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Feb 02 2023

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Mikell R. Scarborough, Master in Equity

Case No. 2017-CP-10-5427
Appellate Case No. 2021-000793

Family Services, Inc., as Conservator for Muriel W. Clarkin.....Respondent,

v.

Patricia Clarkin Smith and Wells Fargo Bank, NA., Defendants,
Of whom Patricia Clarkin Smith is the Appellant.

NOTICE OF MOTION AND MOTION
TO DISMISS

Respondent, Family Services, Inc., as Conservator for Muriel W. Clarkin ("Respondent") by and through its undersigned counsel, hereby moves before this Court for an order dismissing Appellant Patricia Clarkin Smith's ("Appellant") appeal; or in the alternative an order striking portions of Appellant's Brief which reference or quote records or documents which were not filed or presented to the lower court in this matter and thus cannot form a part of the Record on Appeal; and an Order striking those portions of Appellant's Designation of Matter which violate Rule 210 because the records or documents were not filed or presented to the lower court in this matter. Respondent moves pursuant Rules 208, 209, 210, 240 and 260. The grounds for the motions are as follows:

MOTON TO DISMISS APPELLANT'S APPEAL

Appellant in filing Appellant's Brief with this Court breached the rules of this Court so many times that Respondent in good faith does not believe Respondent can file a brief in response to Appellant's Brief and thus requests this Court dismiss Appellant's Appeal under Rule 260, SCACR, for failing to comply with the requirements of the South Carolina Appellate Court Rules and relevant case law. Respondent would respectfully submit this Court should grant Respondent's Motion to Dismiss for the following reasons:

1) Appellant failed preserve her issue on appeal by failing to defend Respondent's Rule 56 Motion pursuant to the rule requirements, and now for the first time generically and vaguely raises the issue on appeal that a scintilla of evidence existed such that the lower court should have denied Respondent's Motion. However, Appellant never raised this argument in reply to the motions, memorandum in opposition to the motion, nor by an affidavit filed or presented to the lower court. Respondent failed to defend the motion by oral argument at the hearing before the lower court and Respondent failed to file a motion to reconsider the Order. 2) Appellant in filing her brief with this Court has failed, numerous times, to comply with Rules 208, 209 and 210 SCACR. Thus, dismissal is appropriate under Rule 260 SCACR.

1) Appellant Failed to Preserve the Issue on Appeal of Generically Asserting A Scintilla of Evidence Existed Such that Respondent's Motion Should have Been Denied by the Lower Court.

Appellant's generic stated Issue on Appeal is "Did the Trial Judge err in determining that a scintilla of evidence was not present upon review of the evidence that was presented or referenced by Respondent's attorney?" (App. Brief pg. 1) "In order to preserve an issue for appeal, it must be raised to and ruled upon by the trial court." *In re Michael H.*, 360 S.C. 540, 546, 602 S.E.2d 729, 732 (2004). "In other words, the trial court must be given an opportunity to resolve the issue before

it is presented to the appellate court." *Id.* "In contrast [to a respondent], different preservation rules apply to an appellant—the losing party in the lower court. An appellate court may not, of course, reverse for any reason appearing in the record. The losing party must first try to convince the lower court it is [sic] has ruled wrongly and then, if that effort fails, convince the appellate court that the lower court erred. This principle underlies the long-established preservation requirement that the losing party generally must both present his issues and arguments to the lower court and obtain a ruling before an appellate court will review those issues and arguments. If the losing party has raised an issue in the lower court, but the court fails to rule upon it, the party must file a motion to alter or amend the judgment in order to preserve the issue for appellate review. Imposing this preservation requirement on the appellant is meant to enable the lower court to rule properly after it has considered all relevant facts, law, and arguments. The requirement also serves as a keen incentive for a party to prepare a case thoroughly. It prevents a party from keeping an ace card up his sleeve—intentionally or by chance—in the hope that an appellate court will accept that ace card and, via a reversal, give him another opportunity to prove his case." *I'On, LLC v. Town of Mt. Pleasant*, 338 S.C. 406, 421-22, 526 S.E.2d 716 (2000) (citations omitted); See also *Roche v. South Carolina Alcoholic Beverage Control Comm'n*, 263 S.C. 451, 211 S.E.2d 243 (1975) (purpose of an appeal is to determine whether the trial judge erroneously acted or failed to act and when appellant's contentions are not presented or passed on by the trial judge, such contentions will not be considered on appeal).

"When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be

entered against him." Rule 56, SCRC. "Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings." *Regions Bank v. Schmauch*, 354 S.C. 648, 660, 582 S.E.2d 432, 438 (Ct. App. 2003). "[T]he nonmoving party must come forward with specific facts showing there is a genuine issue for trial." *Id.* "Rule 56(e) specifically prohibits the nonmoving party from resting upon the mere allegations or denials of its pleadings." *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991)

In this case on October 6, 2020, Respondent filed a Motion for Summary Judgment with exhibits¹ ("Motion"). Appellant never filed a memorandum, response, affidavit, or document in response to the Motion (See the Case Index attached to the Affidavit attached hereto as Exhibit "A" and incorporated herein by reference). The Honorable Mikell R. Scarborough held the hearing on Respondent's Motion on May 11, 2021. Appellant was properly noticed of the hearing and had actual knowledge of the hearing but did not appear at the hearing (See Order). June 21, 2021, the lower court filed an order granting summary judgment on Respondent's Motion ("Order") and the order was served upon Appellant. Thereafter, Appellant did not file a motion to reconsider the Order (See Affidavit with attached case index). Appellant filed the notice of this appeal on July 22, 2021.

Respondent presented its Motion to the court supported by written argument, legal citation and supporting evidence referenced in the written motion and at oral argument. Respondent met

¹ The Exhibits attached to the Motion are as follows: 1) Deposition Transcript for the Deposition of Appellant; 2) Text message excerpts from Appellant's phone communications with her sister; 3) Emails between Appellant and Respondent; 4) A copy of a rent check from Appellant to Muriel W. Clarkin; 5) A Deed from Muriel W. Clarkin to Appellant dated 7/30/13; 6) A Deed from Muriel W. Clarkin to Appellant dated 11/17/14; 7) Appellant's Responses to Interrogatories; 8) a letter from Respondent to Appellant's attorney dated 3/4/15; A Deed from Appellant to a trust created by Appellant dated 3/31/16; 9) Respondent also submitted excerpts from the Probate Conservatorship Case Record to the lower court and Appellant prior to the hearing (See Attached Affidavit with Exhibits).

its initial burden under Rule 56, SCRCF. By contrast, prior to the lower court filing its Order, Appellant failed to present to the lower court any argument orally or written, any reference to relevant case law, nor any reference to factual evidence. Thereafter, Appellant failed to file a motion to reconsider. Appellant failed to preserve her stated issue on appeal for consideration by this Court. Therefore, Respondent respectfully asserts Appellant's appeal should be dismissed.

2) Appellant in Submitting Her Brief to this Court, Failed to Comply with the South Carolina Appellate Court Rules Numerous Times.

In *Smith v. SC Dept. of Soc. Serv.* our Supreme Court stated:

[I]t is readily apparent that the petition filed by the appellant is both broad and unspecific, and there is no allegation which would explain why she believes the agency decision was wrong. In essence, the petition merely represents a statement by her that she is dissatisfied with the decision that she received from the agency below. She places this court, as a court of first review, in a situation in which it must review a large volume of written material with absolutely no guidance as to where to look for errors. This court must 'grope in the dark' in order to identify errors which in actuality may not exist. Such a predicament has often been deplored by our State's highest court and used by that tribunal as a basis for the dismissal of an appeal. 284 S.C. 469, 471, 327 S.E.2d 348 (1985) (citing *Williams v Regula*, 266 S.C. 228, 229-30, 222 S.E.2d 7 (1976) "Each exception must contain a concise statement of one proposition of law or fact which this Court is asked to review, and the same assignment of error should not be repeated. Each exception must contain within itself a complete assignment of error... "We have held in many cases that every ground of appeal ought to be so distinctly stated that the Court may at once see the point which it is called upon to decide without having to 'grope in the dark' to ascertain the precise point at issue. The object of an exception is to present some distinct principle or question of law which the appellant claims to have been violated by the Court in the trial of the case from which the appeal is taken, and to present it in such form that it may be properly reviewed. An exception which requires this Court to review all of the evidence and retry the whole case is too general to be considered.")

Rule 208, SCACR states in relevant parts:

(b) Content. The initial briefs under this Rule and the final briefs under Rule 211 shall contain:

(1) Brief of Appellant. The brief of appellant shall contain under appropriate headings and in the order here indicated:...

(B) Statement of Issues on Appeal. A statement of each of the issues presented for review. The statement shall be concise and direct as to each issue, and may be stated in question form. *Broad general statements may be disregarded by the appellate court.* Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal.

(C) Statement of the Case. The statement *shall contain a concise history of the proceedings, insofar as necessary to an understanding of the appeal.* The statement shall not contain contested matters and shall contain, as a minimum, the following information: the date of the commencement of the action or matter; the nature of the action or matter; *the nature of the defense or of the response*; the action of the court, jury, master, or administrative tribunal; the date(s) of trial or hearing; the mode of trial; *the amount involved on appeal*; the date and nature of the order, judgment or decision appealed from; the date of the service of the notice of appeal; *the date of and description of such orders, judgments, decisions and proceedings of the lower court or administrative tribunal that may have affected the appeal, or may throw light upon the questions involved in the appeal*; and any changes made in the parties by death, substitution, or otherwise. *Any matters stated or alleged in appellant's statement shall be binding on appellant...*

(E) Argument. The brief shall be divided into as many parts as there are issues to be argued. *At the head of each part, the particular issue to be addressed shall be set forth in distinctive type, followed by discussion and citations of authority. A party may also include a separate statement of facts relevant to the issues presented for review, with reference to the record on appeal, which may include contested matters and summarize the party's contentions.*

(4) References to Record. *The brief shall contain references to the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [see Rule 210(c)] to support the salient facts alleged.* References shall also be made to where relevant objections and rulings occurred in the transcript. *In the initial briefs, these references should be to the page and line number of the transcript prepared by the court reporter or by the page of the material to be referenced; e.g., Answer p. 7, Motion for Judgment p. 2, Transcript p. 231.*

Rule 210, SCACR states in relevant parts:

(c) Content. The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. *The Record shall not, however, include matter which was not presented to the lower court or tribunal.*

Rule 209, SCACR states in relevant parts:

(b) Content. The Designation must clearly identify what the party desires to have included in the Record on Appeal, and *the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]. A party shall not include any matter in his Designation which is not relevant to the appeal.*

In this case the Order granted summary judgment on Plaintiff's Motion as to the following causes of action: Money Had and Received, Unjust Enrichment, Promissory Estoppel, a second cause for Unjust Enrichment, Declaratory Injunctive relief (Undue Influence), Fraudulent Conveyance, and Quiet Title. On October 31, 2022, Appellant filed her Initial Brief ("Appellant's Brief") and Designation of Matter. Appellant's stated Issue on Appeal is: Did the Trial Judge err in determining that a scintilla of evidence was not present upon review of the evidence that was presented or referenced by Respondent's attorney?" Appellant's stated Issue on Appeal is a broad general statement which Respondent would respectfully assert should be disregarded by this Court. Appellant's Issue, as stated is both broad and unspecific, and there is no allegation which would explain why she believes the lower court's decision was wrong.

With regard to Appellant's Statement of the Case the only reference in Appellant's Brief to the causes of action referenced in the paragraph above is contained in Appellant's Statement of the Case, which states in total:

Respondent filed the Summons and Complaint in this matter on October 20, 2017, asserting causes of action for Conversion, Unjust Enrichment, Money Had and Received, Promissory Estoppel, Quantum Meruit, Declaratory Judgment, Fraudulent Conveyance and Quiet Title.

Appellant defers to the case history written by Respondent's attorney.

Salient Fact

Appellant was never interviewed by the Respondent despite Appellant initiated requests beginning upon Appointment of the Respondent as Temporary Conservator.²

² As noted above Respondent took the Deposition of Appellant in this matter.

Appellant's Statement of the Case fails to comply with the majority of the requirements set forth in Rule 208(C), SCACR, fails to accurately apprise this Court of the relevant facts and issues surrounding the matter, and even states "*that Appellant defers to the case history written by Respondent's attorney.*"

With regard to the Argument Section set forth in Appellant's Brief, it is vague, general, and difficult to ascertain the meaning of. The Argument Section never references any of the causes of action, nor does it cite legal citations referencing any of the relevant causes of action. The entirety of Appellant's Brief does not make any appropriate citations in the form required by the rules. Appellant's Brief does not reference specific pleadings, records, documents, memoranda, or evidence which was filed and/or presented to the lower court as required by Rule 208, SCACR.

However, the Argument Section of Appellant's Brief does, in violation of Rule 208(b)(4), SCACR, make reference to, cites and even quotes numerous documents and/or records, which cannot form a part of the Record on Appeal because said documents and/or records were not filed or presented to the lower court in this matter.³ In one instance, Appellant in the Argument section of Appellant's Brief titled Scintilla of Evidence quotes directly from a Probate Order issued by the Honorable Tamara C. Curry denying Appellant's January 2015 Probate Petition for Dismissal of a Temporary Guardian in the Probate Conservatorship Matter (App. Brief pg. 6). This quoted excerpt from a Probate Court Order which was not filed or present to the lower court in this matter is Appellant's only specifically identifiable alleged evidence which Appellant alleges proves a

³ Such inappropriate references include but are not limited to the following: 1) Judge Tamara Curry's January 16, 2015 [Probate] Order *denying Appellant's* January 2015 Petition for Dismissal (App. Brief pg. 3, 6, 7); 2) Appellants [Probate] Petition for Dismissal of Temporary Guardian (App. Brief pg. 3); 3) Probate Court Order on Mediation (App. Brief pg. 4); 4) [Probate] Petition for Sale of Real Property filed on May 7, 2021 [property unrelated to this case] (Brief pg. 4); 5) Affidavit and new evidence of Mother's handwritten notes from April of 2015 (App. Brief pg. 4); 6) Transcript of 1/9/15 Probate Hearing on Appellant's Petition for Dismissal of Temporary Guardian (App. Brief pg. 6); 7) Settlement Agreement and Release Dated 7/22/21 (App. Brief pg. 8); 8) April 8, 2015 Wells Fargo HELOC pay off statement (App. Brief pg. 9); 9) Respondents Deposition Transcript July of 2018 (App. Brief pg. 10) For the documents filed and/or presented to the lower court in this matter see Affidavit and attached Case Index.

scintilla of evidence exists for the lower court to have denied Respondent's Motion. Respondent would respectfully assert this particular order is not relevant to this matter, but more importantly this particular order from the Probate Court Conservatorship Matter was never filed or presented to the lower court in this matter, and as such should be stricken from Appellant's Brief.⁴

In summary, Appellant in filing Appellant's Brief with this Court breached the rules of this Court so many times and Respondent in good faith does not believe Respondent can file a brief in response to Appellant's Brief. Therefore Respondent respectfully requests this Court dismiss Appellant's Appeal under Rule 260, SCACR, for failing to comply with the requirements of the South Carolina Appellate Court Rules.

IN THE ALTERNATIVE A MOTION TO STRIKE FROM APPELLANT'S BRIEF AND DESIGNATION OF MATTER ALL REFERENCES AND QUOTATIONS TO RECORDS NOT PROPERLY SUBMITTED AS PART OF THE RECORD ON APPEAL PURSUANT TO RULES 209 AND 210, SCACR

Appellant in filing Appellant's Brief with the Court made reference to and/or quoted numerous records and/or documents which were never filed or presented to the lower court in this matter and are not relevant to this Appeal. Appellant in filing Appellant's Designation of Matter to be Included in the Recorded on Appeal designated numerous records and/or documents which were never filed and/or presented to the lower court in this matter and are not relevant to this Appeal.

Rule 210, SCACR states in relevant parts:

(c) Content. The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. *The Record shall not, however, include matter which was not presented to the lower court or tribunal.*

⁴ The excerpts of pleadings and orders from the Probate Case Record which Respondent presented to the lower court are attached to the Affidavit as Exhibit 1. It should be noted on the second page of Exhibit 1 is an Order From Judge Curry dated 1/16/15 titled Order *Appointing* Temporary Conservator. That Order is not the *Denial* Order Appellant is referencing and quoting on page 6 of Appellant's brief.

Rule 209, SCACR states in relevant parts:

(b) Content. The Designation must clearly identify what the party desires to have included in the Record on Appeal, and *the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]. A party shall not include any matter in his Designation which is not relevant to the appeal.*

In this case, the Case Index attached as Exhibit "3" to the Affidavit attached hereto as Exhibit "A", evidences that from 2017 through 2021, Appellant only filed in this matter an answer, multiple motions for continuances, Appellant's First Counsel's Motion to be Relieved, a Letter to Judge Young in re proceeding pro se, a memo in opposition to Respondent's Motion to Enforce Settlement, and a Notice of Appeal. The Case Index further establishes that Appellant did not file a reply, memorandum in opposition, nor affidavit in opposition in response to Respondent's motion for summary judgment.

Respondent respectfully requests if this Court is unwilling to dismiss Appellant's appeal at this time, for violating the South Carolina Appellate Rules in filing Appellant's brief, then Respondent would request that this Court issue an order striking all references and/or quotations to the following records or documents contained in Appellant's Brief:

- 1) Judge Tamara Curry's January 16, 2015 [Probate] Order denying Appellant's January 2015 Petition for Dismissal (References and/or Quotations include but are not limited to App. Brief pgs. 3, 6, 7);
- 2) Appellants [Probate] Petition for Dismissal of Temporary Guardian (References and/or Quotations include but are not limited to App. Brief pg. 3);
- 3) Probate Court Order on Mediation (References and/or Quotations include but are not limited to App. Brief pg. 4);
- 4) [Probate] Petition for Sale of Real Property filed on May 7, 2021 [property unrelated to this case] (References and/or Quotations include but are not limited to App. Brief pg. 4);
- 5) Affidavit and new evidence of Mother's handwritten notes from April of 2015 (References and/or Quotations include but are not limited to App. Brief pg. 4);
- 6) Transcript of 1/9/15 Probate Hearing on Appellant's Petition for Dismissal of Temporary Guardian (References and/or Quotations include but are not limited to App. Brief pg. 6);

7) Settlement Agreement and Release Dated 7/22/21 (References and/or Quotations include but are not limited to App. Brief pg. 8);

8) 2015 Wells Fargo HELOC pay off statements (References and/or Quotations include but are not limited to App. Brief pg. 9);

9) Respondents Deposition Transcript July of 2018 (References and/or Quotations include but are not limited to App. Brief pg. 10)

Respondent respectfully requests if this Court is unwilling to dismiss Appellant's appeal at this time, for violating the South Carolina Appellate Rules in filing Appellant's Designation of Matters to be included in the Record on Appeal, then Respondent would request that this Court issue an order striking Appellant's Requested Designations to the following records or documents contained in Appellant's Designation of Matters to be Included in the Record on Appeal:

31. Appellant/ Petition to Dismiss Temporary Guardian 1/07/2015 and Orders
– Order / MTN to Dismiss Tem Guard DENUED [sic] 1/16/2015;
32. Hearing [transcript] March 16, 2015 and Orders;
33. Dr. Mulbry Evaluation Reports, 03/2015 and 06/2016
35. Transcripts of Probate Court G/C Hearings 12/22/2014, 1/09/2015, 03/2015-09/2019;
37. Deposition of Respondent July 2018;
39. Email to Respondent Attorney October 28. 2022;
47. Emails TBD - Deferred

WHEREFORE, based on the grounds stated herein above, Respondent requests that this Court issue an order dismissing Appellant's appeal of the Order filed June 21, 2021, or in the alternative an order striking from Appellant's brief all references and/or quotations to the records or documents cited herein above and an order striking from Appellant's Designation of Matters to be included in the Record on Appeal Appellant's Designations cited herein above.

[SIGNATURE BLOCK TO FOLLOW]

February 2, 2023.

THE LAW OFFICE OF
DAVID CONOR KEYS, LLC

s/ D. Conor Keys

D. Conor Keys (100148)

P.O. Box 14225

Charleston, SC 29422

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conor@dconorkeyslaw.com

Attorney for Respondent

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Family Services, Inc., as Conservator)
 For Muriel W. Clarkin,)
)
 Plaintiff,)
)
 vs.)
)
 Patricia Clarkin Smith)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT
 CASE NO: 2017-CP-10- 5427
 APP. CASE NO: 2021-000793

AFFIDAVIT OF D CONOR KEYS

PERSONALLY APPEARED before me, D. Conor Keys, who being duly sworn, deposes and says as follows:

1. I am twenty-one years of age or older, legally competent to testify as to the matters contained within this Affidavit and have personal knowledge of the facts set forth within this Affidavit.
2. I represent Respondent, Family Services, Inc., as Conservator for Muriel W. Clarkin (hereinafter "Respondent") in this matter.
3. Patricia Clarkin Smith (hereinafter "Appellant") is Mrs. Clarkin's daughter.
4. Muriel W. Clarkin was declared an incapacitated person by ex parte order of the Honorable Tamara C. Curry on December 22, 2014. Thereafter Ms. Clarkin's incapacity was confirmed by orders of the Honorable Tamara C. Curry dated January 16, 2015, and March 27, 2015, in the Probate Conservatorship Case which remains pending today (hereinafter "Probate Case") (Exhibit "1" attached hereto and incorporated herein by reference.)
5. Respondent filed a Summons and Complaint in this matter on October 17, 2017, and an amended Complaint on December 4, 2017 (Exhibit "2" attached hereto and incorporated herein by reference; see also Case Index: Exhibit "3" attached hereto and incorporated herein by reference.)
6. Respondent filed a Moton for Summary Judgment with exhibits on October 10, 2020 (Exhibit "4" attached hereto and incorporated herein by reference).
7. Appellant never filed a reply, affidavit, memorandum, or any other document in opposition to Respondent's Motion (See Case Index Exhibit "3").
8. On May 10, 2021, the day prior to the hearing on the Motion for Summary Judgment, Respondent emailed the Court and Appellant (hereinafter "Appellant") excerpts from the records of the Probate Case, which Respondent had previously referenced in its motion but refrained from

filing in this matter for privacy concerns. Respondent also provided a hard copy of the excerpts to the Court at the hearing. These excerpts are the only records from the Probate Case which were filed and/or presented to the lower court in this matter (Exhibit "1").

9. The hearing on Respondent's Motion for Summary Judgment was heard on May 11, 2021, before the Honorable Mikell R. Scarborough. Appellant, despite having actual notice of the hearing, did not timely appear. Judge Scarborough granted Respondent's Motion and filed an order on June 21, 2021. (Transcript, Exhibit "5" attached hereto and incorporated herein by reference).

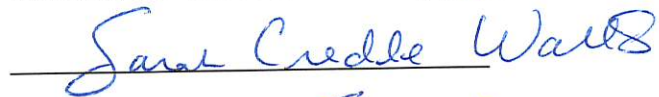
10. Appellant did not file a Motion to Reconsider the Order (See Case Index, Exhibit "3").

11. Thereafter Appellant filed this appeal.

AND FURTHER THE AFFIANT SAYETH NOT.


D. Conor Keys

SWORN TO before me February 2 2023.


Sarah Credle Walls

Notary Public for South Carolina
My Commission Expires: 1.16.2029

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Feb 02 2023

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Mikell R. Scarborough, Master in Equity

Case No. 2017-CP-10-5427
Appellate Case No. 2021-000793

Family Services, Inc., as Conservator for Muriel W. Clarkin.....Respondent,

v.

Patricia Clarkin Smith and Wells Fargo Bank, NA., Defendants,
Of whom Patricia Clarkin Smith is the Appellant.

CERTIFICATE OF SERVICE

I certify that on this 2ND day of February 2023, I have served Respondent's motion to dismiss upon Appellant by first class mail addressed as follows:

Patricia Clarkin Smith
602 Atlantic St.
Mount Pleasant, SC 29464

THE LAW OFFICE OF
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s/ D. Conor Keys
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February 2, 2023

Jenny Abbott Kitchings
Clerk of Court, Court of Appeals
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SC Court of Appeals

**RE: Family Services, Inc., Conservator for Muriel W. Clarkin v. Patricia
Clarkin Smith, Et al.
App. Case No. 2021-000793**

Madam Clerk:

Enclosed please find in regard to the above referenced matter the following:

- 1) Respondent's Motion to Dismiss
- 2) Proof of Service for the Motion; and
- 3) A check for the Motion

I kindly request that you file the same

With kind regards,

RESPECTUFLY SUBMITTED,

THE LAW OFFICE OF
DAVID CONOR KEYS, LLC



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P.O. Box 14225
Charleston, SC 29422
Phone: 843-906-3998
conor@dconorkeyslaw.com
Attorney for Appellant

Enclosures:
(as stated)
CC:
Patricia Clarkin Smith