

WEDNESDAY, NOVEMBER 18, 2009
9:00 A.M.

NO. 1

#25223

In Re: Appellee's Motion to Dismiss Appeal

In the Matter of the Eunice Thomas
Reese Trust, Trust Agreement dated
02/23/93, as Amended by and between
Eunice Thomas Reese, as Grantor and
Eunice Thomas Reese, as Trustee,
and Marquette Bank, of South Dakota,
N.A., as Successor Trustee.

Enchanted World Doll Museum,
as A Former Beneficiary of the
Eunice Thomas Reese Trust and
an Interested Party,
Appellant,

vs.

CorTrust Bank, N.A., Trustee of the
Eunice Thomas Reese Trust,
Appellee.

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(FOR APPELLANT)

The Honorable Vincent A. Foley
Third Judicial Circuit
Beadle County

(CIV 94-0317)

STATEMENT OF THE ISSUE

I. WHETHER THE MITCHELL AREA CHARITABLE FOUNDATION WAS CONSIDERED A "PARTY" TO THE CASE OR BECAME A "PARTY" WHO APPELLANT WAS REQUIRED TO SERVE WITH NOTICE OF THE APPEAL.

Under South Dakota law, a party wishing to appeal a lower court's decision must give timely service to any party who might be adversely affected by a reversal or modification. This rule has been present for over one hundred years. MACF, as the court determined beneficiary of the charitable trust, stands to lose its interest in the Trust, and therefore certainly qualifies as a party who must be provided notice under the relevant statutes and in accordance with South Dakota case law.

Relevant Authority:

SDCL 15-26A-4(3)

*Crouch v. Dakota, W. & M.R.R. Co.,
et. al.*, 117 N.W. 145 (SD 1908)