

IN THE SUPREME COURT OF MISSISSIPPI

NO. 2009-CA-00016

ANGELA STOKES

APPELLANT


VERSUS

JACKSON COUNTY MEMORIAL PARK

APPELLEE

ON APPEAL FROM THE CHANCERY COURT OF JACKSON COUNTY, MISSISSIPPI
CAUSE NO. 14,716

**APPELLEE, JACKSON COUNTY MEMORIAL PARK PERPETUAL
CARE TRUST FUND'S BRIEF**

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**APPELLEE, JACKSON COUNTY MEMORIAL PARK
PERPETUAL CARE TRUST FUND'S BRIEF**

The Appellee, the Jackson County Memorial Park Perpetual Care Trust Fund, was made a party to this appeal when its attorney of record was served with a Notice of Appeal dated December 19, 2008. Counsel for the Appellant likewise served a Statement of Issues for Appeal on December 4, 2008, and a Certificate of Compliance on January 21, 2009.

On March 30, 2009, the Court Reporter, April N. Fondren, filed the Court Reporter's Certificate of Completion.

Thereafter, counsel for the Jackson County Memorial Park Perpetual Care Trust Fund received a notice from the office of the Supreme Court dated March 14, 2009, with a briefing schedule in this matter.

On May 19, 2009, counsel for the Appellant sent counsel for the Trust Fund a Certificate of Delivery of Record, and on June 19, 2009, counsel received this court's notice the Appellant had been granted a Motion for Extension of Time to file the Appellant's Brief.

Thereafter, nothing was sent or served on counsel for the Perpetual Care Trust Fund until a discussion took place with counsel for the Appellant and counsel for the Trust Fund in an unrelated

matter.

Thereafter, counsel for the Appellant faxed a copy of the Appellant's Brief to the Trust Fund's counsel on August 28, 2009, which was not reviewed by counsel for the Appellee until August 31, 2009. As a review of the Appellant's Brief will show, neither counsel James H. Heidelberg, nor the Jackson County Memorial Park Perpetual Care Trust Fund, is listed on the Certificate of Interested Persons, nor is it shown to have been sent a copy on the Certificate of Service on Appellant's Brief.

As to the merits and argument contained in the brief no mention whatsoever is made of the Jackson County Memorial Park Perpetual Care Trust Fund.

While it is the position of the Jackson County Memorial Park Trust Fund that it has no interest in the pending litigation and further that it is a separate legal entity from the defendants below and Appellee "Jackson County Memorial Park", because it received the notice of appeal and other appellate documents, it files this brief response in the event there is any question regarding any decision's application to the Perpetual Care Trust Fund.

ARGUMENT

The Jackson County Memorial Park Perpetual Care Trust Fund is a separate entity which holds in trust statutorily required corpus and interest from sales of cemetery plots and crypts at the "Jackson County Memorial Park" in Pascagoula, Mississippi.

The "Jackson County Memorial Park Perpetual Care Trust Fund" has a separate legal identity, has received recognition from the internal revenue service that is a separate legal identity and has reported to the Chancery Court of Jackson County separately in this matter since the late 1990s.

It was not a party to any litigation by Angela Stokes against "Jackson County Memorial Gardens", Bonny F. Wilson, or any other party or entity whatsoever.

The first notice of any kind regarding the lawsuit or any interest in this litigation was during a receivership proceeding for the cemetery itself.

No funds or interest of the Jackson County Memorial Park Perpetual Care Trust Fund was at issue in the lawsuit at the trial level, no notice was ever given, no service was ever attempted or made, and the Jackson County Memorial Park Perpetual Care Trust Fund should not have been a party to this appeal and has no interest in the outcome, nor should any decision or ruling in this appeal have any affect on the Jackson County Memorial Park Perpetual Care Trust Fund.

Because the Jackson County Memorial Park Trust Fund was named in the Notice of Appeal it files this brief out of caution and clarification, and would show that for the reasons set out herein and appearing in the record that regardless of the decision of this court and this appeal, no ruling whatsoever or the court's determination should have any affect or binding decision on the entity, Jackson County Memorial Park Perpetual Care Trust Fund.

Respectfully submitted,

JACKSON COUNTY MEMORIAL PARK
PERPETUAL CARE TRUST FUND



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CERTIFICATE OF SERVICE

Pursuant to MRAP 31(c), I hereby certify that I have delivered, via U.S. First Class Mail, the original and three (3) true and correct copies of the above and foregoing Appellee's Brief to Betty W. Sephton, Clerk, Mississippi Supreme Court, P.O. Box 249, Jackson, MS 39205-0249.

I further certify that I have this date delivered, via U.S. First Class Mail, a true and correct copy of the above and foregoing Appellee's Brief to the following:

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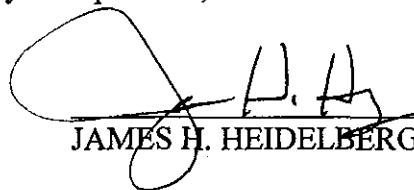
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I further certify that pursuant to MRAP Rule 28(m), I have also mailed an electronic copy of the above and foregoing brief on an electronic disk and state this brief was written in WordPerfect X3 format.

SO CERTIFIED, this the 9th day of September, 2009.


JAMES H. HEIDELBERG