

Exhibit “A”

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IN THE COURT OF COMMON PLEAS FOR PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION – CIVIL

THE SIMON FAMILY CHARITABLE	:	JANUARY TERM, 2018	
REMAINDER UNITRUST dated 11/30/1994	:		
	:	NO. 05649	
Plaintiff,	:		
	:	COMMERCE PROGRAM	
v.	:		
	:	Control No. 22114752	
THE CHARLES SIMON TRUST, et al.,	:	22120129	
	:	23050275	
Defendants.	:	23059999	

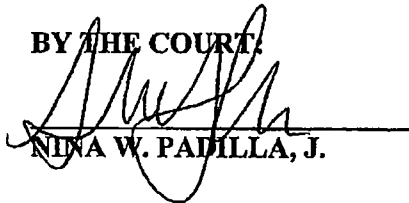
DOCKETED
JUN 29 2023
R. POSTELL
COMMERCE PROGRAM

ORDER

AND NOW, this 28th day of June, 2023, it is hereby ORDERED as follows:

1. The court hereby converts the relevant section of Intervenor’s Miscellaneous Motion of November 28, 2022, docketed under Control Number 22120129, to a Notice of Appeal.
2. Intervenor is directed to pay the appeal fee within ten (10) days from the date of the docketing of this Order. If the fee is not paid, the Notice of Appeal will be stricken by the Office of Judicial Records.
3. The remainder of Intervenor’s motions under the above control numbers are hereby DENIED.

BY THE COURT:



NINA W. PADILLA, J.

180105649-The Simon Family Charitable Remainder Unitrust Vs



18010564900253

**IN THE COURT OF COMMON PLEAS FOR PHILADELPHIA COUNTY
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TRIAL DIVISION – CIVIL**

THE SIMON FAMILY CHARITABLE	:	JANUARY TERM, 2018
REMAINDER UNITRUST dated 11/30/1994	:	
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	:	Control No. 22114752
THE CHARLES SIMON TRUST, et al.,	:	22120129
	:	23050275
Defendants.	:	23059999

OPINION

I. Introduction.

Before the court are thirteen total motions, all filed by the Intervenor, Stephen G. Simon, under four control numbers. One of these motions includes a misfiled appeal, filed by Intervenor on November 28, 2022, under control number 22120129.¹ The court will convert this portion of the motion to a Notice of Appeal and transmit it to the Superior Court. The remainder of Intervenor’s motions are dismissed as moot or denied.

This dispute arises from a mortgage foreclosure action on an apartment building in Northeast Philadelphia, the Haven Arms. This property is owned by the Charles Simon Trust, and has five (5) mortgages on it, all owned by various Simon family-related trusts involved in this action. The beneficiaries of the trusts are the children of Charles Simon, and the Jewish Federation as the residual beneficiary of the Simon Family Charitable Remainder Unitrust (the

¹ Intervenor’s “Miscellaneous Motion” of November 23, 2022, is attached as Exhibit A.

Unitrust). The Intervenor is one of the beneficiaries of the Unitrust and a contingent beneficiary of the Charles Simon Trust.

In its order of October 28, 2022, the court approved a settlement in this matter over the objections of Intervenor. The Orphans' Court, in a parallel proceeding,² on November 21, 2022 approved the Unitrust's petition and granted the trustees the right to terminate the Unitrust.

Thereafter, Intervenor filed numerous motions, under three (3) control numbers. For the reasons that follow, the court will deny Intervenor's motions.

Intervenor has filed the following motions:

1. Emergency Ex parte Application for Stay Pending Time Sensitive Appeal Deadline on November 27, 2022 or Alternative Petition for Temporary Stay Pending Motion for Evidentiary Hearing for Reconsideration of Order Entered on October 28, 2022 – November 23, 2022, docketed under control number 22114752;
2. Motion for Evidentiary Hearing Upon Petition to Modify, Strike, or Vacate and Reconsideration of the Court Order Entered October 28, 2022 – November 23, 2022, docketed under control number 22114752;
3. Motion for Leave to File Proposed Cross Complaint(s) Against the Unitrust and/or CST – November 23, 2022, docketed under control number 22114752;
4. Motion for Leave to File Proposed Petitions for Court Appointed Receiverships – November 23, 2022, docketed under control number 22114752;
5. Motion for Consolidation of Related Cases or Transfer Jurisdiction to Federal Court – November 23, 2022, docketed under control number 22114752;
6. Motion to Strike – November 23, 2022, docketed under control number 22114752;
7. Emergency Ex parte Motion to the Honorable Pennsylvania Superior Court for Application of Temporary Stay Pending Appeal – November 28, 2022, docketed under control number 22120129;
8. Ex parte Motion for Consolidation of the Pending and Related Case before the Orphans' Court – November 28, 2022, docketed under control number 22120129;

² O.C. No. 385IV of 2022.

9. Motion for Oral Argument – November 28, 2022, docketed under control number 22120129;
10. Request to Receive Notices from the Court via Fedex or UPS – April 28, 2023, docketed under control number 23059999;
11. Emergency Ex Parte Motion for Extension of Time to File Opposition Pleadings – May 1, 2023, docketed under control number 23050275;
12. Emergency Ex Parte Motion for Case Management Conference – May 1, 2023, docketed under control number 23050275;
13. Motion to Stay Pending Orders and/or Notice of Appeal – May 1, 2023, docketed under control number 23050275.

II. Discussion.

a. This court converts Intervenor’s Miscellaneous Motion to a Notice of Appeal.

Intervenor’s Miscellaneous Motion of November 28, 2022, docketed under control number 221201229, includes a section entitled “Notice of Appeal” to the Pennsylvania Superior Court of the court’s ruling of October 28, 2022. However, the appeal was not filed of record, and no fee was paid or bond posted. No active appeal currently appears on the Superior Court’s docket. Accordingly, the court will convert the relevant section of the Miscellaneous Motion to a Notice of Appeal. Intervenor is directed to file a concise statement of errors complained of on appeal pursuant to Pa. R.A.P. 1925(b), and pay the appeal fee within ten (10) days from the date of the docketing of this Order.

Intervenor’s two Motions for a Stay Pending Appeal, docketed under control numbers 22120129 and 23050275, are denied. For the court to grant a stay pending appeal, “the party seeking the stay must make a strong showing that he is likely to prevail on the merits of his appeal as well as to show irreparable harm, and that the stay will not substantially harm other

interested parties or the public interest.”³ Intervenor has not met any of the prongs of this test. He has especially made no showing of irreparable harm; all of the harms he has alleged are financial losses that could be compensated with money damages. Accordingly, the motions for stay are denied.

b. Intervenor’s other miscellaneous motions are denied.

Intervenor’s remaining motions are moot, as this court will lose jurisdiction over them upon the Superior Court’s acceptance of Intervenor’s appeal. In general, “after an appeal is taken ...the trial court or other government unit may no longer proceed further in the matter.”⁴ For this reason, all of Intervenor’s motions filed on November 23, 2022 and November 28, 2022 are denied as moot.

Intervenor, in his “notice” of April 28, 2023, docketed at 23050275, requests to receive court notices via Fedex or UPS. The court treats this request from Intervenor as a motion, and denies it. Pennsylvania Rule of Civil Procedure 236 provides that the prothonotary give notice of the docketing of any order or judgment via mail, or via electronic means “if the party to whom the notice is to be given or the party’s attorney has filed a written request for such method of notification or has included a facsimile or other electronic address on a prior legal paper filed in the action.”⁵ Intervenor accordingly will receive notice by these means.

Intervenor’s May 1, 2023 motion for extension of time to respond to the parties’ motion, docketed under control number 23050275, is denied as moot, as Intervenor filed his opposition to this motion, also on May 1, 2023.

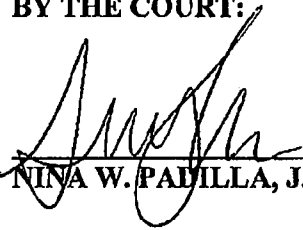
³ Reading Anthracite Co. v. Rich, 525 Pa. 118, 124, 577 A.2d 881, 883 (1990).

⁴ Pa.R.A.P. 1701.

⁵ Pa.R.C.P. 236.

Intervenor's May 1, 2023 motion for a case management conference, docketed under control number 23050275, is denied as moot, as the case has concluded with a final order. No further discovery is required.

BY THE COURT:



NINA W. PADILLA, J.

Dated: June 28, 2023