

FILED
STATE OF NORTH CAROLINA
COUNTY OF CARTERET

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
BEFORE THE CLERK
FILE NO.: 18-E-631

IN THE MATTER OF THE ESTATE OF)

EVELYN LILLEY OLSCHNER)

) PETITION FOR REIMBURSEMENT
) OF ATTORNEY FEES
)

The undersigned, M. Douglas Goines, Executor of the Estate of Evelyn Lilley Olschner does hereby petition the Court for reimbursement of attorneys' fees. In support of that Petition, the undersigned does respectfully show unto the Court the following:

1. M. Douglas Goines was appointed Executor of the Estate of Evelyn Lilley Olschner by Court Order entered on August 24, 2018.

2. The Estate has incurred legal fees in the amount of \$1,837.50. An itemized statement detailing attorneys' fees incurred by the Estate is attached as Exhibit A and is incorporated herein by reference.

3. A significant portion of the fees requested herein arose as a result of defending a lawsuit filed in Carteret County file number 19-CVS-460 and captioned *Joseph Olschner v. M. Douglas Goines as Executor of the Estate of Evelyn Lilley Olschner and Barbara Olschner*.

4. The Plaintiff in said lawsuit is one of the two beneficiaries of the Estate, and Barbara Olschner, the co-Defendant of the Executor, is the other beneficiary of the Estate.

5. Joseph Olschner filed the lawsuit in an attempt to collect alleged debts owed by Barbara Olschner to the Estate. In the Complaint, Joseph Olschner maintained that the Executor was refusing to collect the alleged debts.

6. It has always been the contention of the Executor and the other beneficiary that the Plaintiff's claim was frivolous and without merit. Both the Executor and Barbara Olschner filed Motions to Dismiss asserting, among other things, that any applicable statute of limitations on the debts had run, that some of the debts had been satisfied, and that none of the debts were negotiable instruments.

7. The hearing on the Defendants' Motions to Dismiss was set for Monday, August 26, 2019.

8. Minutes before the call of the calendar on Monday, August 26, 2019, counsel for the Executor and for Barbara Olschner were notified by the Trial Court Administrator that Joseph Olschner had taken a voluntary dismissal of the lawsuit.

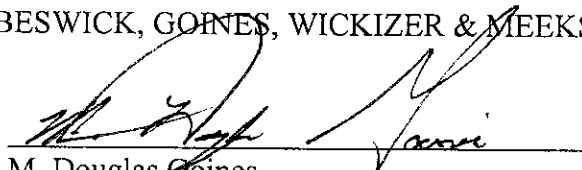
9. Plaintiff served the Executor and counsel for Barbara Olschner with the voluntary dismissal by depositing it in the mail on Friday, August 23, 2019. The same was not received until after court on August 26, 2019.

10. Both the Executor and Barbara Olschner incurred attorneys' fees in the preparation of their responsive pleadings, motions to dismiss, and in research and preparation for a hearing on the Motions to Dismiss.

11. The Executor respectfully that the attorneys' fees incurred as a result of this litigation be paid by the Estate. Further, that as a result of the foregoing conduct of Joseph Olschner and the frivolous nature of the lawsuit, that as part of its Order in approving these fees, that the Court authorize the Executor to assess said fees solely against Joseph Olschner's share of the Estate rather than the fees being borne equally by the two beneficiaries of the Estate.

This the 14th day of September, 2019.

BESWICK, GONES, WICKIZER & MEEKS PLLC



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