

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF OHIO

Vernon L. **TRIBETT**, et al.,
Plaintiffs - Appellees

VS

Barbara **SHEPHERD**, et al.,
Defendants - Appellants

I On Appeal from the Seventh District
I Court of Appeals and the Common Pleas
I Court of Belmont County, Ohio
I
I Ohio Supreme Ct. Case No. 2014-1966
I
I Seventh District Case No. 13 BE 22

UNOPPOSED MOTION FOR SUBSTITUTION OF PARTIES

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UNOPPOSED MOTION FOR SUBSTITUTION OF PARTIES

Pursuant to App. R. 29 and Civ. R. 25(A)(2), counsel for Appellee Susan Tribett, hereby moves to substitute Susan Tribett, 3504 West Amanda Court, St. Johns, Florida 32259, for deceased Plaintiff-Appellee Vernon L. Tribett, who passed away on October 27, 2014. This Motion is unopposed.¹

Civ. R. 25(A)(2) provides:

In the event of the death of one or more of the plaintiffs or of one or more of the defendants in an action in which the right sought to be enforced survives only to the surviving plaintiffs or only against the surviving defendants, the action does not abate. The death shall be suggested upon the record and the action shall proceed in favor of or against the surviving parties.

In this case Plaintiff-Appellee Vernon L. Tribett passed away on October 27, 2014, before the Notice of Appeal to the Supreme Court was filed by the Appellant on November 13, 2014. On December 22, 2014, an Affidavit as to Succession Under Survivorship Deed was filed of

¹Undersigned counsel spoke with counsel for Defendants-Appellants, Matthew W. Warnock, on February 16, 2015. Mr. Warnock stated that he did not oppose the instant Motion.

record in Volume 526, Page 295, of the Official Records of Belmont County, Ohio.

On January 21, 2015, the Circuit Court for St. Johns County, Florida, Probate Division, issued an Order appointing Susan Tribett the personal representative of the Estate of Vernon L. Tribett, deceased (attached hereto as Exhibit A). Pursuant to the Probate Court Order, Susan Tribett was granted full power to administer the estate according to law and to take all other action necessary to properly administer the decedent's estate.

Pursuant to Civ. R. 25, Plaintiffs are filing simultaneously with this motion a Notice of Suggestion of Death of Vernon L. Tribett (see Exhibit B attached hereto).

Because Susan Tribett is the surviving tenant and because she became the decedent's legal representative pursuant to the Probate Court Order of the Circuit Court of St. Johns County, Florida, Probate Division, Susan Tribett respectfully requests that this Court issue an order, pursuant to App. R. 29, substituting Susan Tribett for deceased Plaintiff-Appellee Vernon L. Tribett.

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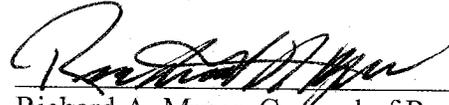
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*

Respectfully Submitted,



Richard A. Myser, Counsel of Record

Adam L. Myser

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Counsel for Appellees Vernon L. Tribett

(deceased as of October 27, 2014) and

Susan M. Tribett

PROOF OF SERVICE

I hereby certify that a copy of the foregoing was mailed by regular U. S. Mail this 25th
day of February, 2015, to:

Matthew W. Warnock (#00082368)*

*(Counsel of Record)

Daniel E. Gerken (#0088259)

Bricker & Eckler LLP

100 South Third Street

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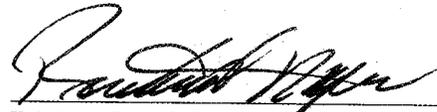
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Counsel for Appellees Vernon L. Tribett

(deceased as of October 27, 2014) and

Susan M. Tribett

EXHIBIT A

**IN THE CIRCUIT COURT FOR ST. JOHNS COUNTY,
FLORIDA PROBATE DIVISION**

IN RE: ESTATE OF

**VERNON LAWRENCE
TRIBETT, JR.**

Deceased.

File No. CP15-0029

Division 55

**LETTERS OF ADMINISTRATION
(single personal representative)**

TO ALL WHOM IT MAY CONCERN

WHEREAS, Vernon Lawrence Tribett, Jr., a resident of Saint Johns County, Florida, died on October 27, 2014, owning assets in the State of Florida, and

WHEREAS, Susan Tribett has been appointed personal representative of the estate of the decedent and has performed all acts prerequisite to issuance of Letters of Administration in the estate,

NOW, THEREFORE, I, the undersigned circuit judge, declare Susan Tribett duly qualified under the laws of the State of Florida to act as personal representative of the estate of Vernon Lawrence Tribett, Jr., deceased, with full power to administer the estate according to law; to ask, demand, sue for, recover and receive the property of the decedent; to pay the debts of the decedent as far as the assets of the estate will permit and the law directs; and to make distribution of the estate according to law.

ORDERED on _____

J. Michael Fryer

01/21/2015

Circuit Judge

I HEREBY CERTIFY THAT THIS DOCUMENT
IS A TRUE AND CORRECT COPY AS APPEARS
ON RECORD IN ST. JOHNS COUNTY, FLORIDA.
WITNESSEY MY HAND AND OFFICIAL SEAL
THIS 15th DAY OF January 2015
CHERYL STRICKLAND, CLERK



Said letters of administration being
in full force and effect as of
the date of this certificate.

BY *[Signature]* DC

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NOTICE OF SUGGESTION OF DEATH

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NOTICE OF SUGGESTION OF DEATH

Pursuant to Rule 25 of the Ohio Rules of Civil Procedure, counsel for Plaintiffs-Appellees gives notice of the death of Plaintiff-Appellee, Vernon L. Tribett, which occurred on October 27, 2014. Counsel for Plaintiff will file a motion for substitution of parties pursuant to Civ. R. 25(A)(2) and App. R. 29.

Respectfully Submitted,



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Adam L. Myser

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*Counsel for Appellees Vernon L. Tribett
(deceased as of October 27, 2014) and
Susan M. Tribett*

PROOF OF SERVICE

I hereby certify that a copy of the foregoing Notice of Suggestion of Death was mailed by regular U. S. Mail this 25th day of February, 2015, to:

Matthew W. Warnock (#00082368)*

*(Counsel of Record)

Daniel E. Gerken (#0088259)

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