORDERED THAT HONORABLE LOWELL A. REED IS APPOINTED COURT ANNEXED MEDIATOR FOR THIS CASE. SIGNED BY HONORABLE BERLE M. SCHILLER ON 8/24/10. 8/24/10 ENTERED AND COPIES MAILED, E-MAILED.(rf,) (Entered: 08/24/2010)
08/24/2010		HONORABLE LOWELL A. REED, JR added. (rf,) (Entered: 08/24/2010)
09/03/2010	<u>24</u>	Proposed Findings of Fact and Conclusions of Law by BERT BELL/PETE ROZELLE NFL PLAYER RETIREMENT PLAN, BERT BELL/PETE ROZELLE PLAYER RETIREMENT PLAN, RETIREMENT BOARD OF THE BERT BELL NFL PLAYER RETIREMENT PLAN. Certificate of Service (BAILEY, JAMES) (Entered: 09/03/2010)
09/03/2010	<u>25</u>	MOTION in Limine to limit evidence to the administrative record filed by BERT BELL/PETE ROZELLE NFL PLAYER RETIREMENT PLAN, BERT BELL/PETE ROZELLE PLAYER RETIREMENT PLAN, RETIREMENT BOARD OF THE BERT BELL NFL PLAYER RETIREMENT PLAN.memorandum, certificate of service. (Attachments: # <u>1</u> memorandum in support, # <u>2</u> Text of Proposed Order)(BAILEY, JAMES) (Entered: 09/03/2010)
09/03/2010	<u>26</u>	ANSWER to <u>10</u> Third Party Complaint by BARBARA H SULLIVAN.(VANCE, ROBERT) (Entered: 09/03/2010)
09/08/2010	<u>27</u>	ORDER THAT FINAL PRETRIAL MOTIONS DUE BY 10/15/2010., BENCH TRIAL SET FOR 10/21/2010 08:30 AM.SIGNED BY HONORABLE BERLE M. SCHILLER ON 9/8/10. 9/8/10 ENTERED AND COPIES MAILED, E-MAILED.(rf,) (Entered: 09/08/2010)
10/18/2010	<u>28</u>	Proposed Findings of Fact and Conclusions of Law by LAVONA HILL. (SHERMAN, DAVID) (Entered: 10/18/2010)
10/19/2010	<u>29</u>	CERTIFICATE OF SERVICE by LAVONA HILL (SHERMAN, DAVID) (Entered: 10/19/2010)
10/19/2010	<u>30</u>	Proposed Findings of Fact and Conclusions of Law by BARBARA H SULLIVAN. (VANCE, ROBERT) (Entered: 10/19/2010)
10/20/2010	<u>31</u>	AMENDED DOCUMENT by BARBARA H SULLIVAN. <i>Amended Proposed Findings of Fact and Conclusions of Law.</i> (VANCE, ROBERT) (Entered: 10/20/2010)
10/22/2010	<u>32</u>	Minute Entry for proceedings held before HONORABLE BERLE M. SCHILLER: Bench Trial held on 10/21/10. Court Reporter: CHRIS CAMPOLI. (kp,) (Entered: 10/22/2010)

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10/29/2010	<u>33</u>	TRIAL BRIEF <i>LETTER BRIEF</i> by LAVONA HILL. (SHERMAN, DAVID) (Entered: 10/29/2010)
10/29/2010	<u>34</u>	TRIAL BRIEF by BARBARA H SULLIVAN. (VANCE, ROBERT) (Entered: 10/29/2010)
11/01/2010	35	TRANSCRIPT of Bench Trial Proceedings held on 10/21/10 before Judge SCHILLER. Court Reporter: CHRIS CAMPOLI.. (rf,) (Entered: 11/01/2010)
11/02/2010	<u>36</u>	TRIAL BRIEF <i>RESPONSE LETTER BRIEF</i> by LAVONA HILL. (SHERMAN, DAVID) (Entered: 11/02/2010)
11/04/2010	<u>37</u>	MEMORANDUM AND/OR OPINION. SIGNED BY HONORABLE BERLE M. SCHILLER ON 11/4/10. 11/5/10 ENTERED AND COPIES MAILED, E-MAILED.(rf,) (Entered: 11/05/2010)
11/04/2010	<u>38</u>	MEMORANDUM AND ORDER THAT JUDGMENT IS ENTERED IN FAVOR OF THE BERT BELL/PETE ROZELLE NFL PLAYER RETIREMENT PLAN AND THE RETIREMENT BOARD OF THE BERT BELL/PETE ROZELLE NFL PLAYER RETIREMENT PLAN ON ALL CLAIMS BROUGHT AGAINST THEM. WITH RESPECT TO THE NFL DEFENDANTS INTERPLEADER COMPLAINT, THE COURT ENTERS JUDGMENT IN FAVOR OF LAVONA HILL. LAVONA HILL IS ENTITLED TO THE INTERPLED FUNDS IN THE AMOUNT OF \$29,700 AND SHALL BE ENTITLED TO COLLECT FUTURE BENEFITS UNDER THE PLAN AS THE SURVIVING SPOUSE OF THOMAS SULLIVAN. THIS COURT TAKES NO POSITION ON WHETHER HILL IS ENTITLED TO ANY PAST BENEFITS FROM BARBARA SULLIVAN. THE NFL DEFENDANTS MOTION IN LIMINE TO LIMIT EVIDENCE TO THE ADMINISTRATIVE RECORD (DOC. 25) IS DENIED AS MOOT. THE CLERK SHALL CLOSE THIS CASE STATISTICALLY. SIGNED BY HONORABLE BERLE M. SCHILLER ON 11/4/10. 11/5/10 ENTERED AND COPIES MAILED, E-MAILED.(rf,) (Entered: 11/05/2010)
12/06/2010	<u>39</u>	NOTICE OF APPEAL by BARBARA H SULLIVAN. Filing fee \$ 455, receipt number PPE033921. Copies to Judge, Clerk USCA, Appeals Clerk (rf,) (Entered: 12/07/2010)
12/06/2010	<u>40</u>	Clerk's Notice to USCA re <u>39</u> Notice of Appeal : (rf,) (Entered: 12/07/2010)
12/10/2010		NOTICE of Docketing Record on Appeal from USCA re <u>39</u> Notice of Appeal filed by BARBARA H SULLIVAN. USCA Case Number 10-4577 (rf,) (Entered: 12/13/2010)

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