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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

Daniel Coble, Circuit Court Judge

Case No. 2024-CP-28-00123
Appellate Case No. 2025-001848

Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, and Timothy Johnson, ... Appellants,

v.

The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, Jr. as Personal Representative and Trustee for the Estate and Testamentary Trust of Thomas Clayter Campbell, Sr., the Estate of Colbert Harold Campbell, by and through Vivian C. Gardner, Heyward M. Clamp, and Larry E. Clamp, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell, ...Respondents.

RECORD ON APPEAL

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Kershaw
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP2800123

Mary Dow Jackson et al
PLAINTIFF(S)

Claude E Campbell Estate et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

This matter is before the Court on Plaintiff's Motion for Reconsideration pursuant to Rule 59(e) SCRCP ("the Motion"), which was timely filed on August 8, 2025. The Motion asks this Court to alter, amend, or reconsider its Order Granting Summary Judgment, entered July 29, 2025.
After reviewing the applicable law and considering arguments raised in the Motion, the court is unable to discover any material fact or principle of law that has either been overlooked or disregarded and further finds no error of law or fact not appropriately considered.
Therefore, the Motion to Alter, Amend, or Reconsider is DENIED.

ORDER INFORMATION

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

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 08/12/2025 .

Gordon Louis Jackson Estate

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2025 Aug 13 7:49 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

Court Reporter:

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

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ELECTRONICALLY FILED - 2025 Aug 13 7:49 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

Kershaw Common Pleas

Case Caption: Mary Dow Jackson , plaintiff, et al VS Claude E Campbell Estate , defendant, et al

Case Number: 2024CP2800123

Type: Order/Electronic Form 4

So Ordered

s/ Daniel Coble, 2774

Electronically signed on 2025-08-12 20:31:34 page 3 of 3

ELECTRONICALLY FILED - 2025 Aug 11 7:40 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT
Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyra Jackson, Reginald Allen, Bryant Allen, Andre Allen, and Timothy Johnson, Plaintiffs, v. The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, Jr. as Personal Representative and Trustee for the Estate and Testamentary Trust of Thomas Clayter Campbell, Sr., the Estate of Colbert Harold Campbell, by and through Frances C. Campbell, Vivian C. Gardner, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell, Defendants.	C/A No.: 2024-CP-28-00123 **ORDER**

This Court heard oral argument on Defendants' Motion for Summary Judgment on July 17, 2025. Defendants' motion for summary judgment is **granted** for the reasons stated herein.

1. Introduction

The Plaintiffs are the estate of a man named Gordon Louis Jackson and his widow and children. Mr. Jackson died in 2013.

The Defendants are the heirs or beneficiaries of heirs of a man named Thomas Edward Campbell who died in 1982.

The Plaintiffs claim that Gordon Louis Jackson was a child of Thomas Edward Campbell born out of wedlock. The Plaintiffs claim that Gordon Louis Jackson was wrongfully excluded from Thomas Edward Campbell's intestate estate.

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The Plaintiffs bring claims of unjust enrichment, constructive trust, and declaratory judgment. Those claims are dismissed based on absence of evidence in the record to support their elements and under the doctrine of laches.

2. Relevant Facts

The intestate estate for Thomas Edward Campbell was opened in 1982 and discharged in 1984.

The personal representative for Gordon Louis Jackson's estate, Mary Dow Jackson, testified that she and her deceased husband knew T.E. Campbell was Gordon Louis Jackson's father when T.E. Campbell died. She testified that she and Gordon learned about T.E. Campbell's death contemporaneously. Gordon was 41 years old when T.E. Campbell died.

Mrs. Jackson conceded that neither she nor her husband took action to address his exclusion from T.E. Campbell's estate during Gordon's lifetime and for nearly a decade after his death. Mrs. Jackson further testified that she had no knowledge of any action by Defendants to exclude Gordon Jackson from T.E. Campbell's estate. Finally, Mrs. Jackson was unable to testify to any evidence or occurrence wherein she claims any Defendant engaged in wrongdoing or fraud in connection with the administration of T.E. Campbell's intestate estate.

3. Standard of Review

"Rule 56(c) of the South Carolina Rules of Civil Procedure provides that the moving party is entitled to summary judgment 'if the [evidence before the court] show[s] that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.'" *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 459, 892 S.E.2d 297, 299 (2023).

4. Discussion

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Defendants made several arguments in support of summary judgment. The arguments persuasive to the Court are (1) that Plaintiffs' claims fail on their elements and (2) that this action is untimely.

4.1. Discussion of the Elements

The evidence—and lack thereof—in the record, viewed in the light most favorable to the Plaintiffs, demonstrates that Plaintiffs could not, even with further discovery, establish the elements of their claims.[1]

Unjust Enrichment

To prevail on a claim for unjust enrichment, a plaintiff must establish: "(1) a benefit conferred by the plaintiff upon the defendant; (2) realization of that benefit by the defendant; and (3) retention of the benefit by the defendant under circumstances that make it inequitable for him to retain it without paying its value." *Chase Home Fin., LLC v. Risher*, 405 S.C. 202, 212, 746 S.E.2d 471, 476 (Ct. App. 2013).

Plaintiffs have produced no evidence that they conferred any benefit on the Defendants. This is an essential element under South Carolina law. Summary judgment is therefore appropriate.

Constructive Trust

A constructive trust arises "whenever the circumstances under which property was acquired make it inequitable that it should be retained by the one holding the legal title." *Lollis v. Lollis*, 291 S.C. 525, 529, 354, S.E.2d 559, 561 (1987).

[1] Plaintiffs contended that summary judgment was premature based on third-party discovery they seek relating to establishing the paternity of Gordon Jackson. However, such evidence would have no effect on the Court's analysis.

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Plaintiffs have not identified any evidence of fraud, bad faith, abuse of confidence, or a fiduciary relationship, which are necessary to support the imposition of constructive trust under South Carolina law. Therefore, summary judgment is also appropriate on this claim.

Declaratory Judgment

The failure of Plaintiffs to prevail on their claims of unjust enrichment and constructive trust claims renders their declaratory judgment claim (which seeks a declaration that Gordon Jackson was a rightful heir of T.E. Campbell) moot. There is no legal proceeding in which this declaration would have practical effect.

Under South Carolina law, courts may not issue advisory opinions or rule on abstract disputes. *Tourism Expenditure Rev. Comm. v. City of Myrtle Beach*, 403 S.C. 76, 81, 742 S.E.2d 371, 374 (2013); *Byrd v. Irmo High School*, 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996). A justiciable controversy exists only where there is a real and substantial controversy which is appropriate for judicial determination, as opposed to one that is contingent, hypothetical, or abstract. *Byrd*, 321 S.C. at 431, 468 S.E.2d at 864. A case is moot when an intervening event renders any grant of effectual relief impossible for the reviewing court. *Mathis v. S.C. State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973).

In this case, because the estate at issue is no longer open, and because no relief is available that would alter the legal rights of the parties, the Court concludes that the declaratory judgment claim is moot and Plaintiffs' declaratory judgment action must be dismissed for lack of justiciability.

4.2. The Doctrine of Laches

The Court additionally finds that the equitable doctrine of laches independently bars all of Plaintiffs' claims.

Laches applies when a party, despite having the opportunity to act, unreasonably delays asserting their rights and thereby causes prejudice to the opposing party. *Hallums v. Hallums*, 296 S.C. 195, 198, 371 S.E.2d 525, 527 (1998); *Chambers of S.C., Inc. v. Cnty. Council for Lee Cty.*, 315 S.C. 418,

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421, 434 S.E.2d 279, 280 (1993). "[I]f a party, knowing his rights, does not seasonably assert them, but by unreasonable delay causes his adversary to incur expenses or enter into obligations or otherwise detrimentally change his position, then equity will ordinarily refuse to enforce those rights." *Chambers of S.C.*, 315 S.C. at 421, 434 S.E.2d at 280.

Here, the record reflects that Gordon Jackson had knowledge of T.E. Campbell's death in 1982 and took no steps during his lifetime to pursue any interest in the estate. Plaintiffs did not file this lawsuit until more than forty years after T.E. Campbell died. In the Court's view, this delay is both unexplained and unreasonable.

Equity does not favor disturbing this settled estate decades after its closure, especially because the parties' asserting rights failed to act despite ample opportunity.

Allowing Plaintiffs to challenge the distribution of T.E. Campbell's intestate estate forty years later would prejudice the Defendants (all but one of whom were not direct heirs of T.E. Campbell in 1982) who now own the property distributed from his estate.

For these reasons, Plaintiffs' claims are barred by laches, and summary judgment is warranted on that basis as well.

5. Conclusion

There are no genuine issues of material fact as to any of Plaintiffs' claims. Each claim fails on the elements and is additionally, independently barred by the doctrine of laches. Therefore, Defendants' Motion for Summary Judgment is **GRANTED.**

_____

Hon. J. Daniel Coble
Fifth Circuit Judge

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Kershaw Common Pleas

Case Caption: Mary Dow Jackson , plaintiff, et al VS Claude E Campbell Estate , defendant, et al

Case Number: 2024CP2800123

Type: Order/Summary Judgment

So Ordered

s/ Daniel Coble, 2774

ELECTRONICALLY FILED - 2025 Jul 29 11:50 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, TyreJackson, Reginald Allen, Bryant Allen, AndreAllen, And Timothy Johnson, Plaintiffs, vs. The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, Jr. as Personal Representative and Trustee for the Estate and Testamentary Trust of Thomas Clayter Campbell, Sr, the Estate of Colbert Harold Campbell, by and through Frances C. Campbell, Vivian C. Gardner, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell, Defendants.	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT CASE NO.: 2024-CP-28-00123 **ORDER**

This matter came before Judge Coble at an in-person hearing on Defendants' Motion for Summary Judgment. Present at the July 17, 2025 hearing was counsel for the Plaintiff, William Harling and Richard Gleissner, and counsel for the Defendants, Paul Porter. At the conclusion of both parties' arguments, Judge Coble took the matter under advisement. After carefully considering arguments of counsel, applicable law, and filings of the parties, the court rules as follows: The Motion for Summary Judgment is GRANTED.

I. Plaintiffs' three claims fail on their elements.

a. Unjust Enrichment

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To prevail on a claim for unjust enrichment under South Carolina law, a plaintiff must show: "(1) a benefit conferred by the plaintiff upon the defendant; (2) realization of that benefit by the defendant; and (3) retention of the benefit by the defendant under circumstances that make it inequitable for him to retain it without paying its value." *Chase Home Fin., LLC v. Risher*, 405 S.C. 202, 212, 746 S.E.2d 471, 476 (Ct. App. 2013). There is no evidence in this case of any benefit conferred by the Plaintiffs on the Defendants whatsoever.

b. Constructive Trust

Plaintiffs' constructive trust claim fails because there is no evidence of fraud, bad faith, abuse of confidence, or violation of a fiduciary duty.

c. Declaratory Judgment

Plaintiffs' claim for a declaration that Gordon Louis Jackson was a rightful heir of Thomas Edward Campbell is moot because TE Campbell's estate has long been closed.

II. This Action is Untimely based on the Doctrine of Laches.

Laches is defined as "neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done." *Hallums v. Hallums*, 296 S.C. 195, 198, 371 S.E.2d 525, 527 (1988). "Under the doctrine of laches, if a party, knowing his rights, does not seasonably assert them, but by unreasonable delay causes his adversary to incur expenses or enter into obligations or otherwise detrimentally change his position, then equity will ordinarily refuse to enforce those rights." *Chambers of S.C., Inc. v. County Council for Lee Cty.*, 315 S.C. 418, 421, 434 S.E.2d 279, 280

(1993). Thus, the predicate for laches is an unreasonable and unexplained delay. *Eldridge v. Eldridge*, 398 S.C. 113, 121–22,728 S.E.2d 24, 28 (2012).

All rulings are based on the oral arguments and written memoranda presented in support of the motions. The prevailing party shall provide a more formal order within ten (10) days.

AND IT IS SO ORDERED.

[JUDICIAL E-SIGNATURE PAGE TO FOLLOW]

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Kershaw Common Pleas

Case Caption: Mary Dow Jackson , plaintiff, et al VS Claude E Campbell Estate , defendant, et al

Case Number: 2024CP2800123

Type: Order/Other

So Ordered

s/ Daniel Coble, 2774

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Kershaw
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP2800123

Mary Dow Jackson et al
PLAINTIFF(S)

Claude E Campbell Estate et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** *(CHECK APPLICABLE BOX)*: ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

Following a hearing on December 12th, 2024, Defendant Vivian C Gardner's Motion to Strike Plaintiff's Motion for Default Judgment is GRANTED. To the extent there has been an entry of default, it is set aside and Defendant's answer is to be deemed timely.

ORDER INFORMATION

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

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 12/11/2024 .

Gordon Louis Jackson Estate

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

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

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Kershaw Common Pleas

Case Caption: Mary Dow Jackson , plaintiff, et al VS Claude E Campbell Estate , defendant, et al

Case Number: 2024CP2800123

Type: Order/Electronic Form 4

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762

ELECTRONICALLY FILED - 2024 Nov 14 4:38 PM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA

COUNTY OF KERSHAW

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, And Timothy Johnson,

Plaintiffs,

v.

The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, the Estate of Colbert Harold Campbell, by and through Frances C. Campbell, Vivian C. Gardner, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell,

Defendants.

C/A No.: 2024-CP-28-00213

ORDER FOR SUBSTITUTION OF PARTY DEFENDANT THOMAS CLAYTOR CAMPBELL, SR.

This matter is before the Court on Defendants' Motion for Substitution of Party Defendant, which was filed on November 14, 2024. Defendants seek substitution of Thomas Clayter Campbell, Jr., as Personal Representative and Trustee for the Estate and Testamentary Trust of Thomas Clayter Campbell, Sr., as a Defendant in place of Thomas Clayter Campbell, Sr. (also known as Clayter Campbell), who is deceased. The motion was made pursuant to Rule 25(a), South Carolina Rules of Civil Procedure. The substitution of Thomas Clayter Campbell, Jr., as a party Plaintiff, will not prejudice any party involved and will allow the case to proceed without undue delay.

The Court has thoroughly reviewed the record, including Defendants' motion and documentation. Based upon the same, the Motion for Substitution of Party Defendant is

GRANTED, and Thomas Clayter Campbell, Jr. is hereby substituted for Thomas Clayter Campbell, Sr. (Clayter Campbell) as a Defendant in this matter.

IT IS SO ORDERED

Honorable Daniel Coble
Chief Admin Judge
Fifth Judicial Circuit

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ELECTRONICALLY FILED - 2024 Nov 14 4:38 PM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

Kershaw Common Pleas

Case Caption:	Mary Dow Jackson , plaintiff, et al VS Claude E Campbell Estate , defendant, et al
Case Number:	2024CP2800123
Type:	Order/Substitution of Parties

So Ordered

s/ Daniel Coble, 2774

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Kershaw
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP2800123

Mary Dow Jackson et al
PLAINTIFF(S)

Claude E Campbell Estate et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

Following a hearing on May 9, 2024, Defendant's Motion to Dismiss (filed on 9/15/23) is DENIED.

ORDER INFORMATION

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

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 05/09/2024 .

Gordon Louis Jackson Estate

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2024 May 10 8:37 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

Court Reporter:

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

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ELECTRONICALLY FILED - 2024 May 10 8:37 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

Kershaw Common Pleas

Case Caption:	Mary Dow Jackson , plaintiff, et al VS Claude E Campbell Estate , defendant, et al
Case Number:	2024CP2800123
Type:	Order/Electronic Form 4

So Ordered

Jocelyn Newman

ELECTRONICALLY FILED - 2024 Feb 21 11:16 AM - RICHLAND - COMMON PLEAS - CASE#2023CP4004301
ELECTRONICALLY FILED - 2024 Feb 21 11:45 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMBPELL; THOMAS CLAYTOR CAMPBELL; THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL; VIVIAN C. GARDNER; AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2023CP4004301 **CONSENT ORDER FOR TRANSFER OF VENUE**

This matter was originally brought by Plaintiffs in the Richland County Court of Common Pleas. Defendants raised improper venue in their motion to dismiss this action and argued the appropriate venue for the matter is Kershaw County. After consultation between the parties, Plaintiffs and Defendants consent, pursuant to S.C. Code Ann. §15-7-100, to this action being transferred to the Kershaw County Court of Common Pleas.

It appears to the court that there is good cause for transferring venue in this matter to Kershaw County.

ELECTRONICALLY FILED - 2024 Feb 21 11:16 AM - RICHLAND - COMMON PLEAS - CASE#2023CP4004301
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THEREFORE, IT IS ORDERED that this action shall be transferred to the Kershaw County Court of Common Pleas.

AND IT IS SO ORDERED.

_____
Circuit Court Judge

_____, 2024

ATTORNEYS FOR PLAINTIFFS SO CONSENT:

BY:s/Richard R. Gleissner
RICHARD R. GLEISSNER
S.C. Bar Number 15139
GLEISSNER LAW FIRM, L.L.C.
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Columbia, South Carolina 29201
(803) 787-0505

BY:s/W. Jonathan Harling
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1722 Main Street, Suite 200
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Columbia, South Carolina 29202
(803) 252-2050

ATTORNEYS FOR DEFENDANTS SO CONSENT:

BY: J. Paul Porter
J. PAUL PORTER
S.C. Bar Number 100723
CROMER BABB PORTER & HICKS, LLC
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Columbia, South Carolina 29211
(803) 799-9530
Attorney for Defendants

ELECTRONICALLY FILED - 2024 Feb 21 11:16 AM - RICHLAND - COMMON PLEAS - CASE#2023CP4004301
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Richland Common Pleas

Case Caption: Mary Dow Jackson , plaintiff, et al vs Claude E Campbell Estate , defendant, et al

Case Number: 2023CP4004301

Type: Order/Change of Venue

IT IS SO ORDERED.

Jocelyn Newman, Chief Judge for Administrative Purposes, Court of Common Pleas, 5th Judicial Circuit

ELECTRONICALLY FILED - 2025 Sep 11 3:17 PM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

Daniel Coble, Circuit Court Judge

Case No: 2024-CP-28-00123

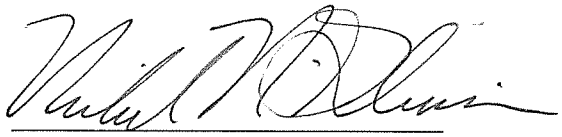
Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, And Timothy Johnson, ... Appellants,

v.

The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, Jr. as Personal Representative and Trustee for the Estate and Testamentary Trust of Thomas Clayter Campbell, Sr, the Estate of Colbert Harold Campbell, by and through Frances C. Campbell, Vivian C. Gardner, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell, ... Respondents.

NOTICE OF APPEAL

Plaintiff/Appellant files this Notice of Appeal in regard to the attached Orders received on or about July 29, 2025, August 11, 2025 and August 13, 2025. The first attached Order is the Order Granting the Defendants' Motion for Summary Judgment signed by Judge Daniel Coble and filed with the clerk of court on July 29, 2025. The second attached Order is the more formal Order Granting the Defendant's Motion for Summary Judgment signed by Judge Daniel Coble and filed with the clerk of court on August 11, 2025. The third attached Order is the Order Denying the Plaintiff's Motion to Reconsider under Rule 59 and Relief from Judgment under Rule 60 of the South Carolina Rules of Civil Procedure signed by Judge Daniel Coble and filed with the clerk of court on August 13, 2025.



Richard R. Gleissner, Esquire
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1316 Washington Street, Suite 101
Columbia, South Carolina 29201
(803) 787-0505
Attorneys for Appellants

Columbia, South Carolina
September 11, 2025

ELECTRONICALLY FILED - 2025 Sep 11 3:17 PM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

Daniel Coble, Circuit Court Judge

Case No: 2024-CP-28-00123

Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, And Timothy Johnson, ... Appellants,

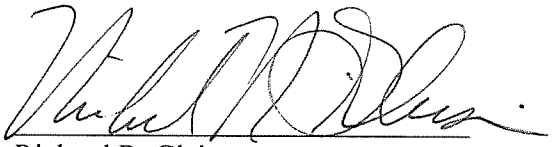
v.

The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, Jr. as Personal Representative and Trustee for the Estate and Testamentary Trust of Thomas Clayter Campbell, Sr, the Estate of Colbert Harold Campbell, by and through Frances C. Campbell, Vivian C. Gardner, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell, ... Respondents.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the Respondents by depositing a copy of it in the United States Mail, postage prepaid, on September 11, 2025, addressed to its attorneys of record as follows:

J. Paul Porter, Esquire
SC Bar Number 100723
Cromer Babb Porter & Hicks, LLC
Post Office Box 11675
Columbia, SC 29211
Paul@cromerbabb.com



Richard R. Gleissner
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Attorneys for the Appellant

Dated: September 11, 2025

ELECTRONICALLY FILED - 2025 Aug 08 7:57 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMPBELL, THOMAS CLAYTOR CAMPBELL, THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL, VIVIAN C. GARNDER, AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2024CP2800123 **PLAINTIFFS' NOTICE OF MOTION AND MOTION TO RECONSIDER**

Plaintiffs, by and through their undersigned counsel, hereby move the court to reconsider its July 29, 2025, order granting summary judgment in this matter pursuant to SCRCP 59(e). For the reasons set forth herein, Plaintiffs respectfully request Defendants' motion for summary judgment be denied upon reconsideration by the court.

In ruling on a motion for summary judgment, the evidence and the inferences which can be drawn therefrom should be viewed in the light most favorable to the nonmoving party. *Garvin v. Bi-Lo, Inc.*, 343 S.C. 625, 541 S.E.2d 831 (2001). Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. *South*

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Carolina Property and Cas. Guar. Ass'n v. Yensen, 345 S.C. 512, 548 S.E.2d 880 (Ct. App. 2001), cert. denied, (Nov. 29, 2001); see also *Toomer v. Norfolk Southern Ry. Co.*, 344 S.C. 486, 544 S.E.2d 634 (Ct. App. 2001). Summary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery. *Doe v. Batson*, 338 S.C. 291, 525 S.E.2d 909 (Ct. App. 1999), reh'g denied, (Mar. 4, 2000).

Plaintiffs believe Defendants' motion was premature as discovery is ongoing. The parties have exchanged written discovery, and depositions are actively being scheduled and conducted. Additionally, Plaintiffs have submitted DNA samples for testing that are currently pending results. Defendants' motion for summary judgment was based upon testimony given in the *only* deposition taken in this matter so far. The parties have identified numerous witnesses in discovery that will be deposed. Plaintiffs believe it was improper to proceed with a motion for summary judgment. Summary judgment is a drastic remedy and must not be granted until the opposing party has had a full and fair opportunity to complete discovery. *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003). The nonmoving party must demonstrate the likelihood that further discovery will uncover additional relevant evidence and that the party is "not merely engaged in a 'fishing expedition.' " *Id*. As shown by the DNA results received, further discovery in this matter will definitely uncover additional relevant evidence in this matter.

Plaintiffs also believe it was improper to grant Defendants' motion for summary judgment based upon the facts. Defendants state, "No birth certificate, testamentary documents, other papers, or paternity tests assert that T.E. Campbell is Gordon Jackson's biological father." However, factual statements of the attorneys, whether made during argument or in written briefs or memoranda, may not be considered by the court in determining whether a genuine issue of material fact exists. *Higgins v. Med. Univ. of S.C.*, 326 S.C. 592, 599, 486 S.E.2d 269, 272 (Ct.

App. 1997). There is also evidence in the record as to Gordon Jackson's paternity, and there is more evidence on the way. Mary Jackson has given deposition testimony in this matter.

Q: Okay. What is your understanding of who Gordon Louis Jackson's dad was?
A: Because Tommy Edward Campbell said so.
Q: I understand that's why you think that. But you think -- Thomas Edward Campbell? Is that what you're trying say?
A: Yes.
Q: Okay. All right. And you're referring to the Thomas Edward Campbell who's been deceased since 1982?
A: Yes.
Q: Did you know Thomas Edward Campbell?
A: I met him several times.
Q: Okay. And so let me ask the question you've been trying to answer. On what basis do you claim that Gordon Louis Jackson is the biological son of Thomas Edward Campbell?
A: Because Mr. Thomas Edward Campbell said so.

See Deposition of Mary Jackson, p.22, 19-25; p. 23 1-10.

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Q: Had Gordon Louis Jackson's paternity by Thomas Edward Campbell been legally established prior to Thomas Edward Campbell's death in 1982?
A: No. No more than his father saying so.
Q: Okay. What damages are you seeking in this lawsuit?
A: Whatever belongs to my husband as a rightful heir to the Campbell estate.

Q: Do you believe your husband is a rightful heir to the Campbell estate?
A: His father said that was his son.

See Deposition of Mary Jackson, p.39,18-35; p. 40 1-3. Furthermore, Plaintiffs submitted numerous affidavits in opposition to Defendants' motion. It is clear further discovery is needed and will yield relevant evidence in support of Plaintiffs' claims.

Plaintiffs Request the Court Reconsider its Ruling that Their Claims Fail on Their Elements

I. Unjust Enrichment

The court held Plaintiffs' unjust enrichment claim failed on its elements. Plaintiffs argued Defendants incorrectly stated the elements of a claim for unjust enrichment. A party may be unjustly enriched when it has and retains benefits or money which in justice and equity belong to another. Unjust enrichment is an equitable doctrine which permits the recovery of that amount the defendant has been unjustly enriched at the expense of the plaintiff. *Dema v. Tenet Physician Services-Hilton Head, Inc.*, 383 S.C. 115, 678 S.E.2d 430 (2009). The Defendants have been unjustly enriched at the expense of Plaintiffs because they have received the benefit of the estate inheritance whereas the Plaintiffs have received none.

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II. Constructive Trust

The court held Plaintiffs' claims for constructive trust failed because there was no evidence of fraud, bad faith, abuse of confidence, or violation of a fiduciary duty. Equity is less than demanding and quite flexible in prescribing the elements essential to a constructive trust. *Whitmire v. Adams*, 273 S.C. 453, 458, 257 S.E.2d 160, 163 (1979). As stated above, the lack of evidence regarding these elements is directly related to the fact discovery in this matter has not been completed. A constructive trust arises whenever a party has obtained money which does not equitably belong to him and which he cannot in good conscience retain or withhold from another who is beneficially entitled to it as where money has been paid by accident, mistake of fact, or fraud, or has been acquired through a breach of trust or the violation of a fiduciary duty. *Wolfe v. Wolfe,* 215 S.C. 530, 56 S.E.2d 343 (1949).

That a fiduciary relationship exists between each heir or beneficiary of an estate and the administratrix thereof is fundamental. *Witherspoon v. Stogner*, 182 S.C. 413, 189 S.E. 758, 759 (1937). In this matter, Plaintiffs were excluded from the Campbell Estate by the personal representative, and therefore, the fiduciary duty to them was breached. Additionally, none of the named Defendants have been deposed in this matter. As stated earlier, discovery is still ongoing in this matter and the Defendants' motion for summary judgment is premature. Further discovery in this matter will lead to additional relevant evidence as to this cause of action.

III. Declaratory Judgment

The court ruled Plaintiffs' claim for a declaratory judgment was moot because T.E. Campbell's estate has been long closed. Mootness has been defined as follows: "A case becomes moot when judgment, if rendered, will have no practical legal effect upon existing controversy.

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This is true when some event occurs making it impossible for [the] reviewing Court to grant effectual relief." *Byrd v. Irmo High Sch.*, 321 S.C. 426, 431, 468 S.E.2d 861, 864 (1996).

Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust in the administration of a trust or of the estate of a decedent, infant, lunatic or insolvent may have a declaration of rights or legal relations in respect thereto:

> (1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others;
> (2) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or
> (3) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

S.C. Code Ann. § 15-53-50. Before any action can be maintained, there must exist a justiciable controversy. *Wilson v. Dallas*, 743 S.E.2d 746 (S.C. 2013). A "justiciable" controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract. *Sloan v. Friends of Hunley, Inc.*, 630 S.E.2d 474 (S.C. 2006). Plaintiffs are making a request of the court similar to that in *Pinckney v. Warren*, 344 S.C. 382, 544 S.E.2d 620 (2001), where the South Carolina Supreme Court reviewed the master in equity's (a court of equity that is a part of the Circuit Court) findings in determining the property rights and ownership rights from an estate where the intestate decedent passed away in 1954.

> On October 25, 1989, the Collins family filed a declaratory judgment action in Charleston County to quiet title to real property, obtain a decree establishing the family history of Lark Collins, identify the owners of the property, and determine each owner's interest in the property. On October 26, 1989, the Collins family filed an identical action in Berkeley County. Both Complaints allege the conveyance to D & S was ineffective because Scrappy Pinckney was illegitimate, and, therefore, not an heir at law of James Leonard

> Pinckney. The two actions were consolidated and referred to the Honorable Louis E. Condon, the Master–in–Equity for Charleston County, for entry of a final order with direct appeal to this Court.

See Pinckney v. Warren, 344 S.C. 382, 386–87, 544 S.E.2d 620, 623 (2001). Plaintiffs respectfully request the court reconsider its decision and deny Defendants' motion for summary judgment as to this cause of action.

Plaintiffs Request the Court Reconsider its Ruling as to the Doctrine of Laches

Whether a claim is barred by laches is to be determined in light of the facts of each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage to the other party; delay alone in assertion of a right does not constitute laches. *Whitehead v. State*, 352 S.C. 215, 219, 574 S.E.2d 200, 202 (2002). When a defendant interposes an affirmative defense, he becomes as to that matter the actor in the suit, and the burden of proof rests upon him to establish his affirmative defense by the preponderance of the evidence. *Cole v. South Carolina Electric and Gas, Inc.*, 355 S.C. 183, 584 S.E.2d 405 (Ct. App. 2003).

Defendants allege Plaintiffs' claims should be barred by the equitable defense of laches. The elements of this defense in South Carolina are: 1) delay by one party; 2) unreasonable or unexplained length of time; 3) knowledge of rights by the party; 4) reliance on non-assertion by the other party; and (5) prejudice to that other party if the right is now asserted. The defense of laches fails because there has been no reliance on non-assertion by the Defendants. Defendants have repeatedly (and incorrectly) stated Gordon Louis Jackson could not inherit from his father's estate in 1982 because he was an illegitimate child. Defendants cannot rely on the non-assertion of a right by the Plaintiffs that they do not believe exists. Defendants have not provided the court with any evidence of prejudice they have suffered. As stated in the case law, delay alone does not support the defense of laches. The sole evidence provided by the Defendants in support of their

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claim for this affirmative defense is delay alone. Defendants failed to prove the affirmative defense of laches by a preponderance of the evidence.

For the reasons stated herein, Plaintiffs request the court reconsider its order and deny Defendants' motion for summary judgment.

Respectfully Submitted,

BY: \s Richard R. Gleissner
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Attorneys for the Plaintiffs
Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, and Timothy Johnson.

August 7, 2025

ELECTRONICALLY FILED - 2025 Aug 08 7:57 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

ELECTRONICALLY FILED - 2025 Jul 15 3:25 PM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMBPELL; THOMAS CLAYTOR CAMPBELL; THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL; VIVIAN C. GARDNER; AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2024CP2800123 **AFFIDAVIT OF MELISSA JACKSON**

Personally appeared before me and after being duly sworn, deposes and states as follows:

1. My name is Melissa Jackson and I am one of the named Plaintiffs in this action.
2. I make this affidavit based upon my personal knowledge, except where this affidavit specifically states that I am referring to matters outside of my personal knowledge.
3. I am the daughter of Gordon Louis Jackson (the "Father") and Mary Dow Jackson (the Mother").
4. We thought that T.E. Campbell (my "Grandfather") had a will as he told my Mother and Father that he had prepared a will prior to his death.

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5. When my Dad passed, Randy Bowers attended the funeral and told us to refer to him as Uncle Randy because he too was the son of my Grandfather.
6. Uncle Randy was the person that informed us of his lawsuit against the Campbells because he had been excluded from his inheritance. After Uncle Randy told us of his lawsuit, this was the first time that we were told that my Grandfather did not have a will.
7. After learning that he did not have a will, the family decided that, like Randy Bowers, we should bring a lawsuit to make a claim based upon the fact that my Grandfather did not have a will. I believe that this was in 2022.
8. I have submitted to a DNA test. My understanding is that there was some delay in getting my brothers that live out of state to also submit to the DNA test. They are going to compare my DNA with the DNA of Randy Bowers and my Grandfather's brother. Randy Bowers DNA and my Grandfather's brother's DNA were collected and tested as part of Uncle Randy's lawsuit against the Campbells.
9. Uncle Randy's DNA test showed that he was the son of T.E. Campbell.
10. We are waiting on the results to see if my DNA test will show that I am my Grandfather's Granddaughter.

FURTHER AFFIANT SAYETH NAUGHT.

Melissa Jackson

Sworn to this day the 15th of July, 2025

Signature of Notary
My Commission Expires on April 12, 2033

MADISON JEFFORDS NOTARY PUBLIC SOUTH CAROLINA

ELECTRONICALLY FILED - 2025 Jul 15 3:25 PM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMBPELL; THOMAS CLAYTOR CAMPBELL; THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL; VIVIAN C. GARDNER; AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2024CP2800123 **AFFIDAVIT OF TYRE JACKSON**

Personally appeared before me and after being duly sworn, deposes and states as follows:

1. My name is Tyre Jackson and I am one of the named Plaintiffs in this action.
2. I make this affidavit based upon my personal knowledge, except where this affidavit specifically states that I am referring to matters outside of my personal knowledge.
3. I am the daughter of Gordon Louis Jackson (the "Father") and Mary Dow Jackson (the Mother").

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4. Prior to his death, I was introduced to my grandfather, T.E. Campbell (my "Grandfather"). He enjoyed playing with me and would allow me to ride on his back like he was a horse and I was the rider.
5. He referred to me regularly as his Granddaughter and to my Father as his son.
6. My Grandfather had a store that he and other family members operated. My Father would regularly visit my Grandfather's store.
7. My Father would from time to time get himself into trouble, nothing serious, but on each occasion, my Grandfather would get him out of the particular issue that he was having.
8. We thought that my grandfather had a will as he told my Mother and Father that he had prepared a will prior to his death.
9. When my Dad passed, Randy Bowers attended the funeral and told us to refer to him as Uncle Randy because he too was the son of my Grandfather.
10. Uncle Randy was the person that informed us of his law suit against the Campbells because he had been excluded from his inheritance. This was the first time that we were told that my Grandfather did not have a will.
11. After learning that he did not have a will, the family decided that, like Randy Bowers, we should bring a law suit to make a claim based upon the fact that T.E. Campbell did not have a will. I believe that this was in 2022.
12. I have submitted to a DNA test. My understanding is that there was some delay in getting my brothers that live out of state to also submit to the DNA test. They are going to compare my DNA with the DNA of Randy Bowers and my Grandfather's brother. Randy Bowers DNA and my Grandfather's brother's DNA were collected and tested as part of Uncle Randy's law suit against the Campbells.

13. Uncle Randy's DNA test showed that he was the son of T.E. Campbell.

14. We are waiting on the results to see if my DNA test will show that I am my Grandfather's Granddaughter.

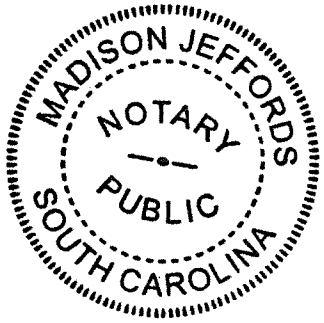
FURTHER AFFIANT SAYETH NAUGHT.

Tyre Jackson

Sworn to this day the 15th of July, ~~2024~~ 2025

Signature of Notary

My Commission Expires on April 12, 2033



ELECTRONICALLY FILED - 2025 Jul 15 3:25 PM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

ELECTRONICALLY FILED - 2025 Jul 14 4:46 PM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMBPELL; THOMAS CLAYTOR CAMPBELL; THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL; VIVIAN C. GARDNER; AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2024CP2800123 **MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

TO: THE HONORABLE COURT AND DEFENDANTS:

Plaintiffs submit this memorandum in opposition to the Defendants' Motion for Summary Judgment. Plaintiffs have invoked the equitable powers of the court to remedy Defendants' mistaken belief that Gordon Louis Jackson could not inherit from his father's estate in 1982. The equitable power of court is not bound by cast-iron rules but exists to do fairness and is flexible and adaptable to particular exigencies so that relief will be granted when, in view of all circumstances, to deny it would permit one party to suffer gross wrong at hands of other. *Hooper v. Ebenezer Sr. Services and Rehabilitation Center*, 687 S.E.2d 29 (S.C. 2009). Where a substantive right exists,

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an equitable remedy may be fashioned to give effect to that right. *Regions Bank v. Wingard Properties, Inc.*, 394 S.C. 241, 715 S.E.2d 348 (Ct. App. 2011). Equity will not suffer a wrong without a remedy. *Key Corporate Capital, Inc. v. County of Beaufort*, 360 S.C. 513, 602 S.E.2d 104 (Ct. App. 2004). For the reasons set forth herein, the previous filings with the court, and the argument of counsel, Defendants' motion should be denied.

In addition to citing statutes that do not apply, the Defendants also (1) cite case law that has no application to the facts of this matter; (2) suggest that the determination of whether the Plaintiffs are heirs of T.E. Campbell is not a justiciable controversy; (3) the Plaintiffs have not properly pled a constructive trust; (4) the Plaintiffs have not pled unjust enrichment; and (5) the doctrine of laches should be applied as a matter of law.

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IS PREMATURE

As an initial matter, Defendants' motion is premature as discovery is ongoing. The procedural history of this case shows that the original complaint was filed in 2023. The Defendants filed a Motion to Dismiss. The case was voluntarily transferred to this county in 2024. The Motion to Dismiss was denied in May 2024. Because the Defendants had not yet filed an Answer to the Complaint, the Plaintiffs moved for the Entry of Default in June 2024. The Defendants were in default from June 2024 through December 11, 2024, when the court granted the Plaintiff motion to strike default judgment. Thus, discovery has been ongoing for approximately six months. During that time, the parties have exchanged written discovery, and depositions are actively being scheduled and conducted. Additionally, Plaintiffs have submitted DNA samples for testing that are currently pending results. See Exhibits A through F, the Affidavits of A. Melissa Jackson, B. Tyre Jackson, C. Reginald Allen, D. Bryant Allen, E. Andre Allen and F. Timothy Johnson.[1] One

[1] Exhibits C, D, E, F, G, H, and I are filed contemporaneously. Exhibits A and B will be filed on July 15, 2025.

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of the Plaintiffs is a resident of New York. New York law requires a court order for the collection of a DNA sample. The Plaintiffs obtained the court order in the Probate Court on June 6, 2025. See Exhibit G, Order of Probate Court dated June 6, 2025. As provided for in the Affidavits from the Plaintiffs, the results of the DNA testing was delayed while the Plaintiffs worked through the requirements to obtain the DNA results.

In this instance, the Defendants have filed a motion for summary judgment based upon testimony given in the *only* deposition taken in this matter so far. The parties have identified numerous witnesses in discovery that will be deposed. It would be improper at this point in discovery to proceed with a motion for summary judgment. Summary judgment is a drastic remedy and must not be granted until the opposing party has had a full and fair opportunity to complete discovery. *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003). The nonmoving party must demonstrate the likelihood that further discovery will uncover additional relevant evidence and that the party is "not merely engaged in a 'fishing expedition.' " *Id*. Further discovery in this matter will definitely uncover additional relevant evidence in this matter.

Even if the court determines Defendants' motion for summary judgment is timely, it should be denied for the reasons stated below. Defendants state, "No birth certificate, testamentary documents, other papers, or paternity tests assert that T.E. Campbell is Gordon Jackson's biological father." However, factual statements of the attorneys, whether made during argument or in written briefs or memoranda, may not be considered by the court in determining whether a genuine issue of material fact exists. *Higgins v. Med. Univ. of S.C.*, 326 S.C. 592, 599, 486 S.E.2d 269, 272 (Ct. App. 1997). There is evidence in the record as to Gordon Jackson's paternity, and there is more evidence on the way. Mary Jackson has given deposition testimony in this matter.

Q: Okay. What is your understanding of who Gordon Louis Jackson's dad was?
A: Because Tommy Edward Campbell said so.
Q: I understand that's why you think that. But you think -- Thomas Edward Campbell? Is that what you're trying say?
A: Yes.
Q: Okay. All right. And you're referring to the Thomas Edward Campbell who's been deceased since 1982?
A: Yes.
Q: Did you know Thomas Edward Campbell?
A: I met him several times.
Q: Okay. And so let me ask the question you've been trying to answer. On what basis do you claim that Gordon Louis Jackson is the biological son of Thomas Edward Campbell?
A: Because Mr. Thomas Edward Campbell said so.

See Deposition of Mary Jackson, p.22, 19-25; p. 23 1-10.

Q: Had Gordon Louis Jackson's paternity by Thomas Edward Campbell been legally established prior to Thomas Edward Campbell's death in 1982?
A: No. No more than his father saying so.
Q: Okay. What damages are you seeking in this lawsuit?
A: Whatever belongs to my husband as a rightful heir to the Campbell estate.

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1	Q: Do you believe your husband is a rightful
2	heir to the Campbell estate?
3	A: His father said that was his son.

See Deposition of Mary Jackson, p.39,18-35; p. 40 1-3; see also Exhibit A, Affidavit of Tyre Jackson, (Mr. Campbell called her his Granddaughter and Randy Bowers, T.E. Campbell's son was called Uncle Randy), Exhibit C, D, and E, Affidavits of Reginald Allen, Bryan Allen and Andre Allen (each would refer to Claude Campbell, T.E. Campbell's son, Uncle Claude)Furthermore, Plaintiffs have submitted the attached affidavits in opposition to Defendants' motion. It is clear further discovery is needed and will yield relevant evidence in support of Plaintiffs' claims.

Mitchell v. Hardwick is Inapplicable in this Matter

Defendants assert summary judgment should be granted because Plaintiffs have failed to satisfy the requirements of *Mitchell v. Hardwick*, 297. S.C. 48, 374 S.E.2d 681 (1988). In *Wilson v. Jones*, 281, S.C. 230 (1984), the South Carolina Supreme Court stated: "illegitimate children can inherit from their fathers' estates but only those whose fathers' deaths occurred after April 26, 1977." Defendants incorrectly allege this decision was "solely for prospective application."

Defendants incorrectly rely upon *Mitchell v. Hardwick*, 297 S.C. 48, 374 S.E.2d 681 (1988). This opinion is related to the estate of an intestate decedent who died on July 18, 1975, two years before the United States Supreme Court's ruling in *Trimble v. Gordon*, 430 U.S. 762, 97 S.Ct. 1459 (1977). The factors cited by Defendants in support of their motion for summary judgment apply when a party seeks to apply the *Trimble* decision to a decedent who died prior to April 26, 1977. Since T.E. Campbell died in 1982, *after* the *Trimble* decision, the factors asserted in the *Hardwick* opinion are inapplicable. Plaintiffs do not need to satisfy the requirements of

Mitchell as T.E. Campbell died on June 12, 1982, and granting summary judgment based upon this holding would be improper. See Exhibit H, Petition for Letters of Administration and Order for Citation to Issue in the Probate Matter of Thomas Edward Campbell (identifying date of death as June 12, 1982).

Plaintiffs' Causes of Actions do not Fail on Their Elements

Defendants incorrectly state the elements of a claim for unjust enrichment. A party may be unjustly enriched when it has and retains benefits or money which in justice and equity belong to another. Unjust enrichment is an equitable doctrine which permits the recovery of that amount the defendant has been unjustly enriched at the expense of the plaintiff. *Dema v. Tenet Physician Services-Hilton Head, Inc.*, 383 S.C. 115, 678 S.E.2d 430 (2009).

Defendants state Plaintiffs' claims for constructive trust fail "because there is no evidence of fraud, bad faith, abuse of confidence, or violation of a fiduciary duty." None of the named Defendants have been deposed in this matter. As stated earlier, discovery is still ongoing in this matter and the Defendants' motion for summary judgment is premature. Further discovery in this matter will lead to additional relevant evidence as to this cause of action.

Constructive trusts arise entirely by the operation of law without reference to any actual or supposed intention to create a trust. It is resorted to in equity, to vindicate right and justice or to frustrate fraud. A constructive trust will arise whenever circumstances under which property is acquired make it inequitable that property should be retained by him who holds legal title. *Whitmire v. Adams*, 273 S.C. 453, 257 S.E.2d 160 (1979).

Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust in the administration of a

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trust or of the estate of a decedent, infant, lunatic or insolvent may have a declaration of rights or legal relations in respect thereto:

> (1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others;
> (2) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or
> (3) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

S.C. Code Ann. § 15-53-50. In this case, it is clear that Gordon Louis Jackson was not included as an heir in the Probate Action. See Exhibit H. It is clear that the person signing the Petition for Probate and acting as the Personal Representative, knew that Jackson was the son of T.E. Campbell (he allowed Jackson's sons to call him Uncle Claude and referred to Jackson as Claude's black brother) and knew that illegitimate children should be included in the probate estate. See Exhibit I, Affidavit of Charles Ives. Thus, in ascertaining the heirs, there is a justiciable controversy as to whether Jackson was the son of T.E. Campbell and should have been included in the Probate Estate's distributions.

Before any action can be maintained, there must exist a justiciable controversy. *Wilson v. Dallas*, 743 S.E.2d 746 (S.C. 2013). A "justiciable" controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract. *Sloan v. Friends of Hunley, Inc.*, 630 S.E.2d 474 (S.C. 2006).

The Defendants Argue that the Action is Untimely

Defendants allege that the statute of heirs should apply to bar Plaintiffs' claims. Defendants cite S.C. Code Ann. § 62-2-109 in support of this argument. This code section was not enacted until 1986 and took effect on July 1, 1987. See S.C. Code Ann. §62-1- 100(a). This code section

goes on to state "any accrued right is not impaired by this Code. Unless otherwise provided in the Code, a substantive right in the decedent's estate accrues in accordance with the law in effect on the date of the decedent's death. If a right is acquired, extinguished, or barred upon the expiration of prescribed period of time which has commenced to run by the provisions of any statute before the effective date, the provision remains in force with respect to that right…" *See* S.C. Code Ann. §62-1-100(b)(4).

Defendants further allege that S.C. Code Ann. §62-3-108(A)(1) provides an ultimate time limit of ten years that would bar Plaintiffs' claims. Again, this statute was enacted in 1986 and took effect in 1987 and is therefore inapplicable. Further, this statute goes on to state "These limitations do not apply to proceedings to construe probated wills or determine heirs of an estate." *See* S.C. Code Ann. § 62-3-108(B). Either way, this statue does not bar Plaintiffs' claims.

Unjust enrichment is an equitable cause of action. South Carolina Courts hold that:

> This Court has long recognized that the statute of limitations now codified in section 15-3-530 applies to actions at law, while the doctrine of laches applies to suits in equity. Although the statute of limitations may be applied by analogy in a court of equity, the court has the authority to extend that period if it believes a longer period is warranted under the circumstances. This distinction logically flows from the fact that equity transcends the direct application of legal restrictions such as the statute of limitations to provide relief to wronged parties where the law otherwise affords no relief.

Thomerson v. DeVito, 430 S.C. 246, 250-251, 844 S.E.2d 378, 380-381 (2020). Thus, the statute of limitations simply does not apply to the Plaintiffs' causes of action.

The probate estate of Gordan Louis Jackson was opened in March 2023 and bears the probate estate number 2014 ES 40-01080. The opening of this estate was within the 10 year requirement specified in Section 62-3-108(A)(1). Thus, the ultimate time limit has been met. As previously indicated, this section does not apply to the probate estate of T.E. Campbell.

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Defendants allege Plaintiffs' claims should be barred by the equitable defense of laches. The elements of this defense in South Carolina are: 1) delay by one party; 2) unreasonable or unexplained length of time; 3) knowledge of rights by the party; 4) reliance on non-assertion by the other party; and (5) prejudice to that other party if the right is now asserted. The defense of laches fails because there has been no reliance on non-assertion by the Defendants. Further, the Plaintiffs have explained the delay in their affidavits. Specifically, Gordon Louis Jackson and Mary Dow Jackson were informed by T.E. Campbell that he had a will. In a will, a testator can exclude a child from inheritance. It was not until 2022 that the Plaintiff found out that T.E. Campbell died without a will when they were informed of this fact by Uncle Randy Bowers after he had brought suit to claim a share of his inheritance. Thus, the Plaintiffs adequately explain any delay from the time of death. Their knowledge of their right stems from 2022 and the delay was from 2022 to 2023 when this suit was originally brought. That delay is neither unreasonable and in explained. Lastly, the Defendants were not prejudiced by the Plaintiffs failure to assert their rights, instead, they were benefited by the delay. The Defendants have had the benefit of rents collected during this period of time. The Defendants have shown no prejudice from the delay.

In this case, the Defendants have repeatedly (and incorrectly) stated Gordon Louis Jackson could not inherit from his father's estate in 1982 because he was an illegitimate child. Defendants cannot rely on the non-assertion of a right by the Plaintiffs that they do not believe exists.

<u>This Court Lacks Subject Matter Jurisdiction</u>

The law prior to 1987 appears to give the Probate Court jurisdiction, but not exclusive jurisdiction "in matters testamentary and of administration." *See Tucker v. Tucker*, 264 S.C. 172, 213 S.E.2d 588 (1975) (concurrent jurisdiction of probate court prior to 1987); *Mack v. Stanley,* 190 S.C. 300, 308, 2 S.E.2d 792, 795 *(1939)* (citing *Caldwell v. Little,* 15 S.C. 236*; Bradford v.*

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Richardson, 111 S.C. 205, 97 S.E. 58*; Beatty v. National Surety Company,* 132 S.C. 45, 128 S.E. 40). But "a distinct ground of equitable relief is not included in the general grant of" such jurisdiction. *Mack v. Stanley*, 190 S.C. 300, 308, 2 S.E.2d 792, 795, (1939) (citing *Beckwith v. McAlister*, 165 S.C. 1, 162 S.E. 623, 628). In this case, the Plaintiffs have a claim for a declaratory judgment, seeking a determination that the Plaintiffs are descendants of T.E. Campbell and against the defendants for unjust enrichment in the exclusion of the descendants of T.E. Campbell from his estate, including, the real property obtained by the Defendants from the estate. These matters seeking equitable relief are not included in the general grant of jurisdiction for the Probate Court. Thus, this Court has subject matter jurisdiction.

In conclusion, Plaintiffs are not making a novel request of the courts. In *Pinckney v. Warren*, 344 S.C. 382, 544 S.E.2d 620 (2001), the South Carolina Supreme Court reviewed the master in equity's (a court of equity that is a part of the Circuit Court) findings in determining the property rights and ownership rights from an estate where the intestate decedent passed away in 1954.

> On October 25, 1989, the Collins family filed a declaratory judgment action in Charleston County to quiet title to real property, obtain a decree establishing the family history of Lark Collins, identify the owners of the property, and determine each owner's interest in the property. On October 26, 1989, the Collins family filed an identical action in Berkeley County. Both Complaints allege the conveyance to D & S was ineffective because Scrappy Pinckney was illegitimate, and, therefore, not an heir at law of James Leonard Pinckney. The two actions were consolidated and referred to the Honorable Louis E. Condon, the Master–in–Equity for Charleston County, for entry of a final order with direct appeal to this Court.

See Pinckney v. Warren, 344 S.C. 382, 386–87, 544 S.E.2d 620, 623 (2001). Plaintiffs respectfully request the Defendants' motion for summary judgment be denied.

Respectfully submitted,

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Columbia, South Carolina
July 14, 2025

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STATE OF SOUTH CAROLINA

COUNTY OF KERSHAW

MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON,

Plaintiffs,

vs.

THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMBPELL; THOMAS CLAYTOR CAMPBELL; THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL; VIVIAN C. GARDNER; AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL,

Defendants.

IN THE COURT OF COMMONS PLEAS
FIFTH JUDICIAL CIRCUIT

Civil Action No. 2024CP2800123

AFFIDAVIT OF REGINALD ALLEN

Personally appeared before me and after being duly sworn, deposes and states as follows:

1. My name is Reginald Allen and I am one of the named Plaintiffs in this action.
2. I make this affidavit based upon my personal knowledge, except where this affidavit specifically states that I am referring to matters outside of my personal knowledge.
3. I am the son of Gordon Louis Jackson (the "Father").
4. I was not introduced to my grandfather, T.E. Campbell (my "Grandfather").
5. My mother is not Mary Dow Jackson. I was born out of wedlock. As a result, my mother and Ms. Jackson did not get along.

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6. When I was young, my Father would take me to my Grandfather's store. It was being run by Claude Campbell, who I called Uncle Claude. We never had to pay for anything in the store. Even when I went to the store without my Father and with my little brothers Andre Allen and Bryant Allen, we were allowed to take candy and other things from the store without paying for them.
7. As I grew older, because of the tension between my mother and my Father, when I needed to speak with my Father, I would ask Uncle Claude to let his black brother know that I needed to talk to him. He would agree to get in touch with my Father and either that day or the next, my Father would get in touch with me.
8. At my Father's funeral, I got to meet Mary Dow Jackson and her two daughters, Melissa and Tyre. We became friends.
9. We thought that my Grandfather had a will as he told my Father and Ms. Jackson that he had prepared a will prior to his death.
10. When my Father passed, Randy Bowers attended the funeral and told us to refer to him as Uncle Randy because he too was the son of my Grandfather.
11. Uncle Randy was the person that informed us of his lawsuit against the Campbells because he had been excluded from his inheritance. When he met us and told us about his lawsuit, this was the first time that we were told that my Grandfather did not have a will.
12. After learning that he did not have a will, the family decided that, like Randy Bowers, we should bring a lawsuit to make a claim based upon the fact that T.E. Campbell did not have a will. I believe that this was in 2022.
13. I have submitted to a DNA test. My understanding is that there was some delay in getting my brothers that live out of state to also submit to the DNA test. They are going to compare

my DNA with the DNA of Randy Bowers and my Grandfather's brother. Randy Bowers DNA and my Grandfather's brother's DNA were collected and tested as part of Uncle Randy's lawsuit against the Campbells.

14. Uncle Randy's DNA test showed that he was the son of T.E. Campbell.

15. We are waiting on the results to see if my DNA test will show that I am my Grandfather's Grandson.

FURTHER AFFIANT SAYETH NAUGHT.

Reginald L. Allen
Reginald Allen

Sworn to this day the 13 of July, 2024

Signature of Notary
My Commission Expires on 09-01-30

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STATE OF SOUTH CAROLINA COUNTY OF KERSHAW MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMBPELL; THOMAS CLAYTOR CAMPBELL; THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL; VIVIAN C. GARDNER; AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2024CP2800123 **AFFIDAVIT OF BRYANT ALLEN**

Personally appeared before me and after being duly sworn, deposes and states as follows:

1. My name is Bryant Allen and I am one of the named Plaintiffs in this action.
2. I make this affidavit based upon my personal knowledge, except where this affidavit specifically states that I am referring to matters outside of my personal knowledge.
3. I am the son of Gordon Louis Jackson (the "Father").
4. I was not introduced to my grandfather, T.E. Campbell (my "Grandfather").
5. My mother is not Mary Dow Jackson. I was born out of wedlock. As a result, my mother and Ms. Jackson did not get along.

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6. When I was young, my Brother, Reginald Allen, would take me to my Grandfather's store. It was being run by Claude Campbell, who Regie, Andrew and I called Uncle Claude. We never had to pay for anything in the store. We were allowed to take candy and other things from the store without paying for them even when Uncle Claude what not there. I think everyone in the store knew that we were Uncle Claude's nephews.
7. At my Father's funeral, I got to meet Mary Dow Jackson and her two daughters, Melissa and Tyre. We became friends.
8. We thought that my Grandfather had a will as he told my Father and Ms. Jackson that he had prepared a will prior to his death.
9. When my Father passed, Randy Bowers attended the funeral and told us to refer to him as Uncle Randy because he too was the son of my Grandfather.
10. Uncle Randy was the person that informed us of his lawsuit against the Campbells because he had been excluded from his inheritance. When Uncle Randy talked to us about his lawsuit, this was the first time that we were told that my Grandfather did not have a will.
11. After learning that my Grandfather did not have a will, the family decided that, like Randy Bowers, we should bring a lawsuit to make a claim based upon the fact that T.E. Campbell did not have a will. I believe that this was in 2022.
12. I have submitted to a DNA test. My understanding is that there was some delay in getting my brothers that live out of state to also submit to the DNA test. They are going to compare my DNA with the DNA of Randy Bowers and my Grandfather's brother. Randy Bowers DNA and my Grandfather's brother's DNA were collected and tested as part of Uncle Randy's lawsuit against the Campbells.
13. Uncle Randy's DNA test showed that he was the son of T.E. Campbell.

14. We are waiting on the results to see if my DNA test will show that I am my Grandfather's Grandson.

FURTHER AFFIANT SAYETH NAUGHT.

Bryant Allen

Sworn to this day the 14 of July, 2024

MARIANO UBALDO CEA

Signature of Notary

My Commission Expires on June 27, 2028

MARIANO UBALDO CEA
Notary Public, State of Nevada
Appointment No. 24-9724-01
My Appt. Expires Jun 27, 2028

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STATE OF SOUTH CAROLINA COUNTY OF KERSHAW MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMBPELL; THOMAS CLAYTOR CAMPBELL; THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL; VIVIAN C. GARDNER; AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2024CP2800123 **AFFIDAVIT OF ANDRE ALLEN**

Personally appeared before me and after being duly sworn, deposes and states as follows:

1. My name is Andre Allen and I am one of the named Plaintiffs in this action.
2. I make this affidavit based upon my personal knowledge, except where this affidavit specifically states that I am referring to matters outside of my personal knowledge.
3. I am the son of Gordon Louis Jackson (the "Father").
4. I was not introduced to my grandfather, T.E. Campbell (my "Grandfather").
5. My mother is not Mary Dow Jackson. I was born out of wedlock. As a result, my mother and Ms. Jackson did not get along.

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6. When I was young, my Brother, Reginald Allen, would take me to my Grandfather's store. It was being run by Claude Campbell, who Regie and I called Uncle Claude. We never had to pay for anything in the store. We were allowed to take candy and other things from the store without paying for them even when Uncle Claude was not there. I think everyone in the store knew that we were Uncle Claude's nephews.
7. At my Father's funeral, I got to meet Mary Dow Jackson and her two daughters, Melissa and Tyre. We became friends.
8. We thought that my Grandfather had a will as he told my Father and Ms. Jackson that he had prepared a will prior to his death.
9. When my Father passed, Randy Bowers attended the funeral and told us to refer to him as Uncle Randy because he too was the son of my Grandfather.
10. Uncle Randy was the person that informed us of his lawsuit against the Campbells because he had been excluded from his inheritance. When Uncle Randy spoke about his lawsuit, this was the first time that we were told that my Grandfather did not have a will.
11. After learning that he did not have a will, the family decided that, like Randy Bowers, we should bring a lawsuit to make a claim based upon the fact that T.E. Campbell did not have a will. I believe that this was in 2022.
12. I have submitted to a DNA test. My understanding is that there was some delay in getting my brothers that live out of state to also submit to the DNA test. They are going to compare my DNA with the DNA of Randy Bowers and my Grandfather's brother. Randy Bowers DNA and my Grandfather's brother's DNA were collected and tested as part of Uncle Randy's lawsuit against the Campbells.
13. Uncle Randy's DNA test showed that he was the son of T.E. Campbell.

14. We are waiting on the results to see if my DNA test will show that I am my Grandfather's Grandson.

FURTHER AFFIANT SAYETH NAUGHT.

Andre Allen

Sworn to this day the 14th of July, 2024

Signature of Notary
My Commission Expires on April 12, 2033

MADISON JEFFORDS NOTARY PUBLIC SOUTH CAROLINA

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STATE OF SOUTH CAROLINA COUNTY OF KERSHAW MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMBPELL; THOMAS CLAYTOR CAMPBELL; THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL; VIVIAN C. GARDNER; AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2024CP2800123 **AFFIDAVIT OF TIMOTHYJOHNSON**

Personally appeared before me and after being duly sworn, deposes and states as follows:

1. My name is Timothy Johnson and I am one of the named Plaintiffs in this action.
2. I make this affidavit based upon my personal knowledge, except where this affidavit specifically states that I am referring to matters outside of my personal knowledge.
3. I am the son of Gordon Louis Jackson (the "Father").
4. Mary Dow Jackson is not my mother. I was born when my mother and Father were not married.
5. Soon after I was born, my mother moved us to another state.

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6. When my Dad passed, I attended his funeral. That is when I met Mary Dow Jackson, Melissa and Tyre. We became friends. I also met my brothers, Reginald, Andre and Bryant.

7. Randy Bowers also attended the funeral and told us to refer to him as Uncle Randy because he too was the son of my Grandfather.

8. Uncle Randy was the person that informed us of his lawsuit against the Campbells because he had been excluded from his inheritance. After Uncle Randy told us of his lawsuit, this was the first time that we were told that my Grandfather did not have a will.

9. After learning that he did not have a will, the family decided that, like Randy Bowers, we should bring a lawsuit to make a claim based upon the fact that my Grandfather did not have a will. I believe that this was in 2022.

10. I have submitted to a DNA test. My understanding is that there was some delay in getting my DNA tested because the laws of the State of New York require a court order for a DNA test. My attorneys in South Carolina obtained a court order in the probate case of my Father. I am in the process of giving a sample for DNA test. They are going to compare my DNA with the DNA of Randy Bowers and my Grandfather's brother. Randy Bowers DNA and my Grandfather's brother's DNA were collected and tested as part of Uncle Randy's lawsuit against the Campbells.

11. Uncle Randy's DNA test showed that he was the son of T.E. Campbell.

12. We are waiting on the results to see if my DNA test will show that I am my Grandfather's Grandson.

FURTHER AFFIANT SAYETH NAUGHT.

Timothy Johnson

Sworn to this day the 13th of July, 2025

Signature of Notary

My Commission Expires on MAY 20, 2026

NICOLE BROWN
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 1BR6074704
Qualified in Bronx County
Commission Expires 05-20-20 26

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FILED
2025 JUN -5 PM 5:07
AMY W. McCULLOUGH
PROBATE JUDGE
RICHLAND COUNTY S.C.

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF PROBATE**
	)	**Estate Number: 2015-ES-40-01785**
COUNTY OF RICHLAND	)	
	)	
IN THE MATTER OF THE ESTATE OF GORDON LOUIS JACKSON	)	**ORDER FOR DNA TRANSMITTAL AND TESTING**

This matter is before the Court upon the Motion of Mary Dow Jackson as the Personal Representative of the Probate Estate of Gordon Louis Jackson (the "Personal Representative"). The Personal Representative moved this court to enter an Order to instruct Laboratory Corporation of America ("Lab Corp") located in New York, to allow collection and transmittal of DNA samples to be collected from Mr. Timothy Johnson ("Mr. Johnson") to the local DNA testing facility, SureScreen Labs, located at 2015 Assembly Street, Columbia, South Carolina 29201. Mr. Johnson is a New York resident. Since Mr. Johnson is a New York resident, Lab Corp must follow the New York State regulations. The New York State Regulations require an authorized person, such as a physician or judge, to provide written requests to begin the DNA testing. The New York State regulations also state that anyone seeking paternity testing must have written permission from the authorized person to directly obtain the results from the laboratory. Mr. Johnson consents to the testing.

SureScreen Labs was previously ordered to receive the DNA collection of Willie C. Campbell from the Richland County Coroner's Office by order dated July 21, 2020, in the Kershaw matter captioned "Randy Bowers v. The Estate of Claude E. Campbell by and through Sonja Campbell Parker and Barry Campbell, et al." with case number 2019-CP-28-00680. By this motion, the Personal Representative submits that one of the issues in this Estate is whether Mr. Johnson is the child of Gordon Louis Jackson. Others claiming to be the children of Gordon Louis Jackson include Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen and Andre Allen (the "Siblings"). All of the Siblings are undergoing DNA testing. Only because Mr. Johnson lives in New York is there a requirement for a Court Order authorizing the testing. Gordon Louis Jackson claimed to be the child of Thomas Edward Campbell ("T.E. Campbell"), whose date of death is June 12, 1982, and that appropriate DNA samples of the brother of T.E. Campbell, Willie C. Campbell, will be used in comparison to the DNA of Mr. Johnson and the Siblings. This DNA testing will assist Personal Representative and the Probate Court make the paternity determination

of whether Gordon Louis Jackson is the son of T.E. Campbell and Mr. Johnson and the Siblings are the Children of Gordon Louis Jackson. Willie C. Campbell passed away in Richland County, and the Richland County Coroner's Office in the routine performances of its duties, upon the passing of Willie C. Campbell on May 28, 2020, took and preserved DNA samples appropriate for this type of paternity testing.

Based on the above, the PR moved before this Court for an order requiring Lab Corp to transmit an appropriate DNA sample of Timothy Johnson to the local laboratory, Sure Screen Labs, for the purpose of DNA paternity testing and comparison with the DNA of Willie C. Campbell, with PR to bear the cost of such testing and transmittal and to share the results of the requested testing with the PR and Probate Estate.

THEREFORE, IT IS HEREBY ORDERED that

A. Lab Corp shall collect an appropriate DNA sample for paternity testing of Timothy Johnson,

B. Lab Corp shall transmit the DNA sample to SureScreen Labs, to compare the DNA sample from the Plaintiff, to the sample from Willie C. Campbell already on file at SureScreen Labs.

C. SureScreen Labs shall then take the appropriate steps for the DNA paternity testing to be performed so as to assist in the determination of whether the Timothy Johnson is the son of Gordon Louis Jackson and the grandson of T.E. Campbell, by using DNA analysis of the DNA of the brother of T.E. Campbell, that DNA coming from Willie C. Campbell and Mr. Johnson.

D. The Plaintiff is to bear all costs of this transmittal and testing and is to provide copies of the results of the paternity testing to counsel for the Defendants upon receipt. The Court does hereby order Lab Corp permission to directly deliver the results from the testing to the attorney on record for the Plaintiff.

AND IT IS SO ORDERED.

Alexander Imgrund
Associate Probate Judge
Richland County Probate Court

June 5, 2025
Columbia, South Carolina

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Probate 444-11909

STATE OF SOUTH CAROLINA,
County of Kershaw

Ex Parte Claude E. Campbell

Petitioner.

In Re Estate of:

Thomas Edward Campbell

Deceased.

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

To Harriett S. Pierce, Probate Judge for said county:

The petition of the undersigned respectfully represents:

1. That Thomas Edward Campbell dwelt in Elgin in said County of Kershaw State aforesaid, died intestate on the 12th day of June in the year of our Lord one thousand nine hundred and eighty-two possessed of goods and estate remaining to be administered, leaving the below listed as h is only heirs at law and next of kin, the following:

(Show by subdivision into family group the names of persons taking through any predeceas. 1 heir at law.)

Name	Age*	Residence	Relationship to Decedent
Claude E. Campbell	52	Elgin	Son
Clayter T. Campbell	50	Columbia	Son
Colbert Harold Campbell	48	Elgin	Son
Vivian C. Gardner	46	Elgin	Daughter
Charles E. Campbell	45	Elgin	Son

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

2. That the intestate died seized and possessed of a personal estate of about the value of Twenty-five Thousand Nine Hundred Forty-three and 85/100 ($ 25,943.85) Dollars consisting of the following moneys, goods and chattels:

(a)	Cash on hand and in banks	$ 8,443.85
(b)	Moneys due intestate on account of bonds, mortgages and other securities	$ 9,000.00
(c)	Corporate and governmental bonds and stocks	$ 100.00
(d)	Open accounts due intestate	$
(e)	Goods, wares, merchandise, furniture, machinery and equipment used in profession, trade or business	$
(f)	Household goods	$ 300.00
(g)	Farming implements, machinery and equipment	$ 2,000.00
(h)	Farm products	$
(i)	Mules, horses, cattle, hogs, sheep, etc.	$
(j)	Automobiles, auto trucks, motorcycles, etc.	$ 6,000.00
(k)	Jewelry, silver plate, watches and other personal effects	$ 100.00
(l)	Life or other insurance made payable to the estate	$
(m)	Value of all other personal property not listed above	$

(OVER)

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

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3. That the intestate died seized and possessed of real estate of about the value of One Hundred Ninety-six Thousand Five Hundred Thirty-seven and 00/100 196,537.00 Dollars, as follows:

DESCRIPTION OF REAL ESTATE AND APPROXIMATE VALUES

(Enter each tract and lot on a separate line).

No. of acres or lots. (State whether acres or lots.)	No. of buildings	Total value of each lot and tract including buildings	Decedent's Interest	Exact location. (Show County, Township and School District)
141.7 ac.	3	125,730.00	100%	Kershaw Co. 0350-00-00-002
3.4 ac.	1	45,874.00	100%	Lugoff, SC 0646-00-00-062
1 lot	1	14,808.00	100%	Elgin, SC 0347-LS-00-016
1 lot	0	10,125.00	100%	Elgin, SC 0347-LS-00-036

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

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

None

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

Face Value	Contract Number	Name of Company
None		

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

6. That the intestate died seized and possessed of personal property standing in joint names of two or more persons and payable to either or the survivor as follows: (Sec. 65-463, S. C. Code of Laws 1952, as amended) **(IF NONE-SO STATE)**

	FAIR MARKET VALUE AT DATE OF DEATH
A. U. S. Bonds owned jointly with right of survivorship or "payable on death"	$ None
B. Joint Bank Accounts with right of survivorship	$ "
C. Joint Accounts in Depositories or other Institutions with right of survivorship	$ "
D. Joint Stocks and Bonds with right of survivorship	$ "
E. Joint Miscellaneous property with right of survivorship	$ "

7. TRANSFERS INTENDED TO TAKE EFFECT AT DEATH (Sec. 65-461 of S. C. Code of Laws 1952, as amended). That the intestate made the following lifetime transfers of property, BOTH REAL AND PERSONAL, reserving unto transferror's self a life estate, income for life or other incidents of ownership that would preclude a fee simple title vesting in the beneficiary until the death of the transferror as follows: **(IF NONE-SO STATE)**

	FAIR MARKET VALUE AT DATE OF DEATH
A. Real Estate transferred retaining life estate	$ None
B. Trust created retaining unto self income for life, power to revoke or other incidents of ownership	$ "
C. Other transfers intended to take effect at death	$ "

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8. POWERS OF APPOINTMENT (Sec. 65-462 of S. C. Code of Laws 1952, as amended). That the intestate died seized and possessed of a power of appointment over property, both real and personal, whether testamentary or otherwise, with an estimated fair market value of (IF NONE-SO STATE) $ None

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

WHEREFORE he prays that Letters of Administration on the estate of the within named deceased be granted by this Court to Claude E. Campbell

June 22, 19 82

Claude E. Campbell (Claude E. Campbell) Petitioner

Petitioner

STATE OF SOUTH CAROLINA,
County of Kershaw

PERSONALLY appeared Claude E. Campbell, who being duly sworn says that to the best of his knowledge, information and belief, the statements contained in the foregoing petition are true and complete.

Claude E. Campbell

Sworn to and subscribed before me this 22nd day of June, 19 82

Harriet J. Sheheen
Notary Public for South Carolina

My Commission Expires:

QUALIFICATION OF ADMINISTRATOR

STATE OF SOUTH CAROLINA,
County of Kershaw

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

Sworn to before me this 26 day of July A. D. 19 82

Harriet J. Sheheen (L. S.)
Judge of Probate

Claude E. Campbell (L. S.)

(L. S.)

Address: Elgin, S. C.

Attorney's Name and Address: Robert J. Sheheen
PO Drawer 10
Camden, S. C. 29020

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ORDER

Upon reading and filing the foregoing petition, **It is Ordered**, THAT CITATION DO ISSUE, and made returnable at ..... o'clock ...., 19 ..., and that the same be published on the ..... County Court House door for two consecutive weeks, and published in .....

a newspaper published in said County and State once a week for two successive weeks.

....., 19....

.....
Probate Judge, ... County, S. C.

File No. .....
Box No. .....
Package No. .....

State of South Carolina
COUNTY OF .....

IN THE PROBATE COURT

Ex Parte
Claude E. Campbell
.....
Petitioner

In Re the estate of
Thomas Edward Campbell
Deceased

PETITION FOR LETTERS OF ADMINISTRATION
AND ORDER FOR CITATION TO ISSUE

Filed ....., 19....

Probate Judge, Kershaw County, S. C.

Robert J. Sheheen
Attorney for Petitioner

MANIFESTLY NON-TAXABLE

(To be executed by the Probate Judge in those cases where he is convinced that the foregoing petition contains a full and true report of all of the assets in the subject estate and that the said estate is non-taxable under the provisions of the Inheritance Tax Laws of the State of South Carolina.)

STATE OF SOUTH CAROLINA

COUNTY OF .....

Now comes ....., as Judge of Probate of and for ..... County, and certifies to the South Carolina Tax Commission that, pursuing to the foregoing record of the above captioned estate on file in the Probate Court of and for said County, and based upon the value of the aggregate assets of said estate and the heirs therein concerned, such estate is manifestly non-taxable to the best of his knowledge, information and belief.

Given under my hand and official seal this the ..... day of ..... 19....

SEAL

.....
Judge of Probate

COUNTY OF .....

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STATE OF SOUTH CAROLINA COUNTY OF KERSHAW MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMBPELL; THOMAS CLAYTOR CAMPBELL; THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL; VIVIAN C. GARDNER; AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2024CP2800123 **AFFIDAVIT OF CHARLES IVES**

Personally appeared before me and after being duly sworn, deposes and states as follows:

1. My name is Charles Ives. I am not a party to this action.
2. I make this affidavit based upon my personal knowledge, except where this affidavit specifically states that I am referring to matters outside of my personal knowledge.
3. I was a good friend and business partner of Claude E. Campbell ("Claude"). We had many dealings together.
4. Claude was the son of T.E. Campbell.

5. Prior to T. E. Campell's death, Claude and I purchased, from at least one Probate Estate, what we referred to as heirs' property. This was property that was in the name of the decedent who had passed without a will. In the process of purchasing the heirs' property, we were required by the probate court to notify not just the legitimate children of the decedent but also the illegitimate children of the decedent who were also considered heirs entitled to a recovery by the probate courts at that time.
6. Prior to the last three or four years, I did not know about Gordon Louis Jackson or whether T.E. Cambell had any black children.
7. Within the last three or four years, I was speaking with Sonja Parker, who is Claude's daughter. In that discussion, she mentioned that Claude had a black brother.

FURTHER AFFIANT SAYETH NAUGHT.

Charles Ives

Sworn to this day the 14th of July, 2024

Signature of Notary
My Commission Expires on 2/22/2032

ELECTRONICALLY FILED - 2025 Jun 12 10:06 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT
Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, And Timothy Johnson, Plaintiffs, v. The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, Jr. as Personal Representative and Trustee for the Estate and Testamentary Trust of Thomas Clayter Campbell, Sr, the Estate of Colbert Harold Campbell, by and through Frances C. Campbell, Vivian C. Gardner, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell, Defendants.	C/A No.: 2024-CP-28-00123 **DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT**

Defendants move for summary judgment on Plaintiffs' claims for declaratory judgment, constructive trust, and unjust enrichment.

Plaintiffs assert entitlement to a share of an intestate estate that was discharged more than 40 years ago on behalf of an alleged illegitimate child of the decedent, who himself, has been deceased for more than 10 years.

Plaintiffs claim their husband/father was born out of wedlock to Thomas Edward Campbell who died in 1982 and that he should have been included in Thomas Edward Campbell's intestate estate when he was probated. (Am. Compl. ¶¶ 13-18).

The grounds for summary judgment are:

1. **The Plaintiffs fail to satisfy the *Mitchell v. Hardwick* factors.**

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2. **The claims have threshold elemental deficiencies.**

3. **The claims are untimely.**

4. **This Court does not have subject matter jurisdiction.**

INTRODUCTION

This lawsuit was filed on August 16, 2023, in Richland County.[1]

Plaintiffs filed their Amended Complaint on August 17, 2023, and alleged that Mary Dow Jackson's late husband, Gordon Louis Jackson, was a child of Thomas Edward Campbell's and was improperly excluded from his estate when probate closed in 1984.

Thomas Edward Campbell ("T.E. Campbell") was tragically robbed and murdered on June 12, 1982.

He died intestate and left behind five children born within the confines of marriage, who were heirs at law: Claude, Charles, Clayter, Colbert, and Vivian. T.E. Campbell's estate began probate in 1982 and closed in 1984, dividing the estate between his five children.

Of those five children, Vivian is T.E. Campbell's only child still alive. She is 89 years old and resides in an assisted living facility after suffering a stroke in 2024. Other than Vivian, the Defendants in this case are T.E. Campbell's grandchildren and daughters-in-law.

FACTS IN THE RECORD

Plaintiff Mary Dow Jackson married Gordon Louis Jackson on April 19, 1974. (Ex. 1: Mary Dow Jackson Deposition p. 14:17-18). They had two children together, Tyra and Melissa, and Gordon Jackson had four other children, Reginald, Bryant, Andre, and Timothy. (Jackson Dep. pp. 12:18-22; 14:19-22). Gordon Jackson died on December 29, 2013. (Jackson Dep. p. 57:9-16).

[1] This lawsuit was transferred to Kershaw County on February 21, 2024.

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Plaintiffs contend that Gordon Jackson was the son of T.E. Campbell on the basis that T.E Campbell allegedly said he was Gordon Jackson's father prior to his death in 1982. (Jackson Dep. pp. 22:17-23:12).

No birth certificate, testamentary documents, other papers, or paternity tests assert that T.E. Campbell is Gordon Jackson's biological father. (Jackson Dep. pp. 23:13-24:17). Mary Dow Jackson testified that she and Gordon met with T.E. Campbell at his house about four to six times for half an hour each time between 1974 and 1982 and in some, but not all of those meetings, T.E. Campbell claimed to be his father. (Jackson Dep. pp. 25:13-26:12; 27:5-7).

Gordon Jackson consistently claimed that T.E. Campbell was his father from the beginning of his relationship with Mary Dow Jackson. (Jackson Dep. p. 27:8-22).

Gordon became aware of T.E. Campbell's death shortly after it occurred from the news and phone calls. (Jackson Dep. p. 46:1-10). Gordon was high school educated, a military veteran, friendly, and outgoing. (Jackson Dep. pp. 27:23-28:10). Gordon knew lawyers and knew how to engage their services and knew people who used lawyers in the 1970s and 1980s. (Jackson Dep. p. 28:13-19).

Gordon was 41 years old when T.E. Campbell died in 1982 and he chose not to pursue any action to be included in the estate of T.E. Campbell. (Jackson Dep. pp. 30:20-22; 31:4-22; 48:1-6).

His widow, Mary Dow Jackson, decided to open Gordon's estate and pursue legal action in 2023 "because, like [she] say, [they] had been talking and just decided to take action" following discussions with a man named Charles Ives. (Jackson Dep. pp. 4:7-12, 16-19). Charles Ives is a

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third party who has been a litigant or a key witness in 4 other cases against members of the Campbell family.[2]

Mary Dow Jackson testified she had no knowledge or evidence indicating any of the Defendants in this lawsuit knew or should have known Gordon Jackson to be the son of T.E. Campbell and those answers were not affirming. (Jackson Dep. pp. 33:23-37:16). She also testified she knew of nothing the Defendants did to exclude Gordon Jackson from T.E. Campbell's estate.. (Jackson Dep. pp. 41:10-42:24). Finally, when asked if each of the Defendants did anything that was wrong or fraudulent to her late husband with respect to T.E. Campbell's intestate estate, she could testify to "nothing":

> Q: Let me ask you in plain English. What bad things have Claude Campbell, Claytor Campbell, Colbert Campbell, Vivian Gardner, or Charles Campbell done to Gordon Louis Jackson?
>
> A: Nothing. Not I'm aware of.

(Jackson Dep. pp. 42:25-44:21; 62:11-15).

STANDARD OF REVIEW

Summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law. *Baughman v. American Tel. & Tel. Co*., 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991).

ARGUMENT

[2] *Randy Bowers v. The Estate of Claude E. Campbell et al.* 2019-CP-28-00680; *Charles Ives v. Charles E. Campbell et. al.* 2019-CP-28-01137; *Professional Insurance Services of Lugoff et. al. v. Barry Campbell et. al.* (2024-CP-00710); and *Charles Ives v. Claude Campbell Properties, LLC*, 2024-CP-40-4380). The first case *Randy Bowers v. The Estate of Claude E. Campbell et al.* 2019-CP-28-00680, involved almost identical facts to this case albeit slightly different claims.

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This case arises from a legally infirm assertion that the heirs of Gordon Jackosn (who died in 2013) can assert a claim on the estate of T.E. Campbell (who died in 1982) greater than 40 years after that intestate estate was distributed.

These claims fail as a matter of law.

I. Plaintiffs fail to satisfy each one of the Mitchell v. Hardwick Factors.

Illegitimate children could not collect from their father's estates in South Carolina in 1982 as a matter of law. So, even if Mr. Jackson was a child of T.E. Campbell, he would not have been entitled to receive a share of that estate anyway:

> In South Carolina, where a person has the right to die intestate and during his life, he is charged with full knowledge of who will succeed to his property if he dies intestate, the assumption exists that, if he dies intestate, he is satisfied with the will the law of the state made for him. []. Had James Brown inquired into the law of descent and distribution in 1974, he would have been informed that, pursuant to *Labine v. Vincent,* 401 U.S. 532, 91 S.Ct. 1017, 28 L.Ed.2d 288 (1971), illegitimate children would not inherit from their fathers' estates.

Wilson v. Jones, 281 S.C. 230, 233, 314 S.E.2d 341, 343 (1984). In 1977, the Supreme Court held a statute in Illinois which said illegitimate children could only inherit from their mother's estates, violated the Equal Protection Clause. *Tirmble v. Gordon*, 430 U.S. 762, 97 S.Ct. 1459, 52 L.Ed.2d 31 (1977). The same statute in South Carolina was not struck down until 1984 in the case of *Wilson v. Jones*. 314 S.E.2d 341, 342-343 (1984). That decision provided solely for prospective application.

In *Mitchell v. Hardwick*, 297 S.C. 48, 51, 374 S.E.2d 681, 683 (1988) the Court addressed the following issue: "whether the prospective only application enunciated in [*Wilson v. Jones*] should be modified to allow limited retroactive application where certain factors are met[?]" The Court in *Mitchell* modified *Wilson* to allow retroactive application of the *Trimble* decision in the limited circumstances where the following conditions are met:

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> **(1) innocent persons will not be adversely affected because of their detrimental reliance on the old rule;**
>
> **(2) the paternity of the child has been conclusively established either by court order or decree issued prior to the death of the father or by an instrument signed by the father acknowledging paternity; and**
>
> **(3) the estate administration is subject to further resolution.**

Mitchell v. Hardwick, 297 S.C. 48, 51, 374 S.E.2d 681, 683 (1988).

None of these factors are met in this case.

II. Plaintiffs' three claims fail on their elements.

Unjust Enrichment

To prevail on a claim for unjust enrichment under South Carolina law, a plaintiff must show: "(1) a benefit conferred by the plaintiff upon the defendant; (2) realization of that benefit by the defendant; and (3) retention of the benefit by the defendant under circumstances that make it inequitable for him to retain it without paying its value." *Chase Home Fin., LLC v. Risher*, 405 S.C. 202, 212, 746 S.E.2d 471, 476 (Ct. App. 2013). There is no evidence in this case of any benefit conferred by the Plaintiffs on the Defendants whatsoever.

Constructive Trust

Plaintiffs' constructive trust claim fails because there is no evidence of fraud, bad faith, abuse of confidence, or violation of a fiduciary duty. Put simply, there is no evidence Defendants did anything wrong. Constructive Trust:

> will arise whenever the circumstances under which property was acquired make it inequitable that it should be retained by the one holding the legal title. *Wolfe v. Wolfe*, 215 S.C. 530, 56 S.E.2d 343 (1949); *Dominick v. Rhodes*, 202 S.C. 139, 24 S.E.2d 168 (1943); *Bank of Williston v. Alderman*, 106 S.C. 386, 91 S.E. 296 (1917). **Constructive trust results from fraud, bad faith, abuse of confidence, or violation of a fiduciary duty which gives rise to an obligation in equity to make restitution**. *Searson v. Webb*, 208 S.C. 453, 38 S.E.2d 654 (1946). Fraud is an essential element, although it need not be actual fraud.

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Lollis v. Lollis, 291 S.C. 525, 529, 354 S.E.2d 559, 561 (1987) (emphasis added). There is absolutely zero evidence of "fraud, bad faith, abuse of confidence, or a violation of a fiduciary duty" by any of the named defendants. As Mary Dow Jackson testified, no Defendant did anything wrong to Gordon Jackson, and no Defendant played any role in excluding him from T.E. Campbell's estate. (Jackson Dep. pp. 41:10–44:21; 62:11–15). There is also no evidence of any confidential relationship between Gordon Jackson and Defendants—indeed, there is no indication they even knew each other.

Declaratory Judgment

Under the Declaratory Judgment Act, courts only consider cases presenting a justiciable controversy. *Tourism Expenditure Rev. Comm. v. City of Myrtle Beach*, 403 S.C. 76, 81, 742 S.E.2d 371, 374 (2013); *Byrd v. Irmo High School,* 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996). A justiciable controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract. *Id* at 431, 468 S.E.2d at 864. By contrast, a "moot" case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court. *Mathis v. South Carolina State Highway Dep't,* 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973). If there is no actual controversy, this Court will not decide moot or academic questions. *Id.* (citing *Jones v. Dillon–Marion Human Res. Dev. Comm'n.,* 277 S.C. 533, 535, 291 S.E.2d 195, 196 (1982)); *see also Wallace v. City of York,* 276 S.C. 693, 694, 281 S.E.2d 487, 488 (1981).

Plaintiffs' claim for a declaration that Gordon Louis Jackson was a rightful heir of Thomas Edward Campbell is moot because TE Campbell's estate has long been closed. *See Sasser v. S.C. Democratic Party*, 277 S.C. 67, 69, 282 S.E.2d 602, 604 (1981) ("In the instant case, the election

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has already occurred. It is therefore our determination that the issues raised by this action have been rendered moot."); *City of Charleston v. Masi*, 362 S.C. 505, 508, 609 S.E.2d 301, 303 (2005) ("We find the District correctly argues that this case regarding the Town residents' entitlement to vote in the District elections and the entitlement to serve as a District commissioner is moot given that the Town is a nullity.").

The estate at issue in this case has long been closed. There is no justiciable controversy underlying Plaintiffs' declaratory judgment action.

III. This Action is Untimely.

This case was filed:

1) 10 years after the Plaintiff-Decedent died.

2) 40 years after the distribution of T.E. Campbell's estate.

3) 42 years after is T.E Campbell died.

Thus, this action is untimely for several legal reasons.

Statute of Heirs

S.C. Code § 62-2-109, the statute of heirs, says:

> If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person:
>
> > **(1)** From the date the final decree of adoption is entered, and except as otherwise provided in *Section 63-9-1120*, an adopted person is the child of an adopting parent and not of the natural parents except that adoption of a child by the spouse of a natural parent has no effect on the relationship between the child and that natural parent.
> >
> > **(2)** In cases not covered by (1), a person born out of wedlock is a child of the mother. That person is also a child of the father if:
> >
> > > i. the natural parents participated in a marriage ceremony before or after the birth of the child, even though the attempted marriage is void; or

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> ii. **the paternity is established by an adjudication commenced before the death of the father or within the later of eight months after the death of the father or six months after the initial appointment of a personal representative of his estate** and, if after his death, by clear and convincing proof, except that the paternity established under this subitem (ii) is ineffective to qualify the father or his kindred to inherit from or through the child unless the father has openly treated the child as his and has not refused to support the child.
>
> **(3)** A person is not the child of a parent whose parental rights have been terminated under *Section 63-7-2580* of the 1976 Code, except that the termination of parental rights is ineffective to disqualify the child or its kindred to inherit from or through the parent.

In *Parker v. Parker*, an interested party questioned the paternity of an heir and their ability to inherit through intestate succession four years after the relevant death. *Parker v. Parker*, 313 S.C. 482, 484, 443 S.E.2d 388, 389 (1994). The Supreme Court of South Carolina held, "that if paternity is questioned by either the personal representative or other interested party, … , then such action must be brought within the statutory time frame of six months after the death of the father." *Parker v. Parker*, 313 S.C. 482, 486, 443 S.E.2d 388, 390 (1994). The court further stated that the failure to act for **four years** was an "implicit waiver of a statutory right." *Parker v. Parker*, 313 S.C. 482, 488, 443 S.E.2d 388, 391 (1994). If **four years** is an implicit waiver, **forty years** certainly cannot cut it.

Ultimate Time-Limit

This is at its core an action to challenge the probate of Thomas Edward Campbell's intestate estate. S.C. Code Ann. The "ultimate time limit" provided for in the probate code at S.C. Code Ann. § 62-3-108(A)(1) is ten years:

> (A)(1) No informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior

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> appointment, may be commenced more than ten years after the decedent's death.

This action to determine entitlement to a share of the intestate estate of Thomas Edward Campbell, filed greater than 10 years after his death, exceeds the ultimate time limit imposed by the law.

Laches

Laches is defined as "neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done." Hallums v. Hallums, 296 S.C. 195, 198, 371 S.E.2d 525, 527 (1988). "Under the doctrine of laches, if a party, knowing his rights, does not seasonably assert them, but by unreasonable delay causes his adversary to incur expenses or enter into obligations or otherwise detrimentally change his position, then equity will ordinarily refuse to enforce those rights." Chambers of S.C., Inc. v. County Council for Lee Cty., 315 S.C. 418, 421, 434 S.E.2d 279, 280 (1993). Thus, the predicate for laches is an unreasonable and unexplained delay. Eldridge v. Eldridge, 398 S.C. 113, 121–22, 728 S.E.2d 24, 28 (2012).

This action seeking to unwind an estate that completed probate in 1984 to the benefit of an alleged illegitimate heir (who could not have lawfully received from that estate at the time) who himself is now deceased should be barred as a matter of law by the doctrine of laches.

IV. This Court lacks Subject Matter Jurisdiction.

Probate courts have subject-matter jurisdiction to determine paternity for the purpose of determining heirs. *Neely v. Thomasson*, 365 S.C. 345, 350, 618 S.E.2d 884, 887 (2005). The relevant statute, found in the Probate Code, provides, "To the full extent permitted by the Constitution, and except as otherwise specifically provided hereinafter, **the court has exclusive original jurisdiction** over all subject matter related to: (1) estates of decedents, including the

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contest of wills, construction of wills, and **determination of heirs** and successors of decedents and estates of protected persons...” S.C.Code Ann. § 62–1–302 (1987) (emphases added). “Heirs” is defined as “those persons ... who are entitled under the statute of intestate succession to the property of a decedent.” S.C.Code Ann. § 62–1–201(17) (1987).

The Circuit Court does not have jurisdiction over this case which at its crux is about the identification of heirs for the purpose of intestate succession.

CONCLUSION

The Campbell Family is entitled to summary judgment because there is no genuine issue as to any material fact, and these claims fail as a matter of law.

The Campbell Family respectfully requests that this Court GRANT summary judgment.

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Columbia, South Carolina
May 19, 2025

STATE OF SOUTH CAROLINA | IN THE COURT OF COMMON PLEAS

COUNTY OF KERSHAW

- - -

MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON,	
PLAINTIFFS,	DEPOSITION OF MARY DOW JACKSON
vs.	Case No. 2024-CP-28-00123
THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMPBELL; THOMAS CLAYTOR CAMPBELL; THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL; VIVIAN CL GARDNER; AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL,	
DEFENDANTS.	

DATE TAKEN: Thursday, March 13, 2025

TIME BEGAN: 9:40 a.m.

TIME ENDED: 11:05 a.m.

LOCATION: Cromer Babb & Porter, LLC
1418 Laurel Street, Suite A
Columbia, South Carolina 29201

REPORTED BY: Cortney N. Glover, RPR

APPEARANCES:

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Also present:

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Thomas Campbell, Jr.
Sonja Campbell Parker
Barry Campbell
Harold Goff

- - -

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E X H I B I T S

DEFENDANTS' EXHIBIT	DESCRIPTION	MARKED
1	Probate Court Estate Documents of Thomas Edward Campbell Bates Labeled 230 - 235	56
2	Copy of Obituary of Gordon Louis Jackson	59
3	Amended Summons and Complaint	61

- - -

- - -

P R O C E E D I N G S

- - -

MARY DOW JACKSON, being first duly sworn, was examined and testified as follows:

- - -

EXAMINATION

- - -

BY MR. PORTER:

Q: Good morning, Ms. Jackson.

A: Good morning.

Q: Hi, name is Paul Porter. Thank you for being here today.

A: You're welcome.

Q: Will you please state your full name for the record.

A: Mary Dow Jackson.

Q: Ms. Jackson, are you sober, mentally competent, and otherwise able to testify today?

A: Yes.

Q: Do you understand that you are under oath, meaning that you are required to tell the truth today?

A: Yes.

Q: Have you ever given a deposition before?
A: Yes.
Q: How many times have you given a deposition?
A: Once.
Q: What kind of case was that?
A: In reference to Mr. Ives. That's it.
Q: Even though this is not your first time, I'm still required to go through several ground rules per the State court rules, and then I also add in my own recommendations.

First, while I'm the counsel deposing you, you need to ask me for any clarifications. If you answer a question, I'll assume that you understood it. Now, your lawyer is permitted by the rules to object to the form of my excellently worded questions. Even if he does, you still have to answer. He'll do that by saying object to the form. The only time you don't answer is when he's jumping and screaming don't answer. And you'll know when that happens.

If you need a break, let me know, and we'll accommodate you. I don't think we'll be here too terribly long today. I predict about two hours. During those breaks, however, you're not supposed to

talk about the case or your testimony. And I can ask you what you talked about even with your lawyers during breaks in a deposition. So do be mindful of that.

We have a court reporter who is transcribing everything that you and I say. So to keep a clean transcript, let's try to let each other finish speaking before we jump in. I'll try the same, and I guarantee I'll make mistakes in that regard. Also make sure you answer verbally such as yes or no and not uh-huh, huh-uh, or nods of the head. Do you have any questions before we get started?

A: No.

Q: What you did you do to prepare for your deposition today?

A: Just need to tell the truth.

Q: Okay. Did you review any documents?

A: No.

Q: Tell me about the prior matter you were deposed in. You said it involved Charles Ives?

A: Yes.

Q: Okay. What kind of case was that?

A: It was just talking about land.

Q: About land?

A: Uh-huh.

MR. PORTER: You have to say yes or no, dear.

THE WITNESS: Oh.

MR. GLEISSNER: Was that a "yes"?

A: Yes.

MR. GLEISSNER: Thank you.

Q: How long ago was that deposition?

A: 2021.

Q: Where was that deposition?

A: At his lawyer's office, downtown Columbia.

Q: Brian Boger?

A: Yes.

Q: What land was at issue in that dispute?

A: He was talking about where his car lot sit.

Q: Okay. Were multiple lawyers at that deposition?

A: Maybe two.

Q: And you provided testimony under oath in that meeting just like you're doing today?

A: Yes.

Q: How long have you known Charles Ives?

A: From there to now, maybe four years.

Q: How did you first meet Charles Ives?

A: At his car lot.
Q: How did that happen?
A: We was just talking.
Q: How did you come to be there?
A: In reference to my late husband.
Q: Did he ask you to come to the car lot?
A: Yes.
Q: Tell me about that. How did he get in touch with you?
A: A phone call.
Q: How did -- do you know how he got your number?
A: No.
Q: Okay. How long was the phone call?
A: A couple minutes.
Q: What did he say on the phone call?
A: He just said he would like the meet me, and that was pretty much it.
Q: Did he say why?
A: In reference to the land where his car lot sit.
Q: Okay. Well, you say when you got there, you talked about your late husband?
A: Yes.
Q: Okay. Tell me what you talked about when

you met him at his car lot.

A: He just asked me who my husband was, and I told him. That was pretty much it.

Q: Did he ask you that on the telephone or at the car lot?

A: At the car lot.

Q: Okay. What questions did he have for you about your car lot -- about his car lot?

A: Oh, it was just -- he just said the car lot sit on the Campbell land. That's it.

Q: How many times have you met with Charles Ives in person other than that meeting at his car lot and this deposition or meeting at Brian Boger's office in approximately 2021?

A: Maybe about three times.

Q: Okay. So there had been three other occasions where you think you met with Charles Ives?

A: Yes.

Q: Okay. Where have you met with Charles Ives on those three other occasions?

A: You would always go to the car lot.

Q: Have you ever bought a car from Charles Ives?

A: No.

Q: So what brought you to the car lot those

other three times?

A: He was just asking different questions. That's all.

Q: What kind of questions?

A: I don't remember.

Q: What were the questions about?

A: It's just the same questions, pretty much.

Q: Okay.

A: About the car lot.

Q: What about the car lot?

A: Did I know about the Campbell land and this and that, and I told him no.

Q: Was he trying to see if you could be a witness for him in his case?

A: I don't know.

Q: The next few questions I ask of everybody who's deposed. The reason I ask them is because I'd rather know now if there's any things in your past than at court. But I know they are embarrassing, and I do apologize for that. Have you ever been arrested for a felony?

A: No.

Q: Okay. And other than speeding tickets, have you been convicted for any misdemeanors in the last ten years?

A: No.
Q: Have you been involved in any prior legal cases as a party?
A: Legal cases? No, not really.
Q: Have you ever sued anybody in a lawsuit other than this case?
A: Probably a minor car accident, and that's about it.
Q: Have you ever been sued in a lawsuit?
A: No.
Q: What is your current street address?
A: 108 Tilting Rock Drive, Hopkins, South Carolina 29061.
Q: How long have you lived there?
A: We moved there 2016.
Q: Who over the age of 18, if anybody, lives there with you?
A: My two daughters and my baby sister.
Q: All right. What are your two daughters' names?
A: Tyre Channel [ph] Jackson, Melissa Courtney Jackson.
Q: And what's your sister's name?
A: Joyce Jenette [ph] Dow.
Q: Your date of birth?

A: 8/13/1949.
Q: Do you work anywhere?
A: No.
Q: When's the last time you worked?
A: 2015.
Q: Where did you work?
A: I was working at the school district.
Q: Richland One?
A: Two.
Q: Your two daughters, Tyrese -- am I saying it right? Tyre?
A: Tyre.
Q: Tyre and Melissa, where do they work?
A: Melissa's a pharmacy tech, and Tyre is security at Baptist Hospital.
Q: There are two other folks -- or three other folks in -- strike that.

There are four other folks in the caption, a Reginald Allen, Bryant Allen, Andre Allen, and Timothy Johnson. Who are the Allens to you?
A: My stepsons.
Q: Okay. What about Timothy Johnson?
A: My stepson.
Q: Where are the Allens located? Are they in

Richland County?

A: I think Reginald is in Richland, and Andre is in Kershaw County. Bryant is in California.

Q: Okay. What does Reginald do? Do you know?

A: I don't know.

Q: Do you know what Andre does?

A: Not really.

Q: Okay. And do you know what Bryant does in California?

A: No.

Q: What about Timothy Johnson? Where does he live?

A: He's in New York.

Q: All right. Do you know what kind of work he does?

A: He was a prison at the guard -- I mean, a guard at the prison in New York.

Q: Were you previously married to Gordon Louis Jackson?

A: Previously.

Q: Were you married to Gordon Louis Jackson?

A: Yes.

Q: What years were you married to Gordon Louis Jackson?

A: April the 19th, 1974.
Q: Okay. How did you meet Gordon Louis Jackson?
A: Baseball game.
Q: How long before you were married to him did y'all meet?
A: It was about a year and a half or more.
Q: So in approximately 1972?
A: Uh-huh.
MR. GLEISSNER: Is that a "yes"?
A: Oh, yes.
Q: Thank you, ma'am.
A: You're welcome.
MR. GLEISSNER: I'm glad I'm serving some purpose.
THE WITNESS: I need you.
Q: What day did y'all get married?
A: April the 19th, 1974.
Q: How many children did y'all have together?
A: Two.
Q: And that's Tyre and ---
A: Melissa.
Q: --- Melissa?
What kind of work did Gordon Louis Jackson do?

A: Security.
Q: And Mr. Jackson died in December of 2013?
A: Yes.
Q: I think you mentioned that you have a stepchild who lives in Kershaw County. Do you have any other family that lives in Kershaw County?
A: Stepchild?
Q: I thought you said Reginald Allen lives in Kershaw County?
A: Oh, yes, my stepsons. Yeah.
Q: Do you have any other family in Kershaw County?
A: Well, in terms of children or just family?
Q: Folk who are related to you ---
A: No.
Q: Okay. Do you go church?
A: Yes.
Q: Where do you go to church?
A: Unity Missionary Baptist Church.
Q: Is that in Hopkins?
A: Yes.
Q: Are you a member of any civic organizations or clubs?
A: No.
Q: Where did you graduate from high school?

A: Bethel High School.
Q: And that was one of the two schools that merged into Lower Richland; is that right?
A: No. That was in District Two.
Q: Okay.
A: 1967.
Q: What's your highest level of education?
A: High school.
Q: What did you do for your career? I understand you worked at Richland Two. What kind of work did you do in your career?
A: Before I went to Richland Two, I worked at Saw Chain Company.
Q: How is that spelled?
A: It was Saw Chain Company. It ended up being John Deere.
Q: Okay.
A: Saw Chain Company.
Q: Who do you have your cell phone with, AT&T, Verizon?
A: AT&T.
Q: Your communications with Charles Ives that you mentioned, would they have started on your cell phone, or did he call your home phone?
A: He might have did both. I don't know.

Q: Have you and Charles Ives ever texted?
A: No.
Q: Okay. Did Gordon Louis Jackson, your late husband, die with or without a will?
A: Without.
Q: I understand the estate was opened in 2023. Is that your understanding?
A: That's sounds about right.
Q: Was there any probate or estate work done for Gordon back when he died, in 2013, 2014 time frame? Or was the first time something was done at the court over his passing in 2023?
A: I went down to the courthouse after he passed, but they gave me a whole lot of hassle, so I just stopped.
Q: Okay. Why was the estate opened in 2023, ten years after Gordon's passing?
A: I guess we opened it because of all the different talk back and forth. I don't know.
Q: Okay. What do you mean different talk back and forth?
MR. PORTER: Ms. Jackson, if you -- excuse me. If your talking about discussions with your counsel ---
THE WITNESS: Uh-huh.

MR. GLEISSNER: Okay. I would object and say please don't discuss the discussions that you had with counsel. If you're talking about discussion that you had with other people, then that's okay. I don't have any problem with you answering those questions. Fair enough?

Fair enough?

MR. PORTER: Yeah. That's a proper instruction.

MR. GLEISSNER: Okay.

Q: So these -- this talk back and forth that led you to open his estate, was there talk with people other than lawyers, or was this conversations between you and attorneys?

A: Conversations with Mr. Ives and with a lawyer, I guess.

Q: Did you ever -- these conversations with Mr. Ives, were lawyers present at those conversations?

A: Not all. We just chatted a little bit in his office, and that was pretty much it ---

Q: All right.

A: --- until I did the deposition.

Q: How did you -- did Mr. Ives introduce you to your lawyers in this case?

A: Yes. When we did the deposition, that's with the only time I met him.

Q: Your lawyers in this case, so Mr. Gleissner and Mr. Harling, how did you find them?

A: I guess through Mr. Ives.

Q: Okay. Did Mr. Ives take you to their office?

A: No.

Q: Okay. When did you first meet with a lawyer about matters pertaining to this case?

A: It all was mentioned during the same time starting in 2023 up until now so ...

Q: Did you meet with a lawyer at the recommendation of Mr. Ives?

A: Not really.

Q: Okay. Do you understand that you've been appointed as personal representative of your late husband's estate, Gordon Louis Jackson?

A: Yes.

Q: Okay. What is your understanding of the significance of that appointment? Do you understand what that means, being the personal representative of the estate?

A: To handle things that's pertaining to my

late husband.

Q: Do you understand that it authorizes you in some regards to speak on behalf of the estate and to take certain actions on behalf of the estate?

A: Yes.

Q: Looking at the pleadings, there are some family members or some step family members of yours named and your own children. So first off, were Melissa and Tyre Jackson, your two daughters, involved in your discussions with Charles Ives or your decision to pursue a lawsuit in this case?

A: Repeat that, please.

Q: Yeah. I'll break it up too. I'll object to the form of my question. Were Melissa and Tyre Jackson, either of them involved in your discussions with Charles Ives?

A: No. 'Cause they didn't want to go.

Q: Okay. Were either of them involved in your decision to file a lawsuit in this case?

A: Repeat that, please.

Q: Did you -- who made the decision to file this lawsuit?

A: I did.

Q: Was any of your other family involved in that decision?

A: The step children was talking about it.
Q: Okay. Which step children were talking about it?
A: The four sons.
Q: All four of them were?
A: Yes.
Q: Okay. Any of those four meet with Charles Ives, to your knowledge?
A: I don't know.
Q: Any of those four join you in any of your meetings with your lawyers in this case?
A: Yes.
Q: Which four? Which of the four?
A: All four.
Q: Okay. On what basis do you assert that Gordon Louis Jackson -- actually, let me ask it differently.

What is your understanding of who Gordon Louis Jackson's parents were?

A: My understanding?
Q: Yes, ma'am.
A: Because his father said so.
Q: I'm not even getting there yet.
A: Oh.
Q: I'm asking you who his parents were.

A: Oh.
Q: What is your understanding of who they were?
A: Viola Jackson-Pope.
Q: And that was his mama; correct?
A: Yes.
Q: All right. Was Viola Jackson-Pope married?
A: Not at the time Gordon was born, I don't think so.
Q: Do you keep a copy of Gordon's birth certificate? Do you have a copy of that?
A: Probably somewhere at home.
Q: Was there anyone listed as father on his birth certificate; do you know?
A: No.
Q: Okay. What is your understanding of who Gordon Louis Jackson's dad was?
A: Because Tommy Edward Campbell said so.
Q: I understand that's why you think that. But you think -- Thomas Edward Campbell? Is that what you're trying say?
A: Yes.
Q: Okay. All right. And you're referring to the Thomas Edward Campbell who's been deceased since

1982?

A: Yes.

Q: Did you know Thomas Edward Campbell?

A: I met him several times.

Q: Okay. And so let me ask the question you've been trying to answer. On what basis do you claim that Gordon Louis Jackson is the biological son of Thomas Edward Campbell?

A: Because Mr. Thomas Edward Campbell said so.

Q: All right. Anything other than that?

A: No.

Q: All right. To your knowledge, Thomas Edward Campbell is not listed on Gordon's birth certificate; correct?

A: Right.

Q: Are there any letters from Thomas Edward Campbell claiming Gordon Louis Jackson as his child?

A: Not that I've seen.

Q: Do you understand that Thomas Edward Campbell died without a will?

A: Yes.

Q: So you're not aware of any wills or testaments by Thomas Edward Campbell that mention Gordon Louis Jackson; correct?

A: (No audible response.)

Q: I'll ask it a different way. Are you aware of any wills or testaments that mention -- by Thomas Edward Campbell that mention Gordon Louis Jackson?

A: Not none that I've seen, but he did make a mention of it.

Q: Okay. What do you mean? What did he say to make mention of it?

A: That he wanted Gordon to come back by because he must had some paperwork or something, because we was supposed to go back by that Monday, but he was killed before we got back by that Monday so ...

Q: Have you or your family taken any DNA test to confirm paternity?

A: No.

Q: Are there -- you agree that Gordon Louis Jackson was not listed at a child of T.E. Campbell in his obituary?

A: Yes.

Q: Are there any Campbell family obituaries which mention Gordon Louis Jackson, to your knowledge?

A: Not that I'm aware of.

Q: Are you aware of any court order or decree prior to the death of Thomas Edward Campbell that establish paternity over Gordon Louis Jackson?

A: No.

Q: Are you aware of any written paternity acknowledgments by Thomas Edward Campbell of Gordon Louis Jackson?

A: Say that again, please.

Q: Yes, ma'am. Are you aware of any written paternity acknowledgments by Thomas Edward Campbell of Gordon Louis Jackson?

A: No.

Q: How many times did you meet Thomas Edward Campbell?

A: Maybe about four or five.

Q: Okay. Where did you meet Thomas Edward Campbell those four or five times?

A: At his home.

Q: Okay. And where was that located?

A: I don't remember the exact address, but his home is down below Highway Pentecostal Church.

Q: How long were those meetings with Thomas Edward Campbell, those four or five?

A: About maybe about half an hour.

Q: Okay. And what were the purpose of those

meetings?

A: We was just talking in general.

Q: Have -- and your testimony is -- well, let me ask you. Did Thomas Edward Campbell verbally acknowledge Gordon Louis Jackson as his child in those meetings?

A: Yes.

Q: In all four of those meetings?

A: It was always about Gordon.

Q: Sure. But did he state that Gordon was his child in those meetings?

A: Not every time; no.

Q: Okay. Have any other members of the Campbell family ever stated that Gordon Louis Jackson was their relative?

A: Not that I'm aware of.

Q: How many years prior to Thomas Edward Campbell's death do you think you met Thomas Edward Campbell?

A: We got married in '74. I saw about -- four or six times, like I said.

Q: And how many years prior to his death do you think y'all met for the first time?

A: Oh, I don't remember the exact date, year.

Q: Do you think you knew him for a good while

before he was dead, or did you meet him right before he died?

A: I met him after I married my husband in '74.

Q: All right. You think you've met him four to six times between 1974 and 1982?

A: Yeah.

Q: Okay. How early in you and your husband's relationship did you come to the understanding that his dad, his biological dad was Thomas Edward Campbell?

A: From the beginning, pretty much.

Q: Okay. So your husband expressed from the outset pretty much that his dad was Thomas Edward Campbell?

A: Yes.

Q: So it was not a mystery to your husband who his dad was?

A: I ---

Q: He knew his dad was Thomas Edward Campbell?

A: Yes.

Q: Tell me a little about your husband. What was his educational background? What was his highest level of education?

A: High school.
Q: Okay. And he served in the military; is that correct?
A: Yes.
Q: How many years?
A: Six.
Q: Okay. Was he a smart man?
A: Yes.
Q: Was he outgoing, friendly?
A: Yes.
Q: Was he involved in the church?
A: No.
Q: Okay. Did y'all know any lawyers?
A: No, not really.
Q: Okay. Would you have known how to get ahold of a lawyer?
A: Yes.
Q: Did y'all know people who knew lawyers?
A: Yes.
Q: Was there a particular lawyer you would have reached out to in the '70s or early '80s if you needed something?
A: No.
Q: But you believe you could have found a lawyer if you needed one?

A: Yes.
Q: Do you know if Gordon knew any lawyers?
A: I don't know.
Q: Did he have any occasion to your knowledge to hire any lawyers in his lifetime?
A: I don't know.
Q: These children, the Allens and Timothy Johnson, were they produced in prior marriages?
A: No.
Q: Okay. So Gordon wasn't married prior to you?
A: Not that I'm aware of.
Q: Do you know if Gordon ever pursued any lawsuits in his life?
A: I do not know.
Q: Did Gordon ever pursue any legal action to establish that Thomas Edward Campbell was his father prior to his death?
A: Not that I'm aware of; no.
Q: And that's a poorly worded question. So first off, did Gordon Louis Jackson pursue any legal action to establish that Thomas Edward Campbell was his father prior to Thomas Edward Campbell's death in 1982?
A: The not that I'm aware of.

Q: Did Gordon Louis Jackson pursue any legal action to establish that Thomas Edward Campbell was his father prior to Gordon Louis Jackson's death in 2013?

A: No.

Q: Do you have knowledge of anyone in the Campbell family other than Thomas Edward Campbell acknowledging Gordon Louis Jackson's paternity by Thomas Edward Campbell?

A: I don't know.

Q: Do you have any -- do you know if any of the other members of the Campbell family had reason to believe or know that Gordon Louis Jackson was Thomas Edward Campbell's child?

A: I do not know.

Q: Was Gordon Louis Jackson aware that he was Thomas Edward Campbell's child when Thomas Edward Campbell died in 1982?

A: Yes.

Q: Do you agree that Gordon Louis Jackson would have been 41 years old in 1982?

A: Yes.

Q: He was born in '41?

A: He was born 1941.

Q: Did Gordon Louis Jackson expect that he

was supposed to be taken care of in some way by Thomas Edward Campbell after he died?

A: I do not know.

Q: When did Gordon Louis Jackson learn that he was not receiving anything from Thomas Edward Campbell's estate?

A: I don't know.

Q: Did you and Gordon Louis Jackson have discussions about Thomas Edward Campbell's estate after he died in 1982?

A: No.

Q: Okay. Did Gordon Louis Jackson take any action to be included in the estate of Thomas Edward Campbell when Thomas Edward Campbell died or in the three years following thereafter?

A: Not that I'm aware of.

Q: Did y'all discuss taking any action of that sort?

A: No.

Q: Why not?

A: That was my husband's decision on what he wanted to do.

Q: So your husband did not want to take action?

A: I don't know.

Q: Did Gordon Louis Jackson ever attempt contact any of the Campbell family members regarding inheritance rights?

A: I don't know.

Q: Do you understand that Thomas Edward Campbell's estate was discharged in 1984?

MR. GLEISSNER: Object to the form of the question.

Go ahead and answer.

A: Repeat that, please.

Q: Yes, ma'am. Do you understand that Thomas Edward Campbell's estate was discharged in 1984?

MR. GLEISSNER: Object to the form of the question.

Q: He's allowed to object, but you still answer unless he jumps and screams don't answer.

A: When you say 1984...

Q: How about this? We'll look at a document on that question. Let's just put a pin in it.

Okay. All right. What is the -- is there anything other than -- strike that.

What is the factual basis for your claim that the Campbell family knew or should have known that Gordon Louis Jackson was an heir of Thomas Edward Campbell?

A: Repeat that, please.
Q: Sure. Let's go through the family kind of one by one. Do you understand there are five people who received an inheritance from the estate of Thomas Edward Campbell?
A: No.
Q: Okay. Do you know who Thomas Edward Campbell's heirs-at-law were, his -- what is law calls natural-born children? Do you know what their names were?
A: I read them on the obituary.
Q: Okay. Do you understand their names to have been Claude Campbell, Charles Campbell, Colbert Campbell, Claytor Campbell, and Vivian Gardner?
A: Yes.
Q: Have you ever met any of those folks?
A: No. I met Claude.
Q: You met Claude?
A: Uh-huh.
Q: How many times did you meet Claude?
A: I seen him several times up at the store in Elgin.
Q: All right, all right. So other than Claude, you've never met any of the other siblings?
A: No.

Q: All right. Did Claude ever tell you that he knew Gordon Louis Jackson was T.E.'s child?

A: No.

Q: Do you have any basis to believe that Claude knew that Gordon Louis Jackson was T.E.'s child?

A: Just by his action. That's all.

MR. PORTER: We've got Jonathan Harling coming in.

MR. GLEISSNER: Hey, Jonathan, we saved you a seat.

MR. HARLING: Good morning. I thank you. How are y'all?

Q: What action was that that gave you that indication?

A: Just in his general speaking. That's all.

Q: Was he polite?

A: Yes.

Q: Okay. Did he call Gordon a relative or anything like that?

A: No.

Q: But because he was courteous?

A: Uh-huh.

Q: You assume he knew?

A: Right.

Q: Anything else that gives you the indication that Claude Campbell knew that Gordon Louis Jackson was Thomas Edward Campbell's son?

A: No.

Q: All right. Do you have any reason to believe that Charles Campbell, Maxine Campbell's late husband, knew that Gordon Louis Jackson was Thomas Edward Campbell's son?

A: I do not know.

Q: Do you have any reason to believe that Maxine Watts Campbell -- have you ever met Ms. Maxine Campbell?

A: No.

Q: Do you have any reason to believe that she knew that Gordon Louis Jackson was Thomas Edward Campbell's son?

A: I do not know.

Q: Okay. You never met you Claytor Campbell; is that right?

A: No.

Q: Do you have any reason to believe that Claytor Campbell knew that Gordon Louis Jackson was Thomas Edward Campbell's son?

A: I do not know.

Q: Have you ever met Tommy Campbell,

Claytor's son who's sitting at the end of the table, other than this morning?

A: No.

Q: Do you have any reason to believe that Tommy Campbell knew that Gordon Louis Jackson was Thomas Edward Campbell's son?

A: No.

Q: All right. Colbert Campbell, you've never met Colbert Campbell; is that right?

A: No.

Q: Do you have any reason to believe that Colbert, who is deceased, knew that Thomas Edward Campbell's Gordon Louis Jackson's father?

A: No.

Q: Do you have any reason to believe that Colbert's widow, Frances, knew that Gordon Louis Jackson was Thomas Edward Campbell's father?

A: No.

Q: Vivian Gardner, who's the only daughter, have you ever met her?

A: No.

Q: Do you have any reason to believe that Vivian knew that Gordon Louis Jackson was Thomas Edward Campbell's son?

A: I do not know.

Q: All right. So we talked about Claude Campbell. And anything other than Claude was polite and courteous that makes you think that Claude knew that Gordon Louis Jackson was Thomas Edward Campbell's son?

A: Not that I'm aware of.

Q: Claude's -- you understand Claude's been deceased since 2017 -- '15? 2015?

A: Yes.

Q: His children are -- or two of his children are Barry Campbell and Sonja Campbell Parker, and they're named in this lawsuit. Do you have any reason to believe that Barry Campbell or Sonja Campbell Parker knew that Gordon Louis Jackson was Thomas Edward Campbell's son?

A: I don't know.

Q: All right. Have any of those Campbell children had any conversations with the other plaintiffs in this lawsuit that you're aware of, that being Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, or Timothy Johnson?

A: Repeat this please.

Q: Sure. And I can break it up, if you need me to.

A: Okay.
Q: What I'm asking you is did you know if any of the plaintiffs -- so your daughters, Melissa and Tyre Jackson; and your stepsons, Reginald Allen, Bryant Allen, Andre Allen, and Timothy Johnson, if any of them have had any conversations with the Campbells. Are you aware ---
A: I don't know.
Q: Okay. Do you have any evidence that any of the Campbell children knew that Gordon Louis Jackson was Thomas Edward Campbell's son when Thomas Edward Campbell's estate was probated?
A: Repeat, that please.
Q: Do you have any evidence that any of the Campbell children -- when I say Campbell children, I mean Claude Campbell, Charles Campbell, Colbert Campbell, Claytor Campbell, and Vivian Gardner -- knew that Gordon Louis Jackson was Thomas Edward Campbell's son when Thomas Edward Campbell's estate was probated?
A: I don't know.
Q: Okay. Do you have any evidence that any of the Campbell children, Claude Campbell, Charles Campbell, Colbert Campbell, Vivian Gardner, and Claytor Campbell took action to intentionally

exclude Gordon Louis Jackson from participating in the estate of Thomas Edward Campbell?

A: I don't know.

Q: I've asked this in two different ways, but I just want to ask it the same way or this same way another time, so please forgive me if I sound like a broken record. Has Gordon Louis Jackson's paternity by Thomas Edward Campbell ever been legally established?

A: Not that I'm aware of.

Q: And is it fair to say, to your knowledge, that Gordon Louis Jackson's paternity by Thomas Edward Campbell had not been legally established by the time of Thomas Edward Campbell's death in 1982?

A: (No audible response.)

Q: You want me to ask that a different way?

A: Yeah.

Q: Had Gordon Louis Jackson's paternity by Thomas Edward Campbell been legally established prior to Thomas Edward Campbell's death in 1982?

A: No. No more than his father saying so.

Q: Okay. What damages are you seeking in this lawsuit?

A: Whatever belongs to my husband as a rightful heir to the Campbell estate.

Q: Do you believe your husband is a rightful heir to the Campbell estate?
A: His father said that was his son.
Q: Do you understand that the estate has now been passed on, in some cases multiple times, to people who are not even the immediate children of Thomas Edward Campbell?
A: No.
Q: Okay. Do you understand that only one of the direct recipients of Thomas Edward Campbell's estate is still living?
A: Yes.
Q: Do you think it's appropriate for the grandchildren of Thomas Edward Campbell or the daughters-in-law of Thomas Edward Campbell who weren't involved in the estate to have to give up anything they inherited as a result of your lawsuit?
MR. HARLING: Object to the form.
MR. GLEISSNER: I was gonna do that.
MR. HARLING: Sorry.
MR. GLEISSNER: Go ahead and answer.
A: Okay. Repeat, please.
Q: Yeah. Do you think it's appropriate for the grandchildren of Thomas Edward Campbell or the daughters-in-law of Thomas Edward Campbell to have

to give up anything they've inherited as a result of your lawsuit?

MR. GLEISSNER: Object to the form.

A: Yes. Because Mr. Campbell said he was Gordon's daddy.

Q: Okay. What role did Claude Campbell, to your knowledge, have in Gordon Louis Jackson's exclusion from Thomas Edward Campbell's estate?

A: Repeat, that please.

Q: Sure. Do you know if Claude Campbell had any role in Gordon Louis Jackson's exclusion from Thomas Edward Campbell's estate?

A: I don't know.

Q: Do you know if Thomas Claytor Campbell had any role in Gordon Louis Jackson's exclusion from Thomas Edward Campbell's estate?

A: I do not know.

Q: Do you know if Colbert Harold Campbell had any role in Gordon Louis Jackson's exclusion from Thomas Edward Campbell's estate?

A: I do not know.

Q: Do you know if Vivian C. Gardner had any role in Gordon Louis Jackson's exclusion from Thomas Edward Campbell's estate?

A: I do not know.

Q: And last, do you know if Charles Campbell had any role in Gordon Louis Jackson's exclusion from Thomas Edward Campbell's estate?

A: I do not know.

Q: All right. Do you know if either of the children named in this lawsuit of Claude Campbell, who are Sonja Campbell Parker and Barry Campbell, had any role in Gordon Louis Jackson's exclusion from Thomas Edward Campbell's estate?

A: I don't know.

Q: Do you know of anything Thomas Claytor Campbell's son, Claytor -- or Tommy Campbell, had in Gordon Louis Jackson's exclusion from Thomas Edward Campbell's estate?

A: No.

Q: Do you know of any role played by Frances Campbell, the widow of Colbert Campbell, in Gordon Louis Jackson's exclusion from Thomas Edward Campbell's estate?

A: No.

Q: Do you know of any role played by Maxine Campbell in Gordon Louis Jackson's exclusion from Thomas Edward Campbell's estate?

A: No.

Q: Do you know of anything that Claude

Campbell did that was wrong or fraudulent to your late husband, Gordon Louis Jackson?

A: I don't know.

Q: Do you know of anything that Thomas Claytor Campbell did that was wrong or fraudulent to your late husband Gordon Louis Jackson?

A: No.

Q: Do you know of anything that Colbert Harold Campbell did that was wrong or fraudulent to your late husband Gordon Louis Jackson?

A: No.

Q: Do you know of anything that Vivian Gardner did that was wrong or fraudulent to your late husband Gordon Louis Jackson?

A: No.

Q: Do you know of anything that Charles Edward Campbell did that was wrong or fraudulent to your late husband Gordon Louis Jackson?

A: No.

Q: Do you know of anything that the children of Claude E. Campbell who are named in this lawsuit, Sonja Campbell Parker and Barry Campbell, did that was wrong or fraudulent to Gordon Louis Jackson?

A: I don't know.

Q: Do you know of anything that the widow of

Colbert Harold Campbell, Frances Campbell, did that was wrong or fraudulent to Gordon Louis Jackson?

A: No.

Q: Do you know of anything that the child of Thomas Claytor Campbell, Tommy Campbell, Jr., did that was wrong or fraudulent to Gordon Louis Jackson?

A: No.

Q: And last, do you know of anything that Maxine Watts Campbell has done that was wrong or fraudulent to Gordon Louis Jackson?

A: No.

Q: Okay. Other than what you've told me about Claude being kind to you and your interactions, do you have any evidence that any of the five Campbell children, Claude, Thomas Claytor Campbell, Colbert Harold Campbell, Vivian Gardner, and Charles E. Campbell knew that Gordon Louis Jackson was Thomas Edward Campbell's son when the estate of Thomas Edward Campbell was opened?

A: I don't know.

Q: Okay.

MR. PORTER: Would y'all like to take a bathroom break?

MR. GLEISSNER: No. I'm fine.

MR. PORTER: Cool. Are you good?

THE WITNESS: Yes.

Q: Okay. Do you have any evidence that anyone committed a fraud to keep Gordon Louis Jackson from receiving a portion of the estate of Thomas Edward Campbell?

A: I do not know.

Q: Do you know if anybody had a duty to notify Gordon Louis Jackson about the death of Thomas Edward Campbell?

MR. GLEISSNER: Object to ---

A: Repeat that, please.

MR. GLEISSNER: Oh.

THE WITNESS: Oh.

MR. GLEISSNER: Never mind.

A: Go ahead.

Q: Do you know if anybody had a duty to notify Gordon Louis Jackson about the death of Thomas Edward Campbell?

MR. GLEISSNER: Object to the form.

Go head and answer.

A: I don't know.

Q: When did Gordon Louis Jackson learn that Thomas Edward Campbell died?

A: I don't know.

Q: When did you learn that Thomas Edward Campbell had died?
A: I heard it in the news and phone calls.
Q: So shortly after his death?
A: Uh-huh.
MR. GLEISSNER: Is that a "yes"?
A: Oh, yes.
Q: Would Gordon Louis Jackson have also learned shortly after his death?
A: Yes.
Q: Okay. Is there anything that prevented you or Gordon from taking legal action at that time over Thomas Edward Campbell's estate?
A: Repeat, that please.
Q: Sure. Is there anything that prevented y'all from going to take legal action at that time over Thomas Edward Campbell's estate?
A: That was my husband's choice.
Q: Okay. And so we're clear on the record, your husband knew he was Thomas Edward Campbell's son prior to Thomas Edward Campbell's death; correct?
A: Yes.
Q: And he knew about Thomas Edward Campbell's death shortly thereafter; correct?

A: Yes.
Q: And at what point did he know he was not receiving anything from Thomas Edward Campbell after his death?
A: I don't know.
Q: When did you first come to the -- do you believe -- you believe now that Gordon Louis Jackson should have received something from Thomas Edward Campbell when he died?
A: Yes.
Q: When did you first arrive at that belief?
A: From the time his daddy acknowledged that that was his son.
Q: Okay. So even before Thomas Edward Campbell died you believe that Gordon was entitled to an inheritance?
A: Yes.
Q: So when Thomas Edward Campbell died in 1982, at that time you believed Gordon Louis Jackson was entitled to an inheritance?
A: Yes. He should have got something.
Q: To your knowledge, did Gordon also believe back then in the '80s that he was entitled to an inheritance?
A: Yes.

Q: Did he take any action to receive an inheritance in the 1980s?
A: No.
Q: Did he take any action to receive an inheritance during his lifetime?
A: No.
Q: Why did you wait until 2023 to take action over this inheritance?
A: Why?
Q: Yes, ma'am.
A: Because, like I say, we had been talking and just decided to take action. That's all.
Q: When you said we were talking, you're talking about your conversations with Charles Ives?
A: And my children and my stepsons.
Q: And this -- these conversations all began following your conversations with Charles Ives; is that right?
A: Yes.
Q: Was it Charles Ives' idea to take this action?
A: No.
Q: Did Charles Ives make the discussion that you should pursue an entitlement of Thomas Edward Campbell's estate?

A: No.
Q: Okay. Has Charles Ives assisted in paying any of your legal bills?
A: No.
MR. GLEISSNER: You already answered. Never mind.
Who pays legal bills is kind of attorney-client privilege but ---
MR. PORTER: If it's the client.
MR. GLEISSNER: Never mind. She already answered.
MR. PORTER: If it's the client, yeah.
Q: But your testimony is Charles Ives has not assisted in paying your legal bills?
A: I don't know.
Q: Okay. Have you paid legal bills in this case? And give your attorney time to object if he wants to object to that question.
MR. GLEISSNER: I am going to object to that question.
A: Me too.
MR. GLEISSNER: And her too.
MR. PORTER: And I'll -- I'm not gonna require to you file a protective order.
MR. GLEISSNER: Thank you.

MR. PORTER: --- right now. I'll let you know. I may do some ruminating. I think what will probably happen is a subpoena in a different case.

MR. GLEISSNER: Ruminate away.

MR. PORTER: Yeah. Well, I'm not gonna put you on a five-day clock until I get done ruminating. That works?

MR. GLEISSNER: I appreciate it.

MR. PORTER: Cool.

Q: All right. Did you ever look into legal claims over the estate of Thomas Edward Campbell prior to Gordon Louis Jackson dying?

A: Repeat that, please.

Q: Yes, ma'am. Did you or you and your husband ever look into pursuing legal claims over the estate of Thomas Edward Campbell prior to your husband's death?

A: No.

Q: And it's fair to say y'all never met with a lawyer about potential claims, you and your husband never met with a lawyer about potential claims during your husband's lifetime?

A: No.

Q: I created a double negative. Did you and

your husband ever meet with a lawyer about potential claims over this estate during your husband's lifetime?

A: No.

Q: Have you personally reviewed any probate documents from the estate of Thomas Edward Campbell?

A: No.

Q: Did you review your lawsuit in this case before it was filed?

A: Repeat that, please.

Q: Did you review the complaint in this case before it was filed?

A: No.

Q: Have you reviewed the complaint in this case?

A: No.

Q: Now, I'll ask a question. Give your lawyer an appropriate amount of time to object. But I think the final part of this question will trigger -- well, I don't think it would be priveledged, but obviously they can still object if they want.

Have any of your legal bills in this case been paid or agreed to have been paid by any third parties, meaning people who are not parties to

this lawsuit?
A: Repeat that again.
Q: Sure. Has anyone who is not a party to this lawsuit agreed to pay your legal bills in this case?
A: No.
Q: Okay.
MR. GLEISSNER: I guess I should have objected but ...
THE WITNESS: Well, you got to speak up.
MR. GLEISSNER: I'm sorry. I should have objected but ---
THE WITNESS: Don't leave me out this ---
MR. GLEISSNER: I knew the answer, so I didn't object.
THE WITNESS: --- drowning.
Q: And your testimony earlier was you found your lawyers in this case through Charles Ives; is that correct?
A: Yes.
Q: Okay. How did that come about? Did he recommend you call these lawyers?
A: I don't remember.
Q: Okay. And you've known Charles Ives for approximately four years?

A: Yes.
Q: Okay. Other than your family members who are in this lawsuit, so that's Melissa, Tyre, Reginald, Bryant, Andre, and Timothy, do you know of anybody who has knowledge of facts or circumstances that are relevant to Gordon Louis Jackson, the claim that Gordon Louis Jackson is Thomas Edward Campbell's son?
A: Repeat that, please.
Q: Sure. Do you know of anybody who's gonna be able to testify that Gordon Louis Jackson is Thomas Edward Campbell's son?
A: No.
Q: Okay. Did Gordon Louis Jackson publicly claim to people other than you during his lifetime that he was Thomas Edward Campbell's son?
A: He said he did, but I don't know.
Q: Did you ever witness him tell someone other than you that he was Thomas Edward Campbell's son?
A: Just the guys he used to hang out with.
Q: Okay.
MR. PORTER: This will be Exhibit 1.
- - -
(Probate Court Estate Documents

of Thomas Edward Campbell Bates Labeled 230 - 235, marked Defendants' Exhibit Number 1 for identification.)

- - -

MR. HARLING: What number is this?

MR. PORTER: 1.

Q: I've handed you several documents that bear the Bates number Campbell 230 through 235. Have you ever seen these documents before?

A: No.

Q: These are documents from the estate of Thomas Edward Campbell. It reflects that Thomas Edward Campbell died without a will on June 12th of 1982. My first question is: Do you have any reason to assert that there is a will that exists or existed as of 1982 when Thomas Edward Campbell died?

A: I got the indication from him that it was. Now, I can't prove it.

Q: What did he say to indicate that to you?

A: Because like I said, he mentioned about Gordon coming back that Monday. And that's all I know.

Q: Okay. And this lists five children of Thomas Edward Campbell on page 1, Claude Campbell,

Claytor Campbell, Colbert Harold Campbell, Vivian Gardner, and Charles Edward Campbell. And these are said by this document to be the only heirs-at-law. Do you know of any -- strike that.

Do you know of -- yeah, I think we've asked that. Bear with me.

Turn to the page that -- on the bottom right, says 232.

A: Uh-huh.

Q: This states that Claude Campbell was the administrator of the estate of Thomas Edward Campbell. Do you know of any role that any of the other Campbell children played in the processing of the estate other than Claude Campbell's role as administrator?

A: No.

Q: And turn to the last page, please. This states that the administrator complied with Section 41 of the Probate Code and published in conformity with law at least one month a citation calling upon all parties concerned to show cause before the 22nd day of August 1983 for why an application for probate should not be granted and that that citation was published in the Chronicle Independent. Do you have any reason to believe that is not true that an

advertisement for this estate was published for a month in the Chronicle Independent?

A: Say that again, please.

MR. GLEISSNER: He's reading this part.

Q: Do you have any reason to believe that what's stated on page 235, that an advertisement for this estate was run for a month in the Chronicle Independent Newspaper was not true, that that didn't actually happen?

A: It probably did.

Q: Were you aware that there was a newspaper in Kershaw County called the Chronicle Independent?

A: Yes.

Q: Okay. And you and your husband were aware that Thomas Edward Campbell died in Kershaw County; is that right?

A: Yes.

Q: You and your husband would have been able to purchase that newspaper at that time if they wanted to [sic]; is that right?

A: True.

Q: All right.

MR. PORTER: One more exhibit.

- - -

(Copy of Obituary of Gordon

Louis Jackson, marked Defendants' Exhibit Number 2 for identification.)

- - -

Q: I've handed you what has been marked as Exhibit 2, and I apologize the printout's a little funky.

A: Uh-huh.

Q: This was filed as an exhibit to a motion in your case. Does this appear to be an accurate copy of the obituary for your late husband, Gordon Louis Jackson?

A: Yes.

Q: And are the days of life correct, June 1, 1941, to December 29th, 2013?

A: Yes.

Q: Is there anything that you know that we haven't talked about here today that leads you to believe that Gordon Louis Jackson was entitled to a share of the estate of Thomas Edward Campbell?

A: Yes. Because Mr. Thomas Edward Campbell said that he had a plot for each one of his children at Highway Pentecostal Church.

Q: Okay.

A: And he named the children.

Q: Who did he name?
A: Oh, now, I didn't -- I can't call them, but he named all his children, and that was it.
Q: How many did he name?
A: He named at least about seven.
Q: Okay. Was Gordon Louis Jackson buried in a plot at that church?
A: No.
Q: Okay. Were you ever given the plot or any title to a plot at that church?
A: No. I just know what his daddy said. That's all.
Q: Anything else that we haven't talked about today that causes you to believe that Gordon Louis Jackson was entitled or his entitled to a share of Thomas Edward Campbell's estate?
A: No.
MR. PORTER: All right. Let's take a five-minute break. I may be done. Thank you, ma'am.

- - -

(A break was taken.)

- - -

- - -

(Amended Summons and Complaint,

marked Defendants' Exhibit Number 3 for identification.)

- - -

Q: Ms. Jackson, are you ready?

A: Yes.

Q: Okay. Thank you. The dates of your husband's life, we didn't put in the record his birthdate, so let me put that in the record. Do you agree he was born on June 1, 1941?

A: Yes.

Q: Did y'all go to -- did you and your husband go to T.E. Campbell's visitation or funeral?

A: We went to the funeral.

Q: Okay. Did you talk to any of the children of T.E. Campbell who were in attendance at the funeral?

A: Yes. We spoke to several people.

Q: Which of the kids? Do ---

A: Don't remember. We spoke, and that was it.

Q: When's the last time you talked to Charles Ives?

A: Been a long time now.

Q: Has Charles Ives -- I asked you about bill pay. Has Charles Ives offered to provide testimony

for you in this lawsuit?

A: No.

Q: Okay. Has Charles Ives offered you any other sort of support or benefit?

A: No.

Q: Okay. I've handed you what's been marked as Exhibit 3 to your deposition.

A: Uh-huh.

Q: And this is a copy of the amended complaint in your case. Have you seen this before?

A: I don't think so.

Q: Okay. Paragraph 17 of the complaint on page 3, it says that the defendants knew or should have known that Gordon Louis Jackson was a natural child of Thomas Edward Campbell. Do you believe that Thomas Edward Campbell's children who are named in the complaint knew or should have known that Gordon Louis Jackson was a natural child of Thomas Edward Campbell?

MR. HARLING: Object to the form.

Q: Let's break that up. Do you know if any of the children -- and let's look at Exhibit 1. The front of the Exhibit 1 lists Claude through Charles E. Do you know if any of them five kids of Thomas Edward Campbell, Claude, Claytor, Colbert, Vivian,

and Charles knew that Gordon Louis Jackson was a natural child of Thomas Edward Campbell?

MR. HARLING: Object to the form.

A: I don't know.

Q: Okay. Do you know if any of them should have known that Gordon Louis Jackson is a natural child of Thomas Edward Campbell?

A: At least maybe Claude.

Q: And what do you base that on?

A: Because Claude had other outside children also.

Q: Anything else?

A: That's it.

Q: All right. Turn with me to page 5 of the amended complaint, please.

A: Okay.

Q: At paragraph 25 it says that the defendants used actual or constructive fraud, duress, abuse of confidence, or unconscionable conduct in order to acquire the property. Do you have any knowledge of any of the Campbell children who are listed on Exhibit 1, Claude, Claytor, Colbert, Vivian, and Charles using actual or constructive fraud, duress, abuse of confidence, or unconscionable conduct in order to inherit from

Thomas Edward Campbell?

MR. HARLING: Object to the form.

A: No, I don't know.

Q: Do you have any evidence or knowledge of any of those five people doing anything with actual or constructive fraud, duress, abuse of confidence, or unconscionable conduct to your late husband, Gordon Louis Jackson?

MR. HARLING: Object to the form.

A: No. Not that I'm aware.

Q: Let me ask you in plain English. What bad things have Claude Campbell, Claytor Campbell, Colbert Campbell, Vivian Gardner, or Charles Campbell done to Gordon Louis Jackson?

A: Nothing. Not I'm aware of.

Q: In this lawsuit you're seeking money damages. Do you know how much damages you're seeking?

A: No.

Q: And have you been involved in any efforts to provide a calculation for the damages you're seeking?

A: No.

MR. PORTER: I don't have any other questions. Thank you, ma'am. It's good to

meet you.

THE WITNESS: You're welcome.

MR. GLEISSNER: We don't have any questions.

- - -

(Witness excused.)

- - -

(The deposition was concluded at 11:05 a.m.)

- - -

SIGNATURE OF DEPONENT

I, the undersigned, MARY DOW JACKSON, do hereby certify that I have read the foregoing deposition transcript and find it to be a true and accurate transcription of my testimony, with the following corrections, if any:

PAGE	LINE	CHANGE
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DATE MARY DOW JACKSON

CERTIFICATE OF REPORTER

I, Cortney N. Glover, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing deposition was taken before me on the date and at the time and location stated on page 1 of this transcript; that the deponent was duly sworn to testify to the truth, the whole truth, and nothing but the truth; that the testimony of the deponent and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed; that the foregoing deposition as typed is a true, accurate, and complete record of the testimony of the deponent and of all objections made at the time of the examination to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof. Witness my hand, I have hereunto affixed my official seal this 27th day of March 2025, at Columbia, Lexington County, South Carolina.

_____

Cortney N. Glover,
Registered Professional Reporter
Notary Public
State of South Carolina at Large
My Commission expires:
December 1st, 2025

ELECTRONICALLY FILED - 2024 Dec 09 3:18 PM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMBPELL; THOMAS CLAYTOR CAMPBELL; THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL; VIVIAN C. GARDNER; AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2024CP2800123 **MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION TO STRIKE**

TO: THE HONORABLE COURT AND DEFENDANTS:

Plaintiffs submit this memorandum in opposition to Defendants' Motion to Strike. For the reasons set forth herein, the previous filings with the court, and the argument of counsel, Defendants' motion should be denied and Defendants should remain in default.

Defendants are in default in this matter for failing to timely answer Plaintiffs' complaint. Pursuant to SCRCP 55, "When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter his default upon the calendar (file book)."

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Defendants in this matter have moved to strike Plaintiffs' motion for entry of default pursuant to SCRCP 11[1]. By way of background, Defendants filed a motion to dismiss in response to Plaintiffs' complaint. This motion was denied by the court on May 10, 2024. Plaintiffs filed their motion for entry of default on June 17, 2024. Defendants filed their answer to the complaint also on June 17, 2024. SCRCP 12(a) states: "The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the Court: (1) if the Court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 15 days after notice of the Court's action…" Per the language of the rule, Defendants were in default on the sixteenth day after their motion was denied. Curiously, Defendants did not move to set aside the entry of default on that date. Instead, Defendants waited until November 8, 2024, to file a "Memorandum in Opposition to Plaintiffs' Motion for Entry of Default" and a "Motion to Strike" on November 12, 2024. Defendants waited 38 days to answer the complaint and 181 days to seek relief from the entry of default.

Per the language of Rule 55(a), all that is required for default to be entered against a defendant is an affidavit stating the defendant has "failed to plead or other defend." Defendants' argument that Rule 11 must be complied with in order for default to be entered is without merit. Entry of default is a ministerial act which a clerk is required to perform once default is made to appear by affidavit. *Stark Truss Co. v. Superior Const. Corp.*, 360 S.C. 503, 509, 602 S.E.2d 99, 102 (Ct. App. 2004). A ministerial act or duty is one which a person performs because of a legal mandate which is defined with such precision as to leave nothing to the exercise of discretion. *Edwards v. State,* 383 S.C. 82, 96, 678 S.E.2d 412, 419 (2009). The Notes to the 1989 Amendments to Rule 11 state the "amendment to Rule 11(a) requires that a movant make a 'good

[1] Defendants' motion incorrectly states Plaintiffs filed a motion for default judgment.

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faith' effort to resolve a dispute before filing a motion and to so certify…" There was no dispute to be resolved as the Defendants did not timely "plead or otherwise defend as provided by these rules…" In response to Defendants' failure to act, Plaintiffs requested the clerk of court to perform its ministerial act of entering default as to the Defendants. Defendants' motion to strike and memorandum in opposition are further acknowledgment there was no dispute that needed to be resolved.

Defendants repeatedly state they are not in default because the default was never entered by the clerk. However, whether default was actually entered on the calendar is not of consequence since the entry of default is a purely ministerial act which the clerk is required to perform once the default is made to appear by the plaintiff's affidavit. *Thynes v. Lloyd*, 294 S.C. 152, 154, 363 S.E.2d 122, 123 (Ct. App. 1987).

In an abundance of caution, Plaintiffs' will address setting aside the entry of default. The standard for a party seeking relief from an entry of default under rule allowing relief from default for mere "good cause" requires the party to provide an explanation for the default and give reasons why vacation of the default entry would serve the interests of justice, and once a party has put forth a satisfactory explanation for the default, the trial court must also consider: (1) the timing of the motion for relief, (2) whether the defendant has a meritorious defense, and (3) the degree of prejudice to the plaintiff if relief is granted; the trial court need not make specific findings of fact for each factor if there is sufficient evidentiary support on the record for the finding of the lack of good cause. *Sundown Operating Co. v. Intedge Indus., Inc.*, 383 S.C. 601, 681 S.E.2d 885 (2009).

Defendants have not put forth a satisfactory explanation for the default in this matter. Defendants cite inattention and inadvertent mistake as the reason an answer to the complaint was not filed. The negligence of an attorney is imputed to client in failing to file an answer and does

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not satisfy the good cause standard for setting aside an entry of default. *See Sundown*, at 618; *Richardson v. P.V., Inc.*, 383 S.C. 610, 682 S.E.2d 263 (2009); and *Williams v. Vanvolkenburg*, 312 S.C. 373, 375, 440 S.E.2d 408, 409 (Ct. App. 1994). Defendants simply did not answer the complaint, and this does not meet the "good cause" standard.

Furthermore, the timeliness of the request for relief supports upholding the entry of default. The request for entry of default was filed on June 17, 2024. Despite notice of the request for entry of default, Defendants did not immediately file for relief from the default entry. If one considers the Defendants' Memorandum in Opposition to the Motion for Entry of Default as a motion to set aside the default, a request to set aside or strike the entry of default was not filed until November 12, 2024. In *Stark Truss Co. v. Superior Const. Corp.*, 360 S.C. 503, 510, 602 S.E.2d 99, 103 (Ct. App. 2004), the Court of Appeals upheld an entry of default when the motion for relief was filed over a month after the entry of default.

Defendants have not provided a satisfactory explanation for failing to answer the Complaint in this matter and has failed to meet the "good cause" standard for relief under SCRCP 55. For the reasons stated herein, Defendants' motion to strike or set aside the entry of default should be denied.

Respectfully submitted,

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Columbia, South Carolina
December 9, 2024

ELECTRONICALLY FILED - 2024 Dec 09 3:18 PM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

ELECTRONICALLY FILED - 2024 Nov 14 12:34 PM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA

COUNTY OF KERSHAW

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, And Timothy Johnson,

Plaintiffs,

v.

The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, the Estate of Colbert Harold Campbell, by and through Frances C. Campbell, Vivian C. Gardner, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell,

Defendants.

C/A No.: 2024-CP-28-00213

MOTION FOR SUBSTITUTION OF PARTY DEFENDANT THOMAS CLAYTOR CAMPBELL, SR.

The parties jointly move to substitute a Defendant who is deceased as follows:

1. Thomas Clayter Campbell, Jr., as Personal Representative and Trustee for the Estate and Testamentary Trust of Thomas Clayter Campbell, Sr. by and through the undersigned counsel, and pursuant to Rule 25(a), SCRCP, hereby moves to be substituted as a party Defendant for Thomas Clayter Campbell Sr. in this matter. This is based on the following:
    a. Defendant Thomas Clayter Campbell (Full Name "Thomas Clayter Campbell Sr.") passed away on August 26, 2024.
    b. Thereafter, Thomas Clayter Campbell, Jr. was appointed as the representative and trustee to the estate and trust of Thomas Clayter Campbell Sr.
    c. All parties have been notified and consent to the substitution.

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d. The substitution of Thomas Clayter Campbell Jr., as a party Defendant, will not prejudice any party involved in this matter and will allow the case to proceed without delay.

WHEREFORE, the parties respectfully request that this Court GRANT this motion and enter an Order: (1) substituting Thomas Clayter Campbell, Jr., as Personal Representative and Trustee for the Estate and Testamentary Trust of Thomas Clayter Campbell, Sr for Defendant Thomas Clayter Campbell.

The new caption of this action should read:

Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, And Timothy Johnson,

Plaintiffs,

v.

The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, Jr. as Personal Representative and Trustee for the Estate and Testamentary Trust of Thomas Clayter Campbell, Sr,, the Estate of Colbert Harold Campbell, by and through Frances C. Campbell, Vivian C. Gardner, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell,

BY: *s/Richard Gleissner*
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BY: *s/J. Paul Porter*
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803-799-9530

Attorneys for Defendants

November 14, 2024
Columbia, South Carolina

ELECTRONICALLY FILED - 2024 Nov 12 8:59 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT
Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, And Timothy Johnson, Plaintiffs, v. The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, the Estate of Colbert Harold Campbell, Vivian C. Gardner, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell, Defendants.	C/A No.: 2024-CP-28-00123 **MOTION TO STRIKE**

Defendants move to strike Plaintiff's motion for default judgment filed on June 17, 2024, pursuant to Rule 11, SCRCP.

The basis for this motion is that the Plaintiffs failed to confer with counsel for the Defendants prior to filing their motion and failed to include a certification in their motion stating that they had conferred or that they did not confer because it would serve no useful purpose.

Rule 11, SCRCP says:

> **All motions filed shall contain** an affirmation that the movant's counsel prior to filing the motion has communicated, orally or in writing, with opposing counsel and has attempted in good faith to resolve the matter contained in the motion, unless the movant's counsel certifies that consultation would serve no useful purpose, or could not be timely held. There is no duty of consultation on motions to dismiss, for summary judgment, for new trial, or judgment NOV, or on motions in Family Court for temporary relief pursuant to Family Court Rule 21, or in real estate foreclosure cases, or with pro se litigants.

Rule 11 continues:

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> If a pleading, motion or other paper is not signed **or does not comply with this Rule**, **it shall be stricken** unless it is signed promptly after the omission is called to the attention of the pleader or movant.

(Emphasis Added).

Defendants were represented by the undersigned, who had made an appearance in this matter prior to Plaintiffs filing their motion for entry of default. Accordingly, Plaintiffs were required to consult with the undersigned prior to filing their motion for default. Having failed to do so, their motion should be stricken, and Defendants should be awarded any other relief the Court deems just and proper under Rule 11.

Counsel for the Defendants conferred with Plaintiffs' counsel prior to filing this motion; however, this matter could not be resolved short of filing this motion.

The Plaintiffs' motion, in which they seek to prevail on a technicality, is itself technically flawed and therefore must be stricken.

Respectfully Submitted,

CROMER BABB & PORTER, LLC

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Attorneys for Defendants

November 12, 2024
Columbia, South Carolina

ELECTRONICALLY FILED - 2024 Nov 08 9:13 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT
Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, And Timothy Johnson, Plaintiffs, v. The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, the Estate of Colbert Harold Campbell, Vivian C. Gardner, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell, Defendants.	C/A No.: 2024-CP-28-00123 **MEMORANDUM IN OPPOSITION TO PLAINTIFFS' MOTION FOR ENTRY OF DEFAULT**

Defendants, based on good cause, ask this Court **to deny** Plaintiffs' motion for entry of default in this case. S.C. R. Civ. P. Rule 55(c). The Court should deny default as set forth below and this case should be decided on the law and merits of the case.

As expounded upon below, default should be denied based on the following particulars:

1. Plaintiffs moved for default on June 17, 2024, at 11:14 a.m. Plaintiffs did not request a hearing on their motion.
2. Defendants filed an answer within 1 hour of that motion at 11:55 a.m.
3. No default has been entered. This matter is not in default.
4. Defense counsel made a technical mistake in failing to timely answer after the Court's ruling on Defendants' motion to dismiss, and an answer was less than a month overdue when Plaintiffs, without prior consultation, filed their motion for default.
5. Defense counsel's mistake was made upon good cause as set forth in the attached affidavit of counsel.

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6. Defense counsel immediately sought an extension to answer from Plaintiffs' counsel, upon learning of the error, but Plaintiffs' counsel heretofore has not responded to Defense counsel's request.
7. Defendants possess meritorious defenses to Plaintiff's.

Plaintiffs underlying lawsuits seek a declaratory judgment and asserts equitable claims for constructive trust and unjust enrichment. The basic allegation underlying Plaintiffs' claims is that Gordon Louis Jackson, who died in 2014, was born out of wedlock to a man named Thomas Edward Campbell who died in 1982, intestate, with his estate passing to his heirs-at-law, of whom the Defendants are (with the exception of Vivian C. Gardner) down-the-line beneficiaries of those heirs-at-law. Plaintiffs claim that because Jackson was an illegitimate child of Thomas Edward Campbell, they should be able to make a claim in Circuit Court on TE Campbell's intestate estate 40 years after TE Campbell died and 10 years after Jackson, himself, died.

Defendants ask the Court to deny Plaintiffs' motion for entry of default so that this case can be decided on its merits; **rather than**, a promptly remedied technical defect which occurred under circumstances that demonstrate good cause.

BACKGROUND

Defendants are all heirs of the estate of Thomas Edward Campbell. Plaintiffs are all related to, and have brought these claims on behalf of, Gordon Louis Jackson's estate. (Dkt. 1: Am. Compl.); (Ex. 1: TE Campbell Estate Docs)

Gordon Louis Jackson died on January 1, 2014. (Ex. 2: Gordon Louis Jackson Obit).

T.E. Campbell was murdered in 1982 and died intestate. (Am. Compl. ¶ 13). Upon his death, his estate was probated in Kershaw County and divided among his five legitimate children, Claude, Clayter, Colbert, Charles, and Vivian. (Am. Compl. ¶¶ 13, 16).

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Plaintiffs assert that Mr. Jackson was an illegitimate child of T.E. Campbell and claim that he was wrongfully left out of the distributions of his estate. (Am. Compl. ¶ 18). Plaintiffs further assert that Defendants knew or should have known that Mr. Jackson was entitled to a share of T.E. Campbell's estate. (Am. Compl. ¶ 19).

Plaintiffs allege claims for declaratory judgment, constructive trust, and unjust enrichment. (Am. Compl.).

Defendants deny all the salient facts underlying Plaintiffs' claims. (Ex. 2: Proposed Answer ¶¶ 13, 16). Specifically, Defendants deny Gordon Louis Jackson was a son of T.E. Campbell born out of wedlock and/or that they knew about his existence. (*Id.*) However, even if Jackson were T.E. Campbell's son, born out of wedlock, he could not have collected anything from T.E. Campbell's intestate estate in 1982, and cannot collect from that estate now, 40 years after the fact.

PROCEDURAL HISTORY

Plaintiffs filed their Summons and Complaint on August 17, 2023, in the Richland County Court of Common Pleas.

Defendants filed a Motion to Dismiss under 12(b)(6) and 12(b)(3) on September 15, 2023, in the Richland County Court of Common Pleas.

Defense counsel was under the mistaken belief that they filed an answer contemporaneously with that motion.

Plaintiff consented to transfer of venue to the Kershaw County Court of Common Pleas on February 21, 2024.

The Honorable Jocelyn Newman heard the 12(b)(6) motion on May 9, 2024, and issued an order denying the Motion to Dismiss by Form 4 Order on May 10, 2024.

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Defendants, because of Defense Counsel's firmly held, but mistaken belief that an answer had already been filed did not file an Answer within 15 days thereafter.[1]

Plaintiffs, without prior consultation or a certification that consultation could not or need not be attempted, filed their Motion for Entry of Default on June 17, 2024, at 11:14 a.m.

After realizing that no answer was filed contemporaneously with the Motion to Dismiss, Defendants filed their Answer at 11:55 a.m. the same day.

Next, at 12:02 p.m. that same day (June 17, 2024), Defense Counsel promptly acknowledged filing a tardy Answer, requested a retroactive extension to answer, and requested the withdraw of Plaintiff's motion for default. Plaintiffs' counsel did not respond to the request. Defense counsel sent a follow-up email a week later (June 24, 2024) Plaintiffs' counsel again did not respond to the request. (Ex. 3: 6/17/24 Email Chain).[2]

Thereafter, Defense Counsel has awaited a hearing on this matter.

STANDARD OF REVIEW

No default has been entered in this matter. Nonetheless, since Plaintiffs are seeking an entry of default, the standards for lifting an entry of default and obtaining relief from judgment are stated below.

Rule 55(c) of the South Carolina Rules of Civil Procedure, which is identical to the Federal Rules of Civil Procedure Rule 55(c), says that the Court may lift an entry of default for "good cause." The good cause standard "requires a party seeking relief from an entry of default under Rule 55(c) to provide an explanation for the default and give reasons why vacation of the entry of default would

[1] The technical due date for the Answer was May 28, 2024. May 25, 2024, was the Saturday before Memorial Day.

[2] Plaintiffs' counsel did tell defense counsel on the telephone he would seek permission from his clients to respond to the request but has heretofore not given a response.

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serve the interests of justice." *Sundown Operating Co. v. Intedge Indus.* 383 S.C. 601, 608, 681 S.E.2d 885, 888 (2009). Whether good cause is established is within the sound discretion of the court. *Williams v. Vanvolkenburg*, 312 S.C. 373, 440 S.E.2d 408, 409 (Ct. App. 1994).

"Once a party has put forth a satisfactory explanation for the default, the trial court must also consider: (1) the timing of a motion for relief; (2) whether the defendant has a meritorious defense; and (3) the degree of prejudice to the plaintiff if relief is granted." *Weeks v. Drawdy (In re Estate of Weeks)*, 329 S.C. 251, 259, 495 S.E.2d 454, 459 (Ct. App. 1997).

Additionally, while obtaining relief from judgment under Rule 60(b) requires a higher standard than does the setting aside of an entry of default under Rule 55(c), the criteria of Rule 60(b) "are relevant in determining whether good cause has been shown under Rule 55(c)." *Sundown*, at 608, 681 S.E.2d at 889. These criteria are "mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, [and] misrepresentation." *Id.* However, while these criteria may help establish that there is good cause present, "no trial court should ever find good cause lacking based solely on the absence of a Rule 60(b) factor." *Id.*

The discretionary nature of the good cause standard "makes it clear that the party requesting a judgment by default is not entitled to one as of right, even when the defendant is technically in default." *Weeks*, 329 S.C. 251 at 259, 495 S.E.2d at 459. The language of Rule 55(c) allowing the setting aside of default for good cause should be "liberally construed" given the law's preference for promoting justice and for deciding cases on the merits. *Id.*

DISCUSSION

When deciding whether to set aside an entry of default, a court should consider whether the moving party has put forth a satisfactory explanation for the circumstances which led to an entry of default, as well as consider: (1) the timing of the motion, (2) whether the moving party has meritorious defenses; and (3) whether the plaintiff will suffer prejudice if default is not entered. *Id.*

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In this case, there are additional threshold problems that undermine Plaintiffs' entitlement to default.

1. This matter is not in default.

Forty-one minutes after Plaintiffs filed their motion for default, Defendants filed their answer.

As stated above, Plaintiffs' Counsel did not consult with Defense Counsel prior to filing their motion. Had they done so, this error would have been promptly remedied.

The Court heretofore has not entered this matter into default.

Defendants have answered; therefore, as a matter of civil procedure, **this case is not in default.** *See*, *Weeks*, 329 S.C. 251 at 259, 495 S.E.2d at 459. ("[T]he party requesting a judgment by default is not entitled to one as of right, even when the defendant is technically in default.").

2. Plaintiffs' motion for default did not comply with Rule 11, SCRCP.

This default was filed after a ruling on a motion to dismiss. Meaning there was already counsel of record for the Defendants when it was filed.

Plaintiffs sought this entry of default by way of a **motion**. In accordance with Rule 11, SCRCP, Plaintiffs counsel was required to consult with defense counsel prior to filing a motion of this sort or was required to certify in their motion that consultation would serve no useful purpose. Plaintiff's counsel failed to follow this rule in filing their motion.

Rule 11, SCRCP, as relevant, reads:

> **All motions filed shall contain** an affirmation that the movant's counsel prior to filing the motion has communicated, orally or in writing, with opposing counsel and has attempted in good faith to resolve the matter contained in the motion, unless the movant's counsel certifies that consultation would serve no useful purpose, or could not be timely held. There is no duty of consultation on motions to dismiss, for summary judgment, for new trial, or judgment NOV, or on motions in Family Court for temporary relief pursuant to Family Court Rule 21, or in real estate foreclosure cases, or with pro se litigants.

Rule 11 continues:

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> If a pleading, motion or other paper is not signed or does not comply with this Rule, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.

(*Id.*). Applying the plain language of Rule 11, Plaintiff's motion for default is invalid based on a failure to consult with opposing counsel prior to filing.

3. Defendants have good cause for filing an answer 20 Days Late.

Defense counsel was under a good faith, firmly held, mistaken belief that an Answer was filed contemporaneously with the motion to dismiss in this case. (Ex. 4: Affidavit of Paul Porter).

A multitude of extraordinary life and work events occurred simultaneously for the Defense Counsel when that motion to dismiss was filed such that this mistake of counsel was both unusual and excusable. (Aft. ¶¶ 9-10, 19). Those particulars include:

1. The birth of counsel's first child following years of difficulty having a child.
2. A particularly heavy case load including an unusual complex, hotly contested case that required immediate and extended attention upon counsel's return from a brief period of parental leave.
3. A partner separating from Defense Counsel's law firm, where Defense Counsel is the managing member, requiring agreements about disassociation, a firm rebranding, and distributing the separating partner's remaining caseload.
4. An inability to work full-time during this period due to unusual family obligations associated with having an infant, working wife/mother (until 12/31/24), and not having full time daycare.

(Aft. ¶ 9). A multitude of motions and appellate briefing was also occurring in this unusual case and several related unusual cases leading to a bevy of competing deadlines, at the time the Answer would have been due. This made it conceivable and excusable that Defense Counsel overlooked the Answer deadline. (Aft. ¶¶ 3-4, 10).

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Defense Counsel, upon learning the Answer deadline was missed, immediately filed an Answer (within 1 hour), accepted responsibility for the error, and attempted to work cooperatively with Plaintiff's counsel to resolve this issue.

These circumstances constitute good cause under the law and serve as a basis for setting aside default. *Columbia Pools, Inc. v. Galvin*, 288 S.C. 59, 61, 339 S.E.2d 524, 525 (Ct. App. 1986) ("Therefore, we hold that where there is a good faith mistake of fact, and no attempt to thwart the judicial system, there is basis for relief.").

4. The *Wham* factors favor not entering/setting aside default.

"Once a party has put forth a satisfactory explanation for the default, the trial court must also consider: (1) the timing of the motion for relief; (2) whether the defendant has a meritorious defense; and (3) the degree of prejudice to the plaintiff if relief is granted." *Sundown Operating Co. v. Intedge Indus., Inc.*, 383 S.C. 601, 607–08, 681 S.E.2d 885, 888 (2009); citing, *Wham v. Shearson Lehman Bros., Inc.,* 298 S.C. 462, 465, 381 S.E.2d 499, 501–02 (Ct.App.1989).

a. Defendants promptly filed an answer upon realizing no answer had been filed.

Under the Federal Rules of Civil Procedure, Rule 55(c), of which SCRCP Rule 15(c) is the mirror image, "[a] party attempting to set aside an entry of default must act with reasonable promptness in responding to the entry of default and provide underlying facts in support of a claim of a meritorious defense." *Wainwright's Vacations, LLC v. Pan Am. Airways Corp.*, 130 F.Supp.2d 712, 718 (D.Md.2001) (concluding a one-month delay after an entry of default was considered "reasonably prompt.").

No default has been entered. Further, Defendants' filed their answer within 1 hour of the Plaintiffs' motion for entry of default. Therefore, this factor is satisfied.

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b. Defendants have meritorious defenses.

For a defendant to sufficiently establish a meritorious defense, "he need not show that he would prevail on the merits, but only that his defense is meritorious." *McClurg v. Deaton*, 380 S.C. 563, 575, 671 S.E.2d 87, 93-94 (Ct. App. 2008). A meritorious defense is not required to be a guaranteed success at trial. *McClurg*, 380 S.C. at 575, 671 S.E.2d at 94 (quoting *Graham v. Town of Loris*, 272 S.C. 442, 248 S.E.2d 594 (1978)). Instead, it merely must be a defense that is worthy of being heard at trial on the grounds that it "raises a question of law deserving of some investigation and discussion or a real controversy as to real facts arising from conflicting or doubtful evidence." *Id.*

In this case, Defendants have meritorious defenses and should be able to defend against the claims brought against them on the merits. Each of Plaintiffs' claims are premised upon the allegation that their late husband/father is the illegitimate child of the late T.E. Campbell. Plaintiffs assert that because of this, they are, in addition to Defendants, heirs to the estate of T.E. Campbell and are entitled to a share of his estate that was probated in the early 1980s.

Defendants deny that Gordon Louis Jackson was a child of T.E. Campbell, but even if he were, he (and his heirs) are absolutely precluded from receiving anything from his estate (closed in 1984) under governing law, for the following reasons:

i. The Circuit Court does not have subject matter jurisdiction.

Probate courts have subject-matter jurisdiction to determine paternity for the purpose of determining heirs. *Neely v. Thomasson*, 365 S.C. 345, 350, 618 S.E.2d 884, 887 (2005). The relevant statute, found in the Probate Code, provides, "To the full extent permitted by the Constitution, and except as otherwise specifically provided hereinafter, **the court has exclusive original jurisdiction** over all subject matter related to: (1) estates of decedents, including the contest of wills, construction of wills, and **determination of heirs** and successors of decedents and estates of protected persons..." S.C.Code Ann. § 62–1–302 (1987) (emphases added). "Heirs" is defined as

"those persons ... who are entitled under the statute of intestate succession to the property of a decedent." S.C. Code Ann. § 62–1–201(17) (1987).

ii. This Action is Untimely.

Thomas Edward Campbell Died intestate on June 12, 1982. (Ex. 1: T. E. Campbell Probate Documents, p. 1). Thomas Edward Campbell's estate was discharged on May 31, 1984. (*Id.* at p. 6). S.C. Code § 62-2-109, the statute of heirs, says: "paternity is established by an adjudication commenced before the death of the father or within the later of eight months after the death of the father or six months after the initial appointment of a personal representative of his estate." This estate discharged in 1984 and paternity of Godon Louis Jackson by T.E. Campbell remains unestablished.

In *Parker v. Parker*, an interested party questioned the paternity of an heir and their ability to inherit through intestate succession four years after the relevant death. *Parker v. Parker*, 313 S.C. 482, 484, 443 S.E.2d 388, 389 (1994). The Supreme Court of South Carolina held, "that if paternity is questioned by either the personal representative or other interested party, … , then such action must be brought within the statutory time frame of six months after the death of the father." *Parker v. Parker*, 313 S.C. 482, 486, 443 S.E.2d 388, 390 (1994). The court further stated that the failure to act for **four years** was an "implicit waiver of a statutory right." *Parker v. Parker*, 313 S.C. 482, 488, 443 S.E.2d 388, 391 (1994). If **four years** is an implicit waiver, **forty years** certainly cannot cut it.

iii. The "Ultimate Time Limit" has run.

This is, at core, an action to challenge the probate of Thomas Edward Campbell's intestate estate. S.C. Code Ann. The "ultimate time limit" provided for in the probate code at S.C. Code Ann. § 62-3-108(A)(1) is ten years:

> (A)(1) No informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may be commenced more than ten years after the decedent's death.

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This action to determine entitlement to a share of the intestate estate of Thomas Edward Campbell, filed greater than 10 years after his death, exceeds the ultimate time limit imposed by the law.

iv. Gordon Louis Jackson was not an heir at law as a matter of law.

Illegitimate children could not collect from their father's estates in South Carolina in 1982 as a matter of law. So, assuming Mr. Jackson was a child of T.E. Campbell, he still would not have been entitled to receive a share of that estate:

> In South Carolina, where a person has the right to die intestate and during his life he is charged with full knowledge of who will succeed to his property if he dies intestate, the assumption exists that, if he dies intestate, he is satisfied with the will the law of the state made for him. []. Had James Brown inquired into the law of descent and distribution in 1974, he would have been informed that, pursuant to *Labine v. Vincent,* 401 U.S. 532, 91 S.Ct. 1017, 28 L.Ed.2d 288 (1971), illegitimate children would not inherit from their fathers' estates.

Wilson v. Jones, 281 S.C. 230, 233, 314 S.E.2d 341, 343 (1984). In 1977, the Supreme Court held a statute in Illinois which said illegitimate children could only inherit from their mother's estates violated the Equal Protection Clause. *Tirmble v. Gordon*, 430 U.S. 762, 97 S.Ct. 1459, 52 L.Ed.2d 31 (1977). The same statute in South Carolina was not struck down until 1984 in the case of *Wilson v. Jones*. 314 S.E.2d 341, 342-343 (1984).

Trimble can apply retroactively but **only in limited circumstances**. Those limited circumstances are where all of the following conditions are met:

> (1) innocent persons will not be adversely affected because of their detrimental reliance on the old rule;
>
> (2) the paternity of the child has been conclusively established either by court order or decree issued prior to the death of the father or by an instrument signed by the father acknowledging paternity; and
>
> (3) the estate administration is subject to further resolution.

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Mitchell v. Hardwick, 297 S.C. 48, 51, 374 S.E.2d 681, 683 (1988). **None of these factors are met in this case.**[3]

5. Plaintiffs will not be prejudiced if default is not entered against Defendants.

In federal court, applying a mirror rule, courts determine whether a non-defaulting party was prejudiced from a delay in a defendant's answer by examining where the delay: "(1) made it impossible for the non-defaulting party to present some of its evidence; (2) made it more difficult for the non-defaulting party to proceed with trial; (3) hampered the non-defaulting party's ability to complete discovery; and (4) was used by the defaulting party to collude or commit a fraud." *PinPoint IT Services, LLC v. Atlas IT Export Corp.*, 812 F.Supp.2d 710, 727 (E.D. Va. 2011) (quoting *Vick v. Wong*, 263 F.R.D. 325, 330 (E.D. Va. 2009)). "The ability of a non-moving party to present evidence and the ability to proceed to trial are given the most weight in determining prejudice, and mere inconveniences is insufficient to constitute prejudice to the non-moving party." *Id.*

Here, Plaintiffs have not been prejudiced by any delay. Defendants' delay has not hindered Plaintiffs' presentation of evidence in any regard, nor has there been any difficulty for the Plaintiffs to proceed to trial. Plaintiffs have served no discovery requests. If they did discovery, it would be timely responded to. Finally, Defendants' delay was also not an attempt to commit fraud, collude, nor done in any way that was more sinister than an innocent misunderstanding. Thus, at worst, Defendants' delay may have been a "mere inconvenience," and a "mere inconvenience" is not sufficient to constitute prejudice against Plaintiff. *Id.*

6. Defendants' lack of response is the result of excusable neglect under SCRCP Rule 60(b).

[3] Other legal grounds/defenses include: (1) the lack of a justiciable controversy; (2) mootness; (3) no allegation or proof of fraud or wrongdoing; (4) failure to satisfy the elements of unjust enrichment; and (4) laches.

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Courts have discretion in deciding whether to grant or deny a motion to enter default and may consider SCRCP Rule 60(b) criteria in making that determination, such as excusable neglect. South Carolina courts favor "the disposition of issues on their merits rather than on technicalities." *Mictronics, Inc. v. South Carolina Department of Revenue,* 345 S.C. 506, 548 S.E.2d 223 (S.C. Ct. App. 2001). In *Columbia Pools, Inc. v. Galvin*, the court found that the trial court erred in denying a motion to set aside a default judgment. 288 S.C. 59, 339 S.E.2d 524 (Ct. App. 1986). In that case, the court found that "where there is a good faith mistake of fact, and no attempt to thwart the judicial system, there is basis for relief." *Id.* at 61.

Furthermore, although the criteria under SCRCP Rule 60(b), such as attorney neglect, are helpful in deciding a motion to enter default, it is insufficient grounds to deny a motion to set aside default **even if** the criteria of Rule 60(b) are not met. *Sundown*, at 608, 681 S.E.2d at 889. If good cause for the delay is shown, default should not be entered.

Here, Defendants' delay in answering the Court's denial of Defendants' motion to dismiss was a good faith mistake and was certainly not an attempt to thwart the judicial system. As is discussed further in the affidavit submitted alongside this memorandum, Defense Counsel was under the belief that an answer had been filed upon the Court's denial of the motion to dismiss. (Ex. 4: Affidavit of Paul Porter). Extraordinary life and work circumstances occurred concurrently to make that mistake excusable.

This matter is not in default. Defendants have answered the complaint. The judicial process has not been halted because of Defendants' delay in answering nor have Plaintiffs been prejudiced. The resolution of this case should be based on the merits and not because of mistake, inadvertence, surprise, or excusable neglect of Defendant under SCRCP 60(b)(1). *Columbia Pools, Inc. v. Galvin*, 288 S.C. 59, 61, 339 S.E.2d 524, 525 (Ct. App. 1986) ("We favor trial of issues on merit over securing judgment by slight technicalities.").

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CONCLUSION

Defendants, considering the law's preference for deciding cases on the merits and with good cause shown, respectfully request that this Court deny Plaintiffs' Motion for Entry of Default in this case so that this case may be decided on the merits.

Respectfully Submitted,

CROMER BABB & PORTER, LLC

BY: *s*/J. Paul Porter
J. Paul Porter, Esquire (#100723)
Harper L. Hutson, Esquire (#106343)
1418 Laurel Street, Suite A (29201)
Post Office Box 11675
Columbia, South Carolina 29211
Phone: 803-799-9530
Facsimile: 803-799-9533
paul@cromerbabb.com
harper@cromerbabb.com

Attorneys for Defendants

November 8, 2024
Columbia, South Carolina

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EXHIBIT 1

Probate 444-11909

STATE OF SOUTH CAROLINA,
County of Kershaw

Ex Parte Claude E. Campbell

Petitioner,

In Re Estate of:

Thomas Edward Campbell

Deceased.

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

To Harriett S. Pierce, Probate Judge for said county:

The petition of the undersigned respectfully represents:

1. That Thomas Edward Campbell dwelt in Elgin in said County of Kershaw State aforesaid, died intestate on the 12th day of June in the year of our Lord one thousand nine hundred and eighty-two possessed of goods and estate remaining to be administered, leaving the below listed as h is only heirs at law and next of kin, the following:

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

Name	Age*	Residence	Relationship to Decedent
Claude E. Campbell	52	Elgin	Son
Clayter T. Campbell	50	Columbia	Son
Colbert Harold Campbell	48	Elgin	Son
Vivian C. Gardner	46	Elgin	Daughter
Charles E. Campbell	45	Elgin	Son

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

2. That the intestate died seized and possessed of a personal estate of about the value of Twenty-five Thousand Nine Hundred Forty-three and 85/100 ($ 25,943.85) Dollars consisting of the following moneys, goods and chattels:

(a)	Cash on hand and in banks	$ 8,443.85
(b)	Moneys due intestate on account of bonds, mortgages and other securities	$ 9,000.00
(c)	Corporate and governmental bonds and stocks	$ 100.00
(d)	Open accounts due intes'ate	$
(e)	Goods, wares, merchandise, furniture, machinery and equipment used in profession, trade or business	$
(f)	Household goods	$ 300.00
(g)	Farming implements, machinery and equipment	$ 2,000.00
(h)	Farm products	$
(i)	Mules, horses, cattle, hogs, sheep, etc.	$
(j)	Automobiles, auto trucks, motorcycles, etc.	$ 6,000.00
(k)	Jewelry, silver plate, watches and other personal effects	$ 100.00
(l)	Life or other insurance made payable to the estate	$
(m)	Value of all other personal property not listed above	$

(OVER)

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

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3. That the intestate died seized and possessed of real estate of about the value of One Hundred Ninety-six Thousand Five Hundred Thirty-seven and 00/100 ($ 196,537.00) Dollars, as follows:

DESCRIPTION OF REAL ESTATE AND APPROXIMATE VALUES

(Enter each tract and lot on a separate line).

No. of acres or lots. (State whether acres or lots.)	No. of buildings	Total value of each lot and tract including buildings	Decedent's Interest	Exact location. (Show County, Township and School District)
141.7 ac.	3	125,730.00	100%	Kershaw Co. 0350-00-00-002
3.4 ac.	1	45,874.00	100%	Lugoff, SC 0646-00-00-062
1 lot	1	14,808.00	100%	Elgin, SC 0347-LS-00-016
1 lot	0	10,125.00	100%	Elgin, SC 0347-LS-00-036

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

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

None

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

Face Value	Contract Number	Name of Company
None		

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

6. That the intestate died seized and possessed of personal property standing in joint names of two or more persons and payable to either or the survivor as follows: (Sec. 65-463, S. C. Code of Laws 1952, as amended) **(IF NONE-SO STATE)**

	FAIR MARKET VALUE AT DATE OF DEATH
A. U. S. Bonds owned jointly with right of survivorship or "payable on death"	$ None
B. Joint Bank Accounts with right of survivorship	$ "
C. Joint Accounts in Depositories or other Institutions with right of survivorship	$ "
D. Joint Stocks and Bonds with right of survivorship	$ "
E. Joint Miscellaneous property with right of survivorship	$ "

7. TRANSFERS INTENDED TO TAKE EFFECT AT DEATH (Sec. 65-461 of S. C. Code of Laws 1952, as amended). That the intestate made the following lifetime transfers of property, BOTH REAL AND PERSONAL, reserving unto transferror's self a life estate, income for life or other incidents of ownership that would preclude a fee simple title vesting in the beneficiary until the death of the transferror as follows: **(IF NONE-SO STATE)**

	FAIR MARKET VALUE AT DATE OF DEATH
A. Real Estate transferred retaining life estate	$ None
B. Trust created retaining unto self income for life, power to revoke or other incidents of ownership	$ "
C. Other transfers intended to take effect at death	$ "

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8. POWERS OF APPOINTMENT (Sec. 65-462 of S. C. Code of Laws 1952, as amended). That the intestate died seized and possessed of a power of appointment over property, both real and personal, whether testamentary or otherwise, with an estimated fair market value of (IF NONE-SO STATE) $ None

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

WHEREFORE he prays that Letters of Administration on the estate of the within named deceased be granted by this Court to Claude E. Campbell

June 22, 19 82

Claude E. Campbell
(Claude E. Campbell) Petitioner

Petitioner

STATE OF SOUTH CAROLINA,
County of Kershaw

PERSONALLY appeared Claude E. Campbell, who being duly sworn says that to the best of his knowledge, information and belief, the statements contained in the foregoing petition are true and complete.

Claude E. Campbell
Claude E. Campbell

Sworn to and subscribed before me this 22nd day of June, 19 82

Harriet S. Pierce
Notary Public for South Carolina

My Commission Expires:

QUALIFICATION OF ADMINISTRATOR

STATE OF SOUTH CAROLINA,
County of Kershaw

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

Sworn to before me this 26 day of July A. D. 19 82

Harriet S. Pierce (L. S.)
Judge of Probate

Claude E. Campbell (L. S.)

(L. S.)

Address: Elgin, S. C.

Attorney's Name and Address: Robert J. Sheheen
PO Drawer 10
Camden, S. C. 29020

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ORDER

Upon reading and filing the foregoing petition, It is Ordered, THAT CITATION DO ISSUE, and made returnable at ..... o'clock ..... , 19 ... , and that the same be published on the ..... County Court House door for two consecutive weeks, and published in .....

a newspaper published in said County and State once a week for two successive weeks.

..... , 19 .....

Probate Judge, ... County, S. C.

File No. .....

Box No. .....

Package No. .....

State of South Carolina

COUNTY OF .....

IN THE PROBATE COURT

Ex Parte

Claude E. Campbell

Petitioner

In Re the estate of

Thomas Edward Campbell

Deceased

PETITION FOR LETTERS OF ADMINISTRATION AND ORDER FOR CITATION TO ISSUE

Filed ..... , 19 ...

Probate Judge, Kershaw County, S. C.

Robert J. Sheheen

Attorney for Petitioner

MANIFESTLY NON-TAXABLE

(To be executed by the Probate Judge in those cases where he is convinced that the foregoing petition contains a full and true report of all of the assets in the subject estate and that the said estate is non-taxable under the provisions of the Inheritance Tax Laws of the State of South Carolina.)

STATE OF SOUTH CAROLINA

COUNTY OF .....

Now comes ....., as Judge of Probate of and for ..... County, and certifies to the South Carolina Tax Commission that, pursuing to the foregoing record of the above captioned estate on file in the Probate Court of and for said County, and based upon the value of the aggregate assets of said estate and the heirs therein concerned, such estate is manifestly non-taxable to the best of his knowledge, information and belief.

Given under my hand and official seal this the ..... day of ..... 19 .....

SEAL

..... Judge of Probate

COUNTY OF .....

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Apt. 464, Pkg. 11909

DESCRIPTION OF REAL ESTATE

Page_____

Owned by Thomas Edward Campbell

Located in Kershaw County

At Date of Death

Filed by Claude E. Campbell, Administrator

the 31st day of May, 1984, ~~xxxx~~

Acres or Lots	Township	Devised To Or Inherited By
3.4 acres	Kershaw County	Claude E. Campbell T. Clayter Campbell Colbert Harold Campbell Vivian C. Gardner Charles E. Campbell

DESCRIPTION, GIVING BOUNDARIES, MEASUREMENTS AND DERIVATION

All that piece, parcel, or tract of land, with improvements thereon, lying and being in Wateree Township, Kershaw County, South Carolina, fronting on the South side of U. S. Highway #1, for a distance of Four Hundred Sixty-eight (468.0) feet, more or less, and containing 3.4 acres, more or less, and being bounded as follows: NORTH by U. S. Highway #1; NORTHEAST and EAST by property of Campbell; SOUTH by property of Parker; and WEST by church property and property of Lee.

The above described property is the same conveyed to T. E. Campbell by deed of B. D. Cowan, et. al., d/b/a/ Holly Company, dated January 16, 1967, and recorded in the office of the Clerk of Court for Kershaw County in Book HR at page 1929. T. E. Campbell subsequently died intestate on June 12, 1982, and this property was devised to Claude E. Campbell, T. Clayter Campbell, Colbert Harold Campbell, Vivian C. Gardner, and Charles E. Campbell, his heirs-at-law.

Tax Map #0646-00-00-062

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LETTERS DISMISSORY.—N. C. Form 473

State of South Carolina,
COUNTY OF Kershaw

In Probate Court.

By the Honorable Harriett S. Pierce Judge of Probate
for the County of Kershaw in the State aforesaid

To All To Whom These Presents shall come—GREETING:

WHEREAS, at the May Term, 1984, of the Court of Probate for Kershaw County, on the 31 day of May in the year of our Lord one thousand nine hundred and eighty-four the petition of Claude E. Campbell, Administrator on the estate of Thomas Edward Campbell deceased, late of Kershaw County in this State, was presented, setting forth that the duties of said Administrator had been fully discharged, and praying to be released form the same.

AND WHEREAS, the said Administrator has complied with Section 41 of the Code of Procedure, and published, in conformity to law, for at least one month, a Citation calling upon all persons concerned to show cause on or before the 22 day of August, 1983 why said application should not be granted. And whereas, said Citation has been published in Chronicle Independent a public Gazette in this State, for the space of one month, and no cause being shown against said application, and it appearing from an examination of the situation of the affairs of the said estate that the petitioner has faithfully and honestly discharged the trust and confidence reposed in him.

NOW, KNOW ALL MEN BY THESE PRESENTS, That Claude E. Campbell is from henceforth and forever discharged and dismissed from all liability as Administrator as aforesaid

WITNESS Honorable Harriett S. Pierce Judge of Probate for Kershaw County, the 5 day of June in the year of our Lord one thousand nine hundred and eighty-four.

Harriett S. Pierce (L. S.)
Judge of Probate

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EXHIBIT 2

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Gordon Jackson Obituary

Gordon Louis Jackson

Gordon Louis Jackson, son of the late Viola Jackson-Pope and grandson of the late Camellia Jackson Wood, was born on June 1, 1941, in Kershaw County and passed on December 29, 2013. Upon graduating from high school, Gordon entered into the United States Army and served six years. After departing from the military, he begin working as a security guard with various companies until retirement. Left to cherish his memory, his loving and devoted wife Mary Dow Jackson, two daughters, Tyre Jackson and Melissa Courtney Jackson of the home. One special daughter Sabrina Manning of Hopkins, SC; four sons, Timothy Johnson of Bronx, NY, Reginald Allen of Elgin, SC, Bryant Allen of Fresno, CA and Andre Allen of Camden, SC. and eleven grandchildren.

To plant trees in memory, please visit the Sympathy Store.

Published by The State on Jan. 1, 2014.

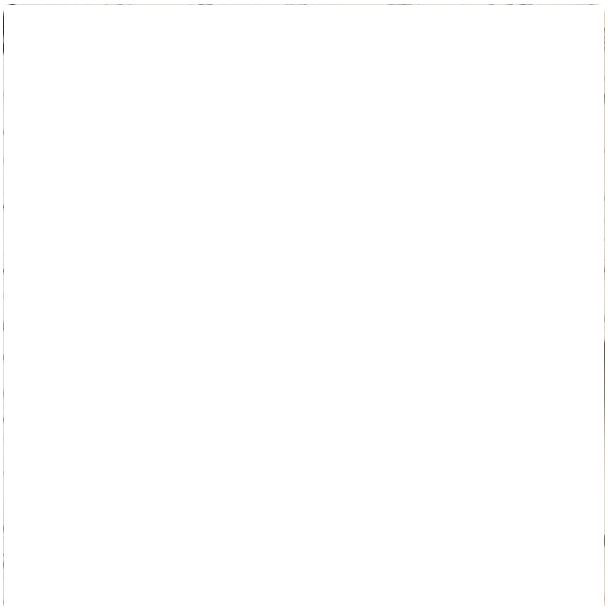

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EXHIBIT 3

ELECTRONICALLY FILED - 2024 Nov 08 9:13 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

Paul Porter

From: Paul Porter
Sent: Monday, June 24, 2024 7:20 PM
To: rick@gleissnerlaw.com; Jonathan Harling
Cc: Harper L. Hutson
Subject: Re: Request for Extension to 6/20 to Answer and withdraw of Motion to Default

Gentlemen,

I am following up on the below. I would greatly appreciate the professional courtesy of a retroactive extension to answer and the withdrawal of your motion.

I am open to handling the motion fee and any reasonable associated fees/costs with the motion as part of any agreement to withdraw your motion for entry of default.

Thank you for your consideration of the above.

Sincerely, Paul

CB&P CROMER BABB & PORTER

Paul Porter
Partner
(803) 799-9530 | paul@cromerbabb.com
www.cromerbabb.com
1418 Laurel St., Ste. A, Columbia, SC 29201
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From: Paul Porter
Sent: Monday, June 17, 2024 12:02 PM
To: rick@gleissnerlaw.com <Rick@gleissnerlaw.com>; Jonathan Harling <jharling@harlingandwest.com>
Cc: Harper L. Hutson <Harper@cromerbabb.com>
Subject: Request for Extension to 6/20 to Answer and withdraw of Motion to Default

Rick and Jonathan,

I was caught by surprise by your motion to default this morning. I was under the mistaken belief that I had filed an answer contemporaneous with our motion to dismiss back in 2023 when this case was proceeding in Richland County.

I apologize for my error and oversight.

I believe good cause exists not to place my clients in default, including, but not limited to: (1) the fact that the delay was an innocent, and good faith mistake of counsel; (2) counsel has been between paralegals which may have resulted in a necessary check and balance on counsel's mistaken belief being unavailable; (3) the promptness with which counsel acted to address the oversight; (4) the multitude of cases and obligations relating to these matters ongoing at once; and (5) the existence of defenses to your claims.

Based on this I am asking that you please do me the courtesy of withdrawing your motion for default and retroactively granting me an extension to 6/20 to answer. **Please advise of your response to this request?**

Thank you for your consideration.

Sincerely, Paul

Paul Porter
Partner
(803) 799-9530 | paul@cromerbabb.com
www.cromerbabb.com
1418 Laurel St., Ste. A, Columbia, SC 29201
P.O. Box 11675, Columbia, SC 29211

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EXHIBIT 4

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STATE OF SOUTH CAROLINA

COUNTY OF KERSHAW

Affidavit of J. Paul Porter

1. This testimony is truthful, voluntary, and based on my own personal knowledge.

2. I represent the Campbell family in a multitude of cases.

3. At the times in question on this motion, I was handling the following cases:

   a. This case, *Jackson et al. v. The Estate of Claude E. Campbell et. al.* (2024-CP-28-00123), wherein the Plaintiffs allege they are entitled to a portion the intestate estate of T.E. Campbell which was discharged in 1984. Additionally, a related lis pendens connected to this case. (2023-LP-80-00125)

   b. The appeal *Randy Bowers v. The Estate of Claude E. Campbell et. al.* (2022-001789). This is a since dismissed appeal of the dismissal of a case similar to this case by another litigant. Additionally, there was a since-cancelled, related lis pendens filed by Randy Bowers against the Defendants (2019-LP-28-00120), and an additional, related, since dismissed, case called *Barry Campbell et al v. Randy Bowers*, alleging abuse of process and related claims.

   c. The appeal *Charles Ives v. Charles E. Campbell et. al.* (2023-001193). This is an appeal of a dismissal of a case where the plaintiff claims he was entitled to reimbursement for improvements to leased property based on alleged oral contract with a deceased person. Additionally, a related lis pendens connected to that case (2020-LP-28-00037), and an additional case called *Barry Campbell et al. v. Charles Ives*, (2024-CP-800218) alleging abuse of process and related claims.

4. These cases faced an influx of motions practice and appellate issues in Spring 2024, to include:

a. Appellate Briefing in *Randy Bowers v. The Estate of Claude E. Campbell et. al.* (2022-001789)

b. Three motions to cancel the various Lis Pendens were heard on May 10, 2024. These motions were filed in an effort to allow the Campbell family to sell a property to a prospective buyer.

c. The motion to dismiss the *Jackson et. al* case that was heard on May 10, 2024.

d. A motion to dismiss in the *Campbell v. Ives* case that was heard on May 30, 2024.

5. Plaintiff filed an amended summons and complaint in this case on August 17, 2023 in Richland County.

6. On behalf of Defendants, I filed a timely motion to dismiss under 12(b)(6) and 12(b)(3) on September 15, 2023.

7. Defendants consented to transferring venue to Kershaw County on February 21, 2024.

8. Typically, when I file a motion to dismiss, I contemporaneously file an Answer. I did not do so in this particular case. However, **by the time** the motion was heard on May 25, 2024, I was mistakenly convinced that I had filed an answer contemporaneously with my motion to dismiss when the case was then proceeding in the Richland County Court of Common Pleas.

9. When that motion to dismiss was filed in fall 2023, my attention was divided by major, out of the ordinary, life events and work events. This led to my mistaken belief that I had filed an Answer in this case contemporaneously with the Motion to Dismiss. In particular,

a. In late June 2023, my first child was born. These followed years of private, personal obstacles relating to having a child.

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b. After two weeks, I returned from the birth of my son. At that time, I had a particularly heavy caseload, including a complex, hotly contested case with excessive motion practice in the fall 2023.[1]

c. In these months, due to obligations to my wife (who at the time was still working) and my young child, I estimate that I was typically able to work only 30 hours a week, most weeks.

d. In October 2023, a named partner amicably separated from my firm requiring a rebranding, structuring a member's disassociation, and sorting out the distribution of the majority of his caseload which was left behind due to conflicts.

10. Then Spring 2024, though the immediate obligations from fall 2023 were subsiding, the unusual multitude of cases involving the Campbell family that were pending in the Circuit Court and Court of Appeals and the varied motions practice involved in each of these cases contributed to my mistaken belief that an Answer had already been filed.

11. The Answer would have been due on May 28, 2024.

12. Plaintiffs' counsel did not consult with me prior to filing their motion of default on June 17, 2024.

13. The moment the motion was filed, I was at another law firm's office, having just completed a deposition. I feverishly checked both the Kershaw County and Richland County online dockets because I was convinced that I had filed an Answer earlier in the case and that the Plaintiffs had overlooked it.

[1] See, *MPA Strategies, LLC v. The Town of Blythewood v. MPA Strategies, LLC Ashley Hunter, and State and Frink Foundation*, Case No. 2021-CP-40-03205. (https://www.wistv.com/2023/12/11/newly-elected-blythewood-mayor-discuss-mpa-strategies-llc-lawsuit/)

14. When I realized I had not, I immediately drove to my office and drafted and filed an Answer.

15. That Answer was filed within 1 hour of the filing of the Motion for Entry of Default.

16. Then, via email, I requested an extension to answer from Plaintiffs' counsel and asked that they withdraw their motion. They did not respond, and I followed up seven days later, reiterating my request.

17. We spoke on the phone in or around July 2024, and I verbally reminded Plaintiffs' counsel of my request. He stated that he would check with his client and get back in touch.

18. I have not heard anything since, as of this date.

19. he oversight in not timely filing the Answer after our motion to dismiss was denied was an honest, good-faith mistake that occurred under particularly trying work and life circumstances happening simultaneously. I have never made a mistake like this before.

20. My clients should not be penalized for it.

FURTHER AFFIANT SAYETH NAUGHT

J. Paul Porter, Esq.

NOV. 7, 2024
Date

Sworn to before me this date: 11/7/24

Notary Public for the State of South Carolina

My Commission Expires 3/18/34

ALISSA DECOTEAU
NOTARY PUBLIC
MY COMM. EXP. 03/18/2034
SOUTH CAROLINA

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ELECTRONICALLY FILED - 2024 Sep 25 12:39 PM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF KERSHAW

Case No.: 2024-CP-28-00123

Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, And Timothy Johnson

Plaintiffs,

v.

The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, the Estate of Colbert Harold Campbell, by and through Frances C. Campbell, Vivian C. Gardner, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell,

Defendants.

RULE 25 NOTICE FOR PARTY DEFENDANT

This filing serves to provide notice pursuant to Rule 25 of the South Carolina Rules of Civil Procedure, informing opposing parties that Thomas Claytor Campbell, Sr. passed away on August 26, 2024.

The undersigned is authorized to consent to the substitution of Thomas Claytor Campbell, Jr. as the personal representative and trustee for the estate of Thomas Claytor Campbell, Sr., and to accept service of pleadings in this regard.

(Signature page to follow)

Respectfully submitted,

BY: _*s/J. Paul Porter*_____

J. Paul Porter (#100723)
Harper L. Hutson (#106343)
P.O. Box 11675
Columbia, South Carolina 29211
Phone: 803-799-9530
Fax: 803-799-9533
paul@cromerbabb.com
harper@cromerbabb.com

Attorneys for Campbell Defendants

September 25, 2024
Columbia, South Carolina

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ELECTRONICALLY FILED - 2024 Jun 17 11:55 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW	IN THE COURT OF COMMON PLEAS IN THE FIFTH JUDICIAL CIRCUIT
Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, And Timothy Johnson, Plaintiffs, v. The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, the Estate of Colbert Harold Campbell, by and through Frances C. Campbell, Vivian C. Gardner, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell, Defendants.	C/A No.: 2024-CP-28-00123 **ANSWER**

Defendants respond to Plaintiffs' Complaint below. Where not admitted the allegations contained in the Complaint are denied, and Defendants demand proof thereof.

SPECIFIC DENIALS

Defendants respond to Plaintiffs' Complaint paragraph by paragraph as presented by Plaintiff. Defendants deny each and every allegation of the Complaint except those hereinafter specifically admitted, qualified, or explained.

1. Paragraph 1 is admitted, subject to the probate documents referenced therein.

2. Paragraph 2 can neither be denied or admitted by the Defendants who are not informed of the relations of the Plaintiff(s).

3. Paragraph 3 can neither be denied or admitted by the Defendants who are not informed of the relations of the Plaintiff(s).

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4. Paragraph 4 can neither be denied or admitted by the Defendants who are not informed of the relations of the Plaintiff(s).

5. Paragraph 5 can neither be denied or admitted by the Defendants who are not informed of the relations of the Plaintiff(s).

6. Paragraph 6 can neither be denied or admitted by the Defendants who are not informed of the relations of the Plaintiff(s).

7. Paragraph 7 can neither be denied or admitted by the Defendants who are not informed of the relations of the Plaintiff(s).

8. Admit except that the reference estates have been closed.

9. Admit except that the referenced estate has been closed.

10. Admit.

11. Admit.

12. Admit that venue and jurisdiction are appropriate in the Kershaw County Court of Common Pleas.

13. Deny.

14. Admit.

15. Admit that Jackson was not an heir in the estate nor would he be classified as an heir at law.

16. Admit.

17. Deny.

18. Deny.

19. This is a reincorporation, see above.

20. Admit.

21. Admit Plaintiff seeks the declaration, but deny he is entitled to the same.

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22. This is a reincorporation, see above.

23. Admit, some Defendants have received property through subsequent estates.

24. Deny.

25. Deny.

26. Deny.

27. Deny.

28. Deny.

29. This is a reincorporation, see above.

30. Deny.

31. Deny.

FOR A SECOND DEFENSE
(Rule 12(b)(6), S.C. R. Civ. P. – Failure to State a Claim)

32. Defendants hereby reallege and incorporate herein each and every response contained above as though set forth herein verbatim.

33. Defendants would further show, upon information and belief, that Plaintiffs' Complaint fails to state a claim upon which relief can be granted against Defendants and should, therefore, be dismissed.

FOR A THIRD DEFENSE
(Statute of Limitations)

34. Plaintiff's claims are barred by the Statute of Limitations.

FOR A FOURTH DEFENSE
(Failure to Mitigate Damages)

35. Plaintiff has failed to properly mitigate his damages, if any; therefore, his claims are barred in whole or in part by such failure.

FOR A FIFTH DEFENSE
(Plene Administrative or the Administration of the Estate is Closed)

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36. Defendants assert that the estate of Thomas Edward Campbell has been fully administered.

ADDITIONAL DEFENSES

37. Defendants reserve all non-waivable rule 12 defenses including failure to state a claim.

38. Plaintiff has generally failed to plead or cannot prove the elements of his claims for fraud, negligent misrepresentation, negligence, and civil conspiracy.

39. Defendants plead the equitable defense of estoppel, unclean hands, waiver, and laches.

40. Defendants plead the defense of comparative negligence.

41. Defendants plead Plaintiff's damages, if any, were caused by another or others.

42. Defendants plead that the imposition of punitive damages against them in this case would violate the due-process clause of the state and federal Constitutions.

43. Defendants reserve the right to amend this pleading or otherwise incorporate defenses that may become apparent based on further litigation in this case.

CONCLUSION

WHEREFORE, having fully answered Plaintiff's Amended Complaint, Defendants respectfully request that the Complaint be dismissed with prejudice and that Defendants be awarded the costs of this action; reasonable attorneys' fees, as permitted by law; and all other relief that this Court deems just and proper.

Respectfully submitted by,

CROMER BABB & PORTER, LLC

BY: s/J. Paul Porter

J. Paul Porter (#100723)
Harper L. Hutson (#106343)
1418 Laurel Street, Ste. A
Post Office Box 11675
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Attorneys for Defendants

June 17, 2024
Columbia, South Carolina

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ELECTRONICALLY FILED - 2024 Jun 17 11:14 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMBPELL; THOMAS CLAYTOR CAMPBELL; THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL; VIVIAN C. GARDNER; AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2024CP2800123 **NOTICE OF MOTION AND MOTION FOR ENTRY OF DEFAULT**

TO: THE HONORABLE COURT AND DEFENDANTS:

Plaintiffs, by and through undersigned counsel, hereby moves the Honorable Court for an order for entry of default against Defendants Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell; Thomas Claytor Campbell; Estate of Colbert Harold Campbell, by and through Frances C. Campbell; Vivian C. Gardner; and Estate of Charles E. Campbell, by and through Maxine Watts Campbell, ("Defendants"). The basis for this Motion is that more than 15 days have passed since the Defendants motion to dismiss was denied by the court. Since that time Plaintiffs' Counsel has received no answer or other responsive pleading. Plaintiffs' Affidavit of Default is attached hereto as Attachment 1 and a Proposed Order Entering

Default is attached hereto as Attachment 2. Plaintiffs request a default damages hearing be scheduled for this matter.

Respectfully submitted,

HARLING & WEST, LLC

s/W. Jonathan Harling
W. Jonathan Harling, Esquire SC Bar# 16658
1722 Main Street, Suite 200
Columbia, SC 29201
Phone: 803-252-2050
Fax: 800-762-4915
Email: jharling@harlingandwest.com

Columbia, South Carolina
June 17, 2024

ELECTRONICALLY FILED - 2024 Jun 17 11:14 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

ELECTRONICALLY FILED - 2024 Jun 17 11:14 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMBPELL; THOMAS CLAYTOR CAMPBELL; THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL; VIVIAN C. GARDNER; AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2024CP2800123 **AFFIDAVIT OF DEFAULT**

PERSONALLY APPEARED before me the undersigned, who being duly sworn, says that he is an attorney at law and represents the Plaintiffs herein; that Defendants Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell; Thomas Claytor Campbell; Estate of Colbert Harold Campbell, by and through Frances C. Campbell; Vivian C. Gardner; and Estate of Charles E. Campbell, by and through Maxine Watts Campbell, ("Defendants") filed a motion to dismiss pursuant to SCRCP 12 in response to the Amended Summons and Complaint in this Action. See Exhibit "A". The motion to dismiss was denied by the court on May 10, 2024. See Exhibit "B". More than fifteen (15) days have elapsed since the denial of the motion to dismiss

and that Defendants are now in default as no answer or responsive pleading has been served by the Defendants or his/her attorney. Plaintiffs request entry of a Default against all Defendants in this matter be entered and this matter be scheduled for a default damages hearing.

Affiant further states that he is familiar with the provisions of 50 USCA App. §520, Soldiers and Sailors Civil Relief Act of 1940, and to induce the Court to make entry of default against Defendants, represents to the Court, that from review of the file in this matter, that said Defendants do not appear to be in the Military Service of the United States and is not entitled to protection of the Soldiers and Sailors Civil Relief Act of 1940 nor any amendments thereof.

Respectfully submitted,

SWORN to before me this
17th day of June, 2024

Alyssa Trussell

NOTARY PUBLIC FOR S.C.
MY COMMISSION EXPIRES 1/19/2033

ALYSSA A. TRUSSELL
My Commission Expires
NOTARY PUBLIC
January 19, 2033
STATE OF SOUTH CAROLINA

HARLING & WEST, LLC

BY:
W. JONATHAN HARLING
ATTORNEY FOR PLAINTIFF

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ELECTRONICALLY FILED - 2024 Feb 21 11:45 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE COURT OF COMMON PLEAS IN THE FIFTH JUDICIAL CIRCUIT
Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, And Timothy Johnson, Plaintiffs, v. The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Claytor Campbell, the Estate of Colbert Harold Campbell, by and through Frances C. Campbell, Vivian C. Garnder, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell, Defendants.	C/A No.: 2023-CP-40-04301 **DEFENDANTS' 12(b)(1), (3), and (6) MOTION TO DISMISS**[1]

Defendants, in lieu of filing an answer, ask this Court to dismiss the Plaintiffs' lawsuit with prejudice pursuant to Rule 12(b)(1), 12(b)(3) and 12(b)(6), SCRCP.

Plaintiffs seek a declaratory judgment, constructive trust, and claim unjust enrichment against the Defendants over an estate that was discharged 40 years ago on behalf of an alleged illegitimate child of the decedent, who himself, is also deceased. Plaintiffs claim their husband/father was a born out of wedlock to Thomas Edward Campbell who died in 1982 and that he should have been included in Thomas Edward Campbell's intestate estate when he was probated. (Am. Compl. ¶¶ 13-18).

Plaintiffs filed this case in Richland County. However, the estate at issue is probated in Kershaw County and the property at issue is in Kershaw County too.

[1] Plaintiff also moves in the alternative to transfer venue.

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Grounds of Motion

Defendants move to dismiss Plaintiffs' claims on the following grounds:

1. The Circuit Court does not have subject matter jurisdiction.

Plaintiff's lynchpin claim for a declaratory judgement begins:

> 20. This action is one for declaratory judgment . . . for declaration fo rights, status and other legal relations of the parties in regard to the Estate of T. E. Campbell:
>
> 21. Specifically, Plaintiff seeks judgment as follows:
>
> a. Declaring that Gordon Louis Jackson was a natural child and heir of T.E. Campbell.
> b. Declaring that Gordon Louis Jackson was an intestate heir of T.E. Campbell.
> c. That Gordon Louis Jackson was improperly excluded from inheriting from T.E. Campbell's estate.
> d. That Gordon Louis Jackson is entitled to his intestate share of T.E. Campbell's estate.
>
> . . .

(Am. Compl. ¶¶ 20-21).

Probate courts have subject-matter jurisdiction to determine paternity for the purpose of determining heirs. *Neely v. Thomasson*, 365 S.C. 345, 350, 618 S.E.2d 884, 887 (2005). The relevant statute, found in the Probate Code, provides, "To the full extent permitted by the Constitution, and except as otherwise specifically provided hereinafter, **the court has exclusive original jurisdiction** over all subject matter related to: (1) estates of decedents, including the contest of wills, construction of wills, and **determination of heirs** and successors of decedents and estates of protected persons..." S.C.Code Ann. § 62–1–302 (1987) (emphases added). "Heirs" is defined as "those persons ... who are entitled under the statute of intestate succession to the property of a decedent." S.C.Code Ann. § 62–1–201(17) (1987).

2. This Action is Untimely.

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Thomas Edward Campbell died intestate on June 12, 1982. (Ex. 1: T. E. Campbell Probate Documents, p. 1). Thomas Edward Campbell's estate was discharged on May 31, 1984. (*Id.* at p. 6). S.C. Code § 62-2-109, the statute of heirs, says:

> If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person:
>
> (1) From the date the final decree of adoption is entered, and except as otherwise provided in *Section 63-9-1120*, an adopted person is the child of an adopting parent and not of the natural parents except that adoption of a child by the spouse of a natural parent has no effect on the relationship between the child and that natural parent.
>
> (2) In cases not covered by (1), a person born out of wedlock is a child of the mother. That person is also a child of the father if:
>
> i. the natural parents participated in a marriage ceremony before or after the birth of the child, even though the attempted marriage is void; or
>
> ii. **the paternity is established by an adjudication commenced before the death of the father or within the later of eight months after the death of the father or six months after the initial appointment of a personal representative of his estate** and, if after his death, by clear and convincing proof, except that the paternity established under this subitem (ii) is ineffective to qualify the father or his kindred to inherit from or through the child unless the father has openly treated the child as his and has not refused to support the child.
>
> (3) A person is not the child of a parent whose parental rights have been terminated under *Section 63-7-2580* of the 1976 Code, except that the termination of parental rights is ineffective to disqualify the child or its kindred to inherit from or through the parent.

In *Parker v. Parker*, an interested party questioned the paternity of an heir and their ability to inherit through intestate succession four years after the relevant death. *Parker v. Parker*, 313 S.C. 482, 484, 443 S.E.2d 388, 389 (1994). The Supreme Court of South Carolina held, "that if paternity is questioned by either the personal representative or other interested party, … , then such action must be brought within the statutory time frame of six months after the death of the father." *Parker v. Parker*,

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313 S.C. 482, 486, 443 S.E.2d 388, 390 (1994). The court further stated that the failure to act for **four years** was an "implicit waiver of a statutory right." *Parker v. Parker*, 313 S.C. 482, 488, 443 S.E.2d 388, 391 (1994). If **four years** is an implicit waiver, **forty-one years** certainly cannot cut it.

3. The "Ultimate Time Limit" has run.

This is at core an action to challenge the probate of Thomas Edward Campbell's intestate estate. S.C. Code Ann. The "ultimate time limit" provided for in the probate code at S.C. Code Ann. § 62-3-108(A)(1) is ten years:

> (A)(1) No informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may be commenced more than ten years after the decedent's death.

This action to determine entitlement to a share of the intestate estate of Thomas Edward Campbell, filed greater than 10 years after his death, exceeds the ultimate time limit imposed by the law.

4. Gordon Louis Jackson was not an heir at law as a matter of law.

Illegitimate children could not collect from their father's estates in South Carolina in 1982 as a matter of law. So, assuming Mr. Jackson was a child of T.E. Campbell he would not have been entitled to receive a share of that estate anyway:

> In South Carolina, where a person has the right to die intestate and during his life, he is charged with full knowledge of who will succeed to his property if he dies intestate, the assumption exists that, if he dies intestate, he is satisfied with the will the law of the state made for him. []. Had James Brown inquired into the law of descent and distribution in 1974, he would have been informed that, pursuant to *Labine v. Vincent,* 401 U.S. 532, 91 S.Ct. 1017, 28 L.Ed.2d 288 (1971), illegitimate children would not inherit from their fathers' estates.

Wilson v. Jones, 281 S.C. 230, 233, 314 S.E.2d 341, 343 (1984). In 1977, the Supreme Court held a statute in Illinois which said illegitimate children could only inherit from their mother's estates, violated the Equal Protection Clause. *Tirmble v. Gordon*, 430 U.S. 762, 97 S.Ct. 1459, 52 L.Ed.2d 31 (1977). The

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same statute in South Carolina was not struck down until 1984 in the case of *Wilson v. Jones*. 314 S.E.2d 341, 342-343 (1984).

Trimble can apply retroactively but only in limited circumstances. In *Mitchell v. Hardwick*, 297 S.C. 48, 51, 374 S.E.2d 681, 683 (1988) the Court addressed the following issue: "whether the prospective only application enunciated in [*Wilson v. Jones*] should be modified to allow limited retroactive application where certain factors are met[?]" The Court in *Mitchell*, Modified *Wilson* to allow retroactive application of the *Trimble* decision in the limited circumstances where the following conditions are met:

> (1) innocent persons will not be adversely affected because of their detrimental reliance on the old rule;
>
> (2) the paternity of the child has been conclusively established either by court order or decree issued prior to the death of the father or by an instrument signed by the father acknowledging paternity; and
>
> (3) the estate administration is subject to further resolution.

Mitchell v. Hardwick, 297 S.C. 48, 51, 374 S.E.2d 681, 683 (1988). **None of these factors are met in this case.** In *Pinckney v. Warren*, 344 S.C. 382, 544 S.E.2d 620 (2001), the Court followed *Mitchell* factors and imposed strict requirement on proof of paternity.

Another decision, *Freeman v. Freeman*, 323 S.C. 95, 103–04, 473 S.E.2d 467, 473 (Ct. App. 1996) discusses constitutionality on SC limitations on retroactive application (quoted below):

> South Carolinas limits on the retroactive application of *Trimble* is constitutional. One year after *Trimble* the Court found equal protection could be limited by a state. *See Lalli v. Lalli,* 439 U.S. 259, 99 S.Ct. 518, 58 L.Ed.2d 503 (1978). In *Lalli,* the Court interpreted a New York statute which required an order of paternity be issued *during* the life of the father, in order for the illegitimate child to inherit. *Id.* The illegitimate child introduced into evidence a notarized document in which the father referred to him as "my son" and also submitted affidavits which stated the father had openly acknowledged the child as his. *Id.* at 263, 99 S.Ct. at 522. Even with this evidence, the Court did not allow the child to inherit.

The test the Court applied was whether the procedural demands of the statute were substantially related to a particular state interest the statute was designed to serve. **The Court held the statute did**

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not violate the Equal Protection Clause even though it prevented some illegitimate children who could establish paternity without serious disruption of the administration of estates from inheriting. *Id.* at 272–73, 99 S.Ct. at 526–25. The Court's focus in that case was not on fairness but on the government's interest:

> We do not question that there will be some illegitimate children who would be able to establish their relationship to their deceased fathers without serious disruption of the administration of estates and that, as applied to such individuals, [the statute] appears to operate unfairly. But few statutory classifications are entirely free from the criticism that they sometimes produce inequitable results. **Our inquiry under the Equal Protection Clause does not focus on the abstract "fairness" of a state law, but on whether the statute's relation to the state interests it is intended to promote is so tenuous that it lacks the rationality contemplated by the Fourteenth Amendment.**

Id. This case is more compelling. There **would be** a serious disruption to the administration of estates in this case adversely affecting the rights of innocent persons. This case, as a matter of law, should be dismissed.

5. There is no justiciable controversy and the Plaintiff's claims are moot.

Under the Declaratory Judgment Act, courts only consider cases presenting a justiciable controversy. *Tourism Expenditure Rev. Comm. v. City of Myrtle Beach*, 403 S.C. 76, 81, 742 S.E.2d 371, 374 (2013); *Byrd v. Irmo High School,* 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996). A justiciable controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract. *Id* at 431, 468 S.E.2d at 864. By contrast, a "moot" case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court. *Mathis v. South Carolina State Highway Dep't,* 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973). If there is no actual controversy, this Court will not decide moot or academic questions. *Id.* (citing *Jones v. Dillon–Marion Human Res. Dev. Comm'n.,* 277 S.C. 533, 535, 291 S.E.2d 195, 196 (1982)); *see also Wallace v. City of York,* 276 S.C. 693, 694, 281 S.E.2d 487, 488 (1981).

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Plaintiffs' claim for a declaration that Gordon Louis Jackson was a rightful heir of Thomas Edward Campbell is moot because TE Campbell's estate has long been closed. *See Sasser v. S.C. Democratic Party*, 277 S.C. 67, 69, 282 S.E.2d 602, 604 (1981) ("In the instant case, the election has already occurred. It is therefore our determination that the issues raised by this action have been rendered moot."); *City of Charleston v. Masi*, 362 S.C. 505, 508, 609 S.E.2d 301, 303 (2005) ("We find the District correctly argues that this case regarding the Town residents' entitlement to vote in the District elections and the entitlement to serve as a District commissioner is moot given that the Town is a nullity.").

The estate at issue in this case has long been closed. There is no justiciable controversy precedent to Plaintiffs' declaratory judgment action.

6. The Plaintiffs are not entitled to a constructive trust based on these pleadings.

Plaintiffs have not pled facts to support the condition precedent of wrongful conduct to state their constructive trust claim:

> A constructive trust will arise whenever the circumstances under which property was acquired make it inequitable that it should be retained by the one holding the legal title. *Wolfe v. Wolfe,* 215 S.C. 530, 56 S.E.2d 343 (1949); *Dominick v. Rhodes,* 202 S.C. 139, 24 S.E.2d 168 (1943); *Bank of Williston v. Alderman,* 106 S.C. 386, 91 S.E. 296 (1917). **Constructive trust results from fraud, bad faith, abuse of confidence, or violation of a fiduciary duty which gives rise to an obligation in equity to make restitution.** *Searson v. Webb,* 208 S.C. 453, 38 S.E.2d 654 (1946). Fraud is an essential element, although it need not be actual fraud.

Lollis v. Lollis, 291 S.C. 525, 529, 354 S.E.2d 559, 561 (1987) There is absolutely **zero** factual allegation of "fraud, bad faith, abuse of confidence, or a violation of a fiduciary duty" by any of the named defendants.

Plaintiffs merely plead:

> 25. Defendants used actual or constructive fraud, duress, abuse of confidence, or unconscionable conduct in order to acquire the property.

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(Am. Compl. ¶ 25). Indeed, Plaintiffs do not even plead that Defendants knew Gordon Louis Jackson existed:

> 17. Defendants knew, or should have known, that Gordon Louis Jackson was a natural child of T.E. Campbell.

(Am. Compl. ¶ 17). This is not a sufficient basis upon which a constructive trust could lie, and the Plaintiffs could not fix this problem by amendment without contradicting the representations already made in their complaint and amended complaint about lack of scienter on the part of the Defendants.

7. The Plaintiffs cannot state a claim for unjust enrichment as a matter of law.

"The elements to recover for unjust enrichment based on quantum meruit, quasi-contract, or implied by law contract, which are equivalent terms for equitable relief, are: '(1) a benefit conferred by the plaintiff upon the defendant; (2) realization of that benefit by the defendant; and (3) retention of the benefit by the defendant under circumstances that make it inequitable for him to retain it without paying its value.'" *Regions Bank v. Wingard Properties, Inc.*, 394 S.C. 241, 257, 715 S.E.2d 348, 356 (Ct. App. 2011). A party may be unjustly enriched when it has and retains benefits or money which in justice and equity belong to another. *Dema v. Tenet Physician Servs.-Hilton Head, Inc.*, 383 S.C. 115, 123, 678 S.E.2d 430, 434 (2009) "Unjust enrichment is an equitable doctrine which permits the recovery of that amount the defendant has been unjustly enriched at the expense of the plaintiff."

Defendants, most of whom were not direct recipients from the estate of Thomas Edward Campbell, cannot be held to have unjustly retained shares of an estate they or their predecessors in interest were lawfully entitled to receive under the law at the time Thomas Edward Campbell's estate was probated.

8. Laches applies as a matter of law.

Laches is defined as "neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done." Hallums v. Hallums, 296 S.C. 195, 198, 371 S.E.2d 525, 527 (1988). "Under the doctrine of laches, if a party,

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knowing his rights, does not seasonably assert them, but by unreasonable delay causes his adversary to incur expenses or enter into obligations or otherwise detrimentally change his position, then equity will ordinarily refuse to enforce those rights." Chambers of S.C., Inc. v. County Council for Lee Cty., 315 S.C. 418, 421, 434 S.E.2d 279, 280 (1993). Thus, the predicate for laches is an unreasonable and unexplained delay. Eldridge v. Eldridge, 398 S.C. 113, 121–22, 728 S.E.2d 24, 28 (2012).

This action seeking to unwind an estate that completed probate in 1984 to the benefit of an alleged illegitimate heir (who could not have lawfully received from that estate then) who himself is now deceased should be barred as a matter of law by the doctrine of laches.

9. This case should be dismissed for improper venue or in the alternative venue should be transferred to Kershaw County.

Under S.C. Code Ann. § 15-7-10, the action must be brought and tried in the county in which the subject of the action or some part of the property is situated. In this case, the contested real property lies within the Kershaw County bounds where Thomas Edward Campbell's Estate was probated. No piece of real property lies within Richland County.

Additionally, venue should be changed to Kershaw County pursuant to S.C. Code Ann. § 15-7-100(A)(3), which provides that the court may change the place of trial if the convenience of witnesses and the ends of justice would be promoted by the change. Virtually all the witnesses except for Plaintiffs reside in Kershaw County. The few who do not reside in Kershaw County have significant familial ties to Kershaw County.

Conclusion

Defendants respectfully move this Court for an Order dismissing Plaintiffs' Complaint **with prejudice** or otherwise (e.g., Rule 12(b)(1), 12(b)(3) as set forth above.

[Signature Follows]

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Attorney for Defendants

September 15, 2023
Columbia, South Carolina

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Kershaw
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP2800123

Mary Dow Jackson et al
PLAINTIFF(S)

Claude E Campbell Estate et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** *(CHECK APPLICABLE BOX)*: ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

Following a hearing on May 9, 2024, Defendant's Motion to Dismiss (filed on 9/15/23) is DENIED.

ORDER INFORMATION

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

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 05/09/2024 .

Gordon Louis Jackson Estate

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

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Court Reporter:

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

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Kershaw Common Pleas

Case Caption:	Mary Dow Jackson , plaintiff, et al VS Claude E Campbell Estate , defendant, et al
Case Number:	2024CP2800123
Type:	Order/Electronic Form 4

So Ordered

Jocelyn Newman

ELECTRONICALLY FILED - 2024 Jun 17 11:14 AM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMBPELL; THOMAS CLAYTOR CAMPBELL; THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL; VIVIAN C. GARDNER; AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2024CP2800123 **ENTRY OF DEFAULT**

It appears that Defendants Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell; Thomas Claytor Campbell; Estate of Colbert Harold Campbell, by and through Frances C. Campbell; Vivian C. Gardner; and Estate of Charles E. Campbell, by and through Maxine Watts Campbell, ("Defendants") served a motion to dismiss pursuant to SCRCP 12 as a responsive pleading to Plaintiffs' amended summons and complaint in this matter. This motion was denied by the court on May 10, 2024. Since that time, no answer or other responsive pleading has been filed with the Court (See Affidavit of Default). As more than 15 days have

passed since Defendants' motion to dismiss was denied by the Court, it appears to the Court that all Defendants in this matter are is in default.

Therefore, it is hereby ordered that Defendants Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell; Thomas Claytor Campbell; Estate of Colbert Harold Campbell, by and through Frances C. Campbell; Vivian C. Gardner; and Estate of Charles E. Campbell, by and through Maxine Watts Campbell, be held in default and this matter be set for a default damages hearing.

IT IS SO ORDERED.

_____

Clerk of Court – Kershaw County OR
Presiding Administrative Judge

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ELECTRONICALLY FILED - 2024 May 07 3:44 PM - KERSHAW - COMMON PLEAS - CASE#2024CP2800123

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMPBELL, THOMAS CLAYTOR CAMPBELL, THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL, VIVIAN C. GARNDER, AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2024-CP-28-00123 **MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS**

The Memorandum is filed on behalf of Mary Dow Jackson, Individually ("Mary") and as personal representative (the "PR") of the estate of Gordan Louis Jackson ("Gordan"), Melissa Jackson ("Melissa"), Tyre Jackson ("Tyre"), Reginald Allen ("Reginald"), Bryant Allen ("Bryant") Andre Allen ("Andre") and Timothy Johnson ("Timothy") (collectively the "Plaintiffs") in opposition to the Motion to Dismiss filed by the Defendants.

The Parties agree that T.E. Campbell died on June 12, 1982 and the probate estate was discharged on May 31, 1984. The Motion to Dismiss is premised on the South Carolina Probate Code, S.C. Code Ann. §62-1-100 et seq. The South Carolina Probate Code cited in the Motion

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to Dismiss was adopted in 1987 and according to that Probate Code it "takes effect July 1, 1987" and "applies to any estates of decedents dying thereafter". See S.C. Code Ann. § 62-1-100. There is no retroactive application to T.E. Cambell's death or estate. Thus, the Defendants make the following arguments: 1. lack of subject matter jurisdiction, 2. the timeliness of this action, and 3. "ultimate time limit". In making these three arguments, the Defendants rely upon incorrect law and the relief requested by Defendants should not be granted.

1. <u>The Court has Subject Matter Jurisdiction</u>

The law prior to 1987 appears to give the Probate Court jurisdiction, but not exclusive jurisdiction "in matters testamentary and of administration." *See Tucker v. Tucker*, 264 S.C. 172, 213 S.E.2d 588 (1975) (concurrent jurisdiction of probate court prior to 1987); *Mack v. Stanley,* 190 S.C. 300, 308, 2 S.E.2d 792, 795 *(1939)* (citing *Caldwell v. Little,* 15 S.C. 236*; Bradford v. Richardson,* 111 S.C. 205, 97 S.E. 58*; Beatty v. National Surety Company,* 132 S.C. 45, 128 S.E. 40). But, "a distinct ground of equitable relief is not included in the general grant of" such jurisdiction. *Mack v. Stanley*, 190 S.C. 300, 308, 2 S.E.2d 792, 795, (1939) (citing *Beckwith v. McAlister*, 165 S.C. 1, 162 S.E. 623, 628). In this case, the Plaintiffs have a claim for a declaratory judgment, seeking a determination that the Plaintiffs are descendants of T.E. Campbell and against the defendants for unjust enrichment in the exclusion of the descendants of T.E. Campbell from his estate, including, the real property obtained by the Defendants from the estate. These matters seeking equitable relief are not included in the general grant of jurisdiction for the Probate Court. Thus, this Court has subject matter jurisdiction.

2. <u>This Action is Not Untimely</u>

Defendants allege that the statute of limitation should apply to bar Plaintiff's claims. The burden of establishing the bar of the statute of limitations rests upon the one interposing it, and if there is a conflict upon the question, it becomes an issue for the jury to decide. *Brown v. Finger*,

240 S.C. 102, 124 S.E.2d 781 (1962).

As to the causes of action alleged by the Plaintiffs, the limitations period begins to run at the time of the acquisition of knowledge of such facts that are sufficient to put the party on inquiry which, if developed, will disclose the cause of action. *Graham v. Welch*, 404 S.C. 235, 239, 743 S.E.2d 860, 862, (Ct. App. 2013) (applying the 3 year statute of limitations period to a cause of action for unjust enrichment); *Tucker v Weathersbee*, 98 S.C. 402, 82 S.E. 638 (1914); *Smith v Linder*, 77 S.C. 535, 58 S.E. 610 (1907); *Toole v Johnson*, 61 S.C. 34, 39 S.E. 254 (1901); *Harrell v Kea*, 37 S.C. 369, 16 S.E. 42 (1892); *McSween v McCown*, 23 S.C. 342 (1885); *McKinnon v Summers*, 224 S,C. 331, 79 S.E.2d 146 (1953); *W. J. Klein Co., Inc. v Kneece*, 239 S.C. 478, 123 S.E.2d 870 (1962). Only a suspicion that there is something wrong is not sufficient to place party on inquiry. *Beattie v Pool*, 13 S.C. 379 (1880), Hunt v Smith, 202 S.C. 129, 24 S.E. 2d 164 (1943).

Unjust enrichment is an equitable cause of action. South Carolina Courts hold that:

> This Court has long recognized that the statute of limitations now codified in section 15-3-530 applies to actions at law, while the doctrine of laches applies to suits in equity. Although the statute of limitations may be applied by analogy in a court of equity, the court has the authority to extend that period if it believes a longer period is warranted under the circumstances. This distinction logically flows from the fact that equity transcends the direct application of legal restrictions such as the statute of limitations to provide relief to wronged parties where the law otherwise affords no relief.

Thomerson v. DeVito, 430 S.C. 246, 250-251, 844 S.E.2d 378, 380-381 (2020). Thus, the statute of limitations simply does not apply to the Plaintiffs' causes of action.

In the case presently before the Court, nothing in the pleadings indicates when the Plaintiffs had knowledge that they had been harmed by the actions of the Defendants or that the Defendants were unjustly enriched by their actions. Even giving some credence to a claim, not

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before the Court from the pleadings, that Plaintiffs had some knowledge of a potential claim, Plaintiffs had at best, from the pleadings, only a suspicion that they had been wronged, which would be insufficient under the discovery rule for tort actions to commence the running of the limitations period. Further, Plaintiffs have alleged by a fair reading of the pleadings, that Defendants acted so as to conceal their knowledge of the Plaintiffs entitlement to a share of the estate and the provision of notice to the Plaintiffs by their failure to include Gordan Louis Jackson as an heir despite their knowledge of the same as of the death of T.E. Campbell in 1982. Based on the language of the complaint, equitable tolling would apply to any statute of limitations defense in this matter.

3. <u>The "Ultimate Time Limit" Has Not Run</u>

The probate estate of Gordan Louis Jackson was opened in March 2023 and bears the probate estate number 2014 ES 40-01080. The opening of this estate was within the 10 year requirement specified in Section 62-3-108(A)(1). Thus, the ultimate time limit has been met. As previously indicated, this section does not apply to the probate estate of T.E. Campbell.

In addition to citing statutes that do not apply, the Defendants also (4) cite case law that has no application to the facts of this matter; (5) suggest that the determination of whether the Plaintiffs are heirs of T.E. Campbell is not a justiciable controversy; (6) the Plaintiffs have not properly pled a constructive trust; (7) the Plaintiffs have not pled unjust enrichment; and (8) the doctrine of laches should be applied as a matter of law.

4. <u>Gordon Jackson was an heir at law as a matter of law.</u>

Defendants allege "Illegitimate children could not collect from their father's estates in South Carolina in 1982 as a matter of law." The Defendants cite *Mitchell v. Hardwick*, 297 S.C. 48, 374 S.E.2d 681 (1988) in a discussion of the retroactive application of the setting aside of a statute. The statute in question prohibited an illegitimate child of the father from inheriting from

the father's intestate estate. The Defendants claim that the statute preventing illegitimate children from inheriting their father's estate was struck down in 1984. In fact, the statute was struck down in *Tirmble v. Gordan*, 430 U.S. 762, 97 S.Ct 1459, 52 L.E.2d 31 (1977). Since 1977 is prior to 1982, there is no retroactive application. T.E. Cambell died in 1982, five (5) years after the U.S. Supreme Court made its ruling. Unless the Defendants have some case law that suggests a ruling by the U.S. Supreme Court is not effective in South Carolina, their argument citing *Mitchell v. Hardwick* is incorrect.

5. **The determination of whether the Plaintiffs are heirs of T.E. Campbell is a justiciable controversy**

The issue in the declaratory judgment action is whether the Plaintiffs should have been entitled to a share from the T.E. Campbell estate. Further, the issue is whether through fraud, duress, abuse of confidence, or unconscionable whether the Plaintiffs are entitled to a constructive trust because the Defendants were unjustly enriched by the failure to include the Plaintiff's in the estate. Clearly, there is a justiciable controversy in that the Defendants received real property, personal property and money that they are not entitled to. Furthermore, the Uniform Declaratory Judgment Act, S.C. Code Ann. § 15-53-50, specifically states: "Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust in the administration of a trust or of the estate of a decedent, infant, lunatic or insolvent may have a declaration of rights or legal relations in respect thereto: (1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others."

6. **The Plaintiffs have properly pled a constructive trust.**

The Defendants argue that the Plaintiffs have not pled the elements of constructive fraud and then cite in the Plaintiff's complaint the very paragraph that sets forth the allegations

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required. The Defendants' arguments are self-contradictory. Further, the Defendants allege that there is a requirement for scienter on the part of the Defendants. The Plaintiffs believe that they have pled scienter. To the extent that the Plaintiffs need to amend the complaint, they would beg the Court's indulgence to allow an amendment.

7. **The Plaintiffs Can Claim Unjust Enrichment as a Matter of Law.**

Again, the Plaintiffs have pled unjust enrichment. The Plaintiffs were entitled to one sixth or one seventh of the estate of T.E. Campbell. That share amounts to millions of dollars and millions of dollars in real and personal property. The Plaintiffs did not receive those funds and did not receive a share of that real and personal property. The Defendants did. This is a benefit conferred upon the Defendants at the expense of the Plaintiffs. The Defendants have put that money in their pockets and have asserted control over the real property. Thus, the Defendants have realized the benefits of the unjust enrichment. The retention of the benefits by the Defendants would be inequitable without paying the Plaintiffs their fair share.

8.(8) **Laches Does Not Apply as a Matter of Law.**

Laches is an affirmative defense. At present there is no evidence that the Plaintiffs did not seasonably assert their rights or engage in unreasonable delay. As stated by the South Carolina Court of Appeals:

> The equitable doctrine of laches is defined as neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done. *Robinson v. Estate of Harris*, 391 S.C. 114, 118, 705 S.E.2d 41, 43 (2011). "In order to establish laches as a defense, a party must show that the complaining party unreasonably delayed its assertion of a right, resulting in prejudice to the party asserting the defense of laches." *Historic Charleston Holdings, LLC v. Mallon*, 381 S.C. 417, 432, 673 S.E.2d 448, 456 (2009). "Whether a claim is barred by laches is to be determined in light of facts of each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage to the other party; delay alone in assertion of a right does not constitute laches." *Hallums v.*

> *Hallums*, 296 S.C. 195, 198-99, 371 S.E.2d 525, 527 (1988). In sum, the party seeking to establish laches must show (1) delay, (2) unreasonable delay, and (3) prejudice. Id. at 199, 371 S.E.2d at 528.

Tillman v. Tillman, 2013 S.C. App. Unpub. LEXIS 280, *2-3, 2013 WL 8508106. In this case, at this time, the Defendants have not shown anything but delay. As stated in South Carolina case law, delay alone does not constitute laches. Simply, a ruling on this affirmative defense is improper at this time.

Therefore, the Defendants motion to dismiss should be denied. To the extent that the Plaintiffs have not alleged the facts necessary for the declaratory judgment or unjust enrichment, the Plaintiffs would request permission to file an amended complaint.

Respectfully Submitted,

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May 7, 2024

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE COURT OF COMMON PLEAS IN THE FIFTH JUDICIAL CIRCUIT
Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, And Timothy Johnson, Plaintiffs, v. The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Claytor Campbell, the Estate of Colbert Harold Campbell, by and through Frances C. Campbell, Vivian C. Garnder, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell, Defendants.	C/A No.: 2023-CP-40-04301 **DEFENDANTS' 12(b)(1), (3), and (6) MOTION TO DISMISS**[1]

Defendants, in lieu of filing an answer, ask this Court to dismiss the Plaintiffs' lawsuit with prejudice pursuant to Rule 12(b)(1), 12(b)(3) and 12(b)(6), SCRCP.

Plaintiffs seek a declaratory judgment, constructive trust, and claim unjust enrichment against the Defendants over an estate that was discharged 40 years ago on behalf of an alleged illegitimate child of the decedent, who himself, is also deceased. Plaintiffs claim their husband/father was a born out of wedlock to Thomas Edward Campbell who died in 1982 and that he should have been included in Thomas Edward Campbell's intestate estate when he was probated. (Am. Compl. ¶¶ 13-18).

Plaintiffs filed this case in Richland County. However, the estate at issue is probated in Kershaw County and the property at issue is in Kershaw County too.

[1] Plaintiff also moves in the alternative to transfer venue.

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Grounds of Motion

Defendants move to dismiss Plaintiffs' claims on the following grounds:

1. The Circuit Court does not have subject matter jurisdiction.

Plaintiff's lynchpin claim for a declaratory judgement begins:

> 20. This action is one for declaratory judgment . . . for declaration fo rights, status and other legal relations of the parties in regard to the Estate of T. E. Campbell:
>
> 21. Specifically, Plaintiff seeks judgment as follows:
>
> a. Declaring that Gordon Louis Jackson was a natural child and heir of T.E. Campbell.
> b. Declaring that Gordon Louis Jackson was an intestate heir of T.E. Campbell.
> c. That Gordon Louis Jackson was improperly excluded from inheriting from T.E. Campbell's estate.
> d. That Gordon Louis Jackson is entitled to his intestate share of T.E. Campbell's estate.
>
> . . .

(Am. Compl. ¶¶ 20-21).

Probate courts have subject-matter jurisdiction to determine paternity for the purpose of determining heirs. *Neely v. Thomasson*, 365 S.C. 345, 350, 618 S.E.2d 884, 887 (2005). The relevant statute, found in the Probate Code, provides, "To the full extent permitted by the Constitution, and except as otherwise specifically provided hereinafter, **the court has exclusive original jurisdiction** over all subject matter related to: (1) estates of decedents, including the contest of wills, construction of wills, and **determination of heirs** and successors of decedents and estates of protected persons..." S.C.Code Ann. § 62–1–302 (1987) (emphases added). "Heirs" is defined as "those persons ... who are entitled under the statute of intestate succession to the property of a decedent." S.C.Code Ann. § 62–1–201(17) (1987).

2. This Action is Untimely.

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Thomas Edward Campbell died intestate on June 12, 1982. (Ex. 1: T. E. Campbell Probate Documents, p. 1). Thomas Edward Campbell's estate was discharged on May 31, 1984. (*Id.* at p. 6). S.C. Code § 62-2-109, the statute of heirs, says:

> If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person:
>
> (1) From the date the final decree of adoption is entered, and except as otherwise provided in *Section 63-9-1120*, an adopted person is the child of an adopting parent and not of the natural parents except that adoption of a child by the spouse of a natural parent has no effect on the relationship between the child and that natural parent.
>
> (2) In cases not covered by (1), a person born out of wedlock is a child of the mother. That person is also a child of the father if:
>
> i. the natural parents participated in a marriage ceremony before or after the birth of the child, even though the attempted marriage is void; or
>
> ii. **the paternity is established by an adjudication commenced before the death of the father or within the later of eight months after the death of the father or six months after the initial appointment of a personal representative of his estate** and, if after his death, by clear and convincing proof, except that the paternity established under this subitem (ii) is ineffective to qualify the father or his kindred to inherit from or through the child unless the father has openly treated the child as his and has not refused to support the child.
>
> (3) A person is not the child of a parent whose parental rights have been terminated under *Section 63-7-2580* of the 1976 Code, except that the termination of parental rights is ineffective to disqualify the child or its kindred to inherit from or through the parent.

In *Parker v. Parker*, an interested party questioned the paternity of an heir and their ability to inherit through intestate succession four years after the relevant death. *Parker v. Parker*, 313 S.C. 482, 484, 443 S.E.2d 388, 389 (1994). The Supreme Court of South Carolina held, "that if paternity is questioned by either the personal representative or other interested party, … , then such action must be brought within the statutory time frame of six months after the death of the father." *Parker v. Parker*,

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313 S.C. 482, 486, 443 S.E.2d 388, 390 (1994). The court further stated that the failure to act for **four years** was an "implicit waiver of a statutory right." *Parker v. Parker*, 313 S.C. 482, 488, 443 S.E.2d 388, 391 (1994). If **four years** is an implicit waiver, **forty-one years** certainly cannot cut it.

3. The "Ultimate Time Limit" has run.

This is at core an action to challenge the probate of Thomas Edward Campbell's intestate estate. S.C. Code Ann. The "ultimate time limit" provided for in the probate code at S.C. Code Ann. § 62-3-108(A)(1) is ten years:

> (A)(1) No informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may be commenced more than ten years after the decedent's death.

This action to determine entitlement to a share of the intestate estate of Thomas Edward Campbell, filed greater than 10 years after his death, exceeds the ultimate time limit imposed by the law.

4. Gordon Louis Jackson was not an heir at law as a matter of law.

Illegitimate children could not collect from their father's estates in South Carolina in 1982 as a matter of law. So, assuming Mr. Jackson was a child of T.E. Campbell he would not have been entitled to receive a share of that estate anyway:

> In South Carolina, where a person has the right to die intestate and during his life, he is charged with full knowledge of who will succeed to his property if he dies intestate, the assumption exists that, if he dies intestate, he is satisfied with the will the law of the state made for him. []. Had James Brown inquired into the law of descent and distribution in 1974, he would have been informed that, pursuant to *Labine v. Vincent,* 401 U.S. 532, 91 S.Ct. 1017, 28 L.Ed.2d 288 (1971), illegitimate children would not inherit from their fathers' estates.

Wilson v. Jones, 281 S.C. 230, 233, 314 S.E.2d 341, 343 (1984). In 1977, the Supreme Court held a statute in Illinois which said illegitimate children could only inherit from their mother's estates, violated the Equal Protection Clause. *Tirmble v. Gordon*, 430 U.S. 762, 97 S.Ct. 1459, 52 L.Ed.2d 31 (1977). The

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same statute in South Carolina was not struck down until 1984 in the case of *Wilson v. Jones*. 314 S.E.2d 341, 342-343 (1984).

Trimble can apply retroactively but only in limited circumstances. In *Mitchell v. Hardwick*, 297 S.C. 48, 51, 374 S.E.2d 681, 683 (1988) the Court addressed the following issue: "whether the prospective only application enunciated in [*Wilson v. Jones*] should be modified to allow limited retroactive application where certain factors are met[?]" The Court in *Mitchell*, Modified *Wilson* to allow retroactive application of the *Trimble* decision in the limited circumstances where the following conditions are met:

> (1) innocent persons will not be adversely affected because of their detrimental reliance on the old rule;
>
> (2) the paternity of the child has been conclusively established either by court order or decree issued prior to the death of the father or by an instrument signed by the father acknowledging paternity; and
>
> (3) the estate administration is subject to further resolution.

Mitchell v. Hardwick, 297 S.C. 48, 51, 374 S.E.2d 681, 683 (1988). **None of these factors are met in this case.** In *Pinckney v. Warren*, 344 S.C. 382, 544 S.E.2d 620 (2001), the Court followed *Mitchell* factors and imposed strict requirement on proof of paternity.

Another decision, *Freeman v. Freeman*, 323 S.C. 95, 103–04, 473 S.E.2d 467, 473 (Ct. App. 1996) discusses constitutionality on SC limitations on retroactive application (quoted below):

> South Carolinas limits on the retroactive application of *Trimble* is constitutional. One year after *Trimble* the Court found equal protection could be limited by a state. *See Lalli v. Lalli,* 439 U.S. 259, 99 S.Ct. 518, 58 L.Ed.2d 503 (1978). In *Lalli,* the Court interpreted a New York statute which required an order of paternity be issued *during* the life of the father, in order for the illegitimate child to inherit. *Id.* The illegitimate child introduced into evidence a notarized document in which the father referred to him as "my son" and also submitted affidavits which stated the father had openly acknowledged the child as his. *Id.* at 263, 99 S.Ct. at 522. Even with this evidence, the Court did not allow the child to inherit.

The test the Court applied was whether the procedural demands of the statute were substantially related to a particular state interest the statute was designed to serve. **The Court held the statute did**

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not violate the Equal Protection Clause even though it prevented some illegitimate children who could establish paternity without serious disruption of the administration of estates from inheriting. *Id.* at 272–73, 99 S.Ct. at 526–25. The Court's focus in that case was not on fairness but on the government's interest:

> We do not question that there will be some illegitimate children who would be able to establish their relationship to their deceased fathers without serious disruption of the administration of estates and that, as applied to such individuals, [the statute] appears to operate unfairly. But few statutory classifications are entirely free from the criticism that they sometimes produce inequitable results. **Our inquiry under the Equal Protection Clause does not focus on the abstract "fairness" of a state law, but on whether the statute's relation to the state interests it is intended to promote is so tenuous that it lacks the rationality contemplated by the Fourteenth Amendment.**

Id. This case is more compelling. There **would be** a serious disruption to the administration of estates in this case adversely affecting the rights of innocent persons. This case, as a matter of law, should be dismissed.

5. There is no justiciable controversy and the Plaintiff's claims are moot.

Under the Declaratory Judgment Act, courts only consider cases presenting a justiciable controversy. *Tourism Expenditure Rev. Comm. v. City of Myrtle Beach*, 403 S.C. 76, 81, 742 S.E.2d 371, 374 (2013); *Byrd v. Irmo High School,* 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996). A justiciable controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract. *Id* at 431, 468 S.E.2d at 864. By contrast, a "moot" case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court. *Mathis v. South Carolina State Highway Dep't,* 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973). If there is no actual controversy, this Court will not decide moot or academic questions. *Id.* (citing *Jones v. Dillon–Marion Human Res. Dev. Comm'n.,* 277 S.C. 533, 535, 291 S.E.2d 195, 196 (1982)); *see also Wallace v. City of York,* 276 S.C. 693, 694, 281 S.E.2d 487, 488 (1981).

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Plaintiffs' claim for a declaration that Gordon Louis Jackson was a rightful heir of Thomas Edward Campbell is moot because TE Campbell's estate has long been closed. *See Sasser v. S.C. Democratic Party*, 277 S.C. 67, 69, 282 S.E.2d 602, 604 (1981) ("In the instant case, the election has already occurred. It is therefore our determination that the issues raised by this action have been rendered moot."); *City of Charleston v. Masi*, 362 S.C. 505, 508, 609 S.E.2d 301, 303 (2005) ("We find the District correctly argues that this case regarding the Town residents' entitlement to vote in the District elections and the entitlement to serve as a District commissioner is moot given that the Town is a nullity.").

The estate at issue in this case has long been closed. There is no justiciable controversy precedent to Plaintiffs' declaratory judgment action.

6. The Plaintiffs are not entitled to a constructive trust based on these pleadings.

Plaintiffs have not pled facts to support the condition precedent of wrongful conduct to state their constructive trust claim:

> A constructive trust will arise whenever the circumstances under which property was acquired make it inequitable that it should be retained by the one holding the legal title. *Wolfe v. Wolfe,* 215 S.C. 530, 56 S.E.2d 343 (1949); *Dominick v. Rhodes,* 202 S.C. 139, 24 S.E.2d 168 (1943); *Bank of Williston v. Alderman,* 106 S.C. 386, 91 S.E. 296 (1917). **Constructive trust results from fraud, bad faith, abuse of confidence, or violation of a fiduciary duty which gives rise to an obligation in equity to make restitution.** *Searson v. Webb,* 208 S.C. 453, 38 S.E.2d 654 (1946). Fraud is an essential element, although it need not be actual fraud.

Lollis v. Lollis, 291 S.C. 525, 529, 354 S.E.2d 559, 561 (1987) There is absolutely **zero** factual allegation of "fraud, bad faith, abuse of confidence, or a violation of a fiduciary duty" by any of the named defendants.

Plaintiffs merely plead:

> 25. Defendants used actual or constructive fraud, duress, abuse of confidence, or unconscionable conduct in order to acquire the property.

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(Am. Compl. ¶ 25). Indeed, Plaintiffs do not even plead that Defendants knew Gordon Louis Jackson existed:

> 17. Defendants knew, or should have known, that Gordon Louis Jackson was a natural child of T.E. Campbell.

(Am. Compl. ¶ 17). This is not a sufficient basis upon which a constructive trust could lie, and the Plaintiffs could not fix this problem by amendment without contradicting the representations already made in their complaint and amended complaint about lack of scienter on the part of the Defendants.

7. The Plaintiffs cannot state a claim for unjust enrichment as a matter of law.

"The elements to recover for unjust enrichment based on quantum meruit, quasi-contract, or implied by law contract, which are equivalent terms for equitable relief, are: '(1) a benefit conferred by the plaintiff upon the defendant; (2) realization of that benefit by the defendant; and (3) retention of the benefit by the defendant under circumstances that make it inequitable for him to retain it without paying its value.'" *Regions Bank v. Wingard Properties, Inc.*, 394 S.C. 241, 257, 715 S.E.2d 348, 356 (Ct. App. 2011). A party may be unjustly enriched when it has and retains benefits or money which in justice and equity belong to another. *Dema v. Tenet Physician Servs.-Hilton Head, Inc.*, 383 S.C. 115, 123, 678 S.E.2d 430, 434 (2009) "Unjust enrichment is an equitable doctrine which permits the recovery of that amount the defendant has been unjustly enriched at the expense of the plaintiff."

Defendants, most of whom were not direct recipients from the estate of Thomas Edward Campbell, cannot be held to have unjustly retained shares of an estate they or their predecessors in interest were lawfully entitled to receive under the law at the time Thomas Edward Campbell's estate was probated.

8. Laches applies as a matter of law.

Laches is defined as "neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done." Hallums v. Hallums, 296 S.C. 195, 198, 371 S.E.2d 525, 527 (1988). "Under the doctrine of laches, if a party,

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knowing his rights, does not seasonably assert them, but by unreasonable delay causes his adversary to incur expenses or enter into obligations or otherwise detrimentally change his position, then equity will ordinarily refuse to enforce those rights." Chambers of S.C., Inc. v. County Council for Lee Cty., 315 S.C. 418, 421, 434 S.E.2d 279, 280 (1993). Thus, the predicate for laches is an unreasonable and unexplained delay. Eldridge v. Eldridge, 398 S.C. 113, 121–22, 728 S.E.2d 24, 28 (2012).

This action seeking to unwind an estate that completed probate in 1984 to the benefit of an alleged illegitimate heir (who could not have lawfully received from that estate then) who himself is now deceased should be barred as a matter of law by the doctrine of laches.

9. This case should be dismissed for improper venue or in the alternative venue should be transferred to Kershaw County.

Under S.C. Code Ann. § 15-7-10, the action must be brought and tried in the county in which the subject of the action or some part of the property is situated. In this case, the contested real property lies within the Kershaw County bounds where Thomas Edward Campbell's Estate was probated. No piece of real property lies within Richland County.

Additionally, venue should be changed to Kershaw County pursuant to S.C. Code Ann. § 15-7-100(A)(3), which provides that the court may change the place of trial if the convenience of witnesses and the ends of justice would be promoted by the change. Virtually all the witnesses except for Plaintiffs reside in Kershaw County. The few who do not reside in Kershaw County have significant familial ties to Kershaw County.

Conclusion

Defendants respectfully move this Court for an Order dismissing Plaintiffs' Complaint **with prejudice** or otherwise (e.g., Rule 12(b)(1), 12(b)(3) as set forth above.

[Signature Follows]

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September 15, 2023
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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMPBELL, THOMAS CLAYTOR CAMPBELL, THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL, VIVIAN C. GARDNER, AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. **AMENDED SUMMONS** **(Jury Trial Demanded)**

YOU ARE HEREBY SUMMONED and required to answer the Amended Complaint herein, a copy of which is herewith served upon you, or otherwise appear and defend, and to serve a copy of your Answer to said Amended Complaint upon the subscribers at their office, 1722 Main Street Suite 200, Columbia, South Carolina, 29201, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Amended Complaint within the time aforesaid, or otherwise appear and defend, the Plaintiff in this action will apply to the Court for the relief demanded therein, and judgment by default will be rendered against you for the relief demanded in the Amended Complaint.

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August 17, 2023

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMPBELL, THOMAS CLAYTOR CAMPBELL, THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH FRANCES C. CAMPBELL, VIVIAN C. GARNDER, AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. **AMENDED COMPLAINT** **(Jury Trial Demanded)**

NOW COMES PLAINTIFF, by and through counsel, and alleges the following:

1. Plaintiff, Mary Dow Jackson ("Mary") individually and as personal representative of the Estate of Gordon Louis Jackson, ("Plaintiff") is a resident and citizen of Richland County, South Carolina, and is the duly appointed personal representative for the Estate of Gordon Louis Jackson (the "Estate"). The Estate was opened in 2023 and bears the probate estate number 2014-ES-40-1080. Mary was appointed as the person representative on May 19, 2023.

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2. Plaintiff, Melissa Jackson ("Melissa") is the daughter of Gordon Louis Jackson ("Gordon") and Mary Dow Jackson ("Mary") and an heir to the estate of Gordon. She is a resident of Richland County.

3. Plaintiff Tyre Jackson ("Tyre") is the daughter of Gordon and Mary and an heir to the estate of Gordon. She is a resident of Richland County.

4. Plaintiff Reginald Allen ("Reginald") is the son of Gordon and an heir to the estate of Gordon.

5. Plaintiff Bryant Allen ("Bryant") is the son of Gordon and an heir to the estate of Gordon.

6. Plaintiff Andre Allen ("Andre") is the son of Gordon and an heir to the estate of Gordon.

7. Plaintiff Timothy Johnson ("Timothy") is the son of Gordon and an heir to the estate of Gordon.

8. Defendants Estate of Claude E. Campbell and Estate of Charles E. Campbell was opened in Kershaw County, State of South Carolina. The Estate of Claude E. Campbell's personal representatives are Barry Campbell and he resides in Kershaw County and Sonja Campbell Parker and she resides in Richland County. The estate of Charles E. Campbell's personal representative is Maxine Campbell and she resides in Kershaw County.

9. The Defendant the Estate of Colbert Harold Campbell was opened in Richland County, State of South Carolina. Frances C. Campbell is the personal representative of the estate of Colbert Harold Campbell and she resides in Lexington County, State of South Carolina.

10. Defendant Vivian C. Gardner is a resident and citizen of Kershaw County, State of South Carolina.

11. Defendant Thomas C. Campbell is a resident and citizen of Aiken County, State of South Carolina.

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12. Jurisdiction and venue are appropriate as to the causes of action in this complaint and as to the Defendants.

STATEMENT OF FACTS

13. Gordon was a natural child of Thomas Edward Campbell ("T.E. Campbell') who died intestate on June 12, 1982, in Kershaw County, South Carolina.

14. At the time of his death, T.E. Campbell's estate consistent of numerous parcels of land, monies, and other personal property and his estate was probated in Kershaw County.

15. Gordon Louis Jackson was excluded from the Estate of Thomas Edward Campbell when his estate was probated.

16. The Defendants in this matter are the intestate heirs of Thomas Edward Campbell who were not excluded from his estate and received distributions from the estate.

17. Defendants knew, or should have known, that Gordon Louis Jackson was a natural child of T.E. Campbell.

18. As an intestate heir of Thomas Edward Campbell, Gordon Louis Jackson should have received a distribution from the estate.

FOR A FIRST CAUSE OF ACTION
Declaratory Judgment

19. Plaintiff reiterates and restates the previous paragraphs as if set forth herein verbatim.

20. This action is one for declaratory judgment pursuant to S.C. Code Ann. § 15-53-10 et seq. for declaration of the rights, status and other legal relations of the parties in regard to the Estate of T.E. Campbell.

21. Specifically, Plaintiff seeks a judgment as follows:

    A. Declaring that Gordon Louis Jackson was a natural child and heir of T.E. Campbell.

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B. Declaring that Gordon Louis Jackson was an intestate heir of T.E. Campbell.

C. That Gordon Louis Jackson was improperly excluded from inheriting from T.E. Campbell's estate.

D. That Gordon Louis Jackson is entitled to his intestate share of T.E. Campbell's estate.

E. For any other such relief as this court may deem just and reasonable.

F. That Melissa is a natural child of Gordon and grandchild of T.E. Campbell.

G. That Tyre is a natural child of Gordon and a grandchild of T.E. Campbell.

H. That Reginald is a natural child of Gordon and a grandchild of T.E. Campbell.

I. That Bryant is a natural child of Gordon and a grandchild of T.E. Campbell.

J. That Andre is a natural child of Gordon and a grandchild of T.E. Campbell.

K. That Timothy is a natural child of Gordon and a grandchild of T.E. Campbell.

FOR A SECOND CAUSE OF ACTION
Constructive Trust

22. Plaintiff reiterates and restates the previous paragraphs as if set forth herein verbatim.

23. The Defendants have acquired property and title to property from the Estate of Thomas Edward Campbell.

24. Through the exclusion of Gordon in participating in the estate of T.E. Campbell the Defendants were unjustly enriched.

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25. Defendants used actual or constructive fraud, duress, abuse of confidence, or unconscionable conduct in order to acquire the property.

26. Defendants cannot in good conscience retain or withhold from Plaintiff the property and title to property they received from the estate.

27. Plaintiff is entitled to a constructive trust be imposed on all of the real estate distributed to the heirs of T.E. Campbell and that the property be held for the benefit of Plaintiff.

28. As a direct and proximate result of Defendants' actions, Plaintiffs have been injured and are entitled to recover damages including, but not limited to, money damages representing the amount by which Defendants have been unjustly enriched, disgorgement of Defendants' unjust gains, a constructive trust on Defendants' unjust gains, a resulting trust on Defendants' unjust gains, an accounting, and other relief as the Court deems just and proper.

FOR A THIRD CAUSE OF ACTION
Unjust Enrichment

29. Plaintiff reiterates and restates the previous paragraphs as if set forth herein verbatim.

30. Defendants have improperly realized and retained benefits conferred upon them under circumstances that would make it unjust to retain them without paying their fair value.

31. As a direct and proximate result of Defendants' unjust enrichment, Plaintiff has been injured and is entitled to recover damages including, but not limited to, money damages representing the amount by which Defendants have been unjustly enriched, disgorgement of Defendants' unjust gains, a constructive trust on Defendants' unjust gains, a resulting trust on Defendants' unjust gains, an accounting, and other relief as the Court deems just and proper.

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WHEREFORE, the Plaintiffs pray for judgment against Defendants for all actual, compensatory, future, and punitive damages that he may be entitled to, declaratory relief, and equitable relief in such amounts and against Defendants as awarded by a jury, and for such other and further relieve as this Court may deem just and proper.

Respectfully Submitted,

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August 17, 2023

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMPBELL, THOMAS CLAYTOR CAMPBELL, THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH CLAYTOR GOFF AND HAROLD GOFF, VIVIAN C. GARDNER, AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. **SUMMONS** **(Jury Trial Demanded)**

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, or otherwise appear and defend, and to serve a copy of your Answer to said Complaint upon the subscribers at their office, 1722 Main Street Suite 200, Columbia, South Carolina, 29201, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, or otherwise appear and defend, the Plaintiff in this action will apply to the Court for the relief demanded therein, and judgment by default will be rendered against you for the relief demanded in the Complaint.

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August 16, 2023

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND MARY DOW JACKSON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GORDON LOUIS JACKSON, MELISSA JACKSON, TYRE JACKSON, REGINALD ALLEN, BRYANT ALLEN, ANDRE ALLEN, AND TIMOTHY JOHNSON, Plaintiffs, vs. THE ESTATE OF CLAUDE E. CAMPBELL, BY AND THROUGH SONJA CAMPBELL PARKER AND BARRY CAMPBELL, THOMAS CLAYTOR CAMPBELL, THE ESTATE OF COLBERT HAROLD CAMPBELL, BY AND THROUGH CLAYTOR GOFF AND HAROLD GOFF, VIVIAN C. GARNDER, AND THE ESTATE OF CHARLES E. CAMPBELL, BY AND THROUGH MAXINE WATTS CAMPBELL, Defendants.	IN THE COURT OF COMMONS PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. **COMPLAINT** **(Jury Trial Demanded)**

NOW COMES PLAINTIFF, by and through counsel, and alleges the following:

1. Plaintiff, Mary Dow Jackson ("Mary") individually and as personal representative of the Estate of Gordon Louis Jackson, ("Plaintiff") is a resident and citizen of Richland County, South Carolina, and is the duly appointed personal representative for the Estate of Gordon Louis Jackson (the "Estate"). The Estate was opened in 2023 and bears the probate estate number 2014-ES-40-1080. Mary was appointed as the person representative on May 19, 2023.

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2. Plaintiff, Melissa Jackson ("Melissa") is the daughter of Gordon Louis Jackson ("Gordon") and Mary Dow Jackson ("Mary") and an heir to the estate of Gordon. She is a resident of Richland County.

3. Plaintiff Tyre Jackson ("Tyre") is the daughter of Gordon and Mary and an heir to the estate of Gordon. She is a resident of Richland County.

4. Plaintiff Reginald Allen ("Reginald") is the son of Gordon and an heir to the estate of Gordon.

5. Plaintiff Bryant Allen ("Bryant") is the son of Gordon and an heir to the estate of Gordon.

6. Plaintiff Andre Allen ("Andre") is the son of Gordon and an heir to the estate of Gordon.

7. Plaintiff Timothy Johnson ("Timothy") is the son of Gordon and an heir to the estate of Gordon.

8. Defendants Estate of Claude E. Campbell and Estate of Charles E. Campbell was opened in Kershaw County, State of South Carolina. The Estate of Claude E. Campbell's personal representatives are Barry Campbell and he resides in Kershaw County and Sonja Campbell Parker and she resides in Richland County. The estate of Charles E. Campbell's personal representative is Maxine Campbell and she resides in Kershaw County.

9. The Defendant the Estate of Colbert Harold Campbell was opened in Richland County, State of South Carolina. Claytor and Harold Goff are the personal representatives of the estate of Colbert Harold Campbell and they reside in Aiken County and Lexington County, State of South Carolina, respectively.

10. Defendant Vivian C. Gardner is a resident and citizen of Kershaw County, State of South Carolina.

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11. Defendant Thomas C. Campbell is a resident and citizen of Aiken County, State of South Carolina.

12. Jurisdiction and venue are appropriate as to the causes of action in this complaint and as to the Defendants.

STATEMENT OF FACTS

13. Gordon was a natural child of Thomas Edward Campbell ("T.E. Campbell') who died intestate on June 12, 1982, in Kershaw County, South Carolina.

14. At the time of his death, T.E. Campbell's estate consistent of numerous parcels of land, monies, and other personal property and his estate was probated in Kershaw County.

15. Gordon Louis Jackson was excluded from the Estate of Thomas Edward Campbell when his estate was probated.

16. The Defendants in this matter are the intestate heirs of Thomas Edward Campbell who were not excluded from his estate and received distributions from the estate.

17. Defendants knew, or should have known, that Gordon Louis Jackson was a natural child of T.E. Campbell.

18. As an intestate heir of Thomas Edward Campbell, Gordon Louis Jackson should have received a distribution from the estate.

FOR A FIRST CAUSE OF ACTION
Declaratory Judgment

19. Plaintiff reiterates and restates the previous paragraphs as if set forth herein verbatim.

20. This action is one for declaratory judgment pursuant to S.C. Code Ann. § 15-53-10 et seq. for declaration of the rights, status and other legal relations of the parties in regard to the Estate of T.E. Campbell.

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21. Specifically, Plaintiff seeks a judgment as follows:

A. Declaring that Gordon Louis Jackson was a natural child and heir of T.E. Campbell.

B. Declaring that Gordon Louis Jackson was an intestate heir of T.E. Campbell.

C. That Gordon Louis Jackson was improperly excluded from inheriting from T.E. Campbell's estate.

D. That Gordon Louis Jackson is entitled to his intestate share of T.E. Campbell's estate.

E. For any other such relief as this court may deem just and reasonable.

F. That Melissa is a natural child of Gordon and grandchild of T.E. Campbell.

G. That Tyre is a natural child of Gordon and a grandchild of T.E. Campbell.

H. That Reginald is a natural child of Gordon and a grandchild of T.E. Campbell.

I. That Bryant is a natural child of Gordon and a grandchild of T.E. Campbell.

J. That Andre is a natural child of Gordon and a grandchild of T.E. Campbell.

K. That Timothy is a natural child of Gordon and a grandchild of T.E. Campbell.

FOR A SECOND CAUSE OF ACTION
Constructive Trust

22. Plaintiff reiterates and restates the previous paragraphs as if set forth herein verbatim.

23. The Defendants have acquired property and title to property from the Estate of Thomas Edward Campbell.

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24. Through the exclusion of Gordon in participating in the estate of T.E. Campbell the Defendants were unjustly enriched.

25. Defendants used actual or constructive fraud, duress, abuse of confidence, or unconscionable conduct in order to acquire the property.

26. Defendants cannot in good conscience retain or withhold from Plaintiff the property and title to property they received from the estate.

27. Plaintiff is entitled to a constructive trust be imposed on all of the real estate distributed to the heirs of T.E. Campbell and that the property be held for the benefit of Plaintiff.

28. As a direct and proximate result of Defendants' actions, Plaintiffs have been injured and are entitled to recover damages including, but not limited to, money damages representing the amount by which Defendants have been unjustly enriched, disgorgement of Defendants' unjust gains, a constructive trust on Defendants' unjust gains, a resulting trust on Defendants' unjust gains, an accounting, and other relief as the Court deems just and proper.

FOR A THIRD CAUSE OF ACTION
Unjust Enrichment

29. Plaintiff reiterates and restates the previous paragraphs as if set forth herein verbatim.

30. Defendants have improperly realized and retained benefits conferred upon them under circumstances that would make it unjust to retain them without paying their fair value.

31. As a direct and proximate result of Defendants' unjust enrichment, Plaintiff has been injured and is entitled to recover damages including, but not limited to, money damages representing the amount by which Defendants have been unjustly enriched, disgorgement of Defendants' unjust gains, a constructive trust on Defendants' unjust gains, a resulting

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trust on Defendants' unjust gains, an accounting, and other relief as the Court deems just and proper.

WHEREFORE, the Plaintiffs pray for judgment against Defendants for all actual, compensatory, future, and punitive damages that he may be entitled to, declaratory relief, and equitable relief in such amounts and against Defendants as awarded by a jury, and for such other and further relieve as this Court may deem just and proper.

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August 16, 2023

STATE OF SOUTH CAROLINA
COUNTY OF KERSHAW
IN THE COURT OF COMMON PLEAS
C.A. NO. 2024-CP-28-00123

Mary Dow Jackson, individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Family Andre Allen and Timothy Johnson,

PLAINTIFFS,

vs.

The Estate of Claude E. Campbell, by and through Sonja Parker Campbell and Barry Campbell, Thomas Claytor Campbell, Jr. as Personal Representative and Trustee for the Estate and Testamentary Trust of Thomas Clayter Campbell, Sr., the Estate of Colbert Harold Campbell, by and through Frances C. Campbell, Vivian C. Gardner and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell,

DEFENDANTS.

H E A R I N G
BEFORE THE HONORABLE DANIEL COBLE

DATE: JULY 17, 2025
LOCATION: SOUTH CAROLINA CIRCUIT COURT 5
1121 BROAD STREET
CAMDEN, SOUTH CAROLINA 29020

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(NONE MARKED)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

THE COURT: All right. Number two, Jackson versus Campbell, 0123.

MR. GLEISSNER: Good morning, Your Honor.

THE COURT: Morning.

MR. PORTER: Good morning.

MR. GLEISSNER: Good morning.

THE COURT: We have Defendant's motion for summary judgment.

MR. PORTER: Yes, Your Honor. Call for -- for the Defendants. My mic should be on now, Mr. Court Reporter. Let me know if you can't hear me, and I'll speak up.

All right. Good morning, Your Honor. My clients I'll refer to as a collective as the Campbell family. This case has a somewhat long history, so please bear with me as I briefly run through it.

THE COURT: Let me just tell you how I think it is, so that way you all can correct me.

MR. PORTER: Yes, Your Honor.

THE COURT: So, basically, it's Mr. Campbell, the decedent, 1982, had about five children who were legitimate in the legal sense. Everything went intestate to them and then the grandchildren -- his grandchildren, who are essentially your clients and some in-laws. There's allegedly Mr. Jackson, I believe, who's now deceased, was one of the illegitimate children in the legal sense. His

wife, Mary Dow Jackson, has now taken up the case on his behalf of his estate, alleging that he should have been in the original will or testate. Is that essentially?

MR. PORTER: Two other points on the background I would make, but yes, Your Honor. Number one, in 2019, there was kind of an act one of these sort of claims with a different person claiming to be an illegitimate heir. In this courtroom in 2022, the court granted a directed verdict on that case, including a claim for constructive trust, similar to the constructive trust claim alleged. I've emailed a copy of the transcript to Chambers with NCC.

I would also point out, Your Honor, that Gordon Lewis Jackson, I want to emphasize, died in 2013. So, he died 11 years ago. And Your Honor may have understood that and not stated it, but I do think it is important to these arguments. So, his claims, as Your Honor knows, are unjust enrichment, constructive trust, and a Declaratory Judgment Act claim.

While it has not been determined that Gordon Lewis Jackson is a child of Thomas Edward Campbell, here, for the purposes of summary judgment in our motion, it makes absolutely no difference. We'll hear some talk, and I'll address this idea of prematurity later on, but what they're seeking to establish paternity does not change the facts in the law that matter for summary judgment.

In our brief, we outline a number of grounds, but I'm going to focus on three distinct points in oral argument. The first being that Gordon Lewis Jackson was not an heir-at-law to Thomas Edward Campbell's estate in 1982.

The second being that there is no record evidence, and will never be record evidence, underlying the two actual claims, the two claims in equity that the Plaintiffs assert. And their talk about prematurity does not talk about evidence that would change that determination. It talks about evidence of whether or not he was a child, which, for the purposes of this motion, does not matter.

And then third, laches. You cannot sit on your hands for 30 years, die, then have your children sit on their hands for another 10 years, and then bring a lawsuit and try to unwind a closed probate on an estate that's now been passed down through two generations. And that is one point I meant to state in the background that I think is important.

Out of the five children of Thomas Edward Campbell, only Vivian Gardner is living. And she's 89 years old and at a rehab facility. Aside from her, these assets have already been passed down at least twice. So, the majority of the parties in interest are either two daughters-in-law, or three grandchildren, or also three great-grandchildren. So, no -- strike that. Three grandchildren -- six

grandchildren, no great-grandchildren yet, to my knowledge.

I will first address the arguments in that order, but let me also point to the record that's before the court. And -- and the evidence we attach to our brief is Mary Dow Jackson, the lead Plaintiff's testimony. Because I think that's her own words. We want to assume the facts and the like most favorable to the Plaintiff, and I think that's where we start.

At page 23 through 27, she states that Thomas Edward Campbell had told both she and her husband, Gordon Lewis Jackson, on multiple occasions, between 1974 to 1982, that he was Gordon Lewis Jackson's father.

At page 46 of her deposition, she states that she and her husband found out about Thomas Edward Campbell's death when it happened.

At page 27, she testified that Gordon Lewis Jackson was high school educated. He was a veteran, and he was friendly and outgoing.

At page 28, she testified that Gordon knew lawyers, knew how to engage their services, and knew people who had hired lawyers.

At page 30 through 31 and 48, she testified that he made the decision not to take action regarding the estate. And that's important because in -- in their affidavits, there's this new suggestion that she never testified to that we

thought he had a will.

Well, Your Honor, first off, if you look at Judge McCaslin's directed verdict ruling in Bowers. She points out very succinctly that you can't just sit on your hands. If they wanted to ascertain whether or not he had a will, that was really, really the reason they did nothing for 40 years. They could have hired a lawyer. They didn't even need to hire a lawyer. They could come up to the probate court, pay probably back then a nickel per page for a copy, and they could have pulled the records from the probate court and seen that he died intestate.

And then finally, and this is important with respect to the causes, at pages 42 through 44 and 62, she says she knows of no bad things that the Defendants or their predecessors, the five children who received from this estate, did to cause Gordon Lewis Jackson not to be involved. So, against those facts, let's turn to the law. And I understand Your Honor has read the brief, so I'll try to be succinct. But there is this unique development of the probate law in the background. We'll start with that.

So, in 1982, when Thomas Edward Campbell died, illegitimate children could not collect from their dad's intestate estates. There's no debate that that is the law in South Carolina.

In 1984, in Wilson versus Jackson, a case involving

James Brown. The court said, "Hey, there was this decision in Trimble in 1977 regarding an Illinois statute that's just like ours, and the Supreme Court said that violates the Equal Protection Clause. We agree that our statute violates the Equal Protection Clause. And so therefore, if you can establish paternity, is the assumption, you could collect from your father's -- your -- your father's intestate estate as an illegitimate child.

And as the Plaintiffs point out on brief, the language of that says, "This is prospective only from Trimble," which is a little unique dynamic since that was 1984 and Trimble was 1977.

Well, we have a case in 1988 where the court opened it up further to retrospective. And as the Plaintiffs point out, as Wilson has written, presumably that means pre-1977, and they outline three factors that have to be met.

Number one, innocent people would not be adversely affected because of their reliance on the old law. Number two, the paternity of the child was consequently established by court order or decree prior to the death of the father or there be some written instrument by the father attesting that, Hey, this is my child. And number three, the estate is subject to further administration.

There's no argument in the record that they could succeed on any of those three factors, and that will never

change. They would fail on all three. Their argument is instead, and I'll get into this after looking at the probate code, that they don't have to establish those factors.

In 1987, so three years after Wilson versus Jones, the probate code was either reformed or -- or codified, and 62-2-109 set forth how an illegitimate child could collect from their father's estates. It says there either has to have been a marriage ceremony of the parents, or an adjudication prior to the father's death, or within six to -- six months from -- eight months from the death or six months from the appointment of a PR, whichever is later, and proof of paternity be had by clear and convincing evidence.

The contention of the Plaintiffs is somehow they found a -- a unique approach that basically no one else could have. When in reality, the law would give you three options. A, the law as it was in 1982, which is illegitimate children cannot inherit. B, they can inherit if they establish the Mitchell factors, which we know they cannot. Or C, they can inherit if they establish the 62-2-109.

Their suggestion is that there's a fourth option where there are absolutely no rules because this fell in between 1977 and 1987. Sort of get-out-of-jail-free card that would allow one to challenge an estate in between 1977 to

1987, presumably infinitely into the future because we are here 40 years after the fact today.

The problem with that is that looking at all three of those options, illegitimate child cannot inherit, which was the law in 1982. They can only inherit if they establish the Mitchell factors, the law for pre-1977 established in 1988. Or they can only inherit if they establish 62-2-109. Under any of those tests, you have to prove paternity at or during the probate process.

And so this suggestion that they can prove paternity 40 years after the fact has simply no basis in case law, and it's dangerous because if taken to its fullest logical conclusion. No estate -- no intestate estate between 1977 and 1987 will ever be settled, even if it's been passed down a multitude of times should a creative lawyer assert not that their client, but perhaps that their client's deceased father or grandfather was an illegitimate child.

The fact is, at best, paternity would have had to have been established while this estate was open, and there's no evidence in the record that it was, and there's no evidence in the record that would have established paternity under any test that the court of South Carolina has ever applied. And there never will be evidence in the record that will meet that standard. And this probate has been closed since 1984.

Let me turn to the second ground, which is the elements themselves. So, the first element of an unjust enrichment claim is that you have to confer a benefit on the Defendants. The classic example that lawyers often think about is a lawyer who fails to do a new retainer for an existing client, and then the client won't pay. Well, if they've done the services in quantum merit, they can assert time served, basically, their hourly rate against the time.

The Plaintiffs do not argue that they conferred a benefit on the Defendant in their brief. What they argue is that that's not an element. They cite to one case where it wasn't addressing the elements, just stating in a thematic sense what quantum merit or unjust enrichment is, and -- and doesn't include that discussion about benefit conferred, just says, Hey, it's when someone gets something they're not entitled to, and say, therefore, that's not really an element. But that's not the law in South Carolina.

Indeed, that case, in that same paragraph they cite to, cites two case law approvingly that has the three elements. So, they've got to establish a benefit conferred. There's no evidence of any benefit conferred by Gordon Lewis Jackson on my client's ever. He didn't, you know, paint their house and not get paid. Like, he didn't do anything that would establish quantum merit. So, we don't even have

to get to the third element, which is would it be equitable to unwind this 40-year estate.

Next, on constructive fraud, we have a similar problem. Constructive fraud requires some bad conduct on the part of the Defendants. They don't assert that there was bad conduct on the part of the Defendants in brief. They just once again cite to some case law talking about constructive trust in a summary fashion in a different context, and just gloss over the fact that they have to show that.

But here's the case law from South Carolina from the case Lawless versus Lawless. Constructive trust results from fraud, bad faith, abuse of confidence, or a violation of fiduciary duty, which gives rise to an obligation in equity to make restitution. There's no evidence in the record of anything like that, particularly by the living defendants who, other than Vivian who's in the old folks' home, were not even there. And there never will be evidence to those facts.

And -- and the only thing in their affidavits, and I want to hone in on the Rule 56(f) still in more particularity later. The only thing in their affidavits is talking about how they're trying to get paternity tests done, and something about New York, which unbeknownst to me, I didn't even know these probate filings had been made to get the blood test. But that won't change the fact that

my clients did nothing wrong, and they can't prove they did.

And so then we turn to the declaratory judgment. Well, if -- if your other claims don't work, if the estate's closed, the question's moot. There -- there's no justiciable controversy here. As I said at the very beginning, whether or not Gordon Lewis Jackson is a child of Thomas Edward Campbell makes no difference in the law. It simply does not.

And then last, but not least, as a ground, I would point, Your Honor, to laches. There's a case from Parker versus Parker, which in the -- the first instance is talking about the statute of heirs, how you have to act within six to eight months after 1987. But then the court goes on further to say that failure to act for four years was an implicit waiver of a statutory right. And I would suggest, Your Honor, that if four years is an implicit waiver, 40 years has to be an explicit waiver.

The irony should not be lost on the court that the Plaintiffs are very adamant about the fact that even though they filed this lawsuit in 2024, the 1987 probate code does not apply to them because Thomas Edward Campbell died in '82. At their brief at page eight, they say, "Unless otherwise provided in the code a substantive right, the decedent's estate accrues in accordance with the law and

effect on the date of the decedent's death." Okay. Well, the law and effect on the date of the decedent's death was that Gordon Lewis Jackson could not collect from his intestate father's estate.

And, Your Honor, Gordon Lewis Jackson chose to do nothing. Had he gone to a lawyer, the lawyer could have two years before the Wilson versus Jackson decision said, "Hey, I know about this troubled decision in Indiana. Why don't we challenge this? Why don't we make a claim to this estate?" And then maybe he'd have better standing here, not here today, maybe in the 90's, when DNA testing came out, if he had lost, I don't know, but then maybe he would have had some standing.

But the fact is, they can't have it both ways. They can't say, we don't have to follow the probate code, Oh, but the fact that we couldn't have collected in 1982 doesn't matter, even though our claims require us to show, at least with respect to the constructive trust, that your clients did something bad. Well, how can you do something bad by, I guess the allegation is, failing to notify Gordon, who we know from Mary Dow Jackson's testimony knew about the death, so you don't need to notify him, but failure to notify him when they would have no legal duty to notify him in 1982. So, it -- it's -- it's circular, it doesn't fit, and -- and, Your Honor, I -- I respect that it

stops and -- and be stopped today.

On laches, also, I want to point, Your Honor, to language from another case, Chambers of South Carolina versus County Counsel for Lee County. It just says, "Under the doctrine of laches, if a party knowing his rights does not seasonably assert them, but by unreasonable delay causes his adversary to incur expenses or enter into obligations, or otherwise detrimentally change his position, then equity would ordinarily refuse to enforce those rights." And -- and here, the estate's been passed down way too many times. I mean, one time is too many.

Last, Your Honor, on 56(f), I filed an email or a letter with the court yesterday, so this wasn't part of our brief. I was taken aback when I saw the suggestion that discovery was premature. And -- and, Your Honor, I can give you a courtesy copy of the email if you'd like.

THE COURT: I saw it.

MR. PORTER: Okay. And -- and I said, in March 28th, because I didn't want to get up here and have a prematurity argument, Hey, guys, I'm going to file a motion for summary judgment. If there's anything you need to do, let's get it set. And until that brief was filed yesterday, I have not heard -- well, take that back. They -- they emailed one guy two weeks ago saying, "Hey, we want to depose you," a guy, Randy Bowers, who was their former client, who was

Mr. Gleissner's former client, saying, "We want to depose you." But -- but Bowers' testimony is not mentioned at all as a basis for prematurity. And even then, I emailed them in March saying, "I'm going to file this motion. If you've got things you need to do, let's do it." And heard crickets in response until we get here.

And I don't -- I have respect for Mr. Gleissner and Mr. Harling. They're fine lawyers. They've made creative approaches. But my clients are -- are -- have -- have been through enough here. And I know summary judgment is a meaningful decision. And I thank you for your time. And I hope that I have persuaded you, or that the law and the facts have persuaded you, because I think they do, that it's appropriate here. Thank you.

THE COURT: All right. Thank you. Yes, sir.

MR. GLEISSNER: Thank you, Your Honor. First and foremost, I want to start with the South Carolina case of Wilson versus Jones in the Supreme Court in 1984, 281 S.C. 230, the South Carolina Supreme Court held in 1984. We hold illegitimate children can inherit from their fathers' estates, but only those whose fathers' deaths occurred after April 26, 1977.

THE COURT: You want me to turn that microphone on?

MR. GLEISSNER: Is the microphone on?

UNIDENTIFIED MALE SPEAKER: Yeah.

MR. GLEISSNER: Got it. I'll just be -- sorry.

THE COURT: I think we got you. You can keep going.

MR. GLEISSNER: Thank you, Your Honor. So, the argument that our client, Gordon Lewis Jackson, could not inherit as an illegitimate child is just wrong. The case they talk about, the Mitchell v. Hardwick, that only applies if you want to go before 1977. The South Carolina Supreme Court was clear that from 1977 to 1984, you can if you're illegitimate. That's what the case says. I can pass up copies to the court we cited in our brief, Your Honor.

So, this notion that he is not an heir-at-law is just incorrect. And importantly, that goes to their defense of laches because one of the elements of laches is that his clients must rely on the non-assertion of a right. You can't rely on the non-assertion of a right that you don't believe exists. They can't rely on it. They don't think you can do it. So, there can be no reliance, therefore, no laches.

Going back to the prematurity argument, Your Honor. This -- this motion is premature. There's more discovery that needs to be conducted, and we've got DNA testing pending for our folks right now. If the DNA tests come back and say they're not heirs, we don't have a case. And that's what we've been waiting on, Your Honor. There's no sense in going out and spending money that you don't have

to. We believe our folks are heirs. We've got plenty of evidence in the record. We've submitted affidavits that there are acknowledgments by the Campbell family that they were, in fact, heirs. But DNA testing is ironclad. It will be irrefutable.

And the notion that we've been sitting on our hands is incorrect. We are diligent with what we are doing. We have clients that are located all over the country, and we are working on getting those, and we've been working on those for many, many months. And hopefully we'll have those back soon. But our position is this motion is premature. More discovery is needed. Only one of the Defendants has been deposed, and we've been unable to depose any of the Plaintiffs just because we want DNA.

MR. HARLING: We are the Plaintiffs.

MR. GLEISSNER: We are the Plaintiffs. That's why I bring him around, Judge. Excuse me, we are the Plaintiffs.

Going toward -- going forward with the elements of our causes of action, unjust enrichment is someone else getting something that you should get. The tenant case cited in our brief says that. That's just what unjust enrichment is. I don't have to give it to you. If someone's got something that belongs to me, they've been unjustly enriched. It's equity.

A constructive trust to talk about no bad action. The

bad action is excluding our clients from the estate. The bad action is not notifying them that the estate was open. The bad action is taking something that rightfully belongs to our clients.

This is not a novel request we make of the court, Your Honor. In Pinckney versus Warren, the South Carolina Supreme Court, captioned 344 S.C. 382 from 2001. They were determining heirs and property -- property ownership rights from an estate -- intestate estate from 1954. In 2001, their ruling came down. This is not something we just made up, Your Honor. This is based on equity. It is based on intestate. It's based on what the probate law was in 1982. That's what we're looking at.

Going back to the statute. They cite the probate court and say the statute of heirs is a bar. 62-1-100 of the probate code says, "Except as provided elsewhere in this code on the effective date of this code, which was July 1st, 1987, an act done before the effective date in any proceeding and any accrued right is not impaired by this code. Unless otherwise provided in the code, a substantive right in the decedent's estate accrues in accordance with the law in effect on the date of the decedent's death. If a right is acquired, extinguished, or borrowed upon the expiration of a prescribed period of time which is commenced to run by the provisions of any statute before

the effective date, the provisions remain in force with respect to that right." That is 62-1-100. That's A number one in the South Carolina Probate Code.

Going forward to this ultimate time limit, they cite in 62-3-108. 62-3-108, subsection B states, "These limitations do not apply to a proceeding to construe probated wills or determine heirs of an intestate." I didn't write it, Judge. That's what the law says and that's what we're relying on.

Going back to laches. They can't rely on something they don't believe exists, Your Honor. We believe this case is timely. We believe this case is appropriate. We believe this motion is premature. At the conclusion of discovery, when everything is said and done, that is the appropriate time for summary judgment.

He discusses this other case where a direct verdict was granted. That's at the trial level, Your Honor. That's at the conclusion of discovery. That's after the plaintiffs have had an opportunity to put up all of their evidence to the finder of fact and then that decision was made by Judge McCaslin. Every case rises and falls on its own merit. There is no estoppel that they can assert against us. We believe we are entitled to our day of court, Your Honor, and I will be happy to provide you with any other information or answering questions you may have.

THE COURT: In 1984, when that case came out, that illegitimate have this, isn't that when it started with Mr. Jackson that he was on notice to make his -- make his claims?

MR. GLEISSNER: I don't believe so, Your Honor. I believe it would just say there is no notice requirement in the South Carolina Probate Code at that time. I've got the historical laws here. I believe he had the right and the ability to do it and I believe it would fall upon the affirmative defenses to equity because that's what we're doing, Your Honor.

We're here seeking equity. We are seeking a -- a wrong to be righted and that is an argument that can be made on the laches defense if they did not -- if they were not wrong in their assertion that he could not inherit under the intestate laws in South Carolina at the time and that's why that's so important. That's why it's so important. They say it can't be done. That means they can't rely on it. That defeats their laches argument.

So, even if they "sat on their hands," they can't rely on it because they didn't rely on it because they said they didn't rely on it. Now, that would have -- it would have triggered his ability to do something. That is true. But their ability to say we sat on our hands is defeated because they don't believe he had the right to begin with.

THE COURT: All right. Thank you.

MR. GLEISSNER: Thank you, Your Honor.

THE COURT: Any brief responses?

MR. PORTER: Yes, Your Honor. So, their suggestion is that to assert laches, the Defendant needs to accept that the Plaintiff has a legal right to some action that's simply not the law. The DNA test would not matter. In the Bower's case, he had a DNA test. They brought up that it was OMDB. I want to point out that the summary judgment motions were pre-kitchen planners and that the majority of the claims in that action were tort claims, which I think made summary judgment a little more difficult.

THE COURT: Who was the plaintiff in that case?

MR. PORTER: Randy Bowers.

THE COURT: And what's the connection? This is the Judge McCaslin case.

MR. PORTER: Yeah.

THE COURT: Who is that?

MR. PORTER: Who what?

THE COURT: Who is that?

MR. PORTER: Randy Bowers is the first person to claim he was an illegitimate heir of Thomas Edward Campbell. So, he filed a lawsuit in 2019, tried it in 2022, got a directed verdict. He then hired Mr. Gleissner to appeal, then dismissed his appeal thereafter. And we -- we did

have claims against him for civil conspiracy and abuse of process, which we dismissed him at the same time.

The reason I showed that transcript to you is because it's the exact same arguments. And the difference is, the version -- the DNA test they're saying they need, he would have. It didn't make a difference, and it doesn't make a difference. Thank you, Your Honor. And I appreciate your time.

Oh, sorry. One other point. That case they're citing to on unjust enrichment, a paragraph they literally cite to, cites a case where it has all three elements.

THE COURT: Is this the tenant case?

MR. PORTER: Yes. Yes, Your Honor.

THE COURT: All right. Let me -- thank you. Let me review everything, review these cases, the memos, and try to get something to y'all shortly. But try to get through it all, okay?

MR. PORTER: Thank you.

THE COURT: All right. Thank you all for being here.

MR. GLEISSNER: Thank you, Your Honor.

THE COURT: Thank you.

MR. HARLING: Thank you, Your Honor.

THE COURT: Thank you.

(THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT 10:35 A.M.)

CERTIFICATE OF TRANSCRIBER

State of South Carolina

County of Richland

I, JENNIFER JAEGER, 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 the hearing of the captioned case, relative to appeal, in South Carolina Circuit Court 5, Kershaw County, South Carolina, on the 17th day of July, 2025.

That I am not related to nor the employee of any of the parties hereto, nor related to or employed by any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

Jennifer Jaeger

Jennifer Jaeger, Transcriber

Notary Public for S.C.

Commission Expires: 10/28/2032

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Paul Porter

From: Paul Porter
Sent: Friday, March 28, 2025 9:53 AM
To: rick@gleissnerlaw.com; Jonathan Harling
Cc: Harper L. Hutson
Subject: Mary Dow Jackson case [redacted]

Rick and Jonathan,

Your client seems like a sweet lady and I am sure she has a fine family.

I'll soon be filing a motion for summary judgment in this case.

[redacted]

Please also coordinate with my staff (elizabeth@cromerbabb.com; and gina@cromerbabb.com) to get any depositions set that you feel need to be taken before an MSJ is ripe.

Sincerely, Paul

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Disclaimers like this are not legally enforceable. If I sent this email to you by accident, please delete it and let me know. But you don't have to. Magic words below an attorney's signature block do not create a duty on your part to do anything. Thanks for coming to my TED Talk. Have a nice day. Also, I'm not your lawyer, unless you have a signed agreement that says I am. Go Gamecocks! I wish you a wonderful 2025!

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Apr 15 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

Daniel Coble, Circuit Court Judge

Case No: 2024-CP-28-00123

Mary Dow Jackson, Individually and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, and Timothy Johnson, ... Appellants,

v.

The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, Jr. as Personal Representative and Trustee for the Estate and Testamentary Trust of Thomas Clayter Campbell, Sr., the Estate of Colbert Harold Campbell, by and through Vivian C. Gardner, Heyward M. Clamp, and Larry E. Clamp, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell, . . Respondents.

CERTIFICATE OF APPELLANT

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

Respectfully Submitted,

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Dated: March 26, 2026

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