

THE STATE OF SOUTH CAROLINA  
Supreme Court of South Carolina

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

Case No. 2019-CP-04-00337

RECEIVED

SEP 19 2022

S.C. SUPREME COURT

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary K. Taylor

Respondents,

v.

Florence Keese, Marcy Keese,  
Margo Keese and Marshall Keese, pro se

Appellants

APPENDIX

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# The South Carolina Court of Appeals

Frances K Chestnut, Elizabeth Diane Keese, Sylvester Keese, Arthur B. Keese and Mary K. Taylor,  
Respondents,

v.

Florence Keese, Marcy Keese, Margo Keese and  
Marshall Keese, Appellants.

Appellate Case No. 2020-000263

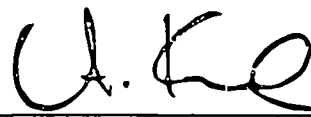
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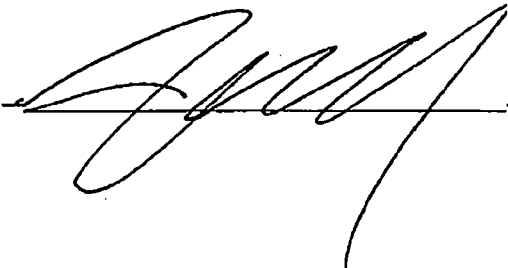
## ORDER

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After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

  
\_\_\_\_\_ C.J.

  
\_\_\_\_\_ J.

  
\_\_\_\_\_ J.

Columbia, South Carolina

cc:  
Florence Keese  
Margo Keese

Marcy Keese  
Marshall Keese  
Carolyn G. Baird, Esquire  
The Honorable R. Scott Sprouse

**FILED**  
**Aug 18 2022**

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

Frances K. Chestnut, Elizabeth Diane Keese, Sylvester  
Keese, Arthur B. Keese, and Mary K. Taylor,  
Respondents,

v.

Florence Keese, Marcy Keese, Margo Keese, and  
Marshall Keese, Appellants.

Appellate Case No. 2020-000263

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Appeal From Anderson County  
R. Scott Sprouse, Circuit Court Judge

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Unpublished Opinion No. 2022-UP-255  
Submitted May 2, 2022 – Filed June 8, 2022

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**AFFIRMED**

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Florence Keese, Marcy Keese, and Marshall Keese, of  
West Chester, PA; and Margo Keese, of Silver Spring,  
MD, all pro se.

Carolyn G. Baird, of Jones Spitz Moorhead Baird &  
Albergotti, of Anderson, for Respondents.

---

**PER CURIAM:** Appellants Florence Keese, Marcy Keese, Margo Keese, and Marshall Keese, Jr., appeal a circuit court order denying their motion to set aside the default judgment declaring void the 1992 conveyance to Marshall Keese, Sr. of a one-sixth interest in a property in Anderson County. On appeal, Appellants argue the circuit court abused its discretion by finding they (1) failed to present evidence of good cause to set aside the default judgment and (2) failed to present evidence of a meritorious defense to Respondents' quiet title action. We affirm.

1. The circuit court did not abuse its discretion by denying Appellants' Rule 60(b), SCRCF, motion to set aside the default judgment. *See Sundown Operating Co. v. Intedger Indus., Inc.*, 383 S.C. 601, 606, 681 S.E.2d 885, 888 (2009) ("The decision whether to set aside an entry of default or a default judgment lies solely within the sound discretion of the [circuit court]."); *id.* at 607, 681 S.E.2d at 888 ("An abuse of discretion occurs when . . . the order, based upon factual, as distinguished from legal conclusions, is without evidentiary support."). The circuit court erred by applying the less rigorous "good cause" standard applicable to motions filed pursuant to Rule 55(c), SCRCF. *See Sundown Operating Co.*, 383 S.C. at 607, 681 S.E.2d at 888 ("The standard for granting relief from an entry of default under Rule 55(c) is mere 'good cause.'"); *id.* at 608, 681 S.E.2d at 888 ("The standard for granting relief from a default judgment under Rule 60(b) is more rigorous than the 'good cause' standard established in Rule 55(c)."). However, because evidence supports the circuit court's finding that Appellants failed to present evidence of good cause, we find Appellants also failed to present evidence sufficient to set aside the default judgment under Rule 60(b). *See Sundown Operating Co.*, 383 S.C. at 608, 681 S.E.2d at 888 ("Rule 60(b) requires a more particularized showing of mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or 'other misconduct of an adverse party.'" (quoting Rule 60(b), SCRCF)).

2. Whether the circuit court abused its discretion by finding that Appellants failed to present evidence of a meritorious defense is not preserved for appellate review, because Appellants declined to put forth a defense at the hearing before the circuit court. *See Miller v. Dillon*, 432 S.C. 197, 207, 851 S.E.2d 462, 467 (Ct. App. 2020) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial [court] to be preserved for appellate review." (quoting *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998))).

**AFFIRMED.**<sup>1</sup>

**WILLIAMS, C.J., and KONDUROS and VINSON, JJ., concur.**

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<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

JUL 05 2022

**SC Court of Appeals**

R. Scott Sprouse, Circuit Court Judge

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Case No. 2019-CP-04-00337

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Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary K. Taylor,

Respondents.

v.

Florence Keese, Marcy Keese, Margo Keese and  
Marshall Keese, pro se,

Appellants.

---

RETURN TO PETITION FOR REHEARING

---

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I. STATEMENT OF ISSUES ON APPEAL

- I. DID THE CIRCUIT COURT EXERCISE SOUND DISCRETION IN REFUSING TO GRANT THE APPELLANT'S MOTION TO SET ASIDE THE ENTRY OF THE DEFAULT JUDGMENT?

## II. STATEMENT OF THE CASE

The Petition for Rehearing argues that the Court of Appeals affirmation of the July 1, 2019 Order of the Circuit Court denying the Appellants' Motion to set aside the Entry of the Default Judgment for the Respondents was incorrect. The Respondents adamantly disagree. After considering the circumstances of the default and inquiring about the existence of meritorious defense, the Court of Appeals affirmed the Circuit Court on two essential issues; the failure to meet the standard to set aside a default judgment, and the failure to set forth a meritorious defense.

As to the first issue, South Carolina Rule of Civil Procedure 60(b) sets forth the standard to set aside the Entry of a Default Judgment. The Court of Appeals in its per curiam opinion filed June 8, 2022 notes that the standard for setting aside a judgment is "more rigorous" than the standard for setting aside a default. Thus, the Circuit Court by finding that the Appellant had not shown good cause (the standard for setting aside a default under SCRCP 55) the evidence was also sufficient to conclude that the Appellant did not meet the more stringent standard necessary to set aside the Default Judgment.

The Appellants also failed to present evidence of a meritorious defense, and even though the Circuit Court specifically inquired of the Appellant's trial counsel concerning any defense. As the Court of Appeals ruled, no meritorious defense is preserved for appellate review.

### III. STANDARD OF REVIEW

The Standard of Review in this case is the Appellants must show that the Circuit Court abused its discretion by refusing to set aside the Entry of the Default Judgment of July 1, 2019. The analysis of the Circuit Court Default Judgment turns on two issues.

1. The Court of Appeals notes in its per curiam opinion the fact that the Circuit Court applied the standard of good cause which applies under SCRCP 55 to setting aside the default, and not to setting aside a default judgment which requires a more "rigorous standard". The Court of Appeals in its per curiam opinion aligned the case with the requirements of SCRCP 60(b) reciting the standard required to set aside the Entry of a Default Judgment to be "more particularized showing of mistake, inadvertence, excusable neglect, surprise, newly discovered, evidence, fraud, misrepresentation, or "other misconduct of an adverse party." See Sundown Operating Co. v. Intedge Indus., Inc., 383 S.C. 601, 606, 681 S.E.2d 885, 888 (2009) (as cited by the Court of Appeals) Since the Circuit Court did not find good cause to set aside the default, then the Circuit Court would not find the standard met to set aside the Entry of the Default Order. Thus, there is sufficient evidence in the record to show that the Circuit Court carefully considered the facts and the events that led to the Default Judgment and the Circuit Court did not abuse its discretion by refusing to set the Default Judgment aside.

2. The Court of Appeals also refused to find the Circuit Court abused its discretion by finding that a meritorious defense was not presented. Since no meritorious defense was presented to the Circuit Court, one cannot be raised on appeal. See Miller v. Dillon, 432 S.C. 197, 207, 851 S.E.2d 462, 467 (Ct. App. 2020) and the Circuit Court did not abuse its discretion in this regard.

In sum, the Standard of Review requires a finding of an abuse of discretion by the Circuit Court. In this case, the review of the record shows that the Circuit Court Order of Default Judgment cannot be overturned since the Circuit Court did not abuse its discretion.

#### IV. RETURN TO THE ARGUMENTS OF THE APPELLANTS

A. The Appellants argue that the Grantor of this Deed is the equivalent of a Testator. This novel argument is completely outside the scope of this case on the basis of the facts, but more importantly on the basis of the arguments raised and preserved in this case. First, this is an entirely new argument that was not presented to the Trial Court. Since the Circuit Court never got a chance to address this new version of the case, it certainly cannot be raised now. See Miller v. Dillon, 432 S.C. 197, 207, 851 S.E.2d 462, 467 (Ct. App. 2020). Clearly, this case involves a Deed with quiet title issues concerning a grant to a predeceased grantee rather than to a person in being. Concerns now being raised about the intent of the Grantor and referring to him as a Testator are entirely irrelevant, specious, and out of place in this case. None of the case law and discussion presented on this issue should even be considered.

B. The Court of Appeals dealt thoroughly with the issues under SCRCP 60(b). Thus, there is little more to say. However, the consultation with the out of state lawyer is not an irrelevant fact. The Circuit Court considered this fact in sound exercise of his discretion in this matter and that information is relevant to the multiple "particulars" raised in Rule SCRCP 60(b). See Sundown Operating Co. v. Intedge Indus., Inc., 383 S.C. 601, 606, 681 S.E.2d 885, 888 (2009) (as cited by the Court of Appeals). In this context, the Appellants admitted that they *knew* an answer needed to be filed. They allowed the case to go into default. The time lapse between the default and entry of the Judgment a period was over six weeks. Obviously, the Appellants believed they could act at their own pace without any consequences. One of the standards of SCRCP 60(b) is

"the prejudice to the other party". Certainly, the case could not go on indefinitely without substantial prejudice to the Respondents not to mention to the Court itself. The Circuit Court more than demonstrated sound discretion in his consideration of the Motion.

The Respondents submit that SCRCP 60(b) was properly applied to this case by the Court of Appeals by affirming the Default Judgment on the grounds the Circuit Court did not abuse its discretion.

C. As previously stated, the Appellants are trying to reinvent this case into a Will interpretation case, rather than a quiet title action. The obvious reason for this tactic is an attempt to establish a meritorious defense on the basis of the "testamentary" intent on the part of the Grantor. The simple response is this argument was not presented to the Circuit Court and cannot now be used to bootstrap the Appellants into a meritorious defense.

Nonetheless, it must be said that it is not even a responsible argument since a Deed and Will are two different legal documents and the grantor under a deed does not become a testator by just changing the nomenclature.

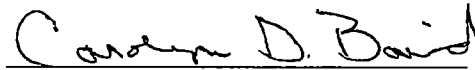
#### V. CONCLUSION

The Circuit Court's ruling refusal to set aside the Entry of the Default Judgment demonstrated a sound exercise of discretion based on the case presented.

Therefore, the Court of Appeals' Order of June 8, 2022 affirming the Circuit Court ruling must stand and the Petition for Rehearing must be denied.

July 2, 2022

Respectfully submitted,

Handwritten signature of Carolyn G. Baird in cursive script.

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IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

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SC Court of Appeals

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Case No. 2019-CP-04-00337

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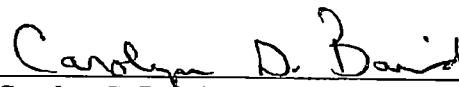
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PROOF OF SERVICE

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I certify that I have served the Return to Petition for Rehearing of Respondents and Certificate of Counsel on Florence Keese, Mary Keese, Margo Keese and Marshall Keese, pro se Appellants, by depositing a copy of it in the United States Mail, postage prepaid, on July 2, 2022, addressed to Florence Keese, 1035 Ridgehaven Road, West Chester, Pennsylvania 19382; Mary Keese, 1035 Ridgehaven Road, West Chester, Pennsylvania 19382; Margo Keese, 11608 Stewart Lane, Apt 302, Silver Spring, Maryland 20904 and Marshall Keese, 1035 Ridgehaven Road, West Chester, Pennsylvania 19382, on July 2, 2022.

July 2, 2022



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July 2, 2022

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JUL 05 2022

**SC Court of Appeals**

+ Certified Specialist in Taxation Law  
\*\* Also Admitted Kentucky

Jenny Abbott Kitchings, Clerk  
The South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

RE: Frances K. Chestnut v. Florence Keese  
Appellate Case No.: 2020-000263

Dear Ms. Kitchings:

Enclosed please find the original and seven copies of Respondents Return to the Petition for Rehearing. Please stamp one copy of the Return and return same to me in the envelope provided. I have enclosed a self-addressed stamped envelope for your convenience. I have also enclosed the original and one copy of the Proof of Service. Please stamp the file copy and return a stamped copy to me in the envelope provided.

By copy of this letter, I am serving same on the Appellants.

Sincerely yours,

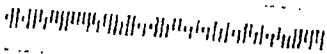


Carolyn G. Baird

CGB/pcm

Enclosures

cc: Florence Keese  
Margo Keese  
Marcy Keese  
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SC Court of Appeals

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**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

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APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

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Case No. 2019-CP-04-00337

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Frances K. Chestnut, Elizabeth Diane Keese,  
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v.

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Margo Keese and Marshall Keese, pro se

Appellants

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**PETITION FOR REHEARING**

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## **I. STATEMENT OF ISSUES ON APPEAL**

- I. WHETHER THE PANEL'S OPINION OVERLOOKED ALMOST 142 YEARS OF SOUTH CAROLINA PRECEDENTS IN UPHOLDING THE TRIAL COURT ERRONEOUS INTERPRETATION OF THE CLEAR INTENT OF THE TESTATOR?
  
- II. DID THE TRIAL COURT ABUSE ITS DISCRETION BY DENYING APPELLANTS' MOTION TO OPEN THE DEFAULT JUDGEMENT?
  
- III. DID THE TRIAL COURT ABUSE ITS DISCRETION BY FINDING THE APPELLANTS FAILED TO PRESENT A MERITORIOUS DEFENSE TO THE RESPONDENTS' QUIET TITLE ACTION?

## II. STATEMENT OF THE CASE

On February 20, 2019, Respondents Elizabeth Diane Keese, Frances K. Chestnut, Sylvester Keese, Arthur B. Keese and Mary K. Taylor filed an action in the Court of Common Pleas of Anderson County, South Carolina to quiet title in a tract of land that Minnie Keese (“the Testator”) granted in equal shares to all her children and her then deceased son’s heirs, which is described in their Complaint as follows:

ALL that certain tract of land containing Eighty Seven and Forty Four One Hundredths (87.44) acres, more or less, situate in School District No. 28, called Bishop’s Branch, in Garvin Township, in Anderson County in the State of South Carolina, bounded on the North and East by land now or formerly of Emmie Norton, on the South by land known as the Old Bolt Land, and on the West by now or formerly of George Link and Joe Berry Link.

Reproduced Record, at 1(Respondents’ Complaint).

In their Complaint, the Respondents averred that Appellants Margo Keese, Florence Keese, Marcy Keese and Marshall Keese did not have an interest in the property because their interest was extinguished due to the death of Marshall B. Keese who predeceased the Testator. See Reproduced Record, at 1. However, that is absolutely contrary to the Testator’s intent. The Testator, while preserving a life estate for her, devised the property to:

Frances K. Chestnut, James Keese, Jr., Sylvester Keese, Marshall B. Keese, (deceased) Arthur B. Keese, And Mary K. Taylor, *their heirs* and assigns forever all of my right title and interest to the below described property...

Reproduced Record, at 2 (Minnie Keese's Deed)(italics added).

After the Appellants failed to answer the Complaint, a default judgment was entered against them on July 1, 2019, pursuant to South Carolina Rules of Civil Procedure 55(b)(1). See Reproduced Record, at 3 (Entry of Default). On Appellants timely moved to set aside the default judgment pursuant to South Carolina Rules of Civil Procedure 60(b) on August 2, 2019. See Reproduced Record, at 4 (Motion To Set Aside Default Judgment).

On December 12, 2019, Appellants' motion was heard by The Honorable R. Scott Sprouse. The focus of that hearing was whether the Appellants had a "meritorious defense" to the quiet title action. The Respondents argued that none existed because the Appellants' title was "*void ab initio*" where their grantee predeceased his grantee. See Reproduced Record, at 5 (Transcript of Motion To Set Aside Default Hearing). The trial court took the matter under advisement with the expectation that Appellants' counsel would "address more fully." *Id.*, at 9:16-17.

On January 9, 2020, the circuit court issued a two prong decision denying Appellants' motion to set aside the default Judgment as follows: (1) "the Defendant has

not shown sufficient cause for the Court to set aside the default”; and (2) “the Defendant does not have a meritorious defense based on the facts and applicable law.” Frances K. Chestnut, et al. v. Florence Keese, et al., Case No. 2019CP0400337 (CCP Anderson, Jan. 9, 2020)(Sprouse, J.). See Reproduced Record, at 6 (Order Denying Motion To Set Aside Default).

Appellants timely appealed to this Court, and requested the Transcript of the December 12, 2019, hearing.

### III. STANDARDS OF REVIEW

The decision whether to set aside an entry of default or a default judgment lies solely within the sound discretion of the circuit court. See Harbor Island Owners' Association v. Preferred Island Properties, Inc., 369 S.C. 540, 544, 633 S.E.2d 497, 499 (2006)(holding the decision whether to set aside an entry of default or a default judgment lies solely within the sound discretion of the circuit court); Thompson v. Hammond, 299 S.C. 116, 119, 382 S.E.2d 900, 902-03 (1989).

“[T]his court will not reverse the [circuit] court absent an abuse of discretion.” Hillman v. Pinion, 347 S.C. 253, 255, 554 S.E.2d 427, 429 (Ct.App. 2001); Mitchell Supply Company, Inc. v. Gaffney, 297 S.C. 160, 162–63, 375 S.E.2d 321, 322-23 (Ct.App. 1988). An abuse of discretion arises when the court issuing the order was controlled by an error of law or when the order, based upon factual conclusions, is without evidentiary support. See Roberson v. Southern Finance of South Carolina, Inc., 365 S.C. 6, 9, 615 S.E.2d 112, 114 (2005)(holding an abuse of discretion occurs when the” the order was controlled by some error of law or when the order, based upon factual, as distinguished from legal conclusions, is without evidentiary support”); In re Estate of Weeks, 329 S.C. 251, 259, 495 S.E.2d 454, 459 (Ct. App. 1997)(holding an abuse of discretion occurs when the judgment is controlled by some error of law or when the order, based upon factual, as distinguished from legal conclusions, is without evidentiary support).

#### IV. SUMMARY OF ARGUMENT

First, the panel's opinion overlooked almost 142 years of South Carolina precedents in upholding the trial court erroneous interpretation of the clear intent of the testator in this case. Second, the Appellant showed good cause to set aside the default judgment. Third, the Appellants evidence established a meritorious defense to the entry of the default judgment because the express intent of the Testator was to convey Marshall B. Keese's interests in property to his "heirs and assigns". Thus, the circuit court abused its discretion in denying the Appellants' motion to set aside the default judgment because its decision was based a factual error in interpreting the intent of the Testator to convey Marshall B. Keese's interests in property to his "heirs and assigns".

## V. ARGUMENTS

- A. Whether the panel’s opinion overlooked almost 142 years of South Carolina precedents in upholding the trial court erroneous interpretation of the clear intent of the testator?

Nearly 142 years ago, in McIntyre v. McIntyre, 16 S.C. 290 (1881), the Supreme Court of South Carolina was called upon decide the intent of the testator in a case where the testator’s children predeceased their children, and the testator simply used the words “heirs” to describe who should inherit large tracts of land. There, there the court was unequivocal in its holding that “we are at liberty to construe this will in accordance with what every one who reads it must believe to have been the intention of the testator.” *Id.*, at 278. McIntyre’s progeny long lives in South Carolina. This was elucidated in Estate of Gill v. Clemson University Foundation, 397 S.C. 419, 426 (S.C. App. 2012):

The paramount rule of will construction is to determine and give effect to the testator's intent.” Holcombe–Burdette, [371 S.C. 648, 655, 640 S.E.2d 480, 483 (Ct.App.2006)]; see S.C.Code Ann. § 62–1–102(b)(2)(2009) (“The underlying purposes and policies of this Code are ... (2) to discover and make effective the intent of a decedent in the distribution of his property.”). “In construing the provisions of a will, every effort must be made to determine and carry out the intentions of the testator.” *Id.* at 656, 640

S.E.2d at 483. “A will must be read in the ordinary and grammatical sense of the words employed, unless some obvious absurdity, repugnancy, or inconsistency with the declared intention of the testator, as abstracted from the whole will, would follow from such construction.” Kemp v. Rawlings, 358 S.C. 28, 34, 594 S.E.2d 845, 849 (2004). “The rules of construction are subservient to the primary consideration of ascertaining what the testator meant by the terms used in the written instrument itself, and each item of a will must be considered in relation to other portions.” *Id.* If the terms or provisions of a will are ambiguous, the court may resort to extrinsic evidence to resolve the ambiguity. Bob Jones Univ. v. Strandell, 344 S.C. 224, 230, 543 S.E.2d 251, 254 (Ct.App.2001).

The panel’s opinion overlooked almost 142 years of South Carolina precedents in upholding the trial court erroneous interpretation of the clear intent of the testator in this case.

B. The Circuit Court Abused Its Discretion By Denying Appellants’ Motion To Open The Default Judgement.

A party seeking relief from a default judgment must do so under SCRCF Rule 60(b). See Sundown Operating Co. v. Intedge Industrial, Inc., 383 S.C. 601, 608, 681 S.E.2d 885, 888 (2009). Rule 60(b) requires a particularized showing of

mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party. See SCRCP Rule 60(b).

In determining whether to grant a motion under Rule 60(b), the circuit court should consider: (1) the promptness with which relief is sought; (2) the reasons for the failure to act promptly; (3) the existence of a meritorious defense; and (4) the prejudice to the other party. See Micronics, Inc. v. S.C. Department of Revenue, 345 S.C. 506, 510-11, 548 S.E.2d 223, 226 (Ct.App. 2001). “The movant in a Rule 60(b) motion has the burden of presenting evidence proving the facts essential to entitle him to relief.” Bowers v. Bowers, 304 S.C. 65, 67, 403 S.E.2d 127, 129 (Ct.App. 1991); Rodriguez v. Gutierrez, 391 S.C. 323, 705 S.E.2d 94 (Ct.App. 2011).

The circuit court held that Appellants failed to show good cause because they failed to act upon the advice of an out-of-state attorney and cites the case of Williams v. Vanvolkenburg, 312 S.C. 373, 440 S.E.2d 408 (Ct.App. 1993) in support of its conclusion. See Reproduced Record, at 6.

Williams v. Vanvolkenburg is distinguishable from the instant case. There, the Court of Appeals found no abuse of discretion where the husband/wife parties to the litigation failed to request that *their South Carolina licensed attorney* file an answer to the complaint. *Id.*, at 409. Here, in contrast, the person that Appellants consulted

in Philadelphia, Pennsylvania was not licensed to practice law in South Carolina, nor did he conduct any law related business or provide any legal services in the State of South Carolina, which would qualify him as a lawyer in South Carolina. See, e.g., In re Ochoa, 426 S.C. 483, 489-90, 827 S.E.2d 586, 589 (S.C. 2019) (“[b]y providing legal services in South Carolina and targeting advertisements and solicitations to this state, respondent meets the definition of “lawyer” provided in Rule 2(r)”). He was merely a lay person. Therefore, circuit court abused its discretion because it misapplied the law to the facts of this case. See Roberson v. Southern Finance of South Carolina, Inc., 365 S.C. 6, 9, 615 S.E.2d 112, 114 (2005)(holding an abuse of discretion occurs when the” the order was controlled by some error of law or when the order, based upon factual, as distinguished from legal conclusions, is without evidentiary support”); In re Estate of Weeks, 329 S.C. 251, 259, 495 S.E.2d 454, 459 (Ct. App. 1997)(holding an abuse of discretion occurs when the judgment is controlled by some error of law or when the order, based upon factual, as distinguished from legal conclusions, is without evidentiary support).

C. The Circuit Court Abused Its Discretion By Finding The Appellants Failed To Present A Meritorious Defense To The Respondents’ Quiet Title Action

A meritorious defense need not be perfect nor one which can be guaranteed to prevail at a trial. It need be only one which is worthy of a hearing or judicial inquiry

because it raises a question of law deserving of some investigation and discussion or a real controversy as to essential facts arising from conflicting or doubtful evidence. See Graham v. Town of Loris, 272 S.C. 442, 453, 248 S.E.2d 594, 599 (1978).

The circuit court ruled that:

Even if Default [sic] were to establish good cause, to set aside the entry of the Default there must be a showing that meritorious defense exists to the Plaintiffs' Complaint. The Court finds that there is no meritorious defense in this case. The Default Judgment found the conveyance to Marshall Keese (Sr.) to be null and void based on the undisputed fact that he was dead at the time of conveyance, and thus not a life in being at the time of the conveyance.

Reproduced Record, at 6.

The circuit court's ruling is contrary to the express language of the deed. "One of the first canons of construction of a deed is that the intention of the Testator must be ascertained and effectuated if no settled rule of law is contravened." Southern Railway Company v. Smoak, 243 S.C. 331, 336, 133 S.E.2d 806, 808 (1963); Wayburn v. Smith, 270 S.C. 38, 41, 239 S.E.2d 890, 892 (1977); see also McDaniel v. Connor, 206 S.C. 96, 100, 33 S.E.2d 75, 76 (1945)("[a]s has many times been said, the governing principle in the construction of deeds is that the intention of the Testator, if consistent with law, shall govern"). Moreover, in ascertaining such intention

the deed must be construed as a whole, and effect given to every part thereof, if such can be done consistently with law. See Wayburn, *supra*, at 42, 239 S.E.2d at 892; Bean v. Bean, 253 S.C. 340, 343, 170 S.E.2d 654, 655 (1969); see also First Carolinas Joint Stock Land Bank of Columbia v. Ford, 177 S.C. 40, 46, 180 S.E. 562, 565 (1935) (“[l]arger and more sensible rules of construction require that the whole deed should be considered together, and effect be given to every part, if all can stand together consistently with law...”).

Here, the Testator, Minnie Keese knew Marshall B. Keese was deceased at the time she executed to the deed. It is clear that she intended for his “heirs and assigns” to receive his share of property because that is the exact language she used in the deed.

## VI. CONCLUSIONS

For the reasons stated, this Court reverse the judgment of the circuit court.

Respectfully submitted,

---

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(484) 716-5255  
*Pro Se*  
June 21, 2022

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Marshall Keese  
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June 21, 2022

## VI. CERTIFICATE OF SERVICE

I, Margo Keese, on this 21st day of June 2022, hereby certify that attached Petition For Rehearing was filed in this Court by **EXPRESS MAIL** and served by **EXPRESS MAIL** on the person noted below:

Other Counsel of Record:  
Carolyn G. Baird, Esquire  
JONES LAW FIRM, PA  
Post Office Box 987  
Anderson, South Carolina 29622  
Attorney for Respondent  
(864) 224-3474

Respectfully submitted,

Respectfully submitted,

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\*\* Also Admitted Kentucky

June 25, 2020

Jenny Abbott Kitchings  
Clerk  
The South Carolina Court of Appeals  
PO Box 11629  
Columbia, SC 29211

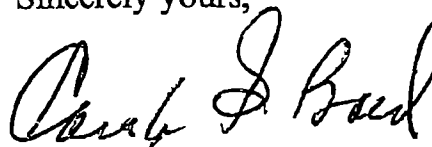
RE: Frances K. Chestnut v. Florence Keese  
Appellate Case No. 2020-000263

Dear Ms. Kitchings:

Enclosed please find the original and one copy of the Respondents' Initial Brief and Designation of Matter to be Included in the Record on Appeal along with my Proof of Service. Please file the original of these documents, stamp the file copies and return same to me in the envelope provided.

Should you have any questions, please let me know.

Sincerely yours,



Carolyn G. Baird

CGB/pcm

Enclosures

cc: Florence Keese  
Marcy Keese  
Margo Keese  
Marshall Keese

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

---

Case No. 2019-CP-04-00337

---

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary K. Taylor, Respondents.

v.

Florence Keese, Marcy Keese, Margo Keese and  
Marshall Keese, pro se, Appellants.

---

INITIAL BRIEF OF RESPONDENTS

---

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## STATEMENT OF ISSUES ON APPEAL

1. DID THE CIRCUIT COURT JUDGE ABUSE HIS DISCRETION BY NOT SETTING ASIDE THE ENTRY OF THE DEFAULT JUDGMENT.

## STATEMENT OF THE CASE

This matter came before the Honorable Scott R. Sprouse on December 12, 2019 on the Appellants' Motion filed on August 2, 2019 to Set Aside the Entry of the Default Judgment. The Default Judgment was entered based on the Complaint filed by the Respondents on February 20, 2019 and served on all of the Appellants on April 10, 2019. An Affidavit of Default was filed on May 17, 2019 and the Default Order was signed on July 1, 2019 by Judge Sprouse.

The Complaint involves a quiet title action brought by the Respondents to adjudicate and terminate the putative interest of the Appellants in the real property. Given the failure to answer, the only issues before Judge Sprouse at the Motion Hearing concerned the issues pertinent to the entry of the Default Judgment.

The Notice of Appeal was filed and served February 19, 2020. The Appellants' Brief was filed on May 30, 2020.

The Respondents in their Statement of the Case seek to argue the case substantively. The Respondents reiterate that the case now on appeal deals only with the Circuit Court's decision to uphold the entry of the Default Judgment.

## STANDARD OF REVIEW

The Respondents agree that the matter of the entry of the default is a matter that lies solely within the sound discretion of the Trial Court. Harbor Island Owners' Association v. Preferred Island Properties, Inc., 369 S.C. 540, 544, 633 S.E.2d 497, 499 (2006). Therefore, the Circuit Court's decision will not be overturned absent a clear showing of an abuse of discretion. Richardson v. PV, Inc., 383 S.C. 610, 614, 682 S.E.2d 263, 265 (2009).

## ARGUMENT

### I. FAILURE TO ESTABLISH GOOD CAUSE TO SET ASIDE DEFAULT

This case involves the appeal of the January 22, 2020 Order of the Honorable Scott R. Sprouse (Circuit Court) which denies the Appellants' Motion to Set Aside the Entry of the Default Judgment in this case.

The only inquiry is whether the Trial Judge exercised sound discretion in denying the Appellants' Motion. The Appellants themselves in their brief cite the necessity of the party seeking relief (the Appellants) to make a "particularized showing of mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party" pursuant to South Carolina Rule of Civil Procedure 60(b). A showing of any of these factors can constitute what is termed good cause to set aside the default.

Circuit Court Judge Sprouse signed the default order on July 1, 2019, and he sat as Judge at the Motion hearing. He very specifically inquired of the Counsel representing the Appellants at the Motion hearing concerning their failure to answer. As the record shows, the Appellants consulted with attorney Richard Margolis, and conferred with him about this case and the necessity of answering. Attorney Margolis in fact told them they needed a South Carolina attorney because he had been unable to locate one to represent them. Judge Sprouse found that the Appellants knew or were accountable for the knowledge of the need to answer. Williams v. Vanvolkenburg, 312 S.C. 373, 440 S.E.2d 408, 409 (S.C. App 1994).

Since there was no good cause to set aside the Default Judgment, there is no need to reach issue of a Meritorious Defense albeit the Court ruled there was none.

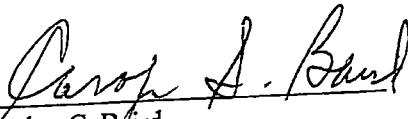
There is no inference of an abuse of discretion, much less a clear showing of same.

CONCLUSION

The Circuit Court's ruling to refuse to Set Aside the Entry of the Default Judgment was a sound exercise of his discretion. Therefore, the Circuit Court's ruling must be upheld.

June 26, 2020

Respectfully submitted,

  
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Attorney for the Respondents

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

---

Case No. 2019-CP-04-00337

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Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary K. Taylor,

Respondents.

v.

Florence Keese, Marcy Keese, Margo Keese and  
Marshall Keese, pro se,

Appellants.

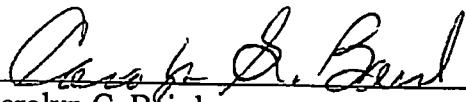
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PROOF OF SERVICE

---

I certify that I have served the Initial Brief of Respondents and Designation of Matter to be Included in the Record on Appeal on Florence Keese, Marcy Keese, Margo Keese and Marshall Keese, pro se Appellants, by depositing a copy of same in the United States Mail, postage prepaid, on June 26, 2020, addressed to Florence Keese, 1035 Ridgehaven Road, West Chester, Pennsylvania 19382; Mary Keese, 1035 Ridgehaven Road, West Chester, Pennsylvania 19382; Margo Keese, 11608 Stewart Lane, Apt 302, Silver Spring, Maryland 20904 and Marshall Keese, 1035 Ridgehaven Road, West Chester, Pennsylvania 19382.

June 26, 2020



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IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY  
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R. Scott Sprouse, Circuit Court Judge

**RECEIVED**  
DEC 01 2020  
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Case No. 2019-CP-04-00337

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary K. Taylor, Respondents.

v.

Florence Keese, Marcy Keese, Margo Keese and  
Marshall Keese, pro se, Appellants.

AMENDED FINAL BRIEF OF RESPONDENTS

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## STATEMENT OF ISSUES ON APPEAL

1. DID THE CIRCUIT COURT JUDGE ABUSE HIS DISCRETION BY NOT SETTING ASIDE THE ENTRY OF THE DEFAULT JUDGMENT.

### STATEMENT OF THE CASE

This matter came before the Honorable Scott R. Sprouse on December 12, 2019 on the Appellants' Motion filed on August 2, 2019 (Motion to Set Aside Default Judgment, p. 16) to Set Aside the Entry of the Default Judgment (Order of Default and Judgment, pp. 13-14). The Default Judgment (Order of Default and Judgment, pp. 13-14) was entered based on the Complaint (Summons and Complaint of Respondents, pp. 2-5) filed by the Respondents on February 20, 2019 and served on all of the Appellants on April 10, 2019. An Affidavit of Default was filed on May 17, 2019 and the Default Order (Order of Default and Judgment, pp. 13-14) was signed on July 1, 2019 by Judge Sprouse.

The Complaint (Summons and Complaint of Respondents, pp. 2-5) involves a quiet title action brought by the Respondents to adjudicate and terminate the putative interest of the Appellants in the real property. Given the failure to answer, the only issues before Judge Sprouse at the Motion Hearing concerned the issues pertinent to the entry of the Default Judgment (Order of Default and Judgment, pp. 13-14).

The Notice of Appeal was filed and served February 19, 2020. The Appellants' Brief was filed on May 30, 2020.

The Respondents in their Statement of the Case seek to argue the case substantively. The Respondents reiterate that the case now on appeal deals only with the Circuit Court's decision to uphold the entry of the Default Judgment (Order of Default and Judgment, pp. 13-14).

## STANDARD OF REVIEW

The Respondents agree that the matter of the entry of the default is a matter that lies solely within the sound discretion of the Trial Court. Harbor Island Owners' Association v. Preferred Island Properties, Inc., 369 S.C. 540, 544, 633 S.E.2d 497, 499 (2006). Therefore, the Circuit Court's decision will not be overturned absent a clear showing of an abuse of discretion. Richardson v. PV, Inc., 383 S.C. 610, 614, 682 S.E.2d 263, 265 (2009).

## ARGUMENT

### I. FAILURE TO ESTABLISH GOOD CAUSE TO SET ASIDE DEFAULT

This case involves the appeal of the January 22, 2020 Order (Order, pp. 30-34) of the Honorable Scott R. Sprouse (Circuit Court) which denies the Appellants' Motion to Set Aside the Entry of the Default Judgment (Motion to Set Aside Default Judgment, pp. 16) in this case.

The only inquiry is whether the Trial Judge exercised sound discretion in denying the Appellants' Motion. The Appellants themselves in their brief cite the necessity of the party seeking relief (the Appellants) to make a "particularized showing of mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party" pursuant to South Carolina Rule of Civil Procedure 60(b). A showing of any of these factors can constitute what is termed good cause to set aside the default.

Circuit Court Judge Sprouse signed the Default Order on July 1, 2019 (Order of Default and Judgment, pp.13-14), and he sat as Judge at the Motion hearing. He very specifically inquired of the Counsel representing the Appellants at the Motion hearing concerning their failure to answer. As the record shows via Affidavits (Affidavit of Richard Margolis, Affidavit of Marshall Keese, Affidavit of Florence Keese, pp. 37-41), the Appellants consulted with attorney Richard

Margolis, and conferred with him about this case and the necessity of answering. Attorney Margolis in fact told them they needed a South Carolina attorney because he had been unable to locate one to represent them. Judge Sprouse found that the Appellants knew or were accountable for the knowledge of the need to answer. Williams v. Vanvolkenburg, 312 S.C. 373, 440 S.E.2d 408, 409 (S.C. App 1994).

Since there was no good cause to set aside the Default Judgment (Order of Default and Judgment, pp. 13-14), there is no need to reach issue of a Meritorious Defense albeit the Court ruled there was none.

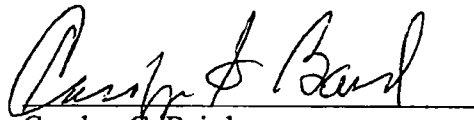
There is no inference of an abuse of discretion, much less a clear showing of same.

#### CONCLUSION

The Circuit Court's ruling to refuse to Set Aside the Entry of the Default Judgment (Order, pp. 30-34) was a sound exercise of his discretion. Therefore, the Circuit Court's ruling must be upheld.

November 24, 2020

Respectfully submitted,



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Attorney for the Respondents

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY  
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R. Scott Sprouse, Circuit Court Judge

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SC Court of Appeals

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v.

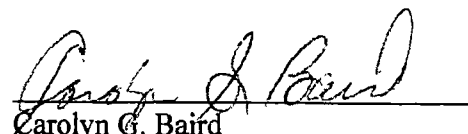
Florence Keese, Marcy Keese, Margo Keese and  
Marshall Keese, pro se,

Appellants.

\_\_\_\_\_  
CERTIFICATE OF COUNSEL  
\_\_\_\_\_

The undersigned certifies that this Amended Final Brief complies with Rule 211(b),  
SCACR.

November 24, 2020



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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM ANDERSON COUNTY  
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Respondents,

v.

Florence Keese, Marcy Keese,  
Margo Keese and Marshall Keese, *pro se*

Appellants

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FINAL BRIEF OF APPELLANTS

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## **I. STATEMENT OF ISSUES ON APPEAL**

- I. DID THE TRIAL COURT ABUSE ITS DISCRETION BY DENYING APPELLANTS' MOTION TO OPEN THE DEFAULT JUDGEMENT?
  
- II. DID THE TRIAL COURT ABUSE ITS DISCRETION BY FINDING THE APPELLANTS FAILED TO PRESENT A MERITORIOUS DEFENSE TO THE RESPONDENTS' QUIET TITLE ACTION?

## II. STATEMENT OF THE CASE

On February 20, 2019, Respondents Elizabeth Diane Keese, Frances K. Chestnut, Sylvester Keese, Arthur B. Keese and Mary K. Taylor filed an action in the Court of Common Pleas of Anderson County, South Carolina to quiet title in a tract of land that Minnie Keese (“the Grantor”) granted in equal shares to all her children and her then deceased son’s heirs, which is described in their Complaint as follows:

ALL that certain tract of land containing Eighty Seven and Forty Four One Hundredths (87.44) acres, more or less, situate in School District No. 28, called Bishop’s Branch, in Garvin Township, in Anderson County in the State of South Carolina, bounded on the North and East by land now or formerly of Emmie Norton, on the South by land known as the Old Bolt Land, and on the West by now or formerly of George Link and Joe Berry Link.

Reproduced Record, at 1, p. 1 (Respondents’ Complaint).

In their Complaint, the Respondents averred that Appellants Margo Keese, Florence Keese, Marcy Keese and Marshall Keese did not have an interest in the property because their interest was extinguished due to the death of Marshall B. Keese who predeceased the Grantor. See Reproduced Record, at 1. However, that

is absolutely contrary to the Grantor's intent. The Grantor, while preserving a life estate for her, devised the property to:

Frances K. Chestnut, James Keese, Jr., Sylvester Keese, Marshall B. Keese, (deceased) Arthur B. Keese, And Mary K. Taylor, *their heirs* and assigns forever all of my right title and interest to the below described property...

Reproduced Record, at 2, p. 1 (Minnie Keese's Deed)(italics added).

After the Appellants failed to answer the Complaint, a default judgment was entered against them on July 1, 2019 pursuant to South Carolina Rules of Civil Procedure 55(b)(1). See Reproduced Record, at 3, p. 1 (Entry of Default). On Appellants timely moved to set aside the default judgment pursuant to South Carolina Rules of Civil Procedure 60(b) on August 2, 2019. See Reproduced Record, at 4, p. 1 (Motion To Set Aside Default Judgment).

On December 12, 2019, Appellants' motion was heard by The Honorable R. Scott Sprouse. The focus of that hearing was whether the Appellants had a "meritorious defense" to the quiet title action. The Respondents argued that none existed because the Appellants' title was "*void ab initio*" where their grantee predeceased his grantee. See Reproduced Record, at 5, p. 8, lines 19-22 (Transcript of Motion To Set Aside Default Hearing). The trial court took the matter under ad-

visement with the expectation that Appellants' counsel would "address more fully." *Id.*, at p. 8, lines 16-17.

On January 9, 2020, the circuit court issued a two prong decision denying Appellants' motion to set aside the default Judgment as follows: (1) "the Defendant has not shown sufficient cause for the Court to set aside the default"; and (2) "the Defendant does not have a meritorious defense based on the facts and applicable law." Frances K. Chestnut, et al. v. Florence Keese, et al., Case No. 2019CP0400337 (CCP Anderson, Jan. 9, 2020)(Sprouse, J.). See Reproduced Record, at 6 (Order Denying Motion To Set Aside Default).

Appellants timely appealed to this Court, and requested the Transcript of the December 12, 2019 hearing.

### III. STANDARDS OF REVIEW

The decision whether to set aside an entry of default or a default judgment lies solely within the sound discretion of the circuit court. See Harbor Island Owners' Association v. Preferred Island Properties, Inc., 369 S.C. 540, 544, 633 S.E.2d 497, 499 (2006)(holding the decision whether to set aside an entry of default or a default judgment lies solely within the sound discretion of the circuit court); Thompson v. Hammond, 299 S.C. 116, 119, 382 S.E.2d 900, 902-03 (1989).

“[T]his court will not reverse the [circuit] court absent an abuse of discretion.” Hillman v. Pinion, 347 S.C. 253, 255, 554 S.E.2d 427, 429 (Ct.App. 2001); Mitchell Supply Company, Inc. v. Gaffney, 297 S.C. 160, 162–63, 375 S.E.2d 321, 322-23 (Ct.App. 1988). An abuse of discretion arises when the court issuing the order was controlled by an error of law or when the order, based upon factual conclusions, is without evidentiary support. See Roberson v. Southern Finance of South Carolina, Inc., 365 S.C. 6, 9, 615 S.E.2d 112, 114 (2005)(holding an abuse of discretion occurs when the” the order was controlled by some error of law or when the order, based upon factual, as distinguished from legal conclusions, is without evidentiary support”); In re Estate of Weeks, 329 S.C. 251, 259, 495 S.E.2d 454, 459 (Ct. App. 1997)(holding an abuse of discretion occurs when the judgment is controlled by some error of law or when the order, based upon factual, as distinguished from legal conclusions, is without evidentiary support).

#### **IV. SUMMARY OF ARGUMENT**

First, the Appellant showed good cause to set aside the default judgment. Second, the Appellants evidence established a meritorious defense to the entry of the default judgment because the express intent of the Grantor was to convey Marshall B. Keese's interests in property to his "heirs and assigns". Thus, the circuit court abused its discretion in denying the Appellants' motion to set aside the default judgment because its decision was based a factual error in interpreting the intent of the Grantor to convey Marshall B. Keese's interests in property to his "heirs and assigns".

## V. ARGUMENTS

### A. The Circuit Court Abused Its Discretion By Denying Appellants' Motion To Open The Default Judgement.

A party seeking relief from a default judgment must do so under SCRCP Rule 60(b). See Sundown Operating Co. v. Intedge Industrial, Inc., 383 S.C. 601, 608, 681 S.E.2d 885, 888 (2009). Rule 60(b) requires a particularized showing of mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party. See SCRCP Rule 60(b).

In determining whether to grant a motion under Rule 60(b), the circuit court should consider: (1) the promptness with which relief is sought; (2) the reasons for the failure to act promptly; (3) the existence of a meritorious defense; and (4) the prejudice to the other party. See Micronics, Inc. v. S.C. Department of Revenue, 345 S.C. 506, 510-11, 548 S.E.2d 223, 226 (Ct.App. 2001). "The movant in a Rule 60(b) motion has the burden of presenting evidence proving the facts essential to entitle him to relief." Bowers v. Bowers, 304 S.C. 65, 67, 403 S.E.2d 127, 129 (Ct.App. 1991); Rodriguez v. Gutierrez, 391 S.C. 323, 705 S.E.2d 94 (Ct.App. 2011).

The circuit court held that Appellants failed to show good cause because they failed to act upon the advice of an out-of-state attorney and cites the case of Wil-

Williams v. Vanvolkenburg, 312 S.C. 373, 440 S.E.2d 408 (Ct.App. 1993) in support of its conclusion. See Reproduced Record, at 6.

Williams v. Vanvolkenburg is distinguishable from the instant case. There, the Court of Appeals found no abuse of discretion where the husband/wife parties to the litigation failed to request that *their South Carolina licensed attorney* file an answer to the complaint. *Id.*, at 409. Here, in contrast, the person that Appellants consulted in Philadelphia, Pennsylvania was not licensed to practice law in South Carolina, nor did he conduct any law related business or provide any legal services in the State of South Carolina, which would qualify him as a lawyer in South Carolina. See, e.g., In re Ochoa, 426 S.C. 483, 489-90, 827 S.E.2d 586, 589 (S.C. 2019)(“[b]y providing legal services in South Carolina and targeting advertisements and solicitations to this state, respondent meets the definition of “lawyer” provided in Rule 2(r)”). He was merely a lay person. Therefore, the circuit court abused its discretion because it misapplied the law to the facts of this case. See Roberson v. Southern Finance of South Carolina, Inc., 365 S.C. 6, 9, 615 S.E.2d 112, 114 (2005)(holding an abuse of discretion occurs when the” the order was controlled by some error of law or when the order, based upon factual, as distinguished from legal conclusions, is without evidentiary support”); In re Estate of Weeks, 329 S.C. 251, 259, 495 S.E.2d 454, 459 (Ct. App. 1997)(holding an abuse of discretion occurs when the judgment is controlled by some error of law or when

the order, based upon factual, as distinguished from legal conclusions, is without evidentiary support).

B. The Circuit Court Abused Its Discretion By Finding The Appellants Failed To Present A Meritorious Defense To The Respondents' Quiet Title Action

A meritorious defense need not be perfect nor one which can be guaranteed to prevail at a trial. It need be only one which is worthy of a hearing or judicial inquiry because it raises a question of law deserving of some investigation and discussion or a real controversy as to essential facts arising from conflicting or doubtful evidence. See Graham v. Town of Loris, 272 S.C. 442, 453, 248 S.E.2d 594, 599 (1978).

The circuit court ruled that:

Even if Default [sic] were to establish good cause, to set aside the entry of the Default there must be a showing that meritorious defense exists to the Plaintiffs' Complaint. The Court finds that there is no meritorious defense in this case. The Default Judgment found the conveyance to Marshall Keese (Sr.) to be null and void based on the undisputed fact that he was dead at the time of conveyance, and thus not a life in being at the time of the conveyance.

Reproduced Record, at 6.

The circuit court's ruling is contrary to the express language of the deed. "One of the first canons of construction of a deed is that the intention of the grantor must be ascertained and effectuated if no settled rule of law is contravened." Southern Railway Company v. Smoak, 243 S.C. 331, 336, 133 S.E.2d 806, 808 (1963); Wayburn v. Smith, 270 S.C. 38, 41, 239 S.E.2d 890, 892 (1977); see also McDaniel v. Connor, 206 S.C. 96, 100, 33 S.E.2d 75, 76 (1945)("[a]s has many times been said, the governing principle in the construction of deeds is that the intention of the grantor, if consistent with law, shall govern"). Moreover, in ascertaining such intention the deed must be construed as a whole, and effect given to every part thereof, if such can be done consistently with law. See Wayburn, *supra*, at 42, 239 S.E.2d at 892; Bean v. Bean, 253 S.C. 340, 343, 170 S.E.2d 654, 655 (1969); see also First Carolinas Joint Stock Land Bank of Columbia v. Ford, 177 S.C. 40, 46, 180 S.E. 562, 565 (1935)("[l]arger and more sensible rules of construction require that the whole deed should be considered together, and effect be given to every part, if all can stand together consistently with law...").

Here, the Grantor, Minnie Keese knew Marshall B. Keese was deceased at the time she executed to the deed. It is clear that she intended for his "heirs and assigns" to receive his share of property because that is the exact language she used in the deed.

## VI. CONCLUSIONS

For the reasons stated, this Court reverses the judgment of the circuit court.

Respectfully submitted,

---

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## VI. CERTIFICATE OF SERVICE

I, Margo Keese, on this 22nd day of July 2020, hereby certify that attached Final Brief For Appellant and Final Reproduced Record was filed in this Court by **FIRST CLASS MAIL** and served by **FIRST CLASS MAIL** on the person noted below:

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
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Carolyn G. Baird, Esquire  
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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

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Case No. 2019-CP-04-00337

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Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary K. Taylor

Respondents,

v.

Florence Keese, Marcy Keese,  
Margo Keese and Marshall Keese, *pro se*

Appellants

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INITIAL BRIEF OF APPELLANTS

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**I. STATEMENT OF ISSUES ON APPEAL**

- I. DID THE TRIAL COURT ABUSE ITS DISCRETION BY DENYING APPELLANTS' MOTION TO OPEN THE DEFAULT JUDGEMENT?
  
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## II. STATEMENT OF THE CASE

On February 20, 2019, Respondents Elizabeth Diane Keese, Frances K. Chestnut, Sylvester Keese, Arthur B. Keese and Mary K. Taylor filed an action in the Court of Common Pleas of Anderson County, South Carolina to quiet title in a tract of land that Minnie Keese (“the Grantor”) granted in equal shares to all her children and her then deceased son’s heirs, which is described in their Complaint as follows:

ALL that certain tract of land containing Eighty Seven and Forty Four One Hundredths (87.44) acres, more or less, situate in School District No. 28, called Bishop’s Branch, in Garvin Township, in Anderson County in the State of South Carolina, bounded on the North and East by land now or formerly of Emmie Norton, on the South by land known as the Old Bolt Land, and on the West by now or formerly of George Link and Joe Berry Link.

Reproduced Record, at 1(Respondents’ Complaint).

In their Complaint, the Respondents averred that Appellants Margo Keese, Florence Keese, Marcy Keese and Marshall Keese did not have an interest in the property because their interest was extinguished due to the death of Marshall B. Keese who predeceased the Grantor. See Reproduced Record, at 1. However, that

is absolutely contrary to the Grantor's intent. The Grantor, while preserving a life estate for her, devised the property to:

Frances K. Chestnut, James Keese, Jr., Sylvester Keese, Marshall B. Keese, (deceased) Arthur B. Keese, And Mary K. Taylor, *their heirs* and assigns forever all of my right title and interest to the below described property...

Reproduced Record, at 2 (Minnie Keese's Deed)(italics added).

After the Appellants failed to answer the Complaint, a default judgment was entered against them on July 1, 2019 pursuant to South Carolina Rules of Civil Procedure 55(b)(1). See Reproduced Record, at 3 (Entry of Default). On Appellants timely moved to set aside the default judgment pursuant to South Carolina Rules of Civil Procedure 60(b) on August 2, 2019. See Reproduced Record, at 4 (Motion To Set Aside Default Judgment).

On December 12, 2019, Appellants' motion was heard by The Honorable R. Scott Sprouse. The focus of that hearing was whether the Appellants had a "meritorious defense" to the quiet title action. The Respondents argued that none existed because the Appellants' title was "*void ab initio*" where their grantee predeceased his grantee. See Reproduced Record, at 5 (Transcript of Motion To Set Aside Default Hearing). The trial court took the matter under advisement with the expectation that Appellants' counsel would "address more fully." *Id.*, at 9:16-17.

On January 9, 2020, the circuit court issued a two prong decision denying Appellants' motion to set aside the default Judgment as follows: (1) "the Defendant has not shown sufficient cause for the Court to set aside the default"; and (2) "the Defendant does not have a meritorious defense based on the facts and applicable law." Frances K. Chestnut, et al. v. Florence Keese, et al., Case No. 2019CP0400337 (CCP Anderson, Jan. 9, 2020)(Sprouse, J.). See Reproduced Record, at 6 (Order Denying Motion To Set Aside Default).

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### III. STANDARDS OF REVIEW

The decision whether to set aside an entry of default or a default judgment lies solely within the sound discretion of the circuit court. See Harbor Island Owners' Association v. Preferred Island Properties, Inc., 369 S.C. 540, 544, 633 S.E.2d 497, 499 (2006)(holding the decision whether to set aside an entry of default or a default judgment lies solely within the sound discretion of the circuit court); Thompson v. Hammond, 299 S.C. 116, 119, 382 S.E.2d 900, 902-03 (1989).

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#### IV. SUMMARY OF ARGUMENT

First, the Appellant showed good cause to set aside the default judgment. Second, the Appellants evidence established a meritorious defense to the entry of the default judgment because the express intent of the Grantor was to convey Marshall B. Keese's interests in property to his "heirs and assigns". Thus, the circuit court abused its discretion in denying the Appellants' motion to set aside the default judgment because its decision was based a factual error in interpreting the intent of the Grantor to convey Marshall B. Keese's interests in property to his "heirs and assigns".

## V. ARGUMENTS

### A. The Circuit Court Abused Its Discretion By Denying Appellants' Motion To Open The Default Judgement.

A party seeking relief from a default judgment must do so under SCRPC Rule 60(b). See Sundown Operating Co. v. Intedge Industrial, Inc., 383 S.C. 601, 608, 681 S.E.2d 885, 888 (2009). Rule 60(b) requires a particularized showing of mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party. See SCRPC Rule 60(b).

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Reproduced Record, at 6.

The circuit court's ruling is contrary to the express language of the deed. "One of the first canons of construction of a deed is that the intention of the grantor must be ascertained and effectuated if no settled rule of law is contravened." Southern Railway Company v. Smoak, 243 S.C. 331, 336, 133 S.E.2d 806, 808 (1963); Wayburn v. Smith, 270 S.C. 38, 41, 239 S.E.2d 890, 892 (1977); see also McDaniel v. Connor, 206 S.C. 96, 100, 33 S.E.2d 75, 76 (1945)("[a]s has many times been said, the governing principle in the construction of deeds is that the intention of the grantor, if consistent with law, shall govern"). Moreover, in ascertaining such intention the deed must be construed as a whole, and effect given to every part thereof, if such can be done consistently with law. See Wayburn, supra, at 42, 239 S.E.2d at 892; Bean v. Bean, 253 S.C. 340, 343, 170 S.E.2d 654, 655 (1969); see also First Carolinas Joint Stock Land Bank of Columbia v. Ford, 177 S.C. 40, 46, 180 S.E. 562, 565 (1935)("[l]arger and more sensible rules of construction require that the whole deed should be considered together, and effect be given to every part, if all can stand together consistently with law...").

Here, the Grantor, Minnie Keese knew Marshall B. Keese was deceased at the time she executed to the deed. It is clear that she intended for his "heirs and assigns" to receive his share of property because that is the exact language she used in the deed.

## VI. CONCLUSIONS

For the reasons stated, this Court reverse the judgment of the circuit court.

Respectfully submitted,

---

Margo Keese  
11608 Stewart Lane, Apt. 302  
Silver Spring, Maryland 20904  
(484) 716-5255  
*Pro Se*  
May 1, 2020

---

Florence Keese  
1035 Ridgehaven Road  
West Chester, Pennsylvania 19382  
(215) 680-8366  
*Pro Se*

---

Marcy Keese  
1035 Ridgehaven Road  
West Chester, Pennsylvania 19382  
(215) 680-8366  
*Pro Se*

---

Marshall Keese  
1035 Ridgehaven Road  
West Chester, Pennsylvania 19382  
(215) 680-8366  
*Pro Se*

## VI. CERTIFICATE OF SERVICE

I, Margo Keese, on this 1st day of May 2020, hereby certify that attached Brief For Appellant and Reproduced Record was filed in this Court by **FIRST CLASS MAIL** and served by **FIRST CLASS MAIL** on the person noted below:

Other Counsel of Record:  
Carolyn G. Baird, Esquire  
JONES LAW FIRM, PA  
Post Office Box 987  
Anderson, South Carolina 29622  
Attorney for Respondent  
(864) 224-3474

Respectfully submitted,

Respectfully submitted,

---

Margo Keese  
11608 Stewart Lane, Apt. 302  
Silver Spring, Maryland 20904  
(484) 716-5255  
*Pro Se*

---

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West Chester, Pennsylvania 19382  
(215) 680-8366  
*Pro Se*

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

---

Case No. 2019-CP-04-00337

---

Florence Keese, *pro se, et al.*  
Appellants

v.

Frances K. Chestnut, *et al.*  
Respondents

---

**APPELLANTS' SUPPLEMENTAL RECORD ON APPEAL**

---

Margo Keese  
11608 Stewart Lane, Apt. 302  
Silver Spring, MD 20904  
(484) 716-5255  
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Marcy Keese  
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(215) 680-8366  
*Pro Se*

Other Counsel of Record:  
Carolyn G. Baird, Esquire  
JONES LAW FIRM, PA  
Post Office Box 987  
Anderson, South Carolina 29622  
Attorney for Respondent  
(864) 224-3474

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STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF ANDERSON

) C. A. No. 2019-CP-04-00337

)  
)  
) Frances K. Chestnut, Elizabeth Diane Keese,  
) Sylvester Keese, Arthur B. Keese and Mary  
) K. Taylor,

)  
)  
) Plaintiffs,

)  
)  
) v.

)  
)  
) **MOTION TO SET ASIDE DEFAULT  
) JUDGMENT**

)  
)  
) Florence Keese, Marcy Keese, Margo Keese  
) and Marshall Keese,

)  
)  
) Defendants.  
)

**TO: CAROLYN G. BAIRD, ESQ., ATTORNEY FOR PLAINTIFFS**

YOU WILL HEREBY TAKE NOTICE that Defendants, by and through their undersigned counsel, will move before the presiding judge of the Court of Common Pleas of Anderson County, as soon as this matter may be heard, for an Order setting aside the default judgment entered in the above-referenced action.

This motion is made pursuant to S.C.R.C.P. 60(b) and is supported by the South Carolina Rules of Civil Procedure and such legal memoranda and arguments as Defendants' counsel may present to the Court at or prior to the hearing on this motion.

Respectfully submitted this 2<sup>nd</sup> day of August, 2019.

HOLDER, PADGETT, LITTLEJOHN + PRICKETT, LLC

s/ M. Stokely Holder

M. Stokely Holder (SC Bar #73892)

Anna L. Bullington (SC Bar # 102503)

P.O. Box 1804

Greenville, SC 29602

(864) 335-8808

sholder@hplplaw.com

abullington@hplplaw.com

*Attorneys for Defendants Florence Keese, Marcy Keese,  
Margo Keese and Marshall Keese*

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary  
K. Taylor,

Plaintiffs,

v.

Florence Keese, Marcy Keese, Margo Keese  
and Marshall Keese,

Defendants.

) IN THE COURT OF COMMON PLEAS

) C. A. No. 2019-CP-04-00337

) **AFFIDAVIT OF RICHARD MARGOLIS**


PERSONALLY APPEARED before me, an officer duly authorized by law to administer oaths, Richard Margolis, who after first being duly sworn, states:

1. My name is Richard Margolis and I am competent in all aspects to testify regarding the matters set forth herein.
2. I am an attorney licensed to practice law in Pennsylvania.
3. I was contacted by Marshall Keese in March 2019 regarding a quiet title action filed against him, Florence, Marcy, and Margo Keese in Anderson, South Carolina.
4. I informed him that while I was not licensed to practice law in South Carolina I would contact the attorney for the Plaintiff.
5. I emailed Ms. Baird, the attorney for the Plaintiff, and told her that I had been contacted by the Keese family about the action. Ms. Baird told me she could not speak to me about the matter unless I filed a notice of appearance with the court in South Carolina
6. After she told me this, I again advised Mr. Keese that I was not licensed in South Carolina and could not file an answer on his and his family's behalf, but I would try to help him find an attorney in South Carolina.

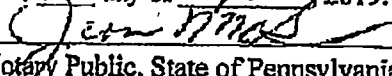
7. Mr. Keese must have misunderstood my communications with him and there may have been some miscommunication between us about the time of service and deadline for filing an answer.

8. Thereafter, I did not receive any notice that the Plaintiff was attempting to have a default entered against the Keeses for failing to answer the complaint.

**FURTHER THE AFFIANT SAYETH NAUGHT.**

  
Richard Margolis

Sworn to and subscribed before me  
This 27th day of Sept, 2019.

  
Notary Public, State of Pennsylvania  
My commission expires: \_\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
JOAN MCGOVERN, Notary Public  
City of Philadelphia, Phila. County  
My Commission Expires December 2, 2020

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary  
K. Taylor,

Plaintiffs,

v.

Florence Keese, Marcy Keese, Margo Keese  
and Marshall Keese,

Defendants.

) IN THE COURT OF COMMON PLEAS

) C. A. No. 2019-CP-04-00337

) AFFIDAVIT OF MARSHALL KEESE

PERSONALLY APPEARED before me, an officer duly authorized by law to administer oaths, Marshall Keese, who after first being duly sworn, states:

1. My name is Marshall Keese and I am competent in all aspects to testify regarding the matters set forth herein.
2. My family and I received a letter from the Plaintiffs' attorney, Ms. Crystal Baird, in March 2018 telling us that some of our family members wanted to divide property in Anderson County, South Carolina that our grandmother had deeded to all of us.
3. We told the Plaintiffs and Ms. Baird that we would not agree to sign any quitclaim deeds or give our consent to divide the property.
4. I contacted Richard Margolis, an attorney in Pennsylvania who was handling another matter for me, about the letter, and he contacted Ms. Baird to discuss the case.
5. I called Mr. Margolis right after I was served with a Summons and Complaint on April 10, 2019 to let him know that I had been served.
6. Mr. Margolis told me he was not licensed in South Carolina, but he said he would try to help me find an attorney in South Carolina.

7. I did not receive a copy of any notices, motions, or pleadings filed in this case after I was served with the Summons and Complaint.

8. I followed up with Mr. Margolis again, and he told me he was still trying to find an attorney in South Carolina.

9. When I called Mr. Margolis again in July, he told me he had been unable to find an attorney in South Carolina to handle the case and recommended that I try to find one myself.

10. I retained Mr. Holder's firm, to represent my mother, my sisters, and me at the end of July 2019.

11. I did not know the Plaintiffs were trying to have a default entered against me until my new attorney, Mr. Holder, told me a default judgment had been filed on July 1, 2019.

12. I did not receive notice of any motion or hearing related to the case whatsoever.

13. If I had been aware of any motions or hearings, I would have immediately contacted my attorney in Pennsylvania to advise me on what to do.

**FURTHER THE AFFIANT SAYETH NAUGHT.**

*Marshall Keese*  
\_\_\_\_\_  
Marshall Keese

Sworn to and subscribed before me.  
This 7<sup>th</sup> day of December, 2019.

\_\_\_\_\_  
Notary Public, State of Pennsylvania  
My commission expires: 05-16-19

Commonwealth of Pennsylvania - Notary Seal  
JIGNESH AMIN, Notary Public  
Philadelphia County  
My Commission Expires May 16, 2022  
Commission Number 1331023

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary  
K. Taylor,

Plaintiffs,

v.

Florence Keese, Marcy Keese, Margo Keese  
and Marshall Keese,

Defendants,

) IN THE COURT OF COMMON PLEAS

) C. A. No. 2019-CP-04-00337

) **AFFIDAVIT OF FLORENCE KEESE**

PERSONALLY APPEARED before me, an officer duly authorized by law to administer oaths, Florence Keese, who after first being duly sworn, states:

1. My name is Florence Keese and I am competent in all aspects to testify regarding the matters set forth herein.
2. My family and I received a letter from the Plaintiffs' attorney, Ms. Crystal Baird, in March 2018 telling us that some of our family members wanted to divide our property in Anderson County, South Carolina.
3. We told the Plaintiffs and Ms. Baird that we would not agree to sign any quitclaim deeds or give our consent to divide the property.
4. My son, Marshall, contacted Richard Margolis, an attorney in Pennsylvania, on our behalf about the letter.
5. Marshall handled all communication with Mr. Margolis on my behalf
6. I did not receive a copy of any notices, motions, or pleadings filed in this case after I was served with the Summons and Complaint in April 2019.

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7. I understood that Mr. Margolis was helping us find an attorney in South Carolina to handle the case.

8. When we learned that Mr. Margolis could not find us an attorney, we retained Mr. Holder's firm to represent us at the end of July 2019.

9. I did not know the Plaintiffs were trying to have a default entered against me until our new attorney, Mr. Holder, told me a default judgment had been filed on July 1, 2019.

10. I did not receive notice of any motion or hearing related to the case whatsoever.

**FURTHER THE AFFIANT SAYETH NAUGHT.**

*Florence Keese*  
\_\_\_\_\_  
Florence Keese

Sworn to and subscribed before me

This 30 day of Oct 2019.

Notary Public, State of Pennsylvania

My commission expires: 01/10/2020

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
JODIE L. ROSENTHAL-YOUNG, Notary Public  
East Goshen Twp., Chester County  
My Commission Expires January 10, 2020

ELECTRONICALLY FILED - 2019 Dec 09 3:51 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400337

**CERTIFICATE OF APPELLANTS**

Appellants, on this 11th day of November 2020, hereby certify that attached Supplemental Record On Appeal contains all additional material proposed to be included by any of the parties and not any other material:

Respectfully submitted,

---

Margo Keese  
11608 Stewart Lane, Apt. 302  
Silver Spring, Maryland 20904  
(484) 716-5255  
*Pro Se*

---

Florence Keese  
1035 Ridgehaven Road  
West Chester, PA 19382  
(215) 680-8366  
*Pro Se*

---

Marcy Keese  
1035 Ridgehaven Road  
West Chester, PA 19382  
(215) 680-8366  
*Pro Se*

---

Marshall Keese  
1035 Ridgehaven Road  
West Chester, PA 19382  
(215) 680-8366  
*Pro Se*

**CERTIFICATE OF SERVICE**

Appellants, on this 11th day of September 2020, hereby certify that attached Response was filed in this Court by **EMAIL** and served by **FIRST CLASS MAIL** on the person noted below:

Other Counsel of Record:  
Carolyn G. Baird, Esquire  
JONES LAW FIRM, PA  
Post Office Box 987  
Anderson, South Carolina 29622  
Attorney for Respondent  
(864) 224-3474

Respectfully submitted,

---

Margo Keese  
11608 Stewart Lane, Apt. 302  
Silver Spring, Maryland 20904  
(484) 716-5255  
*Pro Se*

# The South Carolina Court of Appeals

Frances K Chestnut, Elizabeth Diane Keese, Sylvester Keese, Arthur B. Keese and Mary K. Taylor,  
Respondents,

v.

Florence Keese, Marcy Keese, Margo Keese and  
Marshall Keese, Appellants.


Appellate Case No. 2020-000263

---

## ORDER

---

Respondents have filed a motion to compel Appellants to file a supplemental record on appeal that includes four items listed in Respondents' designation of matter that were not included in the record on appeal. The motion is granted. Within twenty days of this order, Appellants shall serve and file a supplemental record on appeal that includes the following items: (1) Respondents' Return to the Motion to Set Aside Default Judgment; (2) Appellants' Affidavit of Richard Margolis provided at hearing of December 12, 2019 on Motion to Set Aside Default Judgment; (3) Appellants' Affidavit of Marshall Keese provided at hearing of December 12, 2019 on Motion to Set Aside Default Judgment; and (4) Appellants' Affidavit of Florence Keese provided at hearing of December 12, 2019 on Motion to Set Aside Default Judgment.

  
FOR THE COURT

Columbia, South Carolina

cc:

Florence Keese

Margo Keese

Marcy Keese

Marshall Keese

Carolyn G. Baird, Esquire

**FILED**  
**Oct 15 2020**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

---

Case No. 2019-CP-04-00337

---

Frances K. Chestnut, Eliza-  
beth Diane Keese,  
Sylvester Keese, Arthur B.  
Keese and Mary K. Taylor

Respondents,

v.

Florence Keese, Marcy Keese,  
Margo Keese and Marshall  
Keese, *pro se*

Appellants

---

REPRODUCED RECORD OF APPELLANT

---

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

---

Case No. 2019-CP-04-00337

---

Frances K. Chestnut, Eliza-  
beth Diane Keese,  
Sylvester Keese, Arthur B.  
Keese and Mary K. Taylor

Respondents,

v.

Florence Keese, Marcy Keese,  
Margo Keese and Marshall  
Keese, *pro se*

Appellants

---

REPRODUCED RECORD NUMBER 1 OF APPELLANT

---

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ANDERSON )

IN THE COURT OF COMMON PLEAS  
Docket No. 2019-CP-04-\_\_\_\_\_

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary  
K. Taylor,

Plaintiffs,

v.

Florence Keese, Marcy Keese, Margo Keese  
and Marshall Keese,

Defendants.

**SUMMONS**

**YOU ARE HEREBY SUMMONED** and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said Complaint on the subscriber at her office at PO Box 987, Anderson, South Carolina, 29622, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the said relief demanded in the Complaint.

s/Carolyn G. Baird  
CAROLYN G. BAIRD, SC Bar #480  
JONES LAW FIRM, PA  
PO Box 987  
Anderson, SC 29622  
(864) 224-3474  
Carolyn@jonesfirm.com

Anderson, SC  
February 15, 2019

STATE OF SOUTH CAROLINA )  
COUNTY OF ANDERSON )

IN THE COURT OF COMMON PLEAS  
Docket No. 2019-CP-04-\_\_\_\_\_

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary  
K. Taylor,

Plaintiffs,

vs.

**COMPLAINT**

Florence Keese, Marcy Keese, Margo Keese  
and Marshall Keese,

Defendants.

The Plaintiffs would allege as follows:

1. The Plaintiffs, Elizabeth Diane Keese, Sylvester Keese, Arthur B. Keese are citizens and residents of Anderson County, South Carolina. The Plaintiff Frances K. Chestnut is a citizen and resident of Philadelphia, Pennsylvania. The Plaintiff Mary K. Taylor is a citizen and resident of Woolwich Twp., New Jersey.
2. The Defendants Florence Keese, Marcy Keese and Margo Keese are all citizens and residents of West Chester, Pennsylvania and the Defendant Marshall Keese is from Philadelphia, Pennsylvania.
3. The subject of this Complaint is the title to real estate situate in Anderson County, South Carolina. Therefore, this Court has jurisdiction over the subject matter herein. A description of the real estate is as follows:

ALL that certain tract of land containing Eighty Seven and Forty Four One Hundredths (87.44) acres, more or less, situate in School District No. 28, called Bishop's Branch, in Garvin Township, in Anderson County in the State of South Carolina, bounded on the North and East by land now or formerly of Emmie Newton, on the South by the land known as the Old Bolt Land, and on the West by now or formerly of George Link and of Joe Berry Link.

4. The Plaintiffs are informed and believe that the Defendants make their claim against the property pursuant to a Deed from Minnie Keese dated September 21, 1992, and recorded September 22, 1992, in the Office of the Register of Deeds for Anderson County, South Carolina, in Book 1465 at Page 38. TMS No.: 062-00-02-006 (a copy is attached as Exhibit A.)(1992 Deed). Among the grantees is "Marshall Keese (deceased)" (sic). Marshall Keese was the predeceased son of Minnie Keese who died on or about May of 1989. The

Plaintiffs are informed and believe that the Defendants base their claim as the heirs at law of Marshall Keese, being his widow and children.

5. The Plaintiffs with the exception of Elizabeth Diane Keese were also Grantees under the 1992 Deed. In addition to the Plaintiffs, the Deed names James Keese, Jr. who died in April of 1995 and whose interest was conveyed to Elizabeth Diane Keese as described hereinbelow.
6. The Plaintiff Elizabeth Diane Keese (Diane) is the widow of James Keese, Jr. (James), who died intestate in April of 1995 in Anderson County, South Carolina. His death is of record in Anderson County Probate Case Number 970400040. James died survived by his widow, Diane and his children, Richard Keese, Randall Keese, Roxanne Keese, Ronnie Keese and Rory Keese as his sole heirs at law. Subsequent to his death, his son, Rory, died intestate on July 16, 2013 leaving his sole heirs, his widow, Vanessa Keese, and his children, Alexis Keese and Albany Keese. His estate was probated as a small estate in Anderson County Probate Court Case Number 20140401290.
7. The interest of James Keese, Jr. was thus owned by Elizabeth Diane Keese and Richard Keese, Randall Keese, Roxanne Keese, Ronnie Keese, Vanessa Keese, Alexis Keese and Albany Keese who then granted their interest to Elizabeth Diane Keese by Deed dated October 13, 2017 and recorded on November 21, 2017 in the Anderson County Register of Deeds Office in Book 13129 at Page 205 attached hereto as Exhibit B.
8. At the time of the filing of this action, Elizabeth Diane Keese is the sole owner of the interest of James Keese, Jr. and a Plaintiff in this action.
9. The Plaintiffs claim that the 1992 Deed was null and void as to the transfer to Marshall Keese who being deceased at the time could not take title to real estate.
10. The Plaintiffs are informed and believe that the Deed of September 22, 1992 constitutes a cloud on their title and asks this Court to rule that with regard to Marshall Keese the Deed is null and void.
11. Therefore, title to the real estate described in paragraph 3 herein above shall be quieted in the names of the Plaintiffs.

**WHEREFORE**, the Plaintiffs demand judgment against the Defendants as follows:

1. Declaring the transfer to Marshall Keese under the Deed of September 22, 1992 to be null and void;
2. That Elizabeth Diane Keese be confirmed in her title to an undivided one-fifth (1/5) interest in the subject property;

3. Quieting the title to said property in the names of the Plaintiffs and against the Defendants and all persons claiming title under them;
4. For such other and further relief as this Court shall deem just and proper.

s/Carolyn G. Baird  
CAROLYN G. BAIRD, SC Bar #480  
JONES LAW FIRM, PA  
PO Box 987  
Anderson, SC 29622  
(864) 224-3474  
Carolyn@jonesfirm.com

Anderson, SC  
February 15, 2019

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

---

Case No. 2019-CP-04-00337

---

Frances K. Chestnut, Eliza-  
beth Diane Keese,  
Sylvester Keese, Arthur B.  
Keese and Mary K. Taylor

Respondents,

v.

Florence Keese, Marcy Keese,  
Margo Keese and Marshall  
Keese, *pro se*

Appellants

---

REPRODUCED RECORD NUMBER 2 OF APPELLANT

---

TRANSFER BLANK No. 7 - THIS IS THE STATE  
PRINTED FORMS TO BE USED FOR  
TRANSFER PUBLISHING CO., CHARLOTTE, S. C.

STATE OF SOUTH CAROLINA,  
COUNTY OF ANDERSON

Know all Men by these Presents,

I, Minnie Kease

in the State of South Carolina County of Anderson, for and  
in consideration of the sum of Five And .00/100 (\$5.00) DOLLARS

to ME sold by MY children, Frances K. Chestnut, James Kease, Jr., Sylvester Kease, Marshall B. Kease, (deceased), Arthur B. Kease And Mary K. Taylor.  
in the State of South Carolina, (Grant) whereof I hereby acknowledge) by me and X

have granted, bargained, sold and released and by these presents do grant, bargain, sell and release unto the said Frances K. Chestnut, James Kease, Jr., Sylvester Kease, Marshall B. Kease, (deceased) Arthur B. Kease, And Mary K. Taylor, their heirs and assigns forever all of my right title and interest to the below described property, with the exception, that I reserve unto myself "Life Estate" in the herein described property:

ALL that certain tract of land containing Eighty Seven and Forty Four One Hundredths (87.44 ) acres more or less, situate in School District No. 28, called Bishop's Branch, in Garvin Township, in Anderson County in the State of South Carolina, bounded on the North and East by land now or formerly of Emie Newton, on the South by the land known as the Old Bolt Land, and on the West by now or formerly of George Link And of Joe Berry Link and being the same land conveyed to E. G. Evans of C. W. Martin by deed dated October 18, 1935, and recorded in the Office of the Clerk of Court for Anderson County, South Carolina, in Deed Book N-5, at Page 700.

THIS is the same property conveyed unto Minnie Kease by deed of James Kease, Sr., dated June 22, 1992 and of record in the said Clerk's Office in Deed Book 1615, at Page 305.

ADDRESS OF GRANTEE:

1703 DANENKOWER ROAD  
PENDLETON, SOUTH CAROLINA  
29670

(DEED PREPARATION ONLY)

TOGETHER with all and singular the Rights, Members, Meritments and Appurtenances to the said premises belonging, or to anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said: Frances K. Chestnut, James Keese, Jr., Sylvester Keese, Marshall B. Keese, (deceased), Arthur B. Keese And Mary K. Taylor, their

Heirs and Assigns forever.

And I do hereby bind myself and I Heirs and Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said:

Frances K. Chestnut, James Keese, Jr., Sylvester Keese, Marshall B. Keese, (deceased) Arthur B. Keese And Mary K. Taylor, their

Heirs and Assigns against all and singular Heirs, and all persons whatsoever that may

henceforth come forward lawfully claiming, or to claim the same or any part thereof.

Witness the execution hereof by grantor this 21<sup>st</sup> day of September

in the year of our Lord one thousand nine hundred and ninety two

and in the two hundred sixteenth year

of the Sovereignty and Independence of the United States of America.

Minnie Keese (L. S.)  
MINNIE KEESE (L. S.)

Signed, Read and Delivered  
in the Presence of  
Pauline M. Edwards  
Oster C. Edwards

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(L. S.)  
(L. S.)  
(L. S.)  
(L. S.)

BOOK 1465 PAGE 040

STATE OF SOUTH CAROLINA,

COUNTY OF ANDERSON

PERSONALLY appeared before me, Pauline G. Edwards

and made with him the said to which record MARRIAGE

DO sign, seal and as NOT All and Deed follow the words written Deed; and that the said Pauline G. Edwards witnessed the execution thereof.

Done to before me this 3rd day

of September A. D. 1922

Otis C. Edwards (L. B.)  
Notary Public for South Carolina

Pauline G. Edwards  
PAULINE G. EDWARDS

My Commission expires 5/2/2000



BOOK 1465 PAGE 040

RETURN TO: OTIS C. EDWARDS

041  
PAGE 1465

Acres to B  
GARVIN Township  
Purchased  
**STATE OF SOUTH CAROLINA**  
COUNTY OF ANDERSON

FILED  
SEP 22 1 05 PM '94

**MINNIE KESSE**

TO (Address)  
**JAMES KESSE, JR., ET AL.**  
**1703 DANENHOWER ROAD**  
**ANDERSON, S.C. 29620**

**TITLE TO REAL ESTATE**  
(Photo Included in Another)

I hereby certify that the within deed has been this

22 day of Sept A. D.

1992 recorded in Book 1465 of

deeds, Page 038 of 105 of Book P

Sub A. 10/1/92

Clerk of Court of Anderson County

I hereby certify that the within deed has been this

day of A. D.

Transferred on Auditor's Book Page

Attorney of \_\_\_\_\_ County

**OVERLAP**  
No. 7  
Tenneco Petroleum Co.  
CROWLEY, D. C.

10.00

041  
PAGE 1465

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

---

Case No. 2019-CP-04-00337

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Frances K. Chestnut, Eliza-  
beth Diane Keese,  
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Respondents,

v.

Florence Keese, Marcy Keese,  
Margo Keese and Marshall  
Keese, *pro se*

Appellants

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REPRODUCED RECORD NUMBER 3 OF APPELLANT

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ELECTRONICALLY FILED - 2019 JUL 01 9:48 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400337



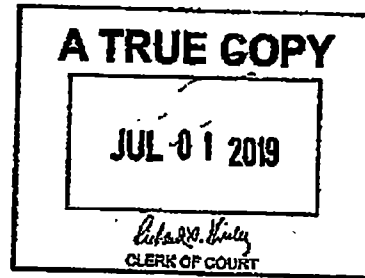
Anderson Common Pleas

**Case Caption:** Frances K Chestnut , plaintiff, et al VS Florence Keese , defendant, et al  
**Case Number:** 2019CP0400337  
**Type:** Order/Judgment by Default and Form 4

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

Electronically signed on 2019-07-01 09:35:03 page 3 of 3



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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ANDERSON )

IN THE COURT OF COMMON PLEAS  
Docket No. 2019-CP-04-00337

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary  
K. Taylor,

Plaintiffs,

vs.

Florence Keese, Marcy Keese, Margo Keese  
and Marshall Keese,

Defendants.

**ORDER OF DEFAULT AND JUDGMENT**

**A TRUE COPY**

**JUL 01 2019**

On Motion for Judgment and by sworn Affidavit, Carolyn G. Baird, being duly sworn and deposed, states that she is the attorney for the Plaintiffs in the above captioned matter that the Summons and Complaint were duly served on the Defendants as shown by the Affidavits of Service filed in the Court record; that she is familiar with the provisions of 50 App. Section 520, Civil Relief Act of 1940, as amended, and that at the time of the commencement of this action, upon information and belief based, none of the above named Defendants are in the Military Service of the United States as defined in Article 1 of the "Soldiers and Sailors" Civil Relief Act and therefore, none of the Defendants are entitled to the protection of said Act; that more than thirty (30) days have elapsed since the service of said Summons and Complaint and that none of the Defendants have served an Answer, Notice of Appearance, Motion or other pleadings in this matter and that the matter is now in default and the Plaintiffs are entitled to Judgment as set forth in the prayer for relief.

NOW, THEREFORE, pursuant to Rule 55 (b)(1) of the South Carolina Rules of Civil Procedure, and upon motion of the Attorney for the Plaintiffs, the Defendants herein are hereby declared to be in default.

UPON FURTHER MOTION of Plaintiffs' attorney, it is hereby adjudged that the Plaintiffs herein are entitled to judgment as follows:

1. That the transfer to Marshall Keese under the Deed of September 22, 1992 is hereby null and void;
2. That said property is hereby quieted in the names of the Plaintiffs.
3. That each of the Plaintiffs is confirmed in their title to an undivided one-fifth (1/5) interest in the subject property.



THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

---

Case No. 2019-CP-04-00337

---

Frances K. Chestnut, Eliza-  
beth Diane Keese,  
Sylvester Keese, Arthur B.  
Keese and Mary K. Taylor

Respondents,

v.

Florence Keese, Marcy Keese,  
Margo Keese and Marshall  
Keese, *pro se*

Appellants

---

REPRODUCED RECORD NUMBER 4 OF APPELLANT

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

---

Case No. 2019-CP-04-00337

---

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary K. Taylor

Respondents,

v.

Florence Keese, Marcy Keese,  
Margo Keese and Marshall Keese, *pro se*

Appellants

---

REPRODUCED RECORD NUMBER 5 OF APPELLANT

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1 State of South Carolina  
2 County of Anderson

In the Court of Common Pleas

4 Frances K. Chestnut,  
5 Elizabeth Diane Keese,  
6 Sylvester Keese,  
7 Arthur B. Keese and  
8 Mary K. Taylor,

Plaintiffs,

2019-CP-04-00337

-vs-

December 12, 2019

9 Florence Keese,  
10 Marcy Keese, Marshall  
11 Keese and Margo Keese,

Defendants.

Transcript of Record

14 B E F O R E:

15 The Honorable R. Scott Sprouse, Judge

17 A P P E A R A N C E S:

18 Carolyn G. Baird, Esquire  
19 James S. Eakes, Esquire  
20 Attorneys for Plaintiffs

21 Anna L. Bullington, Esquire  
22 Attorney for Defendants

24 Diane L. Marcengill, RPR, CRR, CRC  
25 Circuit Court Reporter

1 communication, e-mail, I believe, from an attorney  
2 in -- out of state, and so these parties had consulted  
3 an attorney, had advice of an attorney, and certainly  
4 knew there was a specific period of time in which to  
5 answer.

6 I don't think good cause exists because, even if  
7 they could not find an attorney, another attorney in  
8 South Carolina, which is what the affidavits they have  
9 filed with the court basically say, they had trouble  
10 finding an attorney in South Carolina to represent  
11 them, then they could have answered. They were charged  
12 with answering in this case, your Honor. They allowed  
13 it to go into default. None of the time frames in the  
14 file indicate that I acted in a really preemptory way  
15 at all. I mean, time was allowed and no communications  
16 were received until, finally, Mr. Holder and  
17 Ms. Bullington's law firm filed this motion to set  
18 aside the default.

19 Moreover, your Honor, to set aside the default, I  
20 think they need to show a meritorious defense in this  
21 case. And this case is pretty simple. It's about a  
22 deed to a dead person, and the dead person was one of a  
23 sibling group, and the siblings who were alive at the  
24 time the deed was done are the ones that Mr. Eakes and  
25 I now represent. So a dead person is not a person, and

1 being it's not a valid deed, and I simply contacted  
2 them to see if they would sign a quitclaim deed, which  
3 they refused to do, and, hence, I filed the quiet title  
4 action just to take that stigma, I guess you'd say, off  
5 the record. But we very strenuously argue that the  
6 deed to Marshall Keese, which is to Marshall Keese,  
7 paren, deceased, closed paren, so it was known to all  
8 that he was dead at the time, is simply not a valid  
9 transfer to him, and that there's no reason therefore  
10 to set aside the default.

11 THE COURT: Looks like you filed your complaint in  
12 February; is that correct?

13 MS. BAIRD: Yes, your Honor.

14 THE COURT: And then it was served April the 24th?

15 MS. BAIRD: Yes.

16 THE COURT: Okay. And looks like I signed the  
17 order July the 1st?

18 MS. BAIRD: Correct, your Honor.

19 THE COURT: Ms. Bullington, did your clients  
20 actually retain this lawyer in Pennsylvania?

21 MS. BULLINGTON: This attorney, from my  
22 understanding, was assisting them in a separate matter  
23 in Pennsylvania, so, no, they did not actually retain  
24 him for this matter. And I believe there were  
25 conversations between him and my clients about trying

1 to get a South Carolina attorney. My clients  
2 understood that he was assisting with that, and there  
3 was apparently a miscommunication in that regard.

4 THE COURT: And this was -- okay. I see his  
5 affidavit in here. This is Mr. Richard Margolis.

6 MS. BULLINGTON: Yes, your Honor.

7 THE COURT: Okay. Let me look at his affidavit  
8 real quick.

9 (Pause in proceedings.)

10 THE COURT: Anything further for the record?

11 MS. BULLINGTON: No, your Honor.

12 THE COURT: Ms. Baird, anything further for the  
13 record?

14 MR. EAKES: I represent one of the people,  
15 Sylvester Keese. Carolyn, of course, is handling this  
16 quiet title action, but as she indicated, it arose out  
17 of a deed to Marshall B. Keese, who was deceased at the  
18 time. That's not controverted.

19 These are his wife and children who are named as  
20 defendants. There's no issue that they were properly  
21 served. They hired the attorney in their home state.  
22 There's no issue but that they passed the 30 days and  
23 have not answered. I have not heard anything that  
24 would indicate there was good cause for not answering.

25 I have one case, case of Williams vs. Van

1 Valkenburgh. It's where the failure to answer a  
2 complaint where the owners are chargeable -- the case,  
3 basically, indicated that the defendants were  
4 chargeable with their attorney's failure to answer the  
5 complaint, whether it was their fault or through his  
6 negligence, and I think that's similar to the case  
7 we're dealing with.

8         On the issue of meritorious defense, I've got a  
9 similar action in Pickens County, and I have some case  
10 law. I don't know if the Court is interested in  
11 looking at it, but it's basically a property is deeded  
12 to a person or an entity that's not in existence. It's  
13 void ab initio. So I requested whether they really  
14 would have a meritorious defense even if the Court let  
15 them out of the default.

16         THE COURT: Ms. Bullington, how do you respond to  
17 the meritorious defense argument?

18         MS. BULLINGTON: Well, your Honor, we obviously  
19 disagree with their assertion that -- and I think,  
20 basically, they're saying that -- that they're not  
21 words of conveyance in some sense. I'm not aware of  
22 any South Carolina case law that supports their  
23 assertion as far as this being an invalid transfer. I  
24 have not heard any. I have not seen any, so, you  
25 know --

1  
2  
3 Certificate of Reporter

4 I, Diane L. Marcengill, Official Court Reporter  
5 for the Tenth Judicial Circuit of the State of South  
6 Carolina, do hereby certify that the foregoing is a  
7 true, accurate, and complete transcript of record of a  
8 portion of the proceedings had and evidence introduced  
9 in the trial of the captioned case, relative to appeal,  
10 in the Circuit Court for Anderson County, South  
11 Carolina, on the 12th day of December 2019.

12 This transcript may contain quoted material. Such  
13 material is reproduced as read by the speaker.

14 I do further certify that I am neither of kin, counsel,  
15 nor interest to any party hereto.

16 April 5, 2020

17 *Diane L. Marcengill*

18 Diane L. Marcengill, RPR, CRR, CRC  
19 Circuit Court Reporter  
20  
21  
22  
23  
24  
25

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

---

Case No. 2019-CP-04-00337

---

Frances K. Chestnut, Eliza-  
beth Diane Keese,  
Sylvester Keese, Arthur B.  
Keese and Mary K. Taylor

Respondents,

v.

Florence Keese, Marcy Keese,  
Margo Keese and Marshall  
Keese, *pro se*

Appellants

---

REPRODUCED RECORD NUMBER 6 OF APPELLANT

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Anderson Common Pleas

**Case Caption:** Frances K Chestnut , plaintiff, et al VS Florence Keese , defendant, et al  
**Case Number:** 2019CP0400337  
**Type:** Order/Other

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

Electronically signed on 2020-01-22 09:25:20 page 3 of 3

ELECTRONICALLY FILED - 2020 Jan 22 9:32 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400337

STATE OF SOUTH CAROLINA )  
COUNTY OF ANDERSON )

IN THE COURT OF COMMON PLEAS  
Docket No. 2020-CP-04-00337

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary  
K. Taylor,

Plaintiffs,

vs.

Florence Keese, Marcy Keese, Margo Keese  
and Marshall Keese,

Defendants.

**ORDER**

THIS MATTER IS BEFORE THE COURT on the Plaintiffs Summons and Complaint filed on February 20, 2019. The Summons and Complaint were served upon the Defendant Marshall Keese by personal service on April 10, 2019. The Defendants Florence Keese, Marcy Keese, Margo Keese and Marshall Keese (Jr.) were served by personal service on April 5, 2019. An Affidavit of Default as to the Defendants was filed in the Court record on May 17, 2019.

Plaintiffs brought this quiet title action asking the Court to rule that the conveyance made in the Deed of September 21, 1992 and recorded September 22, 1992, in the Office of the Register of Deeds for Anderson County, South Carolina, in Book 1465 at Page 38. TMS No.: 062-00-02-006 was null and void with regard to the conveyance to Marshall Keese (Sr.) who was deceased on the date of the conveyance. The Deed conveyed property from Minnie Keese to Frances K. Chestnut, James Keese, Jr., Sylvester Keese, Marshall B. Keese (Sr.)(deceased), Arthur B. Keese and Mary K. Taylor. The Order of Default Judgment was signed by the Court on July 1, 2019 granting the Plaintiffs prayer for relief thereby declaring the conveyance to the deceased Marshall Keese null and void, and quieting title in the subject property in the names of the Plaintiffs.

To set aside the entry of the default judgment, the Defendants, who are the widow and children (heirs at law) of Marshall Keese (Sr.) must show there is good cause to set aside the default, and if so, there is a meritorious defense to be raised to this Complaint.

The Court finds that the Defendants consulted Attorney Richard Margolis of Philadelphia, Pennsylvania. As shown in the Affidavit the Defendants filed in their behalf, although Mr. Margolis was not licensed in South Carolina, he informed the Defendants of the necessity of answering this matter. The Defendants did not answer and had no contact was made with the Plaintiffs' attorney other than an initial contact wherein no request was

made of her.. As stated in the case, Williams v. Vanvolkenburg, 440 SE 2d 408, 409 (S.C.APP 1994), the Defendants are accountable for the actions of their attorney, and his failure to act is not an excuse for their inaction. The Defendants understood or are chargeable with the knowledge that an answer was necessary to prevent a default in this action, and no attempt was made to answer or otherwise respond to the pleadings.

Further, the Court finds that even if the Default were to establish good cause, to set aside the entry of the Default there must be a showing that meritorious defense exists to the Plaintiffs' Complaint. The Court finds that there is no meritorious defense in this case. The Default Judgment found the conveyance to Marshall Keese (Sr.) to be null and void based on the undisputed fact that he was dead at the time of conveyance, and thus not a person in being at the time of the conveyance. The Grantee in a Deed must be a person in being that is either a natural living person or a legal entity in existence at the time of the conveyance. As stated in Gifford V. Linnell, 579 S.E.2d 440, 441 (N.C. App 2003)

"At the time the plaintiff executed the Deed the... Family Trust did not exist and, therefore, the grantee of said deed was not a legal entity and the deed, therefore, could not operate to convey title to the defendants either individually or as trustees."

No argument exists that Marshall Keese (Sr.) deceased at the time was a person in being on the date of the conveyance.

This Court, based on the finding that there is neither good cause to set aside the Default Order nor a meritorious defense to the Complaint, concludes that the Order of Default shall remain the Order of this Court and thus the relief requested in the Complaint is granted..

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

\_\_\_\_\_  
R. Scott Sprouse, Judge, Court of Common Pleas

Anderson, SC  
\_\_\_\_\_, 2020



Anderson Common Pleas

**Case Caption:** Frances K. Chestnut , plaintiff, et al VS Florence Keese , defendant, et al  
**Case Number:** 2019CP0400337  
**Type:** Order/Electronic Form 4

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

Electronically signed on 2020-01-09 09:35:30 page 3 of 3

Frances K Chestnut et al  
PLAINTIFF(S)

Florence Keese et al  
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRCP;  Rule 41(a), SCRCP (Vol. Nonsuit);  Rule 43(k), SCRCP (Settled);  
 Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRCP;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order (formal order to follow)  Statement of Judgment by the Court:

After careful review of the submissions, arguments of counsel, and applicable case law the court finds the that the Defendant has not shown sufficient cause for the Court to set aside the default. The Court further finds the Defendant does not have a meritorious defense based on the facts and applicable law. Accordingly, the Defendant's motion to set aside default judgment is denied. The Plaintiff's attorney is directed to draft an order to this effect, including applicable case law within ten (10) days. Plaintiff's counsel is directed to share this order with the Defendant's counsel.

ORDER INFORMATION

This order  ends  does not end the case.  See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 01/09/2020 .

**NAMES OF TRADITIONAL FILERS SERVED BY MAIL**

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

---

**CERTIFICATE OF APPELLANTS**

Appellants on this 22nd day of July 2020, hereby certify that attached Final Reproduced Record contains all material proposed to be included by any of the parties and nt any other material:

Respectfully submitted,

---

Margo Keese  
11608 Stewart Lane, Apt. 302  
Silver Spring, Maryland 20904  
(484) 716-5255  
*Pro Se*

---

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---

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---

Marshall Keese  
1035 Ridgeway Road  
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(215) 680-8366  
*Pro Se*

**CERTIFICATE OF SERVICE**

I, Margo Keese, on this 22nd day of July 2020, hereby certify that attached Final Brief For Appellant and Final Reproduced Record was filed in this Court by **FIRST CLASS MAIL** and served by **FIRST CLASS MAIL** on the person noted below:

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Other Counsel of Record:  
Carolyn G. Baird, Esquire  
JONES LAW FIRM, PA  
Post Office Box 987  
Anderson, South Carolina 29622  
Attorney for Respondent  
(864) 224-3474

Respectfully submitted,

---

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