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**RECEIVED**  
 DEC 22 2023  
 SUPREME COURT  
 OF NEW JERSEY

IN THE MATTER OF THE ESTATE OF MICHAEL  
 D. JONES, DECEASED,

Plaintiff-Respondent,

v.

JEANINE JONES; TIFFANY JONES; JOHN  
 DOE 1-20, and JANE DOE 1-20,

Defendants-Appellants.

SUPERIOR COURT OF NEW JERSEY  
 APPELLATE DIVISION  
 DOCKET NO.: A-002944-21

On appeal from Superior Court  
 of New Jersey, Chancery  
 Division, Camden County,  
 Docket No. CAM-C-5-20

Sat Below: Hon. Nan S.  
 Famular, P.J. Ch.

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**MERITS BRIEF AND APPENDIX OF DEFENDANT-APPELLANT,  
 JEANINE JONES**

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**TABLE OF CONTENTS**

TABLE OF CONTENTS ..... i

APPENDIX TABLE OF CONTENTS..... ii

TABLE OF JUDGMENTS, ORDERS AND RULINGS ..... iv

TABLE OF AUTHORITIES .....v

PRELIMINARY STATEMENT.....10

STATEMENT OF MATERIAL FACTS.....12

STATEMENT OF PROCEDURAL HISTORY ..... 15

LEGAL ARGUMENT ..... 16

    I.    THE TRIAL COURT ERRED IN GRANTING PARTIAL SUMMARY JUDGMENT  
          IN ATTEMPTING TO RESOLVE APPELLANT’S CLAIM AGAINST THE  
          ESTATE. (T18:5-8) .....16

        A. The Trial Court Misapplied the Decedent’s Federal Bond  
          Proceeds Towards Appellant’s Claim Against the Estate  
          (T12:4-8) .....16

          1. Standard of Review .....16

          2. The Trial Court’s Misinterpretation of  
          Federal Bond Regulations and the Divorce  
          Settlement Agreement Warrants Reversal  
          (T6:1-7) .....17

          3. The Trial Court Overlooked the Divorce  
          Settlement Agreement’s Plain Language and  
          Warrants Reversal to Determine the Parties’  
          Intent. (T9:5-12) ..... 19

II. THE TRIAL COURT ERRED IN DENYING APPELLANT'S MOTION FOR RECONSIDERATION

(T18:8-25) ..... 21

CONCLUSION..... 22

APPENDIX

Copy of Videoconference Deposition of Jeanine Williams Jones dated Thursday, November 19, 2020, submitted as Exhibit "1" to Respondent's Motion for Partial Summary Judgment in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 1a

Copy of Divorce Settlement Agreement, submitted as Exhibit "2" to Respondent's Motion for Partial Summary Judgment in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 58a

Copy of Final Judgment Action for Divorce entered on January 17, 2018 under Docket No. FM-08-408-18, submitted as Exhibit "3" to Respondent's Motion for Partial Summary Judgment in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 67a

Copy of Check from Michael D. Jones to Jeanine Jones dated June 17, 2017, submitted as Exhibit "4" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 70a

Copy of Check from Michael D. Jones to Jeanine Jones dated July 1, 2017, submitted as Exhibit "5" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 71a

Copy of Check from Michael D. Jones to Jeanine Jones dated August 21, 2017, submitted as Exhibit "6" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 72a

Copy of Check from Michael D. Jones to Jeanine Jones dated October 19, 2017, submitted as Exhibit "7" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 73a

Copy of Check from Michael D. Jones to Jeanine Jones dated November 20, 2017, submitted as Exhibit "8" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 74a

Copy of Check from Michael D. Jones to Jeanine Jones dated December 30, 2018, submitted as Exhibit "9" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 75a

Copy of Check from Michael D. Jones to Jeanine Jones dated November 1, 2019, submitted as Exhibit "10" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 76a

Copy of Power of Attorney from Michael D. Jones to Jeanine Jones dated November 14, 2019, submitted as Exhibit "11" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 77a

Copy of Checking/Savings Withdrawal Ticket dated November 14, 2019, submitted as Exhibit "12" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 79a

Copy of Performance Select Statement from PNC Bank, submitted as Exhibit "13" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 80a

Copy of Medical Records of Michael D. Jones from Jefferson Health, submitted as Exhibit "14" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 83a

Copy of Medical Records of Michael D. Jones from Jefferson Health, submitted as Exhibit "15" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 88a

Copy of Series EE Bond Statement, submitted as Exhibit "16" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 89a

Copy of Cancelled Check Statement, submitted as Exhibit "17" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 95a

Copy of Claim of Jeanine W. Jones Against Estate of Michael D. Jones, submitted as Exhibit "18" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 108a

Copy of Notice of Rejection of Claim of Jeanine W. Jones, submitted as Exhibit "19" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 132a

Copy of Judgment entered by Honorable Nan S. Famular on June 12, 2020, submitted as Exhibit "20" to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on February 26, 2021..... 136a

Copy of Marriage Certificate of Michael D. Jones and Jeanine W. Jones, submitted as Exhibit "A" of Appellant's Opposition to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on April 15, 2021..... 138a

Copy of Request to Withdraw Complaint of Divorce, submitted as Exhibit "B" of Appellant's Opposition to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on April 15, 2021..... 139a

Copy of Summary of Expenses on Behalf of Estate of Michael D. Jones, submitted as Exhibit "C" of Appellant's Opposition to Respondent's Motion for Partial Summary Judgment filed in Docket No. CAM-CP-0005-2020 on April 15, 2021..... 140a

Copy of Proposed Order from Respondent, submitted as Exhibit "A" to Appellant's Motion for Reconsideration filed in Docket No. CAM-CP-0005-2020 on May 24, 2021..... 148a

Letter from Kevin Diduch, Esq. to Hon. Nan S. Famular, P.J. Ch. dated April 23, 2021, submitted as Exhibit "B" to Appellant's Motion for Reconsideration filed in Docket No. CAM-CP-0005-2020 on May 24, 2021..... 150a

Copy of Order Granting Partial Summary Judgment, submitted as Exhibit "C" to Appellant's Motion for Reconsideration filed in Docket No. CAM-CP-0005-2020 on May 24, 2021..... 151a

Copy of Proof of Service of Order Granting Partial Summary Judgment, submitted as Exhibit "D" to Appellant's Motion for Reconsideration filed in Docket No. CAM-CP-0005-2020 on May 24, 2021..... 153a

Copy of Divorce Settlement Agreement dated October 19, 2017, submitted as Exhibit "E" to Appellant's Motion for Reconsideration filed in Docket No. CAM-CP-0005-2020 on May 24, 2021..... 154a

TABLE OF JUDGMENTS, ORDERS AND RULINGS

	Included in Appendix at <u>Page</u>
Order issued April 23, 2021 by Judge Nan S. Famular in Docket No. CP-0005-2020.....	163a
Order issued August 3, 2021 by Judge Nan S. Famular in Docket No. CP-0005-2020.....	165a
Order issued April 13, 2022 by Judge Nan S. Famular in Docket No. CP-0005-2020.....	167a



**TABLE OF AUTHORITIES**

**CASES**

Am. C.L. Union of New Jersey, Inc. v. Cty of Hudson,  
352 N.J. Super. 44, 799 A.2d 629 (App. Div. 2002) ..... 18

Brill v. Guardian Life Ins. Co. of Am.,  
142 N.J. 520 (1995) ..... 16

Caruso v. Ravenswood Developers, Inc.,  
337 N.J. Super. 449, 506, 767 A.2d 979 (App. Div. 2001) ..... 19

Feldman v. Lederle Lab'ys, a Div. of Am. Cyanamid Co.,  
125 N.J. 117, 592 A.2d 1176 (1991) ..... 17

Globe Motor Co. v. Igdaley,  
225 N.J. 469 (2016) ..... 16

Hillsborough County v. Automated Medical Laboratories, Inc.,  
471 U.S. 707, 105 S. Ct. 2371 (1985) ..... 17

Joseph Hilton & Associates, Inc. v. Evans,  
201 N.J. Super. 156, 171, 492 A.2d 1062 (App. Div. 1985) ..... 20

Manalapan Realty, LP v. Twp. Comm. of Manalapan,  
140 N.J. 366 (1995) ..... 16

Rice v. Santa Fe Elevator Corp.,  
331 U.S. 218, 67 S. Ct. 1146 (1947) ..... 18

Twp. of White v. Castle Ridge Dev. Corp.,  
419 N.J. Super. 68, 74-75, 16 A.3d 399 (App. Div. 2011) ..... 19

Wisconsin Pub. Intervenor v. Mortier,  
501 U.S. 597, 111 S. Ct. 2476 (1991) ..... 17, 18

W.J.A. v. D.A.,  
210 N.J. 229, 43 A. 3d 1148 (2012) ..... 16, 17

**COURT RULES**

N.J. Ct. Rule 4:46-2(c) ..... 16

**STATUTES/REGULATIONS**

31 C.F.R. § 360.22.....17, 18

31 C.F.R. § 360.22 (a) .....18, 19

N.J.S.A. § 3B:3-14 (a) (1) (a) .....18, 19

N.J.S.A. § 3B:3-14 (a) (1) (b) ..... 19

N.J.S.A. § 3B:3-14 (a) (1) (c) ..... 19

N.J.S.A. § 3B:3-14 (a) (2) ..... 18

**CONSTITUTIONAL PROVISIONS**

N.J. Const. art. VI, §2 ..... 17

**PRELIMINARY STATEMENT**

Mrs. Jeanine W. Jones (the "Appellant" or "Mrs. Jones") and Michael D. Jones ("Mr. Jones" or the "Decedent") were married for twenty-seven years prior to their amicable separation and divorce. As a condition of ending their marriage, the parties entered into a written Divorce Settlement Agreement (the "DSA") outlining specific payments due to the Appellant over the course of the following three (3) years. Unfortunately, Mr. Jones passed away on November 16, 2019 prior to fulfilling his obligations to Appellant under the DSA.

In filing her claim against the Estate of Michael D. Jones (the "Estate"), Appellant sought reimbursement for outstanding payments owed by Decedent under the DSA and expenses paid on behalf of the Decedent prior to creation of the Estate. The appointed Administratrix of the Estate, Shontell D. Jones ("Respondent"), denied Appellant's claim and sought an Order for Partial Summary Judgment seeking to resolve the issue of reimbursement under the DSA.

By way of an Order Granting Partial Summary Judgment in favor of Respondent and the Estate, the Honorable Nan S. Famular, P.J. Ch. concluded there were no genuine issues of material fact concerning the amount owed to Appellant. In reaching its decision, the Trial Court impermissibly "credited" assets outside the Estate - specifically the proceeds from Federal bonds in which Appellant

was the designated "pay-on-death" beneficiary - towards her claim and denied the right to further reimbursement under the DSA.

The Trial Court's decision warrants reversal for two (2) reasons. First, the Court improperly presumed the DSA "resolved all issues between the parties" sufficient to presumptively revoke Appellant's designation as the "pay-on-death" beneficiary of the Federal savings bonds and applied the bonds to her claim as a result. The DSA is void of any reference to the Federal savings bonds and explicitly reserves Appellant's rights to claims against property excluded from the parties' written agreement. Since the savings bonds were not included, Appellant's rights as the "pay-on-death" beneficiary were not presumptively revoked and should not have been credited towards her claim.

Moreover, the Trial Court entered partial summary judgment in the presence of a genuine issue of material fact. Appellant claimed the Federal savings bonds were excluded from the DSA and that no change-over in beneficiary status was made. By contrast, the Administratrix on behalf of the Estate claimed the Decedent did not intend to allow Appellant to inherit the savings bonds proceeds upon death. There exists a genuine issue of material fact concerning Decedent's intention to include the savings bonds in the DSA or, alternatively, revoke Appellant's status as the "pay-on-death" beneficiary.

Accordingly, the Trial Court's decision grant partial summary

judgment warrants reversal.

The Trial Court's denial of Appellant's Motion for Reconsideration also warrants reversal. In seeking the Court's review for purposes of reconsideration, Appellant cited specific language in the DSA which reserved Appellant's rights to claims against property outside the parties' agreement. The Court chose not to establish a basis for its decision to overlook that provision, instead relying on contradictory language which preserved the original Order granting partial summary judgment.

Moreover, the Court based its decision to deny reconsideration based on the inaccurate assumption the DSA contained a provision "resolving all issues between the parties." No such "catch-all" language was included in the DSA and, despite Appellant's objections to the contrary, the Court held to its original decision without explaining the basis for its decision.

Accordingly, Appellant respectfully submits reversal of the Trial Court's Order denying reconsideration is appropriate.

#### **STATEMENT OF MATERIAL FACTS**

This appeal centers around the claim of the Appellant, Ms. Jeanine W. Jones ("Appellant") against the Estate of her ex-husband, Michael D. Jones ("Mr. Jones" or the "Decedent"). Mr. Jones and Mrs. Jones were married on June 16, 1990 and had one daughter, Tiffany A. Jones ("Tiffany"), born on December 3, 1990. (Da138). On August 27, 1990, Mr. Jones executed a beneficiary

designation naming Mrs. Jones as the beneficiary for all U.S. savings bonds purchased by Decedent (the "Bonds"). (Da89). During a portion of her twenty-seven (27) year marriage to Mr. Jones, Mrs. Jones resided at the property commonly known as 45 Scenic View Drive, Sicklerville, New Jersey 08081 (the "Marital Home").

The Initial Separation

Decedent and Mrs. Jones separated briefly during the month of April 2016 (the "Initial Separation Period"). During the Initial Separation Period and thereafter, Mrs. Jones retained keys to the Marital Home. Decedent and Mrs. Jones made attempts at reconciliation, of which marriage counseling was the primary condition.

During the period between June 2017 and December 2017, Decedent made the following payments to Mrs. Jones pursuant to the parties' agreement to separate: 1) on June 17, 2017, Decedent paid Appellant the sum of \$2,500.00 by way of PNC Bank Check. No. 1963 (Da70); 2) on July 1, 2017, Decedent paid Appellant the sum of \$7,500.00 by way of PNC Bank Check No. 1965 (Da71); and 3) on August 21, 2017, Decedent paid Appellant the sum of \$2,000.00 by way of PNC Bank Check No. 1971 (Da72).

The Divorce and Divorce Settlement Agreement

Following the parties' consistent inability to attend counseling services, Appellant advised Decedent of her interest in pursuing the divorce. Decedent and Mrs. Jones then entered

into a self-prepared Divorce Settlement Agreement (the "DSA") on October 19, 2017. (Da154). The DSA was incorporated into the Final Judgment for Divorce entered by the Superior Court of New Jersey on or about January 17, 2018. (Da67).

The DSA memorialized payments required by Decedent prior to executing the DSA and provides for, amongst other relief, financial assistance in the sum of \$200,000.00. (Da58). Decedent made the following payments under the DSA: 1) On October 19, 2017, Decedent paid Appellant the sum of \$4,500.00 by way of PNC Bank Check. No. 1976 (Da73); 2) on November 20, 2017, Decedent paid Appellant the sum of \$45,500.00 by way of PNC Bank Check No. 1978 (Da74); and 3) on December 30, 2018, Decedent paid Appellant the sum of \$50,000.00 by way of PNC Bank Check No. 2014 (Da75).

Decedent's Death and Administration of Estate

Mr. Jones passed away on November 16, 2019. Following Decedent's death, Mrs. Jones took the responsibility of securing the property, checking the mail, and checking on the Marital Residence. However, at no time prior to the Initial Separation Period did Mrs. Jones attempt to regain possession and control of the Marital Residence.

Mrs. Jones handled all administration of the Estate including paying all mortgage payments on the residence, utilities on the residence, homeowners' insurance and credit card and medical bills of the Decedent from hospitalization on November 9, 2019 to the

appointment of an Administrator of the Estate.

**STATEMENT OF PROCEDURAL HISTORY**

The Estate of Michael D. Jones was raised on July 13, 2020. On or about August 10, 2020, Appellant raised her claim against the Estate. (Da108). On October 22, 2020, Plaintiff-Respondent Shontell A. Jones, Administrator of the Estate, filed a Notice of Rejection of Claim. (Da132).

On April 23, 2021, oral argument was heard before the Honorable Nan S. Famular, P.J. Ch. on Plaintiff's Motion for Partial Summary Judgment. (T3:1-25). During oral argument, the Trial Court inquired as to whether the Divorce Settlement Agreement included language "resolving all issues between the parties" and concluded such language was included in the DSA. (T9:5-12). At the conclusion of oral argument, the Trial Court placed the disposition of Plaintiff's application on the record and requested Plaintiff's counsel submit an Order memorializing the Court's findings. (T20:3-9). Following submission by Respondent's counsel of a proposed Order, the Trial Court entered an Order granting partial summary judgment on April 23, 2021. (Da163).

On May 24, 2021, Appellant filed a Motion for Reconsideration of the Court's Order granting partial summary judgment for which oral argument was heard on August 3, 2021. (T3:1-25). On August 3, 2021, the Trial Court entered an Order denying reconsideration. (Da165). On April 13, 2022, the Court entered a Final Order



adjudicating the remainder of claims subject to Appellant's claim against the Estate. (Da167).

**LEGAL ARGUMENT**

**I. THE TRIAL COURT ERRED IN GRANTING PARTIAL SUMMARY JUDGMENT IN ATTEMPTING TO RESOLVE APPELLANT'S CLAIM AGAINST THE ESTATE. (T18:5-8)**

**A. The Trial Court's Misinterpretation of Federal Bond Regulations and the Divorce Settlement Agreement Warrants Reversal.**

**1. Standard of Review.**

When reviewing an order granting summary judgment, the Appellate Court applies the same standard as the Trial Court. Globe Motor Co. v. Igdaley, 225 N.J. 469, 479 (2016). In doing so, the Court must determine whether, viewing the facts in the light most favorable to the non-moving party, the movant has demonstrated there are no genuine issues of material fact and the movant is entitled to judgment as a matter of law. R. 4:46-2(c); Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 540 (1995). Legal issues are reviewed by the Appellate Court de novo. Manalapan Realty, LP v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995).

In reviewing an award of summary judgment, the Appellate Court employs the same standard as the Trial Court. W.J.A. v. D.A., 210 N.J. 229, 237, 43 A.3d 1148 (2012). The reviewing court will thus determine if a "genuine issue of material fact" remains, and "if none exists, then decide whether the Trial Court's ruling on the law was correct." Id. at 237-38, 43 A.3d

1148.

2. **The Trial Court Improperly Applied Federal Bond Proceeds to Appellant's Claim Based On State Statutes Pre-empted by Federal Regulations. (T6:1-7)**

The regulations governing the disposition of U.S. federal savings bonds addresses the issue of changing the designation of a "pay-on-death" beneficiary in the event of a divorce. 31 C.F.R. § 360.22. Specifically, 31 C.F.R. § 360.22 entitled "Payment or Reissue Pursuant to Divorce" provides as follows:

**"(1) The Department of the Treasury will recognize a divorce decree that ratifies or confirms a property settlement agreement disposing of bonds or that otherwise settles the interests of the parties in a bond. Reissue of a savings bond may be made to eliminate the name of one spouse as owner, co-owner, or beneficiary or to substitute the name of one spouse for that of another spouse as owner, co-owner, or beneficiary pursuant to the decree." 31 C.F.R. § 360.22 (emphasis added)**

The preemption doctrine, rooted in the Article VI, cl. 2 of the United States Constitution, requires that when the mandates of federal law and state law are not consistent, the state law must yield. Wisconsin Pub. Intervenor v. Mortier, 501 U.S. 597, 605, 111 S. Ct. 2476, 2481, 115 L.Ed. 2d 534 (1991). Federal regulations have the same preemptive effect as federal statutes. Hillsborough County v. Automated Medical Laboratories, Inc., 471 U.S. 707, 713, 105 S.Ct. 2371, 2375, 85 L.Ed. 2d 714, 721 (1985). Moreover, the doctrine applies equally to state common law and statute statutory law. Feldman v. Lederle Lab'ys, a Div. of Am. Cyanamid Co., 125 N.J. 117, 133-34, 592 A.2d 1176, 1185 (1991). Additionally, the doctrine is not subject to limitation by any

agreement between the parties. Am. C.L. Union of New Jersey, Inc. v. Cty. of Hudson, 352 N.J. Super. 44, 80, 799 A.2d 629, 650 (App. Div. 2002).

Absent explicit preemptive language, Congress' intent to supersede state law in a given area may nonetheless be implicit if a scheme of federal regulation is "so pervasive as to make reasonable the inference that Congress left no room for the states to supplement it," if "the Act of Congress...touch[es] a field in which the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject," or if the goals "sought to be obtained" and the "obligations imposed" reveal a purpose to preclude state authority. Mortier, 501 U.S. at 605 (citing Rice v. Santa Fe Elevator Corp., 331 U.S. 218, 230, 67 S.Ct. 1146, 1152, 91 L.Ed. 1447 (1947)).

In seeking to resolve Appellant's claim in the interest of judicial economy (T12:4-8), the Trial Court overlooked the inconsistency between the federal regulations and state statutes governing the distribution of Decedent's savings bonds. On one hand, N.J.S.A. 3B:3-14 permits the presumptive revocation of a "pay-on-death" beneficiary. By contrast, 31 C.F.R. § 360.22 provides specific steps which must be taken to revoke the designation of a "pay-on-death" beneficiary, none of which were taken by the Decedent prior to his death. As a result of this

inconsistency, the "presumptive revocation" provision of N.J.S.A. 3B:3-14 did not apply to the distribution of Decedent's bonds.

By failing to recognize the effect of federal preemption, the Trial Court improperly considered the Decedent's bonds as an "asset of the Estate," the proceeds of which were applied to satisfy Appellant's claim.

Accordingly, the Trial Court's decision to overlook the federal preemption of state statutes and apply the Decedent's bond proceeds towards Appellant's claim as an "asset of the Estate" warrants reversal.

**3. The Trial Court Overlooked the Divorce Settlement Agreement's Plain Language and Warrants Reversal to Determine the Parties' Intent. (T9:5-12)**

Courts enforce contracts "based on the intent of the parties, the express terms of the contract, surrounding circumstances and the underlying purpose of the contract." Caruso v. Ravenswood Developers, Inc., 337 N.J. Super. 499, 506, 767 A.2d 979 (App. Div. 2001). If the language of the contract "is plain and capable of legal construction, the language alone must determine the agreement's force and effect." Twp. of White v. Castle Ridge Dev. Corp., 419 N.J. Super. 68, 74-75, 16 A.3d 399 (App. Div. 2011).

In construing a contract, a court must not focus on an isolated phrase but should read the contract as a whole as well as considering the surrounding circumstances. Joseph Hilton &

Associates, Inc. v. Evans, 201 N.J. Super. 156, 171, 492 A.2d 1062 (App. Div. 1985). Additionally, "the conduct of the parties after execution of the contract is entitled to great weight in determining its meaning." Id.

The Trial Court's grant of partial summary judgment was predicated on an incorrect assumption which ignored the plain language of the DSA. (T9:5-12). For example, in determining the Decedent's intention concerning continued ownership of the federal bonds beyond execution of the DSA, the Trial Court concluded:

"He didn't say what his intent was. It wasn't mentioned in the divorce decree. There's an assumption, however, that they would've - and I'm sure there's a clause in the divorce decree that says, and in their settlement agreement, that -- this is - - this is -- all issues have been resolved here in this decree, because that's what everybody puts in their agreement." (T9:5-12)

However, the DSA did not "resolve all issues between the parties" and reserved Appellant's right to pursue future claims. (Da58). Specifically, the DSA provided as follows:

"WHEREAS, the Wife will not waive, releases[sic], and relinquishes any actual or potential right, claim, or cause of action against the other party, including but not limited to asserting a claim against the estate of the other party or to act as a personal representative of that estate, except as otherwise provided in this agreement or arising hereunder." (Da58).

The Trial Court was made aware of the foregoing language preserving Appellant's claims for assets not expressly included in the DSA. (T7:16-18).

Accordingly, the basis of the Trial Court's decision was predicated upon an impermissible inference of the Decedent's intent

and warrants reversal.

**II. THE TRIAL COURT ERRED IN DENYING APPELLANT'S MOTION FOR RECONSIDERATION. (T18:8-25)**

In reviewing the denial of a Motion for Reconsideration, the Appellate Division must determine the lower court exercised an abuse of its discretionary authority. Cummings v. Bahr, 295 N.J. Super. 374, 389 (App. Div. 1996). The decision to disturb the decision below requires the finding of an error which is "clearly capable of producing an unjust result." Casino Reinv. Dev. Auth. v. Teller, 384 N.J. Super. 408, 413 (App. Div. 2006).

For the reasons set forth in Section I.A. supra., the Trial Court's abuse of discretion is evidenced by the unjust result associated with reducing Appellant's claim against the Estate utilizing funds for which she was the legal "pay-on-death" beneficiary. The resulting detriment to Appellant is inherently unjust, such that it warrants this Court's reversal to avoid an inequitable result.

Accordingly, the Trial Court's denial of Appellant's Motion for Reconsideration warrants reversal.

**CONCLUSION**

By reason of the foregoing, Defendant-Appellant, Ms. Jeanine Jones, respectfully requests the decision of the Trial Court below be reversed and the matter remanded for a proper calculation and disposition of her claim against the Estate of Michael D. Jones.

Respectfully submitted,

**KD LAW**

By: \_\_\_\_\_

  
Kevin Diduch

Dated: August 4, 2022