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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Perry H. Gravely

APPELLATE CASE NO. 2025-000318

Peter Bouharoun, Opus Petrus, LLC.....Appellants,

v.

Bouharoun Package Store, Inc., Patricia BouharounRespondents.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Peter Bouharoun, Opus Petrus, LLC,

Case No. 2023-CP-23-06364

Plaintiffs,

v.

Bouharoun Package Store, Inc., Patricia
Bouharoun,

ORDER

Defendants.

This matter came before the Court on January 16, 2025, on Defendant Patricia Bouharoun’s (“Ms. Bouharoun”) Motion for Protective Order (“Motion”); whereby Ms. Bouharoun moved this Court for an order protecting her from being compelled to produce or discuss her current Last Will and Testament and related estate planning documents (including the contents thereof) during her lifetime. Present at the hearing were Konstantine P. Diamaduros on behalf of Ms. Bouharoun and Defendant Bouharoun Package Store (“the Store”) (collectively, “Defendants”), and Luke Burke on behalf of Plaintiffs Peter Bouharoun (“Peter”) and Opus Petrus, LLC (collectively, “Plaintiffs”). Based upon the Motion, the arguments of counsel, and the memoranda submitted by the parties, the Court now makes the following findings and **GRANTS** Ms. Bouharoun’s Motion.

FACTUAL BACKGROUND

Plaintiffs have alleged that Peter and Ms. Bouharoun entered into an oral agreement wherein Peter would operate the Store without receiving regular pay in exchange for Ms. Bouharoun: (1) naming Peter as the personal representative of her estate in her Last Will and Testament; and (2) bequeathing the Store to Peter upon her death. *See* Pls.’ Mem. at 3. As noted in Plaintiffs’ memorandum, the parties do not dispute that Ms. Bouharoun’s estate planning

documents are relevant to this dispute. *Id.* However, they do dispute whether such documents are protected from disclosure by the attorney-client privilege while Ms. Bouharoun is still alive.

On September 23, 2024, Plaintiffs noticed the video deposition of Ms. Bouharoun for a date of “TBD” at 10:00 a.m. at the office of Maynard Nexsen PC, 104 South Main St., Suite 900, Greenville, SC 29601. *See* Mot. at 1. In addition, on October 18, 2024, Defendants served responses to Plaintiffs’ First Set of Requests for Production and objected to producing Ms. Bouharoun’s current Last Will and Testament and related estate planning documents on the ground that those documents are protected by the attorney-client privilege during Ms. Bouharoun’s lifetime. *Id.* at 2.

Now, before proceeding further, the parties agree that they need a ruling from the Court as to whether the contents of Ms. Bouharoun’s Last Will and Testament and related estate planning documents (including the documents themselves) are privileged during her lifetime. *Id.*

ANALYSIS

“Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending or alternatively, on matters relating to a deposition, the court in the circuit where the deposition is to be taken may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense, including one or more of the following: (1) that the discovery not be had; . . . [and] (4) that certain matters not be inquired into” SCRCP 26(c); *see also* SCRCP 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action . . .”).

Plaintiffs argue that Ms. Bouharoun has failed to carry her burden of proving that her current Last Will and Testament and related estate planning documents are protected by the attorney-client privilege, and therefore she must produce them. The Court disagrees.

Contrary to Plaintiffs' position, it is well settled that the contents of a testator's will are protected by attorney-client privilege during the testator's lifetime. *See Bethune v. Bethune*, 870 S.E.2d 827, 832 (Ga. Ct. App. 2022) (citations omitted) (holding that wills that have not been submitted to probate are protected by the attorney-client privilege and, therefore, not discoverable); *see also Fields v. Dep't of Revenue*, No. TC-MD 040659E, 2005 WL 3108209, at *5 (Or. T.C. Nov. 17, 2005) (holding that "wills prepared by attorneys are protected by the attorney-client privilege from disclosure"); *Compton v. W. Volusia Hosp. Auth.*, 727 So. 2d 379, 382 (Fla. Dist. Ct. App. 1999) (holding that the plaintiff's will was "protected from disclosure and surrender during her lifetime, by the attorney-client privilege"); *In re Guardianship of York*, 44 Wash. App. 547, 553, 723 P.2d 448, 451 (1986) ("A will, drawn by a lawyer at the direction of a client, contains the very essence of the communications from the client relating to his or her wishes, intentions, and desires with respect to the disposition of their property").¹

Public policy concerns also support maintaining the confidentiality of estate planning documents while testators are still alive. Allowing Plaintiffs to discover the contents of a living testator's estate planning documents would set a dangerous precedent, as it would invite swaths of

¹ The Court is not persuaded by Plaintiffs' argument that the above-referenced cases are not binding on this Court, particularly in light of the fact that Plaintiffs were unable to cite any authority in support of their position that Ms. Bouharoun's current Last Will and Testament is not privileged. Nor does the Court find persuasive Plaintiffs' argument that the Last Will and Testament is not privileged because it is an executed document as opposed to an attorney-client communication.

pre-death, quasi-will contests in various courts across this state. The Court declines to issue such an invitation here.

CONCLUSION

Because Ms. Bouharoun's Last Will and Testament and related estate planning documents are protected by the attorney-client privilege during her lifetime, good cause exists to protect her from being compelled to: (1) produce her current Last Will and Testament and related estate planning documents during her lifetime; and (2) testify about the contents or terms of those documents during her lifetime.

Based on the foregoing, Ms. Bouharoun's Motion is **GRANTED**. Ms. Bouharoun's current Last Will and Testament and related estate planning documents are hereby protected from disclosure during her lifetime, and Plaintiffs may not inquire about their contents or terms in this or any other civil case via written discovery, deposition, or otherwise.

Judge Gravely's e-signature to follow



Greenville Common Pleas

Case Caption: Peter Bouharoun , plaintiff, et al vs. Bouharoun Package Store Inc ,
defendant, et al
Case Number: 2023CP2306364
Type: Order/Protection from Discovery

So Ordered

s/ Honorable Perry H. Gravely, #2755

Electronically signed on 2025-01-22 21:02:28 page 5 of 5

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Peter Bouharoun, Opus Petrus, LLC

Plaintiffs,

v.

Bouharoun Package Store, Inc., Patricia
Bouharoun,

Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2023-CP-23-06364

SUMMONS TO AMENDED COMPLAINT

TO: THE DEFENDANTS ABOVE-NAMED:

You are hereby summoned and required to answer the Verified Amended Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer upon the subscriber at 819 E. North Street, Greenville, SC 29601, within fifteen (15) days after the service hereof, exclusive of the day of such service. If you fail to answer within that time, a judgment by default will be entered against you for the relief demanded in the Complaint.

BURKE LAW, LLC

s/Luke A. Burke
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Attorney for the Plaintiffs

March 21, 2024
Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Peter Bouharoun, Opus Petrus, LLC

Plaintiffs,

v.

Bouharoun Package Store, Inc., Patricia
Bouharoun,

Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2023-CP-23-06364

VERIFIED AMENDED COMPLAINT

The plaintiffs, by and through their undersigned counsel, allege the following:

JURISDICTION AND PARTIES

1. The plaintiff, Peter Bouharoun, (“Plaintiff”) is a citizen and resident of Greenville County in the State of South Carolina.
2. The plaintiff Opus Petrus, LLC (“Opus Petrus”) is a company formed pursuant to the law of South Carolina with its principal place of business in Greenville County.
3. Plaintiff is the sole member of Opus Petrus.
4. The defendant, Bouharoun Package Store, Inc., (“the Store”) is a company incorporated in South Carolina with its principal place of business in Greenville County.
5. The defendant, Patricia Bouharoun, (“Defendant”) is a citizen and resident of Greenville County in the State of South Carolina.
6. This action concerns actions taken by the Store and Defendant in Greenville County, South Carolina.
7. This Court has jurisdiction over the parties and the subject matter of this action and venue is proper in Greenville County.

FACTUAL BACKGROUND

8. Plaintiff is Defendant's son. His father and Defendant's husband was William Bouharoun.

9. In 1976, Defendant and William were two of four owners of Store with William's parents being the other two owners.

10. The Store's corporate documents do not contain any indication that any of the original four owners transferred any of their ownership interest.

11. The current ownership of Store has been complicated by unclear probating of the original owners' estates.

12. While it is unclear who owns the Store, it is clear that Defendant is the majority owner of the Store.

13. In 1992, Plaintiff began managing the Store at the request of Defendant because William was unavailable.

14. To induce Plaintiff to manage the Store, Defendant agreed that Plaintiff would be the personal representative of her estate.¹

15. To induce Plaintiff to Manage the Store, Defendant agreed that Plaintiff would solely inherit the Store when she passed away.

16. Defendant executed a Last Will and Testament naming Plaintiff as her personal representative and bequeathing the Store solely to Plaintiff.

17. Plaintiff has continued as the sole manager of the Store since 1992.

¹ For Plaintiff to continue solely managing the Store under the current ABL license while Defendant's probate estate is pending, it is necessary for him to be named as the personal representative of Defendant's estate.

18. The Store currently has two locations, one on the corner of Falls Street and Broad Street (“Original Location”) and one on Washington Street (“Washington Location”).

19. When Plaintiff took over management, the Store was not financially able to pay him.

20. Plaintiff deferred all of his pay for managing the Store between 1992 and 2018.

21. Plaintiff received nominal compensation between 2019 and 2021.

22. Plaintiff’s deferred compensation between 2010 and 2021 totals \$809,980.

23. Prior to January 7, 2021, Plaintiff loaned Store funds on multiple occasions to purchase inventory.

24. Opus Petrus is the owner of the building housing the Washington Location.

25. Opus Petrus granted rent forbearance to the Store at the Washington Location in the amount of \$162,500.

26. During the period of Plaintiff’s sole management of the Store sales volume has increased from approximately \$1,000,000 to \$13,000,000 annually.

27. It would have been impossible for the Store to increase its sales volume so significantly without Plaintiff deferring his payment, loaning the Store money, or Opus Petrus deferring the Store’s rent.

28. On February 14, 2022, Defendant filed a Durable Power of Attorney (“2022 POA”) revoking her Power of Attorney naming Plaintiff as Agent and instead naming Defendant’s daughter and son-in-law as Agent and Alternate Agent respectively.

29. The 2022 POA makes it impossible for Plaintiff to manage the Store in the event Defendant is incapacitated or otherwise able to consent to Plaintiff's management of the Store.

30. In or around June 2022, Plaintiff learned that Defendant revised her Last Will and Testament.

31. Defendant has informed Plaintiff that she changed her mind regarding the terms of her Last Will and Testament.

32. Upon information and belief, Defendant revised her Last Will and Testament such that Plaintiff would not solely inherit Defendant's ownership in the Store.

33. Upon information and belief, Defendant revised her Last Will and Testament such that Plaintiff would not be the personal representative of her estate.

FOR A FIRST CAUSE OF ACTION –
DEFENDANT PATRICIA BOUHAROUN
(Specific Performance)

34. Plaintiffs reincorporate the foregoing allegations of this pleading.

35. There exists clear and convincing evidence that Plaintiff and Defendant agreed that if Plaintiff managed the Store, then Defendant would name Plaintiff as the personal representative of Defendant's estate and that Defendant would bequeath the Store solely to Plaintiff when she passed away.

36. Plaintiff has partially performed the agreement by:

- a. Managing the Store since 1992;
- b. Deferring his pay from the Store,
- c. Loaning the Store money for inventory, and
- d. Causing Opus Petrus to defer the Store's rent.

37. This partial performance by Plaintiff was at the request of and with the approval of Defendant.

38. Plaintiff continues to perform his obligations under the contract and is willing to continue to perform these obligations.

39. Defendant has breached her agreement with Plaintiff by modifying her Last Will and Testament to remove him as personal representative and sole beneficiary of the Store.

40. There is no adequate remedy at law for Plaintiff to if Defendant is not ordered to specifically perform her obligations pursuant to their agreement.

FOR A SECOND CAUSE OF ACTION –
DEFENDANT BOUHAROUN’S PACKAGE STORE
(Unjust Enrichment)

41. Plaintiffs reincorporate the foregoing allegations of this pleading.

42. The Store has received a benefit from Plaintiff managing the Store and deferring his compensation for same. This benefit includes:

- a. Plaintiff’s deferred payments; and
- b. The resulting increase in the value of the Store.

43. The Store has received a benefit from Opus Petrus deferring rent for the Washington Location.

44. The Store has received a benefit from Plaintiff loaning the Store funds to purchase inventory.

45. The Store has realized this benefit in increased sales, growth in value, and decreased expenses.

46. These benefits were conferred upon the Store based on Defendant’s representation to Plaintiff that he would be named as the personal representative of her estate in Defendant’s

Last Will and Testament and that her Last Will and Testament would bequest the Store solely to Plaintiff.

47. Those representations by Defendant are untrue.

48. Therefore, it would be unjust for the Store to retain the benefits noted above.

FOR A THIRD CAUSE OF ACTION –
DEFENDANT BOUHAROUN’S PACKAGE STORE
(Constructive Trust)

49. Plaintiffs reincorporate the foregoing allegations of this pleading.

50. As alleged previously, the Store has received a monetary benefit from Plaintiffs.

51. Based on the foregoing factual allegations, it is inequitable for the Store to maintain this benefit and the Store cannot in good conscience retain or withhold this benefit from Plaintiffs.

52. However, much of this benefit has been used by the Store to purchase wholesale alcoholic inventory, which the Store is not legally permitted to return to Plaintiffs due to ABL licensing restrictions.

53. Therefore, to the extent the Store is unable to return the benefits from Plaintiffs that the Store has unjustly retained, a constructive trust of the Store’s inventory with Plaintiffs as beneficiaries is just, equitable, and necessary.

WHEREFORE, Plaintiffs pray for the following relief:

- 1) An Order requiring Defendant Patricia Bouharoun to specifically perform her duties pursuant to her agreement with Plaintiff Peter Bouharoun by:

- a) Revising her Last Will and Testament to name her son, Peter Bouharoun, as the personal representative of her estate and to state her son, Peter Bouharoun, will solely inherit Bouharoun's Package Store; and
- b) Requiring that Defendant Patricia Bouharoun maintain the foregoing terms in her Last Will and Testament forthwith;
- 2) An Order requiring Defendant Bouharoun's Package Store to return to Plaintiffs all benefits it has the Store has unjustly retained;
- 3) An Order creating a Constructive Trust with the Store's inventory as the corpus and Plaintiffs as the beneficiaries; and
- 4) Such other and further relief as the Court deems just and proper.

BURKE LAW, LLC

s/Luke A. Burke
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Attorney for the Plaintiffs

March 21, 2024
Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Peter Bouharoun, Opus Petrus, LLC

C.A. No. 2023-CP-23-06364

Plaintiffs,

**VERIFICATION TO AMENDED
COMPLAINT**

v.

Bouharoun Package Store, Inc., Patricia
Bouharoun,

Defendants.

PERSONALLY appeared before me Peter Bouharoun, individually and as member of Opus Petrus, LLC; who, on oath,, deposes and states: that Peter Bouharoun and Opus Petrus, LLC are listed as Plaintiffs in the foregoing action; that Peter Bouharoun both individually and as member of Opus Petrus, LLC has read the attached **Amended Complaint** and all matters alleged therein are true and correct of his own knowledge, with the exception of matters alleged upon information and belief, and as to those he believe them to be true.

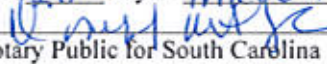
Opus Petrus, LLC

By: Peter Bouharoun, Member Peter Bouharoun, Individually



SWORN to and subscribed before me

This 20th day of March, 2024


Notary Public for South Carolina

Print Name: Dorothy S. Rutledge

My Commission Expires: 08-07-2025

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Peter Bouharoun, Opus Petrus, LLC,
Plaintiffs,

v.

Bouharoun Package Store, Inc., Patricia
Bouharoun,
Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Case No. 2023-CP-23-06364

**DEFENDANT PATRICIA
BOUHAROUN'S ANSWER AND
COUNTERCLAIM**

Defendant Patricia Bouharoun (“Defendant”), by and through her undersigned counsel, hereby files this Answer and Counterclaim in response to Peter Bouharoun (“Peter”) and Opus Petrus, LLC’s (collectively, “Plaintiffs”) Amended Complaint (“Complaint”).

GENERAL DENIAL

Defendant denies all allegations contained in the Complaint that are not specifically admitted herein, including, but not limited to, Plaintiffs’ demands and prayers for relief.

RESPONSE TO JURISDICTION AND PARTIES

1. Upon information and belief, Defendant admits the allegations in Paragraph 1.
2. Upon information and belief, Defendant admits the allegations in Paragraph 2.
3. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3, and therefore denies the same.
4. Defendant admits the allegations in Paragraph 4.
5. Defendant admits the allegations in Paragraph 5.
6. Defendant denies the allegations in Paragraph 6.
7. Upon information and belief, Defendant admits the allegations in Paragraph 7.

RESPONSE TO FACTUAL BACKGROUND

8. Defendant admits the allegations in Paragraph 8.
9. Upon information and belief, Defendant admits the allegations in Paragraph 9.
10. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10, and therefore denies the same.
11. Defendant denies the allegations in Paragraph 11.
12. Defendant denies the allegations in Paragraph 12. Further responding, Defendant owns 100% of the Store.
13. Defendant admits only that in or around 1992, Peter began managing the Store because William was unavailable. Defendant denies the remaining allegations in Paragraph 13.
14. Defendant denies the allegations in Paragraph 14. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Footnote 1 to Paragraph 14, and therefore denies the same.
15. Defendant denies the allegations in Paragraph 15.
16. Defendant admits only that she initially executed a Last Will and Testament naming Peter as her personal representative (“Original Will”). Further responding, Defendant specifically craves reference to her Original Will and denies any allegations in Paragraph 16 that are in addition to or inconsistent with the terms of the Original Will.
17. Defendant admits the allegations in Paragraph 17.
18. Defendant admits the allegations in Paragraph 18.
19. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19, and therefore denies the same.

20. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20, and therefore denies the same.

21. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 21, and therefore denies the same.

22. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22, and therefore denies the same.

23. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 23, and therefore denies the same.

24. Upon information and belief, Defendant admits the allegations in Paragraph 24.

25. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 25, and therefore denies the same.

26. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 26, and therefore denies the same.

27. Defendant denies the allegations in Paragraph 27.

28. Defendant admits only that she executed a Durable Power of Attorney (“POA”) in February of 2022. Further responding, Defendant specifically craves reference to the POA and denies any allegations in Paragraph 28 that are in addition to or inconsistent with the terms of the POA.

29. Defendant denies the allegations in Paragraph 29.

30. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30, and therefore denies the same.

31. Defendant denies the allegations in Paragraph 31.

32. Defendant admits only that she revised her Last Will and Testament, the contents of which are privileged and confidential during Defendant's lifetime. No further response is required to Plaintiff's allegations in Paragraph 32.

33. Defendant admits only that she revised her Last Will and Testament, the contents of which are privileged and confidential during Defendant's lifetime. No further response is required to Plaintiff's allegations in Paragraph 33.

RESPONSE TO FIRST CAUSE OF ACTION

34. Defendant repeats and reasserts her answers and denials to Paragraphs 1 through 33 as if fully set forth herein.

35. Defendant denies the allegations in Paragraph 35.

36. Defendant denies the allegations in Paragraph 36, including subparagraphs (a) through (d).

37. Defendant denies the allegations in Paragraph 37.

38. Defendant denies the allegations in Paragraph 38.

39. Defendant denies the allegations in Paragraph 39.

40. Defendant denies the allegations in Paragraph 40.

RESPONSE TO SECOND CAUSE OF ACTION

41. Defendant repeats and reasserts her answers and denials to Paragraphs 1 through 40 as if fully set forth herein.

42. The allegations in Paragraph 42 are not directed at Defendant, and therefore no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 42, including subparagraphs (a) and (b), and therefore denies the same.

43. The allegations in Paragraph 43 are not directed at Defendant, and therefore no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 43, and therefore denies the same.

44. The allegations in Paragraph 44 are not directed at Defendant, and therefore no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 44, and therefore denies the same.

45. The allegations in Paragraph 45 are not directed at Defendant, and therefore no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 45, and therefore denies the same.

46. Defendant denies the allegations in Paragraph 46.

47. Defendant denies the allegations in Paragraph 47.

48. The allegations in Paragraph 48 are not directed at Defendant, and therefore no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 48, and therefore denies the same.

RESPONSE TO THIRD CAUSE OF ACTION

49. Defendant repeats and reasserts her answers and denials to Paragraphs 1 through 48 as if fully set forth herein.

50. The allegations in Paragraph 50 are not directed at Defendant, and therefore no response is required. To the extent a response is required, Defendant lacks knowledge or

information sufficient to form a belief as to the truth of the allegations in Paragraph 50, and therefore denies the same.

51. The allegations in Paragraph 51 are not directed at Defendant, and therefore no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 51, and therefore denies the same.

52. The allegations in Paragraph 52 are not directed at Defendant, and therefore no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 52, and therefore denies the same.

53. The allegations in Paragraph 53 are not directed at Defendant, and therefore no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 53, and therefore denies the same.

RESPONSE TO PLAINTIFFS' PRAYER FOR RELIEF

Responding to the WHEREFORE Paragraphs that follow Paragraph 53 of Plaintiffs' Complaint, Defendant denies any and all liability and further denies that Plaintiffs are entitled to any of the relief sought in these Paragraphs.

AFFIRMATIVE AND OTHER DEFENSES

In further response to Plaintiffs' Complaint, Defendant hereby raises, asserts, and preserves the following affirmative and other defenses. By pleading the following as affirmative defenses, Defendant does not concede that she bears the burden to establish the factual bases therefor and

does not intend to shift the burden of proof under applicable law or otherwise to relieve Plaintiffs of any burden to establish the elements of their prima facie case.

FIRST DEFENSE

1. Plaintiffs' Complaint fails, in whole or in part, to state a claim for relief and should be dismissed in its entirety pursuant to SCRCP 12(b)(6).

SECOND DEFENSE

2. Plaintiffs' Complaint fails, in whole or in part, to state a claim for relief and should be dismissed in its entirety pursuant to SCRCP 12(c).

THIRD DEFENSE

3. Plaintiffs' claims are barred, in whole or in part, because Defendant acted lawfully and in good faith at all relevant times, and has not violated any statutory or legal right of Plaintiffs.

FOURTH DEFENSE

4. Plaintiffs' specific performance claim is barred by the Statute of Frauds.

FIFTH DEFENSE

5. Plaintiffs' specific performance claim is barred by S.C. Code Ann. § 62-2-701.

SIXTH DEFENSE

6. Plaintiffs' specific performance claim fails because there was no valid agreement.

SEVENTH DEFENSE

7. Plaintiffs' specific performance claim fails because there was no meeting of the minds between the parties with regard to all essential and material terms of the alleged agreement.

EIGHTH DEFENSE

8. Plaintiffs' claims are barred, in whole or in part, by the doctrine of unclean hands.

NINTH DEFENSE

9. Plaintiffs' claims are barred, in whole or in part, by the doctrine of *in pari delicto*.

TENTH DEFENSE

10. Plaintiffs' claims are barred, in whole or in part, by the doctrines of estoppel, ratification, laches, and waiver.

ELEVENTH DEFENSE

11. Plaintiffs' claims are barred, in whole or in part, by the doctrines of acquiescence, settlement, and release.

TWELFTH DEFENSE

12. Plaintiffs' claims seeking equitable relief are barred because Plaintiffs have an adequate remedy at law.

THIRTEENTH DEFENSE

13. Plaintiffs' claims are barred, in whole or in part, by their failure to mitigate damages. Plaintiffs may have failed or refused to exercise reasonable care and diligence to avoid loss and minimize damages and, therefore, may not recover for losses that could have been prevented by reasonable efforts on their part, or by expenditures which might reasonably have been made.

FOURTEENTH DEFENSE

14. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs have suffered no damages.

FIFTEENTH DEFENSE

15. Plaintiffs' claims are barred, in whole or in part, to the extent that Plaintiffs' alleged damages are speculative, uncertain, and hypothetical.

SIXTEENTH DEFENSE

16. Defendant asserts the defense of election of remedies.

SEVENTEENTH DEFENSE

17. Plaintiffs' claims are barred, reduced, or limited pursuant to the applicable South Carolina statutory and common law regarding limitations of awards, caps on recovery, and setoffs.

EIGHTEENTH DEFENSE

18. Some or all of Plaintiffs' claims may be barred by the doctrine of spoliation of evidence, and Defendant reserves the right to raise the spoliation doctrine as a defense to Plaintiffs' claims if some or all of the evidence has not been properly preserved.

NINETEENTH DEFENSE

19. Defendant is entitled to, and claims the benefit of, all defenses and presumptions set forth in or arising from any rule of law or statute of the State of South Carolina.

TWENTIETH DEFENSE

20. Defendant asserts all applicable defenses under South Carolina Rules of Civil Procedure 8(c) and 12(b) as investigation and discovery proceeds.

RESERVATION OF RIGHTS

Defendant hereby gives notice that she may rely upon other applicable defenses of which she becomes aware during discovery in this case and hereby reserves the right to amend this Answer to assert any such defenses.

COUNTERCLAIM FACTS

1. Defendant repeats and reasserts her answers, denials, and defenses as if fully set forth herein.
2. Peter and his sister, Marie Sobeth Raley ("Sobeth"), do not get along.

3. On April 12, 2023, Peter filed a Complaint against Sobeth and her husband, William Patrick Raley (“Patrick”). That action is currently pending in this Court and is captioned *Peter Bouharoun v. William Patrick Raley and Marie Sobeth Raley*, Case No. 2023-CP-23-01805 (“Related Action”).

4. In the Related Action, Peter sued Sobeth and Patrick for defamation, interference with a contractual relationship, civil conspiracy, and libel arising out of factual allegations that are substantially similar to the instant action against Defendant and the Store.

5. Upon information and belief, the Related Action is not currently proceeding in accordance with Peter’s expectations.

6. As a result, Peter filed this action against Defendant and the Store to (1) gain an advantage in the Related Action against Sobeth and Patrick, and (2) improperly attempt to gain visibility into Defendant’s Last Will and Testament during her lifetime.

COUNTERCLAIM
(Abuse of Process as to Peter Bouharoun)

7. Defendant repeats and reasserts her answers, denials, and defenses as if fully set forth herein.

8. As detailed above, Peter has engaged in willful acts in the use of the legal process that were not proper in the regular conduct of the proceedings.

9. Such willful acts include, but are not limited to, filing this action against Defendant and the Store.

10. The filing of this action against Defendant and the Store was made for ulterior purposes, namely: (1) gaining an advantage in the Related Action against Sobeth and Patrick; and (2) improperly attempting to gain visibility into Defendant’s Last Will and Testament during her lifetime.

11. As a direct and proximate result of Peter's abuse of process, Defendant has suffered substantial damages in an amount to be proven at trial.

WHEREFORE, having fully answered Plaintiffs' Amended Complaint, Defendant respectfully prays for the dismissal of Plaintiffs' Amended Complaint with prejudice, damages in an amount to be proven at trial, and for such other and further relief as this Court may deem just and proper.

Respectfully submitted,

MAYNARD NEXSEN PC

s/ Konstantine P. Diamaduros

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October 18, 2024
Greenville, South Carolina

Attorneys for Defendants

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Peter Bouharoun, Opus Petrus, LLC

Plaintiffs,

v.

Bouharoun Package Store, Inc., Patricia
Bouharoun,

Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2023-CP-23-06364

**REPLY TO ANSWER AND
COUNTERCLAIM OF DEFENDANT
PATRICIA BOUHAROUN**

The plaintiff, Peter Bouharoun, (“Plaintiff”) responding to the Answer and Counterclaim of the defendant, Patricia Bouharoun, (“Defendant”) replies as follows:

GENERAL DENIAL

1. Plaintiff denies all allegations contained in the Answer and Counterclaim not specifically admitted in this pleading.
2. Plaintiff reasserts the allegations in the Amended Complaint in response to paragraphs 1 – 53 of the Answer and Counterclaim.
3. Plaintiff denies the allegations of paragraphs 1 – 20 of the affirmative defenses contained in the Answer and Counterclaim.

REPLY TO COUNTERCLAIM

4. Plaintiff reasserts the preceding paragraphs in response to paragraph 1 of the Counterclaim.
5. Plaintiff denies the allegations of paragraph 2 of the Counterclaim.
6. Plaintiff admits the allegations of paragraph 3 of the Counterclaim.

7. Responding to paragraph 4 of the Counterclaim, Plaintiff admits that he filed a complaint against William Patrick Raley and Marie Sobeth Raley for the causes of action stated but denies the remaining allegations of this paragraph.

8. Plaintiff denies the allegations of paragraphs 5 and 6 of the Counterclaim.

9. Plaintiff reasserts the preceding paragraphs in response to paragraph 7 of the Counterclaim.

10. Plaintiff denies the allegations of paragraphs 8 – 11 of the Counterclaim.

FOR A FIRST AFFIRMATIVE DEFENSE

11. Defendant’s counterclaim fails to state facts sufficient to constitute a cause of action against Plaintiff and, therefore, should be dismissed under Rule 12 (b)(6) of the South Carolina Rules of Civil Procedure.

FOR A SECOND AFFIRMATIVE DEFENSE

12. Defendant’s counterclaim is barred by the doctrines of laches, waiver and/or estoppel.

WHEREFORE, Plaintiff prays for the following relief:

- 1) The relief sought in the Amended Complaint;
- 2) Dismissal of Defendant’s counterclaim; and
- 3) Such other and further relief as the Court deems just and proper.

BURKE LAW, LLC

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November 8, 2024
Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Peter Bouharoun, Opus Petrus, LLC,
Plaintiffs,

Case No. 2023-CP-23-06364

v.

Bouharoun Package Store, Inc., Patricia
Bouharoun,
Defendants.

**DEFENDANTS' RULE 12(b)(6)
MOTION TO DISMISS**

Defendants Bouharoun Package Store, Inc. (“Store”) and Patricia Bouharoun (collectively, “Defendants”), by and through their undersigned counsel and pursuant to SCRCP 12(b)(6), hereby move this Court for an order granting their motion to dismiss (“Motion”) Plaintiffs’¹ Amended Complaint. This Motion is made on the following grounds: (1) Plaintiffs’ claims are not ripe; and (2) Plaintiffs’ Amended Complaint separately fails to state facts sufficient to constitute a cause of action against Defendants.

FACTUAL & PROCEDURAL BACKGROUND

Peter is upset that his mother’s last will and testament (“Current Will”) – the current version of which he admits he has never seen and is subject to change – may not meet his expectations. As the Court is aware, Peter initially filed his Complaint on December 4, 2023 and alleged four causes of action: (1) unjust enrichment/quantum meruit against both Defendants; (2) breach of contract against the Store; (3) breach of contract against Ms. Bouharoun; and (4) promissory estoppel against Ms. Bouharoun. Compl. at ¶¶ 33-67.

¹ “Plaintiffs” has used herein is a collection reference to Peter Bouharoun (“Peter”) and Opus Petrus, LLC (“Opus”).

On February 2, 2024, Defendants moved to dismiss the Complaint on the same grounds referenced above (ripeness and failure to state fact sufficient to constitute a cause of action) and subsequently filed a memorandum in support of that motion on March 4, 2024. Plaintiffs filed a memorandum in opposition to Defendants' motion to dismiss on March 5, 2024, and the Court held a hearing on Defendants' motion on March 6, 2024. At the hearing, the Court appeared particularly concerned about the issue of ripeness because – as the Court correctly noted – Ms. Bouharoun presumably can still change her will at any time prior to her death (perhaps multiple times), and allowing a case like this to proceed could open the floodgates to swaths of litigation in the form of quasi, pre-death will contests.

On March 12, 2024, the Court issued an Order granting Defendants' motion to dismiss without prejudice. The Court also gave Plaintiffs 15 days to file an amended complaint because Plaintiffs' counsel requested an opportunity to amend during the March 6, 2024 hearing. On March 21, 2024, Plaintiffs filed an Amended Complaint and, while the facts are substantially similar to those alleged in Plaintiffs' initial Complaint, Plaintiffs' theories related to their causes of action changed. Plaintiffs now allege three causes of action for specific performance, unjust enrichment, and constructive trust—abandoning their prior claims for breach of contract and promissory estoppel. *See* Am. Compl. at ¶¶ 34-53. However, all of these causes of action still focus on Ms. Bourharoun's alleged breach of an alleged agreement with Peter.

Like the original Complaint, the Amended Complaint still generally alleges that Peter began managing the Store at Ms. Bouharoun's request in 1992, and that Peter deferred all of his pay for managing the Store for 26 years because Ms. Bouharoun allegedly told Peter that he would be the personal representative of her estate and that he would solely inherit the Store when she passed away. *See id.* at ¶¶ 13-15, 20. Without extrinsic support, Peter also alleges that: (1) he

loaned the Store “funds” to purchase inventory on “multiple occasions”; (2) Opus granted rent forbearance to the Store’s Washington Street location in the amount of \$162,500; (3) the Store’s sales volume increased from approximately \$1,000,000 to \$13,000,000 annually as a result of Peter’s management; (4) Ms. Bouharoun executed a last will and testament (“Original Will”)² naming Peter as her personal representative and bequeathing the Store solely to Peter; and (5) “upon [Peter’s] information and belief,” Ms. Bouharoun revised her last will and testament such that Peter would not solely inherit the Store or be the personal representative of her estate. *See id.* at ¶¶ 16, 23, 25-26, 32-33. However, Peter does not allege any *facts* in support of these vague, conclusory allegations, and his verification of an Amended Complaint that qualifies key allegations as “upon information and belief” does not remedy the fatal flaw with Peter’s case—*he still does not know* (nor is he entitled to know)³ what Ms. Bouharoun’s Current Will says, and therefore he cannot definitively say that Ms. Bouharoun has wronged him in any way.

STANDARD OF REVIEW

Under Rule 12(b)(6), SCRCP, a defendant may move to dismiss a complaint when it fails to state facts sufficient to constitute a cause of action. *Spence v. Spence*, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006). When considering a motion to dismiss under Rule 12(b)(6), “the trial court must base its ruling solely on allegations set forth in the complaint.” *Doe v. Marion*, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007). If the facts alleged and inferences reasonable deducible therefrom would not entitle the plaintiff to relief on any theory, then dismissal under Rule 12(b)(6)

² The Original Will was previously attached as *Exhibit A* to Defendants’ memorandum in support of their initial motion to dismiss. As previously noted, this Court may properly consider the Original Will because it is specifically referenced in the Complaint. *See Brazell v. Windsor*, 384 S.C. 512, 516, 682 S.E.2d 824, 826 (2009).

³ The contents of Ms. Bouharoun’s Current Will are protected by the attorney-client privilege during her lifetime.

is proper. *Id.* at 395, 645 S.E.2d at 247-48; *see also Ashcroft v. Iqbal*, 556 U.S. 662, 664 (2009) (“A court considering a motion to dismiss may begin by identifying allegations that, because they are mere conclusions, are not entitled to the assumption of truth. While legal conclusions can provide the complaint’s framework, ***they must be supported by factual allegations.***”) (emphasis added).

ARGUMENT

I. Despite Plaintiffs’ Attempt to Amend, Their Claims Still are not Ripe.

“A justiciable controversy is a real and substantial controversy which is ripe and appropriate for judicial determination, as distinguished from a contingent, hypothetical or abstract dispute.” *Waters v. S.C. Land Res. Conservation Comm’n*, 321 S.C. 219, 227, 467 S.E.2d 913, 917-18 (1996).

Despite Plaintiffs’ attempt to amend key deficiencies out of their original Complaint, the Amended Complaint still suffers from the same fatal flaw—none of Plaintiffs’ claims are ripe because Ms. Bouharoun, who is still very much alive, has not breached any alleged agreement with Peter. As noted above, and as Peter made clear at the March 6, 2024 hearing on Defendants’ motion to dismiss, Peter has never seen Ms. Bouharoun’s Current Will, nor does he know what it provides beyond rank speculation. And, most importantly, Peter’s attempt to remedy this issue by submitting a verification with his Amended Complaint does nothing to remedy the fatal flaw because Peter’s two most important allegations – both of which ***attempt*** to establish a breach – are still made in qualified, speculative fashion. *See* Am. Compl. at ¶ 32 (“***Upon information and belief***, [Ms. Bouharoun] revised her Last Will and Testament such that [Peter] would not solely inherit . . . the Store.”); *see also id.* at ¶ 33 (“***Upon information and belief***, [Ms. Bouharoun]

revised her Last Will and Testament such that [Peter] would not be the personal representative of her estate.”).⁴

Respectfully, discovery is not a mechanism to sidestep Rule 11, and this Court should not allow Peter to use the legal process to attempt to gain visibility into his mother’s Current Will, which again is absolutely privileged during her lifetime. Simply put, if Peter is not able to attest under oath as to what Ms. Bouharoun’s Current Will says – which he indisputably cannot – then all of his claims fail as a matter of law. Accordingly, this Court should dismiss the Amended Complaint with prejudice because these are exactly the type of contingent, hypothetical, abstract claims that courts routinely refuse to adjudicate.

II. Even if Plaintiffs’ Claims Were Ripe, They are Still not Adequately Supported by Factual Allegations Despite Plaintiffs’ Amendment.

It is well established that Plaintiffs must plead *facts* sufficient to constitute a cause of action if their claims are to survive a motion under Rule 12(b)(6). *Spence*, 368 S.C. at 116, 628 S.E.2d at 874. Here, aside from the threadbare allegations referenced above, Plaintiffs’ Amended Complaint fails to set forth *any facts* regarding Peter’s alleged loan to the Store, Opus’s alleged rent forbearance to the Store’s Washington Street location, and the Store’s alleged increase in sales volume as a result of Peter’s management. Indeed, for all Ms. Bouharoun knows, Peter could have picked these figures out thin air: (1) an alleged loan of “funds” that allegedly occurred sometime prior to January 7, 2021; (2) alleged rent forbearance by Opus in the amount of \$162,500 without even the slightest reference to a specific timeframe; and (3) an alleged annual sales volume increase from approximately \$1,000,000 to \$13,000,000 without any details to support how Peter

⁴ The Court should disregard Peter’s conclusory allegation that Ms. Bouharoun “has breached her agreement with [Peter] . . .” because that allegation is based on the qualified, “upon information and belief” allegations in Paragraphs 32 and 33. *See* Am. Compl. at ¶ 39.

reached those numbers. Similarly, as detailed above, Peter’s key allegations related to Ms. Bouharoun’s alleged breach are without any factual support because they are alleged “upon information and belief.” Even viewing these allegations in a light most favorable to Peter, there are absolutely no facts, details, or documentation included with the Amended Complaint to support Peter’s conclusory allegations. Without more, the Amended Complaint still fails to satisfy the requirements of Rule 12(b)(6).

CONCLUSION

Based on the foregoing, Defendants respectfully request that the Court grant their Motion and dismiss Plaintiffs’ Amended Complaint with prejudice.

s/ Konstantine P. Diamaduros
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Attorneys for Defendants

April 5, 2024
Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Peter Bouharoun, Opus Petrus, LLC,

Plaintiffs,

vs.

Bouharoun Package Store, Inc., Patricia
Bouharoun,

Defendant.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Case No.: 2023-CP-23-06364

**MEMORANDUM IN OPPOSITION TO
DEFENDANT’S MOTION TO DISMISS**

Plaintiffs respectfully submit the following response in opposition to the Motion to Dismiss filed by Defendants on April 5, 2024.

I. LEGAL STANDARD

“Under Rule 12(b)(6), SCRCPP, a defendant may move to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action. In considering such a motion, the trial court must base its ruling solely on allegations set forth in the complaint.” *Spence v. Spence*, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006). The motion “may not be sustained if the facts alleged and the inferences reasonably deducible therefrom would entitle the plaintiff to relief on any theory of the case.” *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 602-03 (1995) (citing *Toussaint v. Ham*, 292 S.C. 415, 357 S.E.2d 8 (1987)). “The question is whether in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief. The complaint should not be dismissed merely because the court doubts that plaintiff will prevail in the action.” *Toussaint*, 292 S.C. at 416, 357 S.E.2d at 9.

“[P]leadings in a case should be construed liberally and the Court must presume all well pled facts to be true so that substantial justice is done between the parties.” *Charleston County*

Sch. Dist. v. Harrell, 393 S.C. 552, 557, 713 S.E.2d 604, 607 (2011) (quoting *Overcash v. S.C. Elec. & Gas Co.*, 364 S.C. 569, 572, 614 S.e.2d 619, 620 (2005)). It is a reversible error for a court to go beyond the proper parameters of a motion to dismiss and consider matters outside the complaint in deciding the motion. *Id.* at 559, 713 S.E.2d at 608.

Defendants contend and even emphasize in their motion that the heightened pleading standard stated by the United States Supreme Court for federal cases in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) is somehow applicable to this case. However, that case was interpreting the Federal Rules of Civil Procedure and no appellate court in South Carolina has cited *Iqbal* or its heightened pleading standard as authority in this State for interpreting our Rules of Civil Procedure.

II. ARGUMENT

a. Plaintiffs' Claims are Ripe for Adjudication

The Supreme Court has “explained ripeness by defining what is not ripe, stating ‘an issue that is contingent, hypothetical, or abstract is not ripe for judicial review.’” *Jowers v. S.C. Dep’t of Health & Env’tl. Control*, 423 S.C. 343, 353-54, 815 S.E.2d 446, 451 (quoting *Colleton Cty. Taxpayers Ass’n v. Sch. Dist. of Colleton Cty.*, 371 S.C. 224, 242, 638 S.E.2d 685, 694 (2006)). In *Jowers*, the Court held that the plaintiffs’ sought to address an “alleged injustice” that “at some point in the future the State may fail to protect against currently nonexistent unreasonable uses of surface water, which in turn could become so severe that the State’s inaction amounts to a violation of its responsibilities to protect the public trust.” *Id.* at 365, 815 S.E.2d at 458. Under those circumstances, the Court found that the potential future loss of water based on actions not yet taken or not taken by the State could not present a justiciable controversy due to lack of ripeness. *Id.* at 367, 815 S.E.2d at 459.

Plaintiffs' amended complaint alleges injustices that are currently present. First, Plaintiffs allege that the Defendant Bouharoun Package Store, Inc. ("the Store") has received and realized a benefit under circumstances that make it unjust for the Store to retain that benefit without paying its value." The injustice is that Plaintiffs conferred those benefits upon the Store pursuant to and in reliance upon representations and promises by the Store's owner, Defendant Patricia Bouharoun ("Defendant Bouharoun"), that are untrue. As such, the Store should be required to return those benefits to Plaintiffs.

Further, Defendants have failed to provide any case law or support for their contention that it is possible for an unjust enrichment claim to lack justiciability due to not being ripe for consideration. The unjust circumstances at the heart of an unjust enrichment claim either exist or they do not. However, where the inferences reasonably deducible from plaintiff's well-pled allegations show that unjust circumstances may exist, then the determination of whether they do exist is a factual determination that must be decided on the merits as opposed to in deciding a motion to dismiss.

Second, the allegations supporting specific performance in this case are similar to the facts presented in *Wright v. Trask*, 329 S.C. 170, 495 S.E.2d 222 (Ct. App. 1997), the Court of Appeals affirmed a decision to award specific performance regarding a grandfather's will while the grandfather was still alive. That case was clearly justiciable because it was decided and affirmed.

In *Wright*, a grandfather agreed to devise his ownership in a large ranch to his grandson. *Id.* at 179, 495 S.E.2d at 227. As consideration for this agreement, the grandson left a job with his father and uncle's lucrative meat packing business to move to the grandfather's ranch. *Id.* at 173-74, 495 S.E.2d at 224. The grandson also showed that he accepted low pay from the ranch

“because he anticipated the larger future reward which [the grandfather] promised.” *Id.* at 179, 495 S.E.2d at 227.

As the grandfather’s health declined, the grandson assumed almost complete control of the ranch, but some of the grandson’s decisions “did not sit well with his fiercely independent grandfather.” *Id.* at 175, 495 S.E.2d at 224. In early 1996, the ninety-six year old grandfather changed his will to completely disinherit his grandson. *Id.* at 175, 495 S.E.2d at 225. The grandson sought judicial relief in March 1996. Even though the grandfather was still alive at the time of trial, the trial court properly made finding that a valid contract to make a will was proved by clear, cogent, and convincing evidence and the Court of Appeals affirmed. *Id.* at 173, 495 S.E.2d at 223-24.

Here, Plaintiff Bouharoun took over management of the Store at the request of Defendant Bouharoun, Am. Comp. ¶ 13, because Defendant Bouharoun told him he would be named personal representative of her estate and would solely inherit the Store upon her death, Comp. ¶¶ 14-15. Because he anticipated inheriting the Store, Plaintiff Bouharoun deferred all pay for managing the Store between 1992 and 2018 and received nominal compensation between 2019 and 2021. Am. Comp. ¶¶ 20-21. Plaintiff Bouharoun also loaned the Store funds for inventory and caused his other company, Defendant Opus Petrus, to defer rent owed by the Store. Am. Comp. ¶¶ 23, 25. In June 2022, Plaintiff Bouharoun learned that Defendant Bouharoun had changed her will so that he would not solely inherit the Store and that he would no longer be personal representative of her estate. Am. Comp. ¶¶ 30-33. Defendant Bouharoun informed Plaintiff Bouharoun that she changed her mind regarding the terms of her Last Will and Testament. Am. Comp. ¶ 31.

Although Defendant Bouharoun is still alive, the claims asserted are justiciable and ripe, just as they were in *Wright*.

b. Plaintiffs' Claims Contain Sufficient Factual Allegations

Plaintiffs' amended complaint contains sufficient factual allegations to notify Defendants of the nature and basis of Plaintiffs' causes of action. The amended complaint contains thirty-three factual allegations including the history of the Store and its ownership, the history of Plaintiff Bouharoun's management of same, and the financial benefits caused by Plaintiff Bouharoun managing the store, loaning the Store money for inventory, foregoing payment from the Store, and causing Plaintiff Opus Petrus to forego lease payments from the Store.

What Defendants are requesting is evidence, which should not be included in pleadings. *See Beard v. Paul Motor Co.*, 166 S.C. 289, 193, 164 S.E. 837, 838 (1932) (upholding a decision not to require a plaintiff to amend its complaint because “[t]he amendment sought relates entirely to evidentiary matter, which should not be included in the pleadings.”) (citing *Jones v. Atlantic Coast Lumber Corporation*, 92 S.C. 418, 75 S.E. 698; *Bell v. Jackson*, 93 S.C. 556, 78 S.E. 679; *Black v. State Company*, 99 S.C. 432, 83 S.E. 1088); *see also Bell*, 93 S.C. at 561, 78 S.E. at 681 (“Evidentiary matter ought not to be set out in the pleadings. They should contain only allegations of fact--naked facts, accompanied by as few modifying adjectives as the exigencies of the case will permit.”).

Plaintiffs concede they have a duty to be informed and believe that is good ground to support any complaint. *See* Rule 11(a) SCRPC. However, Defendants have offered no caselaw or other support for their contention that Plaintiffs are required to know a fact with certainty to allege it when there exists good ground to support the factual allegation. Further, Defendants have offered no caselaw or other support for their contention that a defendant should be allowed to avoid liability for committing an injustice purely by hiding the true facts from a plaintiff or this Court.

Although far outside the scope of this motion, Defendants also fail to offer any support for their contention that Defendant Bouharoun's Will "is absolutely privileged during her lifetime." The Will is an executed document. It is not a request for or granting of legal advice, so it is not privileged as an attorney-client communication. It is unclear what other privilege Defendant Bouharoun is attempting to assert; however, the Will is relevant to this case, at least until Defendant Bouharoun admits that she changed her Will as alleged in the Amended Complaint.

Plaintiffs expressly deny that it is proper to consider evidence or any facts outside of the four corners of a complaint in deciding a motion to dismiss. However, although Defendants have refused to respond to discovery requests served on them on February 19, 2024, Plaintiffs include the following evidence they have been able to gather in support of the contention that Plaintiffs have good grounds to assert the allegations contained in the Amended Complaint as required by Rule 11, SCRPC:

- (1) Plaintiff loaned funds to the Store
 - a. Personal Financial Statement signed by Defendant Bouharoun showing a \$250,000 loan from Plaintiff Bouharoun.
 - b. Letter from Plaintiff Bouharoun's ex-wife stating they loaned money to the Store when they were married.
- (2) Plaintiff Opus granted rent forbearance to the Store
 - a. Rent ledger showing the Store did not start paying rent on this location until February 13, 2018.
- (3) The Store's sales volume increased to \$13,000,000
 - a. The Store's sales report showing it had \$13,516,719.90 in sales in 2023.
- (4) Defendant executed a last will and testament naming Plaintiff as her personal representative and bequeathing the Store solely to Plaintiff
 - a. Defendant Bouharoun's original Will bequeathing the Store solely to Plaintiff Bouharoun and naming him as her personal representative of her estate.
- (5) Defendant revised her last will and testament such that Plaintiff would not solely inherit the Store or be the personal representative of her estate.

- a. Privilege Log of Emails from Defendant Bouharoun’s son-in-law to the attorney who Joel Stoudenmire, the attorney who revised Defendant’s Bouharoun’s Will with Subjects: “Business Ownership Transfer” and “Issues with Patricia’s son.”¹

Plaintiffs and Defendants are entitled to pursue discovery to determine if there is additional evidentiary support for the factual allegations in Plaintiffs’ complaint. However, lack of evidentiary support in the complaint is not a basis for granting Defendants’ motion to dismiss.

III. CONCLUSION

Therefore, for the foregoing reasons, Plaintiffs respectfully request that Defendants’ motion be denied.

Respectfully submitted,

s/Luke A. Burke
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Attorney for the Plaintiffs

June 5, 2024
Greenville, South Carolina

¹ Plaintiffs do not concede that these emails are privileged and assert that when the text of these emails are revealed during discovery, that will add further support for Plaintiffs’ case.

**EXHIBIT
A**

Patricica H. Bouharoun
Personal Finance Statement
January 7, 2021

	Assets	Contingent Liability
Checking Account Personal	\$ 3,482.12	
Bouharoun's Package Store		
Checking Accounts	\$ 168,379.52	
Inventory	\$ 1,200,000.00	
Loan from Peter S Bouharoun		\$ 250,000.00
Goodwill (5% of 2019 Sales)	\$ 350,000.00	
 Hammana LLC		
Checking	\$ 8,218.09	
420 Grove Rd	\$ 900,000.00	
Loan GrandSouth Bank		\$ 516,127.87
 Total Assets	 \$ 2,630,079.73	
Total Contingent Liability		\$ 766,127.87
Net Worth		\$ 1,863,951.86
	\$ 2,630,079.73	\$ 2,630,079.73

Patricica H. Bouharoun 1-7-21

**EXHIBIT
B**

Danielle Bouharoun



February 11, 2024

To Whom It May Concern:

I was married to Peter Bouharoun from 2005-2018. Our separation occurred in 2017 and was finalized in 2018.

My base salary plus incentive awards equated to annual W2 income for me between \$180,000-\$280,000 between 2009 and 2017. My divorce from Peter Bouharoun was finalized in 2018 so I am not putting any income after 2017.

During our marriage, I used my income to pay all of our bills since he did not receive a salary from Bouharoun's Party Store/ Wine and Liquor Store.

When I received a bonus in 2010/2011, I used \$100,000 of the bonus proceeds to establish a deposit account at GrandSouth Bank. That deposit account was then used as collateral for Peter Bouharoun to establish a line of credit at GrandSouth that he then used to buy inventory at Bouharoun's Party Store/ Wine and Liquor Store.

Peter's only reimbursement was to give me \$1,000 a month in cash to go towards what he would refer to as his bills.

Sincerely yours,

A handwritten signature in cursive script that reads "Danielle Bouharoun".

Danielle Bouharoun

Bouharoun's Package Store Inc
General Ledger Detail - Rents Paid Washington St & Falls St Locations
From 12-31-17 thru 9-9-22

Type	Date	Num	Name	Memo	Split	Debit	Credit	Balance
General Journal	12/31/17	AJE11						
Check	2/13/18	7500	Opus Petrus LLC	Peter picks up as Rent Income on personal return-Washington St location	N/P-GrandSouth*			
Check	3/6/18	8023	Opus Petrus LLC	February Rent - Washington		9,412.76		9,412.76
Check	4/9/18	8062	Opus Petrus LLC		Pinnacle			
Check	5/14/18	8105	Opus Petrus LLC		Pinnacle	2,500.00		11,912.76
Check	6/20/18	8144	Opus Petrus LLC		Pinnacle	2,500.00		14,412.76
Check	6/20/18	8145	Opus Petrus LLC	June	Pinnacle	2,500.00		16,912.76
Check	8/9/18	8202	Opus Petrus LLC	July	Pinnacle	2,500.00		19,412.76
Check	9/15/18	8243	Opus Petrus LLC		Pinnacle	2,500.00		21,912.76
Check	10/10/18	8268	Opus Petrus LLC		Pinnacle	2,500.00		24,412.76
Check	11/18/18	8315	Opus Petrus LLC		Pinnacle	2,500.00		26,912.76
Check	12/14/18	8344	Opus Petrus LLC		Pinnacle	2,500.00		29,412.76
Check	2/27/19	8438	Opus Petrus LLC		Pinnacle	2,500.00		31,912.76
Check	3/15/19	8452	Opus Petrus LLC		Pinnacle	2,500.00		34,412.76
Check	4/15/19	8488	Opus Petrus LLC		Pinnacle	2,500.00		36,912.76
Check	4/30/19	8502	Opus Petrus LLC		Pinnacle	2,500.00		39,412.76
Check	6/10/19	8556	Opus Petrus LLC		Pinnacle	2,500.00		41,912.76
Check	7/23/19	8655	Opus Petrus LLC		Pinnacle	2,500.00		44,412.76
Check	8/17/19	8748	Opus Petrus LLC		Pinnacle	2,500.00		46,912.76
Check	9/11/19	8835	Opus Petrus LLC		Pinnacle	2,500.00		49,412.76
Check	10/14/19	8947	Opus Petrus LLC		Pinnacle	2,500.00		51,912.76
Check	11/18/19	9066	Opus Petrus LLC		Pinnacle	2,500.00		54,412.76
Check	12/31/19	9220	Opus Petrus LLC		Pinnacle	2,500.00		56,912.76
Check	1/31/20	9304	Opus Petrus LLC		Pinnacle	2,500.00		59,412.76
Check	2/24/20	9367	Opus Petrus LLC		Pinnacle	2,500.00		61,912.76
Check	3/16/20	9440	Opus Petrus LLC		Pinnacle	2,500.00		64,412.76
Check	4/13/20	9506	Opus Petrus LLC		Pinnacle	2,500.00		66,912.76
Check	5/15/20	9589	Opus Petrus LLC		Pinnacle	2,500.00		69,412.76
Check	6/12/20	9673	Opus Petrus LLC		Pinnacle	2,500.00		71,912.76
Check	7/17/20	9768	Opus Petrus LLC		Pinnacle	2,500.00		74,412.76
Check	8/17/20	9847	Opus Petrus LLC		Pinnacle	2,500.00		76,912.76
Check	9/7/20	9909	Opus Petrus LLC		Pinnacle	2,500.00		79,412.76
Check	10/22/20	10036	Opus Petrus LLC		Pinnacle	2,500.00		81,912.76
Check	11/14/20	10099	Opus Petrus LLC		Pinnacle	2,500.00		84,412.76
Check	12/20/20	10199	Opus Petrus LLC		Pinnacle	2,500.00		86,912.76
Check	1/19/21	10279	Opus Petrus LLC		Pinnacle	2,500.00		89,412.76
Check	2/10/21	10346	Opus Petrus LLC		Pinnacle	2,500.00		91,912.76
Check	4/9/21	10511	Opus Petrus LLC		Pinnacle	2,500.00		94,412.76
Check	4/19/21	041921	Transfer		South State-Operating	5,000.00		96,912.76
Check	6/11/21	10708	Opus Petrus LLC		Pinnacle	5,000.00		101,912.76
Check	7/24/21	10837	Opus Petrus LLC		Pinnacle	5,000.00		106,912.76
Check	8/30/21	10952	Opus Petrus LLC		Pinnacle	5,000.00		111,912.76
Check	9/29/21	11049	Opus Petrus LLC		Pinnacle	5,000.00		116,912.76
Check	10/28/21	11147	Opus Petrus LLC		Pinnacle	5,000.00		121,912.76
Check	12/1/21	11236	Opus Petrus LLC		Pinnacle	5,000.00		126,912.76
Check	12/27/21	11325	Opus Petrus LLC		Pinnacle	5,000.00		131,912.76
Check	1/24/22	11402	Opus Petrus LLC		Pinnacle	5,000.00		136,912.76
Check	2/10/22	11448	Opus Petrus LLC		Pinnacle	5,000.00		141,912.76
Check	3/9/22	11537	Opus Petrus LLC		Pinnacle	5,000.00		146,912.76
Check	4/11/22	11630	Opus Petrus LLC		Pinnacle	5,000.00		151,912.76
Check	5/11/22	11727	Opus Petrus LLC		Pinnacle	5,000.00		156,912.76
Check	6/10/22	11814	Opus Petrus LLC		Pinnacle	5,000.00		161,912.76
Check	7/11/22	11900	Opus Petrus LLC		Pinnacle	5,000.00		166,912.76
Check	8/10/22	11992	Opus Petrus LLC		Pinnacle	5,000.00		171,912.76
Check	9/9/22	12091	Opus Petrus LLC		Pinnacle	5,000.00		176,912.76
Total Washington St						186,912.76	0.00	186,912.76

EXHIBIT D

Tax Type	Description	Total Sales	State Tax Rate	County Tax Rate	City Tax Rate
N	NON TAXABLE	\$49,771.89	0.0000	0.0000	0.0000

<i>Type</i>	<i>Exempt Sales</i>	<i>Non-Exempt Sales</i>	<i>Tax Due</i>	<i>Tax Collected</i>
City	\$42,385.00	\$7,386.89	\$0.00	\$0.00
County	\$42,385.00	\$7,386.89	\$0.00	\$0.00
State	\$42,385.00	\$7,386.89	\$0.00	\$0.00
		Total	\$0.00	\$0.00

Tax Type	Description	Total Sales	State Tax Rate	County Tax Rate	City Tax Rate
Y	STATE SALES TAX	\$13,516,719.87	6.0000	0.0000	0.0000

<i>Type</i>	<i>Exempt Sales</i>	<i>Non-Exempt Sales</i>	<i>Tax Due</i>	<i>Tax Collected</i>
City	\$9,645,072.09	\$3,871,647.78	\$0.00	\$0.00
County	\$9,645,072.09	\$3,871,647.78	\$0.00	\$0.00
State	\$9,645,072.09	\$3,871,647.78	\$232,444.04	\$232,444.04
		Total	\$232,444.04	\$232,444.04

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

LAST WILL AND TESTAMENT
OF
PATRICIA H. BOUHAROUN

**EXHIBIT
E**

I, **PATRICIA H. BOUHAROUN**, a resident of the County and State aforesaid, do hereby make, publish and declare this as and for my Last Will and Testament, hereby revoking any and all testamentary instruments heretofore made by me.

ITEM I

I direct that, as soon as practicable after my death, all of my just debts and funeral expenses, including the reasonable cost of an appropriate marker for my grave, shall be paid out of my estate. I further direct that all estate, transfer and inheritance taxes assessed with respect to my estate herein disposed of, or any part thereof, or any bequest or devise contained in this my Will, (which term wheresoever used herein shall include any codicil hereto) and also with respect to any other property or interest of any character which may be included in my gross estate for purposes of estate, inheritance or similar taxes, shall be paid from my residuary estate in such proportions and in such amounts as my Personal Representative may determine, and shall not be charged to or against any recipient, beneficiary or owner of any other property or interest includible in my gross estate for purposes of estate or inheritance taxes.

ITEM II

I give and bequeath any Automobile(s) owned by me at the time of my death to my daughter, **M. SOBETH RALEY**. I direct my Executor and beneficiaries hereunder follow any memo I may have made concerning disposition of my personal and household effects of every kind and description. In default of such memo or to the extent it does not cover all such property, the same shall be disposed of in accordance with the provisions of subparagraph B of Item III herein below.

ITEM III

All the rest and residue of my estate of every kind and description, including lapsed legacies and devises, and any property over which I may have power of appointment or disposition, I devise and bequeath absolutely as follows:

A. Any real property with improvements thereon, if any, standing in my name and my stocks in Bouharoun Package Store, Inc. and Hammana LLC to my son, **PETER SAMUEL BOUHAROUN**, or if he shall not survive me to his son, **PETER SHAYEB (SHAY) BOUHAROUN**. If said son shall be a minor at the time of distribution, my daughter, **M. SOBETH RALEY**, shall act as Trustee for his benefit in accordance with the provisions of Item IV herein below with all rights and powers otherwise granted to my Executor herein.

B. The remainder thereof to my daughter, **M. SOBETH RALEY**, or if she shall not survive me to her children, **WILLIAM PATRICK RALEY, JR. And MARY- KATHRYN RALEY** in approximate equal shares. If any such child shall be a minor at the time of distribution their father, **WILLIAM PATRICK RALEY**, shall act as Trustee for such child(s)' benefit in accordance with the provisions of Item IV herein below with all rights and powers granted to my Executor herein.

ITEM IV

If any principal or income of my estate shall be payable to a minor, my Executor may, in his absolute discretion, either pay over such income or principal at any time and from time to time, to the guardian of the property of such minor, or retain the same (or any part thereof) for such minor during minority. In the case of such retention, my Executor may apply such income or principal, and income therefrom, to the support, maintenance and education of such minor, irrespective of the resources of such minor or of his or her parents, or, in the absolute discretion of my Executor, such income may be accumulated and retained by him during the minority of such minor, in which event said income shall be added to, and invested as, principal.

Any such payments or applications of income or of principal, or income therefrom, may be made directly to such minor, if over the age of fourteen (14) years, or to any parent or guardian with whom such minor may be residing, or to any person, firm or corporation furnishing goods, services or instruction to such minor, in any case without requiring bond, and the receipt of any such person shall be a full acquittal and discharge of my Executor to the extent of the payments so made. Any such payments which shall be made to persons, other than parents or guardians, furnishing goods, services or instruction to such minor, shall not exceed the reasonable value of goods or services claimed to have been furnished as evidenced by voucher, but my Executor shall not be required to verify the receipt of any such goods or services, and, in no case shall he be required to see to the application of any such funds so paid.

PHB 1

Any such income or principal so retained by my Executor and any income therefrom, which is not expended or applied under the provisions of this Item shall be paid over to such beneficiary upon attaining majority, or if he or she shall sooner die, to his or her estate. In holding any principal or income for any minor, my Executor shall have all of the powers, discretionary and otherwise, hereinafter conferred upon him.

ITEM V

Without limitation of, and in addition to, the powers conferred upon him by statute or general rules of law, my Executor is specifically authorized and empowered:

- (1) To invest funds of my estate in any stocks, bonds, notes or other securities or property, real or personal including any common or commingled fund maintained by my Executor, and notwithstanding that such investments may not be of the character allowed to executors by statute or general rules of law, it being my intention to give the broadest investment powers and discretion to my Executor;
- (2) To buy or sell or otherwise dispose of any property, real or personal, at any time forming a part of my estate, for cash or upon credit, in such manner and on such terms and conditions as he may deem best, and no person dealing with him shall be bound to see to the application of any monies paid;
- (3) To manage, improve, operate, repair, mortgage and lease for any term any real estate at any time held by him;
- (4) To distribute in cash or in kind upon any division of my estate;
- (5) To determine any question which may arise as to what constitutes income and what constitutes principal or corpus, and such determination shall be conclusive as to all persons interested hereunder; but subject to such power and except in some unusual instance where it may be exercised to the contrary, shares of stock received by way of stock dividend and all realized appreciation in the value of stocks, bonds, securities or other property (including unproductive and under productive property) resulting from the sale or other disposition thereof shall be deemed corpus and not income; and
- (6) In general, to exercise all of the powers in the management of my estate which any individual could exercise in the management of similar property owned in his own right, upon such terms and conditions as to him may seem best, and to execute and deliver any and all instruments and to do all acts which they may deem proper or necessary to carry out the purposes of this my Will.

ITEM VI

Whenever the word "Executor" or "Executrix" and any substituted or modifying pronouns therefor are used in this my Will, such words and all pronouns therefor shall mean "Personal Representative" and shall be held and taken to include both the singular and the plural, and the masculine, feminine, and neuter gender thereof, and shall apply equally to my Executor, and to any and every successor or substituted Executor or Executrix who may be qualified and acting hereunder whether or not named or designated herein, and such successor or substituted Executor or Executrix shall possess all the rights, powers and duties, authority and responsibility conferred upon my Executor originally named herein.

ITEM VII

I hereby nominate, constitute and appoint my son, **PETER SAMUEL BOUHAROUN**, as Executor of this my Will. In the event that she shall for any reason cease or fail to act, I nominate, constitute and appoint my daughter, **M. SOBETH RALEY**, as Successor Executrix here under.

ITEM VIII

I direct that no bond or other security shall be required in any jurisdiction of any Executor or Executrix acting hereunder.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the day of June, Two thousand and Sixteen.

PHB 2²

), SEALED, PUBLISHED and
RED, by the above named
x. Patricia H. Bouharoun,
for her Last will and
ment, consisting of three
es, in the sight and
ce of us, who at her
st, and in her sight and
ce, and in the sight and
nce of each other, have
nto signed our names as
ing witnesses, this the
day of June, 2016

[Handwritten signature]

Patricia H. Bouharoun
Patricia H. Bouharoun

[Handwritten signature]

Greenville, SC

Arley D. [unclear]

Greenville, SC

Control Number	Begin Bates	End Bates	Sort Date/Time	Record Type	Email From	Email To	Unified Title	Redaction	Narrative	Privilege Type
REL00019478	NP RALEY - BOUHAROUN SUBPOENA 000001		12/6/2021 11:14	Email	wpraley [wpraley@gmail.com]	JStoudenmire@nexsenpruet.com	Business ownership transfer	Redacted	Request for legal advice from Joel; discusses scenarios	Attorney-Client Communication
REL00019494	NP RALEY - BOUHAROUN SUBPOENA 000002		10/11/2021 0:30	Email	Sobeth Raley [sobethralley@msn.com]	tdavidson@nexsenpruet.com;Patrick Raley [patrickralley@msn.com]	Follow-up from October 1st Meeting	Redacted	Request for referrals for consultants	Attorney-Client Communication
REL00019491	NP RALEY - BOUHAROUN SUBPOENA 000003	NP RALEY - BOUHAROUN SUBPOENA 000008	9/29/2021 10:49	Email	Patrick R [wpraley@gmail.com]	Todd Davidson [TDavidson@nexsenpruet.com]	Fwd: FW: Downtown Property Follow-up	Redacted	Additional information re property developments in preparation for meeting; forward emails from Peter Bouharoun and Sobeth Raley in September 2021.	Attorney-Client Communication
REL00019489	NP RALEY - BOUHAROUN SUBPOENA 000009		2/22/2022 13:48	Email	wpraley [wpraley@gmail.com]	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	Issues with Patricia's son	Redacted	Background update on recent events to seek legal advice.	Attorney-Client Communication
REL00019465	NP RALEY - BOUHAROUN SUBPOENA 000010	NP RALEY - BOUHAROUN SUBPOENA 000011	1/10/2022 15:56	Email	Hopper, Catherine [CHopper@nexsenpruet.com]	PatrickRaley@msn.com	Nexsen Pruet invoice through December 31, 2021 - Raley matter 00002	Redacted	Transmittal of attorney fee invoice	Attorney-Client Communication
REL00019466	NP RALEY - BOUHAROUN SUBPOENA 000012	NP RALEY - BOUHAROUN SUBPOENA 000016	1/13/2022 6:45:00 PM to 12/6/2021 6:14 AM	Email	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	Patrick R [wpraley@gmail.com]	RE: Business ownership transfer	Redacted	Email conversation over five weeks discussing legal options for Business.	Attorney-Client Communication
REL00019467	NP RALEY - BOUHAROUN SUBPOENA 000017	NP RALEY - BOUHAROUN SUBPOENA 000024	1/17/2022 2:10	Email	wpraley [wpraley@gmail.com]	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	RE: Business ownership transfer	Redacted	Continuation of above email conversation to relay preferred option.	Attorney-Client Communication
REL00019468	NP RALEY - BOUHAROUN SUBPOENA 000025	NP RALEY - BOUHAROUN SUBPOENA 000030	1/19/2022 20:39	Email	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	wpraley [wpraley@gmail.com]	RE: Business ownership transfer	Redacted	Continuation of above email conversation explaining legal duty to client during proposed meeting	Attorney-Client Communication
REL00019469	NP RALEY - BOUHAROUN SUBPOENA 000031	NP RALEY - BOUHAROUN SUBPOENA 000039	1/19/2022 22:34	Email	wpraley [wpraley@gmail.com]	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	RE: Business ownership transfer	Redacted	Continuation of above email conversation regarding meeting with Sobeth Raley.	Attorney-Client Communication
REL00019470	NP RALEY - BOUHAROUN SUBPOENA 000040	NP RALEY - BOUHAROUN SUBPOENA 000049	1/21/2022 0:03	Email	wpraley [wpraley@gmail.com]	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	RE: Business ownership transfer	Redacted	Continuation of above email conversation re need to reschedule meeting	Attorney-Client Communication
REL00019471	NP RALEY - BOUHAROUN SUBPOENA 000050	NP RALEY - BOUHAROUN SUBPOENA 000057	1/21/2022 14:11	Email	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	wpraley [wpraley@gmail.com]	RE: Business ownership transfer	Redacted	Continuation of above email conversation re availability for meeting	Attorney-Client Communication
REL00019472	NP RALEY - BOUHAROUN SUBPOENA 000058	NP RALEY - BOUHAROUN SUBPOENA 000068	1/21/2022 16:48	Email	wpraley [wpraley@gmail.com]	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	RE: Business ownership transfer	Redacted	Continuation of above email conversation re availability for meeting	Attorney-Client Communication
REL00019473	NP RALEY - BOUHAROUN SUBPOENA 000069	NP RALEY - BOUHAROUN SUBPOENA 000076	1/21/2022 16:51	Email	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	wpraley [wpraley@gmail.com]	RE: Business ownership transfer	Redacted	Continuation of above email conversation with confirmation of meeting	Attorney-Client Communication
REL00019474	NP RALEY - BOUHAROUN SUBPOENA 000070	NP RALEY - BOUHAROUN SUBPOENA 000089	1/21/2022 17:37	Email	wpraley [wpraley@gmail.com]	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	RE: Business ownership transfer	Redacted	Continuation of email conversation with confirmation of meeting.	Attorney-Client Communication
REL00019475	NP RALEY - BOUHAROUN SUBPOENA 000090	NP RALEY - BOUHAROUN SUBPOENA 000098	1/24/2022 15:39	Email	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	wpraley [wpraley@gmail.com]	RE: Business ownership transfer	Redacted	Continuation of above email conversation with meeting time change	Attorney-Client Communication
REL00019476	NP RALEY - BOUHAROUN SUBPOENA 000099	NP RALEY - BOUHAROUN SUBPOENA 000112	1/24/2022 17:59	Email	wpraley [wpraley@gmail.com]	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	RE: Business ownership transfer	Redacted	Continuation of above email conversation with meeting time change.	Attorney-Client Communication
REL00019477	NP RALEY - BOUHAROUN SUBPOENA 000113	NP RALEY - BOUHAROUN SUBPOENA 000122	1/24/2022 18:46	Email	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	wpraley [wpraley@gmail.com]	RE: Business ownership transfer	Redacted	Continuation of above email conversation and confirmation of meeting time change.	Attorney-Client Communication
REL00019479	NP RALEY - BOUHAROUN SUBPOENA 000123	NP RALEY - BOUHAROUN SUBPOENA 000124	12/6/2021 13:37	Email	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	wpraley [wpraley@gmail.com]	RE: Business ownership transfer	Redacted	Response email to Bates #000001 confirming availability to assist.	Attorney-Client Communication
REL00019480	NP RALEY - BOUHAROUN SUBPOENA 000125	NP RALEY - BOUHAROUN SUBPOENA 000127	12/7/2021 1:18	Email	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	wpraley [wpraley@gmail.com]	RE: Business ownership transfer	Redacted	Continuation of above referenced email conversation re need to reschedule meeting	Attorney-Client Communication
REL00019481	NP RALEY - BOUHAROUN SUBPOENA 000128	NP RALEY - BOUHAROUN SUBPOENA 000130	12/7/2021 1:12	Email	wpraley [wpraley@gmail.com]	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	RE: Business ownership transfer	Redacted	Continuation of above email conversation to confirm meeting.	Attorney-Client Communication
REL00019482	NP RALEY - BOUHAROUN SUBPOENA 000131	NP RALEY - BOUHAROUN SUBPOENA 000133	12/7/2021 11:56	Email	wpraley [wpraley@gmail.com]	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	RE: Business ownership transfer	Redacted	Continuation of email conversation re availability to reschedule meeting	Attorney-Client Communication
REL00019483	NP RALEY - BOUHAROUN SUBPOENA 000134	NP RALEY - BOUHAROUN SUBPOENA 000136	12/8/2021 19:34	Email	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	wpraley [wpraley@gmail.com]	RE: Business ownership transfer	Redacted	Continuation of above email conversation re new time for meeting	Attorney-Client Communication
REL00019484	NP RALEY - BOUHAROUN SUBPOENA 000137	NP RALEY - BOUHAROUN SUBPOENA 000141	12/8/2021 21:49	Email	wpraley [wpraley@gmail.com]	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	RE: Business ownership transfer	Redacted	Continuation of above referenced email conversation to confirmation new time for meeting	Attorney-Client Communication
REL00019485	NP RALEY - BOUHAROUN SUBPOENA 000142	NP RALEY - BOUHAROUN SUBPOENA 000146	12/10/2021 11:32	Email	wpraley [wpraley@gmail.com]	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	RE: Business ownership transfer	Redacted	Continuation of above referenced email conversation of Mr. Raley seeking instructions about information for meeting	Attorney-Client Communication
REL00019486	NP RALEY - BOUHAROUN SUBPOENA 000147	NP RALEY - BOUHAROUN SUBPOENA 000150	12/10/2021 15:08	Email	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	wpraley [wpraley@gmail.com]	RE: Business ownership transfer	Redacted	Continuation of above referenced email conversation with response of information for meeting	Attorney-Client Communication
REL00019487	NP RALEY - BOUHAROUN SUBPOENA 000151	NP RALEY - BOUHAROUN SUBPOENA 000154	12/16/2021 18:27	Email	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	wpraley [wpraley@gmail.com]	RE: Business ownership transfer	Redacted	Continuation of above referenced email conversation re delay	Attorney-Client Communication
REL00019488	NP RALEY - BOUHAROUN SUBPOENA 000155	NP RALEY - BOUHAROUN SUBPOENA 000160	12/16/2021 18:44	Email	wpraley [wpraley@gmail.com]	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	RE: Business ownership transfer	Redacted	Continuation of above referenced email conversation with confirmation of later meeting time	Attorney-Client Communication
REL00019463	NP RALEY - BOUHAROUN SUBPOENA 000161	NP RALEY - BOUHAROUN SUBPOENA 000166	12/20/2021 11:36:00 AM to 12/6/2021 at 6:14 AM	Email	Patrick R [wpraley@gmail.com]	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	Re: Business ownership transfer	Redacted	Continuation of above referenced email conversation commencing with bates #000001 with outline of situation and requesting additional legal advice	Attorney-Client Communication

NP RALEY - BOUHAROUIN SUBPOENA

Control Number	Begin Bates	End Bates	Sort Date/Time	Record Type	Email From	Email To	Unified Title	Redaction	Narrative	Privilege Type
RELO0019495	NP RALEY - BOUHAROUN SUBPOENA 000167	NP RALEY - BOUHAROUN SUBPOENA 000168	10/11/2021 1:54:00 PM to 10/10/2021 8:30 PM	Email	Davidson, Todd R. [TDavidson@nexsenpruet.com]	Sobeth Raley [sobethraley@msn.com]; Patrick Raley [patrickraley@msn.com]	Follow-up from October 1st Meeting and RE: Follow-up from October 1st Meeting	Redacted	Email from Sobeth Raley requesting advice re development consultants and attorney response with recommendations.	Attorney-Client Communication
RELO0019493	NP RALEY - BOUHAROUN SUBPOENA 000169	NP RALEY - BOUHAROUN SUBPOENA 000177	9/29/2021 19:32	Email	wpraley [wpraley@gmail.com]	Davidson, Todd R. [TDavidson@nexsenpruet.com]	RE: FW: Downtown Property Follow-up	Redacted	Continuation of following email (bates # 000178-000184) confirming possession of signed document.	Attorney-Client Communication
RELO0019492	NP RALEY - BOUHAROUN SUBPOENA 000178	NP RALEY - BOUHAROUN SUBPOENA 000184	9/29/2021 7:12:00 PM to 9/29/2021 at 6:01 AM	Email	Davidson, Todd R. [TDavidson@nexsenpruet.com]	Patrick R [wpraley@gmail.com]	RE: FW: Downtown Property Follow-up	Redacted	Email with additional background information re property developments and forwarding emails between clients and Peter Bourharoun in preparation for meeting with attorney.	Attorney-Client Communication
RELO0019490	NP RALEY - BOUHAROUN SUBPOENA 000185	NP RALEY - BOUHAROUN SUBPOENA 000186	2/22/2022 17:34	Email	Stoudenmire, B. Joel [JStoudenmire@nexsenpruet.com]	wpraley [wpraley@gmail.com]	RE: Issues with Patricia's son	Redacted	Response to email (bates #000009) with legal advice.	Attorney-Client Communication
RELO0019498	NP RALEY - BOUHAROUN SUBPOENA 000187	NP RALEY - BOUHAROUN SUBPOENA 000189	9/20/2021 7:15:00 AM to 9/20/21 2:11 AM	Email	Davidson, Todd R. [TDavidson@nexsenpruet.com]	wpraley [wpraley@gmail.com]	Re: Review Status on Joint Property Issues	Redacted	Email requesting meeting with attorney re legal issue and response from attorney re availability for meeting.	Attorney-Client Communication
RELO0019499	NP RALEY - BOUHAROUN SUBPOENA 000190	NP RALEY - BOUHAROUN SUBPOENA 000193	9/20/2021 10:22	Email	wpraley [wpraley@gmail.com]	Davidson, Todd R. [TDavidson@nexsenpruet.com]	Re: Review Status on Joint Property Issues	Redacted	Continuation of above referenced email conversation desire and timing to meet.	Attorney-Client Communication
RELO0019500	NP RALEY - BOUHAROUN SUBPOENA 000194	NP RALEY - BOUHAROUN SUBPOENA 000197	9/20/2021 10:59	Email	Davidson, Todd R. [TDavidson@nexsenpruet.com]	wpraley [wpraley@gmail.com]	Re: Review Status on Joint Property Issues	Redacted	Continuation of above referenced email with confirmation of October 1st meeting	Attorney-Client Communication
RELO0019497	NP RALEY - BOUHAROUN SUBPOENA 000198	NP RALEY - BOUHAROUN SUBPOENA 000200	9/20/2021 7:15	Email	Davidson, Todd R. [TDavidson@nexsenpruet.com]	wpraley [wpraley@gmail.com]	Re: Review Status on Joint Property Issues	Redacted	Duplicate of bates 000187-000189)	Attorney-Client Communication
RELO0019501	NP RALEY - BOUHAROUN SUBPOENA 000201	NP RALEY - BOUHAROUN SUBPOENA 000204	9/20/2021 11:54	Email	CHopper@nexsenpruet.com	wpraley@gmail.com	Review on Joint Property Issues	Redacted	Calendar invite	Attorney-Client Communication
RELO0019496	NP RALEY - BOUHAROUN SUBPOENA 000202		9/20/2021 0:12	Email	wpraley [wpraley@gmail.com]	Todd Davidson [TDavidson@nexsenpruet.com]	Review Status on Joint Property Issues	Redacted	Email requesting meeting with attorney as initial email to above referenced email conversation using a 2016 conversation for ease of addresses.	Attorney-Client Communication
RELO0019463.0001			12/20/2021 11:36	Attach			Bouharoun 2020 Tax return.pdf	Withhold	2020 Tax Returns for Patricia Bouharoun (attachment to bates #000161)	Attorney-Client Communication
RELO0019465.0001			1/10/2022 15:56	Attach			Raley Jan 2022 (00002).pdf	Withhold	Bill for attorneys fees (attachment to bates #000010)	Attorney-Client Communication
RELO0019491.0001			9/29/2021 10:49	Attach			MOA 20190512.docx	Withhold	Memorandum of Understanding - Julius II, LLC and S&P Properties LLC (attachment to bates #000003)	Attorney-Client Communication

ELECTRONICALLY FILED 2024 Jun 05 2:32 PM GREENVILLE - COMMON PLEAS - CASE#2023CP2306364

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Peter Bouharoun, Opus Petrus, LLC,
Plaintiffs,

v.

Bouharoun Package Store, Inc., Patricia
Bouharoun,
Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Case No. 2023-CP-23-06364

**REPLY IN SUPPORT OF
DEFENDANTS' RULE 12(b)(6)
MOTION TO DISMISS**

Defendants Bouharoun Package Store, Inc. (“Store”) and Patricia Bouharoun collectively (“Defendants”), hereby submit this reply in support of their Rule 12(b)(6) motion to dismiss (“Motion”) filed on April 5, 2024.

ARGUMENT

On page six of Plaintiffs’ memorandum in opposition to Defendants’ Motion, Plaintiffs state, “Defendants also fail to offer any support for their contention that Defendant Bouharoun’s Will ‘is absolutely privileged during her lifetime,’” before arguing that Ms. Bouharoun’s will is not privileged. Opp. at 6.

Contrary to Plaintiffs’ unfounded position, it is well settled that the contents of a testator’s will are protected by attorney-client privilege during the testator’s lifetime. *See Bethune v. Bethune*, 870 S.E.2d 827, 832 (Ga. Ct. App. 2022) (citations omitted) (holding that wills that have not been submitted to probate are protected by the attorney-client privilege and, therefore, not discoverable); *see also Fields v. Dep’t of Revenue*, No. TC-MD 040659E, 2005 WL 3108209, at *5 (Or. T.C. Nov. 17, 2005) (holding that “wills prepared by attorneys are protected by the attorney-client privilege from disclosure”); *Compton v. W. Volusia Hosp. Auth.*, 727 So. 2d 379,

382 (Fla. Dist. Ct. App. 1999) (holding that the plaintiff's will was "protected from disclosure and surrender during her lifetime, by the attorney-client privilege"); *In re Guardianship of York*, 44 Wash. App. 547, 553, 723 P.2d 448, 451 (1986) ("[W]ithout the consent of the testator, disclosure of a will prior to the testator's death *violates the Code of Professional Responsibility*." (emphasis added)).

Public policy concerns also support maintaining the confidentiality of wills while testators are still alive. Allowing a case like this to move forward based upon qualified, speculative, "upon information and belief" allegations would set a dangerous precedent, as it will effectively open the floodgates to swaths of litigation in various courtrooms across the state. Indeed, an undeterminable amount of disgruntled plaintiffs would be invited to file pre-death, quasi-will contests, attempting to strong-arm their relatives into revealing their private testamentary intentions through written discovery, depositions, or otherwise. This Court should not countenance such a result.

Based on the foregoing, the Court should dismiss Plaintiffs' Amended Complaint with prejudice.

Respectfully submitted,

MAYNARD NEXSEN PC

s/ Konstantine P. Diamaduros

Andrew A. Mathias (S.C. Bar No. 76220)

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August 12, 2024
Greenville, South Carolina

Attorneys for Defendants

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Peter Bouharoun, Opus Petrus, LLC,
Plaintiffs,

v.

Bouharoun Package Store, Inc., Patricia
Bouharoun,
Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Case No. 2023-CP-23-06364

**DEFENDANTS' RULE 59(e) MOTION
FOR RECONSIDERATION**

Defendants Bouharoun Package Store, Inc. and Patricia Bouharoun (collectively “Defendants”), by and through undersigned counsel and pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, hereby respectfully request that this Court reconsider its August 19, 2024 Form 4 Order denying Defendants’ Rule 12(b)(6) Motion to Dismiss (“Order”), amend its judgment, and issue an order granting Defendants’ Rule 12(b)(6) Motion to Dismiss.

The grounds for this Motion are that the Court failed to fully consider Defendants’ argument that Plaintiffs’ claims are not ripe. *See Elam v. S.C. Dep. of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) (“A party may wish to file . . . a [Rule 59(e)] motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it.”); *see also Waters v. S.C. Land Res. Conservation Comm’n*, 321 S.C. 219, 227, 467 S.E.2d 913, 917-18 (1996) (“A justiciable controversy is a real and substantial controversy which is ripe and appropriate for judicial determination, as distinguished from a contingent, hypothetical or abstract dispute.”). Furthermore, the Court failed to fully consider the public policy considerations impacted by allowing this pre-death, quasi-will contest to move forward during Defendant Bouharoun’s

lifetime, as the Court's Order invites an unquantifiable number of disgruntled individuals to file similar claims across the state against friends, relatives, or acquaintances in an effort to gain access to their privileged testamentary documents while the testators are still alive. Defendants respectfully request that the Court reconsider its Order before setting such perilous precedent.

This Motion is supported by the applicable law, the pleadings in this action, and a memorandum of law, which Defendants hereby give notice and reserve the right to file and rely on in support of this Motion in advance of any hearing. Lastly, undersigned counsel certifies that consultation with Plaintiff prior to filing this Motion would serve no useful purpose.

Respectfully submitted,

MAYNARD NEXSEN PC

s/ Konstantine P. Diamaduros

Andrew A. Mathias (S.C. Bar No. 76220)

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August 29, 2024
Greenville, South Carolina

Attorneys for Defendants

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Peter Bouharoun, Opus Petrus, LLC,

Plaintiffs,

Case No. 2023-CP-23-06364

v.

Bouharoun Package Store, Inc., Patricia
Bouharoun,

Defendants.

MOTION FOR PROTECTIVE ORDER

Defendant Patricia Bouharoun (“Ms. Bouharoun”), by and through her undersigned counsel and pursuant to SCRCP 26(c), hereby moves this Court for an order protecting her from being forced to disclose her current Last Will and Testament and related estate planning documents (or the contents thereof) during her lifetime. The grounds for this Motion are as follows:

1. “Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending or alternatively, on matters relating to a deposition, the court in the circuit where the deposition is to be taken may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense, including one or more of the following: (1) that the discovery not be had; . . . [and] (4) that certain matters not be inquired into” SCRCP 26(c).

2. On September 23, 2024, Plaintiffs noticed the video deposition of Ms. Bouharoun for a date of “TBD” at 10:00 a.m. at the office of Maynard Nexsen PC, 104 South Main St., Suite 900, Greenville, SC 29601. *See Ex. A* (Notice of Video Deposition of Defendant Patricia Bouharoun).

3. As noted in Plaintiffs' deposition notice, counsel for the parties agree that they need a ruling from the Court as to whether the contents of Ms. Bouharoun's Last Will and Testament (including the document itself) are privileged during her lifetime. *Id.* at n.1.

4. In addition, on October 18, 2024, Defendants served responses to Plaintiffs' First Set of Requests for Production and objected to producing Ms. Bouharoun's current Last Will and Testament and related estate planning documents on the ground that those documents are protected by the attorney-client privilege during Ms. Bouharoun's lifetime. *See Ex. B* at Resp. to Request Nos. 18-19.

5. Although the parties disagree on this issue, Ms. Bouharoun respectfully submits that the contents of her Last Will and Testament are protected by the attorney-client privilege during her lifetime. *See Ex. C* (Aug. 12, 2024 Reply (collecting cases)). Accordingly, good cause exists for the Court to issue an order providing that discovery may not be had into the contents of Ms. Bouharoun's current Last Will and Testament or her related estate planning documents, and that Ms. Bouharoun's current plans for her estate may not be inquired into through discovery in this action.

Based on the foregoing, Ms. Bouharoun respectfully requests that the Court grant this Motion and issue an order protecting her from being forced to disclose her current Last Will and Testament and related estate planning documents (or the contents thereof) during her lifetime. This Motion is supported by the applicable law, the pleadings in this action, and a memorandum of law, which Defendants hereby give notice and reserve the right to file and rely on in support of this Motion in advance of any hearing. Lastly, as indicated above, undersigned counsel certifies that he consulted with Plaintiffs' counsel prior to filing this Motion, and that counsel agree that they need a ruling on this issue prior to scheduling Ms. Bouharoun's deposition.

s/ Konstantine P. Diamaduros
Andrew A. Mathias (SC Bar No. 76220)
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Attorneys for Defendants

October 21, 2024
Greenville, South Carolina

Exhibit A

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Peter Bouharoun, Opus Petrus, LLC,

C.A. No. 2023-CP-23-06364

Plaintiffs,

v.

**NOTICE OF VIDEO DEPOSITION OF
DEFENDANT PATRICIA BOUHAROUN**

Bouharoun Package Store, Inc., Patricia
Bouharoun,

Defendants.

**TO: ABOVE NAMED DEFENDANTS, BY AND THROUGH THEIR ATTORNEY,
KONSTANTINE DIAMADUROS, ESQ.:**

PLEASE TAKE NOTICE that the undersigned attorney for the Plaintiffs, pursuant to the *South Carolina Rules of Civil Procedure*, will take, or cause to be taken, the videotaped deposition of **Defendant Patricia Bouharoun** upon oral examination before a notary public or some other person duly authorized by law to take depositions and before a videographer on **TBD¹, beginning at 10:00 a.m.** at **Maynard Nexsen**, located at **104 South Main Street, Suite 900, Greenville, SC 29601**. The examination will continue from day-to-day until concluded.

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 30(j)(8), SCRCP, counsel for Plaintiffs hereby identifies and reserves the right to use any and all documents produced or made available in discovery by any party, including documents received through subpoena or records request, during this deposition, and hereby gives notice of Plaintiffs' intention to question the witness regarding said documents.

¹ Counsel for the parties agree there is an issue to be determined by the Court regarding whether the contents of a Last Will & Testament are privileged *inter vivos*. Counsel for Defendant intends to file a Motion for Protective Order related to this issue.

The above deposition is being taken for pre-trial discovery, for use at trial, and for such other purposes as may be permitted by law.

You are notified to appear and take part in the examination as you may be advised and as shall be fit and proper.

BURKE LAW, LLC

s/Luke A. Burke
Luke A. Burke (SC Bar # 100033)
819 E. North St. (29601)
P.O. Box 4885 (29608)
Greenville, South Carolina
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lburke@gvlattorney.com
Attorneys for the Plaintiffs

September 23, 2024
Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Peter Bouharoun, Opus Petrus, LLC

Plaintiff,

v.

Bouharoun Package Store, Inc., Patricia
Bouharoun,

Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2023-CP-23-06364

**CERTIFICATE OF SERVICE
(VIA E-MAIL)**

I, the undersigned, hereby certify that on September 23, 2024, the following document(s) were served:

Notice of Video Deposition of Defendant Patricia Bouharoun

by e-mailing the same to the AIS e-mail on file as follows:

AIS E-mail:

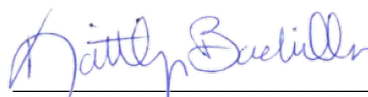
kdiamaduros@maynardnexsen.com

Konstantine Diamaduros, Esquire

Maynard Nexsen

104 South Main Street, Ste. 900

Greenville, SC 29601



Kaitlyn Bouchillon

Paralegal

Burke Law, LLC

P.O. Box 4885

Greenville, SC 29608

Phone: 864-735-8289

Exhibit B

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Peter Bouharoun, Opus Petrus, LLC,

Case No. 2023-CP-23-06364

Plaintiffs,

v.

**DEFENDANTS' RESPONSES TO
PLAINTIFFS' FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS**

Bouharoun Package Store, Inc., Patricia
Bouharoun,

Defendants.

TO: LUKE A. BURKE, ESQUIRE, ATTORNEY FOR PLAINTIFFS.

Defendants Bouharoun Package Store, Inc. (“Store”) and Patricia Bouharoun (“Ms. Bouharoun”) (collectively, “Defendants”), by and through their undersigned counsel and pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, hereby respond to Plaintiffs’ First Set of Requests for Production of Documents as follows:

PRELIMINARY STATEMENT

The responses contained herein, which are made solely for the purpose of this action, are based upon, and therefore necessarily limited by, the documents and information still in existence, presently recollected and thus far discovered in the course of preparing these responses. Defendants reserve the right to supplement each of these responses in accordance with the South Carolina Rules of Civil Procedure. Defendants also reserve the right to produce at trial and make reference to any evidence, facts, documents or information not yet discovered, or the relevance of which has not yet been identified, by Defendants or their counsel.

GENERAL OBJECTIONS

1. Defendants object to these Requests to the extent they request documents that are equally accessible to Plaintiff Peter Bouharoun (“Peter”) or already in Peter’s possession, custody, or control, whether in his individual capacity or otherwise. Although Ms. Bouharoun owns the Store, Peter manages it. Thus, Peter is already in possession, or should be able to obtain possession of, any documentation he is requesting from or related to the Store. Accordingly, these responses do not include those documents that Peter has equal to or greater access by way of his possession, custody, or control. To the extent Peter insists on the Store producing documents, Ms. Bouharoun hereby directs him to gather those documents and provide them to her, and she will review and thereafter produce them back to Peter.

2. Defendants object to these Requests to the extent they call for privileged documents, including but not limited to Ms. Bouharoun’s estate planning documents. Such documents are protected by the attorney-client privilege during Ms. Bouharoun’s lifetime.

REQUESTS FOR PRODUCTION

1. All documents that relate to or that counsel for Defendants or Defendants identified or relied upon in responding to Plaintiffs’ First Interrogatories to Defendants.

RESPONSE: *See General Objection Nos. 1 and 2. Subject to and without waiving these objections, Defendants will produce relevant, non-privileged documents that are responsive to this request subsequent to the entry of a mutually agreeable confidentiality order.*

2. All documents that you intend to introduce at trial of this action.

RESPONSE: *See General Objection No. 2. Defendants further object to this request on the grounds that they have not yet determined the documents they intend to introduce*

into evidence at the trial of this matter and are not required to identify such trial materials at this stage of the litigation. Defendants will designate exhibits for trial in accordance with the South Carolina Rules of Civil Procedure and/or any scheduling order applicable to this case.

3. All written, recorded, or signed statements, letters, notes, or documentation of any type (“documents or recordings”) from persons known by Defendants or their counsel to be witnesses concerning the facts of this case, including, but not limited to, documents or recordings from the Plaintiff, Defendants, witnesses, investigators, or from any agent, representative or employee of the parties concerning the subject matter of this action.

RESPONSE: See General Objection Nos. 1 and 2. Subject to and without waiving these objections, none known to Defendants other than Ms. Bouharoun’s privileged estate planning documents.

4. Any photographs, videotapes, or motion pictures taken regarding this case.

RESPONSE: None.

5. All documents upon which any expert witness relied on to form an opinion.

RESPONSE: None.

6. A copy of a current Curriculum Vitae of any expert Defendants intend to call as a witness to testify at deposition or trial of this case.

RESPONSE: None.

7. All notes, correspondence, bills, invoices, diagrams, photographs, or other documents prepared or reviewed by each person whom you expect to call as an expert witness at trial.

RESPONSE: None.

8. All documents or electronically stored information obtained by Defendants or anyone acting on their behalf via Subpoena Duces Tecum, Freedom of Information Act request, signed authorized form, or other legal process.

RESPONSE: None.

9. All correspondence, including electronic mail and text messages, of any kind between the parties which relate to the subject matter of this lawsuit.

RESPONSE: See General Objection No. 1. Subject to and without waiving this objection, none.

10. All statements published by Defendants on any website, social media account, or otherwise, related to the subject matter of this case.

RESPONSE: See General Objection No. 1. Subject to and without waiving this objection, none. Further responding, Ms. Bouharoun does not have social media or know how to publish anything on the internet.

11. All e-mails from or to Defendants containing any disparaging remarks or accusations against Peter Bouharoun as they relate to the Store, including its operations or Peter Bouharoun's management of the Store.

RESPONSE: See General Objection No. 1. Defendants further object to this request because the phrase "disparaging remarks or accusations" is vague and ambiguous. Subject to and without waiving these objections, none.

12. All e-mails from or to Defendants containing any disparaging remarks or accusations against Peter Bouharoun as it relates to any alleged or perceived actions he has taken that are adverse to Defendant, Patricia Bouharoun, or to the Store.

RESPONSE: See General Objection No. 1. Defendants further object to this request because the phrase “disparaging remarks or accusations” is vague and ambiguous. Subject to and without waiving these objections, none.

13. All messages from or to Marie Sobeth Raley and/or Patrick Raley regarding Peter Bouharoun and/or the Store sent or received via e-mail, text, WhatsApp, iMessage, or Facebook Messenger from 2020 through present.

RESPONSE: See General Objection Nos. 1 and 2. Defendants further object to this Request to the extent it calls for irrelevant documents. Subject to and without waiving these objections, none. Further responding, Ms. Bouharoun does not have an e-mail or social media account.

14. All messages from or to Emile A. Toubia, or in which Defendant is included, sent or received via e-mail, text, WhatsApp, iMessage, or Facebook Messenger from 2020 through present.

RESPONSE: See General Objection No. 1. Defendants further object to this Request to the extent it calls for irrelevant documents. Subject to and without waiving these objections, none. Further responding, Ms. Bouharoun does not have an e-mail or social media account.

15. All agreements, contracts, or documents referencing agreements or contracts between at least two of the parties to this case.

RESPONSE: See General Objection No. 1. Defendants further object to this Request on the grounds that the phrase “all agreements, contracts or documents referencing agreements or contracts” is overly broad and calls for irrelevant documents. Subject to and without waiving these objections, none.

16. All of Defendant's financial records, including, but not limited to, bank records and account statements, balance sheets, profit and loss statements, ledger sheets, income statements, and annual reports for each fiscal year ending during any calendar year between 2020 through present, limited to any accounts in which Defendant has deposited funds received from the Store.

RESPONSE: See General Objection No. 1. Subject to and without waiving this objection, Defendants will produce relevant, non-privileged documents that are responsive to this request subsequent to the entry of a mutually agreeable confidentiality order.

17. All of Defendant's Federal and State tax returns including any accompanying schedules, forms, etc. for the years 2020 through present.

RESPONSE: See General Objection No. 1. Subject to and without waiving this objection, Defendants will produce relevant, non-privileged documents that are responsive to this request subsequent to the entry of a mutually agreeable confidentiality order.

18. A copy of Patricia Bouharoun's current Last Will and Testament and any other estate planning documents of Patricia Bouharoun, including but not limited to, Living Will, Power of Attorney, Trust documents, etc.

RESPONSE: See General Objection No. 2. Defendants further object to this Request because the term "etc." is vague and ambiguous. Defendants will not produce Ms. Bouharoun's current estate planning documents because they are protected by the attorney-client privilege.

19. A copy of Patricia Bouharoun's Last Will and Testament and any other estate planning documents, including but not limited to, Living Will, Power of Attorney, Trust documents, etc. whether currently or previously in effect.

RESPONSE: See General Objection Nos. 1 and 2. Defendants further object to this Request because the term “etc.” is vague and ambiguous. Defendants will not produce Ms. Bouharoun’s current estate planning documents because they are protected by the attorney-client privilege.

20. All documents that support or relate to any of Plaintiffs’ or any of Defendants’ claims or any of the defenses thereto that has not been produced in response to one or more of the requests herein.

RESPONSE: See General Objection Nos. 1 and 2. Subject to and without waiving these objections, none at this time.

s/ Konstantine P. Diamaduros
Andrew A. Mathias (SC Bar No. 76220)
Konstantine P. Diamaduros (SC Bar No. 102231)
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Attorneys for Defendants

October 18, 2024
Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Peter Bouharoun, Opus Petrus, LLC,
Plaintiffs,

Case No. 2023-CP-23-06364

v.

CERTIFICATE OF SERVICE

Bouharoun Package Store, Inc., Patricia
Bouharoun,
Defendants.

This is to certify that a copy of the foregoing **DEFENDANTS' RESPONSES TO PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS** has been served upon the following counsel of record by electronic mail addressed as shown below this 18th day of October 2024.

Luke A. Burke
Burke Law, LLC
lburke@gvlattorney.com

s/ Konstantine P. Diamaduros
MAYNARD NEXSEN PC

Exhibit C

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Peter Bouharoun, Opus Petrus, LLC,
Plaintiffs,

v.

Bouharoun Package Store, Inc., Patricia
Bouharoun,
Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Case No. 2023-CP-23-06364

**REPLY IN SUPPORT OF
DEFENDANTS' RULE 12(b)(6)
MOTION TO DISMISS**

Defendants Bouharoun Package Store, Inc. (“Store”) and Patricia Bouharoun collectively (“Defendants”), hereby submit this reply in support of their Rule 12(b)(6) motion to dismiss (“Motion”) filed on April 5, 2024.

ARGUMENT

On page six of Plaintiffs’ memorandum in opposition to Defendants’ Motion, Plaintiffs state, “Defendants also fail to offer any support for their contention that Defendant Bouharoun’s Will ‘is absolutely privileged during her lifetime,’” before arguing that Ms. Bouharoun’s will is not privileged. Opp. at 6.

Contrary to Plaintiffs’ unfounded position, it is well settled that the contents of a testator’s will are protected by attorney-client privilege during the testator’s lifetime. *See Bethune v. Bethune*, 870 S.E.2d 827, 832 (Ga. Ct. App. 2022) (citations omitted) (holding that wills that have not been submitted to probate are protected by the attorney-client privilege and, therefore, not discoverable); *see also Fields v. Dep’t of Revenue*, No. TC-MD 040659E, 2005 WL 3108209, at *5 (Or. T.C. Nov. 17, 2005) (holding that “wills prepared by attorneys are protected by the attorney-client privilege from disclosure”); *Compton v. W. Volusia Hosp. Auth.*, 727 So. 2d 379,

382 (Fla. Dist. Ct. App. 1999) (holding that the plaintiff's will was "protected from disclosure and surrender during her lifetime, by the attorney-client privilege"); *In re Guardianship of York*, 44 Wash. App. 547, 553, 723 P.2d 448, 451 (1986) ("[W]ithout the consent of the testator, disclosure of a will prior to the testator's death *violates the Code of Professional Responsibility*." (emphasis added)).

Public policy concerns also support maintaining the confidentiality of wills while testators are still alive. Allowing a case like this to move forward based upon qualified, speculative, "upon information and belief" allegations would set a dangerous precedent, as it will effectively open the floodgates to swaths of litigation in various courtrooms across the state. Indeed, an undeterminable amount of disgruntled plaintiffs would be invited to file pre-death, quasi-will contests, attempting to strong-arm their relatives into revealing their private testamentary intentions through written discovery, depositions, or otherwise. This Court should not countenance such a result.

Based on the foregoing, the Court should dismiss Plaintiffs' Amended Complaint with prejudice.

Respectfully submitted,

MAYNARD NEXSEN PC

s/ Konstantine P. Diamaduros

Andrew A. Mathias (S.C. Bar No. 76220)

Konstantine P. Diamaduros (S.C. Bar No. 102231)

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August 12, 2024
Greenville, South Carolina

Attorneys for Defendants

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Peter Bouharoun, Opus Petrus, LLC,

Plaintiffs,

vs.

Bouharoun Package Store, Inc., Patricia
Bouharoun,

Defendant.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Case No.: 2023-CP-23-06364

**MEMORANDUM IN OPPOSITION TO
MOTION FOR PROTECTIVE ORDER**

Plaintiffs respectfully submit the following response in opposition to the Motion for Protective Order filed by Defendant Patricia Bouharoun on October 21, 2024.

I. LEGAL STANDARD

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Rule 26(b)(1) SCRPC.

“The attorney-client privilege is the oldest of the privileges for confidential communications known to the common law,” *Upjohn v. U.S.*, 449 U.S. 383, 389 (1981); *see also U.S. v. Aramony*, 88 F.3d 1369, 1389 (4th Cir. 1996), *cert. denied*, 520 U.S. 1239 (1997), and “rests on the need for the advocate and counselor to know all that relates to the client’s reasons for seeking representation if the professional mission is to be carried out.” *Trammell v. U.S.*, 445 U.S. 40, 51 (1980). “The protection of ‘full and frank’ communications between lawyer and client

‘encourages observance of the law and aids in the administration of justice.’” *Hawkins v. Stables*, 148 F.3d 379, 382–83 (4th Cir. 1998) (quoting *Commodity Futures Trading Comm’n v. Weintraub*, 471 U.S. 343, 348 (1985)). “Therefore, when the privilege applies, it affords confidential communications between lawyer and client complete protection from disclosure.” *Id.* The privilege, however, “impedes the full and free discovery of the truth.” *See id.* (quoting *In re Grand Jury Proceedings*, 727 F.2d 1352, 1355 (4th Cir. 1984)). Therefore, the attorney-client privilege is to be narrowly construed. *See id.*

In South Carolina the attorney-client privilege is defined as follows:

(1) Where legal advice of any kind is sought (2) from a professional legal adviser in his capacity as such, (3) the communications relating to that purpose (4) made in confidence (5) by the client, (6) are at his instance permanently protected (7) from disclosure by himself or by the legal adviser, (8) except the protection be waived.

In re Mt. Hawley Ins. Co., 427 S.C. 159, 164, 829 S.E.2d 707, 710 (2019) (quoting *Tobaccoville USA, Inc. v. McMaster*, 387 S.C. 287, 293, 692 S.E.2d 526, 530 (2010)). “In general, the burden of establishing the privilege rests upon the party asserting it.” *Id.* (quoting *Wilson v. Preston*, 378 S.C. 348, 359, 662 S.E.2d 580, 585 (2008)).

“A will is an expression of a testator's intent to dispose of the testator's property after death.” *In re Estate of Pallister*, 363 S.C. 437, 448, 611 S.E.2d 250, 256 (2005). “Except as provided for writings within section 62-2-512 and wills within section 62-2-505, every will shall be:

- (1) in writing;
- (2) signed by the testator or signed in the testator's name by some other individual in the testator's presence and by the testator's direction; and

(3) signed by at least two individuals each of whom witnessed either the signing or the testator's acknowledgment of the signature or of the will.”

Paradeses v. Paradeses, 426 S.C. 388, 391, 826 S.E.2d 871, 873 (Ct. App. 2019) (citing S.C. Code Ann. § 62-2-502 (Supp. 2018)).

II. ARGUMENT

Plaintiffs allege Peter Bouharoun and Patricia Bouharoun entered into an agreement wherein Peter would operate Defendant Store without receiving regular pay in exchange for Patricia naming Peter the personal representative of her estate in her last will & testament and bequeathing the store to Peter upon her death. Plaintiffs allege Patricia breached this agreement by modifying her will. Patricia admits she modified her estate planning documents but asserts the contents of those documents are protected by attorney-client privilege during her lifetime.

The parties do not dispute that Defendant’s estate planning documents are relevant to this case or may lead to relevant evidence. As such, it is presumed that the documents are discoverable and the burden is on Defendant to show that these documents are protected from discovery by attorney-client privilege.

There is no statutory or common law authority in South Carolina for Defendant’s assertion that her estate planning documents are protected by attorney-client privilege during her lifetime. A last will & testament is an executed document evidencing a testator's intent to dispose of the testator's property after death. It is not a “communication” let alone a communication with an attorney seeking or receiving legal advice. Instead, it is the end product of a party seeking advice from her attorney and then deciding what to do. Therefore, attorney-client privilege cannot apply to protect the executed document from disclosure.

Defendant appears to be conflating the idea that a last will & testament is confidential with the protection provided by attorney-client privilege. Plaintiffs admit that estate documents may be confidential if the testator chooses not to share these documents or their terms with other people or entities. However, that does not mean the documents are protected by attorney-client privilege. Confidential documents like financial records, trade secrets, business practices, etc. are routinely exchanged between parties during the discovery process and courts routinely provide protection for these documents through confidentiality orders.

Defendant references cases from other jurisdictions for the proposition that a last will & testament is protected from disclosure during the testator's lifetime, but none of those cases are controlling in South Carolina nor are the facts of those cases applicable here.

a. *Bethune v. Bethune*

Defendant relies upon *Bethune v. Bethune* for the proposition that, in Georgia, wills are protected by attorney-client privilege during the testator's lifetime. However, the court of appeals based this reasoning on two cases that do not support that proposition: *De Loach v. Myers*, 109 S.E.2d 777 (1959) and *Schaffer v. Fox*, 693 S.E.2d 852 (2010). *Bethune v. Bethune*, 870 S.E.2d 827, 832 (Ga. App. 2022).

In *De Loach*, the question presented was:

Is an attorney, employed by a person to draw a will, competent to testify, under the provisions of Code, § 38-1605, as to conversations with his deceased client relating to instructions in drafting a will, which was never executed, in an action by one against the administrator of the client's estate, seeking specific performance of an alleged oral contract between the plaintiff and the deceased client, to devise all of her estate to the plaintiff?

De Loach, 109 S.E.2d 780. Georgia Code § 38-1605 stated:

No attorney shall be competent or compellable to testify, for or against his client, to any matter or thing, knowledge of which he

may have acquired from his client, by virtue of his relations as attorney, or by reason of the anticipated employment of him as attorney, but shall be both competent and compellable to testify, for or against his client, as to any matter or thing, knowledge of which he may have acquired in any other manner.

Id. at 779.

The court determined that § 38-1605 did not apply where an attorney was asked to testify about his conversations with the decedent leading up to the execution of a will where the terms of the will were being challenged after the decedent's death. *Id.* at 780. However, where the will was never executed, § 38-1605 did bar such testimony because in the former case the attorney was testifying in support of his deceased client whereas in the latter case the attorney was testifying against his client's wishes. *Id.* at 781.

Regardless, the issue in *De Loach* was entirely centered on communications between a client and attorney leading up to execution of a last will & testament. The court did not rule upon or even consider whether the executed last will & testament was privileged.

In *Schaffer*, the issue was whether the trial court erred by allowing the decedent's attorney to testify about previous wills he had drafted for the decedent. *Schaffer*, 693 S.E. at 854. The trial court allowed the attorney to testify over the defendants' objection and the court of appeals affirmed reasoning that a third party could not assert attorney client privilege on behalf of the decedent. *Id.* at 854-55. However, the court did not decide the issue of whether a will is a privileged document – it simply ruled that the defendants did not have standing to assert the attorney-client privilege at all. *Id.* at 855.

As such, even if *Bethune* was controlling precedent for South Carolina law, it rests upon shaky legal ground and should not serve as the basis to extend attorney-client privilege to executed estate documents.

b. *Fields v. Dep't of Revenue*

Defendant relies upon *Fields v. Dep't of Revenue*, No. TC-MD 040659E, 2005 Ore. Tax LEXIS 236, for the proposition that “wills prepared by attorneys are protected by the attorney-client privilege from disclosure.” However, *Fields* is an Oregon Tax Court trial court ruling that has no precedential value outside of that court. Even in *Fields*, the court cites to no cases or statutory basis for its decision. *Id.* at *7.

c. *Compton v. W. Volusia Hosp. Auth.*

Defendant relies upon *Compton v. W. Volusia Hosp. Auth.*, 727 So.2d 379 (Fla. App. 1999), for the proposition that a plaintiff’s will is “protected from disclosure and surrender during her lifetime, by the attorney-client privilege.” However, that case involved the defendants requesting the last will & testament of the plaintiff in a medical malpractice case in order to determine if she was competent at the time she executed it. *Id.* at 379, 381.

The court’s primary reason for protecting the will from discovery was that it was because it was completely irrelevant in a malpractice case. *Id.* at 381 (“The content of a person’s unpublished Last Will and Testament left in the custody of the lawyer who drafted it should, as a general proposition, not be discoverable in a lawsuit *such as this*. Initially it is not demonstrated in this case to be relevant.” (emphasis added)). The court’s secondary reason was that the will’s protection under Florida’s constitutional provision insuring the right of privacy in its citizens (which has no equivalent in the South Carolina Constitution. *Id.* at 382. Finally, as a third alternative reason, the court of appeals held that a last will & testament is privileged during the lifetime of the testator. However, the court again did not cite to any case law or statutory provision in support of this reasoning.

d. *In re Guardianship of York*

Finally, Defendant relies upon *In re Guardianship of York*, 723 P.2d 448 (Wash. App. 1986) for the proposition that “without the consent of the testator, disclosure of a will prior to the testator’s death violates the Code of Professional Responsibility.” However, this is not applicable here because Plaintiffs’ did not send a subpoena to Defendant’s attorney – they are requesting this information from Defendant, herself.

Further, this rule is not based on attorney-client privilege but is based on an attorney’s professional duty to protect his client’s secrets. As such, the court in *York* recognized that this rule of professional conduct permits disclosure of confidences and secrets pursuant to court order. *Id.* at 451.

III. CONCLUSION

As stated above, Defendant has the burden of showing that her last will & testament is protected by attorney-client privilege. Otherwise, if relevant to the case, as it is here, the will must be produced. A will is not a communication; it is an executed document; therefore it cannot be an attorney-client privileged communication. Finally, Defendant has not identified any controlling case law or statutory authority supporting her motion. Therefore, for the foregoing reasons, Plaintiffs respectfully request that Defendant’s motion be denied.

Respectfully submitted,

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January 13, 2025
 Greenville, South Carolina

STATE OF SOUTH CAROLINA) IN THE SOUTH CAROLINA CIRCUIT COURT
COUNTY OF GREENVILLE) C.A. NO. 2023-CP-23-06364

PETER BOUHAROUN)
Plaintiff,)
versus)
BOUHAROUN PACKAGE STORE)
Defendant.)

H E A R I N G

DATE: January 16, 2025
TIME:
LOCATION: South Carolina Circuit Court 11
JUDGE: Perry H. Gravely

TRANSCRIBED BY: Lynda Monroe

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PROCEEDING

THE COURT: All right. Bouharoun versus Bouaroun Packaging is next. I'm going to take a short break before we hear it, but attorneys approach. I just wanted you to know that my law clerk as stepped out because his wife works in their firm and he's not going to be involved in it. But, anyway, (inaudible) I'd do the same thing. But, anyway, I'm going to step away. You all don't have a problem with that, do you? Okay.

(Whereupon, Court at recess from 2:45 until 2:48.)

(No sound from 2:48 until 3:05, end of the job.)

(THERE BEING NO FURTHER QUESTIONS, THIS HEARING IS CONCLUDED AT 10:48 a.m.)

CERTIFICATE OF TRANSCRIBER

I, Lynda Monroe, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 11, Greenville County, South Carolina, on the 16th day of March, January, 2025.

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

February 5, 2025

Lynda Monroe

Lynda Monroe, Transcriber

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Perry H. Gravely

C.A. No.: 2023-CP-23-06364

Peter Bouharoun, Opus Petrus, LLC,

Plaintiff / Appellants,

v.

Bouharoun Package Store, Inc., Patricia Bouharoun,

Defendant / Respondent.

NOTICE OF APPEAL

Appellants, Peter Bouharoun and Opus Petrus, LLC, appeal the Order entered by the Honorable Perry H. Gravely on January 23, 2025 (January Order) in the above-captioned case.

Appellants received written notice of the January Order on January 23, 2025, through their counsel and are timely filing this Notice of Appeal. A copy of the January Order is attached hereto as Exhibit A.

Respectfully submitted,
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