

United States Court of Appeals
For the Eighth Circuit

No. 17-2718

Shawn DeVazier Manley, In Her Capacities as Executrix of the Estates of Donna A. DeVazier and as Beneficiary of the Donna A. DeVazier Irrevocable Inter Vivos Trust No. 1 Dated December 29, 2003

Plaintiff - Appellant

v.

Thomas Bradley DeVazier, Individually, and as Trustee of the Donna A. DeVazier Irrevocable Inter Vivos Trust No.1 dated December 29, 2003

Defendant - Appellee

Thomas Bradley DeVazier, Individually, and as Trustee of the Donna A. DeVazier Irrevocable Inter Vivos Trust No. 1 dated December 29, 2003; Thomas Bradley DeVazier, Individually, as successor Administrator of the Estate of Thomas B. DeVazier and as Trustee of the Thomas B. DeVazier Marital Deduction Trust established December 29, 2003

Counter Claimants - Appellees

v.

Shawn DeVazier Manley, in her capacity as Executrix of the Estate of Donna A. DeVazier

Counter Defendant - Appellant

No. 17-2841

Shawn DeVazier Manley, in her capacity as Executrix of the Estate of Donna A. DeVazier

Plaintiff - Appellee

v.

Thomas Bradley DeVazier, Individually, as successor Administrator of the Estate
of Thomas B. DeVazier and as Trustee of the Thomas B. DeVazier Marital
Deduction Trust established December 29, 2003

Defendant - Appellant

Thomas Bradley DeVazier, Individually, as successor Administrator of the Estate
of Thomas B. DeVazier and as Trustee of the Thomas B. DeVazier Marital
Deduction Trust established December 29, 2003

Counter Claimant - Appellant

v.

Shawn DeVazier Manley, in her capacity as Executrix of the Estate of Donna A. DeVazier

Counter Defendant - Appellee

Appeals from United States District Court
for the Eastern District of Arkansas - Eastern Division

Submitted: December 12, 2018
Filed: February 25, 2019
[Unpublished]

Before SMITH, Chief Judge, WOLLMAN and GRASZ, Circuit Judges.

PER CURIAM.

In supplemental briefs ordered by this court, both parties conceded that there is no basis for federal jurisdiction in this case. Federal tax reimbursement statutes allow an estate to seek reimbursement from a trust for any estate tax that “has been paid” because of the inclusion of that trust in the gross estate. 26 U.S.C. §§ 2207, 2207A, 2207B. The executrix alleged that she paid only the taxes on the estate apart from the trusts. Because the estate has not paid any amount of the taxes on the trusts that were included in the gross estate, the executrix has no federal claim against those trusts. There is also no diversity jurisdiction in this case because the parties are residents of the same state. Without federal jurisdiction over the claims, this court also lacks supplemental jurisdiction over the counterclaims. Accordingly, we vacate the judgment in this case and remand with instructions to dismiss the case without prejudice for lack of jurisdiction.
