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Rehear.App.1a

**EMAIL FROM PETITIONER TO PERSONAL
REPRESENTATIVE QUESTIONING
JURISDICTION
(APRIL 28, 2010)**

Probate

From: Beverly Hennager <b@nefferdun.myrf.net>

Date: 04/28/2010 10:16

To: Ziba & Mary Dearden <mglory@erols.com>,
Beverly Hennager <b@nefferdun.myrf.net>,
Michael Jennings <MJennings@kjtoyota.com>,
"Louis A. Jennings Jr." <LAJ@cflsr.com>,
randy dauphin <rjdauphin@msn.com>

Mary

According to VA law, probate is done in the county where the person was residing prior to death, which would be Fauquier County, VA, not Camden SC.

Please do not proceed with probate in SC if you are not in the proper jurisdiction.

Rehear.App.2a

**EMAIL FROM PETITIONER TO JUDGE
PIERCE QUESTIONING JURISDICTION
(MAY 1, 2010)**

Probate for Minnie K Jennings

From: Beverly Hennager <b@nefferdun.myrf.net>

Date: 05/01/2010 21:44

To: <harriet.pierce@kershaw.sc.gov>

Dear Ms. Pierce,

I am concerned that probate for my mother, Minnie Katherine Jennings, is being done in the wrong state. My mother was living in Va for over two years prior to her death. On her death certificate, 3534 Old Weaversville Rd Calverton, VA, is given as her residence. That is in Fauquier County, VA.

I have gotten no response to my question from the executor of her estate, Mary Dearden, so I contacted the attorney in charge of probate, M. Burns, whose name I got through your office. He says my mother considered SC to be her home and intended to return. My mother left Camden SC in 2007 when her sister could no longer care for her because of physical and mental disability. She lived with my sisters in VA visiting Camden only once or twice that I know of. The conditions contributing to her death (listed on the death certificate) are dementia, congestive heart failure and diabetes and she was 89 when she died so it was very unlikely that she would ever have returned to Camden. The memorial service for my mother was held in Va and she was buried in Va.

I am confused as to why the probate is being held in SC. I was just informed of this and have set up an

Rehear.App.3a

appointment with an attorney to get more information. Please do not proceed with probate until we are all certain that this is being done in the correct state and county.

Sincerely,

Beverly Hennager

Rehear.App.4a

**DEMAND FOR HEARING
REGARDING PERSONAL REPRESENTATIVES
FAILURE TO PROVIDE ACCURATE
COMPLETE ACCOUNTING
(SEPTEMBER 29, 2020)**

STATE OF SOUTH CAROLINA
COUNTY OF KERSHAW

Louis Jennings and Beverly Hennager,

Petitioners,

v.

Mary E. Dearden, as Personal Representative
of the Estate Of M.K. Jennings,

Respondent.

IN THE CIRCUIT COURT CASE
No. 2016-CP-28-00979

IN THE PROBATE COURT CASE
No. 2010-ES-28-00169

In the matter of: THE ESTATE OF M.K. JENNINGS

**DEMAND FOR HEARING REGARDING
PERSONAL REPRESENTATIVE'S
FAILURE TO PROVIDE ACCURATE
COMPLETE ACCOUNTING**

Rehear.App.5a

The Probate Court Order dated October 27, 2016 was AFFIRMED by the Honorable Judge Alison Renee Lee on July 10, 2020. The order required the personal representative, Mary Dearden, to provide an Amended Accounting. There is virtually no difference between the accounting Mary produced in 2011 and her 2020 amended accounting.

I. Inaccurate Incomplete Accounting

A. Unrecorded Debt

1. On page 415 of the 2016 transcript, Dearden admitted she swore the schedule she prepared was a complete and accurate inventory and appraisal of all real and personal property of the estate. She also admitted she did not do what she swore and that her accounting was inaccurate (2016 T. Page 415 and 455-458).

**EXCERPT - RENEWED PETITION FOR
REMOVAL OF PERSONAL REPRESENTATIVE
AT 22-23 ADDRESSING JURISDICTION
SOUTH CAROLINA KERSHAW COUNTY
PROBATE COURT *BEVERLY HENNAGER v.
MARY DEARDEN*, NO. 2010-ES-28-00169
(MARCH 23, 2021)**

[...]

Section 62-3-201 Venue for first and subsequent estate proceedings; location of property.

- (a) Venue for the first informal or formal testacy or appointment proceedings after the decedent's death is (1) in the county where the decedent had his domicile at the time of his death; or 2) if the decedent was not domiciled in this State, in any county where property of the decedent was located at the time of his death".

60. It would have been more convenient to attend probate in Virginia where the PR, Dauphin and Michael all live. However, the statute of limitations on promissory notes is 3 years in SC, whereas it is 6 years in Virginia. The statute of limitations in Virginia expired 6 months after the death of the Decedent.

CLOSING

Mary Dearden has held the Estate hostage for ten years by refusing to provide the transparency required by law. The PR admitted she swore falsehoods when she swore her 2011 accounting and inventory of the estate was true and accurate, admitting in court that she knew full well at the time

Rehear.App.7a

that it was full of inaccuracies and omissions. After allowing her nearly ten years to correct her transgressions, her 2020 amended accounting is virtually the same as her 2011 accounting. Therefore, by her own testimony, admitting inaccuracies and omissions in her 2011 accounting that were repeated verbatim in the 2020 amended accounting, the PR has proven that she has no intention of fulfilling her duties. The PR's disregard of "the formalities" of the court has entrenched her in contempt of court for over ten years.

Dearden breached her fiduciary duty to the estate by refusing to record debts and missing inventory. Her fiduciary duty to the estate is conflicted with her loyalty to Michael, who is intertwined with her own financial interests. After ten years languishing in the court, we are left with the mind boggling question of whether South Carolina even had jurisdiction for probate given the Decedent lived and died in Virginia and the PR's estate inventory and accounting records no property at all in South Carolina. The PR's inventory only records property in Virginia. One has to wonder why anyone would fight the appointment of a special administrator to investigate such a mess, if they have done nothing wrong and have nothing to hide. Clearly the PR must be removed for misrepresentation prior to her appointment, for disregarding multiple court orders, for mismanaging estate assets and for not performing the duties pertaining to the office. A PR's removal is justified for just one of those reasons.

RULE OF LAW

CAUSE FOR REMOVAL

SECTION 62-3-611 Petition for removal, Cause, Procedure.

- (b) Cause for removal exists when removal would be in the best interests of the estate, or if it is shown that a personal representative or the person seeking his appointment intentionally misrepresented material facts in the proceedings leading to his appointment, or that the personal representative has disregarded an order of the court, has become incapable of discharging the duties of his office, or has mismanaged the estate or failed to perform any duty pertaining to the office.

In such an event, Section 62-3-614 Section 62-3-611 permits appointment of a special administrator.

OVER 3,982 DAYS LATER, THE PR HAS NOT PERFORMED HER DUTY PURSUANT:

Section 62-3-706. Duty of personal representative; inventory and appraisement.

- (A) Within ninety days after his appointment, a personal representative who is not a special administrator or a successor to another representative who has previously discharged this duty, shall:
 - (1) prepare an inventory and appraisement of probate property owned by the decedent at the time of his death, listing it with reasonable detail, and indicating as to each listed item, its fair market

Rehear.App.9a

value as of the date of the decedent's death, and the type and amount of any encumbrance that may exist with reference to any item;

**EXCERPT - REOPENING DISCOVERY
REQUESTS - PRODUCTION OF DOCUMENTS,
AT 3 1. TAX FORMS FROM 1994 UNTIL 2004
SHOWING PAID INTEREST DUE 1.
SUPPLEMENTAL INVENTORY AND
APPRAISEMENTS 2. DOCUMENTATION TO
PROVE DECEDENT WAS DOMICILED IN SC
SOUTH CAROLINA KERSHAW COUNTY
PROBATE COURT, *BEVERLY HENNAGER v.
MARY DEARDEN*, NO. 2010-ES-28-00169
(JUNE 10, 2021)**

**DISCOVERY REQUESTS TO MARY DEARDEN
PRODUCTION OF DOCUMENTS**

1. Tax forms from 1994 until 2004 showing Michael Jennings paid the interest due on the Promissory Note owed to the Decedent. (Note to the court: Interest is a taxable gain and must be included in tax returns.)

2. Supplemental Inventory and Appraisements (by an unbiased appraiser that is not a personal friend of the PR) of all assets disbursed by the PR without being included in the inventory and final documents. This would include but is not limited to, furniture, antiques, fine art, real ivory carvings, jade chess set, father's burial flag, father's war metals, and family heirlooms.

3. Documentation to prove the Decedent was domiciled in SC at the time of her death: that she owned or leased a residence where she lived over 50% of the time, that her medical providers were in SC, that she had SC bank accounts, that her social security

Rehear.App.11a

checks and medical bills were mailed to SC, and that she was buried in SC.

4. Proof in the estate inventory, that the Decedent had any property located in SC.

5. Proof of the \$400 appraisal of jewelry that the Court relied upon for its October 27, 2016 Order when it accepted the PR's stated appraisals over the Petitioners' professionally documented exhibits.

6. ALL Appraisal documents.

7. Documentation to prove what became of the two Merrill Lynch accounts.

8. Decedent's Will.

**EXCERPTS - WAIVING ORAL ARGUMENT -
WRITTEN ARGUMENT FOR REMOVAL OF
PR AND MOTION TO VACATE
JUDGMENT/ORDER PURSUANT RULE
60(B)(3) SOUTH CAROLINA KERSHAW
COUNTY CIRCUIT COURT,
BEVERLY HENNAGER v. MARY DEARDEN
NO. 2021-CP-28-00795
(AUGUST 11, 2023)**

[...]

revised market value or descriptions, the appraisers or other data relied upon, if any, and restating the unchanged information from the original inventory . . .

D. It would be in the Best Interests of the Estate

11. Section 62-3-201 provides venue for probate proceedings must be in the county where the decedent was domiciled at the time of her death, or if she was not domiciled in the state, then venue is in the county where her property was located.

Section 62-3-201 provides venue for first and subsequent estate proceeding; location of property.

- (A) Venue for the first informal or formal testacy or appointment proceeding after the decedent's death is (1) in the county where the decedent had his domicile at the time of his death; or (2) if the decedent was not domiciled in this State, in any county where property of the decedent was located at the time of his death.

12. When the court failed to appoint a special administrator to recover missing S.C. assets, it not only allowed the most valuable personal assets to remain unaccounted for; it put this case at risk of being declared void for lack of jurisdiction because the requirements to establish venue have not been met.

“If it (any court) acts without authority, its judgments and orders are regarded as nullities. They are not voidable but simply void.” *Elliot et al v. Person et al* (1892), 2 Pet. 328, 7 L Ed. 164.

II Demand for Hearing

A. The 2020 Amended Accounting was not Corrected

13. As Dearden had testified during the 2016 hearing that she intended to correct the omissions and inaccuracies of her 2011 documents, (2016 T; 454 & 457-458), it was necessary to wait to see if she honored her word. Regarding the

**RULE 60 MOTION TO VACATE
JUDGMENT/ORDER, AT 7 DENIAL OF
DUE-PROCESS RIGHTS
(AUGUST 11, 2023)**

[...]

17. The argument accepted by the Court isn't that Dearden is not guilty of all the issues under appeal. It is that the affirmation of the Oct. 2016 Interlocutory Order accepted Dearden's omissions and inaccuracies, allowing her to re-submit faulty documents with false oaths declaring her documents to be true and accurate, while knowing that they were not. Probate laws protect the beneficiaries, even after termination of the personal representative.

Section 62-3-608 does not discharge a PR from liability for transactions or omissions occurring before termination or relieve her of the duty to preserve assets subject to her control, to account therefore, and to deliver the assets.

III. Denying Due Process Rights

In *Logan v. Zimmerman Brush Co.* (1982) the US Supreme Court found every litigant has the right to present their case and have its merits fairly judged and this right must include the right to present evidence necessary to establish their claim.

A. Promissory Note

18. One of the most salient accounting omissions in the PR's closing documents was a debt owed to the estate by Michael Jennings' business. A Virginia Promissory note required monthly payments "*until the principal and accrued interest is fully repaid to the*

Shareholder". The note waived notice of default and required the "*Maker agrees to be obligated for principle and interest due and to pay all collection costs, attorney's fees and interest from date of default at a rate EIGHT (8%) percent per annum*". (BH0133). The note currently amounts to over 2.5 million dollars.

19. On November 15, 2006, Katherine Dauphin, who has a masters degree in business, emailed Louis and I saying she had investigated our mother's accounting records and discovered Michael's business had not fully repaid the note (BH 0133 and

**RULE 60 MOTION TO VACATE
JUDGMENT/ORDER, AT 9 DUE-PROCESS
VIOLATION RENDERING ORDER VOID
(AUGUST 11, 2023)**

[...]

24. During the June 2, 2021 continuance, I brought to the court's attention again, the note itself as well as the stipulated email from Dauphin. I asked for complete documents. Having received no response, on June 10, 2021, I re-opened discovery requests pursuant Rule 26(e) seeking complete documents (pgs 117 - 131 ROA)

Rule 26(e) states parties are under a duty to supplement or correct the previously provided discovery information when it applies to rule 34 for production of documents and Rule 33 for interrogatories.

Rule 106 provides when incomplete documents are introduced, the opposing party has a right to demand complete copies.

D. The Court Denied my Due Process Rights

25. When everyone, including the court, was unresponsive to my requests I sent two motions to compel production to the Court (exhibit 1 of initial brief of appellant; pgs 134-138 of ROA). The first motion was delivered to the Court on July 16 and signed for by a clerk with the same last name as Judge Branham, A. Branham. Instead of being filed on the docket, A. Branham transferred my motion to Judge Branham.

26. Three days later, on July 19, Judge Branham sent an email with a letter attached to M. Burns saying she had made her decision that the loan had

Rehear.App.17a

been paid in full (Exhibit 2 of initial brief). In the following days she returned the motions to me with letters stating, "*This filing can not be accepted because there is no pending litigation*" (exhibit 3 of initial brief)

27. Judge Branham's final order was September 3, 2021, five weeks after I asked for complete tax copies and six years after my initial discovery requests asking for all loan information. Making a decision with incomplete documents while not allowing complete documents to be received and presented to prove my case is abuse of discretion.

**RULE 60 MOTION TO VACATE
JUDGMENT/ORDER, AT 10 GOVERNING LAW
(AUGUST 11, 2023)**

[. . .]

E. The Court's Order is Void

The Due Process Clause of the Fourteenth Amendment guarantees every litigant the right “to present his case and have its merits fairly judged”.

In *Logan v. Zimmerman Brush Co.* (1982) the US Supreme Court found every litigant has the right to present their case and have its merits fairly judged and this *right must include the right to present evidence necessary to establish their claim.*

In *Schwartz v. US.* The Fourth Circuit Court found a judgment is void under Rule 60(d) if the court acted in a manner inconsistent with due process of the law. (976 R.3d 213). (1992)

An order is void under Rule 60(d)(3) when the court prevents the movant from presenting all of her case. *Lightest & Flanagan, supra*, at 486.

F. Reason Note was not recorded

28. Dearden testified while the decedent was alive she used the decedent's money to pay living expenses because both she and her husband were unemployed. She testified after the decedent's death Michael provided her with income to pay her expenses (and other benefits) (Pgs 465 & 533)(2012T p. 66). This means she was indebted to him and dependent upon him.

Section 62-7-802 sets forth the duty of loyalty owed to beneficiaries and states the PR cannot have a conflict between personal and fiduciary interests.

29. The purpose of withholding and redirecting money intended for Louis and I was to weaken us financially in preparation for a legal assault in our Virginia family partnership, to force a reduced value sale of the assets. As a result, Michael obtained a 99-year lease he had been seeking, for half a million dollars below its appraised value. Prior to closing, the purchasing entity of three parcels secretly arranged to sell shares to undisclosed investors. Both Dauphin and Dearden do not contest that they and/or their family members or entities to which they belonged, acquired shares.

**RULE 60 MOTION TO VACATE
JUDGMENT/ORDER, AT 24 FRAUD
ON THE COURT
(AUGUST 11, 2023)**

[. . .]

court may relieve a party from final order when the judgment is void Pursuant Rule 60(b)(4) (jurisdiction).

Pursuant Rule 60(d)(3) fraud on the court “induces a person not to present a case or deprives a person of the opportunity to be heard”. ID. At 81, 579 S.E.2d at 610 (Citing Hilton Head Ctr. Of South Carolina v. Public Serv. Comm’n, 294 S.C. 9, 11, 362 S.E.2d 176, 177 (1987).

78. Fraud on the court often refers to a situation in which a material misrepresentation has been made to the court by an attorney. When a judge is involved, he/she may prevent the non-offending party from correcting the falsification of the record or from presenting evidence to prove his/her claim/defense.

79. Fraud on the court may also involve withholding notice of a hearing such that the party does not make an appearance and losses by default. This happened twice. The notice for the first appellant hearing arrived the day after the hearing. The envelope was marketed “*return for postage*” and it was re-mailed the business day before the hearing. I would have lost by default if my sister-in-law had not told me about it. The notice for the second hearing (judge recused herself when she found out her clerk’s father worked with Burns) gave false information on how to enter the virtual courtroom so I would not be able to

Rehear.App.21a

make an appearance. This is the reason I am filing my argument on the record.

Section 62-3-706(g). If a personal representative neglects or refuses to comply with any provision in Section 62-3-706 she is subject to the contempt power of the court.

Section 62-3-720. Only allows the estate to pay for attorneys fees and expenses if the PRs defense was done in good faith.

Section 62-3-808(b). In a judicial proceeding involving the administration of a trust, the court, as justice and equity may require, may award costs and expenses, including reasonable attorney's fees, to any party, to be paid by another party or from the trust that is the subject of the controversy.

Rehear.App.22a

**EXCERPT - AGREEMENT TO CONSOLIDATE
RULE 60 WITH APPELLANT HEARING, AT 1
SOUTH CAROLINA KERSHAW COUNTY
CIRCUIT COURT, *BEVERLY HENNAGER v.
MARY DEARDEN* NO. 2021-CP-28-00795
(MAY 13, 2024)**

STATE OF SOUTH CAROLINA
IN THE CIRCUIT COURT

Beverly Hennager,

Appellant,

v.

Mary Dearden, as PR of MK Jennings Estate,

Respondent.

Probate Court Case No: 2010-ES-28-00169

Circuit Court Case No: 2021-Cp-28-00795

Appeal from Kershaw County Probate Court
Honorable Debra Branham, Probate Judge

**AGREEMENT TO CONSOLIDATE APPELLATE
HEARING WITH RULE 60(b)(3) HEARING**

Rule 54(b) allows for review of interlocutory orders at any time before final judgment. Rule 60(b)(3) allows one year after final judgment to bring a motion for review for relief from judgment or final order for

Rehear.App.23a

fraud, misrepresentation or other misconduct of an adverse party. Although leave to make the motion need not be obtained from any appellate court, it may be brought during such time as an appeal from the judgment is actually before the appellate court. Given this case has languished in court for over fourteen years, I agree to consolidate the hearing to review evidence of fraud with the appellate hearing. This will expedite the process.

The appeal is an action in equity because it primarily involves removal of the personal representative (*Dean v. Kilgore* 1993). In equity cases the appellate court

**EXCERPTS - OBJECTIONS TO JUNE 19, 2024
ORDER SOUTH CAROLINA KERSHAW
COUNTY CIRCUIT COURT,
BEVERLY HENNAGER v. MARY DEARDEN
NO. 2021-CP-28-00795
(JUNE 25, 2024)**

[. . .]

Numerous jurisdictions hold an attorney's subornation of perjury and or the intentional concealment of documents, or failure to produce documents, constitutes fraud upon the court.

In *Chewing v Ford Motor Company* (346 S.C. 28, 550 S.E.2d 584 (Ct. App. 2001)), the SC Supreme Court found the subornation of perjury by an attorney and/or the intentional concealment of documents or failure to produce documents by an attorney are actions which constitute extrinsic fraud. *Id.* At 82, 579 S.E.2d at 610

Relief is granted for extrinsic fraud on the theory that because the fraud prevented a party from fully exhibiting and trying his case, there has never been a real contest before the court on the subject matter of actions. *Hilton Head Car. Of S.C. v. Public Serv. Comm'*. 294 S.C 9,11, 362 S.E.2d 176, 177 (1987).

13. I was denied due process of law, when the court ignored discovery requests and motions to compel complete tax returns, which I had been seeking for five years. It stands to reason the complete tax returns were not produced because the interest was not paid, just as Katherine Dauphin wrote in her November 15, 2006 email, which all the parties stipulated to during the 2016 hearing (BH 0133).

Pursuant Rule 60(d)(3) fraud on the court “induces a person not to present a case or deprives a person of the opportunity to be heard”. ID. At 81, 579 S.E.2d at 610 (*Citing Hilton Head Car. Of South Carolina v. Public Serv. Com’n*, 294 S.C. 9, 11, 362 SE.2d 176 (1987).

The Due Process Clause of the Fourteenth Amendment guarantees every litigant the right “to present his case and have its merits fairly judged”.

In *Logan v. Zimmerman Brush Co.* (1982) the US Supreme Court found every litigant has the right to present their case and have its merits fairly judged and this *right must include the right to present evidence necessary to establish their claim.*

In *Schwartz v. US.* The Fourth Circuit Court found “a judgment is void under Rule 60(d) if the court acted in a manner inconsistent with due process of the law”. (976 R.3d 213). (1992)

An order is void under Rule 60(d)(3) when the court prevents the movant from presenting all of her case. *Lightest & Flanagan, supra*, at 486.

**OBJECTIONS TO JUNE 19, 2024 ORDER,
AT 11-12 JURISDICTION DEFECTS AND LAWS
(JUNE 25, 2024)**

[. . .]

Section 63-3-504 directs the PR not exercise her power to make any distribution of the estate without prior order of the court

Section 62-3-708. Duty of PR; supplementary inventory. If any property not included in the original inventory and appraisal comes to the knowledge of a PR or if the PR learns that the value or description indicated in the original inventory for any item is erroneous or misleading, he shall submit a supplementary, amended or corrected inventory of appraisal showing the market value as of the date of the decedent's death of the new item, or the revised market value or descriptions, the appraisers or other data relied upon, if any, and restating the unchanged information from the original inventory . . .

**D. The Court Cannot Protect the PR from
Liability Because:**

Section 62-3-608 does not discharge a PR from liability for transactions or omissions occurring before termination or relieve her of the duty to preserve assets subject to her control, to account therefore, and to deliver the assets.

Section 62-3-712 provides if the exercise of power concerning the estate is improper, the personal representative is liable to interested persons for damage or loss resulting from breach of her fiduciary duty.

Mary Dearden Should be Removed as PR

Section 62-3-611(b) provides for the removal of a personal representative for intentionally misrepresenting material fact in the proceeding leading to her appointment, failing to perform the duties of the office, mismanaging the estate, and disregarding an order of the Court. Dearden violated all of these causes.

In *Blackmon v. Weaver*, 366 S.C. 245 251 S.E.2nd 42, 45 (Ct. App. 2005), the Court found a personal representative can be removed when “it is made to appear to be necessary for the protection of the Estate, to prevent injury to it from misappropriation, maladministration or fraud.”

Section 62-7-7-6(b) provides for removal of a trustee when the trustee has committed a serious breach of trust.

III. Affirming the 2021 Order Voids This Case

A. VOID for lack of Jurisdiction Pursuant Rule 60(b)(4)

Section 62-3-201 provides venue for first and subsequent estate proceeding; location of property.

- (A) Venue for the first informal or formal testacy or appointment proceeding after the decedent’s death is (1) in the county where the decedent had his domicile at the time of his death; or (2) if the decedent was not domiciled in this State, in any county where property of the decedent was located at the time of his death.

29. The first finding of fact in the October 2016 is, “*Decedent was a resident of Kershaw County*”, which

is erroneous. The decedent's death certificate states she was a resident of Virginia.

30. During the November 29, 2012 hearing, Dearden testified that she had disbursed all of the South Carolina assets without listing any of it in the inventory (2012 Transcript; page 76). The PR's inventory only listed property disbursed from Virginia, and her accounting only recorded shipping charges from a location in Virginia. Dearden ignored requests for supplementary inventory.

31. Section 62-3-706 provides 90 days for the PR to provide complete inventory with appraisements of the estate assets. Over five thousand days after her appointment we still do not have complete inventory.

32. If Dearden is not removed and a special administrator appointed to recover and record missing S.C. assets, then this case does not meet the requirements to establish jurisdiction for probate.

"If it (any court) acts without authority, its judgments and orders are regarded as nullities. They are not voidable but simply void." *Elliot et al v. Person et al* (1892), 2 Pet. 328, 7 L. Ed. 164

"An order that exceeds the jurisdiction of the court is void, or avoidable, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue". *Rose v. Himely* (1808 4 Cranch 241, 2L Ed 80)

**OBJECTIONS TO JUNE 19, 2024 ORDER,
AT 13 VOID FOR DENYING
DUE PROCESS AND FRAUD ON
THE COURT EXTRINSIC FRAUD
(JUNE 25, 2024)**

[...]

**B. Void for Denying Due Process and Fraud
on the Court**

33. Attorneys are officers of the court with a duty of loyalty to the court. Burns failed to produce discovery requests for Michael Jennings taxes, the Decedent's taxes and supplementary inventory. The Court failed to order Burns to produce the evidence I had sought in discovery requests and court hearings for over five years.

Extrinsic Fraud

Chewning 354 S.C. at 81, 579 S.E.2d at 610. The failure to disclose to an adversary or court matters which would defeat one's own claim is intrinsic fraud (quoting *Hilton Heard Car.*, 294 S.C. at 11, 362 S.E. at 177. However, when it is shown that one acted with an intent to deceive or defraud the court it is extrinsic fraud. *Chewning* 354 S.C. at 78, 579 S.E.2d at 608.

18 U.S.C. 1512 It is a crime to prevent the attendance of testimony of any person in an official proceeding, or to prevent the production of a record, document or other object, in an official proceeding.

18 U.S.C. 271. It is a crime when two or more persons conspired to commit an offense against the United States or to defraud the United States or any agency thereof in any manner of for any purpose.

Rehear.App.30a

Section 242 of Title 18 makes it a crime for a person acting under the color of law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States.

18 U.S.C. 1001 It is a crime to knowingly and willfully make any materially false, fictitious or fraudulent statement or representation in any matter with the jurisdiction of the executive, legislative or judicial branch of the United States.

34. Motion pursuant Rule 60(d)(3) need not be brought in the court where the action took place and it does not require appeal. There is no statute of limitations.

35. It is a manifest injustice for the court to allow these claims to remain unresolved.

Conclusion:

**EXCERPT FROM NOVEMBER 2012
TRANSCRIPT: PAGE 76; LINES 8-25:
PERSONAL REPRESENTATIVE TESTIFIED
SHE DISBURSED ALL SC ASSETS WITHOUT
INVENTORY SOUTH CAROLINA KERSHAW
COUNTY PROBATE COURT, *BEVERLY
HENNAGER v. MARY DEARDEN*,
NO. 2010-ES-28-00169
(NOVEMBER 29, 2012)**

[...]

- Q. So, item Number Two of that tangible personal property in Virginia is what—
- A. Yes.
- Q. —Ms. Hartman appraised?
- A. Yes.
- Q. How were the other categories determined and appraised?
- A. The tangible personal property in Camden, it was—I never had it appraised. I divided it up evenly. I sent it out, and I just put a value of Fifteen Hundred Dollars (\$1,500.00) on everybody's because I had to put a value on it. The jewelry, the Fifty-three One Hundred and Thirty (\$53,130.00), I had a jewelry appraiser appraise it.
- Q. Okay. With respect to those things in that third item the Camden property, you said you put values on them; right?
- A. Right.
- Q. And you decided who would get what; correct?
- A. I divided it up evenly.

Rehear.App.32a

- Q. And you distributed those things, and you charged everybody Fifteen Hundred Dollars (\$1,500.00)?
- A. Well, I put value of Fifteen Hundred Dollars (\$1,500.00) on—on each person's—
- Q. I understand that's what you reported on the



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