

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
(804) 786-2259

Granted Appeal Summary

Case

SUSAN HAROLD v. HENRY C. DEVENING, ADMINISTRATOR OF
THE ESTATE OF DONALD WAYNE AYERS
(Record Number 181308)

From

The Circuit Court of Appomattox County; S. Nelson, Judge.

Counsel

Joseph A. Sanzone (Sanzone & Baker, L.L.P.) for appellant.

Henry C. Devening (Henry C. Devening, P.C.) for appellee.

Assignments of Error

1. The trial court erred by ruling that there was sufficient evidence to support a breach of fiduciary duty, and that the amounts which were sought to be recovered were not expended for the principal's benefit or at his proper direction and the court further erred by ruling that the question of breach of fiduciary duty was not extinguished by transactions made by the authority of the principal, or ratified by the principal.

3. The court erred by awarding attorney's fees under a statute that did not allow attorney's fees in those circumstances nor for fees contracted for by the Administrator and not the decedent prior to his death.

Assignments of Cross-Error

1. The trial court erred in reducing the jury verdict by \$63,435.51 from \$327,197.34 to \$263,761.83 by concluding that that [sic] the money removed from the Bank of Floyd was deposited into the Wells Fargo POD account.

2. The trial court erred in not awarding plaintiff accountant's fees totaling \$22,072.27 which were incurred as a direct result of the defendant's failure to account for her actions as agent for the decedent.