

**RECEIVED**  
**May 09 2024**  
**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Bentley D. Price  
Circuit Court Judge

Appellate Case No. 2023-001852

Athena Irland, Appellant,  
v.  
Brandy S. Culp, Respondent.

**REPLY TO APPELLANT’S RETURN TO MOTION TO DISMISS**

Respondent Brandy S. Culp, through her undersigned counsel, hereby respectfully submits this Reply to Appellant’s Return to the Motion to Dismiss Appeal. In addition to the enumerated grounds set forth in Respondent’s Motion, the appeal should be dismissed for each of the following reasons:

1. Appellant’s Return fails to set forth a single argument or provide any evidence that she complied with the statutory requirements for perfecting an appeal from probate court. This alone is sufficient grounds for dismissing the appeal. As reflected by the unresponsive nature of Appellant’s Return, Ms. Irland did not serve or file a Statement of Issues on Appeal with the Circuit Court within the time prescribed by S.C. Code § 62-1-308(b). She did not serve or file a Designation of Matter to Include in the Record on Appeal on any party as required by S.C. Code

§ 62-1-308(d), no such Designation even appears within the public index. Ms. Irland did not serve or file an Appellate Brief with the Circuit Court as required by S.C. Code 62-1-308(e). Ms. Irland did not file and serve a Record on Appeal on any party as required by S.C. Code § 62-1-308(f). Most importantly, having failed to file an Appellate Brief with the Circuit Court as required by S.C. Code § 62-1-308(e), Ms. Irland failed to preserve any issues for further appellate review; she did not even brief a single argument to which Ms. Culp’s counsel could respond or on which the Court could rule. Ms. Irland’s failure to comply with the statutory requirements enacted by our legislature are the very reasons why the Circuit Court dismissed and denied Ms. Irland’s appeal with prejudice. (Order, Exhibit A).

“It is well-established that “[t]he cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.” *Grier v. Amisub of S.C., Inc.*, 397 S.C. 532, 725 S.E.2d 693, 695 (2012), quoting *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). “What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, **the courts are bound to give effect to the expressed intent of the legislature.** Id. (quotation omitted). Thus, we must follow the plain and unambiguous language in a statute and have ‘no right to impose another meaning.’” Id. [Emphasis added]. Further, where the statute is unambiguous, “we are confined to what the statute says, not what it ought to say, for we have no right to modify a statute’s application ‘under the guise of judicial interpretation.’” Id. at 725 S.E.2d 698, citing, *Coker v. Nationwide Ins. Co.*, 251 S.C. 175, 182, 161 S.E.2d 175, 178 (1968).

Here, it is indisputable that Ms. Irland did not comply with the statutory requirements for perfecting her appeal from the Probate Court. Accordingly, the appeal must be dismissed.

2. Appellant's Return incorrectly states that John Psaras and Christina Culp are not parties to this appeal.

As set forth in the Motion to Dismiss Appeal, Ms. Irland sought to appeal the Probate Court's order, dated July 13, 2022, by filing a Notice of Intent to Appeal with the Circuit Court on July 22, 2022. Respondents Brandy S. Culp, Christina D. Culp, and Isadore John Psaras are specifically identified and as parties in the Order and taken into account by the Court. (Probate Court Order, Exhibit B, pp. 1 and 4). Further, **Ms. Irland specifically named Brandy S. Culp, Christina D. Culp, and John Psaras, as Respondents in her Notice of Intent to Appeal.** (Notice of Intent to Appeal, Exhibit C). Ms. Irland, however, failed to serve the Notice of Intent to Appeal on each of the Respondents within the ten (10) day statutorily-required period of time set forth under S.C. Code § 62-1-308(a). Specifically, Ms. Irland did not serve her Notice of Intent to Appeal on Respondents Isadore John Psaras and Christina D. Culp. (Proof of Service, Exhibit D; Affidavit of Christina D. Culp, Exhibit E).<sup>1</sup>

Having failed to serve Mr. Psaras and Ms. Christina Culp within the statutorily required period of time, and realizing that this failure is fatal to her appeal, Ms. Irland now seeks exclude them from the appeal altogether. Ms. Irland contends that Mr. Psaras and Ms. Christina Culp are not parties to this appeal because they entered into a private settlement agreement with Respondent Brandy Culp. (Agreement, Exhibit F). Ms. Irland's arguments are unavailing for several reasons:

First, Ms. Irland is not a party to the settlement agreement. Mr. Psaras and Ms. Culp have not released any rights, claims, and/or defenses as they relate to Appellant Athena Irland. In fact,

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<sup>1</sup> As set forth in Respondent's Motion, Isadore John Psaras is the son of Decedent; Christina D. Culp is a daughter of Decedent; and Brandy S. Culp is the granddaughter of Decedent. (Order, Exhibit B, pp. 1 and 4). Respondents are each necessary parties to the appeal, each being a named, undismissed party to the underlying probate action as well as intestate beneficiaries and listed devisees under the subject wills. (Ibid.).

the Settlement Agreement specifically states that the releases set forth therein **do not apply to Athena Irland**. See Exhibit F, Settlement Agreement, para. 5, stating, “This release specifically does not apply to Athena Irland.” While the Settlement Agreement provides Respondent Brandy Culp with certain enforceable rights as it relates to Mr. Psaras and Ms. Christina Culp, it does not remove them from the action, nor does it divest them as parties to the appeal.

Second, the Agreement and corresponding Order Approving Agreement do not dismiss Mr. Psaras and Ms. Christina Culp as parties to the underlying Probate Court matter. Indeed, Mr. Psaras and Ms. Christina Culp continued to be clearly identified as parties and taken into account in the Probate Court’s subsequent July 13, 2022 Order (Order, Exhibit B, pp. 1 and 4). Ms. Irland sought to appeal this Order, specifically naming Mr. Psaras and Ms. Christina Culp as Respondents on her Notice of Intent to Appeal, but then failed to serve them with the Notice as required by the statute.

Mr. Psaras and Ms. Christina Culp were also specifically identified as Respondents in the Circuit Court’s Order Denying and Dismissing Appeal from Probate Court, entered October 2, 2023. (Order, Exhibit A). Despite the clear identification of Mr. Psaras and Ms. Christina Culp as Respondents and parties to the appeal, Ms. Irland once again failed to serve a Notice of Appeal on either of them. (Notice of Appeal and Proof of Service, Exhibit G).

Ms. Irland’s repeated failure to serve Mr. Psaras and Ms. Christina Culp with Notices of her Appeals is fatal to her appeal. “The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses a deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to “rescue” the delinquent party by extending or ignoring the deadline for service of the notice.” *USAA Property and Cas. Ins. Co. v. Clegg*, 661 S.E.3d 791, 795, 377 S.C. 643 (2008), quoting *Elam v. S.C. Dep’t of Transp.*, 351 S.C. 9, 14-15, 602

S.E.2d 772, 775 (2004). Because Ms. Irland has failed to serve all necessary parties to the appeal, including parties which she *specifically identified* as Respondents in her Notice of Intent to Appeal and who are *specifically identified* as parties in the Court’s underlying orders, the appeal must be dismissed.<sup>2</sup>

3. Pro Se litigants do not have license to ignore statutory requirements set forth by our legislature.

Ms. Irland’s Return cites *Haines v. Kerner*, a 1972 United States Supreme Court case, for the generalized proposition that “a *pro se litigant* is not held to the same strict standards as a licensed attorney.” (Return, p. 1, citing *Haines v. Kerner*, 404 U.S. 519 (1972)). *Haines* is a 1972 United States Supreme Court case arising out of a lawsuit filed by a *pro se* inmate who had been placed in solitary confinement after striking another inmate in the head with a shovel. The U.S. Supreme Court considered whether the lower court had erred in dismissing a civil rights lawsuit filed by Mr. Haines against the Governor, state officers, and other penitentiary officials, in which Mr. Haines had complained of alleged physical injuries resulting from the solitary confinement he received following the shovel incident. Citing the since-abrogated cases of *Conley v. Gibson*, the Supreme Court found that given the allegations contained in Mr. Haines’ complaint, it was error

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<sup>2</sup> Curiously, this is not the first time that Ms. Irland has run into jurisdictional issues. During a related guardianship action involving the parties, Ms. Irland was found to have exercised undue influence over Decedent with regard to the execution of two deeds of conveyance. (Order, Exhibit H). As a result, the Probate Court rescinded the subject deeds by Order dated June 29, 2017, finding that Decedent lacked the requisite capacity on October 28, 2014 to execute the deeds of conveyance and that Ms. Irland had exercised undue influence over decedent on that date. (Ibid).

Ms. Irland attempted to appeal this Order. However, on August 22, 2017, the South Carolina Court of Appeals dismissed the Appeal on jurisdictional grounds. (COA Order, Exhibit I). Specifically, the Court of Appeals found that Ms. Irland had failed to provide proof that the parties consented in writing or on the record to directly appeal the matter to the Court of Appeals. As a result, it is the law of that case, that Decedent was incapacitated on October 28, 2014 and that Ms. Irland exercised undue influence over her on that date.

for the lower court to dismiss the complaint under Rule 12(b)(6), FRCP, without first providing Mr. Haines an opportunity to offer evidence in support of the allegations. In rendering its decision, the Supreme Court noted that *complaints* drafted by *pro se* litigants are generally held to “less stringent standards than formal pleadings drafted by lawyers.”

Unlike *Haines*, however, the instant appeal does not concern the sufficiency of pleadings or a 12(b)(6) dismissal of a *pro se* litigant’s complaint, but rather the dismissal of Ms. Irland’s appeal due to her indisputable failure to comply with the **statutory requirements** for perfecting an appeal from Probate Court pursuant to S.C. Code § 62-1-308, et seq. While *pro se* parties may be granted some leeway with regard to construction of their pleadings, this leeway does not extend to a party’s failure to comply with statutory requirements enacted by our legislature.

Further, a litigant’s *pro se* status does not afford her the right to abuse the judicial process. See *City of Columbia v. Assa'ad-Faltas*, 800 S.E.2d 782, 420 S.C. 28 (2017), noting, “Appellant's unrelenting inappropriate conduct in the South Carolina courts necessitated that certain restrictions be placed upon Appellant's *pro se* access to the courts to curb her abuse of the judicial process.” Here, Ms. Irland withheld information from the Probate Court and other parties, resulting in the unnecessary expenditure of time, money, and judicial resources. Specifically, as noted in Respondent’s Motion, the present case involves the alleged revocation of Decedent’s 2009 Will at Ms. Irland’s behest on October 28, 2014, the same date that Decedent was previously adjudicated to have lacked capacity and Ms. Irland was found to have exercised undue influence. It was unknown by the parties or the Probate Court during the initial guardianship proceeding that Ms. Irland had engaged in these additional acts on October 28, 2014. As before, the Probate Court found, after holding *another* full hearing on the merits and hearing testimony from the parties and witnesses, that Decedent lacked capacity to revoke the 2009 Will and that Ms. Irland had exercised

undue influence over Decedent. (Order, Exhibit B).

Since then, Ms. Irland has taken every opportunity to delay the inevitable, filing frivolous appeals, which she then failed to pursue or perfect pursuant to the probate statute or the South Carolina Appellate Court Rules. Respondent respectfully requests that this Honorable Court bring an end to Ms. Irland's dilatory tactics and dismiss the appeal. Her status as a *pro se* litigant does not confer special privileges which allow her to ignore the statutory requirements enacted by our legislature or skirt the South Carolina Appellate Court Rules.

4. The Appeal should be dismissed because Appellant failed to appeal each and every independent ground cited by the Circuit Court for dismissing the instant appeal.

Ms. Irland's Return contends that "Counsel for Respondent falsely claims that I have failed to address each independent ground cited," and that, "The Initial Brief of Appellant received by the Court on March 27, 2024 answers these 'grounds.'" (Return, p. 1). Respectfully, even a cursory review of the latest Initial Brief filed by Appellant demonstrates this is false. (App. Initial Brief, Exhibit J). With regard to the five *independent* grounds for dismissal cited by the Circuit Court as basis for its denial and dismissal of the appeal, Ms. Irland summarily states, "the record will show that Ms. Irland did, in fact follow correct procedure." (Exhibit J, p. 4). She offers no argument or evidence that she properly filed a Statement of Issues on Appeal (in a format described in Rule 208(b)(1)(B), SCACR) with proof of service and a copy served on all parties as prescribed by S.C. Code § 62-1-308(b). Ms. Irland also offers no argument or evidence that she filed a Designation of Matter to Include in the Record on Appeal on any party as required by S.C. Code § 62-1-308(d), no such Designation even appears within the public index. Ms. Irland offers no argument or evidence that she filed and served a Record on Appeal on any party as required by S.C. Code § 62-1-308(f). Most importantly, Ms. Irland offers no argument or evidence that she

even filed an Appellate Brief with the Circuit Court as required by S.C. Code § 62-1-308(e); she did not even brief a single argument to which Ms. Culp’s counsel could respond or on which the Court could rule.

“Under the two[-]issue rule, whe[n] a decision is based on more than one ground, the appellate court will affirm unless the appellant appeals all grounds because the unappealed ground will become the law of the case.” *Skywaves I Corp. v. Branch Banking & Trust Co.*, 814 S.E.2d 643 (Ct. App. 2018) (citations omitted). Because Ms. Irland has failed to appeal each and every independent ground cited by the Circuit Court as a basis for dismissing the instant appeal, Respondent respectfully submits that the Appeal must be dismissed.

#### Conclusion

Respondent Brandy Culp respectfully requests that this Honorable Court dismiss the instant appeal. The appeal should be dismissed because Ms. Irland has failed to comply with the statutory requirements for pursuing and perfecting an appeal from the probate court, as set forth under S.C. Code § 62-1-308. She has also failed to serve all necessary parties to the appeal, thereby depriving the Circuit Court and all higher courts of appellate jurisdiction. The appeal should also be dismissed because Ms. Irland has repeatedly failed to adhere to the South Carolina Appellate Court Rules by (a) failing to file an Initial Brief that complies with Rule 208(b), SCACR, and (b) failing to file a Designation of Matter that complies with Rule 209, SCACR. Additionally, the appeal should be dismissed because Ms. Irland has failed to appeal each and every independent ground cited by the Circuit Court as the basis for its dismissal of the instant appeal. Finally, the appeal should be dismissed because the record reflects that Ms. Irland has filed the instant appeal for the impermissible purpose of delay.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT BRANDY S. CULP

May 10, 2024  
Mount Pleasant, South Carolina

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Bentley D. Price  
Circuit Court Judge

Appellate Case No. 2023-001852

Athena Irland, Appellant,  
v.  
Brandy S. Culp, Respondent.

**EXHIBITS TO  
RESPONDENT’S REPLY  
TO APPELLANT’S RETURN TO  
MOTION TO DISMISS**

<u>EXHIBIT</u>	<u>PAGE</u>
1. Exhibit A – Order Denying and Dismissing Appeal, filed October 2, 2024.....	1
2. Exhibit B – Probate Court Order, finding Decedent lacked capacity and Ms. Irland exercised undue influence in causing her to revoke her will, dated July 13, 2022.....	6
3. Exhibit C – Notice of Intent to Appeal an Order from Probate Court, filed with the Circuit Court on July 22, 2022.....	14
4. Exhibit D -- Proof of Service filed by Athena Irland, showing lack of service on Respondents Christina D. Culp and Isadore John Psaras, filed July 22, 2022.....	26
5. Exhibit E - Affidavit of Christina D. Culp, dated October 18, 2022.....	28
6. Exhibit F – Settlement Agreement and corresponding Order Approving Settlement Agreement, dated March 22, 2021.....	31

7. Exhibit G – Notice of Appeal and Proof of Service, dated November 21, 2023.....38

8. Exhibit H – Probate Court Order, finding Decedent lacked capacity and Ms. Irland exercised undue influence in causing her to execute two deeds of conveyance, dated June 29, 2017.....44

9. Exhibit I – S.C. Court of Appeals Order dismissing Ms. Irland’s previous, related Appeal, dated August 22, 2017.....66

10. Exhibit J – Appellant’s Initial Brief, re-filed March 27, 2024.....68

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT BRANDY S. CULP

May 10, 2024  
Mount Pleasant, South Carolina

EXHIBIT A  
to  
Respondent's Reply



3. Here, the Court finds that appellant did not comply with the statutory requirements of S.C. Code Ann § 62-1-308, et seq., based on each of the following, independent grounds:

(a) Appellant did not file nor serve a Statement of Issues on Appeal within the time prescribed by S.C. Code § 62-1-308(b) (“Within forty-five days after receipt of written notice of the order, sentence or decree of the probate court, the appellant must file with the clerk of the circuit court a Statement of Issues on Appeal (in a format described in Rule 208(b)(1)(B), SCACR), with proof of service and a copy served on all parties.”). Appellant’s Notice of Appeal, filed July 22, 2022, states Appellant received written notice of entry of the probate court order on July 14, 2022. Pursuant to subsection (b) of the statute, Appellant was required to file and serve a Statement of Issue on Appeal on or before August 29, 2022. A review of the public index in this case establishes that Appellant failed to meet either of these requirements.

(b) As a separate and independent basis for dismissal, Appellant did not file nor serve a Designation of Matter to Include in the Record on Appeal on any party as required by S.C. Code § 62-1-308(d). No such Designation even appears within the public index.

(c) As a separate and independent basis for dismissal, Appellant did not file nor serve an appellate brief as required by S.C. Code 62-1-308(e) (“At the same time the appellant serves his Designation of Matter to be Included in the Record on Appeal, the appellant shall serve one copy of his brief on all parties to the appeal, and filed with the clerk of the circuit court one copy of the brief with proof of service. The appellant’s brief shall be in a format described in Rule 208(b)(1), SCACR.”) A review of the public index in this case establishes that Appellant failed to meet any one of these statutory requirements.

(d) As a separate and independent basis for dismissal, Appellant did not file and serve a Record on Appeal on any party as required by S.C. Code § 62-1-308(f) (“[A]ppellant shall serve

a copy of the Record on Appeal (in a format described in subsection (c), (e), (f), and (g) of Rule 210, SCACR.”).

4. Finally, as a separate and independent basis for denial of the appeal, this Court finds that Appellant has failed to set forth any grounds and/or caselaw warranting reversal of the probate court’s underlying order, having failed to even brief her appeal as required by S.C. Code 62-1-308.

THEREFORE, it is ORDERED, ADJUDGED, and DECREED:

Appellant Athena Irland’s Appeal from Probate Court is hereby DENIED and DISMISSED WITH PREJUDICE.

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The Honorable Bentley D. Price  
Circuit Court Judge

September\_\_\_\_, 2023  
Charleston, South Carolina



Charleston Common Pleas

**Case Caption:** Athena L Irland , plaintiff, et al VS Isadore John Psaras , defendant, et al  
**Case Number:** 2022CP1003304  
**Type:** Order/Other

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

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EXHIBIT B  
to  
Respondent's Reply

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 IN THE MATTER OF: THE ESTATE OF DOLLY )  
 LEGARE COLEMAN )  
 )  
 JOHN SINCLAIRE, III, in his capacity as Personal )  
 Representative for the Estate of Dolly L. Coleman, )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 ATHENA L. IRLAND, CHRISTINA D. CULP, )  
 ISADORE JOHN PSARAS, and BRANDY S. CULP, )  
 )  
 Respondents. )  
 )


IN THE PROBATE COURT  
 CASE NO.: 2019-ES-10-1368

**ORDER**

Hearing Date: April 7, 2022  
 Presiding Judge: Lenna S. Kirchner  
 Petitioner: John a/k/a "Jack" Sinclair, Esq.  
 Petitioner's Attorney: David Michel, Esq.  
 Respondents: Athena L. Irland  
 Christina D. Culp  
 Isadore John Psaras  
 Brandy S. Culp  
 Respondents' Attorney: Daniel S. Slotchiver, Esq. and Stephen M.  
 Slotchiver, Esq. for Brandy S. Culp  
 Court Reporter: Ashley Manini

**THIS MATTER** came before the court upon the filing of a Summons and Petition for a Declaratory Judgment filed by David Michel, Esq. on behalf of Personal Representative John, a/k/a "Jack" Sinclair, Esq, on September 8, 2021.

Present were John, a/k/a "Jack" Sinclair, Esq. as Personal Representative of the Estate, as well as his counsel, David Michel, Esq.; Athena Ireland, without legal counsel; Christina Culp,

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without legal counsel; and Brandy Culp, represented by Daniel S. Slotchiver, Esq. and Stephen M. Slotchiver, Esq.

Prior to the presentation of testimony, Daniel Slotchiver, Esq., on behalf of Brandy S. Culp, moved for Summary Judgment on the issue of reinstating the Last Will and Testament drafted by John Lynn McCants based on the argument that this Court had previously determined and ruled in an Order dated June 29, 2017, from a hearing held on October 18, 2016, that 1) Athena Irland had exercised Undue Influence on the same day of the alleged destruction of her Last Will (October 28, 2014), in the presence of John Lynn McCants, 2) Athena Irland owed a fiduciary duty to the Decedent under a Confidential Relationship, which was breached, and that on that same date the Decedent was medically incapacitated prior to the tearing up of said Will, and as such would not have had the Capacity to destroy said Will, thus rendering said will her testamentary desire. This Motion was denied.

Upon review of the file and after hearing testimony of the parties, the Court makes the following findings of fact and conclusions of law:

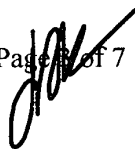
**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. This Court has jurisdiction over this matter and venue is proper pursuant to S.C. Code Ann. §§62-1-302 and 62-3-201(a)(1).
2. This Court finds that proper notice was given to all parties with an interest in this matter pursuant to S.C. Code Ann. § 62-1-401.
3. Dolly Dimples Legare Coleman (“Decedent”) died on March 21, 2019.
4. Decedent was adjudicated as incapacitated in Charleston County Probate Court Case No. 2014-GC-10-0210.
5. During a hearing in the Guardianship and Conservatorship case on October 18, 2016, the Court heard arguments regarding allegations of undue influence by Athena Irland

Page 2 of 7  


on Decedent in regard to the execution of two deeds of conveyance on October 28, 2014. This Court takes judicial notice of the file and proceedings from the Guardianship and Conservatorship case (2014-GC-10-0210) of Decedent.

6. On June 29, 2017, the Court issued an Order from the October 18, 2016 hearing rescinding the subject deeds due to lack of requisite capacity by Decedent on the date of execution (October 28, 2014) and undue influence exercised by Respondent Athena Irland on Decedent. The Order included excerpts from extensive live testimony and/or testimony from depositions taken from several professionals, including Decedent's treating physician, Guardian, and Conservator.
7. Respondent Athena Irland filed a Notice of Appeal in regard to the June 29, 2017 Order with the South Carolina Court of Appeals on July 27, 2017. The South Carolina Court of Appeals dismissed the matter on August 22, 2017 due to Appellant's failure to provide proof that the parties consented in writing or on the record to appeal directly to said court as set forth in S.C. Code Ann. §62-1-308(1). No additional appeals or Motions for Reconsideration regarding the June 29, 2017 Order have been filed.
8. John, a/k/a "Jack" Sinclair, Esq. ("Petitioner"), previously served as Decedent's Guardian and was appointed as the Personal Representative of her Estate on August 8, 2019, with the consent of the Respondents.
9. Petitioner filed a Summons and Petition seeking a Declaratory Judgment from the Court on September 8, 2021.
10. Respondents are Decedent's children and grandchild.
11. Decedent executed a Last Will and Testament on October 20, 2008 ("2008 Will"), and executed a subsequent Last Will and Testament on August 31, 2009 ("2009 Will").



12. Respondent Athena Irland is a daughter of Decedent, an intestate beneficiary, and a listed devisee under both the 2008 Will and the 2009 Will.
13. Respondent Christina D. Culp is a daughter of Decedent, an intestate beneficiary, and a listed devisee under both the 2008 Will and the 2009 Will.
14. Respondent Isadore John Psara is a son of Decedent, and intestate beneficiary, and a listed devisee under the both the 2008 Will and the 2009 Will.
15. Respondent Brandy S. Culp is a granddaughter of Decedent and a listed devisee under both the 2008 Will and the 2009 Will.
16. The 2008 Will was executed by Attorney Heyward Carter and the 2009 Will was executed by Attorney Lynn McCants.
17. The 2009 Will revokes all Wills and Codicils that Decedent had previously made.
18. It is undisputed by the parties that Decedent was taken to the office of Lynn McCants, Esq., by Respondent Athena Irland on October 28, 2014, stated that it was her intention to revoke the 2009 Will, and physically tore the 2009 Will in half in the presence of Mr. McCants.
19. Petitioner originally sought a ruling from the Court that Decedent died intestate due to the destruction of the 2009 Will, which had revoked the 2008 Will, and the lack of any subsequent Last Will and Testament. After learning of additional information to be presented by counsel for Respondent Brandy S. Culp at the hearing, Petitioner informed the Court that he was no longer taking a position as the validity of the 2009 Will and/or the possibility that Decedent died intestate and would instead allow the Court to hear the arguments of the Respondents on those issues.
20. During arguments presented by Respondent Brandy S. Culp, an original transcript wherein Andrew Chandler, an estate planning attorney in Charleston, South Carolina,



had previously testified at the October 18, 2016 hearing, was handed to the Court for its review and made a part of the Record as Exhibit 1. Mr. Chandler testified and that he had reviewed the transcript of his testimony from the last hearing regarding Decedent and confirmed that it was truthful and accurate.

21. John, a/k/a "Jack" Sinclaire was then called to testify. He testified that in his investigation as to the facts surrounding the destruction of the 2009 Last Will and Testament, drafted by Lynn McCants, he was advised by attorney McCants that the destruction took place on October 28, 2014. This Court takes notice of the fact that this is the same day on which this Court previously determined the invalidity of a deed based on Undue Influence, breach of a Confidential Relationship, and lack of capacity of Decedent.
22. John Lynn McCants, a lawyer in Mount Pleasant, testified that he had drafted the 2009 Will of Decedent, that he witnessed the destruction of the Will, wherein both Decedent and Ms. Irland were present at his office, that he does not dispute the purported destruction date of October 28, 2014, that he was not aware of the Court rulings about other events that occurred on that date, but had he known of the same, he would have had concern about the ability and correctness of Decedent destroying her Will.
23. Mr. McCants presented the actual torn will, as well as a living will, healthcare power of attorney and a general durable power of attorney, all likewise destroyed on that same date. Mr. McCants also testified that Decedent told him "I'll get back with you, we'll do another Will...", but this act never took place.
24. When asked if it was customary for a client to create a new Will before destroying an old one, Mr. McCants testified that it was not.

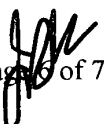
25. Mr. McCants further testified that he did not have medical training to assist in determining capacity or undue influence and that with regard to Decedent, that he was "surprised" when he learned that Decedent had gone to another lawyer regarding an attempted deed transfer, an action later explained by Ms. Ireland when she testified that "...it was my decision to go to Jack Williams." This Court notes that Mr. Williams is the lawyer who drafted the vacated deed and notes the representation of "my decision" in the testimony provided as evidence that Ms. Ireland had exerted control over Decedent.

26. The Court finds that its ruling on June 29, 2017, that Decedent was unduly influenced by Respondent Ireland and that Decedent lacked capacity to execute deeds of conveyance on October 28, 2014, which has not been overturned or amended, would logically extend to the alleged revocation of the 2009 Will on that same day under similar circumstances. The case law and statutory law cited in the June 29, 2017 Order are equally applicable here.

27. The Court therefore finds that Decedent lacked the capacity to revoke the 2009 Last Will and Testament and that the 2009 Will represents the Decedent's testamentary desires.

Based on the foregoing, it is hereby

**ORDERED, ADJUDGED AND DECREED** that the Last Will and Testament of the Decedent executed on August 31, 2009 was not effectively revoked due to lack of capacity of the Decedent and undue influence at the hands of Respondent Ireland. It is ordered that the Last Will and Testament of the Decedent executed on August 31, 2009 shall be re-assembled, copied, and admitted to the Court as an original Last Will and Testament of Dolly Legare Coleman; it is further

  
Page 6 of 7

**ORDERED, ADJUDGED AND DECREED** that the Estate of Dolly Legare Coleman shall be administered as a testate estate in accordance with the South Carolina Probate Code; it is further

**ORDERED, ADJUDGED, AND DECREED** that this Order shall be subject to such further Orders of this Court as may become necessary.

**IT IS SO ORDERED.**



**Lenna S. Kirchner**  
Associate Judge of Probate  
Charleston County

This 31<sup>st</sup> day of July, 2022  
Charleston, South Carolina.



EXHIBIT C  
to  
Respondent's Reply

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

Athena Ireland )  
Plaintiff(s) )

Isadore JOHN P. CASAS )  
Christina D. Culp, Brandy S. Culp )  
Defendant(s) )

Submitted By: Athena Ireland  
Address: 1816 DOLLY DIMPLES TRC  
HUGER SC 29450

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2022 -CP - 10 - 3304

SC Bar #: \_\_\_\_\_  
Telephone #: 843-336-4834  
Fax #: \_\_\_\_\_  
Other: \_\_\_\_\_  
E-mail: KARMA1234@myyahoo.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts**
- Constructions (100)
  - Debt Collection (110)
  - General (130)
  - Breach of Contract (140)
  - Fraud/Bad Faith (150)
  - Failure to Deliver/Warranty (160)
  - Employment Discrim (170)
  - Employment (180)
  - Other (199) \_\_\_\_\_

- Torts - Professional Malpractice**
- Dental Malpractice (200)
  - Legal Malpractice (210)
  - Medical Malpractice (220)
  - Previous Notice of Intent Case # 20 -NI-
  - Notice/ File Med Mal (230)
  - Other (299) \_\_\_\_\_

- Torts - Personal Injury**
- Conversion (310)
  - Motor Vehicle Accident (320)
  - Premises Liability (330)
  - Products Liability (340)
  - Personal Injury (350)
  - Wrongful Death (360)
  - Assault/Battery (370)
  - Slander/Label (380)
  - Other (399) \_\_\_\_\_

- Real Property**
- Claim & Delivery (400)
  - Condemnation (410)
  - Foreclosure (420)
  - Mechanic's Lien (430)
  - Partition (440)
  - Possession (450)
  - Building Code Violation (460)
  - Other (499) \_\_\_\_\_

- Inmate Petitions**
- PCR (500)
  - Mandamus (520)
  - Habeas Corpus (530)
  - Other (599) \_\_\_\_\_

- Administrative Law/Relief**
- Reinstate Drv. License (800)
  - Judicial Review (810)
  - Relief (820)
  - Permanent Injunction (830)
  - Forfeiture-Petition (840)
  - Forfeiture-Consent Order (850)
  - Other (899) \_\_\_\_\_

- Judgments/Settlements**
- Death Settlement (700)
  - Foreign Judgment (710)
  - Magistrate's Judgment (720)
  - Minor Settlement (730)
  - Transcript Judgment (740)
  - Lis Pendens (750)
  - Transfer of Structured Settlement Payment Rights Application (760)
  - Confession of Judgment (770)
  - Petition for Workers Compensation Settlement Approval (780)
  - Incapacitated Adult Settlement (790)
  - Other (799) \_\_\_\_\_

- Appeals**
- Arbitration (900)
  - Magistrate-Civil (910)
  - Magistrate-Criminal (920)
  - Municipal (930)
  - Probate Court (940)
  - SCDOT (950)
  - Worker's Comp (960)
  - Zoning Board (970)
  - Public Service Comm. (990)
  - Employment Security Comm (991)
  - Other (999) \_\_\_\_\_

- Special/Complex /Other**
- Environmental (600)
  - Automobile Arb. (610)
  - Medical (620)
  - Other (699) \_\_\_\_\_
  - Sexual Predator (510)
  - Permanent Restraining Order (680)
  - Interpleader (690)
  - Pharmaceuticals (630)
  - Unfair Trade Practices (640)
  - Out-of State Depositions (650)
  - Motion to Quash Subpoena in an Out-of-County Action (660)
  - Pre-Suit Discovery (670)

Submitting Party Signature: Athena Ireland

Date: 5-7-22-2022

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FILED  
JUL 22 PM 2:12  
CLERK OF COURT

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210<sup>th</sup> day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
  - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
  - b. Requests for temporary relief;
  - c. Appeals
  - d. Post Conviction relief matters;
  - e. Contempt of Court proceedings;
  - f. Forfeiture proceedings brought by governmental entities;
  - g. Mortgage foreclosures; and
  - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

2022-CP-10-3304

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF Charleston )  
 )  
IN THE MATTER OF: Dolly L. Coleman )  
 )  
(Decedent) )  
 )  
Athena L. Irland )  
 )  
Appellant(s), )  
 )  
vs. Isadore John Psaras, Christina D Culp, )  
Brandy S Culp )  
Respondent(s). )

IN THE CIRCUIT COURT  
Appeal from Probate Court for Charleston County  
CASE NUMBER: 2019-ES-10-1368

**NOTICE OF INTENT TO APPEAL TO  
CIRCUIT COURT**

Pursuant to SCPC 62-1-308, Appellant hereby provides his/her/its Notice of Appellant's Intent to Appeal the Order/Sentence/Decree of the Probate Court dated July 13, 2022. Said Order/Sentence/Decree was received by the Appellant or Appellant's counsel on July 14, 2022. A copy of said Final Order is attached.

Respectfully submitted,

SWORN to before me this 22  
day of JULY, 2022  
Shannon McAnnis  
Notary Public for: South Carolina  
My Commission Expires: 11/30/2023

Signature: *Athena L Irland*  
Print Name: Athena L Irland  
Address: 186 Dolly Dimples Trail  
Huger, SC 29450  
(Home): 843-336-4834  
(Cell): \_\_\_\_\_  
Email: Karma1234@myyahoo.com  
Relationship to Decedent/Estate: Daughter  
Attorney: Self Representation  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_



**IMPORTANT:**

1. This Notice must be filed with the Probate Court, the Circuit Court, and all parties not in default within ten (10) days after receipt of written notice of the appealed-from order, sentence, or decree of the Probate Court. Parties must comply with requirements set forth in SCPC 62-1-308.
2. This form is not intended for appeals other than appeals to the County Circuit Court. An Appeal to a Court other than the County Circuit Court must follow SCPC 62-1-308(l) and the South Carolina Appellate Court Rules, as applicable.

FILED  
2022 JUL 22 PM 2:12  
CLERK OF COURT

Pg 2

Case 2019-ES-10-1368  
Estate of Dolly L Coleman  
Order July 13, 2022  
Received July 14, 2022

Notice has been served to:

1. John Sinclair III, in his capacity as Personal Representative for the Estate of Dolly L Coleman. Hand delivered
2. David Michel, Esq., Estate Attorney. Hand delivered.
3. Charleston County Probate Clerk of Court office, Presiding Judge Lenna S Kirchner. Hand delivered.
4. Circuit Court of Charleston County, Clerk of Court. Hand delivered.
5. David and Stephen Slotchiver, attorney for Brandy S Culp. Hand delivered.

Notice of Appeal on the findings and ruling of the probate court are as follows:

Pg. 2 (4)  
Pg. 2 (5) cont. pg 3  
Pg. 3 (6)  
Pg. 3 (11)  
Pg. 4 (18)  
Pg. 5 (21)  
Pg. 5 (22)  
Pg. 5 (23)  
Pg. 6 (7)  
Pg. 6 (25)  
Pg. 6 (26)  
Pg. 6 (27)

The court erred in the undue influence by Athena Irland. The court erred in the legal standing of testamentary capacity, contractual testamentary vs. the testamentary capacity to execute, tear up or discard a will. All in accordance with South Carolina law and the precedence of the statute regarding testamentary capacity since 1807.

Therefore notice given that this matter is being appealed to the Circuit Court of Charleston County.



without legal counsel; and Brandy Culp, represented by Daniel S. Slotchiver, Esq. and Stephen M. Slotchiver, Esq.

Prior to the presentation of testimony, Daniel Slotchiver, Esq., on behalf of Brandy S. Culp, moved for Summary Judgment on the issue of reinstating the Last Will and Testament drafted by John Lynn McCants based on the argument that this Court had previously determined and ruled in an Order dated June 29, 2017, from a hearing held on October 18, 2016, that 1) Athena Irland had exercised Undue Influence on the same day of the alleged destruction of her Last Will (October 28, 2014), in the presence of John Lynn McCants, 2) Athena Irland owed a fiduciary duty to the Decedent under a Confidential Relationship, which was breached, and that on that same date the Decedent was medically incapacitated prior to the tearing up of said Will, and as such would not have had the Capacity to destroy said Will, thus rendering said will her testamentary desire. This Motion was denied.

Upon review of the file and after hearing testimony of the parties, the Court makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. This Court has jurisdiction over this matter and venue is proper pursuant to S.C. Code Ann. §§62-1-302 and 62-3-201(a)(1).
2. This Court finds that proper notice was given to all parties with an interest in this matter pursuant to S.C. Code Ann. § 62-1-401.
3. Dolly Dimples Legare Coleman (“Decedent”) died on March 21, 2019.
4. Decedent was adjudicated as incapacitated in Charleston County Probate Court Case No. 2014-GC-10-0210.
5. During a hearing in the Guardianship and Conservatorship case on October 18, 2016, the Court heard arguments regarding allegations of undue influence by Athena Irland



on Decedent in regard to the execution of two deeds of conveyance on October 28, 2014. This Court takes judicial notice of the file and proceedings from the Guardianship and Conservatorship case (2014-GC-10-0210) of Decedent.

6. On June 29, 2017, the Court issued an Order from the October 18, 2016 hearing rescinding the subject deeds due to lack of requisite capacity by Decedent on the date of execution (October 28, 2014) and undue influence exercised by Respondent Athena Irland on Decedent. The Order included excerpts from extensive live testimony and/or testimony from depositions taken from several professionals, including Decedent's treating physician, Guardian, and Conservator.
7. Respondent Athena Irland filed a Notice of Appeal in regard to the June 29, 2017 Order with the South Carolina Court of Appeals on July 27, 2017. The South Carolina Court of Appeals dismissed the matter on August 22, 2017 due to Appellant's failure to provide proof that the parties consented in writing or on the record to appeal directly to said court as set forth in S.C. Code Ann. §62-1-308(1). No additional appeals or Motions for Reconsideration regarding the June 29, 2017 Order have been filed.
8. John, a/k/a "Jack" Sinclair, Esq. ("Petitioner"), previously served as Decedent's Guardian and was appointed as the Personal Representative of her Estate on August 8, 2019, with the consent of the Respondents.
9. Petitioner filed a Summons and Petition seeking a Declaratory Judgment from the Court on September 8, 2021.
10. Respondents are Decedent's children and grandchild.
11. Decedent executed a Last Will and Testament on October 20, 2008 ("2008 Will"), and executed a subsequent Last Will and Testament on August 31, 2009 ("2009 Will").

12. Respondent Athena Irland is a daughter of Decedent, an intestate beneficiary, and a listed devisee under both the 2008 Will and the 2009 Will.
13. Respondent Christina D. Culp is a daughter of Decedent, an intestate beneficiary, and a listed devisee under both the 2008 Will and the 2009 Will.
14. Respondent Isadore John Psara is a son of Decedent, and intestate beneficiary, and a listed devisee under the both the 2008 Will and the 2009 Will.
15. Respondent Brandy S. Culp is a granddaughter of Decedent and a listed devisee under both the 2008 Will and the 2009 Will.
16. The 2008 Will was executed by Attorney Heyward Carter and the 2009 Will was executed by Attorney Lynn McCants.
17. The 2009 Will revokes all Wills and Codicils that Decedent had previously made.
18. It is undisputed by the parties that Decedent was taken to the office of Lynn McCants, Esq., by Respondent Athena Irland on October 28, 2014, stated that it was her intention to revoke the 2009 Will, and physically tore the 2009 Will in half in the presence of Mr. McCants.
19. Petitioner originally sought a ruling from the Court that Decedent died intestate due to the destruction of the 2009 Will, which had revoked the 2008 Will, and the lack of any subsequent Last Will and Testament. After learning of additional information to be presented by counsel for Respondent Brandy S. Culp at the hearing, Petitioner informed the Court that he was no longer taking a position as the validity of the 2009 Will and/or the possibility that Decedent died intestate and would instead allow the Court to hear the arguments of the Respondents on those issues.
20. During arguments presented by Respondent Brandy S. Culp, an original transcript wherein Andrew Chandler, an estate planning attorney in Charleston, South Carolina,

Page 4 of 7  


had previously testified at the October 18, 2016 hearing, was handed to the Court for its review and made a part of the Record as Exhibit 1. Mr. Chandler testified and that he had reviewed the transcript of his testimony from the last hearing regarding Decedent and confirmed that it was truthful and accurate.

21. John, a/k/a "Jack" Sinclaire was then called to testify. He testified that in his investigation as to the facts surrounding the destruction of the 2009 Last Will and Testament, drafted by Lynn McCants, he was advised by attorney McCants that the destruction took place on October 28, 2014. This Court takes notice of the fact that this is the same day on which this Court previously determined the invalidity of a deed based on Undue Influence, breach of a Confidential Relationship, and lack of capacity of Decedent.
22. John Lynn McCants, a lawyer in Mount Pleasant, testified that he had drafted the 2009 Will of Decedent, that he witnessed the destruction of the Will, wherein both Decedent and Ms. Irland were present at his office, that he does not dispute the purported destruction date of October 28, 2014, that he was not aware of the Court rulings about other events that occurred on that date, but had he known of the same, he would have had concern about the ability and correctness of Decedent destroying her Will.
23. Mr. McCants presented the actual torn will, as well as a living will, healthcare power of attorney and a general durable power of attorney, all likewise destroyed on that same date. Mr. McCants also testified that Decedent told him "I'll get back with you, we'll do another Will...", but this act never took place.
24. When asked if it was customary for a client to create a new Will before destroying an old one, Mr. McCants testified that it was not.

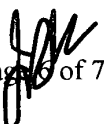
25. Mr. McCants further testified that he did not have medical training to assist in determining capacity or undue influence and that with regard to Decedent, that he was "surprised" when he learned that Decedent had gone to another lawyer regarding an attempted deed transfer, an action later explained by Ms. Ireland when she testified that "...it was my decision to go to Jack Williams." This Court notes that Mr. Williams is the lawyer who drafted the vacated deed and notes the representation of "my decision" in the testimony provided as evidence that Ms. Ireland had exerted control over Decedent.

26. The Court finds that its ruling on June 29, 2017, that Decedent was unduly influenced by Respondent Ireland and that Decedent lacked capacity to execute deeds of conveyance on October 28, 2014, which has not been overturned or amended, would logically extend to the alleged revocation of the 2009 Will on that same day under similar circumstances. The case law and statutory law cited in the June 29, 2017 Order are equally applicable here.

27. The Court therefore finds that Decedent lacked the capacity to revoke the 2009 Last Will and Testament and that the 2009 Will represents the Decedent's testamentary desires.

Based on the foregoing, it is hereby

**ORDERED, ADJUDGED AND DECREED** that the Last Will and Testament of the Decedent executed on August 31, 2009 was not effectively revoked due to lack of capacity of the Decedent and undue influence at the hands of Respondent Ireland. It is ordered that the Last Will and Testament of the Decedent executed on August 31, 2009 shall be re-assembled, copied, and admitted to the Court as an original Last Will and Testament of Dolly Legare Coleman; it is further

  
Page 6 of 7

**ORDERED, ADJUDGED AND DECREED** that the Estate of Dolly Legare Coleman shall be administered as a testate estate in accordance with the South Carolina Probate Code; it is further

**ORDERED, ADJUDGED, AND DECREED** that this Order shall be subject to such further Orders of this Court as may become necessary.

**IT IS SO ORDERED.**



**Lenna S. Kirchner**  
Associate Judge of Probate  
Charleston County

This 31<sup>st</sup> day of July, 2022  
Charleston, South Carolina.



Page 7 of 7

EXHIBIT D  
to  
Respondent's Reply

2022-CP-10-3304

NOTICE OF PROOF OF SERVICE July 22, 2022

David L. Michel, Esq.  
Attorney for P.R.

Direct mail

7/22/22

Hand Delivery

NOTICE OF APPEAL

FILED  
2022 JUL 22 PM 2:12  
JULIE J. AMBROSIO  
CLERK OF COURT

~~Susan C. Mauldin~~ 7/22/2022

Susan C. Mauldin for Daniel S. Slotchiver

Josh Gilman 7/22/2022

EXHIBIT E  
to  
Respondent's Reply

STATE OF SOUTH CAROLINA ) 2022-CP-10-03304  
COUNTY OF CHARLESTON )  
) AFFIDAVIT OF CHRISTINA CULP  
Estate of Dolly Lagare Coleman )  
)  
)

**PERSONALLY APPEARED** before me, who being duly sworn, deposes and says  
as follows:

1. My name is Christina Culp.
2. I am the daughter of Dolly Legare Coleman and a named party in both this Appeal and the underlying Probate court action (in the Matter of Dolly Lagare Coleman, case number 2019-ES-10-1368.
3. My mother died on March 21,2019
4. The Appellant in this case, Athena Irland is my sister.
5. Athena did not serve me with the Notice of Intent to Appeal within 10 days of receiving notice of the Probate Court's Order dated September 6, 2022.
6. Respondent Brandy Culp is my daughter.
7. Athena has a long documented history of taking advantage of our mother, as described in the prior Orders of the Probate Court.
8. Our mother was diagnosed with progressive debilitating dementia beginning in 2010. She was deemed incapacitated by the Charleston County Probate Court in Case number 2014-GC-10-0210. In that case, Athena had exercised undue influence over our mother by having her exercise two deeds of conveyance to Athena's benefit. As a result, the Court rescinded the deeds, and made a determination that our mother lacked capacity on October 28, 2014, to execute deeds and that Athena had exercised undue influence on that date by having those properties conveyed to her.

9. In this new case, Athena contends now that our mother revoked her 2009 Will on October 28, 2014, **(the same date on which our mother was previously found to have lacked capacity and that Athena was found to have executed undue influence.)** After a hearing on the matter, the Court again found that my mother lacked capacity on October 28, 2014, to revoke the 2009 Will and that Athena had exercised undue influence over her in seeking to have the Will revoked.

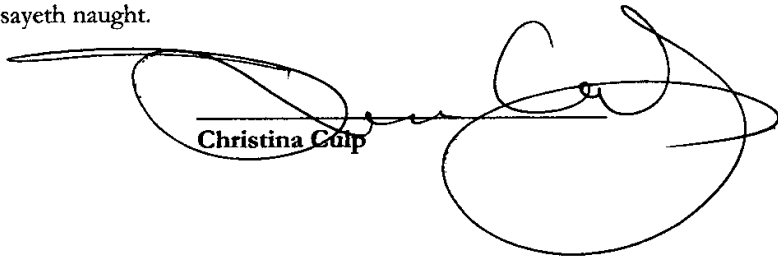
10. Athena, representing herself, now seeks to appeal the case.

11. I am still a party to the underlying case.

12. In addition, I have not settled any matters related to this litigation, with Athena, nor have I released any rights, claims and/or defenses as they relate to her.

13. Athena did not serve me with the notice of Appeal within the time required by statute. Accordingly, I ask this Court to grant the motion and dismiss the appeal.

FURTHER Affiant sayeth naught.

  
Christina Gulp

SWORN TO BEFORE ME this 18

day of October, 2022

Scarlet Watkins

NOTARY PUBLIC FOR State of South Carolina

MY COMMISSION EXPIRES: 10-9-2031

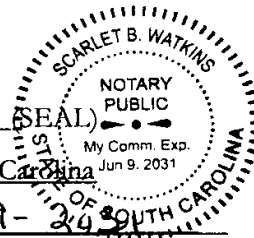


EXHIBIT F  
to  
Respondent's Reply

STATE OF SOUTH CAROLINA            )     IN THE PROBATE COURT  
  )     )  
COUNTY OF CHARLESTON            )     2019-ES-10-\_\_\_\_\_

In the Matter of:  
Estate of Dolly Legare Coleman

**SETTLEMENT AGREEMENT**

Mediation was held on March 16, 2020. Present at the Mediation was Brandy Culp, Christina Culp, Athena Irland, Isadore Psaras, and Jack Sinclair. Brandy Culp, Christina Culp, and Isadore Psaras have agreed to fully and finally resolve this matter as follows:

1. Isadore Psaras, individually and on behalf of his Estate and his heirs, assigns all of his right, title and interest in the Estate of Dolly Legare Coleman to Brandy Culp in exchange for a lump sum payment of One Hundred Ninety Thousand (\$190,000) Dollars to be paid by the Estate of Dolly Legare Coleman to him upon Court approval.

2. Christina Culp, individually and on behalf of her Estate and hers heirs, assigns all of his right, title and interest in the Estate of Dolly Legare Coleman to Brandy Culp in exchange for a lump sum payment of One Hundred Ninety Thousand (\$190,000) Dollars to be paid by the Estate of Dolly Legare Coleman to her upon Court approval.

3. As a result of this Settlement, in the event that the Court is to determine that the Estate shall pass in accordance with intestacy, and Brandy Culp would be entitled to receive 2/3 of the Estate, representing the shares that would have otherwise passed to Christina Culp and Isadore Psaras. In the event the 2009 Will is upheld, then the shares that would have otherwise passed to Christina Culp and Isadore Psaras would then pass to Brandy Culp (in addition to the bequest made to her therein).

4. ~~The Personal Representative of the Estate believes the above Settlement is reasonable and further agrees to Petition the Court for authority to release the necessary distributions to Isadore Psaras and Christina Culp, and the balance of their respective shares to Brandy Culp would at that point be vested.~~ CDC *[Signature]* BSC

5. The undersigned parties further agree that in exchange for the terms as set forth herein by the undersigned parties, each intends to and hereby release each from the other, and any and all other persons, of and from any and all causes of action, demands and costs and all claims of any nature including, but not limited to, any claims of any kind whatsoever, known or unknown, which the undersigned parties have or may in the future, be entitled to have, against the other, whomsoever, on account of or in any way

*BSU*

*CDC*

*[Signature]*

related to the Estate of Dolly Legare Coleman. This Release specifically does not apply to Athena Irland.

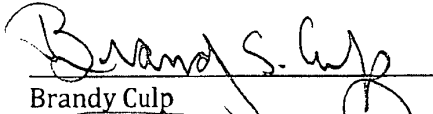
6. In consideration of the above, the undersigned agree that the counsel for Brandy Culp will draft a Consent Order, which all ~~parties~~<sup>heirs</sup>, other than Athena Irland will execute.

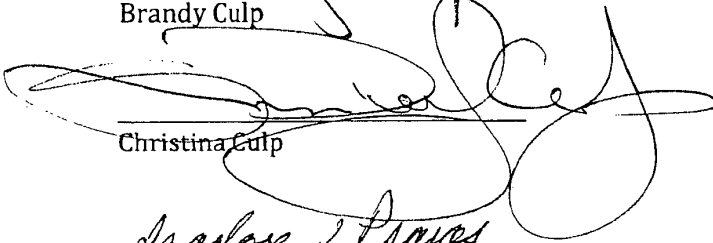
7. Each of the parties shall be responsible for their own attorney fees can costs associated with this matter.

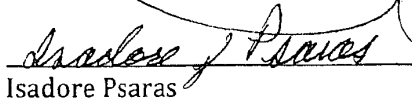
8. Each of the undersigned parties agrees that they will not, individually, jointly or in a representative capacity, initiate against any other party to this release any legal or equitable proceedings of any nature based on, account of or in any way related to the Estate. Each party further agrees to indemnify and hold harmless any party against any loss or damage, including without limitation attorney fees, in the event such party asserts any claim in violation of this release.

9. This Settlement Agreement may be submitted to the Probate Court for approval and the parties shall execute a Consent Order for submission to the Probate Judge for review and approval.

WE AGREE:

  
\_\_\_\_\_  
Brandy Culp

  
\_\_\_\_\_  
Christina Culp

  
\_\_\_\_\_  
Isadore Psaras

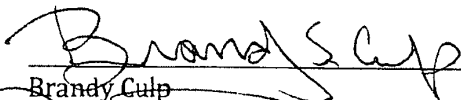
~~Jack Sinclair, Personal Representative~~

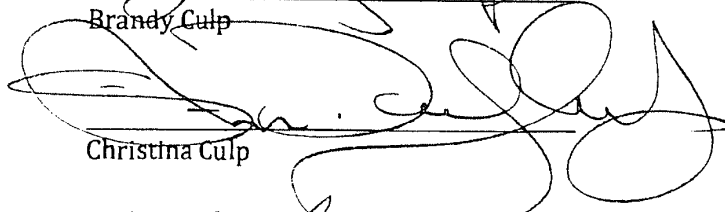
Date: March 16, 2020


**ADDENDUM TO SETTLEMENT AGREEMENT**

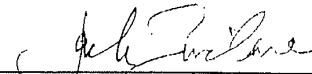
1. It is agreed upon that the Personal Representative of the Estate will not sign the Settlement Agreement, and that Paragraph 4 of the Settlement Agreement has been stricken.
2. It is also represented and agreed that neither Christina Culp nor Isadore Psaras are represented by legal counsel. Both were advised of their right to have counsel and the mediator recommendation to be represented and both have agreed to proceed pro se.

WE AGREE:

  
\_\_\_\_\_  
Brandy Culp

  
\_\_\_\_\_  
Christina Culp

  
\_\_\_\_\_  
Isadore Psaras

  
\_\_\_\_\_  
Jack Sinclair, Personal Representative  
Agree that I am bound by 62-3-912 of the  
South Carolina Probate Code, and shall abide  
by the terms of the attached Settlement Agreement.

*and subsequent orders of the Court.*  
I take no position on the  
sufficiency of the Settlement Agreement.

Date: \_\_\_\_\_

*2/10/2020*

BSC

CDC 

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 IN THE MATTER OF: THE ESTATE OF DOLLY )  
 LEGARE COLEMAN )  
 )  
 JOHN SINCLAIRE, III, in his capacity as Personal )  
 Representative for the Estate of Dolly L. Coleman, )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 ATHENA L. IRLAND, CHRISTINA D. CULP, )  
 ISADORE JOHN PSARAS, and BRANDY S. CULP, )  
 )  
 Respondents. )  
 )

IN THE PROBATE COURT  
 CASE NO.: 2019-ES-10-1368

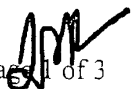
**ORDER TO APPROVE  
 SETTLEMENT AGREEMENT  
 REACHED AT MEDIATION**

**THIS MATTER** comes before this Court upon a Motion to Approve Settlement Agreement Reached at Mediation filed by Brandy S. Culp on January 25, 2021. Pursuant to the South Carolina Supreme Court's Order dated April 3, 2020, titled RE: Operation of the Trial Courts During the Coronavirus Emergency (as amended March 5, 2021) and the Memorandum issued by Chief Justice Donald W. Beatty dated September 14, 2020, this Court finds that this Motion can be ruled upon without the necessity of a hearing.

Based upon the Petition, consent of the parties, and the laws of the State of South Carolina, this Court makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Decedent, Dolly L. Coleman, died March 21, 2019, a resident of Charleston County, South Carolina.
2. Mediation was held on March 16, 2020 regarding the outstanding issues in the Estate of Dolly L. Coleman with David K. Haller, Esq. serving as Mediator.

  
 Page 1 of 3

3. Present at the Mediation were Brandy S. Culp, represented by Daniel S. Slotchiver, Esq. and Stephen M. Slotchiver, Esq., John Sinclair, III, in his capacity as the Personal Representative of the Estate, David L. Michel, Esq., as attorney for the Personal Representative, Athena L. Irland, Christina D. Culp, and Isadore John Psaras.
4. A Settlement was reached by and between Brandy S. Culp, Christina D. Culp, and Isadore John Psaras, wherein those parties executed a written Settlement Agreement. Likewise, John Sinclair, III, in his capacity as the Personal Representative of the Estate, does not take a position regarding the Settlement Agreement, but has agreed in writing to be bound by the Settlement Agreement and that he is bound by S.C. Code Ann. § 62-3-912.
5. Brandy S. Culp filed a Motion to Approve the Settlement reached at Mediation with this Court on January 25, 2021.
6. S.C. Code Ann. § 62-3-912 provides in pertinent part that “successors may agree among themselves to alter the interests, shares, or amounts to which they are entitled under the will, or under the laws of intestacy, in any way that they provide in a written contract executed by all who are affected by its provisions.”
7. Furthermore, S.C. Code Ann. § 62-3-1102 states that “upon application to the court and after notice to all interested persons or their representatives, including the personal representative of the estate, . . . the court, if it finds that the contest or controversy is in good faith and that the effect of the agreement upon the interests of persons represented by fiduciaries or other representatives is just and reasonable, shall make an order approving the agreement.”
8. This Court finds that, although Athena L. Irland did not consent to the Agreement reached between Brandy S. Culp, Christina D. Culp, and Isadore John Psaras, the Settlement Agreement reached, and the transfer of rights between the parties to the Settlement

Agreement do not in any way impact Athena L. Irland's potential claims and/or her potential rights in the Estate.

9. This Court further finds that, having reviewed the Settlement Agreement, for good cause shown and upon the Motion to Approve Settlement Agreement Reached at Mediation filed by Brandy S. Culp, with the consent of Isadore John Psaras and Christina D. Culp, and the agreement by John Sinclair, III, in his capacity as the Personal Representative of the Estate, to be bound by the terms of the Settlement Agreement, the controversies here are settled in good faith, and the effect of the Settlement Agreement on the interest of the interested persons effected by the Settlement Agreement is just and reasonable.

Therefore, based upon the forging, it is hereby

**ORDERED, ADJUDGED, AND DECREED** that Motion to Approve Settlement Agreement Reached at Mediation is hereby **GRANTED**; it is further

**ORDERED, ADJUDGED, AND DECREED** that the Agreement is approved and made an Order of this Court; it is further

**ORDERED, ADJUDGED, AND DECREED** that this Order shall be subject to such further Orders of this Court as may become necessary.

**IT IS SO ORDERED.**

  
LENNA S. KIRCHNER  
Associate Judge of Probate  
Charleston County

This 12<sup>th</sup> day of March, 2021  
Charleston, South Carolina.

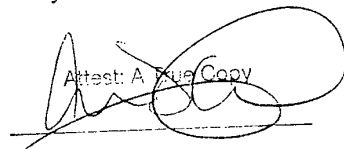
Attest:   
Clerk Probate Court  
Charleston County

EXHIBIT G  
to  
Respondent's Reply

November 21, 2023

Appeal From Circuit Court of South Carolina  
Charleston County before Judge Bentley  
PRICE CASE# 2022-CP-10-3304

My Appeal From Circuit Court was granted  
on Nov. 15, 2022

The Appeal was denied on Reconsideration  
and confusion on October 2, 2023

Reconsideration denied October 25, 2023

Athena Island  
Appellate in case  
186 Dolly Dimple Str /  
Huger, SC 29450

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NOV 29 2023

SC Court of Appeals

100431

November 21, 2023

Appeal From Circuit Court of South Carolina  
Charleston County before Judge Bentley  
PRICE CASE# 2022-CP-10-3304

My Appeal From Circuit Court was granted  
on Nov. 15, 2022

The Appeal was denied on Reconsideration  
and confusion on October 2, 2023

Reconsideration denied October 25, 2023

Athena Island  
Appellate in call  
186 Dolly Dimple Str  
Huger, SC 29450

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RECEIVED

NOV 29 2023

SC Court of Appeals

RECEIVED

NOV 29 2023

SC Court of Appeals

PROOF OF SERVICE OF A  
Notice of Appeal

The State of South Carolina

Appeal From Charleston County  
Court of Common Pleas

Bentley Price Circuit Court Judge

Athena Ireland Appellate

v.  
Brandy S. Culp Respondent

PROOF OF SERVICE

I certify that I have served  
Notice of the Appeal to Respondent's  
attorneys Dan and Steve Slotchiver  
and Jesse Sanchez

TSI Johnnie Dodds

Mt Pleasant, SC 29464

Suite 100, 200 same office

Through U.S. Postal Service

November 21, 2023

CASE# 2022-CP-10-3304

RECEIVED  
NOV 29 2023  
SC Court of Appeals

Letter to The Appellate Court Clerk  
Filing Notice of Appeal

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

RE: The Estate of Dolly L. Coleman

Appellate Athena Irland vs  
Respondent Brandy S. Culp  
Case # 2022-CP-10-3304 (of the Court  
of Common Pleas)

Enclosed for filing:

- 1) Proof of Service of the Notice of Appeal to the Respondent's Attorneys.
- 2) a copy of the order(s) / judgement which is (are) to be challenged on Appeal
- 3) A Filing Fee of \$250<sup>00</sup>

Sincerely

November 21, 2023


Athena Irland  
186 Dolly Dimple St  
Huger SC 29450  
Appellate

Athena Insurance  
Appeal  
186 De Soto Dr  
Huger SC 29450


The Honorable Jenny Abbott R. Kitchens  
PO Box 11629  
Columbia SC 29211

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SC Court of Appeals

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SC 29464  
NOV 21, 2023  
**\$3.99**  
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EXHIBIT H  
to  
Respondent's Reply

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 IN RE: MATTER OF DOLLY )  
 DIMPLES LEGARE COLEMAN, )  
 THROUGH HER CONSERVATOR )  
 W. ASHLEY THIEM, )  
 )  
 Petitioner, )  
 )  
 -v- )  
 )  
 ATHENA IRLAND, ISADORE )  
 PSARAS, BRANDY S. CULP, AND )  
 CHRISTINA CULP, )  
 )  
 Respondents. )

IN THE PROBATE COURT  
 CASE NO.: 2014-GC-10-0210  
 ORDER RESCINDING  
 DEEDS

*Handwritten:*  
 P. 19/21  
 @ 10/18/2017

<b>Hearing Date:</b>	<b>October 18, 2016</b>
<b>Presiding Judge:</b>	<b>Lenna S. Kirchner</b>
<b>Petitioner's Attorney:</b>	<b>I. Ryan Neville, Esq.</b>
<b>Respondent's Attorney:</b>	<b>Joseph Dawson, III, Esq.</b>
<b>Attorney/GAL:</b>	<b>Lana Jamrosyk, Esq.</b>

**THIS MATTER** comes before the Court upon the Verified Petition filed by Dolly Dimples Legare Coleman ("Mrs. Coleman") by and through her Conservator, W. Ashley Thiem, ("Petitioner" and/or "Conservator") on March 3, 2016. Petitioner seeks rescission of two deeds of conveyance executed by Mrs. Coleman on October 28, 2014 in favor of Respondent Athena Irland ("Respondent Irland" or "Ms. Irland") for lack of capacity, or in the alternative, for undue influence. A hearing on the matter was held on October 18, 2016. Present at the hearing were attorney Ryan Neville, appearing on behalf of Petitioner, and attorney Joseph Dawson, III, appearing on behalf of Respondent Athena Irland. Respondent Isadore "Johnny" Psaras was present and served as a witness for Ms. Irland. Respondent Brandy S. Culp was also present, but did not participate in the trial. Respondent Christina Culp was not present but served with proper

notice of the hearing. This Order is binding on all parties to the above captioned matter.

At the start of the hearing, Respondent moved, pursuant to Rule 12(b)(6), for dismissal of the petition arguing the existence of another action pending in the Berkeley County Court of Common Pleas filed prior to this present action. Rule 12(b)(6), SCRPC. On February 6, 2015, a Notice of *Lis Pendens* was filed in Berkeley County Court of Common Pleas under 2015-LP-08-00003. On March 19, 2015, the associated Summons and Complaint was filed. *See* Case No. 2015-CP-08-00719. The aforementioned captions reflect the parties as Christina Culp and Brandy S. Culp vs. Athena Irland and Dolly Dimples Legare Coleman. Rule 12(b)(6) permits dismissal where another action is pending *between the parties for the same claim*. Rule 12(b)(6), SCRPC (*emphasis added*). Due to the actions not pending between the *same* parties, as reflected in the differing captions of the two cases, this Court denied Respondent's motion and proceeded to hear this matter.

W.A. Thiem  
9/22/21  
10/29/2021

Upon review of the file and after hearing testimony of the parties, this Court makes the following findings of fact and conclusions of law:

#### FINDINGS OF FACT

1. Dolly Dimples Legare Coleman ("Mrs. Coleman") is an 86 year old female adjudged to be an incapacitated person by clear and convincing evidence by this Court on February 9, 2015.<sup>1</sup>
2. Petitioner is W. Ashley Thiem, of Thiem & McCutcheon, CPAs, P.A., the court appointed Conservator ("Conservator") for Mrs. Coleman, by Order dated September 1, 2015.
3. Respondents are the children and grandchild of Mrs. Coleman.

<sup>1</sup> Petitions were filed by Respondent Culp on December 22, 2014 and Respondents Irland and Psaras on January 5, 2015. Based in part on the report of a Designated Medical Examiner's finding of incapacity dated January 8, 2015, this Court issued Orders appointing a Temporary Guardian and Conservator on February 23, 2015 and a Permanent Guardian and Conservator on September 1, 2015.

- 4. During Mrs. Coleman's adult life, she acquired real property in South Carolina to include an undivided fee simple interest in certain real property located in Berkeley County described more fully as follows (hereinafter "Tract 1"):

ALL that certain piece, parcel or tract of land, situate, lying and being in the County of Berkeley, State of South Carolina, shown and designated as "Tract 1, 1,450,798 sq. feet, or 33.31 acres" as shown on plat entitled: "PLAT SHOWING A RE-SURVEY AND SUBDIVISION OF A 72.31 ACRE TRACT OF LAND INTO TRACTS 1, 2, AND 3, SITUATED AS SHOWN ON HALFWAY CREEK ROAD NEAR GUERINS BRIDGE ROAD, IN BERKLEY COUNTY, SOUTH CAROLINA. THIS PROPERTY IS PRESENTLY OWNED BY CHARLES S. WILLIAMS, TRACTS 2 AND 3 ARE ABOUT TO BE CONVEYED TO ATHENA L. IRLAND, DANIEL J. IRLAND AND DOLLY L. COLEMAN," prepared by Charles F. Dawley, Jr., RLS, dated July 18, 1995 and recorded August 4, 1995 in the Office of the Register of Deeds for Berkeley County in Plat Cabinet L, Page 199. Said tract having such size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

SUBJECT to right of access to Tracts 2 and 3 over Tract 1 through the "50' INGRESS-EGRESS EASEMENT" as shown on the above referenced plat.

BEING the same property conveyed to Dolly L. Coleman by Deed of Charles S. Williams dated May 1, 1997 and recorded May 9, 1997 in the Office of the Register of Deeds for Berkeley County in Book 1064, at Page 319.

TMS NO.: 257-00-00-007.

- 5. Mrs. Coleman also acquired an undivided one-third interest in certain real property in Berkeley County described more fully as follows (hereinafter "Tract 2"):

ALL that certain piece, parcel or tract of land, situate, lying and being in the County of Berkeley, State of South Carolina, shown and designated as "Tract 2, 1,655,235 sq. feet, or 38.00 acres" as shown on plat entitled: "PLAT SHOWING A RE-SURVEY AND SUBDIVISION OF A 72.31 ACRE TRACT OF LAND INTO TRACTS 1, 2, AND 3, SITUATED AS SHOWN ON HALFWAY CREEK ROAD NEAR GUERINS BRIDGE ROAD, IN BERKLEY COUNTY, SOUTH CAROLINA. THIS PROPERTY IS PRESENTLY OWNED BY CHARLES S. WILLIAMS, TRACTS 2 AND 3 ARE ABOUT TO BE CONVEYED TO ATHENA L. IRLAND, DANIEL J. IRLAND AND DOLLY L. COLEMAN," prepared by Charles F. Dawley, Jr., RLS, dated July 18, 1995 and recorded August 4, 1995 in the Office of the Register of Deeds for Berkeley County in Plat Cabinet L, Page 199. Said tract having such size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

TOGETHER with right of access over Tract 1 through the "50' INGRESS-EGRESS EASEMENT" as shown on the above referenced plat. SUBJECT to right of access to Tracts 3 over Tract 1 through the "50' INGRESS-EGRESS EASEMENT" as shown on the above referenced plat.

*Handwritten notes:*  
 DM  
 D. Coleman  
 01/29/2017

BEING the same 1/3 interest as conveyed to Dolly L. Coleman by Deed of Charles S. Williams dated August 2, 1995 and recorded August 4, 1995 in the Office of the Register of Deeds for Berkeley County in Book 709, at Page 40.

TMS NO.: 249-00-00-003.

(collectively Tract 1 and Tract 2 hereinafter "the Farm").

- AM*  
*2-48821*  
*6/28/2017*
6. On October 28, 2014, Mrs. Coleman executed two deeds conveying the Farm to Ms. Irland, each for FIVE and No/100th DOLLARS (\$5.00) and reserving a life estate in Tract 1. Said deeds were entered into evidence without objection and are incorporated by reference. Pet's Ex. 16 and 17.
  7. The Conservator seeks to have these two deed rescinded arguing Mrs. Coleman lacked capacity to execute the deeds or, in the alternative, the executed deeds are the product of undue influence exerted by Mrs. Coleman's daughter, Respondent Irland, over Mrs. Coleman.
  8. Prior to this action, Mrs. Coleman hired the law firm of Evans, Carter, Kunes & Bennett, P.A. ("the Firm") for estate planning purposes.
  9. Mr. Andrew Chandler, Esquire ("Mr. Chandler"), an attorney at the Firm, testified on its behalf as follows:
    - a. The Firm previously prepared, and still possesses, Mrs. Coleman's original Last Will and Testament ("2008 Will"), dated October 20, 2008. A copy of said Will was entered into evidence without objection. Pet's Ex. 18.
    - b. Article 4 of the 2008 Will devises the real property in question, leaving Tract 1 to Mrs. Coleman's daughter Christina T. Culp and Tract 2 to her granddaughter Brandy S. Culp.
    - c. Respondent Irland is not a devisee of the Farm therein and therefore unable to take ownership under the terms of Mrs. Coleman's 2008 Will.

- d. On or about the 28<sup>th</sup> and 29<sup>th</sup> day of October 2014, Mrs. Coleman and Ms. Irland appeared at the Firm without an appointment, asking to see Attorney Heyward Carter. Mr. Carter was not available, and as a result, Mr. Chandler took the meeting.
- e. According to Mr. Chandler, Mrs. Coleman was pleasant upon greeting him and proceeded to ask about his wife and children. This seemed odd to Mr. Chandler as it was his first time meeting Mrs. Coleman and she would have no reason to know whether he was married, or had children. Mr. Chandler is, in fact, married, however, he has only one child. Mr. Chandler interpreted this as a possible sign Mrs. Coleman may lack capacity.
- f. When Mr. Chandler asked Mrs. Coleman why she had come to the Firm, Ms. Irland interjected, stating the two were there to get her Mother's original 2008 Will.
- g. Mr. Chandler asked that Ms. Irland allow her mother, Mrs. Coleman to answer the question as it was Mrs. Coleman who was the Firm's client.
- h. Ms. Irland became visibly and verbally upset when Mr. Chandler asked to interact solely and directly with Mrs. Coleman without any assistance from Ms. Irland.
- i. Mr. Chandler again asked Mrs. Coleman why she had come to the Firm and Mrs. Coleman was unable to answer the question and instead stared blankly at Ms. Irland. Ms. Irland, then interjected again, stating they were there to obtain the original of Mrs. Coleman's 2008 Will, in order to destroy it, because they were going to have it changed.
- j. Mr. Chandler, on behalf of the Firm, then informed Mrs. Coleman and Ms. Irland that he did not feel comfortable giving them the original 2008 Will for them to destroy it as Mrs. Coleman could not independently state why she wished to be given the 2008 Will. However, he would be happy to provide them the 2008 Will so long as it was per the instructions Mrs. Coleman had given the Firm in her Durable Power of Attorney. Mrs.

MS  
P.S. 10/29/2017

Coleman's Durable Power of Attorney was admitted without objection as Petitioner's Exhibit 19.

- k. Ms. Irland asked what the instructions were for obtaining the 2008 Will, and the Firm informed her that, per the Durable Power of Attorney, both Ms. Irland and Mrs. Coleman's granddaughter, Respondent Brandy Culp, would have to jointly sign for the release of the 2008 Will. Note: Ms. Irland testified that she had not previously seen the 2008 Will nor had knowledge of the referenced Durable Power of Attorney. *See* para 14j.
1. Mr. Chandler then offered to call Ms. Culp so that both she and Ms. Irland could sign for the release of the original 2008 Will. Ms. Irland became visibly upset, refused his offer, and the two women left the Firm.

10. The law firm of Williams & Hulst, LLC ("W&H"), more specifically, one of its owners, John B. "Jack" Williams ("Mr. Williams"), was hired to prepare the deeds conveying the Farm to Ms. Irland. Mr. Williams was not present for the hearing on October 18, 2016. However, prior to the start of the hearing, the parties met in chambers where they agreed the record would be left open until his deposition could be taken. Mr. Williams was deposed on November 14, 2016 where he testified as follows:

- a. Mr. Williams has been practicing law over forty years. Williams Dep. 5.
- b. Prior to the meeting on October 28, 2014, Mr. Williams had previously met Mrs. Coleman approximately 15 – 20 years ago in an unrelated matter. Williams Dep. 9.
- c. On October 28, 2014, Mrs. Coleman and Ms. Irland went together to W&H to discuss the preparation of deeds. Williams Dep. 13-14.
- d. Initially Mr. Williams met with both Mrs. Coleman and Ms. Irland. However, once the purpose of the meeting was made clear, Mr. Williams asked Ms. Irland to step outside in

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order for him to speak with Mrs. Coleman alone. Williams Dep. 14-15. Mr. Williams then advised Mrs. Coleman regarding the meaning and purpose of transferring the property. Williams Dep. 15.

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12/28/21
- e. During the discussion with Mrs. Coleman regarding the transfer of property, Mr. Williams suggested Mrs. Coleman retain a life estate rather than transfer the property, herein referred to as Tract 1, in fee simple as originally discussed when meeting with Mrs. Coleman and Ms. Irland together and Mrs. Coleman agreed. Williams Dep. 16-17. Further, the reservation of a life estate "was not discussed, except between [Mr. Williams] and Mrs. Coleman." Williams Dep. 22.
  - f. Further, there was no mention that the Farm would be sold by Mrs. Irland after she received title to the Farm. Williams Dep. 22-23.
  - g. Mr. Williams testified that although he does not remember exactly how long the meeting on October 28, 2014 lasted, generally, meetings of that type are less than an hour. Williams Dep. 19.
  - h. Mr. Williams also testified with regard to his experience determining the competency of a particular person or witness during the course of his practice as follows:

Well, that's a question of determining competency, but yeah, I mean, if someone did not appear to understand what was going on or you know, was unable to communicate or whatever, yeah, I mean, from a practical standpoint, the answer is yes, I have.

Williams Dep. 7:13-18.

- i. Regarding Mr. Williams' observations of Mrs. Coleman's understanding of their conversation, Mr. Williams also stated:

There were no --- there was nothing *at that time* that gave me concern about her state of mind, her capability, but then again, that's just an observation, certainly not in a position to pass on that as an expert.

Williams Dep. 18:23-19:2 (emphasis added). *See also* Williams Dep. 25.

- j. When asked if Mr. Williams believed Mrs. Coleman understood the consequences of her actions, Mr. Williams replied "I do"... "Or I did at that time." Williams Dep. 17:7-9.
- k. During his deposition, Mr. Williams was given an opportunity to review documents entered into evidence without objection from Mrs. Coleman's treating physician, Dr. Judith M. Rubano ("Dr. Rubano"). Williams Dep. 24-31, 35-38.
- i. Mr. Williams testified at the time the deeds were executed, he had no way of knowing of Dr. Rubano's diagnosis or any concerns expressed by Mrs. Coleman regarding her children and grandchild trying to get her to sell her property. Williams Dep. 25, Nov. 14, 2016. Further, Mr. Williams stated "it had been years since [he] had seen Mrs. Coleman, and obviously was not aware of any type of medical condition she may have [had at that time]." Williams Dep. 27:12-15.
- ii. When asked if knowledge of Dr. Rubano's treatment of Ms. Coleman, her concerns and diagnosis would have changed the way Mr. Williams handled the closing on October 28<sup>th</sup>, Mr. Williams stated "Had I had these reports, at least as far as I'm concerned, my thought is there would *not have been a closing* then because of the questions that would have come up..." Williams Dep. 28:1-4 (*emphasis added*).
- iii. According to Mr. Williams, if Dr. Rubano was of the opinion that Mrs. Coleman lacked capacity in 2012, and he knew of that opinion, he would not have closed the transaction. Williams Dep. 31:12-16.
- l. Mr. Williams was also presented a synopsis of Mr. Chandler's testimony regarding his meeting with Mrs. Coleman and Ms. Irland wherein Mr. Chandler stated he believed Mrs. Coleman lacked the necessary capacity to request her 2008 Will. Williams Dep. 31-33.

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 P. 8 of 21  
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- m. When asked whether Mr. Williams would reach out to an attorney that expressed concerns regarding the capacity of one who he was about to close a transaction with, Mr. Williams replied

Oh, yeah, most definitely. You know, if there's issues like that that could address the ability to process or whatever, most certainly would have contacted him. As I said, I had not had any contact with Mrs. Coleman for a while and was not aware of any prior incidence or even that she had a will.

Williams Dep. 32:20-33:1.

- n. Further, Mr. Williams added, "I would have talked with Mr. Chandler, but if it is – the situation is as its been represented, I would not have gone forward with the closing."

Williams Dep. 33:6-9.

- o. Finally, when asked if he knew then what he knows now, would he have gone forward with the closing, Mr. Williams replied, "Obviously, no." Williams Dep. 40:9-11.

11. Dr. Rubano was deposed both before and after trial,<sup>2</sup> during which time she testified regarding her interaction with, and treatment of, Mrs. Coleman. During the hearing, Dr. Rubano was admitted as an expert without objection. Her testimony is as follows:

- a. Dr. Rubano has regularly treats vulnerable adult or elderly patients. Rubano Dep. 7-8, Dec. 21, 2016.
- b. Dr. Rubano began treating Mrs. Coleman in the late 1990s or early, however, there were extended periods of time that Dr. Rubano was not actively involved in Mrs. Coleman's care. Rubano Dep. 20, Dec. 21, 2016.
- c. On January 9, 2009, Respondent Irland and Respondent Culp accompanied Mrs. Coleman

<sup>2</sup> Prior to the hearing, the parties met in chambers and agreed to admit the video deposition of Dr. Rubano without objection despite Attorney Dawson not being present during the deposition due to a clerical error and to hold the record open for 30 days during which time Respondent would be allowed to re-notice and cross-examine Dr. Rubano under deposition and/or enter any objections.

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to an appointment reestablishing care with Dr. Rubano. During the appointment, both Respondent Irland and Respondent Culp expressed concerns regarding Mrs. Coleman's memory, mood, and behavior. *See* Pet.'s Ex. 3.

- d. At a follow-up appointment with Dr. Rubano on May 29, 2009, Mrs. Coleman, unaccompanied during the visit, expressed concern stating her family was "using her" and attempting to get her to sell her [land]. Pet.'s Ex. 4. Mrs. Coleman was frustrated and upset because she did not want to sell the property. According to Dr. Rubano, Mrs. Coleman is "delightful. She's rather eccentric. And sometimes would kind of go on and talk about things, and [she] wasn't sure if there was any real validity to what she was complaining of." Rubano Dep. 12:13-17, Dec. 21, 2016.
- e. Dr. Rubano received a letter from Respondent Culp dated October 18, 2010 wherein Respondent Culp reported that Mrs. Coleman was suffering "significant problems with memory. She is sometimes disoriented and she makes up stories to compensate for her confusion over daily tasks." *See* Pet.'s. Ex. 5. According to Dr. Rubano, this is a fair representation of patients with dementia. Rubano Dep. 24:6-7, Dec. 21, 2016.
- f. During an office visit on October 18, 2010, Mrs. Coleman was prescribed Aricept for dementia based on family reports of lapses in her short-term memory. Pet.'s Ex. 6.
- g. One month later, on November 15, 2010, Mrs. Coleman, unaccompanied, met with Dr. Rubano, during which she became tearful and expressed concerns that her daughter was taking advantage of her and "had drained her accounts, etc." Pet.'s Ex. 7. These comments were documented but not acted upon because Mrs. Coleman suffered from dementia and as a result, "her perception that someone was taking advantage of her may or may not have been true." Rubano Dep. 30:19-21, Dec. 21, 2016. Note: During Respondent Irland's

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testimony, she admitted to signing checks in her mother's name in the months prior to this appointment.

- h. On April 21, 2011, Respondent Irland called stating Mrs. Coleman had stopped taking her medications and an office visit was scheduled for April 25, 2011. Pet's Ex. 10.
- i. On April 25, 2011, Dr. Rubano witnessed a shouting match between Mrs. Coleman and her daughter, Respondent Irland, regarding Mrs. Coleman's memory/dementia with Mrs. Coleman continuing to deny she suffered from any memory issues. Dr. Rubano noted a decline in Mrs. Coleman's appearance, increased her prescription for Aricept, and referred Mrs. Coleman to a memory clinic. Pet's Ex. 8 and 9.
- j. On April 4, 2012, Mrs. Coleman was accompanied to an appointment by Respondent Irland where it was reported that Mrs. Coleman was again off of her medications and noted that Mrs. Coleman's dementia was continuing to progress. Pet's Ex. 11 and 12.
- k. That Mrs. Coleman last saw Dr. Rubano in July of 2012 at which time she was still being treated for Dementia and noted reports that Mrs. Coleman's "[m]emory still poor and seems to be getting worse, she is more irritable and argumentative." Res'p Ex. 3.
- l. Dr. Rubano had the opportunity to review the Report of Designated Examiner, dated August 31, 2015<sup>3</sup> which finds Mrs. Coleman, while pleasant, suffers from moderate dementia, able to make simple decisions but not process more complicated information as well as to have a "very dysfunctional family." Pet's Ex. 15.
- m. Dr. Rubano agreed with his report and testified to a reasonable degree of medical certainty that she would have made similar findings back in 2012, that Mrs. Coleman was not capable of disposing of property, real or personal, execute instruments, make purchases,

<sup>3</sup> Findings based on observations from February 26, 2015 to April 18, 2015.

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enter into contractual relationships, etc. Rubano Dep. 5:19-6:12, Dec. 21, 2016.

- n. "Had I been asked, can Mom sell real estate? I would have said, no." Rubano Dep. 36:6-7, Dec. 21, 2016. *See also* Rubano Dep. 54:7-17, 22—55:2, Dec. 21, 2016.
- o. Further, Mrs. Coleman, at the same time as lacking capacity, was also in a mental state or lack thereof, that left her susceptible to the influence of those around her, particularly one who was caring for her. Rubano Dep. 55:3-11, Dec. 21, 2016.
- p. Mrs. Coleman also maintained a level of social gracefulness which made seeing her lack of capacity difficult. Rubano Dep. 55:12-17, Dec. 21, 2016.

12. Carol Seltzer ("Ms. Seltzer") is a Social Worker and Professional Guardian that this Court appointed as Mrs. Coleman's Temporary Guardian on February 23, 2015. Ms. Seltzer was admitted as an expert based on her education and experience and she provided both factual and expert testimony based on her interaction with and observations of Mrs. Coleman and her family as well as her review of relevant case materials as follows:

- a. Upon first meeting Mrs. Coleman, she was well-groomed, pleasant, demonstrating very good social graces. However, Mrs. Coleman was unable to answer direct questions or recount details when asked. Instead, Mrs. Coleman would begin to tell stories of past events, often embellishing as is consistent with one lacking capacity.
- b. Information provided by Mrs. Coleman was often inaccurate, reflecting Mrs. Coleman's ability to be easily swayed and her tendency to place special trust and confidence in those around her.
- c. A ten-day evaluation of Mrs. Coleman after attacking a caregiver in her home resulted in confirmation of dementia diagnosis as well as a diagnosis of mood disorder.
- d. Interviews with family members (Respondents) highlighted numerous problems

between the parties with little or no communication occurring among them.

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- e. Based on her observation of Mrs. Coleman which began in 2015, her experience over twenty years dealing with dementia patients, and review of Mrs. Coleman's medical records reflecting a diagnosis in 2009, she concurs with Dr. Rubano regarding the progression of the disease which would have resulted in Mrs. Coleman lacking mental capacity and resulting in susceptibility to undue influence in 2012. Further, such incapacity or susceptibility would not have been readily apparent to one not familiar with Mrs. Coleman due to her social graces.
  - 13. W. Ashley Thiem, the court appointed Conservator for Mrs. Coleman, testified regarding his interactions with Mrs. Coleman and her family:
    - a. In meetings with Mrs. Coleman, he found her to be pleasant. However, the meetings were based on the facts and circumstances focused on finances rather than her medical or mental conditions.
    - b. While compiling Mrs. Coleman's assets, Mr. Thiem met with various family members as each asset appeared to be controlled by a different person. During his investigation, Mr. Thiem discovered two missing assets: Tract 1 and Tract 2. Ex. 18 and 19. Mr. Thiem also found one of the properties was listed for 2.3 Million Dollars. Ex. 20.
    - c. The real estate listing did not reflect the fact that Mrs. Coleman retained a life estate in the subject property, resulting in concerns around Mrs. Coleman's capacity at the time the deeds were executed.
    - d. Further, Mrs. Coleman retaining the property is in her best interest as the property comprise her only assets and, as such, she would benefit from having the transfer rescinded to its prior ownership in the event the property was necessary to fund Mrs. Coleman's living and

medical expenses.

14. According to Mrs Coleman's daughter, Respondent Athena Irland:

- a. In 1995, when the time the properties in question were purchased, there were three parcels of land in total, with a one-acre parcel which she purchased and on which her home is located; the second parcel, herein referred to as Tract 2 and consisting of 38-acres was purchased by herself, her then husband, and Mrs. Coleman, and finally what is referred to herein as Tract 1 and consisting of 33.31-acres, was purchased by Mrs. Coleman alone, despite Respondent Irland being able to afford to pay half the purchase price and the prior owner being reluctant to sell to Mrs. Coleman.
- b. That in or around 1999, Mrs. Coleman moved a home onto Tract 1 and began living therein.
- c. That it was always Mrs. Coleman intent for her interest in the Farm to go to Respondent Irland, the farm "wasn't a family farm, it's Athena's Farm," and it has always been her farm.
- d. That in or around 2003, Respondent divorced and had her husband's name removed from the deed. It was around that time, her mother gave her Tract 1 but she failed to remove Mrs. Coleman's name from the property because, according to Respondent Irland, she lost the paperwork.
- e. That her mother was of sound mind and body when she signed the deeds in 2010, admitting Mrs. Coleman suffered from short-term memory problems as early as 2009 but was not incapacitated until February of 2015.
- f. That the two of them are "best friends," extremely close, and did everything together.
- g. Mrs. Coleman executed a Durable Power of Attorney on June 27, 2011 in which Athena Irland was granted the power to convey property which she never exercised. Resp's Ex. 1.

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- h. That she admits to signing her mother's name on checks and doing it in her same way absent Power of Attorney because she is Mrs. Coleman's daughter and will sign with Mrs. Coleman's permission.
- i. That she and Mrs. Coleman went to the Firm and was told that in order to get the original Will they would need to make an appointment, which they did for the following day. However, their attorney failed to show up and when Attorney Chandler would not give them the original, Mrs. Coleman got mad and they left.
- j. That she did not see a copy of the Will until 2014 and that it was also the first time she learned the Farm was not devised to her and she learned the Durable Power of Attorney had been revoked on July 24, 2013, noting that even if she still had the Durable Power of Attorney, she still would not have deeded the property to herself.
- k. That Mrs. Coleman made changes on a copy of the Will and wished to destroy the Original and to divide the property evenly between her three children, however, the Will was not changed because Mrs. Coleman was "kidnapped" by her sister in 2014 and "brainwashed."
- l. That she listed Tract 2 for sale because she ran out of money due to the costs associated with this litigation and would do anything, sell everything, for her mother, to keep her, to get her back. Respondent Irland also contends that she has always had her mother's best interest at heart and hadn't deeded it back to be used for her mother's care because it was not her intent.
- m. When asked why she simply didn't deed the property back to her mother, she replied, because its "MY FARM!" and that she would decide where the money would go.
15. Mrs. Coleman's son, Respondent Isadore Psarus ("Johnny") testified that at the time the deeds were executed, Mrs. Coleman was living with Respondent Irland, who was her primary

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caregiver.

- a. Resides in a home located at 638 Palmetto Street in the town of Mt. Pleasant which was given to him by Mrs. Coleman in 2008 for the sum of FIVE AND NO/100s DOLLARS (\$5.00).
- b. Claims Mrs. Coleman gave to him and his sisters all the time and that it was his understanding that his mother had always intended to give the Farm to Athena.
- c. Mr. Psarus was not present at the attorney's office when the meeting occurred, nor was he present when the deeds were executed and is unable testify as to anything leading up to the transaction.

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16. The Guardian Ad Litem, Lana M. Jamrosyk, Esquire, did not testify but proffered from counsel table that, in her opinion, after meeting with Mrs. Coleman and the various family members, Mrs. Coleman was easily influenced and lacked the ability to understand the consequences of her actions. Further, it is in Mrs. Coleman's best interest to have both deeds rescinded and the Farm returned to Mrs. Coleman in the event that she needs the subject property to help defray future living and/or medical expenses.

**CONCLUSIONS OF LAW**

- 17. Pursuant to S.C. Code of Laws Ann. Section 62-5-402, jurisdiction and venue are proper.
- 18. Where a transaction is challenged on the basis of mental incompetency, the individual's competency on the date of that transaction must be determined. *Grapner v. Atlantic Land Title Co.*, 307 S.C. 5489, 551, 416 S.E.2d 617, 618 (1992). Furthermore, the party alleging incompetence bears the burden of proving incapacity at the time of the transaction by a preponderance of the evidence. *Id.*
- 19. Ample evidence supports a finding that Mrs. Coleman lacked the requisite mental capacity to

execute the challenged instruments on the date in question:

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- a. Petitioner offered testimony of Mrs. Coleman's treating physician, Dr. Rubano, that Mrs. Coleman suffered from memory loss as early as 2009 and was treated for dementia in 2010 which, given its progressive nature, would result in Mrs. Coleman lacking capacity at the time the deeds were executed;
  - b. That Respondent Irland and other family members repeatedly expressed concerns regarding Mrs. Coleman's capacity as early as January 2009 and on numerous occasions thereafter;
  - c. Testimony from Mr. Chandler regarding his interaction with Mrs. Coleman on the same day the deeds were executed regarding Mrs. Coleman's inability to clearly communicate her desire to retrieve her 2008 Will;
  - d. Testimony from Mr. Williams regarding his interaction with Mrs. Coleman and the fact that in hindsight, he had not inquired as to her capacity and was not an expert in recognizing behavior associated with incapacity, particularly given the small amount of time spent interacting with her, and given her penchant for exhibiting social graces common in dementia patients;
  - e. Respondent offered no evidence to rebut Petitioner's assertions regarding allegations that Mrs. Coleman lacked capacity at the time the Deeds were executed but relied solely on her assertions, which are in direct conflict with reports made by her to Mrs. Coleman's treating physician for almost two years prior to the time the deeds were executed;

20. Based on the preponderance of evidence demonstrated by the Petitioner, Mrs. Coleman lacked capacity to execute said deeds on October 28, 2014.

21. Petitioner also asserts Respondent Irland exercised undue influence over Mrs. Coleman.

Undue Influence must be of the kind of mental coercion that destroys the free agency of the creator and constrains him to do things which are against his free will, and that he would not have done if he had been left to his own judgment and volition. *Russell v. Wachovia Bank, N.A.*, 355 S.C. 208, 217, 578 S.E.2d 329, 333 (2003). To void a conveyance of land, a contestant must show that the undue influence was brought directly to bear upon the conveyance. *Id.* at 219.

22. Undue influence in the execution of an *inter vivos* conveyance is proved in the same way that undue influence is proved in the execution of a will. *Dixon v. Dixon*, 362 S.C. 388, 608 S.E.2d 849 (2005) citing *First Nat'l Bank of Appleton v. Nanning*, 92 Wis.2d 618, 285 N.W.2d 614, 623 (1979).

23. In contested deed cases a presumption of invalidity arises if the contestants of the deed present evidence that a confidential or fiduciary relationship existed between the grantor and the grantee. See *Middleton V. Suber*, 300 S.C. 402, 405, 388 S.E. 2d 639, 641 (1990)(recognizing that where a "confidential relationship" exists between a grantor and a grantee, the deed is presumed invalid and the burden is upon the grantee to establish the absence of undue influence); *Hudson v. Leopold*, 288 S.C. 194, 196, 341 S.E.2d 137, 138 (1986)("A fiduciary relationship between the grantor and grantee may give rise to a presumption of undue influence thus shifting the burden of proof to the grantee to rebut the presumption").

24. A confidential relationship arises when the grantor has placed his trust and confidence in the grantee, and the grantee has exerted dominion over the grantor. *Page v. Lewis* 209 S.C. at 220. The essence of the relationship is the trust and confidence. *Bullard v. Crawley*, 294 S.C. 276, 281, 363 S.E.2d 897, 900 (1987) citing 15A C.J.S. *Confidential*, pp. 351-58 (1967). Mere friendship between the parties is not sufficient. The relationship must be one implying

confidence. *Id.* citing 25 Am. Jur.2d *Duress and Undue Influence* § 44 (1966). A confidential relationship does not necessarily arise when the grantor depends upon the grantee for the necessities of life. Some evidence is required that the grantor actually reposed trust in the grantee in the handling of his affairs. *McIntosh v. Dowdy*, 625 S.W.2d 162 (Mo.Ct.App.1981) (holding valid deed from grantor to the operators of nursing home in which grantor lived prior to death).

25. Here, the record shows that Mrs. Coleman was dependent upon Respondent Irland for many things. Petitioner introduced evidence that Respondent Irland was Mrs. Coleman's sole caregiver and that she took Mrs. Coleman to her appointments once she moved into her home. Further, there is also evidence that a relationship of trust and confidence existed between them. Respondent Irland had access to Mrs. Coleman's bank accounts as evidenced by her testimony in which she admitted writing checks on her mother's account and, finally, that Mrs. Coleman had designated Respondent Irland as her attorney-in fact. Petitioner has successfully shifted to the proponent the burden of rebutting the presumption.

26. Respondent failed to rebut the presumption of undue influence. Instead, the record is replete with information which belies Mrs. Coleman's intent. First, Respondent contends Mrs. Coleman always intended to give her the property and in fact did so in 2003, but that the instrument was never recorded because she lost it. However, according to her testimony, Respondent was close with Mrs. Coleman and they do everything together. Accordingly, if it was Mrs. Coleman's intent to transfer the property, she very easily could have done so in the eleven years since she purportedly executed an instrument removing her from the deed. Further, if Mrs. Coleman wished Respondent Irland to have the property in question, she would not have devised her interest in the two tracts to others under her 2008 Will.

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27. Undue influence invalidates a deed procured by wrongful influence exerted over the grantor so as to destroy free agency and constrain a person to act against his will. *Page v. Lewis*, 209 S.C. 212, 39 S.E.2d 787, 799 (1946 supra). It is not material how much control is exercised, whether by physical force, threats, importunities, or any other form of mental or physical coercion, provided that it was exerted to destroy or overcome the free will of the grantor and to make the deed executed the expression not of his purpose, but that of some other person. *Baynard v. Ulmer*, 153 S.C. 100, 150 S.E. 610, 611 (1929).
28. The evidence supports a finding that Mrs. Coleman did not wish to have the property transferred to Respondent Irland, yet the undue influence exerted over Mrs Coleman by Respondent Irland was such that Mrs. Coleman's will was overcome and she nevertheless acquiesced and executed the deeds on October 28, 2014.
29. Due to Ms. Irland's breach of fiduciary duty to Mrs. Coleman, Mrs. Coleman is entitled to an award of damages against Ms. Irland.
30. Pursuant to S.C. Code of Laws Ann. Section 62-1-111, this Court may, as justice and equity require, award costs and expenses, including reasonable attorney's fees, to any party to be paid by another party or from the estate that is the subject of the controversy. Accordingly, Respondent Irland's willful and zealous pursuit of this property and steadfast refusal to deed the property back to her mother despite her supposed commitment to her mother's well-being, warrant this measure. As such, all costs associated with this action will be assessed against Respondent Irland to include reasonable attorneys' fees.
31. This Court finds no fault in Dr. Rubano not issuing an opinion in 2012 as to Mrs. Coleman's lack of capacity or susceptibility to influence, which would have arguably prevented this matter from arising, because she was not asked to do so by Mrs. Coleman, the Court, or any person

authorized to inquire or request such a finding from Dr. Rubano.

32. Furthermore, this Court finds no fault in Mr. Williams closing the subject transaction on October 28, 2014, which would have arguably prevented this matter from arising, because he did not know, nor have reason to know of the events that transpired at the Firm and/or Dr. Rubano's treatment of Mrs. Coleman.

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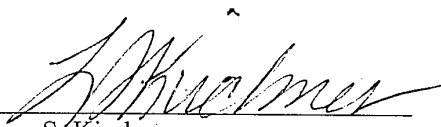
Based on the foregoing, it is hereby:

**ORDERED, ADJUDGED AND DECREED** the subject deeds are rescinded as Mrs. Coleman lacked the requisite capacity on October 28, 2014 to execute said deeds; it is further

**ORDERED, ADJUDGED AND DECREED** the subject deeds are the product of undue influence exercised by Respondent Irland over Mrs. Coleman; it is further

**ORDERED, ADJUDGED AND DECREED** that Respondent Irland will be assessed the costs and expenses associated with this action, including reasonable attorneys' fees, once approved by the Court.

**AND IT IS SO ORDERED.**

  
Lenna S. Kirchner  
Associate Judge of Probate  
Charleston County

*29<sup>th</sup>*  
day of June, 2017  
Charleston, South Carolina

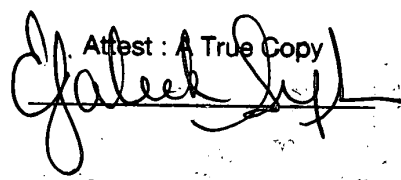
Attest: A True Copy  
  
Clerk Probate Court  
Charleston County, South Carolina

EXHIBIT I  
to  
Respondent's Reply

# The South Carolina Court of Appeals

IN RE: Matter of Dolly Dimples Legare Coleman,  
through her conservator W. Ashley Thiem, Respondent,

v.

Athena Irland, Isadore Psaras, Brandy S. Culp, and  
Christina Culp, Defendants,

Of whom Athena Irland is the Appellant.

Appellate Case No. 2017-001624

The Honorable Lenna S. Kirchner  
Charleston County  
Trial Court Case No. 2014GC1000210

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## ORDER

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Appellant has failed to provide proof that the parties consented in writing or on the record to appeal directly to the Court of Appeals, as set forth in S.C. Code Ann. §62-1-308(1) (Supp. 2016), and letter of this Court dated August 2, 2017. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy  
CLERK

Columbia, South Carolina  
cc:  
Joseph Dawson, III, Esquire  
Irish Ryan Neville, Esquire

**FILED**

August 22, 2017

EXHIBIT J  
to  
Respondent's Reply

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

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Appeal From Charleston County  
Court Of Common Pleas

Bently Price Circuit Court Judge

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Case No. 2023-001852

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Athena Irland

Appellant

v.

Brandy S. Culp

Respondent

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INITIAL BRIEF OF APPELLANT

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Athena Irland  
186 Dolly Dimples Trail  
Huger, SC 29450  
(843) 697-3631

**RECEIVED**  
MAR 27 2024  
SC Court of Appeals

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TABLE OF AUTHORITIES  
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3. Noblin v. Burgess  
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6. Hembree v Estate of Hembree  
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311 S.C. 192 (S.C. Ct. App. 1993)
7. Church v Trotter  
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278 S.C. 504 (SC 1983)
8. Thompson v Moore  
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227 S.C. 417 (S.C. 1955)
9. Verdery v Daniels (In re Thames)  
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344 SC 564, 544 (Ct App. 2001)
10. Dixon v Dixon  
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362 S.C. 388 (S.C. 2005)
11. Calhoun v Calhoun  
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277 S.C. 527 (S.C. 1982)

12. Hairston v In re Estate of Normall O. Hudson  
SC Court of Appeals Opinion #4657 (S.C. 2010)
13. Haines v Kerner U.S., 404 U.S. 519 (1972)

14. Testamentary Capacity

Jonathan Raub, MD, MPH,  
Fellow in Forensic Psychiatry

J. Richard Ciccone, MD  
Professor of Psychiatry and Law Program  
University of Rochester Medical Center, Rochester, NY

## STATEMENT OF ISSUES ON APPEAL

1. Judge Bently Price seemed confused as to the subject matter before the court on September 27, 2023.
2. Order dated September 13, 2023 Judge Bently Price reversed his decision granting the Appeal and ruled in favor of the Respondent dismissed Appellant's instead of gathering evidence supporting his original ruling granting the Appeal as instructed by the Supreme Court.
3. The Circuit erred in allowing arguments for motions during the hearing on September 27, 2023 not entered into evidence at the first hearing on October 27, 2022.
4. The Order issued by the Probate Court dated the 13<sup>th</sup> day of July 2022 signed by Lenna S. Kirchner is invalid pursuant to Section 14-23-1120.

## STATEMENT OF THE CASE

Before the court was the issue of Judge Price's Order dated July 14, 2023 (Appendix A) wherein he denied Petitioner's (Brandi Culp) motion to reconsider the circuit court's denial of Petitioner's motion to dismiss Respondant's (Athena Irland) appeal from Probate Court. In that same order, Judge Price granted Respondant's Petition for a rehearing.

However, Judge Price began the proceedings by asking, "All right, specifically, what motions are outstanding that need to be ruled on?" When, in fact, there were no motions before the court. The subject matter before the court was an Order from The Supreme Court of South Carolina (Appendix B) wherein Judge Price was directed to convene a hearing to, "consider all issues properly before the circuit court." Instead Judge Price argued that he had already ruled on Petitioner's motion (Transcript of Record September 27, 2023. (Appendix C) , pg.2 lines 9-11, pg3. lines 2-4, pg.4 lines 18-22) and was very agitated that he had to repeat himself in hearing a case that he had already ruled on. It seemed as though Judge Price was reinforcing the correctness his ruling. The fact is that Judge Price was not being asked to make a ruling, he was being told by the Supreme Court to support his existing ruling. Instead, it seems Judge Price was trying to shift blame of his failure to adequately perform his duties as a judge ( possibly contributing to his being deemed unqualified according to a report released October 6, 2023 from the South Carolina Bar). Pg.5, lines 16-23 of the same transcript illustrates Judge Price's frustration of opposing counsel petitioning the Supreme Court to get an answer supporting his ruling.

Opposing counsel (Mr. Sanchez) went on to misrepresent facts in the case claiming Ms. Irland failed to follow procedures required for an appeal (pg8. lines 1-25, pg.9 lines 1-13). Keeping in mind Haines v. Kerner where pro se litigants are afforded some leeway in court proceedings, the record will show that Ms. Irland did, in fact follow correct procedure. Though it may not be recognized as such Ms. Irland filed a notice of appeal with a statement of issues and notices on July 22, 2022 (Appendix D).

## STATEMENT OF FACTS

I, Athena Irland, am the youngest child of the decedent Dolly Coleman. Dolly Coleman lived solely with me at 186 Dolly Dimples Trail Huger, SC 29450 for approximately 10 years. Parcels of land measuring 38 acres and 1 acre were purchased by me in 1995. Included on the Deed was my husband at the time, Daniel Irland, and my mom Dolly Coleman.

In 1997 Dolly Coleman purchased an additional parcel of land measuring 33 acres. Collectively, the three parcels of land are referred to as “the property” located in Berkeley County.

Since 1995 I, Athena Irland, have lived on the the property, uncontested, managing a farm including but not limited to cows, goats, horses, and chickens. I fenced in the entire property.

Isadore John Psaras testified that the home he lived in on Palmeto St. In Mt. Pleasant was given to him by Dolly Coleman in 2008. He also testified that it was his understanding that Ms. Coleman intended to give me her interest in “the property”.

Even though Dr. Judith Rubano diagnosed Ms. Coleman with short term memory loss, she placed no restrictions on her and testified that her long term memory remained intact. Dr. Rubano also testified that she had no reason to believe that Ms. Irland was taking advantage of or otherwise abused, neglected or exploited.

## ARGUMENTS

Transcript of Motion October 27, 2022 Court of Common Pleas Case# 2022-CP-10-03304

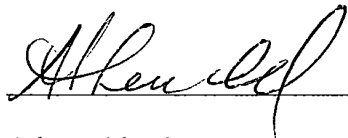
1. Pg. 4 line 25, pg 5 lines 1-6 are untrue statements by opposing counsel and does not apply.
2. Pg. 5 lines 14-20. 2 deeds were at issue. One deed transferred to me, Athena Irland. Another deed was to be transferred after the death of Dolly Coleman, my mother. I had absolutely no influence in her decision to transfer any property. I took her to the office of Attorney Jack Williams, whose services she had used before. I left the two of them to conduct business in private. When I returned to pick up my mom, Mr Williams invited me into a conference room where I was first informed of what was decided.
3. Pg. 5 lines 6-20. South Carolina has defined contractual capacity as a person's ability to understand at the time the contract is executed. A mere infirmity of mind, if it does not amount to an incapacity to understand at the time of execution of a contract, the nature of the act done and the effect thereof, does not render a person incapable of executing a valid and binding contract.  
Verdery v Daniels (In re Thames) 344 S.C. 564. (Ct App. 2001)
4. Pg. 5 lines 16-22. Dr. J. Rubano had not seen Dolly Coleman as a patient for two and a half years. She based her opinion on what she believed to be the natural progression of the disease. No restrictions were placed on Ms. Coleman. Dr. Rubano stated that her short term memory was affected, not her long term memory; her long term memory was intact. Attorney Jack Williams testified that he observed nothing about Ms. Coleman gave him concern about her state of mind or mental capacity. It was made clear that I did not accompany my mom, Dolly Coleman, during her consult with Attorney Jack Williams wherein she conveyed 1/3 interest in the 38 acre parcel and a retention of a life estate in the 33 acre parcel.

5. Pg. 5 lines 21-22. The law was misapplied when Athena Irland was accused of exercising undue influence over Dolly Coleman regarding the properties and the 2009 will. There is no evidence on record to support this accusation. Athena Irland was not present during Ms. Coleman's meetings with Attorney Jack Williams or Attorney Lynn McCants.
6. Pg.5 line 25, pg.6 lines 1-3. Opposing counsel, Sanchez, mislead the court when he claims I did not file an appeal in time. He knew my attorney at the time, Joseph Dawson filed in the wrong court causing it to be dismissed. Mr. Dawson then filed in the correct court but it was too late and subsequently denied under Section 62-1-308(a)
7. Pg.7 lines 9-25. False premises, conjecture and baseless facts. The testamentary capacity of a person making contractual decision is quite different from executing a Will or destroying one. The testamentary capacity referring to an individual's ability to make or destroy a Will and the testator is presumed competent until proven otherwise. In the matter of The Estate of Berg 783 N.W. 2d 831 (S.D. 2010)
8. Pg.8 lines 6-18. All parties involved were served. Judge Bently Price was given evidence of the following:
  - A) Settlement Agreement reached at Mediation on March 16, 2020 between Brandi Culp, Christina Culp and Isadore John Psaras.
  - B) Letter (dated April 8, 2021) from Attorney David Michael stating that the Order from the Court reiterates that said Settlement be followed.
  - C) Order to Approve Settlement Agreement reached at mediation Case # 2019-ES-10-1368 by Probate Judge Lenna Kirchner, March 22, 2021. (Courts closed due to covid crisis)
9. Pg.9 lines 17-25. Though I am not an attorney, I did take steps, to the best of my ability, to follow applicable court rules in filing a Notice of Appeal and gave proper notice of service and am given some leeway in this matter according to Haines v

Kerner U.S. 404 U.S. 519 (1972) wherein the U.S. Supreme ruled that a Pro Se litigant is held to less stringent standards than formal pleadings drafted by lawyers.

## CONCLUSION

Therefore, Appellant respectfully moves the court to vacate the order issued on July 13 2023. and remand the entire case back to the Probate Court for a rehearing. Or, in the alternative, grant my appeal as initially granted on November 11, 2022.



3-25-2024

Athena Irland  
186 Dolly Dimples Trail  
Huger, SC 29450  
(843) 697-3631

Date

SOUTH CAROLINA COURT OF APPEALS

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Case No.2023-001852  
Hon. Bently Price

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SC Court of Appeals

Athena Irland

Appellant

V

Brandy Culp

Respondent

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Certificate of Counsel  
Pro Se Litigant

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I certify that all paperwork of Initial Brief is relevant to the appeal.

*Athena Irland* 3/25/2024

Athena Irland, Appellant  
186 Dolly Dimples Trl.  
Huger, SC 29450  
(843) 697-3631

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

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INITIAL BRIEF OF APPELLANT  
Appellate Court

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Case No. 2023-001852

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Athena Irland

Appellant

V.

Brandy S. Culp

Respondent

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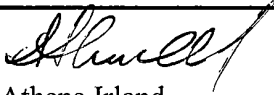
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I certify that I have served the Attorneys for the Respondent an Initial Brief Of Appellant. Copy sent through US Post Office on March 25, 2024



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(843)577-6531 attorneys  
For Brandy Culp

  
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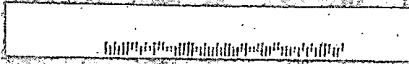
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**May 09 2024**

**SC Court of Appeals**

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Bentley D. Price  
Circuit Court Judge

Appellate Case No. 2023-001852

Athena Irland, Appellant,

v.

Brandy S. Culp, Respondent.

**PROOF OF SERVICE**

I, the undersigned, certify that I have served Respondent Brandy Culp's *Reply to Appellant's Return to Motion to Dismiss* and *Exhibits* on all *Pro Se* parties to this Appeal via United States Certified Mail, postage prepaid, on May 10, 2024, at the addresses set forth below.

Parties Served:

Athena L. Irland  
186 Dolly Dimples Trail  
Huger, SC 29450  
***Pro Se Respondent***

Christina D. Culp  
198 Lower Cherokee Road  
Neeses, SC 29107 Isadore  
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John Psaras  
1586 Hidden Bridge Drive  
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Respectfully submitted,

THE LAW OFFICE OF JESSE SANCHEZ, LLC

s/Jesse Sanchez  
Jesse Sanchez, Esquire (SC Bar No. 101906)  
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Mount Pleasant, SC 29464  
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**ATTORNEY FOR RESPONDENT BRANDY S. CULP**

May 10, 2024  
Mount Pleasant, South Carolina

**From:** DoNotReply@ereceipt.usps.gov  
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The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Senate Street  
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MAY 09 2024

SC Court of Appeals

RE: Athena Irland, Appellant v. Brandy S. Culp, Respondent  
App. Case No. 2023-001852

Dear Ms. Kitchings:

Enclosed for filing, please find the following:

1. Respondent Brandy S. Culp's Reply to Respondent's Return to Motion to Dismiss;
2. Separately-filed Exhibits to the Reply;
3. And Proof of Service, evidencing service on all parties of record.

Thank you for your assistance with this matter. Should you have any questions or wish to discuss the filing, please do not hesitate to contact me directly.

Sincerely,

s/Jesse Sanchez

Jesse Sanchez (SC Bar No. 101906)

Enclosures (as stated)

Cc: Daniel S. Slotchiver, Esq.  
Stephen M. Slotchiver, Esq.  
Athena L. Irland  
Christina D. Culp  
Isadore John Psaras