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THE STATE OF SOUTH CAROLINA
In the Court of
Appeals

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APPEAL FROM MARION COUNTY
COURT OF COMMON PLEAS

H. Steven DeBerry, IV, Circuit Court Judge

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Case No. 2023-CP-33-00472

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Angela D. Young, as Personal Representative for the Estate of Chellie Nixon, Appellant,

v.

Carolyn Johnson, as Personal Representative for the Estate of Samuel L. Davis, Respondent.

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**RECORD ON APPEAL**

**Volume 3 of 3**

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## CERTIFICATE OF APPELLANT

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

July 26, 2024

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| **STATE OF SOUTH CAROLINA** | ) | **IN THE COURT OF COMMON PLEAS** |
| **COUNTY OF MARION** | ) | **2023-CP-33-00472** |
| IN RE:<br>APPEAL FROM PROBATE<br>COURT FOR MARION COUNTY<br>2017-ES-33-00099<br><br>ANGELA D. YOUNG, AS<br>PERSONAL REPRESENTATIVE<br>FOR THE ESTATE OF<br>CHELLIE NIXON,<br><br>Appellant,<br><br>vs.<br><br>CAROLYN JOHNSON, AS<br>PERSONAL REPRESENTATIVE<br>FOR THE ESTATE OF<br>SAMUEL L. DAVIS,<br><br>Respondent. | ) | **Transcript of Record**<br>January 29, 2024 |

**B E F O R E:**

Honorable H. Steven DeBerry, IV
Marion County Courthouse
Marion, South Carolina

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**Circuit Court Reporter**

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(No exhibits were marked or admitted.)

**JANUARY 29, 2024**

**ON THE RECORD - 10:45 A.M.**

ARGUMENTS OF COUNSEL

THE COURT: All right. So, this is 23-CP-33-472, Angela Young and others versus Carolyn Johnson. Is that right?

MR. BUTLER: That's correct, Your Honor.

THE COURT: All right. And this is a Probate Court appeal? Is that right?

MR. BUTLER: It is an appeal from Probate Court, yes, Your Honor.

THE COURT: All right. And we've got Mr. Payne -- and is it Mr. Butler?

MR. BUTLER: Yes, it is. Thank you.

THE COURT: Okay. All right. I've been provided with the Court's file. It's quite voluminous, but I will be happy to hear from you and see how far we can get as far as what we need to know.

MR. BUTLER: Sounds good.

May it please the Court?

THE COURT: Yes, sir.

MR. BUTLER: Your Honor, my name is Danny Butler. I represent the appellant in this case, who is also the petitioner in the underlying case in Probate Court.

As the court noted, there are a substantial number of documents involved in this case. The record on appeal

reflects four deposition transcripts, three orders, three motions, three affidavits. So, there was extensive testimony and evidence that have been submitted to the parties in this case.

And just a short administrative history, I became involved in this case back in 2021 when the summons and complaint was first filed. However, the case was pending, I think, since 2017 beforehand. So, this case has been pending for a very long time. The complaint was originally filed in November 2021, and it asserts two causes of action. One for a declaratory judgment, regarding the ownership of a funeral home that operates out of Hartsville, South Carolina. And a claim for fraud, again, some -- an individual who has since passed away who represented that he was the sole owner of the funeral home. In this matter, dealing with the motion for summary judgment that was filed by the respondent on November 2022. A hearing was held six months later in June, and at which time the Court after hearing all the evidence did grant an order for summary judgment. Of course, we went through the process of filing a motion for reconsideration, which was denied on August 9th, 2023. At that time, we filed a notice of intent to appeal with the Circuit Court.

THE COURT: So, just for clarity, so we're here for the granting of a summary judgment -- appealing the granting of summary judgment motion for the fraud and for the declaratory

judgment of the ownership; is that right?

MR. BUTLER: That's correct. The order dismissed all claims. It was issued by Judge T. Carroll Atkinson, Probate Court Judge.

THE COURT: All right.

MR. BUTLER: And, Your Honor, I won't belabor the Court with the standards of summary judgment. I just wanted to highlight the importance principles in granting a motion for summary judgment. First and foremost, as the Appellate Court, you have the right to review the granting of a summary judgment under the same standard applied to Trial Court. And, Your Honor, as the Court is well aware, the declaratory judgment action requires preponderance of evidence. So, based on that, in order to withstand a motion for summary judgment, all the nonmoving party has to prove is a preponderance of the evidence standard. And so, it only requires that a mere scintilla of evidence that a genuine issue of material fact exists. And of course, as the Court is well aware, a scintilla of evidence is a very little burden. And I want to point the Court, again, to the extensive records of affidavits and depositions reflected the amount of evidence that is submitted related to the issues in this case. But, what's even more important, Your Honor, is summary judgment is not appropriate when further inquiry to the facts of the case is desirable to clarify the application of the law. Once I get

into the details or the facts, you will see why that's very relevant in this case.

THE COURT: All right. Let me ask one question before we get out of the gate here. Why -- this is a funeral home that was in Hartsville?

MR. BUTLER: That's correct.

THE COURT: Then why are we here? Why are we in Marion?

MR. BUTLER: I'm not quite sure how we got to Marion, but the original Probate Court matter was started, I think, in Marion County. I'm not even quite sure. But the appeal was made directly to this Court, so ---

THE COURT: Okay. Well, I mean, I understand it's Judge -- Judge Atkinson is here in Marion. I was just curious. I didn't know.

MR. BUTLER: The issues on appeal are as follows, Your Honor. Whether the Probate Court erred in granting a motion for summary judgment when the Court failed to consider or even reference the numerous substantive evidence submitted at the hearing of the motion.

Number two, whether the appellant did in fact present a scintilla of evidence that genuine issues of material fact did exist after the following issues of fact. Number one, whether Chellie Nixon was deceased, did in fact cause 35 percent interest in the funeral home to be assigned or transferred to Samual L. Davis for no consideration. That's one of the

issues at issue in this case. The other one is whether Samuel L. Davis did in fact purchase from Chellie Nixon the remaining 65 percent interest in the funeral home for the sum of 65,000, and I'll present to you the evidence that was presented at the hearing as to why there's a dispute on that issue.

And, finally, whether the respondent was entitled to a judgment as a matter of law on the issue of ownership when the following circumstances existed. One, there was no dispute that my client Chellie Nixon was the sole intestate heir to her parents' estates. They were the ones who originally formed the funeral home. There exists no document signed by Ms. Chellie Nixon transferring or assigning her interest in the funeral home to the respondent. And there existed substantial evidence which was presented to the Probate Court Judge that actually contradicted a number of representations made by Mr. Samuel Davis regarding the initial gift of 35 percent to himself as well as the subsequent purchase of the remaining 65 percent.

And, also, Your Honor, what I think is very relevant and not even mentioned in the Court's order from the Probate Court was the fact that there was hundreds of thousands of pages of financial documents and other documents that were destroyed, intentionally destroyed during the pendency of this action that included or may have included documents relevant to the issues.

Just a statement of facts, Young & Young Funeral Home, which is the funeral home at issue, was originally formed back in 1970s by Harold Dale Young and his spouse, Dorothy. Now, they didn't have a legal entity, so they operated a proprietorship. The real estate and the building upon which they operating -- the funeral home operated was owned by them personally, operated in Hartsville, and has operated in the same location since the 1970s. The defendant, Samuel L. Davis, who has just died, he was alive when this lawsuit first started. He was previously employed by the funeral home back at its inception and had been employed by the funeral home until his death in 2022. During that time, he became the funeral director, and he took over operations and the day-to-day operations of the funeral home. Well, Harold Young, the original proprietor, he died in December of 1978, and his wife died about three weeks later. Now, there's no probate estate open for Harold L. Young, but he did have a will that left everything to his spouse. Now, Ms. Dorothy Young, she died, like I said, three weeks later on January 16th, and the only surviving heir was Chellie Nixon, my client. There is no dispute on either side that she was the sole heir to the estate. So, at the least, based on the probate code intestate statute, as of the date of death of Doroty Young, my client, Chellie Nixon was the sole owner of the funeral home, right? So, there was a probate estate opened for Dorothy Young. And

ironically, the co-personal representatives were Chellie Nixon, my client, and Samuel Davis. Now, April 1979, during the pendency of that estate, there were articles of incorporation that were filed with the Secretary of State to form a company called Young & Young Funeral Home, Inc. And the original incorporators were both Chellie and Sam Davis. And again, this was done during the pendency of that estate.

THE COURT: And tell me -- I'm sorry, who -- Chellie and Sam Davis's relationship.

MR. BUTLER: So, Chellie Nixon is the sole daughter of Harold and Dorothy Young, the original -- they originally formed the funeral home. Samuel Davis was an employee, and he's a respondent in this case.

THE COURT: Okay.

MR. BUTLER: Now, shortly after they formed the company -- and remember Your Honor before this, the Youngs operated the funeral home as a proprietorship. So, there was a formal legal entity that was formed, Young & Young Funeral Home, Inc.

It was Chellie Nixon and Sam Davis were the incorporators. Now, at the time I became involved in this lawsuit there had been a pending discovery going between the parties, and there were no corporate documents presented at that time. In fact, corporate documents for this entity had not been produced until sometime in 2022, a year after the lawsuit started, and more than five years after a subpoena was

issued for the production of those documents.

Several months after that company was formed, my client Chellie Nixon, because she inherited the real estate and building, she transferred title of those properties over to the corporation. So now, the corporation owns the building that they've been operating on. And finally, the estate was opened -- closed in September of 1980.

Now, this leads us to the death of my client. She died intestate in February of 2017. And at that time, she was survived by a spouse and five children. Of course, because she had no will, she died intestate, so the heirs to her estate will be her spouse and their five kids.

Now, an estate was opened for Chellie Nixon in Marion County, April 2017. Now, the sole asset of the estate is her interest in the funeral home; that's the sole asset. Her son, Harold L. Young, II was appointed as personal representative. And shortly after he was appointed, he goes up to Sam Davis to get information about the funeral home because he needed it to administer the estate. At that time, Samuel Davis, for the first time to anybody's ears, represented to Harold Young that he was the sole owner of the funeral home and they had -- he had no rights to get any of the information for the funeral home. And so, during the pendency of Chellie Nixon's estate, a subpoena was issued to Samuel Davis. It's dated February 22nd, 2018. The subpoena sought all documents which

evidenced the transfer of ownership of Young & Young Funeral Home, Inc. to Samuel L. Davis or the current owners of Young & Young Funeral Home, Inc. And Mr. Davis did not respond to that subpoena. So, there was a rule to show cause that was filed October 19th, 2020. It was filed obviously for his failure to respond and speak. There was a hearing scheduled December 14th, 2020 on that rule to show cause.

Now, here's a very important part that, again, the Court doesn't even reference in his order. Shortly before the hearing date on the rule to show cause, sometime in maybe the first week in December 2020, Carolyn Johnson, who took over as a director or employee or manager of the funeral home, she ends up moving forward and destroying a number of documents that predated 2013. And just for the Court's information, the funeral home had a building behind it, and that's where it stored all of its corporate records, financial records, et cetera. She, along with two employees -- she actually instructed two employees to assist her in destroying documents that predated 2013. One of the employees' name was Latonia M. Davis, who was actually the daughter of Sammy Davis. And the other employee was Shirly Wooten Brewer (spelled phonetically), who was a current employee of the funeral home. Those three, if not more, took several days to destroy documents. In fact, they destroyed so many documents that they needed a van to take out all the documents that she

destroyed. This was weeks or days before this hearing on the rule to show cause.

Now, why is that so important in this case? In -- again, I'll get into the details later, but suffice it to say that Samual Davis indicated that he was gifted 35 percent from Chellie Nixon and the Young family. So, he said that during the period of time that he owned 35 percent, and she owned 65 percent. The funeral home was issuing net distributions to both of them based on a percentage interest. In that period of time from 1979 to 1982, and that should've been included in the documents that Ms. Karen Johnson intentionally destroyed or would've been. Also, there was a pending subpoena for documents relevant to the ownership issue at the time she destroyed the records. And there's three -- there's three parties here or three witnesses who all testified that the documents that were destroyed included financial information and actual general ledger sheets for the company. There was a lady named Earnestine Boston, who used to be married to Sammy Davis. She's testified that those documents included financial ledgers. Sammy Davis in his deposition admitted that the warehouse contained documents that contained financial information about the operations. Latonia Davis, his daughter, who also managed the corporate records and financial records for a good number of years, also testified in her affidavit that all those documents in the warehouse

would've included financial information about the funeral home. And my clients did not find out about the destruction of these documents until 2023. So, again, this was something that we did not know before this lawsuit was started.

Now, what are the general issues here? Well, first, Mr. Davis in his affidavit dated December 8, 2020, and it's in Tab 10 of the record of appeal. He stated that the Young family left me 35 percent interest in the business. Chellie was paid 65 percent of the net profits after the business in 1982. Now, we took the deposition of the funeral home CPA. Now, for the period of 1979 to 1982, he testified that he assisted with the preparation of the tax returns for the funeral home. And so, during his deposition, I asked him, I said, hey, do you recall any distributions being made to Chellie Nixon? He says, no. In fact, I have no clue who that is. I said, wait a minute, can you clarify? So, you have no clue who Chellie Nixon is, Chellie Davis, any variation of her name? Any Chellie at all? He said, no; I don't know who that is. And this is the CPA for the funeral home. And when you take into account Sammuel Davis's sworn testimony, they were receiving net distributions from the funeral home, it just didn't make sense.

Furthermore, the CPA said, well -- I asked him, I said, so who owns the funeral home? Well, from 1983, when I kind of took over as the main CPA, Sammy Davis was a hundred percent

owner. I said, well, okay. What do you base that on? He said because Sammy told me. I'm like, okay. Do you have a policy of requiring corroborating evidence to support that? He goes, no. So, I go, well, so you're telling me that you're putting on the tax return that he's the sole owner was based solely on what he told you? He goes, yeah. Is there any -- did you see any documents to support that? He goes, no, I just relied on what he told me. So, the tax records, which the respondent relies heavily on is based on information provided by Sammy Davis, who is the respondent in this case. And he also confirmed that there were no documents showing 65 percent net profits being distributed to Chellie Nixon.

Now, in the actual deposition of Sammy Davis, he goes into detail of how he came about being gifted the 35 percent. It was very interesting. First of all, he talks about a meeting that was held December 21st, 1979, in a room beside his office. Then he indicated that he, Senator Ed Saleeby, and -- were meeting, and he could overhear a conversation, and at that time he heard Harold Young saying, you know what, I'm gonna leave Sammy Davis 35 percent because he's a good employee. Now, of course, Harold Young dies shortly after that meeting. And so when I asked Sam during his deposition, did anything ever come about that conversation you overheard. Did he ever transfer you the 335 percent. He said, no, he never got to it.

And so, that leads me to some other witness testimony related to that 35 percent gift. First off, in the deposition of Earnestine Boston, again, that was the wife of Sammy Davis, she indicated her testimony that Sam was hurt and disappointed that Harold did not leave him any interest in the funeral home when he died. Quote, Sam did not get anything from the funeral home when Harold died. And during Sammy's deposition, he admitted that Chellie Nixon was the sole heir to the estate. So really, what that leads us to is this, the only way that Sammy Davis could've inherited any interest in the funeral home would've been after the death of Dorothy Young, after Chellie Nixon had already inherited the funeral home from him.

Now, what the respondent relies heavily on in this case is corporate records for the funeral home. What's important on those corporate documents are a couple of things. One, those weren't produced until sometime in 2022, years after this lawsuit was started, and years after a demand had been made to produce these. And suddenly, these came out of nowhere.

Number two, there is no shareholder agreement as part of those corporate documents. There's nothing signed by Chellie Nixon at all on any of these corporate documents. In fact, some of these documents had handwritten notes, and there's no identification of who wrote these notes on these corporate

documents, which included what looked like stock certificates. But nothing is signed by Chellie Nixon.

In fact, not only is any dispute on both sides, and during the deposition of Sammy Davis, he admits in his deposition that there's nothing, no document signed by Chellie Nixon transferring any interest she had in the funeral home to him. And that's with the tax returns, again, Sam admits that he was the only person that provided information to the CPA as ownership of the funeral home.

Now, that leads us to another part of the corporate documents produced, which was corporate minutes. Now, the corporate minutes was signed by someone called Earnestine Boston. Again, that's Sammy's wife. So, during her deposition, I asked her about the corporate minutes. I said, do you recall signing this document? She goes, no, I don't recall signing this document. And I said, well, you wouldn't have signed it unless it's true, correct? And she indicated, no, Sammy would just give me documents to sign, and I would sign it. I said, well, let's talk about the corporate minutes, because they reflect some important representations. I asked her, do you recall attending a meeting in which you, Sammy, and Chellie were present. Said, I don't remember that meeting. Well, do you remember the meeting where it was discussed that Sammy was gonna buy the 65 percent from Chellie? She goes, no, I don't remember that meeting. Well,

the meeting was held at Ed Saleeby's law office. Do you recall going to Ed Saleeby's law office for that meeting? No. I said, well, why did you sign this? Well, I don't know, because Sammy asked me to. I said, well, is it possible that no meetings were held at all? I literally asked that. And she goes, that's possible. I said, is $65,000 a significant amount or number that you would remember something like that? She goes, yeah, I would definitely remember that. And do you recall that number or that purchase transaction ever happening? I don't remember at all.

And so, these kind of issues go straight to the heart of the case, which is Sammy is representing that he was gifted 35 percent. He's representing he purchased the remaining 65 percent. We've got a number of testimony from non-interested parties contradicting those representations. And when you include that with the spoilation of evidence in this case, I believe, Your Honor, my client has at least met the burden of showing a scintilla of evidence that a genuine issue of fact exits.

Now, the important thing is to take out the inferences that can be garnered because of the disputed statements of fact. There's -- based on everything that we submitted to the Court here and it's set forth in our brief as well, Your Honor. There are genuine issues of fact regarding 35 percent and the 65 percent ownership. The corporate documents were

not produced until much later, four years after the original subpoena. This was produced after the destruction of all these thousands of pages of records. There's nothing signed by Chellie Nixon regarding any transfer of interest. The only documents that have been submitted to a court and relied upon the respondent's brief are documents signed by Sam. And also, documents based on information provided solely by Sam. There is no witness with personal knowledge about the actual corporate documents themselves other than Earnestine Boston, who testified that those things may not have occurred at all.

And so, the case of *Cole Vision Corps v. Hobbs*, it's a Supreme Court case, 394 S.C. 144, it dealt with the issue of the effect of spoilation. And it says, the effect of the doctrine of spoilation, when applied in a defensive manner, is to allow the defendant to exculpate itself from liability, because the plaintiff has barred it from obtaining evidence. So, the inference that the documents -- the inference that can be garnered from the destruction of these documents can only be that they either contain information beneficial to my client's case or at least be contradicted or was detrimental to the respondent's case.

And so, at the end of the day, Your Honor, in summary, I know that's a lot of facts. This is a very long case. I left out a lot of details that are provided in my brief and, also, that was argued at the actual hearing on the motion. In

summary, there exists substantial evidence presented at the motion for summary judgment. There is a number of deposition transcripts, a number of affidavits, all of which is part of this record on appeal. All the evidence presented dealt with the issue of ownership, which is the genuine issue of material fact in this case. All of these issues were in the memorandum submitted to the Court prior to the prior motion for summary judgment hearing. And what's really -- I just don't understand why the order granting summary judgment does not even mention or reference most of the evidence presented at the hearing, including the spoilation of evidence; the lack of documentation signed by Chellie Nixon; the corporate documents and minutes created by Sam Davis, who is an interested party; testimony of others contradicting Sam Davis's representations; and testimony of others that there is no corroborating evidence that Sam actually owns any part of the funeral home. The order simply accepts as true the information contained in the corporate documents and the corporate minutes. We've got the deposition of Earnestine Boston that says those things never happened or may not have happened at all. And, of course, we've got the deposition of the transcript -- I'm sorry -- the affidavit of Latonia Davis, who was Sammy's daughter who acknowledges that she spoke with her dad and that he indicated to her he was supposed to receive but never did.

And finally, the spoilation of evidence, I think, is of

upmost importance in this case. The financial statements from 1979 to 1982 would've been directly relevant to the issue of ownership because they would have evidenced any net distributions being made to the current owners. They would have evidence of the $65,000 loan that Sammy Davis said he procured to purchase the 65 percent interest. The balance sheet, financial documents, principal and interest payment, all that would've been included in the corporate and financial records.

So, at the very least, Your Honor, based on all the evidence submitted at the hearing, and I'm representing to you today there is at least a mere scintilla of evidence here to show genuine issues of fact do exist as to the ownership of the funeral home. As such, we're requesting that the Court reverse the order of the Probate Court and remand it for a hearing on this case.

THE COURT: All right. Let me ask you one question I have. Did -- is it Mixon or Nixon?

MR. BUTLER: Nixon.

THE COURT: Nixon. Did she ever receive or is there any evidence that she ever received disbursements that would be her 65 percent over the years or ---

MR. BUTLER: No, Your Honor.

THE COURT: She never got any money at all?

MR. BUTLER: There's no evidence that she received

anything throughout the years.

THE COURT: Okay. All right.

Mr. Payne?

MR. PAYNE: While you're mentioning that, it's interesting, too, one of their affidavits is from Ms. Latonia Davis, and she says, you know -- this is Tab 12, Paragraph 11 -- from 1995 through 2021, I've never seen a check, nor any evidence of payment made to Chellie Nixon from the funeral home.

This case is like one I've never seen in 33 years of practicing law. And I tell you, I've let him go on and on and on on a fishing expedition, and we've spent thousands of dollars on this case based on a mother, who is now deceased, who did nothing for 35 years to claim any kind of ownership in Young & Young Funeral Home, Inc., which is a corporation. She did nothing; no letters, no complaints, nothing. They haven't produced one thing which she's ever saying, God, give me my money; I'm the owner of this business. And instead, we've got five kids, after her death, who showed up and said, you know what, I think Mama still owns some of that company. Like, what are you talking about? You're talking about -- she sold it in 1982, 40 years ago. We're having to come up with stuff. You know, oh, your spoilation of evidence. They sent a -- he didn't even send it -- Robert E. Lee sent a subpoena out, give me some ownership records. The stock book, which you've got

right here, which he's got. He's had it the whole time he's had this lawsuit file. They sent discovery, I sent him copies of this stuff.

THE COURT: The stock book indicates the sale?

MR. PAYNE: Yes. It's got the minutes in it. He's even had some document expert to see if it was forged or not. Mr. Saleeby has got -- had the book the whole time. He was -- Robert Lee was fighting -- not fighting but corresponding with the Saleeby Law Firm over it. And if you look at Tab 11, which is the affidavit of Carolyn Johnson, the stock book contents are attached to that particular tab. You'll see the articles showing where Sam and Ms. Nixon -- I think she was called Mac back then, she -- they created the company in 1979. And then there's the stock ledger. It shows Certificate 1 going out for 35 shares, Certificate 2 going out to Chellie for 65 shares, Certificate 3 to Sam for 65 in 1982, when he bought her shares. The next exhibit are the minutes. They had a meeting, they said she'd lost her certificate, he bought her 65 shares for 82 -- or let me see what the amount was -- $65,000 is what he bought them for. The minutes are in there. There's original signatures on it. Ms. Earnestine Davis, his wife at the time, signed it. We deposed her and she said, yes, it looks like my signature. Do I remember a meeting 40 years ago; I don't know about what happened 40 years ago. But she said that looked like her signature on it. He's had

document people look at it. I mean, this is absolutely insane.

So, they've come up now, the only thing he's got is some spoliation claim because they cleaned out decedent files out of a house. They keep a ledger, and it's got the decedent's name. It's got the obituary. All this garbage is in their storage, and they clean it out. There's no order that says you've got to keep every single piece of paper for the rest -- while we're in some litigation. They cleaned out these ledger sheets, they've got the stock book.

Now, he keeps mentioning scintilla of evidence. That's not the standard. Okay? They just had the new case *Kitchen Planners* case that clarified all that stuff. It's got to be if the evidence before the Court shows that there's no genuine issue of -- as to any material fact, and that the moving party is entitled to a judgment as a matter of law. And that's what Judge Atkinson is like, well, this isn't really complicated. You keep wanting to -- all this stuff, but where is the evidence that she still owns 65 shares in this corporation that she sold in 1982. They haven't found it, none of it.

So, what do we have is the question. The corporate book, we welcome to let you look at that. But, Your Honor, also, the corporate accountant, Peyton Warren -- all right. Peyton handled the tax return and the bookkeeping by himself since 1984. Okay. Prior to that time, he worked for different

companies that were working on the tax returns for Young & Young. But since '84, he's been the sole accountant. Number one, never even heard of Chellie Nixon. She ever ask you for dividend checks? But he'd never heard of her. He had in his records -- the last five returns that he did was what we call Schedule G. And under penalty of perjury, they submit this as part of the tax return every year. Well, lo and behold, who is the sole shareholder listed there at 100 percent, Sam Davis. Been there for three -- three of the five years he could find from '13 to '18. He said, those are the ones I have, always been. Not only there, he said he's -- every return I've ever done, Sam Davis was a hundred percent. No doubt in your mind? No.

So, here we are with the accountant who has been doing the -- up until 2018. They've got the corporate records. I mean, what else can you come up with to show somebody that he's been the sole owner and running this -- been running this funeral home and been the sole owner of it.

So, we certainly think -- I didn't have the burden of proof in the case, but I've kept digging to show. This is kind of a hard thing to disprove when somebody decides out of the blue, says, well, I'm an owner of that company. Well, how? Why? Just tell us. I think Mama owned it back 40 years ago.

So, they have the burden of proof; we don't. I think

we've shown clearly here, I think Judge Atkinson agreed as well that there's just no issue here for anymore. Let's stop this nonsense, and be done with this. But here we are. We're appealing it. And so, I would ask that you affirm the Judge's decision. I don't think there is a genuine issue of material fact.

I thank you for your time.

THE COURT: All right, sir. Thank you.

Mr. Butler, anything in response?

MR. BUTLER: Just a few. May it please the Court?

Just to address all of the statements of Mr. Payne. He says, where is the evidence? Well, hundreds or thousands of documents that could've contained those documents or that evidence. And we weren't given the opportunity to even look through that. She just unilaterally decided to destroy them.

He mentions the decedent files. There's three interested parties who have personal knowledge of what records were kept. I mean, Sammy Davis in his own deposition said that it contained financial records. Earnestine Boston, she indicated there were financial ledgers. And Latonia Davis, who managed and stored documents for the funeral home, she testified that those contained corporate and financial documents. So, this whole thing about she was just cleaning up the files is disingenuous at best. It included financial records. Now, whether or not they would've evidenced my client wanting any

interest, if it shows it does it helps us. If it -- if there's no documents to support helps us as well. So, regardless of whether or not there are or not, it would've helped us in this case. But now, we have no opportunity to look into that issue.

As for the corporate book, I do want the Court to look at Tab 11 on the corporate stock certificates. If you take a look at it they're not signed. There's some sort of handwriting on there reflecting that the shares going to Sammy and the shares going to Chellie, but it's not signed. We don't know who wrote it. There's nothing signed by Chellie saying she's transferring her interest to Sam. And these are all self-produced documents from Sammy Davis, which based on, you know, affidavits and depositions that have been taken, there's contradictions as to what those records reflect. And so, at the very least, Your Honor, we've got genuine issues here. He wants to claim the corporate book says it all, and the deposition of the CPA is telling all and that's it. That's -- close the book. Well, no. The CPA said, no, I don't look to corroborate any evidence. What Sammy Davis tells me is what I put on the tax returns. If he tells me he's the sole owner, then I'm gonna put him on there as the sale owner. He signs off on it.

So, at the end of the day, there's genuine issues of dispute here as to ownership. And I think it's -- the

respondent coming in here and saying that there isn't is disingenuous at best, and at the very least we need to remand the case to at least hear the merits on the claims.

And for that, I'd respectfully request that the motion to rescind the judgment be overturned and the matter remanded.

THE COURT: All right. I understand.

MR. PAYNE: There is an order on this -- the spoliation request which came about after they had no evidence. And now we've got a claim somehow there would've been some evidence because we cleaned out the file room with deceased people's files in them. But anyway, there is an order where he addressed that, and we took some testimony, and you know, it's just -- there is nothing. I'm still waiting to see the evidence showing that they have that she was an owner. Like her tax returns, why can't they -- why couldn't they give us her tax returns showing where she was the owner or her checkbook showing where she got checks before. Yeah, she's -- not one. Not a bank statement, not a cancelled check, nothing. And we -- all this has gone on way too long.

THE COURT: I understand.

Mr. Butler, didn't you -- you indicated earlier that she never received any compensation or anything; is that right?

MR. BUTLER: That's correct, Your Honor.

THE COURT: Okay.

MR. BUTLER: It's -- yeah. Whether or not -- I mean why

she didn't do anything earlier, that we could never answer at this point, but you can see an affidavit from Angela Young there that it's always been family knowledge that she was the owner of the funeral home. And we presented evidence that she's an heir, an heir of Dorothy Young. That at least provides evidence that she was the sole heir to the funeral home. And now the burden shifts to their side to show how did you get Chellie's share after she inherited it?

THE COURT: But it's undisputed that at one point in the 70s they did the 35/65?

MR. BUTLER: No, that is in dispute.

THE COURT: Oh, that is in dispute?

MR. BUTLER: Yeah. And we didn't discover that until Harold's youngest son went to the funeral home to gather information. That was when he was told for the first time by Sammy that he owned the funeral home. So, we have no knowledge, or the kids had no knowledge. The only knowledge they had was Mama owned the funeral home. We're gonna go probate it. And Sammy says, no, I own it. And at that point, the lawsuit started shortly after.

THE COURT: All right.

BY THE COURT:

THE COURT: Well, I'll certainly take a look at everything. I want to read through that. And I understand that -- I've seen the new case. And so, you're telling me,

and I guess it's undisputed, that my review here as an appellate court in this situation is that it's preponderance of the evidence that there was no material issue or genuine issue of material fact to confirm basically or overturn the Probate Court's ruling that summary judgment was proper. So, it's basically the same standard that he had?

MR. BUTLER: That's correct, Your Honor.

THE COURT: Okay. I understand.

Anything further?

MR. BUTLER: Nothing from the appellant.

THE COURT: All right. Mr. Payne?

MR. PAYNE: Nothing more, Judge.

THE COURT: All right. Well, I appreciate it. I'll certainly let you know. Take a look at what's been filed and what's in the record here and let you know. Okay?

MR. PAYNE: Thank you, too.

MR. BUTLER: Thank you.

THE COURT: All right.

**ADJOURNED @ 11:27 A.M.**

# C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of Angela D. Young, et al. v. Carolyn Johnson, et al., held in the Court of Common Pleas for Marion County, Marion County Courthouse, Marion, South Carolina, on January 29, 2024.

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

Kay H. Richardson
Official Court Reporter

April 11, 2024.

| | |
|---|---|
| **STATE OF SOUTH CAROLINA** | **IN THE PROBATE COURT** |
| **COUNTY OF MARION** | **C/A # 2017-ES-33-00099** |
| In Re: Chellie Nixon | |
| Angela D. Young, as Personal Representative for the Estate of Chellie Nixon,<br><br>Plaintiff,<br><br>v.<br><br>Estate of Samuel L. Davis,<br><br>Defendant. | **AFFIDAVIT OF CAROLYN JOHNSON** |

Personally appeared before me the undersigned, having been duly sworn, deposes and says as follows:

1. I am the Personal Representative of the Estate of Samuel L. Davis and as such I am in charge of Young and Young Funeral Home, Inc. At his death, Samuel L. Davis ("Sam Davis") was the sole shareholder of Young and Young Funeral Home, Inc. and had been since March 19, 1982.

2. On April 9, 1979, Chellie Nixon f/k/a Chellie Young Mack and Sam Davis incorporated Young and Young Funeral Home, Inc. ("Corporation") which still operates a funeral home in Hartsville, South Carolina. (Exhibit A Articles of Incorporation)

3. Prior to April 1979, the funeral home had been unincorporated and was owned and operated by Harold and Dorothy Young. In 1979, Sam Davis owned 35 shares of the Corporation, while Chellie Nixon owned 65 shares. Exhibit B is a true and correct copy of the Corporation Stock Certificate Ledger.

4. On March 19, 1982, Chellie Nixon sold her 65 shares in the Corporation to Sam Davis for $65,000. On this date, Chellie Nixon and Sam Davis had a shareholder meeting at the Saleeby Law Firm in Hartsville to effectuate the sale of her shares. In addition to Shelley Mack, Ernestine Davis, Ed Saleeby, Jr. and Sam Davis were present at the meeting. Exhibit C is a true and correct copy of the Minutes of the meeting.

5. As is reflected in the Minutes, Chellie Nixon had misplaced her Share Certificate

No. 2 and a new Certificate No. 3 was issued to Sam Davis on March 19, 1982. I cannot locate Certificate No. 3, but the Share Certificate Ledger attached hereto as Exhibit A indicates that ~~Shelley~~ Chellie Mack's 65 shares were transferred to Sam Davis.

6. Since March 19, 1982, Sam Davis has been the sole shareholder of the Corporation. The Corporation's tax returns have indicated that Sam Davis was the sole shareholder since that time.

7. The Corporation's former accountant, Peyton Warren, CPA, was able to locate the Schedule G's from the Corporation's 2013 through 2018 tax returns. The Schedule G's attached hereto as Exhibit B are true and correct copies. The Schedule G's state that Sam Davis was the 100% shareholder of the Corporation.

8. Sam Davis has been the sole shareholder of the Corporation since March 19, 1982 and any allegations contained in the Plaintiff's Complaint that state otherwise are simply false.

FURTHER THE AFFIANT SAITH NOT.

Carolyn C. Johnson
CAROLYN JOHNSON

Sworn and subscribed to before me
this 7th day of November, 2022

Notary Public for South Carolina
Printed Name: Tyson Keon Brown
My Commission Expires: 10/05/2032

# SECRETARY OF STATE
# ARTICLES OF INCORPORATION

## OF

Young and Young Funeral Home, Inc.

For Use By The Secretary of State
File No. D3920
Fee Paid $15.00
R. N. 1548
Date 4-9-79

(File This Form in Duplicate Originals)

(Sect. 12-14.3 of 1962 Code)

This Space For Use By The Secretary of State

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1. The name of the proposed corporation is Young and Young Funeral Home, Inc.

2. The initial registered office of the corporation is 711 South Sixth Street (Street and Number) located in the city of Hartsville, county of Darlington and the State of South Carolina and the name of its initial registered agent at such address is Samuel L. Davis 711 South Sixth Street, Hartsville, S. C. 29550

3. The period of duration of the corporation shall be perpetual ( years).

4. The corporation is authorized to issue shares of stock as follows:

| Class of shares | Authorized No. of each class | Par Value |
|---|---|---|
| A | 100 | 10.00 |

If shares are divided into two or more classes or if any class of shares is divided into series within a class, the relative rights, preferences, and limitations of the shares of each class, and of each series within a class, are as follows:

5. Total authorized capital stock $1,000.00

6. It is represented that the corporation will not begin business until there has been paid into the corporation the minimum consideration for the issue of shares, which is $1,000.00 of which at least $500.00 is in cash.

7. The number of directors constituting the initial board of directors of the corporation is 2 and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify are.

| Name | Address |
|---|---|
| Samuel L. D[illegible] | 711 S. Sixth Street Hartsville, S. C. 29550 |
| Chellie Young Mack | 711 S. Sixth Street Hartsville, S. C. 29550 |
| | |
| | |

EXHIBIT A

8. The general nature of the business for which the corporation is organized is (it is not necessary to set forth in the purposes powers enumerated in Section 2.2) (12—12.2 Supplemental Code 1962)

Funeral Home and Flower Shop

9. Provisions which the incorporators elect to include in the articles of incorporation are as follows:

10. The name and address of each incorporator is.

| Name | Street & Box No | City | County | State |
|---|---|---|---|---|
| Samuel L. Davis | 711 S. Sixth Street, | Hartsville, | Darlington, | S. C. |
| Chellie Young Mack | 711 S. Sixth Street, | Hartsville, | Darlington, | S. C. |

Date

(Signature of Incorporator)

Samuel L. Davis
(Type or Print Name)

(Signature of Incorporator)

Chellie Young Mack
(Type or Print Name)

(Signature of Incorporator)

STATE OF SOUTH CAROLINA

COUNTY OF DARLINGTON

The undersigned Samuel L. Davis and Chellie Young Mack

do hereby certify that they are the incorporators of Young & Young Funeral Home corporation and are authorized to execute this certification, that each of the undersigned for himself does hereby further certify that he has read the foregoing document, understands the meaning and purport of the statements therein contained and the same are true to the best of his information and belief

(Signature of Incorporator)

Chellie Young Mack
(Signature of Incorporator)

(Signature of Incorporator)
(Each Incorporator Must Sign)

## CERTIFICATE OF ATTORNEY

I, I. John W. Bledsoe, III, an attorney licensed to practice in the State of South Carolina, certify that the corporation, to whose articles of incorporation this certificate is attached, has complied with the requirements of chapter 1 of the South Carolina Business Corporation Act of 1962, relating to the organization of corporations and that in my opinion the corporation is organized for a lawful purpose

Date (Signature)

John W. Bledsoe, III
(Type or Print Name)

Address P. O. Box 519

Hartsville, S. C. 29550

SCHEDULE OF FEES

(Payable at time of filing Articles of With Secretary of State)

| | |
|---|---|
| Fee for filing Articles | $ 5.00 |
| In addition to the above, $ 10 for each $1 thousand of the aggregate value of shares which the corporation is authorized to issue if in excess of one thousand | (Insert Amount) |

Date FEB 24 1994

CERTIFIED TO BE A TRUE AND CORRECT COPY AS TAKEN FROM AND COMPARED WITH THE ORIGINAL ON FILE IN THIS OFFICE.

SECRETARY OF STATE OF SOUTH CAROLINA

PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS: In ink, mark stamps with initials, day, month and year; make 3 parallel inclines lengthwise thru stamp at time of affixing. Stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness.

CERTIFICATE No. 1 FOR 35 SHARES

ISSUED TO

Samuel L. Davis

DATED 3-25 1980

RECEIVED CERTIFICATE No. _____ FOR _____ SHARES

THIS _____ DAY OF _____ 19__

Transfer From Original Issue

FROM WHOM TRANSFERRED:

DATED _____ 19__

| ORIGINAL CERTIFICATE NUMBER | NUMBER OF ORIGINAL SHARES | NUMBER OF SHARES TRANSFERRED |
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Transfer Details For Surrendered Certificates

| NEW CERTIFICATES ISSUED TO: | NUMBER OF SHARES TRANSFERRED | NUMBER OF NEW CERTIFICATES |
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PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS:
To tax, mark stamps with initials, day, month and year; make 3 parallel incisions lengthwise thru stamp at time of affixing. Stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness.

CERTIFICATE No. 2 FOR 65 SHARES

ISSUED TO

Chellie G. Mack

DATED 3-25 1980

RECEIVED CERTIFICATE No. _____ FOR _____ SHARES

THIS _____ DAY OF _____ 19____

Transfer From Original Issue

FROM WHOM TRANSFERRED:

DATED _____ 19____

| ORIGINAL CERTIFICATE NUMBER | NUMBER OF ORIGINAL SHARES | NUMBER OF SHARES TRANSFERRED |
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Transfer Details For Surrendered Certificates

| NEW CERTIFICATES ISSUED TO: | NUMBER OF SHARES TRANSFERRED | NUMBER OF NEW CERTIFICATES |
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PASTE CANCELLED CERTIFICATE IN THIS SPACE

PASTE REVENUE STAMPS FOR ORIGINAL ISSUE IN THIS SPACE

CANCELLATION OF STAMPS: In ink, mark stamps with initials, day, month and year; make 3 parallel incisions lengthwise thru stamp at time of affixing. Stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness.

CERTIFICATE No. 3 FOR 65 SHARES

ISSUED TO

Samuel L Davis

This certificate issued in replacement for Certificate #2 as a result of same being lost or misplaced.

DATED 1982.

RECEIVED CERTIFICATE No. 3 FOR 65 SHARES

THIS 19th DAY OF March 1982

Samuel L. Davis

Transfer From Original Issue

FROM WHOM TRANSFERRED:

DATED 19

| ORIGINAL CERTIFICATE NUMBER | NUMBER OF ORIGINAL SHARES | NUMBER OF SHARES TRANSFERRED |
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Transfer Details For Surrendered Certificates

| NEW CERTIFICATES ISSUED TO: | NUMBER OF SHARES TRANSFERRED | NUMBER OF NEW CERTIFICATES |
|---|---|---|
| Samuel L. Davis | 65 | 3 |
| | | |
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MINUTES OF THE SPECIAL MEETING OF DIRECTORS

of

YOUNG AND YOUNG FUNERAL HOME, INC.

The special meeting of directors of the corporation was held at Saleeby Law Firm, 311 W. Home Avenue, Hartsville, S. C. on March 19, 19 82 at 10:00 A.M.

The following directors were present:

Chellie Y. Mack
Samuel L. Davis

being all the directors of the corporation and a quorum.

Samuel L. Davis was elected chairman of the meeting and Ernestine B. Davis was elected secretary of the meeting.

The secretary then presented and read a waiver of notice of the meeting, subscribed by all the directors of the corporation, and it was ordered that it be appended to the minutes of the meeting.

The chairman then stated that the meeting was called for the purpose of Chellie Y. Mack transferring her full interest in Young and Young Funeral Home, Inc., a total of 65 shares to Samuel L. Davis for $65,000.00.

Ms. Mack had lost or misplaced her stock certificate and she therefore signed an Affidavit Of Loss and Personal Idemnification Agreement in Connection With Lost Securities.

Stock Certificate Number 3 was issued to Samuel L. Davis for 65 shares. This additional 65 shares gives Samuel L. Davis 100 shares of stock in Young and Young Funeral Home, Inc.

This meeting was also for the purpose of the election of new officers. The new officers are as follows:

| | |
|---|---|
| Samuel L. Davis | President |
| Ernestine B. Davis | Secretary |

There being no further business before the meeting, on motion duly made, seconded and carried, the meeting adjourned.

Dated March 19, 1982

Samuel L. Davis
chairman

Ernestine B. Davis
secretary

The following have been appended to the minutes of the meeting:

Waiver of Notice

SDM 2

2013

**SCHEDULE G (Form 1120)**
(Rev. December 2011)
Department of the Treasury
Internal Revenue Service

# Information on Certain Persons Owning the Corporation's Voting Stock

▶ Attach to Form 1120.
▶ See instructions on page 2.

OMB No. 1545-0123

Name

YOUNG & YOUNG FUNERAL HOME, INC.

Employer identification number (EIN)

**Part I** Certain Entities Owning the Corporation's Voting Stock. (Form 1120, Schedule K, Question 4a). Complete columns (i) through (v) below for any foreign or domestic corporation, partnership (including any entity treated as a partnership), trust, or tax-exempt organization that owns directly 20% or more, or owns, directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote (see instructions).

| (i) Name of Entity | (ii) Employer Identification Number (if any) | (iii) Type of Entity | (iv) Country of Organization | (v) Percentage Owned in Voting Stock |
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**Part II** Certain Individuals and Estates Owning the Corporation's Voting Stock. (Form 1120, Schedule K, Question 4b). Complete columns (i) through (iv) below for any individual or estate that owns directly 20% or more, or owns, directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote (see instructions).

| (i) Name of Individual or Estate | (ii) Identifying Number (if any) | (iii) Country of Citizenship (see instructions) | (iv) Percentage Owned in Voting Stock |
|---|---|---|---|
| AMUEL L. DAVIS | | USA | 100.000 |
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EXHIBIT
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**SCHEDULE G (Form 1120)**
(Rev. December 2011)
Department of the Treasury
Internal Revenue Service

# Information on Certain Persons Owning the Corporation's Voting Stock

▶ Attach to Form 1120.
▶ See instructions on page 2.

2014

OMB No. 1545-0123

Name

YOUNG & YOUNG FUNERAL HOME, INC.

Employer identification number (EIN)

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| (i) Name of Entity | (ii) Employer Identification Number (if any) | (iii) Type of Entity | (iv) Country of Organization | (v) Percentage Owned in Voting Stock |
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| (i) Name of Individual or Estate | (ii) Identifying Number (if any) | (iii) Country of Citizenship (see instructions) | (iv) Percentage Owned in Voting Stock |
|---|---|---|---|
| SAMUEL L. DAVIS | | USA | 100.000 |
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Paperwork Reduction Act Notice, see the instructions for Form 1120.

Schedule G (Form 1120) (Rev. 12-2011)

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2015

**SCHEDULE G (Form 1120)**
(Rev. December 2011)
Department of the Treasury
Internal Revenue Service

# Information on Certain Persons Owning the Corporation's Voting Stock

▶ Attach to Form 1120.
▶ See instructions on page 2.

OMB No. 1545-0123

Name

YOUNG & YOUNG FUNERAL HOME, INC.

Employer identification number (EIN)

**Part I** **Certain Entities Owning the Corporation's Voting Stock.** (Form 1120, Schedule K, Question 4a). Complete columns (i) through (v) below for any foreign or domestic corporation, partnership (including any entity treated as a partnership), trust, or tax-exempt organization that owns directly 20% or more, or owns, directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote (see instructions).

| (i) Name of Entity | (ii) Employer Identification Number (if any) | (iii) Type of Entity | (iv) Country of Organization | (v) Percentage Owned in Voting Stock |
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| (i) Name of Individual or Estate | (ii) Identifying Number (if any) | (iii) Country of Citizenship (see instructions) | (iv) Percentage Owned in Voting Stock |
|---|---|---|---|
| SAMUEL L. DAVIS | | USA | 100.000 |
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**SCHEDULE G (Form 1120)**
(Rev. December 2011)
Department of the Treasury
Internal Revenue Service

# Information on Certain Persons Owning the Corporation's Voting Stock

▶ Attach to Form 1120.
▶ See instructions on page 2.

2016

OMB No. 1545-0123

Name.

YOUNG & YOUNG FUNERAL HOME, INC.

Employer identification number (EIN)

**Part I** Certain Entities Owning the Corporation's Voting Stock. (Form 1120, Schedule K, Question 4a). Complete columns (i) through (v) below for any foreign or domestic corporation, partnership (including any entity treated as a partnership), trust, or tax-exempt organization that owns directly 20% or more, or owns, directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote (see instructions).

| (i) Name of Entity | (ii) Employer Identification Number (if any) | (iii) Type of Entity | (iv) Country of Organization | (v) Percentage Owned in Voting Stock |
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**Part II** Certain Individuals and Estates Owning the Corporation's Voting Stock. (Form 1120, Schedule K, Question 4b). Complete columns (i) through (iv) below for any individual or estate that owns directly 20% or more, or owns, directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote (see instructions).

| (i) Name of Individual or Estate | (ii) Identifying Number (if any) | (iii) Country of Citizenship (see instructions) | (iv) Percentage Owned in Voting Stock |
|---|---|---|---|
| MUEL L. DAVIS | | USA | 100.000 |
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erwork Reduction Act Notice, Instructions for Form 1120.

Schedule G (Form 1120) (Rev. 12-2011)

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**SCHEDULE G (Form 1120)**
(Rev. December 2011)
Department of the Treasury
Internal Revenue Service

# Information on Certain Persons Owning the Corporation's Voting Stock

▶ Attach to Form 1120.
▶ See instructions on page 2.

2017

OMB No. 1545-0123

Name

YOUNG & YOUNG FUNERAL HOME, INC.

Employer identification number (EIN)

**Part I** Certain Entities Owning the Corporation's Voting Stock. (Form 1120, Schedule K, Question 4a). Complete columns (i) through (v) below for any foreign or domestic corporation, partnership (including any entity treated as a partnership), trust, or tax-exempt organization that owns directly 20% or more, or owns, directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote (see instructions).

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**Part II** Certain Individuals and Estates Owning the Corporation's Voting Stock. (Form 1120, Schedule K, Question 4b). Complete columns (i) through (iv) below for any individual or estate that owns directly 20% or more, or owns, directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote (see instructions).

| (i) Name of Individual or Estate | (ii) Identifying Number (if any) | (iii) Country of Citizenship (see instructions) | (iv) Percentage Owned in Voting Stock |
|---|---|---|---|
| SAMUEL L. DAVIS | | USA | 100.000 |
| | | | |
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Paperwork Reduction Act Notice, the Instructions for Form 1120.

Schedule G (Form 1120) (Rev. 12-2011)

SCHEDULE G (Form 1120)
(Rev. December 2011)
Department of the Treasury
Internal Revenue Service

# Information on Certain Persons Owning the Corporation's Voting Stock

▶ Attach to Form 1120.
▶ See instructions.

2018

OMB No. 1545-0123

Name

Employer identification number (EIN)

YOUNG & YOUNG FUNERAL HOME INC

**Part I** **Certain Entities Owning the Corporation's Voting Stock.** (Form 1120, Schedule K, Question 4a). Complete columns (i) through (v) below for any foreign or domestic corporation, partnership (including any entity treated as a partnership), trust, or tax-exempt organization that owns directly 20% or more, or owns, directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote (see instructions).

| (i) Name of Entity | (ii) Employer Identification Number (if any) | (iii) Type of Entity | (iv) Country of Organization | (v) Percentage Owned in Voting Stock |
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**Part II** **Certain Individuals and Estates Owning the Corporation's Voting Stock.** (Form 1120, Schedule K, Question 4b). Complete columns (i) through (iv) below for any individual or estate that owns directly 20% or more, or owns, directly or indirectly, 50% or more of the total voting power of all classes of the corporation's stock entitled to vote (see instructions).

| (i) Name of Individual or Estate | (ii) Identifying Number (if any) | (iii) Country of Citizenship (see instructions) | (iv) Percentage Owned in Voting Stock |
|---|---|---|---|
| SAMUEL L DAVIS | | US | 100.00 |
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or Paperwork Reduction Act Notice, see the Instructions for Form 1120.

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS
)
COUNTY OF MARION ) CIVIL ACTION NO. 2017-ES-33-00099
)
Angela D. Young, as Personal )
Representative for the Estate of )
Chellie Nixon, )
)
Plaintiff, ) **AFFIDAVIT OF**
vs ) **LATONIA M. DAVIS**
)
Estate of Samuel L. Davis, )
)
Defendant. )
)

PERSONALLY appeared LaTonia M. Davis, who, being duly sworn, deposes and says that:

1. I am the daughter of Samuel L. Davis, the original Defendant in this matter.

2. I loved my father dearly. However, he was very stern and controlling.

3. As far as I have known him, my father's primary attention and efforts were in the operation of Young and Young Funeral Home (the "Funeral Home"), where he often worked 7 days a week.

4. I worked at the Funeral Home from 1995 through August 2022. Up until 2018, my father was the Director of the Funeral Home until Carolyn Johnson was hired in 2018, after which she basically took over as Operations Manager & President.

5. I first began working for the Funeral Home in 1995 when I was still attending high school. I worked on a part-time basis, usually working during after-school hours and

weekends.

6. I became a full-time employee with the Funeral Home in 2003 and worked at least 5 days a week at the Funeral Home. My duties included administrative, record-keeping, accounting, billing, merchandise as well as the submission of all receipts, bank statements and itemized bills to Payton Warren, the CPA for the Funeral Home.

7. During my tenure at the Funeral Home from 1995 through approximately 2012, the Funeral Home received mail addressed to "Chellie Nixon". At the time, I did not personally know Chellie Nixon and did not know why her mail was being delivered to the Funeral Home.

8. When I asked my father about the mail addressed to Chellie, my father simply instructed me to store the letters on top of the fireplace in the living room of the Funeral Home, but never answered my questions as to what the mail was about or why it was being delivered to the Funeral Home.

9. Based on my personal knowledge, I never witnessed my father distributing any of the mail to Chellie.

10. In 1995, my father added me as an authorized signatory on the operating account for the Funeral Home so that I could help him pay bills/expenses. As such, I was aware of any and all monies deposited in, and expenses paid out, of the operating account.

11. From 1995 through approximately June 2021, I have never seen a check, nor any other evidence of payment, made to Chellie Nixon from the Funeral Home.

12. In 2018, my father hired Carolyn Cranford Johnson to work for the Funeral Home.

13. Carolyn essentially took over as manager and operator of the Funeral Home and micro-managed the employees, including myself, as to the day-to-day operations. Carolyn was even added as an authorized signatory on the operating account for the Funeral Home and my father's personal accounts immediately after being hired.

14. Prior to being hired, Carolyn directed all employees,

including myself, to sign non-compete agreements which prohibited us from working for any other funeral home. Carolyn advised and declared that if we did not sign these non-compete agreements, we would voluntarily be resigning from our jobs. So I signed the non-compete agreement.

15. I never received a copy of the non-compete agreement I was forced to sign. In addition, I never received compensation, promotion or any other benefit for signing the agreement.

16. After hiring Carolyn, my father and Carolyn opened a second operating account for the Funeral Home at The Citizens Bank in which Carolyn, and my father were the only authorized signatories. I was not added as an authorized signatory on this second operating account even though I was authorized on the other operating prior/original account for the Funeral Home.

17. My father also opened up a **personal** account at The Citizens Bank at the same time he opened up the second operating account for the Funeral Home with Carolyn C. Johnson and Shirley Wooten Brewer as signatories.

18. The records for the Funeral Home were kept in the warehouse located behind the main building of the Funeral Home. I have personally seen many of the documents kept in this building which comprised of **thousands** of pages of documents for the Funeral Home dating as far back as the 1950s, and included corporate records, receipts, agreements, etc. for the Funeral Home and its operations.

19. In 2020, prior to December of that year, Carolyn Cranford Johnson, with my father's support, directed me and other employees (including **Shirley Wooten Brewer**) to **shred and destroy** all of the records of the Funeral Home kept in the warehouse that were dated before 2013. When I asked Carolyn and my father why we were destroying these records, I was instructed to stop asking questions and simply follow directions.

20. Not wanting to lose my job, I, along with **Carolyn** and **Shirley Wooten Brewer** in fact, destroyed thousands of pages of records of the Funeral Home that were dated before 2013, and placed these documents into large trash bags that were taken by a utility van to a location for final shredding.

These actions were taken per the specific instructions of Carolyn Cranford Johnson.

21. The employees at the Funeral Home in 2020 were aware of Carolyn's specific instructions to shred and destroy the records of the Funeral Home maintained in the warehouse, including: myself and Shirley Wooten Brewer.

22. With regard to ownership of the Funeral Home, my father previously told me that he was very upset because Harold Young had not done his Last Will to leave him any interest in the Funeral Home. According to my father, he was supposed to receive a "portion" of the Funeral Home from Harold's Last Will, with Chellie Nixon owning the remaining share. After this conversation, any time I brought up the issue of ownership of the Funeral Home, my father either ignored my question or told me not to worry about it and that it was not of my concern.

23. In August 2022, I resigned from the Funeral Home because Carolyn Cranford Johnson was micro-managing all aspects of my job and was blaming me for issues with the Funeral Home that were not my fault and causing great stress on me personally.

FURTHER AFFIANT SAYETH NAUGHT.

LaTonia M. Davis

Sworn to before me this 2nd day of January, 2023

Notary Public for South Carolina
My Commission Expires: 10/9/2030



Debra M. Jackson, BSW M.A. CDF-PCLC
Notary Public, State of South Carolina
My Commission Expires 10/9/2030
Angela D. Bell, Esquire, Bar No. 2017-RS-33-00099

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
| | ) | |
| COUNTY OF MARION | ) | CIVIL ACTION NO. 2017-ES-33-00099 |
| | ) | |
| Angela D. Young, as Personal Representative for the Estate of Chellie Nixon, | ) | |
| | ) | |
| Plaintiff, | ) | **AFFIDAVIT OF ANGELA D. YOUNG** |
| vs | ) | |
| | ) | |
| Estate of Samuel L. Davis, | ) | |
| | ) | |
| Defendant. | ) | |
| | ) | |

PERSONALLY appeared Angela D. Young, who, being duly sworn, deposes and says that:

1. I am the Personal Representative for the Estate of Chellie Nixon.

2. The Decedent Chellie Nixon was my mother.

3. As Personal Representative for my mother's Estate, I have been keeping business records of any and all documents relevant to her Estate, which includes documents relevant to the Estates of Harold L. Young and Dorothy J. Young, my grandparents (also my mother's natural parents).

4. After my grandmother died in 1979, and continuing through my mother's death in 2017, I always believed my mother to be the owner of "Young and Young Funeral Home" (the "Funeral Home"), the funeral home started by my grandparents in 1947, because she was my grandparents' only child. In addition, at no time during my interactions with my mother did she ever mention selling the Funeral Home to anyone while she was alive.

5. My belief that the Funeral Home was solely owned by my mother is supported by the probate estate filings in my late grandmother Dorothy J. Young's estate, which filing reflects my mother as the sole heir to her estate (my grandmother did not have a Last Will). ***See*** **EXHIBIT A – Petition for Letters.**

6. Further evidence of my mother being the sole heir to my grandmother's estate is also reflected in the deed that was signed by my mother transferring real estate from her personal name and into the name of "Young and Young Funeral Home, Inc." ***See*** **EXHIBIT B – 3/25/1980 Deed**

7. My mother died February 14, 2017.

8. After my mother's death, my siblings and I tried to obtain information relating to the Funeral Home. However, Samuel L. Davis, the funeral director, rejected our efforts to obtain any information and stated to us that he was the owner of the Funeral Home. This was the first time I had ever heard of someone claiming to own the Funeral Home other than my mother.

9. Because he would not cooperate, the Estate had to retain an attorney to issue a Subpoena to Samuel to produce these records in February 2018. *See* **EXHIBIT C – Subpoena**

10. Despite receiving the Subpoena, Samuel continued to refuse to provide any of the requested documents. So, the Estate Attorney had to file a Motion and Rule to Show Cause against Samuel for refusing to comply with the Subpoena. *See* **EXHIBIT D – Motion and Rule to Show Cause**

11. According to Samuel, he became owner of the Funeral Home as follows: (a) he inherited 35% from my grandparents, and (b) he purchased the remaining 65% from my mother in March 1982 for the sum of $65,000.00. *See* **EXHIBIT E – Samuel's Affidavit**

12. First, the 35% inheritance is not supported by my grandfather's Last Will which clearly devises his entire estate to my grandmother Dorothy J. Young. *See* **EXHIBIT F – Harold Young Will**

13. And as reflected in the probate filings in my grandmother's estate, even Samuel admitted in the probate filings that my mother was the sole heir to her estate. *See* **EXHIBIT A – Petition for Letters**

14. As for Samuel's claim that he purchased my mother's 65% interest in the Funeral Home, when the Estate asked for evidence of this transaction, Samuel has never produced any receipt or other proof that my mother, in fact, received the 65,000. Furthermore, despite my numerous conversations with my mother, including conversations with her in 2017 prior to her death, she has never mentioned ever selling her interest in the Funeral Home to ***anyone***, much less Samuel.

15. When my mother was at the hospital prior to her death, Samuel visited the hospital and had brought documents for my mother to sign. Though I did not see what documents he had brought, I witnessed Samuel leave my mother's room very upset. When I asked about it, my mother said Samuel tried to make her sign a document that related to the Funeral Home, but my mother refused to sign the document.

16. In January 2023, I found out, for the first time, that Carolyn Johnson had instructed employees at the Funeral Home to shred and otherwise destroy corporate and business records of the Funeral Home that were dated prior to 2013. These are part of the documents we have been asking for since we issued the subpoena on Samuel in February 2018.

FURTHER AFFIANT SAYETH NAUGHT.

Angela D. Young

Sworn to before me this
6 day of January, 2023

Notary Public for South Carolina
My Commission Expires: 11-30-26

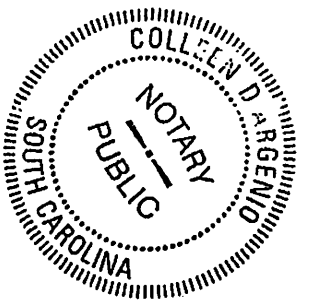

EXHIBIT A

STATE OF SOUTH CAROLINA,
County of Darlington

Ex Parte Samuel L. Davis and
Chellie Y. Mack
Petitioner.

In Re Estate of:
Dorothy J. Young
Deceased.

IN THE PROBATE COURT
PETITION FOR LETTERS OF ADMINISTRATION
AND ORDER FOR CITATION TO ISSUE

To M. Dennis Lloyd, Probate Judge for said county:

The petition of the undersigned respectfully represents:

1. That Dorothy J. Young Age 59 who last dwelt in Hartsville in said County of Darlington State aforesaid, died intestate on the 16th day of January in the year of our Lord one thousand nine hundred and seventy-nine possessed of goods and estate remaining to be administered, leaving as h. or only heirs at law and next of kin, the following:

(Show by subdivision into family group the names of persons taking through any predeceased heir at law.)

| Name | Age* | Residence | Relationship to Decedent |
|---|---|---|---|
| Chellie Y. Mack | Adult | Hartsville, S. C. | Daughter |

*Enter the exact age at date of decedent's death if then living if not then living, enter in the age column the word "dead".

2. That the intestate died seized and possessed of a personal estate of about the value of to be furnished later ($ ) Dollars consisting of the following moneys, goods and chattels:

(a) Cash on hand and in banks $
(b) Moneys due intestate on account of bonds, mortgages and other securities $
(c) Corporate and governmental bonds and stocks $
(d) Open accounts due intestate $
(e) Goods, wares, merchandise, furniture, machinery and equipment used in profession, trade or business $
(f) Household goods $
(g) Farming implements, machinery and equipment $
(h) Farm products $
(i) Mules, horses, cattle, hogs, sheep, etc. $
(j) Automobiles, auto trucks, motorcycles, etc. $
(k) Jewelry, silver plate, watches and other personal effects $
(l) Life or other insurance made payable to the estate $
(m) Value of all other personal property not listed above $

(OVER)

This form revised by the South Carolina Tax Commission November 1, 1961.
(To be used in all cases where the decedent died after December 31, 1961.)

Page 3

3. That the intestate died seized and possessed of real estate of about the value of _____ ($_____) Dollars, as follows:

DESCRIPTION OF REAL ESTATE AND APPROXIMATE VALUES
(Enter each tract and lot on a separate line).

| No. of acres or lots (state whether acres or lots) | No. of buildings | Total value of each lot and tract including buildings | Decedent's interest | Exact location (Show County, Township and School District) |
|---|---|---|---|---|
| | To be furnished later | | | |

4. That the intestate made transfers and gifts within three (3) years prior to date of death as follows: (If None-So State)

(Include all gifts within three years prior to death and all other transfers, real and personal, either where the consideration was agreed to have been inadequate or where the transfer was to a relative or agreed friend or to any person, firm, corporation, or corporation in which the decedent was interested, regardless of consideration. Describe the transfer in full, state the approximate value of the property transferred and the amount of the consideration (cash or credited, if any).

To be furnished later

5. Life Insurance, Annuities and/or Endowment Contracts payable to beneficiaries other than the decedent's estate.

| Face Value | Contract Number | Name of Company |
|---|---|---|
| | To be furnished later | |

NOTE:
Item 6 below refers to "joint tenancy with right-of-survivorship". Property held as "tenants-in-common" must be reported under Items 2 & 3 of this return.

6. That the intestate died seized and possessed of personal property standing in joint names of two or more persons and payable to either or the survivor as follows: (Sec. 65-403, S. C. Code of Laws 1952, as amended) (IF NONE-SO STATE)

| | FAIR MARKET VALUE AT DATE OF DEATH |
|---|---|
| A. U. S. Bonds owned jointly with right of survivorship or "payable on death" | To be furnished later |
| B. Joint Bank Accounts with right of survivorship | $ |
| C. Joint Accounts in Depositories or other Institutions with right of survivorship | $ |
| D. Joint Stocks and Bonds with right of survivorship | $ |
| E. Joint Miscellaneous property with right of survivorship | $ |

7. TRANSFERS INTENDED TO TAKE EFFECT AT DEATH (Sec. 65-431 of S. C. Code of Laws 1952, as amended). That the intestate made the following lifetime transfers of property, BOTH REAL AND PERSONAL, reserving unto transferor's self a life estate, income for life or other incidents of ownership that would preclude a fee simple title vesting in the beneficiary until the death of the transferor as follows: (IF NONE-SO STATE)

| | FAIR MARKET VALUE AT DATE OF DEATH |
|---|---|
| A. Real Estate transferred retaining life estate | To be furnished later |
| B. Trust created retaining unto self income for life, power to revoke or other incidents of ownership | $ |
| C. Other transfers intended to take effect at death | $ |

Page 4

8. POWERS OF APPOINTMENT (Sec. 65-468 of S. C. Code of Laws 1952, as amended). That the intestate died seized and possessed of a power of appointment over property, both real and personal, whether testamentary or otherwise, with an estimated fair market value of (IF NONE-SO STATE) $ none

9. That your petitioner, who is a resident and citizen of Darlington County, in the State aforesaid, is advised that an administration on said estate is necessary.

WHEREFORE they prays that Letters of Administration on the estate of the within named deceased be granted by this Court to them.

January 16, 19 79

Samuel L. Davis
Petitioner

Chollie Y. Mack
Petitioner

STATE OF SOUTH CAROLINA,
County of Darlington

PERSONALLY appeared Samuel L. Davis and Chollie Y. Mack, who being duly sworn says that to the best of their knowledge, information and belief, the statements contained in the foregoing petition are true and complete.

Samuel L. Davis

Chollie Y. Mack

Sworn to and subscribed before me this 16th day of January, 19 79.

Margaret H. Brant
Notary Public for South Carolina

## QUALIFICATION OF ADMINISTRATOR

STATE OF SOUTH CAROLINA,
County of Darlington

I DO SOLEMNLY SWEAR or affirm that deceased died without any Will, as far as I know or believe, and that I will well and truly administer all and singular the goods and chattels, rights and credits of the said deceased, and pay all her just debts, as far as the same will extend and the law require me, and that I will make a true, exact and perfect inventory of all said goods and chattels, rights and credits, and return a just account thereof when required. So help me, God.

Sworn to before me, this 16th day of January, A. D. 19 79

Judge of Probate (L. S.)

Samuel L. Davis (L. S.)

Chollie Y. Mack (L. S.)

Address

Attorney's Name and Address

FILED
JUDGE OF PROBATE
DARLINGTON COUNTY
JAN 16 2 42 PM '79

Page 5

EXHIBIT B

State of South Carolina,

COUNTY OF DARLINGTON

511-03 63

KNOW ALL MEN BY THESE PRESENTS, That I, Challie Y. Mack

TAX ASSESSOR'S
PARCEL NO. 13.11-5.8
BLOCK NO. 13-1

in the State aforesaid, in consideration of the

sum of Five Dollars, love and affection----------

to me paid by Young and Young Funeral Home, Inc.

in the State aforesaid

have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said Young and Young Funeral Home, Inc., its successors and assigns 711 South Sixth Street, Hartsville, South Carolina 29550

All that certain piece, parcel or lot of land situate, lying and being in the Town of Hartsville, in the County of Darlington, State of South Carolina, being designated as the Northern twenty-three (23) foot portion of Lot Number Fourteen (14) according to plat of property of Estate land and Securities Company recorded in the office of the Clerk of Court for Darlington County in Plat Book 6, at Page 257; said portion of Lot Fourteen (14) measuring 141.5 feet along its northern and southern boundaries and 23 feet along its eastern and western boundaries and being bounded as follows:

NORTH: By Lot Thirteen (13) on said plat;
EAST: By property of Enterprise Lumber Company
SOUTH: By the remainder of Lot Fourteen (14) on said plat; and
WEST: By Sixth Street

This being the same property conveyed to the grantor, Harold L. Young, who died leaving only one heir the grantor above mentioned, by Deed of Cornelia Butler Pearson recorded in the office of the Clerk of Court for Darlington County in Deed Book 435, at Page 470.

ALSO CONNECTING PART OF LAND

All that certain piece, parcel or lot of land, situate, lying and being in the City of Hartsville, County of Darlington, State of South Carolina, the said lot embracing all of Lot Fifteen (15) and the southern twenty-seven (27) feet portion of Lot Number Fourteen (14) as shown on plat of lands formerly of the Estate Land and Securities Company, made by T. E. Wilson, C.E. September 23, 1926 and recorded in the office of the Clerk of Court for Darlington County in Plat Book 6, at Page 257. The lot hereby conveyed being in the shape of or approximately in the shape of a rectangle and measuring and being bounded as follows:

NORTH: By the remaining twenty-three (23) feet portion of Lot Fourteen (14) and as shown on said plat;
EAST: By lands of Enterprise Lumber Company;
SOUTH: By Lot Number Sixteen (16) on said plat; and
WEST: By Sixth Street

The lot hereby conveyed measures seventy-seven (77) feet along its eastern and western boundaries and one hundred thirty-nine (139) feet, more or less, along its northern and southern boundaries; said conveyance made subject to right-of way or easement to the S.C. Highway Department for the widening of Sixth Street and the western boundary of the lot hereby conveyed shall be Sixth Street as the same is enlarged.

This being the same property conveyed to Harold L. Young, who died leaving as his sole heir, Challie Young Mack, conveyed by deed of Alice L. Butler, recorded in the office of the Clerk of Court for Darlington County in

Page 1 of 2

Deed Book 389, at Page 75, recorded February 16, 1956.

Together with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

To Have and to Hold all and singular the premises before mentioned unto the said 64

Young and Young Funeral Home, Inc., its successors and assigns Heirs and Assigns forever.

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

Young and Young Funeral Home, Inc., its successors and assigns

Heirs and Assigns, against me and my Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS my Hand and Seal this 25th day of March

*in the year of our Lord one thousand nine hundred and* eighty

*and in the two hundredth* third *year of the Sovereignty and Independence of the United States of America.*

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

Joan B. Davis
Edward E. Salesby Jr.

Chellie Y. Mack (SEAL)
(SEAL)

STATE OF SOUTH CAROLINA, DARLINGTON County.

PERSONALLY appeared before me Edward E. Salesby, Jr.

and made oath that he saw the within-named Chellie Y. Mack sign, seal and, as her act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that he, with Joan B. Davis witnessed the execution thereof.

SWORN to before me this 25th day of March, 19 80.

Joan B. Davis (L.S.)
Notary Public of S. C.

Edward E. Salesby Jr.

STATE OF SOUTH CAROLINA, County. NO RENUNCIATION OF DOWER

I, GRANTOR A WOMAN, do hereby certify unto all whom it may concern, that Mrs.

the wife of the within-named

did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread, or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within-named heirs and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises within mentioned and released.

*Given under my Hand and Seal, this day of*

(L.S.)
Notary Public of S. C.

FILED
Mar 11 2 04 PM '80
DARLINGTON COUNTY
REGISTER OF DEEDS

State of South Carolina
County of DARLINGTON

Chellie Y. Mack
TO
Young and Young Funeral Home, Inc.

TITLE TO REAL ESTATE

I hereby certify that the within Deed was filed for record in my office at 11:30 o'clock A.M. on the 11 day of March, 1980, and was immediately entered upon the proper records and duly recorded in Book 69 of Deeds, page 67

Bruce E. Crawford
Clerk of Court of Common Pleas and General Sessions
for DARLINGTON County, S. C.

I hereby certify that the within Deed has been this day of , A. D. 19 , recorded in Book of Deeds, page

Judge
County
for

EXHIBIT C

# STATE OF SOUTH CAROLINA
## ISSUED BY THE PROBATE COURT IN THE COUNTY OF MARION

Harold Young, II as Personal Representative of the Estate of Chellie Nixon, Plaintiff

v.

Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc., Defendant

SUBPOENA IN A PROBATE CASE

Case Number: 2017-ES-33-99

Pending in Marion County

TO: Samuel L. Davis:

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

| PLACE OF TESTIMONY | COURTROOM |
|---|---|
| | DATE AND TIME , AM |

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

| PLACE OF DEPOSITION | DATE AND TIME , AM |
|---|---|

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

All documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc., from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc. YES

| PLACE | DATE AND TIME |
|---|---|
| Robert E. Lee, LLC<br>111 Witcover Street<br>Post Office Box 1096<br>Marion, South Carolina 29571 | March 29, 2018, 10:00 AM |

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

| PREMISES | DATE AND TIME , AM |
|---|---|

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

February 22, 2018 — Date

Robert E. Lee, Esq. — Print Name

Attorney/Issuing Officer's Signature
Indicate if Attorney for Plaintiff or Defendant
Attorney's Address and Telephone Number:

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Clerk of Court/Issuing Officer's Signature | Date | Print Name

Pro Se Litigant's Name, Address and Telephone Number :

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

## PROOF OF SERVICE

| | | |
|---|---|---|
| SERVED | DATE 2-26-19 | FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL |
| | PLACE 900 EAST. OLD CANNON RD. | ☐YES ☐NO AMOUNT $ |
| SERVED ON | Samuel L. Davis | MANNER OF SERVICE Hand Delivered |
| SERVED BY | M.T. McGahill | TITLE Process Server |

## DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 2-26-19

M.T. McGahill

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

**(c) Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or



(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

(ii) requires a person who is not a party no[redacted]cer, director or managing agent of a party, nor a [redacted] partner of a partnership that is a party, to incur substantial expense to travel from the where that person resides, is employed or regul[redacted]acts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A)A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT D

| | |
|---|---|
| **STATE OF SOUTH CAROLINA** | **IN THE PROBATE COURT** |
| **COUNTY OF MARION** | **TWELFTH JUDICIAL CIRCUIT** |
| IN THE MATTER OF: CHELLIE NIXON (Deceased) | **PROBATE ROLL NO.: 2017-ES-33-99** |
| Harold Young, II, Personal Representative Of the Estate of Chellie Nixon, Petitioner, v. Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc., Respondent. | **MOTION SEEKING ORDER AND RULE TO SHOW CAUSE** |

Take notice that Harold L. Young, II, as Personal Representative of the above-named estate has moved and does hereby move for the Court to issue an Order and Rule to Show Cause why the Respondent should be held in contempt of Court for failing and refusing to comply with the Subpoena that was personally served on the Respondent on February 26, 2018.

In support of Petitioner's Motion, the Petitioner's offers for the Court's consideration, the *Counsel for Petitioner's Affidavit in Support of Order and Rule to Show Cause Why Respondent Should be Held in Contempt.*

Respectfully submitted,

**ROBERT E. LEE, LLC**
*Attorney for Harold Young, II, as Personal Representative of the Estate of Chellie Nixon*

Robert E. Lee, S.C. Bar No. 63052
P.O. Box 1096
111 Witcover Street
Marion, South Carolina 29571
Tel: (843) 423-1313 / Fax: (843) 423-1397
rel@rellawfirm.com

FILED
OCT 19 2020
MARION COUNTY
PROBATE JUDGE

Marion, South Carolina
October 15, 2020

| | |
|---|---|
| STATE OF SOUTH CAROLINA ) | IN THE PROBATE COURT |
| ) | TWELFTH JUDICIAL CIRCUIT |
| COUNTY OF MARION ) | PROBATE ROLL NO.: 2017-ES-33-99 |
| ) | |
| IN THE MATTER OF: ) | |
| CHELLIE NIXON ) | |
| (Deceased) ) | |
| ) | *COUNSEL FOR PETITIONER'S* |
| Harold Young, II, Personal Representative ) | *AFFIDAVIT IN SUPPORT OF ORDER* |
| of the Estate of Chellie Nixon, ) | *AND RULE TO SHOW CAUSE WHY* |
| Petitioner, ) | *RESPONDENT SHOULD BE HELD* |
| ) | *IN CONTEMPT* |
| v. ) | |
| ) | |
| Samuel L. Davis, Registered Agent for the ) | |
| Young and Young Funeral Home, Inc., ) | |
| Respondent. ) | |
| ) | |

FILED
OCT 19 2020
MARION COUNTY
PROBATE JUDGE

PERSONALLY, APPEARED before me, Robert E. Lee, who after being duly sworn, deposes and states as follows:

1. I am giving this Affidavit based upon personal knowledge, except as to those things based upon information and belief, and as to those, I believe them to be true.

2. I am counsel for Harold Young, II, as Personal Representative of the Estate of Chellie Nixon, the Petitioner in the above-captioned case. I am over 21 years of age and competent to make this Affidavit.

3. I am informed and believe that the Respondent, Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc., is in contempt of the Subpoena that was served on February 26, 2018.

4. Attached hereto and incorporated herein by reference as Exhibit A is a copy of the Subpoena.

7. Respondent was first served with the Subpoena by and through his attorney, James C. Cox, Jr. Attorney Cox forwarded a copy of the deed and advised that he would be forwarding

more information and documents responsive to the subpoena. To date, no further information has been received.

8. Since requests for further information were going unanswered, I attempted to follow up several times with the Respondent, himself. To date, those attempts have been unsuccessful.

11. I request this Court issue its Order and Rule to Show Cause as to why the Respondent should be held in contempt of this Court for failure to comply with this Subpoena.

12. The Petitioner has incurred attorney's fees and costs for the bringing of this Order and Rule to Show Cause and I request this Court grant the Respondent a reasonable amount of attorney's fees and costs for its representation in this contempt proceeding.

13. Because the Respondent has blatantly failed and refused to comply with the Subpoena, the Petitioner requests that this Court find the Respondent in contempt of Court.

**FURTHER AFFIANT SAYETH NOT!**

Robert E. Lee, SCB # 69052
*Counsel for Petitioner, Harold Young, II, as Personal Representative of the Estate of Chellie Nixon*

SWORN TO BEFORE ME THIS
15th day of October, 2020.
Tiffany S. McCaskill (L.S.)
Notary Public for South Carolina
My commission expires: 02/21/2022

TIFFANY S. McCASKILL NOTARY PUBLIC SOUTH CAROLINA

STATE OF SOUTH CAROLINA

ISSUED BY THE PROBATE COURT IN THE COUNTY OF MARION

EXHIBIT A

Harold Young, II as Personal Representative of the Estate of Chellie Nixon, Plaintiff

v.

Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc., Defendant

SUBPOENA IN A PROBATE CASE

Case Number: 2017-ES-33-99

TO: Samuel L. Davis:

Pending in Marion County

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

| PLACE OF TESTIMONY | COURTROOM |
|---|---|
| | DATE AND TIME , AM |

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

| PLACE OF DEPOSITION | DATE AND TIME , AM |
|---|---|

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

All documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc., from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc. YES

| PLACE | DATE AND TIME |
|---|---|
| Robert E. Lee, LLC<br>111 Witcover Street<br>Post Office Box 1096<br>Marion, South Carolina 29571 | March 29, 2018, 10:00 AM |

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

| PREMISES | DATE AND TIME , AM |
|---|---|

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature
Indicate if Attorney for Plaintiff or Defendant
Attorney's Address and Telephone Number:

February 22, 2018
Date

Robert E. Lee, Esq.
Print Name

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Clerk of Court/Issuing Officer's Signature | Date | Print Name

Pro Se Litigant's Name, Address and Telephone Number:

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

## PROOF OF SERVICE

| | | |
|---|---|---|
| SERVED | DATE 2-26-19 | FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL |
| | PLACE 900 East. Old Cannon Rd. | ☐YES ☐NO AMOUNT $ |
| SERVED ON | Samuel L. Jones | MANNER OF SERVICE Hand Delivered |
| SERVED BY | M.T. McGuirk | TITLE Process Server |

## DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 2-26-19

M.T. McGuirk
SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

**(c) Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or



(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

(iii) requires a person who is not a party no[illegible]cer, director or managing agent of a party, nor a p[illegible] partner of a partnership that is a party, to incur substantial expense to travel from th[illegible] where that person resides, is employed or regul[illegible] acts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A)A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

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(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

STATE OF SOUTH CAROLINA )
) IN THE PROBATE COURT
COUNTY OF MARION ) TWELFTH JUDICIAL CIRCUIT
) PROBATE ROLL NO.: 2017-ES-33-99
IN THE MATTER OF: )
CHELLIE NIXON )
(Deceased) )
)
Harold Young, II, Personal Representative )
Of the Estate of Chellie Nixon, )
Petitioner, ) ORDER AND RULE
v. ) TO SHOW CAUSE
)
Samuel L. Davis, Registered Agent for the )
Young and Young Funeral Home, Inc., )
Respondent. )

TO: THE RESPONDENT ABOVE-NAMED

Based upon the contents of the attached Affidavit, you are hereby ordered to appear before the Presiding Judge of the Probate Court, Twelfth Judicial Circuit at the Marion County Administration Building, located at 2523 E. Highway 76, Marion, South Carolina 29571, on MONDAY, DECEMBER 14TH at 3:00PM to show cause, if you can, why you should not be held in contempt of this Court for failing to comply with the Subpoena dated February 22, 2018, and personally served February 26, 2018, in the above-captioned case, and to show cause, if you can, why you should not be held in contempt of this court and required to pay a reasonable amount of attorney's fees and costs for the bringing of this Order and Rule to Show Cause.

IT IS FURTHER ORDERED that pursuant to Rule 4(c) of the *South Carolina Rules of Civil Procedure*, this Rule to Show Cause may be served by the Sheriff, his deputy, or by any other person not less than eighteen (18) years of age not an attorney in or a party to this action.

AND IT IS SO ORDERED.

T. Carroll Atkinson, III
Marion County Probate Judge

Marion, South Carolina

October 19, 2020.

EXHIBIT E

STATE OF SOUTH CAROLINA )
COUNTY OF DARLINGTON )

AFFIDAVIT OF SAM DAVIS

PERSONALLY appeared before m Sam Davis, who being duly sworn deposes and says:

I am Sam Davis. I am over the age of eighteen years. I live at 900 East Old Camden Road, Hartsville, South Carolina.

I started working at Young and Young Funeral Home when I was ten (10) years old, which was then owned by Harold L. Young. Though I am not related to Harold Young, I was often referred to as Harold's son and the Young family groomed me to run the funeral home business. As a result, I became a licensed Funeral Director and was considered a great asset to the Young family and business. I lived at the funeral home at the request of the Young family.

Harold L. Young and Dorothy J. Young had one daughter, Chelle Young (Mack). In December of 1978, Harold L. Young died and Dorothy J. Young followed three weeks later. The Young family left me 35% interest in the business. The remaining 65% was left to their daughter, Chelle. I continued to run the business, as Chelle had no interest in running the business herself. Chelle was paid 65% of the net profits from the business until 1982. In March of 1982, Chelle, while battling with a drug addiction, sought to sell the property and her share of the business with the property with the property. Chelle was advised against this by Mr. Frank Hough, a realtor handling her other affairs, and by then attorney, Senator Ed Saleeby. Chelle chose, instead, to sell her shares to me at $1,000.00 per share, totaling $65,000.00. This transaction took place at Mr. Saleeby's office with both myself and Chelle present. Chelle was paid with certified funds and was also paid her last controlling interest payment in March 1982. Since then and up to her death, I assisted Chelle financially, physically, and emotionally. I assisted her in getting a job at Carolina Pines, as well as purchased a vehicle for her to get to and from. I checked on her regularly in the days leading up to her death and maintained a good relationship with her until her death.

EXHIBIT F

101

# Last Will and Testament

I, Harold L. Young, of the City of Hartsville, County of Darlington, State of South Carolina, being of a sound mind and disposing memory, do hereby make, publish and declare this instrument to be my Last Will and Testament, hereby revoking all other instruments of a testamentary heretofore by me made:

ITEM I: I direct that prior to any division of any personal property, all my outstanding bona fide debts, if any, be paid out of the first monies coming into the hands of my Executrix hereinafter named.

ITEM II: I hereby will, devise and bequeath unto my wife, Dorothy J. Young, all my property, whether real, personal or mixed and wheresoever found, in fee.

ITEM III: I hereby nominate, constitute and appoint my wife, Dorothy J. Young as Executrix of this my Last Will and Testament and direct that no bond be required of her for the faithful performance of her duties as such.

IN WITNESS whereof I have hereunto set my hand and seal this 24th day of September, 1958.

Harold L. Young (SEAL)
Testator

The foregoing instrument consisting of this one page was on the date hereof, signed, published and declared by the Testator, Harold L. Young, as and for his Last Will and Testament, in the presence of the undersigned, who, at his request and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses hereto.

James L. Black ADDRESS 113 Hartsville, S. C.

J. Mac Kennedy ADDRESS Mrs. Bishopville Hartsville, S. C.

Lillie C. Kelly ADDRESS Hartsville, S. C.

| | |
|---|---|
| **STATE OF SOUTH CAROLINA**<br><br>**COUNTY OF MARION**<br><br>In Re: Chellie Nixon<br><br>Angela D. Young, as Personal Representative for the Estate of Chellie Nixon,<br><br>Plaintiff,<br><br>v.<br><br>Estate of Samuel L. Davis,<br><br>Defendant. | **IN THE PROBATE COURT**<br><br>**C/A # 2017-ES-33-00099**<br><br>**MOTION FOR SUMMARY JUDGMENT** |

Pursuant to Rule 56 of the *South Carolina Rules of Civil Procedure*, the Estate of Samuel L. Davis hereby moves this court for an order granting it summary judgment against the Plaintiff on all causes of action set forth in the Plaintiff's complaint. The grounds for this motion are as follows:

1. On April 9, 1979, Chellie Nixon f/k/a Chellie Young Mack incorporated Young and Young Funeral Home, Inc. ("Young and Young"). In 1979, Chellie Nixon owned 65 of the 100 issued and outstanding shares of Young and Young, while Samuel L. Davis owned the other 35 shares.
2. On March 19, 1982, Chellie Nixon sold her 65 shares to Samuel L. Davis whereby he became the 100% and sole shareholder of Young and Young. The minutes and stock ledger of Young and Young indicate that Chellie Nixon's shares were sold and transferred to Samuel L. Davis on March 19, 1982.
3. The tax returns of Young and Young also indicate that Samuel L. Davis has owned 100% of the stock of Young and Young. Young and Young's longtime accountant Peyton

Warren, CPA has testified that Samuel Davis was always the 100% shareholder of Young and Young for the 30 plus years that he prepared tax returns for Young and Young.

4. The Plaintiff has failed to provide any evidence to this court that the decedent Chellie Nixon has owned any shares in Young and Young since 1982 and there is no genuine issue of material fact for this court to decide. Thus, the Defendant is entitled to a Judgment as a matter of law.

The Defendant requests that the court grant its Motion for Summary Judgment dismissing the Complaint with prejudice and that the court award its attorney's fees and costs incurred in defending this frivolous lawsuit. In support of this motion, Plaintiff craves reference to the depositions of Peyton Warren, CPA, and Samuel L. Davis and the affidavit of Carolyn Johnson along with the pleadings in this matter and the substantive and procedural law of the State of South Carolina.

Florence, South Carolina

November 23, 2022

TURNER, PADGET, GRAHAM & LANEY, P. A.

By:

Jeffrey L. Payne, Esquire
4831 West Evans Street, Fourth Floor
Post Office Box 5478 (29502)
Florence, South Carolina 29501
(843) 662-9008
Email: jpayne@turnerpadget.com

ATTORNEYS FOR THE DEFENDANT

| | |
|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF MARION<br><br>Angela D. Young, as Personal Representative for the Estate of Chellie Nixon,<br><br>Plaintiff,<br><br>vs<br><br>Carolyn Johnson, as Personal Representative for the Estate of Samuel L. Davis,<br><br>Defendant. | IN THE COURT OF COMMON PLEAS<br><br>CIVIL ACTION NO. 2017-ES-33-00099<br><br>**MOTION FOR SANCTIONS FOR SPOILATION OF EVIDENCE** |

**TO: THE DEFENDANT CAROLYN JOHNSON, AS PERSONAL REPRESENTATIVE FOR THE ESTATE OF SAMUEL L. DAVIS, AND HER ATTORNEY, JEFFREY L. PAYNE, ESQ.**

The undersigned hereby provides Notice that Angela D. Young, as Personal Representative for the Estate of Chellie Nixon, hereby moves pursuant to Rule 37 of the South Carolina Rules of Civil Procedure for sanctions to be imposed for **spoilation of evidence** by the Defendant.

Sanctions are appropriate in this matter based on the following:

1. The Decedent Chellie Nixon died February 14, 2017. *See* EXHIBIT A – **Death Certificate.**

2. A probate estate for Chellie Nixon (the "Nixon Estate") was opened in Marion County Probate Court on April 26, 2017, with Harold Young, II being appointed as Personal Representative. *See* EXHIBIT B – **Fiduciary Letters**

3. The **sole asset** of the Nixon Estate is the Decedent's interest in "Young and Young Funeral Home" (the "Funeral Home"), a funeral home formed by Decedent's parents Harold L. Young and Dorothy J. Young in the 1970s. *See* VERIFIED COMPLAINT, #19.

4. Harold L. Young, II, as Personal Representative of the Nixon Estate, did attempt to obtain information relating to the ownership of the Funeral Home, but such attempts were rejected by Samuel L. Davis, the Director of the Funeral Home. *See* VERIFIED COMPLAINT, #20.

5. On or about February 22, 2018, a Subpoena was issued to Samuel L. Davis requesting "All documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc. from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc." *See* **EXHIBIT C – Subpoena**

6. Samuel L. Davis did not respond to the Subpoena. As such, in October 2020, the Estate did cause a Motion Seeking Order and Rule to Show Cause to be filed with regards to Samuel L. Davis' failure to comply with the Subpoena, with the hearing on the Rule to Show Cause scheduled to be held December 14, 2020. *See* **EXHIBIT D – Motion and Rule to Show Cause**

7. Unbeknownst to Plaintiff, in **2020, prior to** the scheduled hearing date of December 14, 2020, Carolyn Cranford Johnson, as Manager and President of the Funeral Home, with the consent of Samuel L. Davis, did **shred and otherwise destroy thousands of pages of records of the Funeral Home, which included corporate records, receipts, agreements, etc. that were dated prior to 2013**, and did instruct employees of the Funeral Home to do the same. *See* **EXHIBIT E – Affidavit of LaTonia Davis, #18-21; Johnson Deposition (forthcoming).**

8. During her sworn deposition taken February 17, 2023, Carolyn Cranford Johnson did admit that she caused records of the Funeral Home to be destroyed in 2020. **Johnson Deposition (forthcoming).** Furthermore, Carolyn Cranford Johnson also did admit in her sworn deposition that she was aware of the subpoena that was issued on February 22, 2018 in this matter prior to her destruction of the subject records. **Id.**

9. The primary issue in the underlying action is the Decedent's interest in the Funeral Home as of the date of her death (February 14, 2017).

10. Upon information and belief, the records that were intentionally destroyed by Carolyn Cranford Johnson and other employees of the Funeral Home would include information **relevant** to the issue of ownership of the Funeral Home, including financial and corporate records for the Funeral Home that pre-dated 2013.

11. The Defendant was aware of the outstanding Subpoena and Rule to Show Cause in this matter **at the time** she caused said records to be shredded and otherwise destroyed. **Johnson Deposition (forthcoming).**

12. Upon information and belief, the destruction of the Funeral Home records were done with the intent to destroy relevant evidence that would have supported Plaintiff's claims in this matter, including the claim that the Decedent was the sole owner of the Funeral Home at the time of her death, and/or contradict the Defendant's claims in this matter.

13. Because the Defendant caused the financial and corporate records of the Funeral Home that pre-dated 2013 to be destroyed, the Plaintiff has been materially prejudiced on its claims for Declaratory Judgment and Fraud.

14. By and through her actions to cause the financial and corporate records of the Funeral Home to be destroyed, Carolyn Cranford Johnson, in her official capacity as Manager and/or President of the Funeral Home, did act in willful violation of the Subpoena and Rule to Show Cause issued in this matter and, furthermore, is in willful violation of Rule 37(b) of the South Carolina Rules of Civil Procedure regarding the Plaintiff's right to receive discovery materials relevant to the claims and defenses asserted in the underlying action.

15. In light of the gross and willful actions of the Defendant in causing relevant evidence to be destroyed e.g. spoilation of relevant evidence, the **ONLY** proper relief to Plaintiff under these circumstances would be for this Court to **issue an Order to strike, in its entirety, the Defendant's pleadings in this matter and grant Plaintiff's relief sought in the Summons and Complaint,** including a Declaration that the Decedent Chellie Nixon was the sole owner of the Funeral Home at the time of her death (February 14, 2017).

16. Furthermore, in light of the egregious and willful nature of the actions of the Defendant, that the Court issue and Order requiring the Plaintiff to be awarded **damages** in an amount to be determined at a Damages hearing to be held at a later date, including the recovery of **all legal fees and costs** incurred by Plaintiff in this matter.

17. The prayer for the specific sanctions requested hereunder is supported by South Carolina case law. *See* OZO, Inc. v. Moyer, 358 S.C. 246, 258, 594 S.E.2d 541, 548 (Ct.App.2004) (affirming the circuit court's decision to strike appellant's pleadings after appellant destroyed relevant evidence); Cole Vision Corp. v. Hobbs, 394 S.C. 144 (2011)(recognizing remedies available to parties for spoilation of evidence, including striking of pleadings).

RESPECTFULLY,

BUTLER LAW

Myrtle Beach, South Carolina
Dated: February 21, 2023

Danny V. Butler, S.C. Bar No. 72791
4420 Oleander Drive, Ste 203
Myrtle Beach, SC 29577
Ph: (843) 808-9224
Fax: (843) 781-6870
Email: dbutler@butlerlaw.net
*Attorney for Plaintiff*

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served via **email** and **U.S. Mail** upon Defendant's Counsel of Record, on this the 21st day of February, 2023, as follows:

Turner Padget
Attn: Jeffrey L. Payne, Esq
PO Box 5478
Florence, SC 29502
Email: jpayne@turnerpadget.com

DBV

Danny V. Butler, SC Bar # 72791

RTIFICATION OF VITAL RECORD

EXHIBIT A

# DEATH CERTIFICATION

STATE FILE NUMBER: 139-17-006142

DECEDENT'S NAME: *CHELLIE NIXON*

SEX: FEMALE

AKA'S: NA

SOCIAL SECURITY NUMBER: 247-11-9526

ARMED FORCES: NO

DATE OF BIRTH: JUNE 13, 1955

AGE: 61 YEARS

TYPE OF PLACE OF DEATH: HOSPICE FACILITY

COUNTY OF DEATH: FLORENCE

NAME AND ADDRESS OF PLACE OF DEATH: MCLEOD HOSPICE HOUSE, FLORENCE, SC 29506

PLACE OF DISPOSITION: PALMETTO CREMATORY

DISPOSITION LOCATION: FLORENCE, SOUTH CAROLINA

METHOD OF DISPOSITION: CREMATION

DECEDENT'S RESIDENCE: 8940 OLD NICHOLS HIGHWAY, NICHOLS, MARION COUNTY, SC, 29581

PLACE OF BIRTH: SOUTH CAROLINA

MARITAL STATUS: MARRIED

SURVIVING SPOUSE'S NAME: JOHN WILLIAMS

FATHER'S NAME: HAROLD YOUNG

MOTHER'S NAME PRIOR TO FIRST MARRIAGE: DOROTHY JONES

INFORMANT'S NAME: JOHN WILLIAMS

RELATIONSHIP: FAMILY MEMBER

MAILING ADDRESS: 8940 OLD NICHOLS HIGHWAY, NICHOLS, SC, 29581

FUNERAL HOME: JACKSON & MCGILL FOR PALMETTO CREAMATORY, PO BOX 845, MARION, SC, 29571-0845

FUNERAL DIRECTOR: JACQUELINE J. MCGILL

LICENSE NUMBER: 1329

EMBALMER'S NAME: POIETTE MCGILL BROMELL

LICENSE NUMBER: 2074

ACTUAL OR PRESUMED DATE OF DEATH: FEBRUARY 14, 2017

MANNER OF DEATH: NATURAL

ACTUAL OR PRESUMED TIME OF DEATH: 1745

CAUSE OF DEATH - PART I:

METASTATIC BREAST CANCER

OTHER SIGNIFICANT CONDITIONS - PART II:

NA

CORONER CONTACTED? NO

AUTOPSY PERFORMED? NO

AUTOPSY AVAILABLE? NA

DATE OF INJURY: NA

TIME OF INJURY: NA

INJURY AT WORK? NA

PLACE OF INJURY: NA

LOCATION OF INJURY: NA

HOW THE INJURY OCCURRED?

NA

CERTIFIER NAME AND TITLE: DO ERIN ELIZABETH LUSHER

LICENSE NUMBER: 1612

CERTIFIER'S ADDRESS: 1203 E. CHEVES ST., FLORENCE, SC, 29506

DATE FILED: FEBRUARY 15, 2017

DATE OF ISSUANCE: FEBRUARY 28, 2017

SPECIAL INSTRUCTIONS:

NA

FILED

APR 25 2017

MARION COUNTY

PROBATE JUDGE

SC0561460

This is a true certification of the facts on file in the Division of Vital Records, SC Department of Health and Environmental Control.

Catherine E. Heigel
Catherine E. Heigel
Director and State Registrar

Shae R. Sutton
Shae R. Sutton
Assistant State Registrar

This is watermarked paper. Do not accept without noting watermark. Hold to light to verify watermark.

Revision Date: 07/31/2015

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

# EXHIBIT B

STATE OF SOUTH CAROLINA )
)
COUNTY OF: MARION )
)
IN THE MATTER OF: )
CHELLIE NIXON )
(Decedent) )

IN THE PROBATE COURT

FIDUCIARY LETTERS

CASE NUMBER: 2017-ES-33-00099

☒ PERSONAL REPRESENTATIVE
☐ SUCCESSOR PERSONAL REPRESENTATIVE
☐ SPECIAL ADMINISTRATOR

On the 26TH day of APRIL, 20 17, HAROLD L. YOUNG II was/were appointed and qualified as Fiduciary(ies) of the above matter by this Court, with all the authority granted to a fiduciary by law.

NOW, THEREFORE, LETTERS are issued as evidence of such appointment, qualification, and authority of the above fiduciary(ies) to do and to perform all acts which may be authorized by law.

RESTRICTIONS:

Executed this 26TH day of APRIL, 20 17.

, Probate Court Judge

FORM #140ES (1/2014)
62-3-103

EXHIBIT C

# TATE OF SOUTH CAROLI

ISSUED BY THE PROBATE COURT IN THE COUNTY OF MARION

Harold Young, II as Personal Representative of the Estate of Chellie Nixon, Plaintiff

v.

SUBPOENA IN A PROBATE CASE

Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc., Defendant

Case Number: 2017-ES-33-99

Pending in Marion County

TO: Samuel L. Davis:

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

| PLACE OF TESTIMONY | COURTROOM |
|---|---|
| | DATE AND TIME , AM |

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

| PLACE OF DEPOSITION | DATE AND TIME , AM |
|---|---|
| | |

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

All documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc., from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc. Yes

| PLACE | DATE AND TIME |
|---|---|
| Robert E. Lee, LLC<br>111 Witcover Street<br>Post Office Box 1096<br>Marion, South Carolina 29571 | March 29, 2018, 10:00 AM |

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

| PREMISES | DATE AND TIME , AM |
|---|---|
| | |

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature — Date: February 22, 2018 — Print Name: Robert E. Lee, Esq.

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number:

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Clerk of Court/Issuing Officer's Signature _____ Date _____ Print Name _____

Pro Se Litigant's Name, Address and Telephone Number:

_____

_____

_____

SCCA 254 (05/2015) (See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

# PROOF OF SERVICE

| | | | |
|---|---|---|---|
| SERVED | DATE 2-26-19 | FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL | |
| | PLACE 900 EAST. OLD CAMDEN RD. | ☐YES ☐NO AMOUNT $ | |
| SERVED ON | Samuel L. Jones | MANNER OF SERVICE | Hand Delivered |
| SERVED BY | M.T. McGrath | TITLE | Process Server |

## DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 2-26-19

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedure, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or



(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

(ii) requires a person who is not a party no[redacted]cer, director or managing agent of a party, nor a p[redacted] partner of a partnership that is a party, to incur substantial expense to travel from the[redacted] where that person resides, is employed or regul[redacted]acts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A)A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT D

| | |
|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF MARION<br><br>IN THE MATTER OF:<br>CHELLIE NIXON<br>(Deceased)<br><br>Harold Young, II, Personal Representative Of the Estate of Chellie Nixon,<br>Petitioner,<br><br>v.<br><br>Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc.,<br>Respondent. | IN THE PROBATE COURT<br>TWELFTH JUDICIAL CIRCUIT<br>PROBATE ROLL NO.: 2017-ES-33-99<br><br>MOTION SEEKING ORDER AND RULE TO SHOW CAUSE |

Take notice that Harold L. Young, II, as Personal Representative of the above-named estate has moved and does hereby move for the Court to issue an Order and Rule to Show Cause why the Respondent should be held in contempt of Court for failing and refusing to comply with the Subpoena that was personally served on the Respondent on February 26, 2018.

In support of Petitioner's Motion, the Petitioner's offers for the Court's consideration, the *Counsel for Petitioner's Affidavit in Support of Order and Rule to Show Cause Why Respondent Should be Held in Contempt.*

Respectfully submitted,

**ROBERT E. LEE, LLC**
*Attorney for Harold Young, II, as Personal Representative of the Estate of Chellie Nixon*

Robert E. Lee, S.C. Bar No. 63052
P.O. Box 1096
111 Witcover Street
Marion, South Carolina 29571
Tel: (843) 423-1313 / Fax: (843) 423-1397
rel@rellawfirm.com

FILED
OCT 19 2020
MARION COUNTY
PROBATE JUDGE

Marion, South Carolina
October 15, 2020

STATE OF SOUTH CAROLINA )
)
COUNTY OF MARION )

IN THE MATTER OF:
CHELLIE NIXON
(Deceased)

Harold Young, II, Personal Representative of the Estate of Chellie Nixon,
Petitioner,

v.

Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc.,
Respondent.

IN THE PROBATE COURT
TWELFTH JUDICIAL CIRCUIT
PROBATE ROLL NO.: 2017-ES-33-99

*COUNSEL FOR PETITIONER'S AFFIDAVIT IN SUPPORT OF ORDER AND RULE TO SHOW CAUSE WHY RESPONDENT SHOULD BE HELD IN CONTEMPT*

FILED
OCT 19 2020
MARION COUNTY
PROBATE JUDGE

PERSONALLY, APPEARED before me, Robert E. Lee, who after being duly sworn, deposes and states as follows:

1. I am giving this Affidavit based upon personal knowledge, except as to those things based upon information and belief, and as to those, I believe them to be true.

2. I am counsel for Harold Young, II. as Personal Representative of the Estate of Chellie Nixon, the Petitioner in the above-captioned case. I am over 21 years of age and competent to make this Affidavit.

3. I am informed and believe that the Respondent, Samuel L. Davis. Registered Agent for the Young and Young Funeral Home, Inc., is in contempt of the Subpoena that was served on February 26, 2018.

4. Attached hereto and incorporated herein by reference as Exhibit A is a copy of the Subpoena.

7. Respondent was first served with the Subpoena by and through his attorney, James C. Cox, Jr. Attorney Cox forwarded a copy of the deed and advised that he would be forwarding

more information and documents responsive to the subpoena. To date, no further information has been received.

8. Since requests for further information were going unanswered, I attempted to follow up several times with the Respondent, himself. To date, those attempts have been unsuccessful.

11. I request this Court issue its Order and Rule to Show Cause as to why the Respondent should be held in contempt of this Court for failure to comply with this Subpoena.

12. The Petitioner has incurred attorney's fees and costs for the bringing of this Order and Rule to Show Cause and I request this Court grant the Respondent a reasonable amount of attorney's fees and costs for its representation in this contempt proceeding.

13. Because the Respondent has blatantly failed and refused to comply with the Subpoena, the Petitioner requests that this Court find the Respondent in contempt of Court.

**FURTHER AFFIANT SAYETH NOT!**

Robert E. Lee, SCB # 69052
*Counsel for Petitioner, Harold Young, II, as Personal Representative of the Estate of Chellie Nixon*

SWORN TO BEFORE ME THIS
15th day of October, 2020.
Tiffany S. McCaskill (L.S.)
Notary Public for South Carolina
My commission expires: 02/21/2022

TIFFANY S. McCASKILL NOTARY PUBLIC SOUTH CAROLINA

STATE OF SOUTH CAROLINA

ISSUED BY THE PROBATE COURT IN THE COUNTY OF MARION

EXHIBIT A

Harold Young, II as Personal Representative of the Estate of Chellie Nixon, Plaintiff

v.

Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc., Defendant

SUBPOENA IN A PROBATE CASE

Case Number: 2017-ES-33-99

Pending in Marion County

TO: Samuel L. Davis:

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

| PLACE OF TESTIMONY | COURTROOM |
|---|---|
| | DATE AND TIME , AM |

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

| PLACE OF DEPOSITION | DATE AND TIME , AM |
|---|---|

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

All documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc., from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc. 4 yrs

| PLACE | DATE AND TIME |
|---|---|
| Robert E. Lee, LLC<br>111 Witcover Street<br>Post Office Box 1096<br>Marion, South Carolina 29571 | DATE AND TIME March 29, 2018, 10:00 AM |

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

| PREMISES | DATE AND TIME , AM |
|---|---|

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature — Date: February 22, 2018 — Print Name: Robert E. Lee, Esq.

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number:

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Clerk of Court/Issuing Officer's Signature | Date | Print Name

a. Pro Se Litigant's Name, Address and Telephone Number:

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

## PROOF OF SERVICE

| | | |
|---|---|---|
| SERVED | DATE 2-26-19 | FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL |
| | PLACE 900 East Old Cannon Rd. | ☐YES ☐NO AMOUNT $ |
| SERVED ON | Samuel L. Davis | MANNER OF SERVICE Hand Delivered |
| SERVED BY | M.T. McGuire | TITLE Process Server |

## DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 2-26-19

M.T. McGuire
SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedure, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a partner of a partnership that is a party, to incur substantial expense to travel from the [redacted] where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) Duties In Responding to Subpoena.**

(1)(A)A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

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| STATE OF SOUTH CAROLINA<br><br>COUNTY OF MARION<br><br>IN THE MATTER OF:<br>CHELLIE NIXON<br>(Deceased)<br><br>Harold Young, II, Personal Representative Of the Estate of Chellie Nixon,<br>Petitioner,<br>v.<br><br>Samuel I. Davis, Registered Agent for the Young and Young Funeral Home, Inc.,<br>Respondent. | IN THE PROBATE COURT<br>TWELFTH JUDICIAL CIRCUIT<br>PROBATE ROLL NO.: 2017-ES-33-99<br><br>ORDER AND RULE<br>TO SHOW CAUSE |

TO: THE RESPONDENT ABOVE-NAMED

Based upon the contents of the attached Affidavit, you are hereby ordered to appear before the Presiding Judge of the Probate Court, Twelfth Judicial Circuit at the Marion County Administration Building, located at 2523 E. Highway 76, Marion, South Carolina 29571, on MONDAY, DECEMBER 14TH at 3:00PM to show cause, if you can, why you should not be held in contempt of this Court for failing to comply with the Subpoena dated February 22, 2018, and personally served February 26, 2018, in the above-captioned case, and to show cause, if you can, why you should not be held in contempt of this court and required to pay a reasonable amount of attorney's fees and costs for the bringing of this Order and Rule to Show Cause.

IT IS FURTHER ORDERED that pursuant to Rule 4(c) of the *South Carolina Rules of Civil Procedure*, this Rule to Show Cause may be served by the Sheriff, his deputy, or by any other person not less than eighteen (18) years of age not an attorney in or a party to this action.

AND IT IS SO ORDERED.

J. Carroll Atkinson, III
Marion County Probate Judge

Marion, South Carolina

October 19, 2020.

EXHIBIT E

STATE OF SOUTH CAROLINA ) IN THE
COURT OF COMMON PLEAS
)
COUNTY OF MARION ) CIVIL ACTION
NO. 2017-ES-33-00099
)
Angela D. Young, as Personal )
Representative for the Estate of )
Chellie Nixon, )
)
Plaintiff, ) **AFFIDAVIT**
**OF**
vs
**DAVIS** ) **LATONIA M.**
)
Estate of Samuel L. Davis, )
)
Defendant. )
)

PERSONALLY appeared LaTonia M. Davis, who, being duly sworn, deposes and says that:

1. I am the daughter of Samuel L. Davis, the original Defendant in this matter.

2. I loved my father dearly. However, he was very stern and controlling.

3. As far as I have known him, my father's primary attention and efforts were in the operation of Young and Young Funeral Home (the "Funeral Home"), where he often worked 7 days a week.

4. I worked at the Funeral Home from 1995 through August 2022. Up until 2018, my father was the Director of the Funeral Home until Carolyn Johnson was hired in 2018, after which she basically took over as Operations Manager & President.

5. I first began working for the Funeral Home in 1995 when I was still attending high school. I worked on a part-time basis, usually working during after-school hours and

weekends.

6. I became a full-time employee with the Funeral Home in 2003 and worked at least 5 days a week at the Funeral Home. My duties included administrative, record-keeping, accounting, billing, merchandise as well as the submission of all receipts, bank statements and itemized bills to Payton Warren, the CPA for the Funeral Home.

7. During my tenure at the Funeral Home from 1995 through approximately 2012, the Funeral Home received mail addressed to "Chellie Nixon". At the time, I did not personally know Chellie Nixon and did not know why her mail was being delivered to the Funeral Home.

8. When I asked my father about the mail addressed to Chellie, my father simply instructed me to store the letters on top of the fireplace in the living room of the Funeral Home, but never answered my questions as to what the mail was about or why it was being delivered to the Funeral Home.

9. Based on my personal knowledge, I never witnessed my father distributing any of the mail to Chellie.

10. In 1995, my father added me as an authorized signatory on the operating account for the Funeral Home so that I could help him pay bills/expenses. As such, I was aware of any and all monies deposited in, and expenses paid out, of the operating account.

11. From 1995 through approximately June 2021, I have never seen a check, nor any other evidence of payment, made to Chellie Nixon from the Funeral Home.

12. In 2018, my father hired Carolyn Cranford Johnson to work for the Funeral Home.

13. Carolyn essentially took over as manager and operator of the Funeral Home and micro-managed the employees, including myself, as to the day-to-day operations. Carolyn was even added as an authorized signatory on the operating account for the Funeral Home and my father's personal accounts immediately after being hired.

14. Prior to being hired, Carolyn directed all employees,

including myself, to sign non-compete agreements which prohibited us from working for any other funeral home. Carolyn advised and declared that if we did not sign these non-compete agreements, we would voluntarily be resigning from our jobs. So I signed the non-compete agreement.

15. I never received a copy of the non-compete agreement I was forced to sign. In addition, I never received compensation, promotion or any other benefit for signing the agreement.

16. After hiring Carolyn, my father and Carolyn opened a second operating account for the Funeral Home at The Citizens Bank in which Carolyn, and my father were the only authorized signatories. I was not added as an authorized signatory on this second operating account even though I was authorized on the other operating prior/original account for the Funeral Home.

17. My father also opened up a **personal** account at The Citizens Bank at the same time he opened up the second operating account for the Funeral Home with Carolyn C. Johnson and Shirley Wooten Brewer as signatories.

18. The records for the Funeral Home were kept in the warehouse located behind the main building of the Funeral Home. I have personally seen many of the documents kept in this building which comprised of **thousands** of pages of documents for the Funeral Home dating as far back as the 1950s, and included corporate records, receipts, agreements, etc. for the Funeral Home and its operations.

19. In 2020, prior to December of that year, Carolyn Cranford Johnson, with my father's support, directed me and other employees (including **Shirley Wooten Brewer**) to **shred and destroy** all of the records of the Funeral Home kept in the warehouse that were dated before 2013. When I asked Carolyn and my father why we were destroying these records, I was instructed to stop asking questions and simply follow directions.

20. Not wanting to lose my job, I, along with **Carolyn** and **Shirley Wooten Brewer** in fact, destroyed thousands of pages of records of the Funeral Home that were dated before 2013, and placed these documents into large trash bags that were taken by a utility van to a location for final shredding.

These actions were taken per the specific instructions of Carolyn Cranford Johnson.

21. The employees at the Funeral Home in 2020 were aware of Carolyn's specific instructions to shred and destroy the records of the Funeral Home maintained in the warehouse, including: myself and Shirley Wooten Brewer.

22. With regard to ownership of the Funeral Home, my father previously told me that he was very upset because Harold Young had not done his Last Will to leave him any interest in the Funeral Home. According to my father, he was supposed to receive a "portion" of the Funeral Home from Harold's Last Will, with Chellie Nixon owning the remaining share. After this conversation, any time I brought up the issue of ownership of the Funeral Home, my father either ignored my question or told me not to worry about it and that it was not of my concern.

23. In August 2022, I resigned from the Funeral Home because Carolyn Cranford Johnson was micro-managing all aspects of my job and was blaming me for issues with the Funeral Home that were not my fault and causing great stress on me personally.

FURTHER AFFIANT SAYETH NAUGHT.

LaTonia M. Davis

Sworn to before me this 2nd day of January, 2023

Notary Public for South Carolina
My Commission Expires: 10/9/2030



Debra M. Jackson, BSW M.A. CDF-PCLC
Notary Public, State of South Carolina
My Commission Expires 10/9/2030
Angela D. Brown - 2017-IIS-33-00099

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| STATE OF SOUTH CAROLINA<br><br>COUNTY OF MARION<br><br>Angela D. Young, as Personal Representative for the Estate of Chellie Nixon,<br><br>Plaintiff,<br><br>vs<br><br>Carolyn Johnson, as Personal Representative for the Estate of Samuel L. Davis,<br><br>Defendant. | ) | IN THE COURT OF COMMON PLEAS<br><br>CIVIL ACTION NO. 2017-ES-33-00099<br><br>**MOTION TO RECONSIDER ORDER GRANTING SUMMARY JUDGMENT** |

**TO: THE DEFENDANT AND HER ATTORNEY, JEFFREY L. PAYNE, ESQ.**

Pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, the Plaintiff Angela D. Young, as Personal Representative for the Estate of Chellie Nixon, does hereby move this Court to reconsider its Order granting Defendant's Motion for Summary Judgment filed July 17, 2023 in this matter (the "Order"). A copy of the Order was received by Plaintiff on July 20, 2023.

The basis for this Motion are as follows:

i. The Order failed to consider, or even reference, the factual history of Young and Young Funeral Home (the "Funeral Home"), a business operated as a D/B/A prior to incorporation of Young and Young Funeral Home, Inc., which corporation **continued** the operations of the Funeral Home after the deaths of the original proprietors Harold L. Young and Dorothy J. Young;

ii. The Order improperly focused solely on the stock of Young and Young Funeral Home, Inc. as the primary basis for its granting of the Motion for Summary Judgment, and failed to consider the factual history of the original ownership of the Funeral Home, how it was operated prior to the incorporation of Young and Young Funeral Home, Inc. in 1982, and the continuation of the Funeral Home operations by the corporation after its formation in 1982;

iii. The Order failed to consider, or even reference, the **Spoilation of Evidence** by the Defendant Carolyn Johnson in which she admitted under oath that she casued the destruction of thousands of pages of corporate and other records of the Funeral Home (e.g. **all documents prior to 2013**), which likely included documents containing information relevant to a genuine issue of material fact e.g. ownership of the Funeral Home;

iv. The Order failed to consider, or even reference, that the destruction of Funeral Home records by Carolyn Johnson occurred **immediately prior to** the hearing scheduled December 14, 2020 on a Motion for Rule to Show Cause arising from Defendant's non-response to a Subpoena Duces Tecum issued in this matter seeking "[a]ll documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc. from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc";

v. The Order failed to consider, or even reference, the **sworn admission by Carolyn Johnson** that at the time she caused the Funeral Home records to be destroyed, she was, in fact, aware of the pending Subpoena Duces Tecum issued in this matter that sought "[a]ll documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc. from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc";

vi. The Order failed to consider, or even reference, the **sworn admission by LaTonia Davis** that she and other employees were instructed by Carolyn Johnson in early December 2014 to **destroy all records of the Funeral Home that were dated prior to 2013**, which included "corporate records, receipts, agreements, etc";

vii. The Order failed to consider, or even reference, the **statutory, intestate transfer of ownership interests of the Funeral Home** and its assets upon the deaths of Harold L. Young and Dorothy J. Young, the founders of the Funeral Home;

viii. The Order failed to consider, or even reference, the **sworn admission by Samuel L. Davis** that there was nothing in writing signed by Harold L. Young, Dorothy J. Young or Chellie Nixon in which 35% interest in the Funeral Home was transferred to Samuel L. Davis;

ix. The Order failed to consider, or even reference, the **lack of documentation** to corroborate the alleged meeting held March 19, 1982 at the law offices of the Saleeby Law Firm in which Chellie Nixon purportedly sold her 65% interest in the Funeral Home to Samuel L. Davis for $65,000;

x. The Order failed to consider, or even reference, the **lack of any documents signed by Chellie Nixon** transferring her 65% interest in the Funeral Home to Samuel L. Davis pursuant to the alleged March 19, 1982 transaction;

xi. The Order failed to consider, or even reference, the "corporate records" of the Funeral Home, including unsigned Stock Certificates therein, as being documentation **procured solely by Samuel L. Davis** and which contain no signatures by Chellie Nixon;

xii. The Order failed to consider, or even reference, the **sworn admission by Samuel L. Davis** that Chellie Nixon "...was paid 65% of the net profits from the business until 1982", however, no documentation exists to corroborate such payments;

xiii. The Order failed to consider, or even reference, **sworn admission by Payton Warren,** the CPA for the Funeral Home, that though he had been involved with the preparation of tax returns for the Funeral Home since 1972, he had never heard of Chellie Nixon despite Samuel L. Davis' sworn admission that Chellie Nixon "...was paid 65% of the net profits from the business until 1982";

xiv. The Order failed to consider, or even reference, **sworn admission by Payton Warren,** the CPA for the Funeral Home, that any and all information reflected on the tax returns for the Funeral Home, including ownership thereof, were provided **solely by Samuel L. Davis,** which information was accepted by Mr. Payton without request for corroboration;

xv. The Order failed to consider, or even reference, the **sworn admission by Ernestine Boston** that she had no recollection of the March 19, 1982 meeting in which Samuel L. Davis purportedly purchased Chellie Nixon's 65% interest in the Funeral Home and paid Chellie Nixon $65,000 for the purchase;

xvi. The Order failed to consider, or even reference, the **sworn admission by Ernestine Boston** that she was **pressured** into signing an Affidavit **under duress** in which the Affidavit contained facts that were not, in fact, true, including the statement that she was present at the alleged March 19, 1982 meeting in which Samuel L. Davis purportedly purchased Chellie Nixon's 65% interest in the Funeral Home and paid Chellie Nixon $65,000 for the purchase;

xvii. The Order failed to consider, or even reference, the **sworn admission by Ernestine Boston** that she had never been to the law offices of Saleeby Law Firm, the location where the purported March 19, 1982 meeting was held in which Samuel L. Davis purportedly purchased Chellie Nixon's 65% interest in the Funeral Home and paid Chellie Nixon $65,000 for the purchase;

xviii. The Order failed to consider, or even reference, the **sworn admission by Angela D. Young,** daughter of Chellie Nixon, regarding her mother's ownership of the Funeral Home.

In support of this Motion, Petitioner hereby incorporates its Memorandum in Opposition to Defendant's Motion for Summary Judgment filed in this matter, including Exhibits therein, and any and all Deposition Transcripts and other filings in this matter.

## CONCLUSION

According to Rule 56(c), SCRCP, summary judgment is proper only when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law."

In light of the issues listed above, the Petitioner hereby respectfully requests this Court to reconsider its Order granting Defendant's Motion for Summary Judgment, and after consideration, to reverse said Order and deny Defendant's Motion.

RESPECTFULLY,

**BUTLER LAW**

Myrtle Beach, South Carolina
Dated: July 28, 2023

Danny V. Butler, S.C. Bar No. 72791
4420 Oleander Drive, Ste 203
Myrtle Beach, SC 29577
Ph: (843) 808-9224
Fax: (843) 781-6870
Email: dbutler@butlerlaw.net

*Attorney for Angela D. Young, as Personal Representative of the Estate of Chellie Nixon*

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served via **email** and **U.S. Mail** upon the Probate Court Judge and Defendant's Counsel of Record, on this the 28th day of July, 2023, as follows:

Marion County Probate Court
Attn: Honorable T. Carroll Atkinson, III
2523 US-76
Marion, SC 29571
Email: probatejudge@marionsc.org

Turner Padget
Attn: Jeffrey L. Payne, Esq
PO Box 5478
Florence, SC 29502
Email: jpayne@turnerpadget.com

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Danny V. Butler, SC Bar # 72791

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| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
| | ) | |
| COUNTY OF MARION | ) | CIVIL ACTION NO. 2017-ES-33-00099 |
| | ) | |
| Angela D. Young, as Personal Representative for the Estate of Chellie Nixon, | ) | |
| | ) | |
| Plaintiff, | ) | MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT |
| vs | ) | |
| | ) | |
| Carolyn Johnson, as Personal Representative for the Estate of Samuel L. Davis, | ) | |
| | ) | |
| Defendant. | ) | |

**TO: THE DEFENDANT CAROLYN JOHNSON, AS PERSONAL REPRESENTATIVE FOR THE ESTATE OF SAMUEL L. DAVIS, AND HER ATTORNEY, JEFFREY L. PAYNE, ESQ.**

The Plaintiff Angela D. Young, as Personal Representative for the Estate of Chellie Nixon, hereby submits this Memorandum in Opposition to Defendant's Motion for Summary Judgment filed herein.

Based on the Affidavits and other documentary evidence referenced herein, and the law applicable to the claims alleged in this matter, including the SPOILATION OF EVIDENCE by the Defendant in direct contravention to a legally-issued Subpoena Duces Tecum, there exists genuine issues of material fact and the Defendant is not entitled to a judgment as a matter of law. As such, the Motion for Summary Judgment must be **DENIED**.

In addition, in light of the undisputed evidence of Spoilation of Evidence by the Defendant, Plaintiff is entitled to an Order striking the responsive pleading of the Defendant and granting Plaintiff's prayers for relief set forth in the Verified Petition filed in this matter.

## BACKGROUND FACTS

According to the Verified Complaint filed in this matter:

- Young and Young Funeral Home (the "Funeral Home") was originally founded in the late 1970's by Harold L. Young and his spouse, Dorothy J. Young, who were the original shareholders thereto.
- The Funeral Home operates a funeral home in Hartsville, South Carolina and has operated from such location since its inception.
- The Defendant Samuel L. Davis was previously employed by the Funeral Home and had been employed by the Funeral Home since its inception, or shortly thereafter, which employment continued through his death in 2021.
- Harold L. Young, one of the original founders of the Funeral Home, died **intestate** in December 1978 and was survived by his spouse Dorothy J. Young and daughter Chellie Nixon f/k/a Chellie Y. Mack.
- No probate estate was opened for Harold L. Young.
- Dorothy J. Young died **intestate** on January 16, 1979 and was survived solely by her daughter Chellie Nixon.
- A probate estate was opened for Dorothy J. Young in February 1979 (the "Dorothy Young Estate"), with Chellie Nixon being the **sole heir** to the Dorothy Young Estate.
- Chellie Nixon died intestate on **February 14, 2017** and was survived by her spouse John Williams and five (5) children: Harold L. Young, II, Angela D. Young, Tracey Mack Jackson, Lance D. Mack and Larry Mack, Jr.

- The probate estate for Chellie Nixon (the "Nixon Estate") was opened in Marion County, South Carolina in April 2017, with Harold L. Young, II being appointed as the Personal Representative for the estate.
- The sole asset of the Nixon Estate is the Funeral Home, including the assets of the Funeral Home.
- After being appointed as Personal Representative, Harold L. Young, II did attempt to obtain information regarding the Funeral Home for purposes of administering the Nixon Estate. Despite repeated requests, Samuel L. Davis denied Harold L. Young, II access to the property and records of the Funeral Home on the basis that that he was the sole shareholder of the Funeral Home.
- This was the first time that the Defendant Samuel L. Davis had ever represented to anyone that he had an ownership interest in the Funeral Home.
- There exists no documents signed by Harold Young, Dorothy Young or Chellie Nixon assigning or transferring any interest in the Funeral Home to Samuel L. Davis.
- Angela D. Young was appointed as successor Personal Representative for the Nixon Estate on September 20, 2021.

The Summons and Complaint was filed November 16, 2021 and asserts two (2) causes of action: (i) Declaratory Judgment as to the ownership of the Funeral Home; and (ii) claim of Fraud against Samuel L. Davis for falsely asserting sole ownership of the Funeral Home.

## SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a

matter of law." Rule 56(c), SCRCP. "When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party." Fleming v. Rose, 350 S.C. 488, 493-94, 567 S.E.2d 857, 860 (2002)(citation omitted). In order to withstand a motion for summary judgment in cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence. Hancock v. Mid–South Mgmt. Co., Inc., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009); Turner v. Milliman, 392 S.C. 116, 122, 708 S.E.2d 766, 769 (2011). However, "[o]nce the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. Regions Bank v. Schmauch, 354 S.C. 648, 582 S.E.2d 432 (Ct. App. 2003). The nonmoving party must come forward with specific facts showing there is a genuine issue for trial. Rife v. Hitachi Cont. Machinery Co., Ltd, 363 S.C. 209, 214, 609 S.E.2d 565, 568. (Ct. App. 2005).

Summary judgment should be granted when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." McAlhany v. Carter, 415 S.C. 54, 62–63, 781 S.E.2d 105, 110 (Ct. App. 2015), reh'g denied (Jan. 28, 2016), cert. granted (Nov. 9, 2016). "Summary judgment is not appropriate when further inquiry into the facts of the case is desirable to clarify the application of the law." Id. "Summary judgment should not be granted even when there is no dispute as to evidentiary facts if there is dispute as to the conclusion to be drawn from those facts." Id. "In determining whether any triable issues of fact exist, the court must view the evidence and all reasonable

inferences that may be drawn from the evidence in the light most favorable to the non-moving party." Id.

## DISCUSSION

### I. SPOILATION OF RELEVANT EVIDENCE

The sole issue of fact in dispute in this matter is the ownership of the Funeral Home as of the date of Chellie Nixon's death (**February 14, 2017**). Plaintiff contends that Chellie Nixon was the sole owner at the time of her death, while the Defendant contends that Samuel L. Davis was the sole owner at the time of Chellie Nixon's death.

On **February 22, 2018**, a Subpoena Duces Tecum was issued by the Estate of Chellie Nixon to Samuel L. Davis seeking "All documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc. from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc." ***See*** **Subpoena, attached as EXHIBIT A hereto.**

Due to Sam's non-response to the Subpoena, the Estate filed a Motion Seeking Order and Rule to Show Cause against Mr. Davis. ***See*** **Motion for Rule to Show Cause and Order, attached as EXHIBIT B hereto.**

The hearing on the Rule to Show Cause was scheduled **December 14, 2020**. Prior to the hearing, a letter was received from James C. Cox, Jr., which letter enclosed the following documents:

- Certificate of Dissolution of Young Funeral
- Young Funeral Balance Sheet as of 3/31/1982
- Affidavit of Frank Hough
- Affidavit of Iva Hodge

- Affidavit of Sam Davis

*See* **Letter dated December 14, 2020, attached as EXHIBIT D hereto.** The documents enclosed and referenced in Mr. Cox's letter were the only documents produced by Defendant in response to the Subpoena at such time.

Unbeknownst to Plaintiff, **prior to** December 14, 2020, Carolyn Cranford Johnson, as Manager and President of the Funeral Home, with the consent of Samuel L. Davis, did cause thousands of pages of Funeral Home records to be shredded and otherwise destroyed, which included corporate records, receipts, agreements, etc. that were dated prior to 2013, and did instruct employees of the Funeral Home to do the same. *See* **Affidavit of LaTonia Davis attached as EXHIBIT D hereto #18-21.** According to LaTonia, employee at the Funeral Home at such time, included in the thousands of pages that were destroyed were "...documents for the Funeral Home dating as far back as the 1950s, and included corporate records, receipts, agreements, etc. for the Funeral Home and its operations." **EXHIBIT D, #19**. At the time these records were destroyed in 2020, there was a **pending Subpoena** that had sought the production of documents relating to the ownership of the Funeral Home, which would have been included in many of the corporate and financial records caused to be destroyed by Carolyn Cranford Johnson.

The sworn deposition of Carolyn Cranford Johnson taken February 17, 2023.[1] During her sworn deposition, Carolyn Cranford Johnson did admit that she caused numerous records of the Funeral Home to be destroyed in 2020. In fact, there were so many documents destroyed that she had to rent a utility van to take the numerous trash bags of documents to be further shredded.

[1] Deposition Transcript for Carolyn Cranford Johnson *to be filed.*

Carolyn Cranford Johnson further admitted in her sworn deposition that she was aware of the pending lawsuit and the subpoena prior to her destruction of these records.

Filed contemporaneously with this Memo is a **Motion for Sanctions for Spoilation of Evidence** regarding the recent discovery of Ms. Johnson's wilful actions. As set forth in the Motion, in light of the egregious and intentional spoilation of evidence relevant in this matter, and which were subject to a legally issued subpoena, a presumption should be made by the Court that the records that were destroyed included evidence and/or information that would have supported Plaintiff's contention that the Funeral Home as solely owned by Chellie Nixon at the time of her death, or in the alternative, that Samuel L. Davis had never owned, nor received, any ownership interest in the Funeral Home. *See* QZO, Inc. v. Moyer, 358 S.C. 246, 258, 594 S.E.2d 541, 548 (Ct.App.2004) (affirming the circuit court's decision to strike appellant's pleadings after appellant destroyed relevant evidence); Cole Vision Corp. v. Hobbs, 394 S.C. 144 (2011)(recognizing remedies available to parties for spoilation of evidence, including striking of pleadings).

## II. INITIAL 35% INTEREST

According to the South Carolina Probate Code, a Decedent's interest in real estate "...devolves to the persons to whom it is devised by his last Will...or in the absence of testamentary disposition, to his heirs..." S.C. Code Ann. §62-3-101.

Harold L. Young, founder of the Funeral Home, died December 1978, and was survived by a spouse Dorothy J. Young, and one child Chellie Y. Mack a/k/a Chellie Nixon. No probate estate was opened for Harold, however, he did execute a Last Will and Testament leaving his estate to his spouse, Dorothy. **Harold Young Last Will, attached hereto EXHIBIT E.**

Dorothy J. Young died January 16, 1979 and was survived solely by her daughter Chellie Nixon. A probate estate was opened for Dorothy shortly after her death, with Samuel L. Davis and Chellie Nixon being appointed as co-Executors. **Affidavit of Angela D. Young, attached hereto as EXHIBIT F, #5.** Dorothy died intestate, with Chellie Nixon being the sole heir to Dorothy's estate. **Id.**

Under the intestate provisions of South Carolina Probate Code, as a result of the death of Harold L. Young, his entire interest in the Funeral Home devolved to his surviving spouse and daughter, in equal shares. Therefore, after Harold's death, the Funeral Home was thereafter owned by Dorothy J. Young as 50% owner, and Chellie Nixon as 50% owner.

Dorothy J. Young died **intestate** on January 16, 1979 and was survived solely by her daughter Chellie Nixon. Under the intestate provisions of South Carolina Probate Code, as a result of the death of Dorothy J. Young, her entire interest in the Funeral Home devolved to her only child, Chellie Nixon. Therefore, after Dorothy's death, the sole owner of the Funeral Home was Chellie Nixon.

During his sworn deposition taken May 4, 2022, Samuel L. Davis admitted the following[2]:

- Upon the death of Harold Young, the founder and sole owner of the Funeral Home, Mr. Young had a Last Will and Testament that left everything to his spouse, Dorothy Young. **Deposition, Pgs. 19-21;**
- Upon the death of Dorothy Young three weeks later, Chellie Nixon was the sole heir to her mother's estate and, as such, "...Chellie inherited everything". **Deposition, Pg. 23;**

[2] Condensed Deposition Transcript for Samuel L. Davis attached hereto as **EXHIBIT G.**

- When asked to explain how he received 35% interest in the Funeral Home, Sam referenced a meeting in which he overheard Harold Young and others discussing transferring ownership of 35% to Sam. However, Harold died before executing the transfer. **Deposition, Pgs. 33-34**;
- Sam later changed his story to state that it was Chellie who transferred the 35% to Sam. However, Sam acknowledged that there was nothing signed by Chellie reflecting this transfer and that he had never personally seen a document signed by Chellie transferring the 35% to Sam. **Deposition, Pgs. 35-38, 41**.

To date, there exists no documents signed by Harold L. Young, Dorothy J. Young or Chellie Nixon purporting to transfer any interest in the Funeral Home to Sam. In addition, according to Chellie's family, at no time had Chellie ever represented to anyone, including her own children, that she had sold any interest in the Funeral Home to anyone, much less Sam. **EXHIBIT F, #4**. Furthermore, the public records support Chellie Nixon as being the sole owner of the Funeral Home at the time of her mother's death, and through her death on February 14, 2017. **Id., 5-6, 12-14**.

Based on the evidence produced by the parties thus far, at a minimum, there exists a genuine issue of material fact at to the **initial 35%** that Sam claims he received from the "Young Family". While Sam flip flops on his story as to how he received the 35% (first, via overhearing Harold speak about it in a meeting which was never legally completed, then changing story to Chellie Nixon transferring the 35% to Sam which is not supported by any documentary evidence), there exists evidence to contradict this uncorroborated claim via the public filings for the Estate of Dorothy J. Young as well as the sworn testimony of Chellie's family. See **EXHIBIT F**.

## III. ALLEGED PURCHASE OF 65% INTEREST

According to Samuel L. Davis, he purchased Chellie Nixon's 65% interest during a special meeting held March 19, 1982 attended by Sam, Chellie Nixon and Sam's spouse Ernestine Boston. It was at this meeting that Chellie allegedly informed Ernestine that she agreed to accept the sum of $65,000 for the purchase of her 65% interest. According to Sam, a "certified check payable to Chellie Y. Mack were given to Saleeby. Saleeby, in turn, gave it to her, and her her to sign..." **Sam Deposition, pgs. 50-51.**

To date, no documents have been presented reflecting actual receipt by Chellie Nixon of the $65,000 payment, ***nor any document signed by Chellie*** evidencing the transfer of the 65% interest in the Funeral Home to Sam. Plaintiff relies on an alleged "corporate book" that was produced in mid to late-2022 (2 years after the original Subpoena was issued asking for evidence of ownership), which corporate book contains ***unsigned*** Stock Certificates purporting to reflect the transfer of interest in the Funeral Home from Chellie to Sam. Despite being almost 41 years old, the documents in the corporate book, including the Stock Certificates, remains in immaculate condition. Again, the corporate book was only just produced only in mid to late-2022.

During the sworn deposition of Ernestine Boston taken February 17, 2023, Ernestine testified that she had no knowledge or recollection of the alleged March 1982 meeting, nor of Sam's purchase of Chellie's 65% interest for 65,000.[3] When asked about "Meeting Minutes" she allegedly signed in 1982 purporting to reflect the March 1982 meeting, she testified that while the document looked like it contained her signature, she did not recall signing the Minutes, attending the meeting, nor being present when the purported transaction occurred. In fact, Ernestine testified that it was possible that the meeting may not have been held at all, or that the

[3] Deposition Transcript for Ernestine Boston *to be filed.*

transaction even happened, notwithstanding the documents she has signed in this matter. Ernestine further explained that during pendency of this action, she has been forced to sign various documents, including her Affidavit, **under duress** and that statements contained in the documents she has signed, including her Affidavit, were not, in fact, true.

As additional support for the denial of the Plaintiff's Motion is the Affidavit of Angela D. Young attached hereto, in which she attached various public filings supporting Chellie Nixon as being the sole owner of the Funeral Home. Angela also asserts under oath that her mother had never represented to her, or anyone else, at any time, that she had sold her interest in the Funeral Home to anyone, much less Sam. **EXHIBIT G, #4-6, 12-14.** Just as important as the evidence that currently exists to support Chellie's sole ownership in the Funeral Home is the ***lack of documentation signed by Harold L. Young, Dorothy Y Young, and Chellie Nixon*** purporting to transfer any interest in the Funeral Home to Sam. The Defendant has the burden to prove its legal ownership of the Funeral Home, and the records exchanged during discovery simply does not support their position. At a minimum, there exists a genuine issue of material fact as to this issue of legal ownership of the Funeral Home.

## CONCLUSION

For the reasons set forth above, genuine issues of material fact **DO** exist with regards to the ownership of the Funeral Home and, furthermore, the Defendant is **NOT** entitled to a judgment as a matter of law pursuant. As such, Defendant Motion for Summary Judgment should be **DENIED.**

RESPECTFULLY,

**BUTLER LAW**

Danny V. Butler, S.C. Bar No. 72791
4420 Oleander Drive, Ste 203
Myrtle Beach, SC 29577
Ph: (843) 808-9224
Fax: (843) 781-6870
Email: dbutler@butlerlaw.net

*Attorney for Angela D. Young,* as Personal Representative of the Estate of Chellie Nixon

Myrtle Beach, South Carolina
Dated: February 21, 2023

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing document was served via **email** and **U.S. Mail** upon Defendant's Counsel of Record, on this the 21st day of February, 2023, as follows:

Turner Padget
Attn: Jeffrey L. Payne, Esq
PO Box 5478
Florence, SC 29502
Email: jpayne@turnerpadget.com

Danny V. Butler, SC Bar # 72791

# EXHIBIT A

# STATE OF SOUTH CAROLINA

ISSUED BY THE PROBATE COURT IN THE COUNTY OF MARION

Harold Young, II as Personal Representative of the Estate of Chellie Nixon, Plaintiff

v.

SUBPOENA IN A PROBATE CASE

Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc., Defendant

Case Number: 2017-ES-33-99

Pending in Marion County

TO: Samuel L. Davis:

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

| PLACE OF TESTIMONY | COURTROOM |
|---|---|
| | DATE AND TIME , AM |

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

| PLACE OF DEPOSITION | DATE AND TIME , AM |
|---|---|
| | |

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

All documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc., from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc. YES

| PLACE | DATE AND TIME |
|---|---|
| Robert E. Lee, LLC<br>111 Witcover Street<br>Post Office Box 1096<br>Marion, South Carolina 29571 | March 29, 2018, 10:00 AM |

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

| PREMISES | DATE AND TIME , AM |
|---|---|
| | |

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature
Indicate if Attorney for Plaintiff or Defendant
Attorney's Address and Telephone Number:

February 22, 2018
Date

Robert E. Lee, Esq.
Print Name

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Clerk of Court/Issuing Officer's Signature | Date | Print Name

Pro Se Litigant's Name, Address and Telephone Number :

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

# PROOF OF SERVICE

| | | |
|---|---|---|
| SERVED | DATE 2-26-19 | FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL |
| | PLACE 900 East. Old Cannon Rd. | ☐YES ☐NO AMOUNT $ |
| SERVED ON | Samuel L. Davis | MANNER OF SERVICE Hand Delivered |
| SERVED BY | M.T. McGuinn | TITLE Process Server |

## DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 2-26-19

M.T. McGuinn

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

**(c) Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(I) fails to allow reasonable time for compliance; or

(II) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(III) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(I) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(II) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or



(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a partner of a partnership that is a party, to incur substantial expense to travel from the where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A)A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT B

| | | |
|---|---|---|
| **STATE OF SOUTH CAROLINA** | ) | **IN THE PROBATE COURT** |
| | ) | **TWELFTH JUDICIAL CIRCUIT** |
| **COUNTY OF MARION** | ) | **PROBATE ROLL NO.: 2017-ES-33-99** |
| | ) | |
| IN THE MATTER OF: | ) | |
| CHELLIE NIXON | ) | |
| (Deceased) | ) | |
| | ) | **MOTION SEEKING** |
| Harold Young, II, Personal Representative | ) | **ORDER AND RULE** |
| Of the Estate of Chellie Nixon, | ) | **TO SHOW CAUSE** |
| Petitioner, | ) | |
| v. | ) | |
| | ) | |
| Samuel L. Davis, Registered Agent for the | ) | |
| Young and Young Funeral Home, Inc., | ) | |
| Respondent. | ) | |

Take notice that Harold L. Young, II, as Personal Representative of the above-named estate has moved and does hereby move for the Court to issue an Order and Rule to Show Cause why the Respondent should be held in contempt of Court for failing and refusing to comply with the Subpoena that was personally served on the Respondent on February 26, 2018.

In support of Petitioner's Motion, the Petitioner's offers for the Court's consideration, the *Counsel for Petitioner's Affidavit in Support of Order and Rule to Show Cause Why Respondent Should be Held in Contempt.*

Respectfully submitted,

**ROBERT E. LEE, LLC**
*Attorney for Harold Young, II, as Personal Representative of the Estate of Chellie Nixon*

Robert E. Lee, S.C. Bar No. 63052
P.O. Box 1096
111 Witcover Street
Marion, South Carolina 29571
Tel: (843) 423-1313 / Fax: (843) 423-1397
rel@rellawfirm.com

FILED
OCT 19 2020
MARION COUNTY
PROBATE JUDGE

Marion, South Carolina
October 15, 2020

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE PROBATE COURT |
| | ) | TWELFTH JUDICIAL CIRCUIT |
| COUNTY OF MARION | ) | PROBATE ROLL NO.: 2017-ES-33-99 |
| | ) | |
| IN THE MATTER OF: | ) | |
| CHELLIE NIXON | ) | |
| (Deceased) | ) | |
| | ) | *COUNSEL FOR PETITIONER'S* |
| Harold Young, II, Personal Representative | ) | *AFFIDAVIT IN SUPPORT OF ORDER* |
| of the Estate of Chellie Nixon, | ) | *AND RULE TO SHOW CAUSE WHY* |
| Petitioner, | ) | *RESPONDENT SHOULD BE HELD* |
| | ) | *IN CONTEMPT* |
| v. | ) | |
| | ) | |
| Samuel L. Davis, Registered Agent for the | ) | |
| Young and Young Funeral Home, Inc., | ) | |
| Respondent. | ) | |

FILED
OCT 19 2020
MARION COUNTY
PROBATE JUDGE

PERSONALLY, APPEARED before me, Robert E. Lee, who after being duly sworn, deposes and states as follows:

1. I am giving this Affidavit based upon personal knowledge, except as to those things based upon information and belief, and as to those, I believe them to be true.

2. I am counsel for Harold Young, II, as Personal Representative of the Estate of Chellie Nixon, the Petitioner in the above-captioned case. I am over 21 years of age and competent to make this Affidavit.

3. I am informed and believe that the Respondent, Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc., is in contempt of the Subpoena that was served on February 26, 2018.

4. Attached hereto and incorporated herein by reference as Exhibit A is a copy of the Subpoena.

7. Respondent was first served with the Subpoena by and through his attorney, James C. Cox, Jr. Attorney Cox forwarded a copy of the deed and advised that he would be forwarding

more information and documents responsive to the subpoena. To date, no further information has been received.

8. Since requests for further information were going unanswered, I attempted to follow up several times with the Respondent, himself. To date, those attempts have been unsuccessful.

11. I request this Court issue its Order and Rule to Show Cause as to why the Respondent should be held in contempt of this Court for failure to comply with this Subpoena.

12. The Petitioner has incurred attorney's fees and costs for the bringing of this Order and Rule to Show Cause and I request this Court grant the Respondent a reasonable amount of attorney's fees and costs for its representation in this contempt proceeding.

13. Because the Respondent has blatantly failed and refused to comply with the Subpoena, the Petitioner requests that this Court find the Respondent in contempt of Court.

**FURTHER AFFIANT SAYETH NOT!**

Robert E. Lee, SCB # 69052
*Counsel for Petitioner, Harold Young, II, as Personal Representative of the Estate of Chellie Nixon*

SWORN TO BEFORE ME THIS
15th day of October, 2020.
Tiffany S. McCaskill (L.S.)
Notary Public for South Carolina
My commission expires: 02/21/2022

TIFFANY S. McCASKILL NOTARY PUBLIC SOUTH CAROLINA

# STATE OF SOUTH CAROLINA

ISSUED BY THE PROBATE COURT IN THE COUNTY OF MARION

EXHIBIT
abbr: A

Harold Young, II as Personal Representative of the Estate of Chellie Nixon, Plaintiff

v.

Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc., Defendant

SUBPOENA IN A PROBATE CASE

Case Number: 2017-ES-33-99

Pending in Marion County

TO: Samuel L. Davis:

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

| PLACE OF TESTIMONY | COURTROOM |
|---|---|
| | DATE AND TIME , AM |

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

| PLACE OF DEPOSITION | DATE AND TIME , AM |
|---|---|
| | |

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

All documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc., from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc. 4/15

| PLACE | DATE AND TIME |
|---|---|
| Robert E. Lee, LLC<br>111 Witcover Street<br>Post Office Box 1096<br>Marion, South Carolina 29571 | March 29, 2018, 10:00 AM |

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

| PREMISES | DATE AND TIME , AM |
|---|---|
| | |

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature
Indicate if Attorney for Plaintiff or Defendant
Attorney's Address and Telephone Number:

February 22, 2018
Date

Robert E. Lee, Esq.
Print Name

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Clerk of Court/Issuing Officer's Signature | Date | Print Name

Pro Se Litigant's Name, Address and Telephone Number :

## PROOF OF SERVICE

| | | |
|---|---|---|
| SERVED | DATE 2-26-18 | FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL |
| | PLACE 900 EAST. OLD CANNON RD. | ☐YES ☐NO AMOUNT $ |
| SERVED ON | Samuel L. Jones | MANNER OF SERVICE Hand Delivered |
| SERVED BY | M.T. McEnhill | TITLE Process Server |

## DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 2-26-18

M.T. McEnhill
SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

**(c) Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party no[illegible]cer, director or managing agent of a party, nor a [illegible] partner of a partnership that is a party, to incur substantial expense to travel from the[illegible] where that person resides, is employed or regul[illegible]acts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A)A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

| | |
|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF MARION<br><br>IN THE MATTER OF:<br>CHELLIE NIXON<br>(Deceased)<br><br>Harold Young, II, Personal Representative Of the Estate of Chellie Nixon,<br>Petitioner,<br>v.<br><br>Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc.,<br>Respondent. | IN THE PROBATE COURT<br>TWELFTH JUDICIAL CIRCUIT<br>PROBATE ROLL NO.: 2017-ES-33-99<br><br>ORDER AND RULE<br>TO SHOW CAUSE |

**TO: THE RESPONDENT ABOVE-NAMED**

Based upon the contents of the attached Affidavit, you are hereby ordered to appear before the Presiding Judge of the Probate Court, Twelfth Judicial Circuit at the Marion County Administration Building, located at 2523 E. Highway 76, Marion, South Carolina 29571, on MONDAY, DECEMBER 14TH at 3:00PM to show cause, if you can, why you should not be held in contempt of this Court for failing to comply with the Subpoena dated February 22, 2018, and personally served February 26, 2018, in the above-captioned case, and to show cause, if you can, why you should not be held in contempt of this court and required to pay a reasonable amount of attorney's fees and costs for the bringing of this Order and Rule to Show Cause.

IT IS FURTHER ORDERED that pursuant to Rule 4(c) of the *South Carolina Rules of Civil Procedure*, this Rule to Show Cause may be served by the Sheriff, his deputy, or by any other person not less than eighteen (18) years of age not an attorney in or a party to this action.

AND IT IS SO ORDERED.

T. Carroll Atkinson, III
Marion County Probate Judge

Marion, South Carolina

October 19, 2020.

EXHIBIT C

LAW OFFICE
SALEEBY & COX, P.A.
640 South Fourth Street
Hartsville, South Carolina 29550
*SERVING THE PEE DEE SINCE 1949*

EDWARD E. SALEEBY (1927-2002)
THAD E. SALEEBY (1927-1973)
EDWARD E. SALEEBY, JR. (1953-2015)
JAMES C. COX, JR.
TERENCE A. QUINN
JACOB L. GODWIN

MAILING ADDRESS:
POST OFFICE BOX 519
HARTSVILLE, SC 29551
TELEPHONE: (843) 332-1531
FAX: (843) 383-5800

December 14, 2020

Robert E. Lee, Esq.
Post Office Box 1096
Marion, South Carolina 29571

Re: Harold Young, II, as Personal Rep. For the Estate of Chellie Nixon vs. Samuel L. Davis, Registered Agent for Young and Young Funeral Home, Inc.

Dear Robert:

First, let me thank you for the courtesies your office has extended to me as we prepare for our meeting.

For your review, I am enclosing the following:

1. Secretary of State's Certificate of Dissolution by Administrative Dissolution of Young and Young Funeral Home, Inc.
2. Young and Young Funeral Home's Balance Sheet dated March 31, 1982. The last month that Chellie received a monthly check from the funeral home in the amount of $5,250.00
3. Affidavit of Frank Hough. Frank was well familiar with Chellie and her involvement with the funeral home.
4. Affidavit of Iva Hodge. Iva knew Chellie and her parents and lived two doors from the funeral home.
5. Affidavit of Sam Davis which outlines his involvement with the funeral home and Chellie.

I look forward to meeting with you and your client on Monday, December 21, 2020.

With kindest personal regards, I am

Sincerely yours,

James C. Cox, Jr.

JCCjr:rks
Enclosures

EXHIBIT D

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS
)
COUNTY OF MARION ) CIVIL ACTION
NO. 2017-ES-33-00099
)
Angela D. Young, as Personal )
Representative for the Estate of )
Chellie Nixon, )
)
Plaintiff, ) **AFFIDAVIT OF**
vs ) **LATONIA M. DAVIS**
)
Estate of Samuel L. Davis, )
)
Defendant. )
)

PERSONALLY appeared LaTonia M. Davis, who, being duly sworn, deposes and says that:

1. I am the daughter of Samuel L. Davis, the original Defendant in this matter.

2. I loved my father dearly. However, he was very stern and controlling.

3. As far as I have known him, my father's primary attention and efforts were in the operation of Young and Young Funeral Home (the "Funeral Home"), where he often worked 7 days a week.

4. I worked at the Funeral Home from 1995 through August 2022. Up until 2018, my father was the Director of the Funeral Home until Carolyn Johnson was hired in 2018, after which she basically took over as Operations Manager & President.

5. I first began working for the Funeral Home in 1995 when I was still attending high school. I worked on a part-time basis, usually working during after-school hours and

weekends.

6. I became a full-time employee with the Funeral Home in 2003 and worked at least 5 days a week at the Funeral Home. My duties included administrative, record-keeping, accounting, billing, merchandise as well as the submission of all receipts, bank statements and itemized bills to Payton Warren, the CPA for the Funeral Home.

7. During my tenure at the Funeral Home from 1995 through approximately 2012, the Funeral Home received mail addressed to "Chellie Nixon". At the time, I did not personally know Chellie Nixon and did not know why her mail was being delivered to the Funeral Home.

8. When I asked my father about the mail addressed to Chellie, my father simply instructed me to store the letters on top of the fireplace in the living room of the Funeral Home, but never answered my questions as to what the mail was about or why it was being delivered to the Funeral Home.

9. Based on my personal knowledge, I never witnessed my father distributing any of the mail to Chellie.

10. In 1995, my father added me as an authorized signatory on the operating account for the Funeral Home so that I could help him pay bills/expenses. As such, I was aware of any and all monies deposited in, and expenses paid out, of the operating account.

11. From 1995 through approximately June 2021, I have never seen a check, nor any other evidence of payment, made to Chellie Nixon from the Funeral Home.

12. In 2018, my father hired Carolyn Cranford Johnson to work for the Funeral Home.

13. Carolyn essentially took over as manager and operator of the Funeral Home and micro-managed the employees, including myself, as to the day-to-day operations. Carolyn was even added as an authorized signatory on the operating account for the Funeral Home and my father's personal accounts immediately after being hired.

14. Prior to being hired, Carolyn directed all employees,

including myself, to sign non-compete agreements which prohibited us from working for any other funeral home. Carolyn advised and declared that if we did not sign these non-compete agreements, we would voluntarily be resigning from our jobs. So I signed the non-compete agreement.

15. I never received a copy of the non-compete agreement I was forced to sign. In addition, I never received compensation, promotion or any other benefit for signing the agreement.

16. After hiring Carolyn, my father and Carolyn opened a second operating account for the Funeral Home at The Citizens Bank in which Carolyn, and my father were the only authorized signatories. I was not added as an authorized signatory on this second operating account even though I was authorized on the other operating prior/original account for the Funeral Home.

17. My father also opened up a **personal** account at The Citizens Bank at the same time he opened up the second operating account for the Funeral Home with Carolyn C. Johnson and Shirley Wooten Brewer as signatories.

18. The records for the Funeral Home were kept in the warehouse located behind the main building of the Funeral Home. I have personally seen many of the documents kept in this building which comprised of **thousands** of pages of documents for the Funeral Home dating as far back as the 1950s, and included corporate records, receipts, agreements, etc. for the Funeral Home and its operations.

19. In 2020, prior to December of that year, Carolyn Cranford Johnson, with my father's support, directed me and other employees (including **Shirley Wooten Brewer**) to **shred and destroy** all of the records of the Funeral Home kept in the warehouse that were dated before 2013. When I asked Carolyn and my father why we were destroying these records, I was instructed to stop asking questions and simply follow directions.

20. Not wanting to lose my job, I, along with **Carolyn** and **Shirley Wooten Brewer** in fact, destroyed thousands of pages of records of the Funeral Home that were dated before 2013, and placed these documents into large trash bags that were taken by a utility van to a location for final shredding.

These actions were taken per the specific instructions of Carolyn Cranford Johnson.

21. The employees at the Funeral Home in 2020 were aware of Carolyn's specific instructions to shred and destroy the records of the Funeral Home maintained in the warehouse, including: myself and Shirley Wooten Brewer.

22. With regard to ownership of the Funeral Home, my father previously told me that he was very upset because Harold Young had not done his Last Will to leave him any interest in the Funeral Home. According to my father, he was supposed to receive a "portion" of the Funeral Home from Harold's Last Will, with Chellie Nixon owning the remaining share. After this conversation, any time I brought up the issue of ownership of the Funeral Home, my father either ignored my question or told me not to worry about it and that it was not of my concern.

23. In August 2022, I resigned from the Funeral Home because Carolyn Cranford Johnson was micro-managing all aspects of my job and was blaming me for issues with the Funeral Home that were not my fault and causing great stress on me personally.

FURTHER AFFIANT SAYETH NAUGHT.

LaTonia M. Davis

Sworn to before me this 2nd day of January, 2023

Notary Public for South Carolina
My Commission Expires: 10/9/2030



Debra M. Jackson, BSW M.A. CDF-PCLC
Notary Public, State of South Carolina
My Commission Expires 10/9/2030

EXHIBIT E

1.

# Last Will and Testament

I, Harold L. Young, of the City of Hartsville, County of Darlington, State of South Carolina, being of a sound mind and disposing memory, do hereby make, publish and declare this instrument to be my Last Will and Testament, hereby revoking all other instruments of a testamentary heretofore by me made:

ITEM I: I direct that prior to any division of any personal property, all my outstanding bona fide debts, if any, be paid out of the first monies coming into the hands of my Executrix hereinafter named.

ITEM II: I hereby will, devise and bequeath unto my wife, Dorothy J. Young, all my property, whether real, personal or mixed and wheresoever found, in fee.

ITEM III: I hereby nominate, constitute and appoint my wife, Dorothy J. Young as Executrix of this my Last Will and Testament and direct that no bond be required of her for the faithful performance of her duties as such.

IN WITNESS whereof I have hereunto set my hand and seal this 24th day of September, 1958.

Harold L. Young (SEAL)
Testator

The foregoing instrument consisting of this one page was on the date hereof, signed, published and declared by the Testator, Harold L. Young, as and for his Last Will and Testament, in the presence of the undersigned, who, at his request and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses hereto.

James L. McKenzie ADDRESS Hartsville, S. C.

J. Mac Powell ADDRESS Hartsville, S. C.

Estelle Epps ADDRESS Hartsville, S. C.

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
| | ) | |
| COUNTY OF MARION | ) | CIVIL ACTION NO. 2017-ES-33-00099 |
| | ) | |
| Angela D. Young, as Personal Representative for the Estate of Chellie Nixon, | ) | |
| | ) | |
| Plaintiff, | ) | **AFFIDAVIT OF ANGELA D. YOUNG** |
| vs | ) | |
| | ) | |
| Estate of Samuel L. Davis, | ) | |
| | ) | |
| Defendant. | ) | |
| | ) | |

PERSONALLY appeared Angela D. Young, who, being duly sworn, deposes and says that:

1. I am the Personal Representative for the Estate of Chellie Nixon.

2. The Decedent Chellie Nixon was my mother.

3. As Personal Representative for my mother's Estate, I have been keeping business records of any and all documents relevant to her Estate, which includes documents relevant to the Estates of Harold L. Young and Dorothy J. Young, my grandparents (also my mother's natural parents).

4. After my grandmother died in 1979, and continuing through my mother's death in 2017, I always believed my mother to be the owner of "Young and Young Funeral Home" (the "Funeral Home"), the funeral home started by my grandparents in 1947, because she was my grandparents' only child. In addition, at no time during my interactions with my mother did she ever mention selling the Funeral Home to anyone while she was alive.

5. My belief that the Funeral Home was solely owned by my mother is supported by the probate estate filings in my late grandmother Dorothy J. Young's estate, which filing reflects my mother as the sole heir to her estate (my grandmother did not have a Last Will). *See* **EXHIBIT A – Petition for Letters.**

6. Further evidence of my mother being the sole heir to my grandmother's estate is also reflected in the deed that was signed by my mother transferring real estate from her personal name and into the name of "Young and Young Funeral Home, Inc." *See* **EXHIBIT B – 3/25/1980 Deed**

7. My mother died February 14, 2017.

8. After my mother's death, my siblings and I tried to obtain information relating to the Funeral Home. However, Samuel L. Davis, the funeral director, rejected our efforts to obtain any information and stated to us that he was the owner of the Funeral Home. This was the first time I had ever heard of someone claiming to own the Funeral Home other than my mother.

9. Because he would not cooperate, the Estate had to retain an attorney to issue a Subpoena to Samuel to produce these records in February 2018. *See* **EXHIBIT C – Subpoena**

10. Despite receiving the Subpoena, Samuel continued to refuse to provide any of the requested documents. So, the Estate Attorney had to file a Motion and Rule to Show Cause against Samuel for refusing to comply with the Subpoena. *See* **EXHIBIT D – Motion and Rule to Show Cause**

11. According to Samuel, he became owner of the Funeral Home as follows: (a) he inherited 35% from my grandparents, and (b) he purchased the remaining 65% from my mother in March 1982 for the sum of $65,000.00. *See* **EXHIBIT E – Samuel's Affidavit**

12. First, the 35% inheritance is not supported by my grandfather's Last Will which clearly devises his entire estate to my grandmother Dorothy J. Young. *See* **EXHIBIT F – Harold Young Will**

13. And as reflected in the probate filings in my grandmother's estate, even Samuel admitted in the probate filings that my mother was the sole heir to her estate. *See* **EXHIBIT A – Petition for Letters**

14. As for Samuel's claim that he purchased my mother's 65% interest in the Funeral Home, when the Estate asked for evidence of this transaction, Samuel has never produced any receipt or other proof that my mother, in fact, received the 65,000. Furthermore, despite my numerous conversations with my mother, including conversations with her in 2017 prior to her death, she has never mentioned ever selling her interest in the Funeral Home to ***anyone***, much less Samuel.

15. When my mother was at the hospital prior to her death, Samuel visited the hospital and had brought documents for my mother to sign. Though I did not see what documents he had brought, I witnessed Samuel leave my mother's room very upset. When I asked about it, my mother said Samuel tried to make her sign a document that related to the Funeral Home, but my mother refused to sign the document.

16. In January 2023, I found out, for the first time, that Carolyn Johnson had instructed employees at the Funeral Home to shred and otherwise destroy corporate and business records of the Funeral Home that were dated prior to 2013. These are part of the documents we have been asking for since we issued the subpoena on Samuel in February 2018.

FURTHER AFFIANT SAYETH NAUGHT.

Angela D. Young

Sworn to before me this
6 day of January, 2023

Notary Public for South Carolina
My Commission Expires: 11-30-26

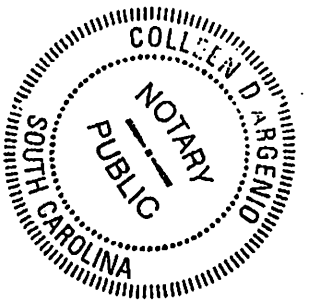

EXHIBIT A

STATE OF SOUTH CAROLINA,
County of Darlington

Ex Parte Samuel L. Davis and
Chellie Y. Mack
Petitioner.

In Re Estate of:
Dorothy J. Young
Deceased.

IN THE PROBATE COURT
PETITION FOR LETTERS OF ADMINISTRATION
AND ORDER FOR CITATION TO ISSUE

To H. Dennis Lloyd, Probate Judge for said county:

The petition of the undersigned respectfully represents:

1. That Dorothy J. Young Age 59 who last dwelt in Hartsville in said County of Darlington State aforesaid, died intestate on the 16th day of January in the year of our Lord one thousand nine hundred and seventy-nine possessed of goods and estate remaining to be administered, leaving
as h. or only heirs at law and next of kin, the following:
(Show by subdivision into family group the names of persons taking through any predeceased heir at law.)

| Name | Age* | Residence | Relationship to Decedent |
|---|---|---|---|
| Chellie Y. Mack | Adult | Hartsville, S. C. | Daughter |
| | | | |
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*Enter the exact age at date of decedent's death if then living; if not then living, enter in the age column the word "dead".

2. That the intestate died seized and possessed of a personal estate of about the value of to be furnished later ($ ) Dollars consisting of the following moneys, goods and chattels:

(a) Cash on hand and in banks $
(b) Moneys due intestate on account of bonds, mortgages and other securities $
(c) Corporate and governmental bonds and stocks $
(d) Open accounts due intestate $
(e) Goods, wares, merchandise, furniture, machinery and equipment used in profession, trade or business $
(f) Household goods $
(g) Farming implements, machinery and equipment $
(h) Farm products $
(i) Mules, horses, cattle, hogs, sheep, etc. $
(j) Automobiles, auto trucks, motorcycles, etc. $
(k) Jewelry, silver plate, watches and other personal effects $
(l) Life or other insurance made payable to the estate $
(m) Value of all other personal property not listed above $

(OVER)

This form revised by the South Carolina Tax Commission November 1, 1961.
(To be used in all cases where the decedent died after December 31, 1961.)

Page 3

3. That the intestate died seized and possessed of real estate of about the value of _____ ($_____) Dollars, as follows:

DESCRIPTION OF REAL ESTATE AND APPROXIMATE VALUES
(Enter each tract and lot on a separate line).

| No. of acres or fract. (State whether acres or lots) | No. of buildings | Total value of each lot and land including buildings | Decedent's interest | Exact location (Show County, Township and School District) |
|---|---|---|---|---|
| | | To be furnished later | | |

4. That the intestate made transfers and gifts within three (3) years prior to date of death as follows: (If None-So State)

(Include all gifts within three years prior to death and all other transfers, real and personal, either where the consideration may appear to have been inadequate or where the transfer was to a relative or personal friend or to any person, firm, association, or corporation, to which the decedent was interested, pecuniarily or otherwise. Describe the transfer in full; state the approximate value of the property transferred and the amount of the consideration (cash or claimed, if any).

To be furnished later

5. Life Insurance, Annuities and/or Endowment Contracts payable to beneficiaries other than the decedent's estate.

| Face Value | Contract Number | Name of Company |
|---|---|---|
| | To be furnished later | |

NOTE:
Items 6 below refers to "joint tenancy with right-of-survivorship". Property held as "tenants-in-common" must be reported under items 2 & 3 of this return.

6. That the intestate died seized and possessed of personal property standing in joint names of two or more persons and payable to either or the survivor as follows: (Sec. 65-451, S. C. Code of Laws 1952, as amended) (IF NONE-SO STATE)

| | FAIR MARKET VALUE AT DATE OF DEATH |
|---|---|
| A. U. S. Bonds owned jointly with right of survivorship or "payable on death" | $To be furnished later |
| B. Joint Bank Accounts with right of survivorship | $ |
| C. Joint Accounts in Depositories or other Institutions with right of survivorship | $ |
| D. Joint Stocks and Bonds with right of survivorship | $ |
| E. Joint Miscellaneous property with right of survivorship | $ |

7. TRANSFERS INTENDED TO TAKE EFFECT AT DEATH (Sec. 65-451 of S. C. Code of Laws 1952, as amended). That the intestate made the following lifetime transfers of property, BOTH REAL AND PERSONAL, reserving unto transferor's self a life estate, income for life or other incidents of ownership that would preclude a fee simple title vesting in the beneficiary until the death of the transferor as follows: (IF NONE-SO STATE)

| | FAIR MARKET VALUE AT DATE OF DEATH |
|---|---|
| A. Real Estate transferred retaining life estate | $To be furnished later |
| B. Trust created retaining unto self income for life, power to revoke or other incidents of ownership | $ |
| C. Other transfers intended to take effect at death | $ |

Page 4

8. POWERS OF APPOINTMENT (Sec. 65-493 of S. C. Code of Laws 1952, as amended). That the intestate died seized and possessed of a power of appointment over property, both real and personal, whether testamentary or otherwise, with an estimated fair market value of (IF NONE-SO STATE) none.

9. That your petitioner, who is a resident and citizen of Darlington County, in the State aforesaid, is advised that an administration on said estate is necessary.

WHEREFORE they prays that Letters of Administration on the estate of the within named deceased be granted by this Court to them.

January 16, 19 79

Samuel L. Davis
Petitioner

Chollie Y. Mack
Petitioner

STATE OF SOUTH CAROLINA,
County of Darlington

PERSONALLY appeared Samuel L. Davis and Chollie Y. Mack who being duly sworn says that to the best of their knowledge, information and belief, the statements contained in the foregoing petition are true and complete.

Samuel L. Davis
Chollie Y. Mack

Sworn to and subscribed before me this 16th day of January 19 79.

Margaret H. Chesnut
Notary Public for South Carolina

## QUALIFICATION OF ADMINISTRATOR

STATE OF SOUTH CAROLINA,
County of Darlington

I DO SOLEMNLY SWEAR or affirm that deceased died without any Will, as far as I know or believe, and that I will well and truly administer all and singular the goods and chattels, rights and credits of the said deceased, and pay all her just debts, as far as the same will extend and the law require me, and that I will make a true, exact and perfect inventory of all said goods and chattels, rights and credits, and return a just account thereof when required. So help me, God.

Sworn to before me this 16th day of January, A. D. 19 79

Judge of Probate (L. S.)

Samuel L. Davis (L. S.)

Chollie Y. Mack (L. S.)

Address

Attorney's Name and Address

FILED
JUDGE OF PROBATE
DARLINGTON COUNTY
JAN 16 2 42 PM '79

Page 5

EXHIBIT B

811-63 63

State of South Carolina,

COUNTY OF DARLINGTON

KNOW ALL MEN BY THESE PRESENTS, That I, Chellie Y. Hack

TAX ASSESSOR'S
PARCEL NO. 134.5A
DIST. NO. 32-1

in the State aforesaid, in consideration of the

sum of Five Dollars, love and affection----------

to me paid by Young and Young Funeral Home, Inc.

in the State aforesaid

have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said Young and Young Funeral Home, Inc., its successors and assigns 711 South Sixth Street, Hartsville, South Carolina 29550

All that certain piece, parcel or lot of land situate, lying and being in the Town of Hartsville, in the County of Darlington, State of South Carolina, being designated as the Northern twenty-three (23) foot portion of Lot Number Fourteen (14) according to plat of property of Estate land and Securities Company recorded in the office of the Clerk of Court for Darlington County in Plat Book 6, at Page 257; said portion of Lot Fourteen (14) measuring 141.5 feet along its northern and southern boundaries and 23 feet along its eastern and western boundaries and being bounded as follows:

NORTH: By Lot Thirteen (13) on said plat;
EAST: By property of Enterprise Lumber Company
SOUTH: By the remainder of Lot Fourteen (14) on said plat; and
WEST: By Sixth Street

This being the same property conveyed to the grantor, Harold L. Young, who died leaving only one heir, the grantor above mentioned, by deed of Cornelia Butler Pearson recorded in the office of the Clerk of Court for Darlington County in Deed Book 135, at Page 170.

ALSO CONNECTING PART OF LAND

All that certain piece, parcel or lot of land, situate, lying and being in the City of Hartsville, County of Darlington, State of South Carolina, the said lot embracing all of Lot Fifteen (15) and the southern twenty-seven (27) feet portion of Lot Number Fourteen (14) as shown on plat of lands formerly of the Estate Land and Securities Company, made by T. E. Wilson, C.E. September 23, 1926 and recorded in the office of the Clerk of Court for Darlington County in Plat Book 6, at Page 257. The lot hereby conveyed being in the shape of or approximately in the shape of a rectangle and measuring and being bounded as follows:

NORTH: By the remaining twenty-three (23) feet portion of Lot Fourteen (14) and as shown on said plat;
EAST: By lands of Enterprise Lumber Company;
SOUTH: By Lot Number Sixteen (16) on said plat; and
WEST: By Sixth Street

The lot hereby conveyed measures seventy-seven (77) feet along its eastern and western boundaries and one hundred thirty-nine (139) feet, more or less, along its northern and southern boundaries; said conveyance made subject to right-of way or easement to the S.C. Highway Department for the widening of Sixth Street and the western boundary of the lot hereby conveyed shall be Sixth Street as the same is enlarged.

This being the same property conveyed to Harold L. Young, who died leaving as his sole heir, Chellie Young Hack, conveyed by deed of Alice L. Butler, recorded in the office of the Clerk of Court for Darlington County in

Deed Book 389, at Page 75, recorded February 16, 1956.

Together with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said 64

Young and Young Funeral Home, Inc., its successors and assigns Heirs and Assigns forever.

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

Young and Young Funeral Home, Inc., its successors and assigns

Heirs and Assigns, against me and my Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

*WITNESS* my *Hand* and *Seal* this 25th *day of* March

*in the year of our Lord one thousand nine hundred and* eighty

*and in the* two hundredth third *year of the Sovereignty and Independence of the United States of America.*

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

Joan B. Davis
Edward E. Saleeby Jr.

Chellie Y. Mack (SEAL)
Chellie Y. Mack (SEAL)

STATE OF SOUTH CAROLINA, DARLINGTON COUNTY.

PERSONALLY appeared before me Edward E. Saleeby, Jr.

and made oath that he saw the within-named Chellie Y. Mack sign, seal and, as her act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that he, with Joan B. Davis witnessed the execution thereof.

SWORN to before me this 25th day of March, 19 80.

Joan B. Davis (L.S.)
Notary Public of S. C. My Com. Exp.

Edward E. Saleeby Jr.

STATE OF SOUTH CAROLINA, COUNTY.

NO RENUNCIATION OF DOWER

I, GRANTOR A WOMAN, do hereby certify unto all whom it may concern, that Mrs. the wife of the within-named did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread, or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within-named heirs and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises within mentioned and released.

*Given under my Hand and Seal, this day of*

(L.S.)
Notary Public of S. C.

FILED
DARLINGTON COUNTY
'80 MAR 25 AM 11:20
REGISTER OF DEEDS

State of South Carolina
County of DARLINGTON

Chellie Y. Mack
TO
Young and Young Funeral Home, Inc.

TITLE TO REAL ESTATE

I hereby certify, that the within Deed was filed for record in my office at 11:20 o'clock A.M. on the 25 day of March A.D. 19 80, and was immediately entered upon the proper records and duly recorded in Book 389 of Deeds, page 75

Clerk of Court of Common Pleas and General Sessions
for DARLINGTON County, S. C.

I hereby certify that the within Deed has been this day of A. D. 19 . Recorded in Book of Deeds, page Auditor County
for

EXHIBIT C

# STATE OF SOUTH CAROLINA

## ISSUED BY THE PROBATE COURT IN THE COUNTY OF MARION

Harold Young, II as Personal Representative of the Estate of Chellie Nixon, Plaintiff

v.

Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc., Defendant

SUBPOENA IN A PROBATE CASE

Case Number: 2017-ES-33-99

Pending in Marion County

TO: Samuel L. Davis:

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

| PLACE OF TESTIMONY | COURTROOM |
|---|---|
| | DATE AND TIME , AM |

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

| PLACE OF DEPOSITION | DATE AND TIME , AM |
|---|---|

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

All documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc., from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc. YES

| PLACE | DATE AND TIME |
|---|---|
| Robert E. Lee, LLC<br>111 Witcover Street<br>Post Office Box 1096<br>Marion, South Carolina 29571 | March 29, 2018, 10:00 AM |

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

| PREMISES | DATE AND TIME , AM |
|---|---|

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature — Date: February 22, 2018 — Print Name: Robert E. Lee, Esq.

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number:

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Clerk of Court/Issuing Officer's Signature | Date | Print Name

Pro Se Litigant's Name, Address and Telephone Number :

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

## PROOF OF SERVICE

| | | |
|---|---|---|
| SERVED | DATE 2-26-19 | FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL |
| | PLACE 900 East. Old Cannon Rd. | ☐YES ☐NO AMOUNT $ |
| SERVED ON | James L. Davis | MANNER OF SERVICE Hand Delivered |
| SERVED BY | M.T. McEachin | TITLE Process Server |

## DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 2-26-19

M.T. McEachin
SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

**(c) Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or



(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a partner of a partnership that is a party, to incur substantial expense to travel from the where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) Duties In Responding to Subpoena.**

(1)(A)A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT D

| | |
|---|---|
| **STATE OF SOUTH CAROLINA** ) | **IN THE PROBATE COURT** |
| ) | **TWELFTH JUDICIAL CIRCUIT** |
| **COUNTY OF MARION** ) | **PROBATE ROLL NO.: 2017-ES-33-99** |
| ) | |
| IN THE MATTER OF: ) | |
| CHELLIE NIXON ) | |
| (Deceased) ) | |
| ) | **MOTION SEEKING** |
| Harold Young, II, Personal Representative ) | **ORDER AND RULE** |
| Of the Estate of Chellie Nixon, ) | **TO SHOW CAUSE** |
| Petitioner, ) | |
| v. ) | |
| ) | |
| Samuel L. Davis, Registered Agent for the ) | |
| Young and Young Funeral Home, Inc., ) | |
| Respondent. ) | |

Take notice that Harold L. Young, II, as Personal Representative of the above-named estate has moved and does hereby move for the Court to issue an Order and Rule to Show Cause why the Respondent should be held in contempt of Court for failing and refusing to comply with the Subpoena that was personally served on the Respondent on February 26, 2018.

In support of Petitioner's Motion, the Petitioner's offers for the Court's consideration, the *Counsel for Petitioner's Affidavit in Support of Order and Rule to Show Cause Why Respondent Should be Held in Contempt.*

Respectfully submitted,

**ROBERT E. LEE, LLC**
*Attorney for Harold Young, II, as Personal Representative of the Estate of Chellie Nixon*

Robert E. Lee, S.C. Bar No. 63052
P.O. Box 1096
111 Witcover Street
Marion, South Carolina 29571
Tel: (843) 423-1313 / Fax: (843) 423-1397
rel@rellawfirm.com

FILED
OCT 19 2020
MARION COUNTY
PROBATE JUDGE

Marion, South Carolina
October 15, 2020

| | |
|---|---|
| STATE OF SOUTH CAROLINA ) | IN THE PROBATE COURT |
| ) | TWELFTH JUDICIAL CIRCUIT |
| COUNTY OF MARION ) | PROBATE ROLL NO.: 2017-ES-33-99 |
| ) | |
| IN THE MATTER OF: ) | |
| CHELLIE NIXON ) | |
| (Deceased) ) | |
| ) | *COUNSEL FOR PETITIONER'S* |
| Harold Young, II, Personal Representative ) | *AFFIDAVIT IN SUPPORT OF ORDER* |
| of the Estate of Chellie Nixon, ) | *AND RULE TO SHOW CAUSE WHY* |
| Petitioner, ) | *RESPONDENT SHOULD BE HELD* |
| ) | *IN CONTEMPT* |
| v. ) | |
| ) | |
| Samuel L. Davis, Registered Agent for the ) | |
| Young and Young Funeral Home, Inc., ) | |
| Respondent. ) | |

FILED
OCT 19 2020
MARION COUNTY
PROBATE JUDGE

PERSONALLY, APPEARED before me, Robert E. Lee, who after being duly sworn, deposes and states as follows:

1. I am giving this Affidavit based upon personal knowledge, except as to those things based upon information and belief, and as to those, I believe them to be true.

2. I am counsel for Harold Young, II, as Personal Representative of the Estate of Chellie Nixon, the Petitioner in the above-captioned case. I am over 21 years of age and competent to make this Affidavit.

3. I am informed and believe that the Respondent, Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc., is in contempt of the Subpoena that was served on February 26, 2018.

4. Attached hereto and incorporated herein by reference as Exhibit A is a copy of the Subpoena.

7. Respondent was first served with the Subpoena by and through his attorney, James C. Cox, Jr. Attorney Cox forwarded a copy of the deed and advised that he would be forwarding

more information and documents responsive to the subpoena. To date, no further information has been received.

8. Since requests for further information were going unanswered, I attempted to follow up several times with the Respondent, himself. To date, those attempts have been unsuccessful.

11. I request this Court issue its Order and Rule to Show Cause as to why the Respondent should be held in contempt of this Court for failure to comply with this Subpoena.

12. The Petitioner has incurred attorney's fees and costs for the bringing of this Order and Rule to Show Cause and I request this Court grant the Respondent a reasonable amount of attorney's fees and costs for its representation in this contempt proceeding.

13. Because the Respondent has blatantly failed and refused to comply with the Subpoena, the Petitioner requests that this Court find the Respondent in contempt of Court.

**FURTHER AFFIANT SAYETH NOT!**

Robert E. Lee, SCB # 63052
*Counsel for Petitioner, Harold Young, II, as Personal Representative of the Estate of Chellie Nixon*

SWORN TO BEFORE ME THIS
15th day of October, 2020.
Tiffany S. McCaskill (L.S.)
Notary Public for South Carolina
My commission expires: 02/21/2022

TIFFANY S. McCASKILL NOTARY PUBLIC SOUTH CAROLINA

STATE OF SOUTH CAROLINA

ISSUED BY THE PROBATE COURT IN THE COUNTY OF MARION

EXHIBIT A

Harold Young, II as Personal Representative of the Estate of Chellie Nixon, Plaintiff

v.

Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc., Defendant

SUBPOENA IN A PROBATE CASE

Case Number: 2017-ES-33-99

Pending in Marion County

TO: Samuel L. Davis:

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

| PLACE OF TESTIMONY | COURTROOM |
|---|---|
| | DATE AND TIME , AM |

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

| PLACE OF DEPOSITION | DATE AND TIME , AM |
|---|---|
| | |

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

All documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc., from Harold Young, to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc. YES

| PLACE | DATE AND TIME |
|---|---|
| Robert E. Lee, LLC<br>111 Witcover Street<br>Post Office Box 1096<br>Marion, South Carolina 29571 | March 29, 2018, 10:00 AM |

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

| PREMISES | DATE AND TIME , AM |
|---|---|
| | |

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature — Date: February 22, 2018 — Print Name: Robert E. Lee, Esq.

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number:

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Clerk of Court/Issuing Officer's Signature | Date | Print Name

Pro Se Litigant's Name, Address and Telephone Number :

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

## PROOF OF SERVICE

| | | |
|---|---|---|
| SERVED | DATE 2-26-19 | FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL |
| | PLACE 900 East. Old Cannon Rd. | ☐YES ☐NO AMOUNT $ |
| SERVED ON | Samuel L. Davis | MANNER OF SERVICE Hand Delivered |
| SERVED BY | M.T. McEnhill | TITLE Process Server |

## DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 2-26-19

M.T. McEnhill
SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

**(c) Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or



(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

(iii) requires a person who is not a party no[illegible]cer, director or managing agent of a party, nor a p[illegible] partner of a partnership that is a party, to incur substantial expense to travel from the[illegible] where that person resides, is employed or regul[illegible]acts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE PROBATE COURT |
| | ) | TWELFTH JUDICIAL CIRCUIT |
| COUNTY OF MARION | ) | PROBATE ROLL NO.: 2017-ES-33-99 |
| | ) | |
| IN THE MATTER OF: | ) | |
| CHELLIE NIXON | ) | |
| (Deceased) | ) | |
| | ) | |
| Harold Young, II, Personal Representative | ) | |
| Of the Estate of Chellie Nixon, | ) | |
| Petitioner, | ) | ORDER AND RULE |
| v. | ) | TO SHOW CAUSE |
| | ) | |
| Samuel L. Davis, Registered Agent for the | ) | |
| Young and Young Funeral Home, Inc., | ) | |
| Respondent. | ) | |

TO: THE RESPONDENT ABOVE-NAMED

Based upon the contents of the attached Affidavit, you are hereby ordered to appear before the Presiding Judge of the Probate Court, Twelfth Judicial Circuit at the Marion County Administration Building, located at 2523 E. Highway 76, Marion, South Carolina 29571, on MONDAY, DECEMBER 14TH at 3:00PM to show cause, if you can, why you should not be held in contempt of this Court for failing to comply with the Subpoena dated February 22, 2018, and personally served February 26, 2018, in the above-captioned case, and to show cause, if you can, why you should not be held in contempt of this court and required to pay a reasonable amount of attorney's fees and costs for the bringing of this Order and Rule to Show Cause.

IT IS FURTHER ORDERED that pursuant to Rule 4(c) of the *South Carolina Rules of Civil Procedure*, this Rule to Show Cause may be served by the Sheriff, his deputy, or by any other person not less than eighteen (18) years of age not an attorney in or a party to this action.

AND IT IS SO ORDERED.

T. Carroll Atkinson, III
Marion County Probate Judge

Marion, South Carolina

October 19, 2020.

EXHIBIT E

STATE OF SOUTH CAROLINA )
)
COUNTY OF DARLINGTON )

AFFIDAVIT OF SAM DAVIS

PERSONALLY appeared before m Sam Davis, who being duly sworn deposes and says:

I am Sam Davis. I am over the age of eighteen years. I live at 900 East Old Camden Road, Hartsville, South Carolina.

I started working at Young and Young Funeral Home when I was ten (10) years old, which was then owned by Harold L. Young. Though I am not related to Harold Young, I was often referred to as Harold's son and the Young family groomed me to run the funeral home business. As a result, I became a licensed Funeral Director and was considered a great asset to the Young family and business. I lived at the funeral home at the request of the Young family.

Harold L. Young and Dorothy J. Young had one daughter, Chelle Young (Mack). In December of 1978, Harold L. Young died and Dorothy J. Young followed three weeks later. The Young family left me 35% interest in the business. The remaining 65% was left to their daughter, Chelle. I continued to run the business, as Chelle had no interest in running the business herself. Chelle was paid 65% of the net profits from the business until 1982. In March of 1982, Chelle, while battling with a drug addiction, sought to sell the property and her share of the business with the property with the property. Chelle was advised against this by Mr. Frank Hough, a realtor handling her other affairs, and by then attorney, Senator Ed Saleeby. Chelle chose, instead, to sell her shares to me at $1,000.00 per share, totaling $65,000.00. This transaction took place at Mr. Saleeby's office with both myself and Chelle present. Chelle was paid with certified funds and was also paid her last controlling interest payment in March 1982. Since then and up to her death, I assisted Chelle financially, physically, and emotionally. I assisted her in getting a job at Carolina Pines, as well as purchased a vehicle for her to get to and from. I checked on her regularly in the days leading up to her death and maintained a good relationship with her until her death.

EXHIBIT F



# Last Will and Testament

I, Harold L. Young, of the City of Hartsville, County of Darlington, State of South Carolina, being of a sound mind and disposing memory, do hereby make, publish and declare this instrument to be my Last Will and Testament, hereby revoking all other instruments of a testamentary herstofore by me made:

ITEM I: I direct that prior to any division of any personal property, all my outstanding bona fide debts, if any, be paid out of the first monies coming into the hands of my Executrix hereinafter named.

ITEM II: I hereby will, devise and bequeath unto my wife, Dorothy J. Young, all my property, whether real, personal or mixed and wherescever found, in fee.

ITEM III: I hereby nominate, constitute and appoint my wife, Dorothy J. Young as Executrix of this my Last Will and Testament and direct that no bond be required of her for the faithful performance of her duties as such.

IN WITNESS whereof I have hereunto set my hand and seal this 24th day of September, 1958.

Harold L. Young (SEAL)
Testator

The foregoing instrument consisting of this one page was on the date hereof, signed, published and declared by the Testator, Harold L. Young, as and for his Last Will and Testament, in the presence of the undersigned, who, at his request and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses hereto.

James L. Black ADDRESS Hartsville, S. C.

J. Wm. Kennedy ADDRESS Hartsville, S. C.

Lillie C. Kelly ADDRESS Hartsville, S. C.

ELECTRONICALLY FILED - 2023 Oct 27 10:22 AM - MARION - COMMON PLEAS - CASE#2023CP3300472

# BRIEF OF APPELLANT

THE STATE OF SOUTH CAROLINA
In the Circuit Court of
Marion County

---

APPEAL FROM MARION COUNTY
Probate Court

Hon. T. Carroll Atkinson
Probate Judge for Marion County

---

Probate Case No. 2017-ES-33-00099

---

Angela D. Young, as Personal Representative for the Estate of Chellie Nixon, Appellant,

v.

Carolyn Johnson, as Personal Representative for the Estate of Samuel L. Davis, Respondent.

---

BRIEF OF APPELLANT

---

Danny V. Butler, Esq.
4420 Oleander Drive, Ste 203
Myrtle Beach, SC 29577
(843) 808-9224
Attorney for Appellant

ELECTRONICALLY FILED - 2023 Oct 27 10:22 AM - MARION - COMMON PLEAS - CASE#2023CP3300472

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## STATEMENT OF ISSUES ON APPEAL

1. DID THE PROBATE COURT **ABUSE ITS DISCRETION** IN GRANTING THE RESPONDENT'S MOTION FOR SUMMARY JUDGMENT WHEN IT FAILED TO CONSIDER, OR REFERENCE, THE FOLLOWING EVIDENCE PRESENTED AT THE HEARING ON SAID MOTION:

   A. The factual history of Young and Young Funeral Home (the "Funeral Home"), a business operated as a D/B/A prior to incorporation of Young and Young Funeral Home, Inc., which **continued** the operations of the Funeral Home after the deaths of the original proprietors Harold L. Young and Dorothy J. Young;

   B. The **Spoilation of Evidence** by the Respondent Carolyn Johnson in which she admitted under oath that she caused the destruction of thousands of pages of corporate and other records of the Funeral Home (e.g. **all documents prior to 2013**), which included documents containing information relevant to the ownership of the Funeral Home;

   C. the destruction of Funeral Home records by Carolyn Johnson occurred **immediately prior to** the hearing scheduled December 14, 2020 on a Motion for Rule to Show Cause arising from Respondent's non-response to a Subpoena Duces Tecum issued in this matter seeking "[a]ll documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc. from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc";

   D. the **sworn admission by the Respondent Carolyn Johnson** that at the time she caused the Funeral Home records to be destroyed, she was, in fact, aware of the pending Subpoena Duces Tecum issued in this matter that sought "[a]ll documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc. from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc";

   E. the **sworn admission by LaTonia Davis** that she and other employees were instructed by the Respondent in early December 2014 to **destroy all records of the Funeral Home that were dated prior to 2013**, which included "corporate records, receipts, agreements, etc";

   F. the **statutory, intestate transfer of ownership interests of the Funeral Home** upon the deaths of Harold L. Young and Dorothy J. Young, the founders of the Funeral Home;

   G. the **sworn admission by Samuel L. Davis** that there was nothing in writing

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signed by Harold L. Young, Dorothy J. Young or Chellie Nixon in which 35% interest in the Funeral Home was transferred to Samuel L. Davis;

H. the **lack of documentation** to corroborate the alleged meeting held March 19, 1982 at the law offices of the Saleeby Law Firm in which Chellie Nixon purportedly sold her 65% interest in the Funeral Home to Samuel L. Davis for $65,000;

I. the **lack of any documents signed by Chellie Nixon** transferring her 65% interest in the Funeral Home to Samuel L. Davis pursuant to the alleged March 19, 1982 transaction;

J. the "corporate records" of the Funeral Home, including unsigned Stock Certificates therein, as being documentation **procured solely by Samuel L. Davis** and which contain no signatures by Chellie Nixon;

K. the **sworn admission by Samuel L. Davis** that Chellie Nixon "...was paid 65% of the net profits from the business until 1982", however, no documentation exists to corroborate such payments;

L. **the sworn admission by Payton Warren,** the CPA for the Funeral Home, that though he had been involved with the preparation of tax returns for the Funeral Home since 1972, he had never heard of Chellie Nixon despite Samuel L. Davis' sworn admission that Chellie Nixon "...was paid 65% of the net profits from the business until 1982";

M. the **sworn admission by Payton Warren,** the CPA for the Funeral Home, that any and all information reflected on the tax returns for the Funeral Home, including ownership thereof, were provided **solely by Samuel L. Davis,** which information was accepted by Mr. Payton without corroboration;

N. the **sworn admission by Ernestine Boston** that she had no recollection of the March 19, 1982 meeting she purportedly attended in which Samuel L. Davis purchased Chellie Nixon's 65% interest in the Funeral Home and paid Chellie Nixon $65,000 for the purchase;

O. the **sworn admission by Ernestine Boston** that she was **pressured into signing an Affidavit under duress** in which the Affidavit contained false representations, including the statement that she was present at the alleged March 19, 1982 meeting in which Samuel L. Davis purportedly purchased Chellie Nixon's 65% interest in the Funeral Home and paid Chellie Nixon $65,000 for the purchase;

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P. the **sworn admission by Ernestine Boston** that she had never been to the law offices of Saleeby Law Firm, the location where the purported March 19, 1982 meeting was held in which Samuel L. Davis purportedly purchased Chellie Nixon's 65% interest in the Funeral Home and paid Chellie Nixon $65,000 for the purchase;

Q. the **sworn admission by Angela D. Young**, daughter of Chellie Nixon, regarding her mother's ownership of the Funeral Home; and

R. the intentional **Spoilation of Evidence** by the Respondent Carolyn Johnson, and the reasonable inferences arising therefrom in the light most favorable to Appellant

2. DID APPELLANT PRESENT SUFFICIENT EVIDENCE THAT GENUINE ISSUES OF MATERIAL FACT DID EXIST TO SURVIVE RESPONDENT'S MOTION FOR SUMMARY JUDGMENT AS TO THE FOLLOWING:

A. Whether Chellie Nixon, in fact, transferred an initial 35% interest in the funeral home to Samuel L. Davis for no consideration;

B. Whether Samuel L. Davis did, in fact, purchase from Chellie Nixon the remaining 65% interest in the funeral home; and

C. Who owned the Funeral Home as of the date of Chellie Nixon's death.

3. DID RESPONDENT PRESENT SUFFICIENT EVIDENCE THAT IT WAS ENTITLED TO A JUDGMENT AS A MATTER OF LAW IN LIGHT OF THE EVIDENCE PRESENTED AT THE HEARING ON RESPONDENT'S MOTION FOR SUMMARY JUDGMENT?

## STATEMENT OF THE CASE

On **November 11, 2021**, Appellant initially brought this action seeking a Declaratory Judgment as to the ownership of Young and Young Funeral Home, Inc., a company that operates a funeral home in Hartsville, SC. The Complaint also alleged a claim for Fraud against Samuel L. Davis for representing that he was the sole owner of the company.

Samuel L. Davis answered denying the allegations and claiming he was the sole owner of the company.

Samuel L. Davis died on **October 2, 2022** and his estate was substituted as a party in his place.

Respondent filed a Motion for Summary Judgment on **November 23, 2022.** The Motion was heard by the Marion County Probate Court on **June 1, 2023**, and the Motion was granted by Order dated **July 17, 2023.**

Appellant filed a Motion to Reconsider, which was denied by Order dated **August 9, 2023.**

Appellant timely filed a Notice of Appeal on **August 20, 2023.**

## STANDARD OF REVIEW

According to the South Carolina Supreme Court:

> Summary judgment is appropriate when it is clear that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. Further, summary judgment should not be granted even when there is no dispute as to the evidentiary facts, if there is a dispute as to the conclusion to be drawn therefrom. An appellate court reviews the granting of summary judgment under the same standard applied by the trial court.

Gadson v. Hembree, 364 S.C. 316 (S.C. 2005)(citations omitted)

In determining whether any triable issues of fact exist, the court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party. Fleming v. Rose, 350 S.C. 488 (S.C. 2002). In order to withstand a motion for summary judgment in cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence. Hancock v. Mid-South Mgmt. Co., Inc., 381 S.C. 326, 330 (2009); Turner v. Milliman, 392 S.C. 116, 122 (2011). Summary judgment should not be granted even when there is no dispute as to evidentiary facts if there is dispute as to the conclusion to be drawn from those facts." Id.





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## STATEMENT OF THE FACTS

Young and Young Funeral Home (the "Funeral Home") was originally founded in the late 1970's by Harold L. Young and his spouse, Dorothy J. Young, who were the original proprietors thereto. The Funeral Home operates a funeral home in Hartsville, South Carolina and has operated from such location since its inception.

The Defendant Samuel L. Davis was previously employed by the Funeral Home and had been employed by the Funeral Home since its inception, or shortly thereafter, which employment continued through his death in 2021.

Harold L. Young died **intestate** in December 1978 and was survived by his spouse Dorothy J. Young and daughter Chellie Nixon f/k/a Chellie Y. Mack. No probate estate was opened for Harold L. Young.

Dorothy J. Young died **intestate** on January 16, 1979 and was survived solely by her daughter Chellie Nixon. A probate estate was opened for Dorothy J. Young in February 1979 (the "Dorothy Young Estate"), with Chellie Nixon being the **sole heir** to the Dorothy Young Estate.

Chellie Nixon died intestate on **February 14, 2017** and was survived by her spouse John Williams and five (5) children: Harold L. Young, II, Angela D. Young, Tracey Mack Jackson, Lance D. Mack and Larry Mack, Jr. The probate estate for Chellie Nixon (the "Nixon Estate") was opened in Marion County, South Carolina in April 2017, with Harold L. Young, II being appointed as the Personal Representative for the estate. The sole asset of the Nixon Estate is the Funeral Home, including the assets of the Funeral Home.

After being appointed as Personal Representative, Harold L. Young, II did attempt to obtain information regarding the Funeral Home for purposes of administering the Nixon Estate. Despite

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repeated requests, Samuel L. Davis denied Harold L. Young, II access to the property and records of the Funeral Home on the basis that that he was the sole shareholder of the Funeral Home. This was the first time that the Defendant Samuel L. Davis had ever represented to Chellie's children that he had an ownership interest in the Funeral Home.

There exists no documents signed by Harold Young, Dorothy Young or Chellie Nixon assigning or transferring any interest in the Funeral Home to Samuel L. Davis.

Angela D. Young was appointed as successor Personal Representative for the Nixon Estate on September 20, 2021.

The Summons and Complaint was filed November 16, 2021 and asserts two (2) causes of action: (i) Declaratory Judgment as to the ownership of the Funeral Home; and (ii) claim of Fraud against Samuel L. Davis for falsely asserting sole ownership of the Funeral Home.

## ARGUMENTS

## I. SPOILATION OF RELEVANT EVIDENCE

A genuine issue of material fact in dispute in this matter is the ***ownership of the Funeral Home*** as of the date of Chellie Nixon's death (**February 14, 2017**). Plaintiff contends that Chellie Nixon was the sole owner at the time of her death, while the Defendant contends that Samuel L. Davis was the sole owner at the time of Chellie Nixon's death. (**Complaint; Answer**)

On **February 22, 2018**, a Subpoena Duces Tecum was issued by the Estate of Chellie Nixon to Samuel L. Davis seeking "All documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc. from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc." (**Memo in Opposition, EXHIBIT A**)

Due to Sam's non-response to the Subpoena, the Estate filed a Motion Seeking Order and

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Rule to Show Cause against Mr. Davis. (Memo in Opposition, EXHIBIT B).

The hearing on the Rule to Show Cause was scheduled **December 14, 2020**. Prior to the hearing, a letter was received from James C. Cox, Jr., which letter enclosed the following documents:

- Certificate of Dissolution of Young Funeral
- Young Funeral Balance Sheet as of 3/31/1982
- Affidavit of Frank Hough
- Affidavit of Iva Hodge
- Affidavit of Sam Davis

(Memo in Opposition, EXHIBIT C). The documents enclosed and referenced in Mr. Cox's letter were the only documents produced by Defendant in response to the Subpoena at such time.

Unbeknownst to Plaintiff, prior to December 14, 2020, Carolyn Cranford Johnson, as Manager and President of the Funeral Home, with the consent of Samuel L. Davis, did cause thousands of pages of Funeral Home records to be shredded and otherwise destroyed, which included corporate records, receipts, agreements, etc. that were dated prior to 2013, and did instruct employees of the Funeral Home to do the same. (Memo in Opposition, EXHIBIT D, #18-21). According to LaTonia, employee at the Funeral Home at such time, included in the thousands of pages that were destroyed were "...documents for the Funeral Home dating as far back as the 1950s, and included corporate records, receipts, agreements, etc. for the Funeral Home and its operations." (Id. #19). At the time these records were destroyed in 2020, there was a **pending Subpoena** that had sought the production of documents relating to the ownership of the Funeral

Home, which would have been included in many of the corporate and financial records caused to be destroyed by Carolyn Cranford Johnson.

The sworn deposition of Carolyn Cranford Johnson taken **February 17, 2023**. During her sworn deposition, Carolyn Cranford Johnson did admit that she caused numerous records of the Funeral Home to be destroyed in 2020. (**Johnson Depo, pgs, 52-55**). In fact, there were so many documents destroyed that she had to rent a utility van to take the numerous trash bags of documents to be further shredded. (**Id., pg, 86**). Carolyn Cranford Johnson further admitted in her sworn deposition that she was aware of the pending lawsuit and the subpoena prior to her destruction of these records. (**Id., pgs, 67-68**).

A **Motion for Sanctions for Spoilation of Evidence** was filed **February 21, 2023** regarding the discovery of Ms. Johnson's wilful actions. (**Motion for Sanctions**). As set forth in the Motion, in light of the egregious and intentional spoilation of evidence relevant in this matter, and which were subject to a legally issued subpoena, a presumption should be made by the Court that the records that were destroyed included evidence and/or information that would have supported Plaintiff's contention that the Funeral Home as solely owned by Chellie Nixon at the time of her death, or in the alternative, that Samuel L. Davis had never owned, nor received, any ownership interest in the Funeral Home. *See* QZO, Inc. v. Moyer, 358 S.C. 246, 258 (Ct.App.2004)(affirming the circuit court's decision to strike appellant's pleadings after appellant destroyed relevant evidence); Cole Vision Corp. v. Hobbs, 394 S.C. 144 (S.C. 2011)(recognizing remedies available to parties for spoilation of evidence, including striking of pleadings).





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## II. INITIAL 35% INTEREST

According to the South Carolina Probate Code, a Decedent's interest in real estate "...devolves to the persons to whom it is devised by his last Will...or in the absence of testamentary disposition, to his heirs..." S.C. Code Ann. §62-3-101.

Harold L. Young, founder of the Funeral Home, died December 1978, and was survived by a spouse Dorothy J. Young, and one child Chellie Y. Mack a/k/a Chellie Nixon. No probate estate was opened for Harold, however, he did execute a Last Will and Testament leaving his estate to his spouse, Dorothy. **(Memo in Opposition, EXHIBIT E)**.

Dorothy J. Young died January 16, 1979 and was survived solely by her daughter Chellie Nixon. A probate estate was opened for Dorothy shortly after her death, with Samuel L. Davis and Chellie Nixon being appointed as co-Executors. **(Memo in Opposition, EXHIBIT F, #5)**. Dorothy died intestate, with Chellie Nixon being the sole heir to Dorothy's estate. **(Id.)**

Under the intestate provisions of South Carolina Probate Code, as a result of the death of Harold L. Young, his entire interest in the Funeral Home devolved to his surviving spouse and daughter, in equal shares. Therefore, after Harold's death, the Funeral Home was thereafter owned by Dorothy J. Young as 50% owner, and Chellie Nixon as 50% owner.

Dorothy J. Young died intestate on January 16, 1979 and was survived solely by her daughter Chellie Nixon. Under the intestate provisions of South Carolina Probate Code, as a result of the death of Dorothy J. Young, her entire interest in the Funeral Home devolved to her only child, Chellie Nixon. Therefore, after Dorothy's death, the sole owner of the Funeral Home was Chellie Nixon.

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During his sworn deposition taken May 4, 2022, Samuel L. Davis admitted the following:

- Upon the death of Harold Young, the founder and sole owner of the Funeral Home, Mr. Young had a Last Will and Testament that left everything to his spouse, Dorothy Young (**Davis Deposition, Pgs. 19-21**);
- Upon the death of Dorothy Young three weeks later, Chellie Nixon was the sole heir to her mother's estate and, as such, "...Chellie inherited everything" (**Davis Deposition, Pg. 23**);
- When asked to explain how he received 35% interest in the Funeral Home, Sam referenced a meeting in which he overheard Harold Young and others discussing transferring ownership of 35% to Sam. However, Harold died before executing the transfer. (**Davis Deposition, Pgs. 33-34**);
- Sam later changed his story to state that it was Chellie who transferred the 35% to Sam. However, Sam acknowledged that there was nothing signed by Chellie reflecting this transfer and that he had never personally seen a document signed by Chellie transferring the 35% to Sam. (**Davis Deposition, Pgs. 35-38, 41.**)

To date, there exists no documents signed by Harold L. Young, Dorothy J. Young or Chellie Nixon purporting to transfer any interest in the Funeral Home to Sam. In addition, according to Chellie's family, at no time had Chellie ever represented to anyone, including her own children, that she had sold any interest in the Funeral Home to anyone, much less Sam (**Memo in Opposition, EXHIBIT F, #4**). Furthermore, the public records support Chellie Nixon as being the sole owner of the Funeral Home at the time of her mother's death, and through her death on February 14, 2017 (**Id., 5-6, 12-14**).

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Based on the evidence produced by the parties thus far, at a minimum, there exists a genuine issue of material fact at to the **initial 35%** that Sam claims he received from the "Young Family". While Sam flip flops on his story as to how he received the 35% (first, via overhearing Harold speak about it in a meeting which was never legally completed, then changing story to Chellie Nixon transferring the 35% to Sam which is not supported by any documentary evidence), there exists evidence to contradict this uncorroborated claim via the public filings for the Estate of Dorothy J. Young as well as the sworn testimony of Chellie's family. **(Memo in Opposition, EXHIBIT F)**

## III. ALLEGED PURCHASE OF 65% INTEREST

According to Samuel L. Davis, he purchased Chellie Nixon's 65% interest during a special meeting held March 19, 1982 attended by Sam, Chellie Nixon and Sam's spouse Ernestine Boston. It was at this meeting that Chellie allegedly informed Ernestine that she agreed to accept the sum of $65,000 for the purchase of her 65% interest. According to Sam, a "certified check payable to Chellie Y. Mack were given to Saleeby. Saleeby, in turn, gave it to her, and her to sign..." . **(Davis Deposition, Pgs. 50-51)**

To date, no documents have been presented reflecting actual receipt by Chellie Nixon of the $65,000 payment, ***nor any document signed by Chellie*** evidencing the transfer of the 65% interest in the Funeral Home to Sam. Plaintiff relies on an alleged "corporate book" that was produced in mid to late-2022 (2 years after the original Subpoena was issued asking for evidence of ownership), which corporate book contains ***unsigned*** Stock Certificates purporting to reflect the transfer of interest in the Funeral Home from Chellie to Sam. Despite being almost 41 years old, the documents in the corporate book, including the Stock Certificates, remains in immaculate

condition. Again, the corporate book was only just produced only in mid to late-2022.

During the sworn deposition of Ernestine Boston taken **February 17, 2023**, Ernestine testified that she had no knowledge or recollection of the alleged March 1982 meeting, nor of Sam's purchase of Chellie's 65% interest for 65,000. (**Boston Deposition, pgs. 42, 47**) When asked about "Meeting Minutes" she allegedly signed in 1982 purporting to reflect the March 1982 meeting, she testified that while the document looked like it contained her signature, she did not recall signing the Minutes, attending the meeting, nor being present when the purported transaction occurred. (**Id, pgs. 53, 57, 60).** In fact, Ernestine testified that it was possible that the meeting may not have been held at all, or that the transaction even happened, notwithstanding the documents she has signed in this matter. (**Id, pg. 56).** Ernestine further explained that during pendency of this action, she has been forced to sign various documents, including her Affidavit, **under duress** and that statements contained in the documents she has signed, including her Affidavit, were not, in fact, true. (**Id, pgs. 42, 44-45).**

As additional support for the denial of the Plaintiff's Motion is the Affidavit of Angela D. Young in which she attached various public filings supporting Chellie Nixon as being the sole owner of the Funeral Home. (**Memo in Opposition, EXHIBIT G**). Angela asserts under oath that her mother had never represented to her, or anyone else, at any time, that she had sold her interest in the Funeral Home to anyone, much less Sam. (**Id., #4-6, 12-14**). Just as important as the evidence that currently exists to support Chellie's sole ownership in the Funeral Home is the ***lack of documentation signed by Harold L. Young, Dorothy Y Young, and Chellie Nixon*** purporting to transfer any interest in the Funeral Home to Sam. The Defendant has the burden to prove its legal ownership of the Funeral Home, and the records exchanged during discovery simply does not





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support their position. At a minimum, there exists a genuine issue of material fact as to this issue of legal ownership of the Funeral Home.

## IV. HEARING ON MOTION FOR SUMMARY JUDGMENT

The hearing on Respondents' Motion for Summary Judgment was held **June 1, 2023.** At the hearing, Petitioner presented the above arguments in opposition to Respondent's Motion for Summary Judgment, making specific reference to the following evidence in support of its argument:

- Deposition of **Payton Warren** taken January 28, 2022;
- Deposition of **Samuel Davis** taken May 4, 2022;
- Deposition of **Carolyn Johnson** taken February 17, 2023;
- Deposition of **Ernestine Boston** taken February 17, 2023;
- Affidavit of **Latonia M. Davis** dated January 2, 2023;
- Affidavit of **Angela D. Young** dated January 6, 2023
- Exhibits attached to Memorandum in Opposition to Defendant's Motion for Summary Judgment dated February 21, 2023

By Order dated July 17, 2023, the Honorable T. Carroll Atkinson, III granted Respondent's Motion for Summary Judgment. (**Order dated July 17, 2023**). The Order failed to consider, or even reference most of the evidence presented by Respondents at the hearing, all of which related to the genuine issue of material fact as to who owned the Funeral Home as of the date of Chellie Nixon's death, including the inferences from the Spoilation of Evidence by the Respondent during the pendency of the litigation (**Motion to Reconsider dated July 28, 2023**). Because the Order failed to consider this evidence, the Court did abuse its discretion in granting Respondent's Motion.

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## CONCLUSION

Based on the evidence presented to the Probate Court, both via the Memorandum in Opposition to the Respondent's Motion for Summary Judgment, including exhibits attached thereto, and the various Depositions and Affidavits referenced in said Memorandum and at the hearing, **at the very least**, Appellant presented sufficient evidence that a genuine issue of material fact exists as to the ownership of the Funeral Home as of the date of Chellie Nixon's death. Furthermore, based on the evidence submitted, the Respondent has not shown that it is entitled to a judgment as a matter of law on the issue of the ownership of the Funeral Home.

For the reasons stated, this Court should reverse the Order Granting Summary Judgment issued by the Marion County probate court.

Respectfully submitted,

October 26, 2023

s/ Danny V. Butler

Danny V. Butler, Esq.
SC Bar No. 72791
4420 Oleander Drive, Ste 203
Myrtle Beach, SC 29577
(843) 808-9224
Attorney for Appellant

STATE OF SOUTH CAROLINA

CERTIFICATION OF VITAL RECORD

# DEATH CERTIFICATION

STATE FILE NUMBER : 139-17-006142

DECEDENT'S NAME: *CHELLIE NIXON*

SEX: FEMALE

AKA: NA

SOCIAL SECURITY NUMBER: 247-11-9526

ARMED FORCES: NO

DATE OF BIRTH: JUNE 13, 1955

AGE: 61 YEARS

TYPE OF PLACE OF DEATH: HOSPICE FACILITY

COUNTY OF DEATH: FLORENCE

NAME AND ADDRESS OF PLACE OF DEATH: MCLEOD HOSPICE HOUSE, FLORENCE, SC 29506

PLACE OF DISPOSITION: PALMETTO CREMATORY

DISPOSITION LOCATION: FLORENCE, SOUTH CAROLINA

METHOD OF DISPOSITION: CREMATION

DECEDENT'S RESIDENCE: 8940 OLD NICHOLS HIGHWAY, NICHOLS, MARION COUNTY, SC, 29581

PLACE OF BIRTH: SOUTH CAROLINA

MARITAL STATUS: MARRIED

SURVIVING SPOUSE'S NAME: JOHN WILLIAMS

FATHER'S NAME: HAROLD YOUNG

MOTHER'S NAME PRIOR TO FIRST MARRIAGE: DOROTHY JONES

INFORMANT'S NAME: JOHN WILLIAMS

RELATIONSHIP: FAMILY MEMBER

MAILING ADDRESS: 8940 OLD NICHOLS HIGHWAY, NICHOLS, SC, 29581

FUNERAL HOME: JACKSON & MCGILL FOR PALMETTO CREAMATORY, PO BOX 845, MARION, SC, 29571-0845

FUNERAL DIRECTOR: JACQUELINE J. MCGILL

LICENSE NUMBER: 1329

EMBALMER'S NAME: POIETTE MCGILL BROMELL

LICENSE NUMBER: 2074

ACTUAL OR PRESUMED DATE OF DEATH : FEBRUARY 14, 2017

MANNER OF DEATH : NATURAL

ACTUAL OR PRESUMED TIME OF DEATH: 1745

CAUSE OF DEATH - PART I:
METASTATIC BREAST CANCER

OTHER SIGNIFICANT CONDITIONS - PART II:
NA

CORONER CONTACTED? NO

AUTOPSY PERFORMED? NO

AUTOPSY AVAILABLE? NA

DATE OF INJURY: NA

TIME OF INJURY: NA

INJURY AT WORK? NA

PLACE OF INJURY: NA

LOCATION OF INJURY: NA

HOW THE INJURY OCCURRED?
NA

CERTIFIER NAME AND TITLE: DO ERIN ELIZABETH LUSHER

LICENSE NUMBER: 1612

CERTIFIER'S ADDRESS: 1203 E. CHEVES ST., FLORENCE, SC, 29506

DATE FILED: FEBRUARY 15, 2017

DATE OF ISSUANCE: FEBRUARY 28, 2017

SPECIAL INSTRUCTIONS:
NA

FILED
APR 25 2017
MARION COUNTY
PROBATE JUDGE

SC056881460

This is a true certification of the facts on file in the Division of Vital Records, SC Department of Health and Environmental Control.

Catherine R. Heigel
Director and State Registrar

Shae R. Sutton
Assistant State Registrar

This is watermarked paper. Do not accept without noting watermark. Hold to light to verify watermark.

Revision Date: 07/31/2015

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

LAW OFFICE
SALEEBY & COX, P.A.
640 South Fourth Street
Hartsville, South Carolina 29550
*SERVING THE PEE DEE SINCE 1949*

EDWARD E. SALEEBY (1927-2002)
THAD E. SALEEBY (1927-1973)
EDWARD E. SALEEBY, JR. (1953-2015)
JAMES C. COX, JR.
TERENCE A. QUINN
JACOB L. GODWIN

MAILING ADDRESS:
POST OFFICE BOX 519
HARTSVILLE, SC 29551
TELEPHONE: (843) 332-1531
FAX: (843) 383-5800

December 14, 2020

Robert E. Lee, Esq.
Post Office Box 1096
Marion, South Carolina 29571

Re: Harold Young, II, as Personal Rep. For the Estate of Chellie Nixon vs. Samuel L. Davis, Registered Agent for Young and Young Funeral Home, Inc.

Dear Robert:

First, let me thank you for the courtesies your office has extended to me as we prepare for our meeting.

For your review, I am enclosing the following:

1. Secretary of State's Certificate of Dissolution by Administrative Dissolution of Young and Young Funeral Home, Inc.
2. Young and Young Funeral Home's Balance Sheet dated March 31, 1982. The last month that Chellie received a monthly check from the funeral home in the amount of $5,250.00
3. Affidavit of Frank Hough. Frank was well familiar with Chellie and her involvement with the funeral home.
4. Affidavit of Iva Hodge. Iva knew Chellie and her parents and lived two doors from the funeral home.
5. Affidavit of Sam Davis which outlines his involvement with the funeral home and Chellie.

I look forward to meeting with you and your client on Monday, December 21, 2020.

With kindest personal regards, I am

Sincerely yours,

James C. Cox, Jr.

JCCjr:rks
Enclosures