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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM YORK COUNTY

Circuit Court of Common Pleas

Daniel B. Hall, Circuit Court Judge

Appellate Case No. 2026-001130

In re: Estate of John Dale Williamson

Doug Williamson, Respondent

v.

Errick L. Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below, of whom Errick L. Williamson, individually, and Errick L. Williamson, as personal representative of the Estate of John Dale Williamson is the Petitioner.

APPENDIX

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Apr 15 2025
SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

Circuit Court of Common Pleas

Daniel B. Hall, Circuit Court Judge

Case No. 2024-CP-46-00110
Appellate Case No.: 2024-001466

In re: Estate of John Dale Williamson

Doug Williamson, Respondent

v.

Errick L. Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below,
of whom Errick L. Williamson, individually, and Errick L. Williamson, as personal representative of the Estate of John Dale Williamson is the Appellant.

RECORD ON APPEAL

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THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

Circuit Court of Common Pleas

Daniel B. Hall, Circuit Court Judge

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Appellate Case No.: 2024-001466

In re: Estate of John Dale Williamson

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Errick L. Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below,
of whom Errick L. Williamson, individually, and Errick L. Williamson, as personal representative of the Estate of John Dale Williamson is the Appellant.

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STATE OF SOUTH CAROLINA

COUNTY OF YORK

In re: Estate of John Dale Williamson

Doug Williamson,

Petitioner,

v.

Errick L. Williamson, individually;
Errick L. Williamson, as personal
representative of the Estate of John Dale
Williamson; Derrick Williamson; Robin
Beckler,

Respondents.

IN THE PROBATE COURT

Case Number: 2023-ES-46-00002

**ORDER GRANTING PETITIONER'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT AND DENYING
RESPONDENT ERRICK WILLIAMSON'S
MOTION TO WITHDRAW OR AMEND
ADMISSIONS OR, IN THE
ALTERNATIVE, FOR AN EXTENSION
OF TIME TO SERVE DISCOVERY
RESPONSES**

This matter came before the Court pursuant to the Motion of Petitioner Doug Williamson (hereinafter referred to as Doug) for Partial Summary Judgment, and the Motion of Respondent Errick Williamson (hereinafter referred to as Errick) to Withdraw or Amend Admissions or, in the alternative, for Extension of Time to Serve Discovery Responses. The Court held a hearing on the above-referenced motions on December 7, 2023. Present were counsel for Petitioner, J. Nathaniel Pierce; counsel for Respondent, Rebecca McNerney; Doug; and Doug's wife, Crystal Williamson. Having reviewed all matters of record and having considered the testimonial and documentary evidence presented and the arguments of counsel, the Court finds as follows:

FINDINGS OF FACT

1. On August 30, 2023, Doug served Errick with Interrogatories and Requests for Production (hereinafter referred to as the RFPs) pursuant to Rules 33 and 34 of the South Carolina Rules of Civil Procedure (hereinafter referred to as the SCRPC). Errick's responses to the Interrogatories and RFPs were due October 4, 2023.

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amv

2. On August 31, 2023, Doug served Errick with Requests for Admission (hereinafter referred to as the RFAs) pursuant to SCRCR Rule 36. Errick's response to the Requests for Admission were due October 5, 2023.

3. Doug served Errick with the Interrogatories, RFPs, and RFAs via regular United States mail.

4. Doug's RFAs were comprised of nine individual Requests.

5. Doug's ninth RFA (hereinafter referred to as RFA 9) requests admission or denial of a single fact: that "John Dale Williamson did not sign [the Will]." Attached to the RFAs as an exhibit was the Last Will and Testament (hereinafter referred to as the Will) of John Dale Williamson (hereinafter referred to as the Decedent), which was filed with this Court on January 3, 2023.

6. Errick failed to timely answer, object, or otherwise respond to the Interrogatories, RFPs, or RFAs.

7. Errick responded to RFA 9, but after the expiration of the time for answering.

8. Errick did not request an extension of time to respond or move for a protective order prior to the expiration of the time for answering.

9. Doug mailed for filing a Motion for Partial Summary Judgment predicated on Errick's failure to timely respond to RFAs, on November 1, 2023. The Court stamped Doug's motion on November 6, 2023. Doug's counsel served a copy of the Motion for Partial Summary Judgment on Errick's counsel on November 1, 2023.

10. Errick filed a Motion to Withdraw/Amend Admissions or, in the alternative, for Additional Time to Serve Discovery Responses, on November 27, 2023.

#2
COW

11. Errick's Motion to Withdraw/Amend Admissions or, in the alternative, for Additional Time to Serve Discovery Responses was filed after responses to the RFAs were due.

CONCLUSIONS OF LAW

1. Summary judgment is appropriate when it is clear there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. *Baird v. Charleston County*, 333 S.C. 519, 520, 511 S.E.2d 69, 74 (1999); SCRPC Rule 56(c).

2. The proper standard for a party opposing a motion for summary judgment is the "genuine issue of material fact" standard. *Kitchen Planners, LLC v. Friedman*, 2023 S.C. LEXIS 164, at *8 (August 23, 2023).

3. The non-moving party must do more than simply show there is some metaphysical doubt as to the material facts, and they must come forward with *specific facts* showing there is a genuine issue of material fact for trial. See *Baughman v. American Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991) (emphasis added).

4. Rule 56(e) specifically prohibits the non-moving party from resting upon the mere allegations or denials of its pleadings. *Id.*; SCRPC Rule 56(e).

5. Proponents of a will have the burden of establishing prima facie proof of due execution in all cases. S.C. Code Ann. § 62-3-407 (2013, as amended).

6. The South Carolina Probate Code (hereinafter referred to as the Code) requires every will to be (1) in writing; (2) signed by the testator or signed in the testator's name by some other individual in the testator's presence and by the testator's direction; and (3) signed by at least two individuals, each of whom witnessed either the signing or the testator's acknowledgment of the signature of the will. S.C. Code Ann. § 62-2-502 (Supp. 2020).

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CJW

7. Doug properly served the RFAs on Errick's counsel pursuant to the SCRCF, and counsel for Errick received the RFAs.

8. Errick's response to the RFAs were due on or before October 5, 2023.

9. Errick failed to timely respond to the RFAs.

10. RFA #9 was unambiguous.

11. Errick provided no explanation for the failure to timely respond to the RFA's.

12. Based on the facts of this case and its review of relevant case law, the Court concludes that RFA 9 is deemed admitted and its admission is the legal basis on which summary judgment may be granted as to execution of the Will.

13. The Court reviewed the following cases: *Scott v. Greenville Housing Authority*, 579 S.E.2d 151 (Ct. App. 2003); *Baughman, et al. v. American Telephone & Telegraph Co.*, 410 S.E.2d 537 (1991); *Commerce Center of Greenville v. McElveen*, 556 S.E.2d 718 (Ct. App. 2001); *Nexstar Media Group v. Davis*, 848 S.E.2d 597 (Ct. App. 2020); *Barber v. Hobbs*, 437 S.E.2d 409 (Ct. App. 1993); *Collins Entertainment v. White*, 611 S.E.2d 262 (Ct. App. 2005); *Adams v. Orr*, 194 S.E.2d 232 (1973); and the unpublished opinion in *Phillips v. Bayless* (No. 2006-UP-379).

14. The *Scott* case is on point and controls the outcome in this case.

15. The Court concludes that the case at bar is distinguishable from cases where withdrawal of admissions was permitted. See *Baughman* (allowing withdrawal of admissions when a motion for protective order was made prior to the expiration of the time for answering); *Commerce Center* (allowing modification of admissions where the responding party timely responded and reserved the right to supplement responses); *Adams* (allowing withdrawal of admission where the subject request, as worded, was subject to more than one reasonable interpretation); and *Collins Entertainment* (allowing withdrawal of admission where the first set

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of requests for admission was sent to an incorrect address and failure to respond to the second requests for admission was not raised until trial).

16. In *Scott*, the trial court allowed an admission to be withdrawn because of its view that the failure to respond was not binding if it would conflict with answers in a pleading. It stated that the admission was “superfluous” to the pleadings and therefore could not be determinative of an ultimate issue. The Court of Appeals reversed, stating that even if an admission goes to the heart of the case: “if the language of the request for admission specifically goes to an issue in the pleadings, the admission resulting from the party’s failure to respond may override the pleadings.”

17. In its ruling, the Court of Appeals also found the trial court failed to consider whether or not the trial court’s allowance of a withdrawal was prejudicial to the party who obtained the admission. It noted that the Greenville Housing Authority, the non-responding party, had sole control of the evidence needed by the party who obtained the admission and had failed to engage in discovery in good faith, and remanded the matter for further proceedings consistent with its opinion.

18. In the *Nexstar Media* case, the South Carolina Court of Appeals quotes *Scott*:

This court has affirmed the seriousness of the ramifications for a failure to respond to requests in a timely manner. In *Scott v. Greenville Housing Authority*, this Court stated: “South Carolina has long had the discovery rule that failure to respond to requests for admissions renders any matter listed in the request conclusively admitted for trial.” 353 S.C. 639, 645, 579 S.E.2d 151, 154 (Ct. App. 2003). The *Scott* court further noted: “[O]ur courts have repeatedly found that failure to respond to requests for admissions deems matters contained therein admitted for trial, regardless of whether the admission concerns a matter responded to in a party’s pleadings.” *Id* at 646, 579 S.E.2d at 154-55.

The Court of Appeals also recognizes, however, that the rule is not hard and fast:

However, South Carolina jurisprudence also establishes a trial court may use its discretion in finding requests to admit are not deemed admitted when the circumstances indicate otherwise. For example, the Supreme Court affirmed the decision of a trial court to not deem requests admitted when counsel for one party

represented to the trial court “he had no memory of the delivery and service of the requests,” and another denied having received a letter following up on the status of the requests. *Crestwood Golf Club, Inc. v. Potter*, 328 S.C. 201, 219, 493 S.E.2d 826, 836 (1997). “The master in equity did not abuse his discretion by refusing to deem admitted the requests for admission, particularly in light of the lack of hard proof that [the party] actually received the requests.” *Id.*

19. Pursuant to SCRCP Rule 36(b), an admission is conclusively established unless the Court permits its withdrawal.

20. When a party moves to withdraw or amend the admissions after the time for responding expires, the Court may engage in the analysis outlined in Rule 36(b) to determine whether the presentation on the merits would be subserved by the withdrawal of the admission and whether the party who obtained the admissions will be prejudiced if the Court allows the withdrawal of the admission.

21. To reiterate, in *Scott* the trial court allowed the withdrawal of the admissions because the party who was deemed to have admitted liability claimed its admission went to the crux of the case and presentation on the merits would be served if the admissions were withdrawn. Weighing that argument against the prejudice to the party who obtained the admissions, the Court of Appeals found that the trial court misapplied the law in regard to a conflict between an admission and a pleading, and emphasized, because of the importance of an opportunity for full and fair discovery, the necessity of taking prejudice into consideration even where the admission goes to the merits.

22. The *Scott* court also noted Federal Rule of Civil Procedure (“FRCP”) 26 is similar to South Carolina’s Rule and that “[s]ome federal courts have held that requests for admission are not objectionable merely because they go to the ultimate facts or other issues that must be proven by the plaintiff. *See, e.g., Cereghino v. Boeing Co.*, 873 F. Supp. 398, 403 (D. Or. 1994) (holding a request for admission under Rule 36, and a resultant admission, are not

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improper merely because they . . . relate to an “ultimate fact,” or prove dispositive of the entire case). Although the *Scott* court noted that “when discovery rights are trampled, prejudice must be presumed . . . [u]nless the party who has failed to submit to discovery can show a lack of prejudice, reversal is mandated,” other courts have focused on the language of SCRCP 36(b) and whether the party who has obtained the admission is prejudiced if it is withdrawn.

23. Based on the facts at bar and the reasoning of the cases the Court has reviewed, and based in particular on *Scott*, the arguments of counsel, the Court’s review of the discovery exchanges in the record, and weighing the furtherance of a presentation on the merits against prejudice as a result of failure to engage in discovery in good faith, the Court concludes that (a) the allowance of the withdrawal or amendment of Errick’s RFA #9 should not be granted on the ground that it goes to the heart of the case, whether or not the Will is valid – this is one of the reasons that the Court of Appeals reversed the trial court in *Scott*, and (b) the Respondent has failed to respond to discovery requests in a timely manner and in good faith, and if the Respondent is allowed to withdraw his admissions, the Petitioner’s opportunity for full and fair trial preparation is further prejudiced.

24. Because Errick’s failure to respond to RFA 9 results in an admission that the Will was not signed by the Decedent, the Will was not properly executed. As the proponent of the Will, Errick has not carried his burden of establishing *prima facie* proof of due execution. See S. C. Code Ann. §62-3-407. There is therefore no question of fact, partial summary judgment is appropriate on the issue of due execution, and the failure of execution invalidates the Will.

IT IS ORDERED:

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1. Respondent Errick Williamson's Motion to Withdraw or Amend Admissions is denied.
2. Respondent Errick Williamson's Motion, in the alternative, for Additional Time to Serve Discovery Responses is denied.
3. Petitioner Doug Williamson's Motion for Partial Summary Judgment as to his fifth cause of action for invalidation of the Will for failure of due execution is granted.
4. Pursuant to the Court's verbal order at the hearing, no party is to delete any digital or telephone communications pending further order of the Court.

January 5, 2024

Carolyn Woodruff

Carolyn Woodruff
Judge of Probate
York County, South Carolina

#8
CW

STATE OF SOUTH CAROLINA

COUNTY OF YORK

In re: Estate of John Dale Williamson

Doug Williamson,

Petitioner,

v.

Errick L. Williamson, individually;
Errick L. Williamson, as personal
representative of the Estate of John Dale
Williamson; Derrick Williamson; Robin
Beckler,

Respondents.

IN THE PROBATE COURT

Case Number: 2023-ES-46-00002

**ORDER GRANTING PETITIONER'S
MOTION TO COMPEL AND DENYING
RESPONDENT ERRICK WILLIAMSON'S
MOTION TO STRIKE PETITIONER'S
MOTION TO COMPEL**

This matter came before the Court pursuant to the Motion to Compel of Petitioner Doug Williamson (hereinafter referred to as Doug), as well as on the Motion of Respondent Errick Williamson (hereinafter referred to as Errick) to Strike Petitioner's Motion to Compel. The Court held a hearing on the above-referenced motions on December 7, 2023. Present were counsel for Petitioner, J. Nathaniel Pierce; counsel for Respondent, Rebecca McNERNEY; Doug; and Doug's wife, Crystal Williamson. Having reviewed the record, and having considered the testimonial and documentary evidence presented and the arguments of counsel, the Court finds as follows:

FINDINGS OF FACT

1. On August 30, 2023, Doug served Errick with Interrogatories and Requests for Production (hereinafter referred to as RFPs) pursuant to Rules 33 and 34 of the South Carolina Rules of Civil Procedure (hereinafter referred to as SCRPC). Errick's responses to the Interrogatories and RFPs were due on Wednesday, October 4, 2023.

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Am

2. Doug served Errick with the Interrogatories and RFPs via regular United States mail.

3. Errick failed to timely answer, object, or otherwise respond to the Interrogatories or RFPs.

4. On October 10, 2023, Errick's counsel emailed Doug's counsel asking for an extension through October 20, 2023, to respond to Doug's discovery requests.

5. On October 13, 2023, after conference with his client, Doug's counsel informed Errick's counsel that Errick's extension request was denied and that a motion to compel had been mailed to and would be filed with the Court early the following week. Doug's counsel further informed Errick's counsel that Doug would not seek a hearing on the motion to compel before October 20, 2023, and that Doug would withdraw the motion to compel if Errick provided complete discovery responses.

6. Doug mailed a Motion to Compel Errick's discovery responses to the Court and to Errick's counsel on October 12, 2023.

7. On October 19, 2023, Errick provided responses to Doug's Interrogatories and Requests for Production. Errick's responses were not signed under oath as required by SCRCF Rule 33.

8. After reviewing Errick's responses, Doug's counsel sent a deficiency letter to Errick's counsel on October 24, 2023. In the letter, Doug's counsel raised issues with Errick's responses to Interrogatories 3, 5, 8, 10, 12, 13, 15, and 18 and RPD's 2, 6, 8, 12, and 13.

9. On November 27, 2023, Errick filed a Motion to Strike Petitioner's Motion to Compel, alleging a violation of SCRCF Rule 11.

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CJW

10. On November 22, 2023, Errick's counsel responded to Doug's deficiency letter supplementing certain discovery responses but refusing to supplement others. In this letter, Errick refused to supplement his response to Interrogatories 3, 5, 10, and 13. He also refused to supplement his response to any of the RPDs referenced in Petitioner's deficiency letter.

CONCLUSIONS OF LAW

11. SCRCP Rules 33, 34, and 37 prescribe the standard for a Motion to Compel Interrogatory and Request for Production responses.

12. SCRCP Rule 33(a) provides that Interrogatory responses shall be served within 30 days, Interrogatories must be answered under oath, and the party submitting the Interrogatories may seek relief under Rule 37(a) with respect to objections or failure to answer.

13. SCRCP Rule 34(b) provides that Request for Production responses shall be served within 30 days, and the party submitting the Requests for Production may seek relief under Rule 37(a) with respect to objections or failure to answer.

14. SCRCP Rule 37(a) provides that "[a] party, upon reasonable notice to other parties and all person affected thereby, may apply for an order compelling discovery"

15. If a motion made pursuant to SCRCP Rule 37(a) is granted, the court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct pay to the moving party the reasonable expenses incurred in obtaining the order"

16. Petitioner properly served his Interrogatories and RPDs on Errick and Errick's counsel received the Interrogatories and RPDs.

17. Errick's responses to the Interrogatories and RPDs were due on October 4, 2023.

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18. Errick failed to respond to the Interrogatories and RPDs within the time prescribed by the SCRCP.

19. Errick did not move for additional time to serve discovery responses until after the expiration of the time to respond.

20. The Court concludes that Doug and Doug's counsel did not violate SCRCP Rule 11. It appears counsel communicated about the discovery requests and Doug refused any extensions. An attorney is bound by the client's instructions.

21. Despite the Court's granting partial summary judgment, there are issues pending aside from the validity of the purported Last Will and Testament of John Dale Williamson.

IT IS ORDERED:

1. Respondent Errick Williamson's Motion to Strike Petitioner's Motion to Compel is denied.

2. Respondent Errick Williamson's Motion for Additional Time to Serve Discovery Responses is denied.

3. Petitioner Doug Williamson's Motion to Compel is granted.

4. Respondent Errick Williamson shall:

a. As to Interrogatory No. 3, sign a writing under oath that there are no responsive documents.

b. Respond to Interrogatory No. 5 in full, including salary, for five years prior to October 4, 2023.

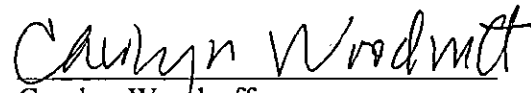
c. Sign his response to Interrogatory No. 8 under other.

d. Sign his response to Interrogatory No. 10 under oath.

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- e. Further respond to Interrogatory No. 12 and sign his response under oath.
Errick shall cite the cases which support an objection based on the existence of a marital privilege in regard to communications of spouses about the capacity of a third person; if none, Respondent is directed to respond in full and sign his response under oath.
 - f. Sign his response to Interrogatory No. 13 under oath.
 - g. Sign his response to Interrogatory No. 15 under oath.
 - h. Respond in full to RPDs 2, 6, 8, 12, and 13 and sign his response under oath.
5. Pursuant to the Court's verbal order at the Hearing, no party is to delete any digital or telephone communications pending further order of Court.

January 5, 2024


Carolyn Woodruff
Judge of Probate
York, South Carolina

CASE NO. 2024CP4600110

Errick L Williamson et al
PLAINTIFF(S)

Doug Williamson 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), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ 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:

After careful consideration, the Order and Ruling of the Probate Court is **AFFIRMED**.

There is ample record from the Probate Court and brief of the parties on which the Court relies to **AFFIRM** the Probate Court.

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 08/06/2024 .

Derrick Williamson
Robin Beckler

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.

ELECTRONICALLY FILED - 2024 Aug 06 12:51 PM - YORK - COMMON PLEAS - CASE#2024CP4600110



York Common Pleas

Case Caption: Errick L Williamson , plaintiff, et al VS Doug Williamson , defendant,
et al
Case Number: 2024CP4600110
Type: Order/Electronic Form 4

So Ordered

s/Daniel D. Hall 2753

Electronically signed on 2024-08-06 12:36:29 page 3 of 3

ELECTRONICALLY FILED - 2024 Aug 06 12:51 PM - YORK - COMMON PLEAS - CASE#2024CP4600110

The South Carolina Court of Appeals

In re: Estate of John Dale Williamson

Doug Williamson, Respondent,

v.

Errick L. Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below,

of whom Errick L. Williamson, individually, and Errick L. Williams, as personal representative of the Estate of John Dale Williamson is the Appellant.

Appellate Case No. 2024-001466

The Honorable Daniel Dewitt Hall
York County
Trial Court Case No. 2024CP4600110

ORDER

The time for serving and filing the appellant's initial brief and designation of matter is hereby extended until December 4, 2024.

FOR THE COURT
BY  deputy
CLERK

Columbia, South Carolina

cc:

Edward Bilbro Davis, Esquire

James Nathaniel Pierce, Esquire

FILED
Oct 09 2024

FILED RECEIVED

STATE OF SOUTH CAROLINA 2023 MAR 17 11 31 AM IN THE COURT OF COMMON PLEAS

COUNTY OF YORK

CAROLYN E. WOODRUFF PROBATE COURT

JUDGE OF PROBATE

In re: Estate of John Dale Williamson YORK COUNTY, SC Case Number: 2023-ES-46-00002

Doug Williamson,

Petitioner,

v.

Errick L. Williamson, individually;
Errick L. Williamson, as personal
representative of the Estate of John Dale
Williamson; Derrick Williamson; Robin
Beckler,

Respondents.

**PETITION TO SET ASIDE WILL AND
FOR APPOINTMENT OF PERSONAL
REPRESENTATIVE**

The Petitioner, Doug Williamson ("Doug" or "Petitioner"), complaining of the Respondents Errick L. Williamson, individually and as personal representative of the Estate of John Dale Williamson ("Errick") and Derrick Williamson ("Derrick") (collectively "Respondents"), would show unto this Honorable Court:

PARTIES, JURISDICTION, AND VENUE

1. John Dale Williamson ("Dale" or "Decedent") died a citizen and resident of York County, South Carolina.
2. Doug is a citizen and resident of York County, South Carolina.
3. Errick, upon information and belief, is a citizen and resident of York County, South Carolina.
4. Derrick, upon information and belief, is a citizen and resident of York County, South Carolina.

5. Respondent Robin Beckler, upon information and belief, is a citizen and resident of the York County, South Carolina. Respondent Robin Beckler is named to this suit solely because she is a beneficiary of the Estate of John Dale Williamson. Petitioner raises no allegation of wrongdoing as to Respondent Robin Beckler.

6. The York County, South Carolina Probate Court has jurisdiction over this matter and the parties to this matter per S.C. Code Ann. § 62-1-302.

7. York County, South Carolina is the proper venue for this action per S.C. Code Ann. § 62-1-303.

FACTUAL BACKGROUND

8. Doug is one of Dale's living brothers. Dale has two other living siblings, Derrick and a sister named Robin Beckler.

9. Dale was not married, nor did he have any children.

10. Errick is Dale's adult nephew. Derrick is Errick's father.

11. At the time of Dale's death, he owned, wholly or partially, valuable real estate in both North and South Carolina.

12. In the last years of his life, Dale suffered from Parkinson's disease. In his final months, Dale was not of sound mind and relied heavily on the assistance of others to accomplish daily tasks.

13. During the last six to eight weeks of Dale's life, the advanced nature of his disease left him bedridden and completely unable to care for himself. During this time, Dale's family had to schedule visits with Dale through Errick and Derrick.

14. During this time, upon information and belief, Errick moved into Dale's house at 1153 Deas Street, Rock Hill, South Carolina 29732 ("Property"). Errick and Derrick allege to have

been caring for Dale during this time. Upon information and belief, Errick and Derrick supervised Dale's medical care and managed Dale's legal and financial affairs.

15. In the final weeks of his life, Dale received full-time hospice care at the Property. Upon information and belief, Dale received a substantial amount of palliative medication during this time.

16. Dale passed away due to complications from Parkinson's disease on November 29, 2022. A copy of Dale's death certificate is attached as Exhibit A.

17. The day before Dale's death, Errick accepted service of a Summons and Complaint filed by Bank of America, N.A. ("BOA"), against Dale for a lawsuit bearing York County civil action number 2022-CP-46-03331. The lawsuit alleges Dale owed BOA in excess of \$10,000.00 in credit card debt. Upon information and belief, Errick used Dale's credit card without authorization to pay for his own wedding and honeymoon.

18. Following Dale's death, Doug and his wife, Crystal Williamson ("Crystal"), attempted to discuss the disposition of Dale's Estate with Errick, as Errick had spent time in Dale's home in the weeks preceding Dale's death.

19. Errick repeatedly represented to Doug and Crystal that Dale did not have a will.

20. On January 3, 2023, Errick filed with the York County Probate Court what is represented to be the Last Will and Testament of John Williamson ("Will"). Simultaneously, Errick sought and received appointment as Dale's personal representative.

21. The first time Doug and Crystal learned of the Will was when they received a letter from Errick containing an Information to Heirs filing.

22. In the Will, Errick stands to take eighty percent of Dale's Residual Estate, defined in the Will as "real and personal property wherever situated including any life insurance policies . . ." Derrick stands to take the other twenty percent of Dale's Residual Estate.

23. Crystal, though she is not a legal heir of Dale's, is specifically excluded from taking under the Will.

24. Upon information and belief, no attorney drafted the Will. This is apparent, as non-heirs are specifically excluded and non-probate assets, like life insurance policies, are purportedly devised under the Will.

25. Upon information and belief, Errick and Derrick took Dale to an attorney months before the Will was allegedly signed, and the attorney refused to write and execute a will for Dale given his apparent lack of capacity.

26. Dale purportedly signed the Will on November 24, 2022, when he was under full-time hospice care and only five days before his death.

27. Upon information and belief, Dale was not of sound mind on November 24, 2022, nor was he capable of understanding or knowing the extent of his estate, the objects of his affection, or to whom he wished to give his property.

28. Upon information and belief, Dale did not sign the Will based on Doug's knowledge of Dale's health at the end of his life and the exemplars attached as Exhibit B. A copy of the purported Last Will and Testament is attached as Exhibit C.

**FOR A FIRST CAUSE OF ACTION
(Petition for Formal Testacy Proceeding)**

29. The above paragraphs are hereby realleged and incorporate herein by reference.

30. Petitioner requests a formal testacy proceeding pursuant to S.C. Code Ann. § 62-3-401, *et seq.*, to determine the validity of the Will.

31. Petitioner requests the entry of an order, after notice and a hearing, finding that the Will is invalid on the basis that it was not signed by the Testator or in the Testator's presence at the Testator's direction, and that the Will should not be probated as Decedent's last will and testament.

**FOR A SECOND CAUSE OF ACTION
(Petition for Appointment of Personal Representative)**

32. The above paragraphs are hereby realleged and incorporate herein by reference.

33. If the Will is found invalid, Petitioner has equal priority of appointment as personal representative pursuant to S.C. Code Ann. § 62-3-203.

34. Upon a judicial determination the Will is invalid, Petitioner request the entry of an order appointing Petitioner as Decedent's personal representative.

35. In the event that the Court should elect not to appoint Petitioner as the personal representative of Decedent's estate, then Petitioner requests in the alternative that the Court appoint a neutral representative.

**FOR A THIRD CAUSE OF ACTION
(Lack of Testamentary Capacity)**

36. The above paragraphs are hereby realleged and incorporate herein by reference.

37. At the time the Will was allegedly executed, Decedent was bedridden, under full-time hospice care, under the influence of palliative medications, and mere days from his ultimate death.

38. At the time Decedent signed the Will, a fact Petitioner does not concede, he lacked the capacity to understand his estate, the objects of his affection, nor to whom he wished to give his property.

39. Because Decedent lacked testamentary capacity, the Will must be found invalid.

**FOR A FOURTH CAUSE OF ACTION
(Undue Influence)**

40. The above paragraphs are hereby realleged and incorporate herein by reference.

41. At the time Decedent signed the Will, a fact Petitioner does not concede, Errick, Derrick, or both exercised mental coercion over Decedent that destroyed Decedent's free agency, constrained him to do things against his free will, and he would not have done if he had been left to his own judgment and volition and, in so doing, substituted the will of Respondents for the will of Decedent.

42. Respondents exerted such mental coercion by way of threats, force, or restricted visitation.

43. Respondents owed a fiduciary duty to Decedent and occupied a position of special confidence with Decedent. Respondents were bound to act in good faith and with due regard to Decedent's interests.

44. Respondents' fiduciary duty arose from their roles as caretakers of Decedent. Upon information and belief, Decedent relied on Respondents to coordinate his medical care, feed him, clothe him, and manage his financial and legal affairs.

45. Respondents abused Decedent's special confidence by using their influence to overpower Decedent's will, leaving the entire Estate to themselves in lieu of Decedent's living siblings.

46. Respondents' undue influence vitiates the Will, and it must be deemed invalid.

47. As a direct and proximate result of Respondents' conduct, Petitioner has incurred damages in an amount to be proved at trial.

**FOR A FIFTH CAUSE OF ACTION
(Failure of Due Execution)**

48. The above paragraphs are hereby realleged and incorporate herein by reference.
49. Upon information and belief, Decedent did not sign the Will.
50. Because Decedent did not sign the Will, it must be deemed invalid for failure of due execution under S.C. Code Ann. § 62-2-502.

**FOR A SIXTH CAUSE OF ACTION
(Removal of Personal Representative)**

51. The above paragraphs are hereby realleged and incorporate herein by reference.
52. Errick, by procuring the Will either through undue influence or forgery, or by purported consent from a person lacking testamentary capacity, has misrepresented material facts in the proceedings leading to his appointment.
53. Errick has failed to carry out his fiduciary duties to the Decedent's heirs by presenting an invalid, ill-gotten will for probate to their detriment.
54. Removal of Errick as personal representative would be in the best interest of the Estate.
55. For the reasons set forth above, grounds exist for Errick to be removed as personal representative pursuant to S.C. Code Ann. § 62-3-611(b), and Petitioner asks the Court order such removal.

**FOR A SEVENTH CAUSE OF ACTION
(*Executor de son tort*)**

56. The above paragraphs are hereby realleged and incorporate herein by reference.
57. Respondents, by procuring the Will either through undue influence or forgery, or by purported consent from a person lacking testamentary capacity, have obtained, received, or

possessed property of Decedent by means of fraud and without paying valuable consideration equivalent to the value of the property.

58. Petitioner requests an order of the Court, under S.C. Code Ann. § 62-3-619, charging Respondents for the value of the property they have improperly obtained, received, or possessed.

**FOR AN EIGHTH CAUSE OF ACTION
(Attorneys' Fees and Costs)**

59. Petitioner is entitled to recover attorney's fees and costs from Respondents as a result of Respondents' above-described fraudulent conduct, pursuant to S.C. Code Ann. § 62-1-111.

WHEREFORE, Petitioner prays as follows:

1. That a formal testacy proceeding be initiated to determine the validity of the Will;
2. That judgment be entered finding the Will invalid;
3. That Petitioner be appointed as personal representative of Decedent's estate;
4. That in the event that the Court should elect not to appoint Petitioner as the personal representative of Decedent's estate, that the Court appoint a neutral representative to administer the estate;
5. For reasonable attorneys' fees and costs; and
6. For such other and further relief as the Court deems just and proper.

[Signature Block on Following Page]

Respectfully submitted,



J. Nathaniel Pierce, SC Bar No. 102803

Morton & Gettys, LLC

Attorney for Respondents

P.O. Box 707, Rock Hill, SC 29731

T: 803.366.3388

F: 803.366.4044

nate.pierce@mortongettys.com

March 15, 2023
Rock Hill, South Carolina

DEATH CERTIFICATION

2023 MAR 17 5 25 44
139-2022-05521544

* JOHN DALE WILLIAMSON *

AKA: N/A

DECEDENT INFORMATION

DATE OF DEATH: NOVEMBER 29, 2022

PLACE OF DEATH TYPE: DECEDENT'S HOME

PLACE OF DEATH, NAME AND ADDRESS: 1153 DEAS STREET, ROCK HILL, SC, 29732

CITY OF DEATH: ROCK HILL

MARITAL STATUS: NEVER MARRIED

SURVIVING SPOUSE: N/A

MOTHER NAME: VIRGINA JUNE WILLIAMS

FATHER NAME: WILLIAM LEWIS WILLIAMSON

RESIDENCE: 1153 DEAS STREET, ROCK HILL, YORK COUNTY, SC, 29732

TIME OF DEATH: 0851

SOCIAL SECURITY NUMBER: [REDACTED]

COUNTY OF DEATH: YORK

DATE OF BIRTH: [REDACTED]

AGE: 70 YEARS

PLACE OF BIRTH: SOUTH CAROLINA

SEX: MALE

ARMED FORCES: NO

INFORMANT INFORMATION

NAME: ERRICK LEWIS WILLIAMSON

MAILING ADDRESS: 1153 DEAS STREET, ROCK HILL, SC, 29732

RELATIONSHIP: NEPHEW

DISPOSITION/FUNERAL HOME INFORMATION

PLACE: GRANDVIEW MEMORIAL PARK CHERRY ROAD, ROCK HILL, SC, 29732

FUNERAL HOME: PARKER FUNERAL HOME

FUNERAL HOME ADDRESS: 870 SALUDA ST., ROCK HILL, SC, 29730

FUNERAL DIRECTOR NAME: EZZARD C PARKER

EMBALMER: N/A

METHOD: CREMATION

LICENSE NUMBER: 2084

LICENSE NUMBER: N/A

LICENSE NUMBER: 31254

MEDICAL INFORMATION

CERTIFIER: MD ADEJUN OLUDAYISI OSINLOYE

ADDRESS: 1053 CENTER STREET, WEST COLUMBIA, SC, 29169

CAUSE OF DEATH - PART I:

PARKINSON'S DISEASE

MANNER OF DEATH: NATURAL

OTHER SIGNIFICANT CONDITIONS - PART II: HYPERTENSIVE HEART DISEASE

CORONER CONTACTED?: YES

DATE OF INJURY: N/A

LOCATION OF INJURY: N/A

PLACE OF INJURY: N/A

HOW INJURY OCCURRED: N/A

AUTOPSY PERFORMED?: NO

AUTOPSY AVAILABLE?: N/A

TIME OF INJURY: N/A

INJURY AT WORK?: N/A

DATE FILED: DECEMBER 02, 2022

DATE ISSUED: DECEMBER 05, 2022

AMENDMENT HISTORY

N/A

SC11047634

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

E. D. Simmer

Edward D. Simmer, MD, MPH, DFAPA
Director and State Registrar

C. N. Cox

Caleb N. Cox
Assistant State Registrar

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

Revision Date: 08/09/2022

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

EXHIBIT

A

State of South Carolina

County of York

FILED RECEIVED

MORTGAGE OF REAL ESTATE

2023 MAR 17 P 3:44

#8180

To all Whom these Presents may concern:

CAROLYN E. WOODRUFF
JUDGE OF PROBATE
YORK COUNTY, SC

I, John Dale Williamson

in the State aforesaid, SEND GREETING:

Whereas, I, the said John Dale Williamson

hereinafter referred to as Mortgagor,

in and by my certain Note or Obligation bearing even date herewith, stand firmly held and bound unto

THE CITY OF ROCK HILL

PO BOX 11706

ROCK HILL, SOUTH CAROLINA 29730

in the County and State aforesaid, hereinafter referred to as Mortgagee, conditioned for the payment of the full and

Just sum of SEVENTEEN THOUSAND THREE HUNDRED FIFTY AND NO/100 DOLLARS (\$17,350.), together with interest on the unpaid principal amount on this Note from the date hereof, at the rate of SIX per centum (6%) per annum, until paid. Both the principal of and interest on this Note are payable on the First Day of Each Month in 240 monthly installments, including both principal and interest, commencing with a payment of \$124.23 on January 1, 1983; and of \$124.23 the First Day of Each Month for the remaining 239 months commencing on February 1, 1983, in lawful money of the United States; and/or said amount to be and become due and payable in full upon the terms of the Note hereby secured. Payable at the principal office of Southern Bank and Trust Company in Rock Hill, South Carolina, or at such other places as shall be designated by the holder hereof.

as in and by the said Note and conditions thereof, reference thereto had and will more fully appear.

Now, Know all Men That I, the said Mortgagor, in consideration of the said debt, and sum of money aforesaid, and for the better securing the payment thereof to the said Mortgagee, according to the conditions of the said Note; and also in consideration of the further sum of THREE DOLLARS, to me, the said Mortgagor, in hand well and truly paid by the said Mortgagee, at and before the sealing and delivery of these Presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents DO GRANT, bargain, sell and release unto the said Mortgagee, his Heirs and Assigns the following real estate, to wit:

All that certain piece, parcel or lot of land situate, lying and being in the City of Rock Hill, County of York, and State of South Carolina, known and designated as Lot #25 on revised map of property of H B Powell and Mrs. C E Tucker made by White and & Marott Surveyors and dated September 27, 1948 and recorded in the office of the Clerk of Court for York County in Plat Book 4, Page 359, said lot being more particularly described as follows, to wit: BEGINNING at a stake on Deas Street 100 feet from the intersection of Deas and "D" Street and running thence with Deas Street, S 44-15 E 100 feet to a stake; thence N 45-45 E 200 feet to a stake; thence N 44-15 W 100 feet to a stake; thence S 45-45 W 200 feet to the beginning.

This being the identical property conveyed to John Dale Williamson under deed from W. L. Williamson, dated October 26, 1978, recorded October 26, 1978 in Deed Book 581, at Page 191.



Also, I assign and set over all the rents, profits and income arising from the mortgaged premises described above.

Together with all and singular the rights, Members, Hereditaments and Appurtenances to said Premises belonging, or in anywise incident or appertaining.

To have and to hold, all and singular the said premises unto the said Mortgagee, his heirs and assigns forever. And I do hereby bind myself, my heirs, executors and administrators, to warrant and forever defend all and singular the said premises unto the said Mortgagee, his heirs and assigns, from and against me and my heirs, executors, administrators and assigns, and all other persons lawfully claiming or to claim the same or any part thereof.

And it is Agreed that if this property is encumbered in any way, which I deny, (except as herein noted); or if I shall fail to insure and keep insured any building now or to be erected upon the mortgaged premises against loss by fire and tornado for an amount acceptable to the mortgagee, in such company as the mortgagee may approve, the loss to be made payable to the mortgagee as its interest may appear; or if I shall fail to pay the taxes as they become due; (and failing, the mortgagee may take out said insurance, or pay said taxes, and the premium or taxes so paid shall rank as a part of this mortgage debt); then in either event the said debt shall at the option of the holder hereof become due and payable as upon the day of its contracting, anything to the contrary in said Note notwithstanding.

And it is Further Agreed that wherever the context hereof requires, the masculine gender, as used herein, shall include the feminine; the singular number, as used herein, shall include the plural, and reference to a person, or his heirs, as used herein, shall include a corporation, or its successors; and time being of the essence hereof. If default be made in performance of any covenant or agreement of the Mortgagor herein contained, or if proceedings be instituted to enforce any other lien or charge against the mortgaged premises, or if the Mortgagor be declared bankrupt, insolvent or make assignment for the benefit of any creditor or be placed in the hands of a receiver, or if the Mortgagor abandon the mortgaged premises, the mortgagee is hereby authorized, at his option, (1) to perform any breached covenant, take charge of the mortgaged premises, make necessary repairs, and all monies so expended, with interest at the legal rate, shall be added to the debt hereby secured; and (2) to declare all sums secured hereby immediately due and payable and this mortgage enforceable.

It is agreed, between the parties herein, that after default of any of the conditions of the Note and conditions thereon, and upon proceedings being begun in a Court of competent jurisdiction on said Note and foreclosure of this mortgage the holder of the Note and mortgage may apply for appointment of a receiver for the property described herein and the rent and profit therefrom, and shall be entitled to said appointment as a matter of right without the consideration of the value of the premises as mortgaged, as the security of the Note herein mentioned, or solvency of any person or persons liable for the payment of said Note, to which receivership the mortgagee consents and binds himself, his heirs, his representatives and assigns to the said covenant.

And should the said Note secured by this mortgage be placed in the hands of an attorney for collection, upon default of payment by the Mortgagor, or should the premises subject to this Mortgage or the owner of said premises become involved in legal action of any sort looking towards forced sale of said premises or the assertion of any claim against the same, then it is agreed that a fee of 10% of the amount due under this Mortgage, or such greater or lesser amount as may be determined by the Court to be reasonable under the circumstances, shall be added to cover attorney's fees for collection of same, or for other legal services involved in protecting the rights of the holder hereof in the security property, and payment of such fees, together with all necessary costs, shall be secured by this Mortgage as a part of the total Mortgage Debt.

Provided, always, nevertheless, and it is the true intent and meaning of the parties to these Presents that if the said Mortgagor do and shall well and truly pay or cause to be paid unto the said Mortgagee, the said debt or sum of money aforesaid, with interest thereon, if any shall be due, according to the true intent and meaning of said Note and conditions thereunder written, then this deed of bargain and sale shall cease, determine and be utterly null and void; otherwise to remain in full force and virtue.

And it is Agreed, by and between the said parties, that the said Mortgagor is to hold and enjoy the said premises until default of payment shall be made.

Witness my hand and seal this 24th day of November in the year of our Lord one thousand nine hundred and Eighty Two and in the two hundred and Seventh year of the Sovereignty and Independence of the United States of America.

Signed, sealed and delivered in the presence of

Barbara P. Dahney
Barbara P. Dahney
Stanley R. Harris
Stanley R. Harris

John Dale Williamson
John Dale Williamson (SEAL)
(SEAL)

State of South Carolina }
County of York

PROBATE

Personally Appeared before me Stanley R. Harris, a witness, and made oath that

he saw the within named John Dale Williamson

sign, seal and as his Act and Deed, deliver the within written Mortgage, and that he, with

Barbara P. Dahney, the other witness, was present and witnessed the execution hereof.

Sworn to before me this 24th day of }
November A. D. 19 82 }

Stanley R. Harris
Stanley R. Harris

(SEAL)
Barbara P. Dahney
Notary Public for S. C.
My commission expires July 9, 1992

State of South Carolina }
County of York

NOT APPLICABLE - NOT MARRIED
RENUNCIATION OF DOWER

Notary Public for S. C.

do hereby certify unto all whom it may concern that Mrs.
wife of the within named

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

Given under my hand and seal, this
day of 19 }

(SEAL)

Notary Public for S. C.



STATE OF SOUTH CAROLINA

COUNTY OF York

MORTGAGE

Whereas, I/we John Dale Williamson, hereinafter called Mortgagor, in and by my/our certain contract (Note) bearing even date herewith, stand indebted, unto The Citizens and Southern National Bank of South Carolina hereinafter called Mortgagee whose address is 2300 Cherry Rd. - Rock Hill, SC 29730 for the sum of \$7,012.00 plus interest as stated in the Note, being due and payable in installments with the final payment due on April 20, 1994.

NOW, KNOW ALL MEN, that the said Mortgagor in consideration of the said debt and for better securing the payment thereof to the said Mortgagee have granted, bargained, sold and released, and by these presents DO GRANT, bargain, sell and release unto the said Mortgagee the following described real estate, to-wit:

All that certain piece, parcel or lot of land situate, lying and being in the City of Rock Hill, County of York and State of South Carolina, known and designated as Lot 25 on revised map of H. P. Powell and Mrs. C.E. Tucker made by White & Marett Surveyors and dated September 27, 1948 and recorded in the office of the Clerk of Court for York County in Plat Book 4, Page 359, said lot being more particularly described as follows, to wit: Beginning at a stake on Deas Street 100 feet from the intersection of Deas and "D" Street and running thence with Deas Street S 44 15 E 100 feet to a stake; thence N 45 45 E 200 feet to a stake; thence N 44 15 W 100 feet to a stake; thence S 45 45 W 200 feet to the beginning.

This being the identical property conveyed to the grantor herein by Deed from Agnes C. Cribb dated July 23, 1974 recorded July 30, 1974 in Deed Book 490, Page 177.

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

TO HAVE AND TO HOLD, the said premises unto the said Mortgagee, its successors and assigns forever. And Mortgagor does hereby bind his/her/their heirs, executors, administrators and assigns, to warrant and forever defend the said premises unto the said Mortgagee, its successors and assigns from and against his/her/their heirs, executors, administrators and assigns and all others whomsoever lawfully claiming or to claim the same or any part thereof and his/her/their heirs, executors and assigns covenant with the Mortgagee, its successors and assigns that at and until the encumbrance of these presents Mortgagor is well seized of the above described premises has a good and indefeasible estate in the fee simple and has good right to sell and incumber and convey the same, and that the same are free from all encumbrances and liens whatsoever.

1-06-964(3/89)

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AND IT IS AGREED BY AND BETWEEN THE SAID PARTIES:
Mortgagor will pay all taxes, assessments and charges. Mortgagor will keep the buildings on said premises insured against loss by fire. If Mortgagee should advance funds for taxes or insurance then said funds shall be added to the amounts secured hereby and shall accrue interest at the rate as stated in the note.

WITNESS her hand and seal this 2nd day of April in the year of our Lord one thousand nine hundred and Ninety and in the two hundred and Fourteenth year of Sovereignty and Independence of the United States of America.

James M. Loney
(Witness #1)

John DeLaWilliams (L.S.)
Borrower

Jacqueline S. Benjock
(Witness #2)

Borrower (L.S.)

STATE OF SOUTH CAROLINA
COUNTY OF York

PERSONALLY appeared before me the undersigned witness and made oath that he saw the within named Mortgagor(s) sign, seal and as his/her/their act and deed, deliver the within written Mortgage; and that he with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this 2nd day of April, 1990.

James M. Loney
(Signature of First Witness)

Jacqueline S. Benjock (L.S.)
Notary Public for S. C.
My Commission Expires: 6/1/94

Form No. 1-06-964(3/89)

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NationsBank

Nationalbank of South Carolina, N.A.

**Mortgage
of Real Estate**

State of South Carolina

County of York

This Mortgage is dated May 9, 19 94.The "Mortgagee" referred to in this Mortgage is John Dale WilliamsonThe "Mortgagee" is NationsBank of South Carolina, N.A., whose address is P.O. Box 26024, Greensboro, NC 27420The "Note" is a note from John Dale Williamsonto Mortgagee in the amount of \$ 28,071.00, dated May 9, 1994. The Note and any documents remaining, extending or modifying it and any notes evidencing future advances are all referred to as the "Note" and are secured bythis Mortgage. The final maturity of the Note is May 23, 2009. The amount of debt secured by this Mortgage, including the outstanding amount advanced and the Note and all Future Advances under paragraph 18 below, shall at no time be more than double the principal amount of the Note or whichever is greater, plus interest, attorney's fees, and court costs incurred in collection of amounts due hereunder and expenditures by Mortgagee under paragraph 8 below.

This Mortgage is given to secure to Mortgagee the repayment of the following amounts, with interest: (a) the indebtedness evidenced by the Note; (b) any Future Advances made under paragraph 18 below; (c) Expenditures by Mortgagee under paragraph 8, 7.5 or 16 below; and (d) attorney's fees, court costs and other amounts which may be due under the Note and this Mortgage. In consideration of the above indebtedness and for other valuable consideration which Mortgagee acknowledges receiving, Mortgagor does hereby mortgage, grant and convey to Mortgagee, its successors and assigns, the following described property:

See Exhibit A

FILED-RECORDED
BOOK 113
JUN 3 1 19 PM '94
RDN
CLERK
YORK

Together with all singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto; all improvements now or hereafter situated thereon; and all fixtures now or hereafter attached thereto all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, and tenements, whatsoever, in any way belonging, relating or appertaining to any of the property hereinabove described, or which hereafter shall in any way belong, related or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagee, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagee of, in and to the same, including but not limited to all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the property or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the property or to any rights appurtenant thereto, and all proceeds of any sales or other dispositions of the property or any part thereof (collectively hereinafter referred to as "Property"; and all of the same being deemed part of the Property and included in any reference thereto.)

44-25-0235 (12/23) NEW
40 (4010) (2/28) OLD

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To Have and to Hold all and singular the Property unto Mortgagee and the successors and assigns of Mortgagee forever.

Mortgagee covenants that Mortgagee is lawfully seized of the Property in fee simple absolute, that Mortgagee has good right and is lawfully authorized to sell, convey or encumber the same, and that the Property is free and clear of all encumbrances except liens for taxes or assessments not yet due and payable otherwise as expressly provided herein. Mortgagee further covenants to warrant and forever defend all and singular the Property unto Mortgagee and the successors or assigns of Mortgagee from and against Mortgagee and all persons whomsoever lawfully claiming the same or any part thereof.

Provided Always, nevertheless, and it is the true intent and meaning of Mortgagee and Mortgagee, that if Mortgagee pays or causes to be paid to Mortgagee that debt secured hereby, the estate hereby granted shall cease, determine and be utterly null and void; otherwise said estate shall remain in full force and effect.

It is Agreed that Mortgagee shall be entitled to hold and enjoy the Property until a Default as herein defined has occurred.

Mortgagee further covenants and agrees with Mortgagee as follows:

1. Assignment of Rents and Profits. As further security for all sums secured by this Mortgage, Mortgagee assigns to Mortgagee all rents and profits arising from the Property; provided, however, that so long as no Default as hereinafter defined has occurred, Mortgagee shall be entitled to collect and retain all such rents and profits as the sole property of Mortgagee without accounting to Mortgagee therefor.

2. Maintenance. Mortgagee will operate and maintain the Property in compliance with all applicable laws and regulations. Mortgagee will maintain the Property in good condition and repair and will neither permit nor allow waste thereof. Mortgagee will promptly repair or restore any portion of the Property which is damaged or destroyed by any cause whatsoever and will promptly pay when due all costs and expenses of such repair or restoration. Mortgagee will not remove or demolish any improvement or fixture which is now or hereafter part of the Property and will not cut or remove any timber on the Property without the express written consent of Mortgagee. Mortgagee shall be entitled to specific performance of the provisions of this paragraph.

3. Insurance. Mortgagee will keep all improvements and fixtures which are now or hereafter part of the Property insured by such company or companies as Mortgagee may reasonably approve for the full insurable value thereof against all risks including, if coverage is available, flood and earthquakes. Such insurance will be payable to Mortgagee as the interest of Mortgagee may appear pursuant to the New York standard form of mortgage clause or such other form of mortgage clause as may be required by the Mortgagee and will not be cancellable by either the insurer or the insured without at least ten (10) days prior written notice to Mortgagee. Mortgagee hereby assigns to Mortgagee the right to collect and receive any indemnity payment otherwise owed to Mortgagee upon any policy of insurance insuring any portion of the Property, regardless of whether Mortgagee is named in such policy as a person entitled to collect upon the same. Any indemnity payment received by Mortgagee from any such policy of insurance may, at the option of Mortgagee, (i) be applied by Mortgagee to payment of any sum secured by this Mortgage in such order as Mortgagee may determine or (ii) be released to Mortgagee upon such conditions as Mortgagee may determine or (iii) be used for any combination of the foregoing purposes. No portion of any indemnity payment which is applied to replacement, repair or restoration of any portion of the Property which is released to Mortgagee shall be deemed a payment against any sum secured by this Mortgage. Mortgagee will keep the Property continuously insured as herein required and will deliver to Mortgagee the original of each policy of insurance required hereby. Mortgagee will pay each premium coming due on any such policy of insurance and will deliver to Mortgagee proof of such payment at least ten (10) days prior to the date such premium would become overdue or delinquent. Upon the expiration or termination of any such policy of insurance, Mortgagee will furnish to Mortgagee at least ten (10) days prior to such expiration or termination the original of a renewal or replacement policy of insurance meeting the requirements hereof. If Mortgagee fails to insure the Property as herein required, Mortgagee may so insure the Property in the name of Mortgagee or in the name of Mortgagee or both, and the premiums for any such insurance obtained by Mortgagee shall be the obligation of Mortgagee. Upon foreclosure of this Mortgage, all right, title and interest of Mortgagee in and to any policy of insurance upon the Property which is in the custody of Mortgagee, including the right to unearned premiums, shall vest in the purchaser of the Property at foreclosure, and Mortgagee hereby appoints Mortgagee as the attorney in fact of Mortgagee to assign all right, title and interest of Mortgagee in and to any such policy of insurance to such purchaser. This appointment is coupled with an interest and shall be irrevocable.

4. Taxes and Assessments. Mortgagee will pay all taxes, assessments and other charges which constitute or are secured by a lien upon the Property which is superior to the lien of this Mortgage and will deliver to Mortgagee proof of payment of the same not less than ten (10) days prior to the date the same become delinquent, provided, however, that Mortgagee shall be entitled by appropriate proceedings to contest the amount or validity of such tax, assessment or charge so long as the collection of the same by foreclosure of the lien upon the Property is stayed during the pendency of such proceedings and Mortgagee deposits with the authority to which such tax, assessment or charge is payable or with the Mortgagee appropriate security for payment of the same, together with any applicable interest and penalties, should the same be determined due and owing.

5. Environmental Site Assessment. The Mortgagee shall pay when due the cost of providing to Mortgagee, at Mortgagee's request from time to time, a then-current environmental site assessment, audit or survey ("Assessment") of the Property, which Assessment shall be prepared by an environmental auditor acceptable to Mortgagee. In Mortgagee's sole discretion, provided, however, that Mortgagee shall make such request no more frequently than once every year unless the Note is being renewed, extended, modified or accelerated; or unless Mortgagee is required by any law, regulation, order, or other directive from any regulatory agency having jurisdiction over Mortgagee to obtain any such Assessment more frequently than once a year. Notwithstanding anything herein to the contrary, Mortgagee may require an Assessment upon each renewal, extension or modification of the Note or upon the occurrence of any Default as herein defined under the Note or upon the commencement of any foreclosure proceedings against or acceptance of any deed in lieu of foreclosure on the Property. If Mortgagee fails to pay the cost of any Assessment or the cost of any remediation to the Property to correct deficiencies highlighted in the Assessment, when due, Mortgagee may pay such cost on Mortgagee's behalf and the same shall constitute principal under the Note and be secured by the Property; and shall be due and payable on demand. Borrower's failure to pay such amount (with all accrued interest) in full within ten (10) days of the date of such demand shall constitute an event of default entitling the Mortgagee to accelerate the maturity of the Note.

6. Access Onto Property. Mortgagee and its successors and assigns are hereby granted an easement and right to enter and to authorize others to enter upon the Property for the purposes of conducting environmental investigations and audits (including taking physical samples) and such other action deemed necessary or desirable by Mortgagee to monitor, for Mortgagee's purposes only, compliance by Mortgagee and the Property with all local, state or federal laws, rules or regulations. Mortgagee acknowledges that no adequate remedy at law exists for a violation of the easement and right granted herein and agrees that Mortgagee is entitled to specific performance of its rights under this easement and right. The easement and right granted herein shall continue until this Mortgage is canceled or released of record.

7. Appraisal. Mortgagee shall pay when due the cost of providing to Mortgagee, at its request from time to time, a then-current appraisal of the market value of the Property prepared by an MAI appraiser or by another appraiser acceptable to Mortgagee in its discretion; provided, however, that Mortgagee shall make such request no more frequently than once every third year, unless Mortgagee is required by any law, regulation, order or other directive from any regulatory agency having jurisdiction over Mortgagee to obtain any such appraisal more frequently than every third year. If Mortgagee fails to pay such cost when due, Mortgagee may pay such cost on Mortgagee's behalf and the same shall constitute principal under the Note, shall bear interest at the applicable rate provided in the Note, and shall be due and payable on demand. Mortgagee's failure to pay such amount (with all accrued interest) in full within ten (10) days of the date of such demand shall constitute an event of default entitling the Mortgagee to accelerate the maturity of the Note.

8. Expenditures by Mortgagee. If Mortgagee fails to make payment for restoration or repair of the Property, for insurance premiums or for taxes, assessments or other charges as required in this Mortgage, Mortgagee may, but shall not be obligated to, pay for the same, and any such payment by Mortgagee will be secured by this Mortgage and have the same rank and priority as the principal debt secured hereby and bear interest from the date of payment at the rate payable from time to time on outstanding principal under the Agreement. Payments made for taxes by Mortgagee shall be a first lien on the Property to the extent of the taxes so paid with interest from the date of payment, regardless of the rank and priority of this Mortgage. Mortgagee shall pay to Mortgagee in cash on demand an amount equal to any payment made by Mortgagee pursuant to this paragraph plus interest thereon as herein provided.

9. After Acquired Property. The lien of this Mortgage will automatically attach, without further act, to all fixtures now or hereafter located in or on, or attached to, or used or intended to be used in connection with or with the operation of, the Property or any part thereof.

10. Environmental Indemnification. Mortgagee agrees to indemnify and hold Mortgagee harmless from and against, and to reimburse Mortgagee with respect to, and all claims, demands, losses of action, losses, damages, liabilities, costs and expenses (including reasonable attorney's fees and court costs) of any and every kind or character, known or unknown, fixed or contingent, asserted against or incurred by Mortgagee at any time and from time to time by reason of or arising out of any violation of any Environmental Law and any and all matters arising out of any act, omission, event, or circumstance (including without limitation the presence on, operation at, disposal of at or from, or release from the Property of any hazardous substance or waste), regardless of whether the act, omission, event, or circumstance constituted a violation of any Environmental Law at the time of its existence or occurrence. The terms "hazardous substance" and "release" shall have the meanings specified in the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") and the term "disposal" shall have the meaning specified in the Resource Conservation and Recovery Act of 1980 ("RCRA"); provided, if either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment; and provided further, to the extent the laws of the State of South Carolina establish a meaning for "hazardous substance," "release," "solid waste," or "disposal" which is broader than that specified in either CERCLA and RCRA, such broader meaning shall apply. For the purposes hereof, the term "Environmental Law" shall mean all federal, state, or local health, safety, or environmental laws, ordinances, and regulations, requiring the removal of, or otherwise regulating the maintenance, storage, transportation, or disposal of any hazardous substance or any other toxic substances (including waste, asbestos, contaminants, petroleum products, or radioactive materials). The provisions of this Paragraph shall survive the satisfaction or release of this Mortgage and the satisfaction of the Note and shall continue thereafter in full force and effect.

11. Condemnation. Mortgagee shall be entitled to be made a party to and to participate in any proceeding, whether formal or informal, for condemnation or acquisition pursuant to power of eminent domain of any portion of the Property. Mortgagee hereby assigns to Mortgagee the right to collect and receive any payment or award to which Mortgagee would otherwise be entitled by reason of condemnation or acquisition pursuant to power of eminent

dominion of any portion of the Property. Any such payment or award received by Mortgagee may, at the option of Mortgagee, (i) be applied by Mortgagee to payment of any sums secured by this Mortgage in such order as Mortgagee may determine or (ii) be applied in a manner determined by Mortgagee to the replacement of the portion of the Property taken and to the repair or restoration of the remaining portion of the property or (iii) be released to Mortgagor upon such conditions as Mortgagee may determine or (iv) be used for any combinations of the foregoing purposes. No portion of an indemnity payment which is applied to replacement, repair or restoration of any portion of the Property or which is released to Mortgagor shall be deemed a payment against any sums secured by this Mortgage.

12. Transfer. At the option of Mortgagee, the indebtedness secured by this Mortgage shall become due and payable if, without the prior written consent of the Mortgagee, Mortgagor shall convey away the Property or any interest therein, further encumber the Property, or suffer the placement of any mechanics' lien on the Property; or if the title shall become vested in any other person in any manner whatsoever other than by death of Mortgagor. It is understood and agreed that in consideration for the consent of Mortgagee to any transfer of title to the Property, Mortgagee at its option may charge an assumption fee not

exceeding the greater of \$ _____ or _____ % of the unpaid principal balance of the Note; plus credit report charges paid to a non-related third party and such other charges as are permitted by law. However, the existence of this option shall not obligate Mortgagee to approve any transfer of title proposed by Mortgagor.

13. Default. The occurrence of any of the following events shall be deemed a Default under this Mortgage:

- (a) failure of Mortgagor to pay any installment of principal or interest upon the Note or Notes hereby secured when due;
- (b) failure of Mortgagor to pay any other sum secured by this Mortgage when due;
- (c) failure of Mortgagor to observe or perform any covenant or agreement set forth in this Mortgage or in any loan agreement entered into between the Mortgagee and Mortgagee with respect to the indebtedness hereby secured or, in any security agreement, pledge agreement, or other agreement securing any Note hereby secured;
- (d) adjudication of Mortgagor as bankrupt, written admission by Mortgagor of an inability to pay the debts of Mortgagor as they mature, assignment of the assets of Mortgagor for the benefit of creditors, request or petition by Mortgagor for the appointment of a receiver, trustee or conservator of the assets of Mortgagor or for reorganization or liquidation of Mortgagor, or any insolvency by Mortgagor to any such request or petition made by another person;
- (e) default in the terms or conditions of any loan by Mortgagor to Mortgagor, whether now existing or hereafter arising;
- (f) default in any of the terms or conditions of the Note or Notes hereby secured; or
- (g) the discovery of any hazardous substance on the Property.

14. Remedies. Upon the occurrence of a Default as hereinabove defined, Mortgagee may, without notice to Mortgagor, declare all sums secured by this Mortgage immediately due and payable and may commence proceedings to collect such sums, foreclose this Mortgage and sell the Property. At the foreclosure Mortgagee shall be entitled to bid and to purchase the Property and shall be entitled to apply the debt secured hereby, or any portion thereof, in payment for the Property. The remedies provided to Mortgagee in this paragraph shall be in addition to and not in lieu of any other rights and remedies provided in this Mortgage or by law, all of which rights and remedies may be exercised by Mortgagee independently, simultaneously or consecutively in any order without Mortgagee being deemed to have waived any right or remedy previously or not yet exercised.

15. Appointment of Receiver. Upon the occurrence of a Default as hereinabove defined Mortgagee shall be entitled to the appointment of a receiver to enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as Mortgagee deems best to protect the security of this Mortgage. The receiver shall be entitled to receive a reasonable fee for so managing the Property. All rents collected pursuant to this paragraph shall be applied first to the costs of taking control of and managing the Property and collecting the rents, including, but not limited to, attorneys' fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Mortgagor as lessor or landlord of the Property and then to the sums secured by this Mortgage. Mortgagee or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Mortgagee shall not be liable to Mortgagor, anyone claiming under or through Mortgagor, or anyone having an interest in the Property by reason of anything done or left undone by Mortgagee under this paragraph. If the rents of the Property are not sufficient to meet the costs of taking control of and managing the Property and collecting the rents, Mortgagee, at its sole option, may advance funds to meet the costs. Any funds expended by Mortgagee for such purposes shall become indebtedness of Mortgagor to Mortgagee secured by this Mortgage. Unless Mortgagee and Mortgagor agree in writing to other terms of payment, such amounts shall be payable upon notice from Mortgagee to Mortgagor requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Agreement. The entering upon and taking and maintaining of control of the Property by Mortgagee or the receiver and the application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Mortgagee hereunder. Notwithstanding the appointment of any receiver or other custodian, Mortgagee shall be entitled as secured party hereunder to the possession and control of any cash deposits or instruments at the time held by, or payable or deliverable under the terms of this Mortgage to, Mortgagee.

16. Waiver by Mortgagee. Mortgagee may, in the sole discretion of Mortgagee, from time to time waive or forbear from enforcing any provision of this Mortgage, and no such waiver or forbearance shall be deemed a waiver by Mortgagee of any right or remedy provided herein or by law or be deemed a waiver of the right at any later time to enforce strictly all provisions of this Mortgage and to exercise any and all remedies provided herein and by law.

17. Waiver by Mortgagor. Mortgagor understands that upon default hereunder, among other remedies set out herein and in the above referenced Agreement, the Mortgagee may foreclose upon the mortgaged premises and ask for a deficiency judgment pursuant to Section 29-3-660, South Carolina Code of Laws 1976. To the extent permitted by law, Mortgagor hereby expressly waives and relinquishes any appraisal rights which Mortgagor may have under Section 29-3-660 through Section 29-3-760, South Carolina Code of Laws 1976 as amended and understands and agrees that a deficiency judgment, if pursued by Mortgagee shall be determined by the highest price bid at the judicial sale of the property.

18. Future Advances. Mortgagee, at its option, may make Future Advances to Mortgagor. Such Future Advances, with interest at the rate payable from time to time on the outstanding principal under the Note, shall be secured by this Mortgage when evidenced by the Note or by any other note stating that it is secured by this Mortgage or when advanced under the terms of this Mortgage. Mortgagee may make such Future Advances (a) at the request of Mortgagor; whether or not there is any obligation to make Future Advances; (b) pursuant to an advance of funds under paragraph 5, 7, 8 or 15 above; or (c) to pay, with or without the consent or request of Mortgagor, any amounts which may be due under any other mortgage or lien affecting the Property.

19. Notices. Any notice given by either party hereto to the other party shall be in writing and shall be signed by the party giving notice. Any notice or other document to be delivered to either party hereto by the other party shall be deemed delivered if mailed postage prepaid to the party to whom directed at the latest address of such party known to the party sending the same. This paragraph shall not be deemed to prohibit any other manner of delivering a notice or other document.

20. Miscellaneous.

- (a) The agreements herein shall bind and inure to the benefit of the Mortgagor, Mortgagee and their respective heirs, successors and assigns.
- (b) Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, legal representatives, successors and assigns of such party shall be included and all covenants and agreements contained in this Mortgage by or on behalf of the Mortgagor or by or on behalf of the Mortgagee shall bind and inure to the benefit of their respective legal representatives, heirs, successors and assigns, whether so expressed or not.
- (c) The headings of the sections, paragraphs and subdivisions of this Mortgage are for the convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof.
- (d) If any provision of this Mortgage conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage are declared to be severable.
- (e) This Mortgage shall be governed by, construed and enforced in accordance with the laws of South Carolina.
- (f) Mortgagee may make or cause to be made reasonable entries upon the inspections of the Property upon giving Mortgagor prior notice.
- (g) All covenants of Mortgagee shall be joint and several.
- (h) If this is not a first mortgage, any prior mortgage(s) and the maximum amount thereof is (are) shown below:

(i) The undersigned Mortgagor represents to Mortgagee that such Mortgagee is benefitted by the loan evidenced by the Note, whether or not the Mortgagor is the obligor thereon that Mortgagor's obligations under this Mortgage will not render Mortgagee insolvent; and that adequate and sufficient consideration has been given to Mortgagor for its execution and delivery of this Mortgage.

In Witness Whereof, Mortgagor has executed and delivered this Mortgage under seal this day and year first above written.

Signed, sealed and delivered in the presence of:

Cassius H. Grand
Rock Hill
 Address _____
John H. Hunt, Jr.
Rock Hill, SC
 Address _____

John D. Williams (Seal)
 _____ (Seal)
 _____ (Seal)

Carroll

State of South Carolina

County of _____

Notary Public for South Carolina, R.A.

Mortgage of Real Estate

Filed at 11:19 o'clock P.M.

the 3 day of June, 1994

and recorded in Mortgage Book 1022

Page 113

and recorded in Mortgage Book 1022

Carl Spaulding
S.M.C. of Charleston, S.C. & Co.
Spaulding County, S.C.



State of South Carolina

County of York

Probate

Personally appeared before me Carrico H. Barnett who being first duly sworn, deposed and said that (s)he
saw the within-named Carroll sign and, as its act and deed, deliver the within Mortgage of Real
Estate and that (s)he with A. Hyatt
witnessed the execution thereof.

Carrico H. Barnett

Sworn to before me this 9th day of May, 1994
A. Hyatt (L.S.)
Notary Public for South Carolina
My commission expires 10-19-97

Paid and Satisfied Information



Exhibit A.

All that certain piece, parcel or lot of land situate, lying and being in the City of Rock Hill, County of York, and State of South Carolina, known and designated as Lot 25 on revised map of property of H. B. Powell and Mrs. C. E. Tucker made by White and Maret Surveyors and dated September 27, 1948 and recorded in the Office of the Clerk of Court for York County in Plat Book 4, Page 359, said lot being more particularly described as follows, to wit: BEGINNING at a stake on Deas Street 100 feet from the intersection of Deas and D Street and running thence with Deas Street S. 44-15 E. 100 feet to a stake; thence N. 45-45 E. 200 feet to a stake; thence N. 44-15 W. 100 feet to a stake; thence S. 45-45 W. 200 feet to the beginning.

DERIVATION: This being the identical property conveyed to John Dale Williamson by deed from W.L. Williamson dated October 26, 1978 and recorded October 26, 1978 in Book 581 at page 191 in the Office of the Clerk of Court for York County.

State of South Carolina

Mortgage of Real Estate

County of YORK

This Mortgage is dated July 30, 1992

The "Mortgagee" referred to in this Mortgage is John Dale Williamson

The "Mortgagee" is National Bank of South Carolina, N.A. whose address is P.O. Box 530, Rock Hill, SC 29731

The "Note" is a note from John Dale Williamson

to Mortgagee in the amount of \$7,500.00*, dated July 30, 1992. The Note and any documents renewing, extending or modifying it and any notes evidencing future advances are all referred to as the "Note" and are considered to be a part

of this Mortgage. The final maturity of the Note is July 30, 1997.

The amount of debt secured by this Mortgage, including the outstanding amount advanced and the Note and all Future Advances under paragraph 17 below, shall at no time be more than double the principal amount of the Note or \$15,000.00, whichever is greater, plus interest, attorney's fees, and court costs incurred in collection of amounts due hereunder, and expenditures by Mortgagee under paragraph 7 below.

This Mortgage is given to secure to Mortgagee the repayment of the following amounts, with interest: (a) the indebtedness evidenced by the Note; (b) any Future Advances made under paragraph 17 below; (c) Expenditures by Mortgagee under paragraph 7 below; and (d) attorneys' fees, court costs and other amounts which may be due under the Note and this Mortgage. In consideration of the above indebtedness and for other valuable consideration which Mortgagee acknowledges receiving, Mortgagor does hereby mortgage, grant and convey to Mortgagee, its successors and assigns, the following described property:

All that certain piece, parcel or lot of land situate, lying and being in the City of Rock Hill, County of York and State of South Carolina, known as designated as Lot 25 on revised map of property of H. B. Powell and Mrs. C. E. Tucker made by White & Marett Surveyors and dated September 27, 1948 and recorded in the office of the Clerk of Court for York County in Plat book 4, Page 359; said lot being more particularly described as follows to wit: Beginning at a stake on Deas Street 100 feet from the intersection of Deas and "D" Street and running thence with Deas Street S 44 15 E 100 feet to a stake; thence N 45 45 E 200 feet to a stake; thence N 44 15 W 100 feet; thence S 45 45 W 200 feet to the beginning.

Derivation: This being the identical property conveyed to John Dale Williamson by deed dated October 26, 1978 and recorded October 26, 1978 in Deed Book 7581 at Page 191 at the Office of The Clerk of Court for York County.

FILED-RECEIVED
BOOK 623 PAGE 41
AUG 18 9 03 AM '92
M.H. CARROLL JR.
C.C.P. & G.S.
YORK COUNTY, S.C.

Together with all singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto; all improvements now or hereafter situated thereon; and all fixtures now or hereafter attached thereto all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all relatives, rights, titles, interests, privileges, liberties, and tenements, whatsoever, in any way belonging, relating or appertaining to any of the property hereinabove described, or which hereafter shall in any way belong, related or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagee, and the reversions and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, as law as well as in equity, of Mortgagee of, in and to the same, including but not limited to all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the property or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the property or to any rights appurtenant thereto, and all proceeds of any sales or other dispositions of the property or any part thereof (collectively hereinafter referred to as the "Property"; and all of the same being deemed part of the Property and included in any reference thereto).

To Have and To Hold all and singular the Property unto Mortgagee and the successors and assigns of Mortgagee forever.

Mortgagee covenants that Mortgagee is lawfully seized of the Property in fee simple absolute, that Mortgagee has good right and is lawfully authorized to sell, convey or encumber the same, and that the Property is free and clear of all encumbrances except as expressly provided herein. Mortgagee further covenants to warrant and forever defend all and singular the Property unto Mortgagee and the successors or assigns of Mortgagee from and against Mortgagee and all persons whomsoever lawfully claiming the same or any part thereof.

Provided Always, nevertheless, and it is the true intent and meaning of Mortgagee and Mortgagee, that if Mortgagee pays or causes to be paid to Mortgagee that debt secured hereby, the estate hereby granted shall cease, determine and be utterly null and void; otherwise said estate shall remain in full force and effect.

It is Agreed that Mortgagee shall be entitled to hold and enjoy the Property until a Default as herein defined has occurred.

Mortgagee further covenants and agrees with Mortgagee as follows:

1. Assignment of Rents and Profits. As further security for all sums secured by this Mortgage, Mortgagee assigns to Mortgagee all rents and profits arising from the Property; provided, however, that so long as no Default as hereinafter defined has occurred, Mortgagee shall be entitled to collect and retain all such rents and profits as the sole property of Mortgagee without accounting to Mortgagee therefor.

2. Maintenance. Mortgagee will maintain the Property in good condition and repair and will neither permit nor allow waste thereof. Mortgagee will promptly repair or restore any portion of the Property which is damaged or destroyed by any cause whatsoever and will promptly pay when due all costs and expenses of such repair or restoration. Mortgagee will not remove or demolish any improvement or fixture which is now or hereafter part of the Property and will cut no timber on the Property without the express written consent of Mortgagee. Mortgagee shall be entitled to specific performance of the provisions of this paragraph.

3. Insurance. Mortgagee will keep all improvements and fixtures which are now or hereafter part of the Property insured by such company or companies as Mortgagee may reasonably approve for the full insurable value thereof against all risks including, if coverage is available, flood and earthquake. Such insurance will be payable to Mortgagee as the interest of Mortgagee may appear pursuant to the New York standard form of mortgage clause or such other form of mortgage clause as may be required by the Mortgagee and will not be enforceable by either the insurer or the insured without at least ten (10) days prior written notice to Mortgagee. Mortgagee hereby assigns to Mortgagee the right to collect and receive any indemnity payment otherwise owed to Mortgagee upon any policy of insurance insuring any portion of the Property, regardless of whether Mortgagee is named in such policy as a person entitled to collect upon the same. Any indemnity payment received by Mortgagee from any such policy of insurance may, at the option of Mortgagee, (i) be applied by Mortgagee to payment of any sum secured by this Mortgage in such order as Mortgagee may determine or (ii) be applied in a manner determined by Mortgagee to the replacement, repair or restoration of the portion of the Property damaged or destroyed or (iii) be released to Mortgagee upon such conditions as Mortgagee may determine or (iv) be used for any combination of the foregoing purposes. No portion of any indemnity payment which is applied to replacement, repair or restoration of any portion of the Property which is released to Mortgagee shall be deemed a payment against any sums secured by this Mortgage. Mortgagee will keep the Property continuously insured as herein required and will deliver to Mortgagee the original of each policy of insurance required hereby. Mortgagee will pay each premium coming due on any such policy of insurance and will deliver to Mortgagee proof of such payment at least ten (10) days prior to the date such premium would become overdue or delinquent. Upon the expiration or termination of any such policy of insurance, Mortgagee will furnish to Mortgagee at least ten (10) days prior to such expiration or termination the original of a renewal or replacement policy of insurance meeting the requirements hereof. If Mortgagee fails to insure the Property as herein required, Mortgagee may so insure the Property in the name of Mortgagee or in the name of Mortgagee or both, and the premiums for any such insurance obtained by Mortgagee shall be the obligation of Mortgagee. Upon foreclosure of this Mortgage, all right, title and interest of Mortgagee in and to any policy of insurance upon the Property which is in the custody of Mortgagee, including the right to unearned premiums, shall vest in the purchaser of the Property at foreclosure, and Mortgagee hereby appoints Mortgagee as the attorney in fact of Mortgagee to assign all right, title and interest of Mortgagee in and to any such policy of insurance to such purchaser. This appointment is coupled with an interest and shall be irrevocable.

4. Taxes and Assessments. Mortgagee will pay all taxes, assessments and other charges which constitute or are secured by a lien upon the Property which is superior to the lien of this Mortgage and will deliver to Mortgagee proof of payment of the same not less than ten (10) days prior to the date the same become delinquent; provided, however, that Mortgagee shall be entitled by appropriate proceedings to contest the amount of validity of such tax, assessment or charge so long as the collection of the same by foreclosure of the lien upon the Property is stayed during the pendency of such proceedings and Mortgagee deposits with the authority to which such tax, assessment or charge is payable or with the Mortgagee appropriate security for payment of the same, together with any applicable interest and penalties, should the same be determined due and owing.

5. Environmental Site Assessment. The Mortgagee shall pay when due the cost of providing to Mortgagee, at Mortgagee's request from time to time, a then-current environmental site assessment, audit, or survey ("Assessment") of the Property, which Assessment shall be prepared by an environmental auditor acceptable to Mortgagee, in Mortgagee's sole discretion; provided, however, that Mortgagee shall make such request no more frequently than once every year unless the Note is being renewed, extended, modified, or accelerated, or unless Mortgagee is required by any law, regulation, order, or other directive from any regulatory agency having jurisdiction over Mortgagee to obtain any such Assessment more frequently than once a year. Notwithstanding anything herein to the contrary, Mortgagee may require an Assessment upon each renewal, extension or modification of the Note or upon the occurrence of any Event of Default under the Note or upon the commencement of any foreclosure proceedings against or acceptance of any bid in lieu of foreclosure on the Property. If Mortgagee fails to pay the cost of any Assessment or the cost of any remediation to the Property to correct deficiencies highlighted in the Assessment, when due, Mortgagee may pay such cost on Mortgagee's behalf and the same shall constitute principal under the Note and be secured by the Property, and shall be due and payable on demand; however, a failure to pay such amount (with all accrued interest) in full within ten (10) days of the date of such demand shall constitute an event of default entitling the Mortgagee to accelerate the maturity of the Note.

6. Appraisal. Mortgagee shall pay when due the cost of providing to Mortgagee, at its request from time to time, a then-current appraisal of the market value of the Property prepared by an MAI appraiser or by another appraiser acceptable to Mortgagee in its discretion; provided, however, that Mortgagee shall make such request no more frequently than once every third year, unless Mortgagee is required by any law, regulation, order, or other directive from any regulatory agency having jurisdiction over Mortgagee to obtain any such appraisal more frequently than every third year. If Mortgagee fails to pay such cost when due, Mortgagee may pay such cost on Mortgagee's behalf and the same shall constitute principal under the Note, shall bear interest at the applicable rate provided in the Note, and shall be due and payable on demand. Mortgagee's failure to pay such amount (with all accrued interest) in full within ten (10) days of the date of such demand shall constitute an event of default entitling the Mortgagee to accelerate the maturity of the Note.

7. Expenditures by Mortgagee. If Mortgagee fails to make payment for restoration or repair of the Property, for insurance premiums or for taxes, assessments or other charges as required in this Mortgage, Mortgagee may, but shall not be obligated to, pay for the same, and any such payment by Mortgagee will be secured by this Mortgage and have the same rank and priority as the principal debt secured hereby and bear interest from the date of payment at the rate payable from time to time on outstanding principal under the Agreement. Payments made for taxes by Mortgagee shall be a first lien on the Property to the extent of the taxes so paid with interest from the date of payment, regardless of the rank and priority of this Mortgage. Mortgagee shall pay to Mortgagee in cash on demand an amount equal to any payment made by Mortgagee pursuant to this paragraph plus interest thereon as herein provided.

8. After Acquired Property. The lien of this Mortgage will automatically attach, without further act, to all fixtures now or hereafter located in or on, or attached to, or used or intended to be used in connection with or with the operation of, the Property or any part thereof.

9. Environmental Indemnification. Mortgagee agrees to indemnify and hold Mortgagee harmless from and against, and to reimburse Mortgagee with respect to, any and all claims, demands, causes of action, losses, damages, liabilities, costs and expenses (including reasonable attorney's fees and court costs) of any and every kind or character, known or unknown, fixed or contingent, asserted against or incurred by Mortgagee at any time and from time to time by reason of or arising out of any violation of any Environmental Law and any and all matters arising out of any act, omission, event, or circumstance (including without limitation the presence on, generation at, disposal of at, or release from the Property of any hazardous substance or waste, regardless of whether the act, omission, event, or circumstance constituted a violation of any Environmental Law at the time of its existence or occurrence. The terms "hazardous substance" and "release" shall have the meanings specified in the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), and the term "disposal" shall have the meaning specified in the Resource Conservation and Recovery Act of 1976 ("RCRA"); provided, if either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment; and provided further, to the extent the laws of the State of South Carolina establish a meaning for "hazardous substance," "release," "solid waste," or "disposal" which is broader than that specified in either CERCLA or RCRA, such broader meaning shall apply. For the purposes hereof, the term "Environmental Law(s)" shall mean all federal, state, or local health, safety, or environmental laws, ordinances, and regulations, requiring the removal of, or otherwise regulating the maintenance, storage, transportation, or disposal of any hazardous substance or any other toxic substances (including waste), asbestos, contaminants, petroleum products, or radioactive materials. The provisions of this Paragraph shall survive the satisfaction or release of this Mortgage and the satisfaction of the Note and shall continue thereafter in full force and effect.

10. Condemnation. Mortgagee shall be entitled to be made a party to and to participate in any proceeding, whether formal or informal, for condemnation or acquisition pursuant to power of eminent domain of any portion of the Property. Mortgagee hereby assigns to Mortgagee the right to collect and receive any payment or award to which Mortgagee would otherwise be entitled by reason of condemnation or acquisition pursuant to power of eminent domain of any portion of the Property. Any such payment or award received by Mortgagee may, at the option of Mortgagee, (i) be applied by Mortgagee to payment of any sum secured by this Mortgage in such order as Mortgagee may determine or (ii) be applied in a manner determined by Mortgagee to the replacement of the portion of the Property taken and to the repair or restoration of the remaining portion of the Property or (iii) be released to Mortgagee upon such conditions as Mortgagee may determine or (iv) be used for any combination of the foregoing purposes. No portion of an indemnity payment which is applied to replacement, repair or restoration of any portion of the Property or which is released to Mortgagee shall be deemed a payment against any sums secured by this Mortgage.

11. Transfer. At the option of Mortgagee, the indebtedness secured by this Mortgage shall become due and payable if, without the prior written consent of the Mortgagee, Mortgage shall convey any the Property or any interest therein, further encumber the Property, or suffer the placement of any mechanics' lien on the Property; or if the title shall become vested in any other person in any manner whatsoever other than by death of Mortgagee. It is understood and agreed that in consideration for the consent of Mortgagee to any transfer of title to the Property, Mortgagee at its option may charge an assumption fee not exceeding the greater of \$_____ or _____% of the unpaid principal balance of the Note, plus credit report charges paid to a non-related third party and such other charges as are permitted by law. However, the existence of this option shall not obligate Mortgagee to approve any transfer of title proposed by Mortgagee.

12. Default. The occurrence of any of the following events shall be deemed a Default under this Mortgage:

- (a) failure of Mortgagor to pay any installment of principal or interest upon the Note or Notes hereby secured when due;
- (b) failure of Mortgagor to pay any other sum secured by this Mortgage when due;
- (c) failure of Mortgagor to observe or perform any covenant or agreement set forth in this Mortgage or in any loan agreement entered into between the Mortgagor and Mortgagee with respect to the indebtedness hereby secured;
- (d) adjudication of Mortgagor as bankrupt, written admission by Mortgagor of an inability to pay the debts of Mortgagor as they mature, assignment of the assets of Mortgagor for the benefit of creditors, request or petition by Mortgagor for the appointment of a receiver, trustee or conservator of the assets of Mortgagor or for reorganization or liquidation of Mortgagor, or acquiescence by Mortgagor to any such request or petition made by another person;
- (e) default in the terms or conditions of any loan by Mortgagor to Mortgagee, whether now existing or hereafter arising;
- (f) default in any of the terms or conditions of the Note or Notes hereby secured; or
- (g) the discovery of any hazardous substance on the Property.

13. Remedies. Upon the occurrence of a Default as hereinabove defined, Mortgagee may, without notice to Mortgagor, declare all sums secured by this Mortgage immediately due and payable and may commence proceedings to collect such sums, foreclose this Mortgage and sell the Property. At the foreclosure Mortgagee shall be entitled to bid and to purchase the Property and shall be entitled to apply the debt secured hereby, or any portion thereof, in payment for the Property. The remedies provided to Mortgagee in this paragraph shall be in addition to and not in lieu of any other rights and remedies provided in this Mortgage or by law, all of which rights and remedies may be exercised by Mortgagee independently, simultaneously or consecutively in any order without being deemed to have waived any right or remedy previously or not yet exercised.

14. Appointment of Receiver. Upon the occurrence of a Default as hereinabove defined Mortgagee shall be entitled to the appointment of a receiver to enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Mortgage. The receiver shall be entitled to receive a reasonable fee for so managing the Property. All rents collected pursuant to this paragraph shall be applied first to the costs of taking control of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Mortgagor as lessor or landlord of the Property and then to the sums secured by this Mortgage. Mortgagee of the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Mortgagee shall not be liable to Mortgagor, anyone claiming under or through Mortgagor, or anyone having an interest in the Property by reason of anything done or left undone by Mortgagee under this paragraph. If the rents of the Property are not sufficient to meet the costs of taking control of and managing the Property and collecting the rents, Mortgagee, at its sole option, may advance funds to meet the costs. Any funds expended by Mortgagee for such purposes shall become indebtedness of Mortgagor to Mortgagee secured by this Mortgage. Unless Mortgagee and Mortgagor agree in writing to other terms of payment, such amounts shall be payable upon notice from Mortgagee to Mortgagor requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Agreement. The entering upon and taking and maintaining of control of the Property by Mortgagee or the receiver and the application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Mortgagee hereunder. Notwithstanding the appointment of any receiver or other custodian, Mortgagee shall be entitled as secured party hereunder to the possession and control of any cash deposits or instruments at the time held by, or payable or deliverable under the terms of this Mortgage to, Mortgagor.

15. Waiver by Mortgagee. Mortgagee may, in the sole discretion of Mortgagee, from time to time waive or forbear from enforcing any provision of this Mortgage, and no such waiver or forbearance shall be deemed a waiver by Mortgagee of any right or remedy provided herein or by law or be deemed a waiver of the right at any later time to enforce strictly all provisions of this Mortgage and to exercise any and all remedies provided herein and by law.

16. Waiver by Mortgagor. Mortgagor understands that upon default hereunder, among other remedies set out herein and in the above referenced Agreement, the Mortgagee may foreclose upon the mortgaged premises and ask for a deficiency judgment pursuant to Section 29-3-600, South Carolina Code of Laws (1976). Mortgagor hereby expressly waives and relinquishes any appraisal rights which Mortgagor may have under Section 29-3-680 through Section 29-3-760, South Carolina Code of Laws (1976) as amended and understands and agrees that a deficiency judgment, if pursued by Mortgagee shall be determined by the highest price bid at the judicial sale of the property.

17. Future Advances. Mortgagee, at its option, may make Future Advances to Mortgagor. Such Future Advances, with interest at the rate payable from time to time on the outstanding principal under the Note, shall be secured by this Mortgage when evidenced by the Note or by any other note stating that it is secured by this Mortgage or when advanced under the terms of this Mortgage. Mortgagee may make such Future Advances (a) at the request of Mortgagor, whether or not there is any obligation to make Future Advances; (b) pursuant to an advance of funds under paragraph 10 above; or (c) to pay, with or without the consent or request of Mortgagor, any amounts which may be due under any other mortgage or lien affecting the Property.

18. Notices. Any notice given by either party hereto to the other party shall be in writing and shall be signed by the party giving notice. Any notice or other document to be delivered to either party hereto by the other party shall be deemed delivered if mailed postage prepaid to the party to whom directed at the latest address of such party known to the party sending the same. This paragraph shall not be deemed to prohibit any other manner of delivering a notice or other document.

19. Miscellaneous.

- (a) The agreements herein shall bind and inure to the benefit of the Mortgagor, Mortgagee and their respective heirs, successors and assigns.
- (b) Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, legal representatives, successors and assigns of such parties shall be included and all covenants and agreements contained in this Mortgage by or on behalf of the Mortgagor or by or on behalf of the Mortgagee shall bind and inure to the benefit of their representatives, heirs, successors and assigns, whether so expressed or not.
- (c) The headings of the sections, paragraphs and subdivisions of this Mortgage are for the convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof.
- (d) If any provision of this Mortgage conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage are declared to be severable.
- (e) This Mortgage shall be governed by, construed and enforced in accordance with the laws of South Carolina.
- (f) Mortgagor may make or cause to be made reasonable entries upon the inspections of the Property upon giving Mortgagee prior notice.
- (g) All covenants of Mortgagor shall be joint and several.
- (h) If this is not a first mortgage, any prior mortgage(s) and the maximum amount thereof is (are) shown below:

(i) The undersigned Mortgagor represents to Mortgagee that such Mortgagor is benefited by the loan evidenced by the Note, whether or not the Mortgagor is the obligor thereon that Mortgagor's obligations under this Mortgage will not render Mortgagor insolvent, and that adequate and sufficient consideration has been given to Mortgagor for its execution and delivery of this Mortgage.

In Witness Whereof, Mortgagor has executed this Mortgage under seal this day and year first above written.

Signed, sealed and
delivered in the presence of:

Paul J. J. Stuart
Lock, Inc. SC
Pam McCaster
Owner, SC
Address

John Dale Williamson (Seal)
John Dale Williamson
(Seal)
(Seal)

Matlack Rd.
Buda, TX 78610

State of South Carolina

County of _____

Notary Public for South Carolina, N.A.

Mortgage of Real Estate

Filed at 9:03 o'clock A.M.

this 18 day of

Aug 19 92

and recorded in Mortgage Book 528

Page 4

M. J. Buda, Jr.
N.A.C. or Clerk of Court (Clerk)

Spk. County S.C.

State of South Carolina

County of YORK

Probate

Personally appeared before me Paige McCarter, the undersigned witness who, being duly sworn, depose and said that (s)he Paige McCarter saw the Mortgagor (and each Mortgagor if more than one) sign, seal and deliver the foregoing Mortgage and that (s)he Paige McCarter together with the other witness whose name appears as a witness, witnessed the execution thereof.

Sworn and subscribed:
before me this 30th day

of July 19 92
Spk. (Seal)
Notary Public for South Carolina

Paige McCarter

My commission expires My Commission Expires March 1, 2000

Field and Satisfied Information

99-D-196

STATE OF SOUTH CAROLINA
COUNTY OF

York

PROBATE COURT

IN THE MATTER OF

Estate of Virginia June Williamson

CASE NUMBER

99ES4600323

DEED OF DISTRIBUTION

WHEREAS, the decedent died on the 27th day of December, 1998, andWHEREAS, the estate of the decedent is being administered in the Probate Court for York County, South Carolina in File # 99ES4600323 and,

WHEREAS, the grantee herein is either a beneficiary or heir at law, as appropriate, of the decedent; and,

WHEREAS, the undersigned Personal Representative is the duly appointed and qualified fiduciary in this matter; and,

NOW, THEREFORE, in accordance with the laws of the State of South Carolina, the Personal Representative has granted bargained, sold and released, and by those Presents does grant, bargain, sell and release to:

Name: John Dale Williamson
Address: 1153 Deas Street
Rock Hill SC 29732

the following described property:

See Attached EXHIBIT A.

RECORDED
YORK COUNTY
TAX ASSESSOR'S OFFICE
DATE 9-2-99
TAX MAP NO. 632-3-4-5
INITIALS Bm KJRECORDED
RECORD
VOL. 2843 PG. 114
YORK COUNTY S.C.FORM 6480-C (1/78)
02-3-907, 02-3-908

114

PAGE 1 OF 2

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises/Property belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises/Property unto the said John Dale Williamson their heirs and assigns forever.

IN WITNESS WHEREOF, the undersigned, as Personal Representative of the estate of the decedent, has executed this Deed, this 1st day of August September, 19 99

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Estate of: Virginia June Williamson

by Signature: [Signature]

Witness: Jan O Klutz

Witness: Malissa L Myers

STATE OF SOUTH CAROLINA
COUNTY OF York

PROBATE

PERSONALLY appeared before me Malissa L Myers and made oath that he/she saw the within named

Personal Representative(s) sign, seal, and as their act and deed, deliver the within written Deed, and that he/she with Jan T. Klutz witnessed the execution thereof.

SWORN to before me this 1st day of August September, 99

Witness Signature:

Malissa L Myers

Jan O Klutz
Notary Public for South Carolina
My Commission Expires 2-7-06

EXHIBIT A

All that certain piece, parcel or lot of land lying, being and situate in the City of Rock Hill, County of York, State of South Carolina, and being more particularly described as follows: Beginning at a stake on the southwestern side of Deas Street and "D" Street, and running thence S. 45-45 W. 200 feet to a stake; thence S. 44-15 E. 100 feet to a stake; thence N. 45-45 E. 200 feet to a stake on Deas Street; thence with said Deas Street N. 44-15 W. 100 feet to the beginning. The same being shown and designated as Lot #38 on Map of Deas Street, property of H. B. Powell and Mrs. C. E. Tucker, revised by White and Marett September 27, 1948.

Derivation: This being the identical property conveyed to Virginia June Williamson by deed of distribution from Estate of William Lewis Williamson, Case Number 92ES4600774, dated July 12, 1993 and recorded July 14, 1993 in Book 755, Page 16 in the Office of the Clerk of Court for York County.

State of South Carolina
COUNTY OF YORK

FILED-RECEIVED
BOOK 157 PAGE 128
APR 29 9 28 AM '96

ROD BENJAMIN
CLERK OF COURT
YORK COUNTY, S.C.

TITLE TO REAL ESTATE - FORM 14-B
COLUMBIA OFFICE SUPPLY CO., COLUMBIA, S.C.

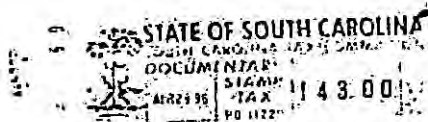
RECORDED

YORK COUNTY
TAX ASSessor's OFFICE

DATE 4-29-96
TAX MAP NO. 032-3-9-5
INITIALS R.H.H.

Know All Men By These Presents, That

I, John Dale Williamson.



COUNTY
CONVEYANCE
TAX
\$ 77.00
PAID

in the State aforesaid for and in consideration of the
sum of Fifty-Five Thousand and No/100 (\$55,000.00)
to me paid by Derrick L. Williamson, 1154 Deas Street, Rock Hill, SC 29732
in the State aforesaid, the receipt whereof is hereby
acknowledged, have granted, bargained, sold and released, by these presents do grant, bargain, sell and release
unto the said Derrick L. Williamson, his heirs and assigns, the following described
property, to wit:

All that certain piece, parcel or lot of land lying, being and situate in the City of Rock Hill, County of York, State of South Carolina, located at 1154 Deas Street, and being shown and designated as property of Derrick L. Williamson, prepared by Kenneth R. Staton, S.C.R.L.S. dated April 23, 1996, recorded in the office of the Clerk of Court for York County, Plat Book 132, at Page 77, which plat is incorporated herein by reference and having such metes, bounds, courses and distances as by reference to said plat will more fully appear. This property is designated as Lot 25, of "Property of H.B. Powell and C. E. Tucker" as shown in Plat Book 4, Page 359.

DERIVATION: Being the identical property conveyed to John Dale Williamson by deed from W.L. Williamson dated October 26, 1978, recorded October 26, 1978 in the Office of the Clerk of Court for York County, South Carolina in Deed Book 581 at Page 191.

The within described property is conveyed subject to all existing easements and to restrictions if any appearing in the chain of title, which said restrictions, if any, are not intended to be reimposed hereby.

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

To Have and to Hold all and singular the premises before mentioned unto the said
Derrick L. Williamson, his

Heirs and Assigns forever

And I do hereby bind myself and my Heirs, Executors
and Administrators, to warrant and forever defend all and singular the said premises unto the said
Derrick L. Williamson, his

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

WITNESS my Hand and Seal this 26th day of April

In the year of our Lord one thousand nine hundred and ninety-six
and in the two hundred and twentieth year of the Sovereignty
and Independence of the United States of America.

Signed, Sealed and Delivered
in the presence of

Josephine A. Beaumont
John D. Williams

John Dale Williamson (SEAL)
John Dale Williamson (SEAL)

STATE OF SOUTH CAROLINA, }

YORK

County

Personally appeared before me the undersigned
and made oath that saw the within named John Dale Williamson
sign, seal and as his act and deed, deliver the within written Deed for the uses and purposes therein
mentioned, and that he, with John Pressly Gettys, Jr. witnessed the
execution thereof.

SWORN to before me this 26th

day of April 19 96

John Pressly Gettys, Jr.
Notary Public of S. C.

John Dale Williamson

My Commission expires: *5/12/95*

004899

DS EX0432PG119

STATE OF SOUTH CAROLINA

FILED FOR RECORD

COUNTY OF KERSHAW

OPTION TO PURCHASE 56 JUN-3 1996 10:40

JUN 3 1996
CLERK OF COURT
KERSHAW COUNTY, S.C.

THIS AGREEMENT, made this 29th day of May, 1996, by and between

John Dale Williamson [Single]
1153 Deas Street
Rock Hill, SC 29732

hereinafter called "Seller" (whether one or more), and DUKE POWER COMPANY, DEEDS & RECORDS SECTION, P.O. BOX 1007, CHARLOTTE, NC 28201-1007, a corporation organized under the laws of the State of North Carolina, hereinafter called "Purchaser".

WITNESSETH:

That the said Seller in consideration of the sum of Ten (\$10.00) Dollars, receipt of which is hereby acknowledged, gives and grants to Purchaser and its successors and assigns, the option to purchase all of that certain tract of land situate, lying and being in Kershaw County, State of South Carolina, said land being more particularly described as follows:

BEING Lot 217 in Section 43, as shown on map recorded in Map Book 36 at page 619 in the office of the Clerk of Court for Kershaw County, AND BEING a part of the property conveyed to Crescent Land & Timber Corp. by deed of Duke Power Company recorded in Book H.W. at page 1493 in the office of the Clerk of Court for said County; AND ALSO BEING the same property conveyed to Seller by deed from Crescent Resources, Inc. dated on or about the same date as this Option and recorded in the office of the Clerk of Court for said County.

This Option may be exercised by giving notice thereof to Seller within the time hereinafter set out. This Option may be exercised only if the land described herein is needed by Duke Power Company for any of the following purposes: (1) electric generating plant(s) including ancillary facilities for construction and operation of the electric generating plant(s); (2) electric substation(s) and transmission lines, together with necessary rights of way for the construction of said substation(s) and lines and ingress and egress thereto; (3) "Exclusion Area(s)" as now or hereinafter defined in 10 CFR § 100.3, as amended; (4) sewer line(s); and (5) water supply line(s) (A letter from the President of Duke Power Company, its successors or assigns, to Seller stating that said Company needs the said land for any of the above purposes shall be conclusive evidence of such need). This Option may be exercised by the Purchaser if, and only if, it is exercised prior to eighteen (18) years after the death of the last to die of Anne Ford Grigg, John Humphrey Grigg, Mary Lynne Grigg, Mary Salley Griffith, Elizabeth Jane Griffith, George Wagoner Ferguson, III, Tracey Lynne Ferguson, Carole Lynn Jolly, Christopher Howard Jolly and David Lassiter Jolly. Anne Ford Grigg, John Humphrey Grigg and Mary Lynne Grigg are all children of William H. Grigg, who on February 23, 1975, was Senior Vice President, Legal and Finance, for Duke Power Company. Mary Salley Griffith and Elizabeth Jane Griffith are both children of Steve C. Griffith, Jr., who on February 23, 1975 was General Counsel for Duke Power Company. George Wagoner Ferguson, III and Tracey Lynne Ferguson are both children of George W. Ferguson, Jr., who on February 23, 1975, was Secretary and Associate General Counsel of Duke Power Company. Carole Lynn Jolly, Christopher Howard Jolly and David Lassiter Jolly are all children of Raymond A. Jolly, Jr., who on February 23, 1975, was Associate General Counsel for Duke Power Company.

The purchase price for said land shall be the fair market value of said land and the improvements thereon at the time of the exercise of this Option, said value to be determined as hereinafter set forth. If the Seller and Purchaser are unable to agree upon the fair market value of the land and improvements, the Seller and Purchaser shall each appoint a qualified real estate appraiser and these two appraisers shall appoint a third qualified real estate appraiser. In the event agreement by a majority of said appraisers as to the fair market value is reached, it shall be final and binding on both parties hereto, and judgment upon the appraiser's decision (award) may be entered in any Court having jurisdiction thereof and if so entered said Court shall order the conveyance of said land. In the event a majority of the appraisers so selected shall be unable to agree (including without limitation the situation where the first two appraisers cannot agree on the selection of a third appraiser) or in the event that either party hereto fails to appoint an appraiser within ten (10) business days after written request by the other party to so appoint, either party hereto may request the Secretary of the Carolina Chapter of the American Arbitration Association to submit a list of three (3) names of real estate appraisers, residents of South Carolina, from which an appraiser shall be selected by each party alternately striking one name on the list until only one name is left and this person shall be the sole appraiser. The Purchaser shall strike the first name. In the event either Purchaser or Seller refuses to strike a name within ten (10) business days after written request by the other party to so strike, then the party who has not refused to strike may select the sole appraiser from one of the three (3) names submitted by the Chapter of said Arbitration Association. If said Chapter no longer exists or for any reason refuses to act, either party may request any other Chapter of the American Arbitration Association to act as provided herein. In the event the parties request different Chapters to act, the Chapter first contacted shall have exclusive jurisdiction to act as provided herein.

5/3/96
OPTIONAL

FILED FOR RECORD 06/03/1996
AT 10:40A BOOK 0432 PAGE 0119
Joyce McDonald-Clerk of Court - RMC
Kershaw County Courthouse 0004899

Duke Power Company
PO Box 1007
Charlotte, NC 28201-1007
6/21/96
maw

01 MK0432PG120

The appraiser(s) selected as set forth above shall, as promptly as possible, render a decision (award) as to the fair market value, and said decision (award) shall be binding upon the parties herein, and judgment upon the appraiser's(s) decision (award) may be entered in any Court having jurisdiction thereof and if so entered said Court shall order the conveyance of said land. The Seller shall pay the reasonable expenses and charges of the appraiser(s).

Within a reasonable time after the fair market value purchase price has been established as set forth above, the Seller shall execute and deliver to Purchaser a good and sufficient general warranty deed conveying title to the said property free and clear of all encumbrances except ad valorem taxes for the year in which the property is conveyed (The taxes for the real property are to be prorated on a calendar year basis to the date of final settlement and any taxes for personal property are to be paid by Seller or if not then payable credited to Purchaser). The fair market value purchase price, less any deductions necessary to pay off any mortgage(s) or other encumbrance(s) on the said land, shall be paid to Seller upon delivery of the deed and the parties shall execute any and all documents or papers that may be necessary on or before the date of final settlement. Seller shall vacate and Purchaser shall be given possession of said land on or before the date of final settlement.

The Seller may convey to a third party the land described in this Option but the terms and conditions of this Option shall be binding upon the Seller and the Seller's successor(s) in interest until the end of the time within which Purchaser is allowed to exercise this Option as set forth above.

The Seller may mortgage or otherwise encumber the land described in this Option and any improvements now or hereafter located thereon so long as said mortgage or encumbrance is subordinate to Purchaser's option rights as contained herein, and any buyer at a foreclosure or other involuntary sale will take subject to and subordinate to Purchaser's option rights as contained herein. Upon exercise of this Option the purchase price as set forth above shall first be applied to appraisal fees and appraisal expenses, then to liens of record in the order of their priority. The balance remaining shall then be paid to Seller.

The foregoing notwithstanding, Purchaser agrees that if the portion of the purchase price applied to liens of record upon the exercise of this Option, as aforesaid, shall not be sufficient to pay in full the outstanding balance (as hereinafter defined) of any qualifying first lien mortgage (as hereinafter defined), then, in addition to the portion of the purchase price applied to such first lien mortgage, Purchaser will pay the owner and holder of any such first lien mortgage, at the closing of a purchase hereunder, the difference between said outstanding balance and the portion of the purchase price applied to such first lien mortgage. For the purpose of this Agreement, the term "qualifying first lien mortgage" shall be defined as any first lien mortgage secured by the real property described in this Option and filed in the public registry of the above described county on or before the date notice of exercise of this Option is given to the Seller by Purchaser excepting, however: (1) mortgages held by or originally given to a person or firm other than a State or Federally chartered savings and loan association, bank or credit union; (2) mortgage indebtedness secured by other property or contract rights other than the personal obligation of the Borrowers; (3) mortgage indebtedness secured by third party endorsement or guarantor; and (4) a mortgage given to secure prior indebtedness which is not a refinancing of a mortgage on the fee simple interest or the leasehold interest in the land described in this Option; and the term "outstanding balance" shall be defined as the loan balance as of the date notice of exercise of this Option is given to Seller and interest accruing on said loan balance from the time of notice to Seller until payment is made to the holder of the first lien mortgage as herein provided, less any past due interest or advancements made for payment of taxes, assessments, repairs or insurance as of the date of notice to Seller and less any interest attributable to such past due interest or advancements. Prepayment penalties shall not be applicable as to Purchaser.

The availability of this Option shall not preclude Purchaser from exercising its power of eminent domain if available to it. If the Purchaser shall first elect to acquire the property through condemnation proceedings, this Option shall not be deemed to require Purchaser to satisfy any such first lien mortgage indebtedness, nor shall it affect the rights of the owner and holder of any such first lien mortgage indebtedness in the condemnation proceedings. Purchaser further agrees that if the real property described in this Option shall be subject to a first lien mortgage to which the stipulation set forth above shall apply and notice of exercise of this Option has been given to the Seller, the Purchaser will not then voluntarily withdraw its notice of exercise under this Option and then proceed to acquire the property through condemnation proceedings.

When herein used, the term "mortgage" shall also mean deed of trust. Also, for purposes of the aforesaid stipulation, a mortgage which would otherwise be a first lien shall not be deemed a second lien or junior encumbrance merely because it is subordinate to this Option.

8/3/01
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NK0432PG121

The covenants and conditions herein contained shall apply to and bind the heirs, legal representatives, successors and assigns of the parties hereto. The words "Seller" and "Purchaser" as used herein shall be construed to mean either the singular or the plural, masculine or feminine, their respective heirs, legal representatives, successors or assigns, whenever the context so requires or admits. The word "Seller" as used herein shall be construed to mean the party or parties who signed this Option for only such time as said party(ies) owns the land herein described, and the word "Seller" shall thereafter mean the owner(s) of the land herein described, it being the intent of the parties that this Option run with the land for the term herein provided.

IN WITNESS WHEREOF, this instrument is executed on the date first above written.

Signed, Sealed and Delivered
in the Presence of:

Ray N. Hawley
Harold Boone

John Dale Williamson
John Dale Williamson

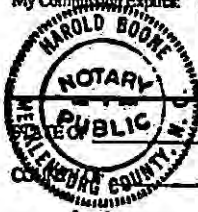
STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, HAROLD BOONE, a Notary Public for said County and State, do hereby certify that John Dale Williamson personally appeared before me this day and acknowledged the due execution of the foregoing (or annexed) instrument;

WITNESS my hand and seal, this 29 day of MAY, 1996

My Commission Expires: FEB 19, 1997

Harold Boone
Notary Public



I, _____ a Notary Public for said County and State, do hereby certify that

personally appeared before me this day and acknowledged the due execution of the foregoing (or annexed) instrument;

WITNESS my hand and seal, this ____ day of _____, 19__

My Commission Expires:

Notary Public

State of South Carolina }
County of York }

MORTGAGE OF REAL ESTATE

#6180

FILED
H.C.
JAN 2 1982
16

To all Whom these Presents may concern:

I, John Dale Williamson

, in the State aforesaid, SEND GREETING:

Whereas, I, the said John Dale Williamson

, hereinafter referred to as Mortgagor,

in and by my certain Note or Obligation bearing even date herewith, stand firmly held and bound unto

THE CITY OF ROCK HILL

PO BOX 11706

ROCK HILL, SOUTH CAROLINA 29730

in the County and State aforesaid, hereinafter referred to as Mortgagee, conditioned for the payment of the full and

just sum of SEVENTEEN THOUSAND THREE HUNDRED FIFTY AND NO/100 DOLLARS (\$17,350.), together with interest on the unpaid principal amount on this Note from the date hereof, at the rate of SIX per centum (6%) per annum, until paid. Both the principal of and interest on this Note are payable on the First Day of Each Month in 240 monthly installments, including both principal and interest, commencing with a payment of \$124.23 on January 1, 1983, and of \$124.23 the First Day of Each Month for the remaining 239 months commencing on February 1, 1983, in lawful money of the United States; and/or said amount to be and become due and payable in full upon the terms of the Note hereby secured. Payable at the principal office of Southern Bank and Trust Company in Rock Hill, South Carolina, or at such other places as shall be designated by the holder hereof.

as in and by the said Note and conditions thereof, reference thereunto had will more fully appear.

Now, Know all Men That I, the said Mortgagor, in consideration of the said debt and sum of money aforesaid, and for the better securing the payment thereof to the said Mortgagee, according to the conditions of the said Note; and also in consideration of the further sum of THREE DOLLARS, to me, the said Mortgagor, in hand well and truly paid by the said Mortgagee, at and before the sealing and delivery of these Presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents DO GRANT, bargain, sell and release unto the said Mortgagee, his Heirs and Assigns the following real estate, to wit:

All that certain piece, parcel or lot of land situate, lying and being in the City of Rock Hill, County of York, and State of South Carolina, known and designated as Lot #25 on revised map of property of H B Powell and Mrs. C E Tucker made by White and & Marott Surveyors and dated September 27, 1948 and recorded in the office of the Clerk of Court for York County in Plat Book 4, Page 359, said lot being more particularly described as follows, to wit: BEGINNING at a stake on Deas Street 100 feet from the intersection of Deas and "D" Street and running thence with Deas Street S 44-15 E 100 feet to a stake; thence N 45-45 E 200 feet to a stake; thence N 44-15 W 100 feet to a stake; thence S 45-45 W 200 feet to the beginning.

This being the identical property conveyed to John Dale Williamson under deed from W. L. Williamson, dated October 26, 1978, recorded October 28, 1978 in Deed Book 581, at Page 191.

Also, I assign and set over all the rents, profits and income arising from the mortgaged premises described above.

Together with all and singular the rights, Members, Hereditaments and Appurtenances to said Premises belonging, or in anywise incident or appertaining.

To have and to Hold, all and singular the said premises unto the said Mortgagee, his heirs and assigns forever. And I do hereby bind myself, my heirs, executors and administrators, to warrant and forever defend all and singular the said premises unto the said Mortgagee, his heirs and assigns, from and against me and my heirs, executors, administrators and assigns, and all other persons lawfully claiming or to claim the same or any part thereof.

And it is Agreed that if this property is encumbered in any way, which I deny, (except as herein noted); or if I shall fail to insure and keep insured any building now or to be erected upon the mortgaged premises against loss by fire and tornado for an amount acceptable to the mortgagee, in such company as the mortgagee may approve, the loss to be made payable to the mortgagee as its interest may appear; or if I shall fail to pay the taxes as they become due; (and failing, the mortgagee may take out said insurance, or pay said taxes, and the premium or taxes so paid shall rank as a part of this mortgage debt); then in either event the said debt shall at the option of the holder hereof become due and payable as upon the day of its contracting, anything to the contrary in said Note notwithstanding.

And it is Further Agreed that wherever the context hereof requires, the masculine gender, as used herein, shall include the feminine, the singular number, as used herein, shall include the plural, and reference to a person, or his heirs, as used herein, shall include a corporation, or its successors; and (time being of the essence hereof) if default be made in performance of any covenant or agreement of the Mortgagor herein contained, or if proceedings be instituted to enforce any other lien or charge against the mortgaged premises, or if the Mortgagor be declared bankrupt, insolvent or make assignment for the benefit of any creditor or be placed in the hands of a receiver, or if the Mortgagor abandon the mortgaged premises, the mortgagee is hereby authorized, at his option, (1) to perform any breached covenant, take charge of the mortgaged premises, make necessary repairs, and all monies so expended, with interest at the legal rate, shall be added to the debt hereby secured; and (2) to declare all sums secured hereby immediately due and payable and this mortgage foreclosable.

It is agreed, between the parties hereto, that after default of any of the conditions of the Note and conditions thereon, and upon proceedings being begun in a Court of competent jurisdiction on said Note and foreclosure of this mortgage the holder of the Note and mortgage may apply for appointment of a receiver for the property described herein and the rent and profit therefrom, and shall be entitled to said appointment as a matter of right without the consideration of the value of the premises as mortgaged, as the security of the Note herein mentioned, or solvency of any person or persons liable for the payment of said Note, to which receivership the mortgagee consents and binds himself, his heirs, his representatives and assigns to the said covenant.

And should the said Note secured by this mortgage be placed in the hands of an attorney for collection, upon default of payment by the Mortgagor, or should the premises subject to this Mortgage or the owner of said premises become involved in legal action of any sort looking towards forced sale of said premises or the assertion of any claim against the same, then it is agreed that a fee of 10% of the amount due under this Mortgage, or such greater or lesser amount as may be determined by the Court to be reasonable under the circumstances, shall be added to cover attorney's fees for collection of same, or for other legal services involved in protecting the rights of the holder hereof in the security property, and payment of such fees, together with all necessary costs, shall be secured by this Mortgage as a part of the total Mortgage Debt.

Provided, always, nevertheless, and it is the true intent and meaning of the parties to these Presents that if the said Mortgagor do and shall well and truly pay or cause to be paid unto the said Mortgagee, the said debt or sum of money aforesaid, with interest thereon, if any shall be due, according to the true intent and meaning of said Note and conditions thereunder written, then this deed of bargain and sale shall cease, determine and be utterly null and void; otherwise to remain in full force and virtue.

And it is Agreed, by and between the said parties, that the said Mortgagor is to hold and enjoy the said premises until default of payment shall be made.

Witness my hand and seal this 24th day of November in the year of our Lord one thousand nine hundred and Eighty Two and in the ^{two} hundred and Seventh year of the Sovereignty and Independence of the United States of America.

Signed, sealed and delivered in the presence of

Barbara P. Dabney
Barbara P. Dabney
Stanley R. Harris
Stanley R. Harris

John Dale Williamson
John Dale Williamson (SEAL)

(SEAL)

State of South Carolina }
County of York

PROBATE

Personally Appeared before me Stanley R. Harris, a witness, and made oath that

he saw the within named John Dale Williamson

sign, seal and as his Act and Deed, deliver the within written Mortgage, and that he, with

Barbara P. Dabney, the other witness, was present and witnessed the execution thereof.

Sworn to before me this

24th day of

November

A. D., 19 82

Stanley R. Harris
Stanley R. Harris

(SEAL)

William L. Dabney
Notary Public for S. C.
My commission expires July 9, 1992

State of South Carolina }
County of York

NOT APPLICABLE - NOT MARRIED

RENUNCIATION OF DOWER

I,

Notary Public for S. C.

do hereby certify unto all whom it may concern that Mrs.

wife of the within named

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

Given under my hand and seal, this

day of

19

(SEAL)

Notary Public for S. C.

Form 0188 (7-8-91)

004900

BX0432PG122

STATE OF SOUTH CAROLINA

COUNTY OF KERSHAW

MORTGAGE OF REAL ESTATE

FILED FOR RECORD

JUL 10 1996

CLERK OF COURT
KERSHAW COUNTY, S.C.

TO ALL WHOM THESE PRESENTS MAY CONCERN:

JOHN DALE WILLIAMSON

hereinafter referred to as Mortgagor, SEND(S) GREETINGS:

WHEREAS, the Mortgagor is well and truly indebted to CRESCENT RESOURCES, INC., of Charlotte, North Carolina, a body corporate under the laws of the State of South Carolina, as evidenced by the Mortgagor's promissory note of even date herewith, the terms of which are incorporated herein by reference, in the full and just sum of _____

Fifty Thousand and no/100

_____ Dollars (\$ 50,000.00) with interest at the rate of 6.5% per centum per annum, due and payable in monthly installments of principal and interest in the amount of Four Hundred Thirty Five and 55/100 Dollars (\$ 435.55) each, commencing on the 10th day of July 10, 1996, and on the 10th day of each calendar month thereafter until the 10th day of June 10, 2011, when the entire remaining principal balance plus unpaid interest shall be due.

NOW, KNOW ALL MEN, That the said Mortgagor, in consideration of the said debt and sum of money aforesaid, together with any further advances that may be hereafter made, if any, and for the better securing the payment thereof to the said Crescent Resources, Inc., according to the terms of the said note have granted, bargained, sold and released and by these presents do grant, bargain, sell and release unto the said Crescent Resources, Inc., its successors and assigns, the following described property to wit:

All that lot or parcel of land described as Lot No. 217, as shown on plat of survey thereof, marked Drawing No. L WA-43-J, dated February 24, 1978, recorded in Plat Book 36, Page 619 of the Kershaw County Registry.

And being that property conveyed by Mortgages to Mortgagor by deed of even date herewith and recorded herewith.

Together with all and singular the rights, members, hereditaments and appurtenances to the same belonging or in any way incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Mortgages, its successors and assigns forever.

FILED FOR RECORD 06/03/1996
AT 10:45A BOOK 0432 PAGE 0122
Joyce McDonald-Clerk of Court - EMC
Kershaw County Courthouse 0004900

CRESCENT RESOURCES INC
PO Box 1003
Charlotte, NC 28201-1003

mailed
6/21/96

BX0432P6123

The Mortgagor covenants that he is lawfully seized of the premises hereinabove described in fee simple absolute, and that he has good right and lawful authority to sell, convey or encumber the same and that the premises are free and clear of all liens and encumbrances whatsoever. The Mortgagor further covenants to warrant and forever defend all and singular the premises unto the Mortgagee forever, from and against the Mortgagor and all persons whomsoever lawfully claiming the same or any part thereof.

The Mortgagor covenants and agrees as follows:

1. That he will promptly pay the principal of and interest on the indebtedness evidenced by the said note, at the times and in the manner therein provided.
2. That this mortgage shall secure the Mortgagee for such further sums as may be advanced hereafter at the option of the Mortgagee, for the payment of taxes.
3. If all or any part of the property or an interest therein is sold or transferred (or if a beneficial interest in Mortgagor is sold or transferred and Mortgagor is not a natural person) without Mortgagee's written consent, Mortgagee may, at its option, declare all the sums secured by this mortgage to be immediately due and payable.

Notwithstanding a sale or transfer, Mortgagor will continue to be obligated under the note and this mortgage unless Mortgagee has released Mortgagor in writing.

4. It is agreed that the Mortgagor shall hold and enjoy the premises above conveyed until there is a default of this mortgage or in the note secured hereby. It is the true intent and meaning of this instrument that if the Mortgagor shall fully perform all the terms, conditions and covenants of this mortgage and of the note secured hereby, that then this mortgage shall be utterly null and void; otherwise to remain in full force and effect. If there is a default of any of the terms, conditions or covenants of this mortgage, or of the note secured hereby, then at the option of the Mortgagee, all sums then owing by the Mortgagor to the Mortgagee shall become immediately due and payable, and this mortgage may be foreclosed. Should any legal proceedings be instituted for the foreclosure of this mortgage, or should the Mortgagor become a party to any suit involving this mortgage or the title to the premises described herein, or should the Mortgagee become a party to any suit involving this mortgage or the title to the premises described herein or should the debt secured hereby or any part thereof be placed in the hands of an attorney at law for collection by suit or otherwise, all costs and expenses incurred by the Mortgagee and a reasonable attorney's fee shall thereupon become due and payable immediately or on demand at the option of the Mortgagee as a part of the debt secured thereby and may be recovered and collected hereunder.

5. The covenants herein contained shall bind, and the benefits and advantages shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto. Whenever used, the singular number shall include the plural, the plural the singular and the use of any gender shall be applicable to all genders.

WITNESS my Hand and Seal, this 29th day of May, 1996.

Signed, Sealed and Delivered
In the Presence of:

Ray M. Harvey
1 Jacob Boone

John Dale Williamson (SEAL)
John Dale Williamson.

____ (SEAL)

____ (SEAL)

____ (SEAL)

671: 21: 513 65

EX0432F6124

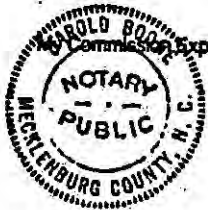
NORTH
STATE OF CAROLINA
COUNTY OF MECKLENBURG

PROBATE

PERSONALLY appeared before me Joy M. HARVEY
and made oath that She saw the within named mortgagor(s) John Dale Williamson
sign, seal and as his act and deed
deliver the within written deed, and that she, with HAROLD BOONE
witnessed the execution thereof.

SWORN to before me this 29th
day of MAY, 1996
Harold Boone
Notary Public

Joy M. Harvey (SEAL)



State of South Carolina,

County of Kershaw

**Crescent Resources, Inc. (formerly
Crescent Land and Timber Corp.)**

to

John Dale Williamson

Drawn By

Crescent Resources, Inc.

Return To

CRESCENT RESOURCES, INC.

Post Office Box 1003

Charlotte, N.C. 28201-1003

Mortgage Real Estate

I hereby certify that the within Real Estate
Mortgage was filed for record in my office at

_____ M. o'clock on the
_____ day of _____, 19____,

and was immediately entered upon the proper
indexes and duly recorded in Book
_____ of Real Estate

Mortgages, page _____

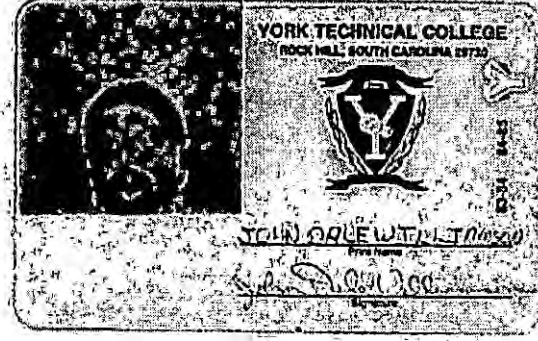
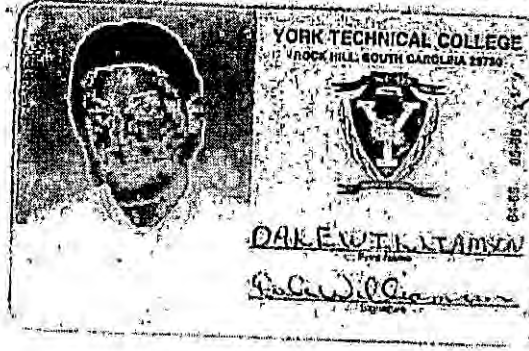
Clerk of Court of Common Pleas and General
Sessions for _____ County,
S.C.

25 JAN 30 1982

FILED RECEIVED

2023 MAR 17 P 3:44

CAROLYN E. WOODRUFF
JUDGE OF PROBATE
YORK COUNTY, SC



FILED RECEIVED

Last Will and Testament

2023 JAN -3 A 10:41

FILED RECEIVED

2023 MAR 17 P 3:45

of

CAROLYN E. WOODRUFF
JUDGE OF PROBATE
YORK COUNTY, SC

John Williamson

CAROLYN E. WOODRUFF
JUDGE OF PROBATE
YORK COUNTY, SC

I, John Williamson, with a place of residence at 1153 Deas st, Rock Hill, South Carolina, 29732, being of sound mind and not acting under duress or undue influence while fully understanding the nature and extent of all my property and of this disposition thereof, do hereby make, publish, and declare this document to be my Last Will and Testament, and hereby revoke any and all other wills and codicils heretofore made by me, Hereinafter known as the "Testator".

1. FAMILY IDENTIFICATION

I am not married.

I do not have any children.

2. EXCLUSIONS

It is my intention to exclude the following person(s) from receiving any distributions in association with this Last Will and Testament: Crystal Williamson

3. EXPENSES & TAXES

I direct that all my debts, and expenses of my last illness, funeral, and burial, be paid as soon after my death as may be reasonably convenient, and I hereby authorize my Personal Representative, hereinafter appointed, to settle and discharge, in his or her absolute discretion, any claims made against my estate to be first paid.

I further direct that my Personal Representative shall pay out of my estate any and all estate and inheritance taxes payable by reason of my death in respect of all items included in the computation of such taxes, whether passing under this Will or otherwise. Said taxes shall be paid by my Personal Representative as if such taxes were my debts without recovery of any part of such tax payments from anyone who receives any item included in such computation.

4. SPECIAL BEQUESTS

I shall have no special bequests under this Last Will and Testament with all property, personal and real, to be under my Residual Estate.

5. PERSONAL PROPERTY

I direct that all of my personal property that has not been directed as specific bequests or a part of my residual estate be distributed to Errick Williamson.

6. DIGITAL ASSETS



Page 1

I shall not have my social media accounts left with a representative. Therefore, after I die, all social media accounts that I have shall be left 'as-is'.

7. RESIDUAL ESTATE

I devise and bequeath my property, both real and personal wherever situated including any life insurance policies I may have to the following Two (2) Beneficiaries:

Erick Williamson who is my Nephew and entitled to 80% of my Residual Estate.

Derrick Williamson who is my brother and entitled to 20% of my Residual Estate.

8. OTHER PROPERTY

If there is any other property not part of the Residual Estate of Personal Property of this Last Will and Testament all other property should be transferred to Derrick Williamson.

9. PREDECEASE

If any other of my Beneficiaries have predeceased me, then any property that they would have received if they had not predeceased me shall be distributed to Chantel Williamson.

If any of my property cannot be readily sold and distributed, then it may be donated to any charitable organization or organizations of my Personal Representative's choice. If any property cannot be readily sold or donated, my Personal Representative may, without liability, dispose of such property as my Personal Representative may deem appropriate. I authorize my Personal Representative to pay as an administration expense of my estate the expense of selling, advertising for sale, packing, shipping, insuring and delivering such property.

10. OMISSION

Except to the extent that I have included them in this Will, I have intentionally, and not as a result of any mistake or inadvertence, omitted in this Will to provide for any family members and/or issue of mine, if any, however defined by law, presently living or hereafter born or adopted.

11. PERSONAL REPRESENTATIVE

I nominate and appoint Erick Williamson, of 1153 Deas st, Rock Hill, South Carolina, 29732 as Personal Representative of my estate and I request that he/she be appointed temporary Personal Representative if he/she applies.

There shall not be a Secondary Personal Representative. If the above-named individual cannot serve, then I shall desire a court-appointed Personal Representative to act on behalf of my intentions written in this last will and testament.

12. DISCRETIONARY POWERS OF PERSONAL REPRESENTATIVE

My Personal Representative, shall have and may exercise the following discretionary powers in addition to any common law or statutory powers without the necessity of court license or approval:

- A. To retain for whatever period my Personal Representative deems advisable any property, including property owned by me at my death, and to invest and reinvest in any property, both real and personal, regardless of whether any particular investment would be proper for a Personal Representative and regardless of the extent of diversification of the assets held hereunder.
- B. To sell and to grant options to purchase all or any part of my estate, both real and personal, at any time, at public or private sale, for consideration, whether or not the highest possible consideration, and upon terms, including credit, as my Personal Representative deems advisable, and to execute, acknowledge, and deliver deeds or other instruments in connection therewith.
- C. To lease any real estate for terms and conditions as my Personal Representative deems advisable, including the granting of options to renew, options to extend the term or terms, and options to purchase.
- D. To pay, compromise, settle or otherwise adjust any claims, including taxes, asserted in favor of or against me, my estate or my Personal Representative.
- E. To make any separation into shares in whole or in part in kind and at values determined by my Personal Representative, with or without regard to tax basis, and to allocate different kinds and disproportionate amounts of property and undivided interests in property among the shares.
- F. To make such elections under the tax laws as my Personal Representative shall deem appropriate, including elections with respect to qualified terminable interest property, exemptions and the use of deductions as income tax or estate tax deductions, and to determine whether to make any adjustments between income and principal on account of any election so made.
- G. To make any elections permitted under any pension, profit sharing, employee stock ownership or other benefit plans.
- H. To employ others in connection with the administration of my estate, including legal counsel, investment advisors, brokers, accountants and agents and to pay reasonable compensation in addition to my Personal Representative's compensation.
- I. To vote any shares of stock or other securities in person or by proxy; to assert or waive any stockholder's rights or privilege to subscribe for or otherwise acquire additional stock; to deposit securities in any voting trust or with any committee.
- J. To borrow and to pledge or mortgage any property as collateral; and to make secured or unsecured loans. My Personal Representative is specifically authorized to make loans without interest to any beneficiary hereunder. No individual or entity loaning property to my Personal Representative or trustee shall be held to see to the application of such property.

K. To work in absolute discretion and determine the allocation of any GST exemption available to me at my death to property passing under this Will or otherwise. The determination of my Personal Representative with respect to any elections or allocation, if made or taken in good faith, shall be binding upon all affected.

L. To make decisions and settle any and all claims against the Estate including any Beneficiaries that may contest their Residual Estate or this Last Will and Testament.

M. The Personal Representative shall not be compensated for their time and effort involved with this Last Will and Testament.

13. CONTESTING BENEFICIARY

If any beneficiary under this Will, or any trust herein mentioned, contests or attacks this Will or any of its provisions, any share or interest in my estate given to that contesting beneficiary under this Will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me.

A. I direct that the representation by a guardian ad litem of the interests of persons unborn, unascertained or legally incompetent to act in proceedings for the allowance of accounts hereunder be dispensed with to the extent permitted by law.

14. GENDER

Whenever the context permits, the term "Personal Representative" shall include "Executor" and "Administrator," the use of a particular gender shall include any other gender, and references to the singular or the plural shall be interchangeable. All references to the Internal Revenue Code shall mean the Internal Revenue Code of 1986 or any successor Code. All references to estate taxes shall include inheritance and other death taxes.

15. ASSIGNMENT

The interest of any beneficiary in this Will, shall not be alienable, assignable, attachable, transferable nor paid by way of anticipation, nor in compliance with any order, assignment or covenant and shall not be applied to, or held liable for, any of their debts or obligations either in law or equity and shall not in any event pass to his, her, or their assignee under any instrument or under any insolvency or bankruptcy law, and shall not be subject to the interference or control of creditors, spouses or others.

16. PET HEALTHCARE DIRECTIVE

I would like the following one (1) pet described as:

Name of Pet: Blacky **Type of Pet:** cat

Hereinafter known as the "Pets". The Pets are to be placed with Chantel Williamson of 1153 Deas st, Rock Hill, South Carolina, 29732, Hereinafter known as the 'Pet Guardian', and shall act as the caretaker of the Pets.

8

TESTAMENTARY AFFIDAVITSTATE OF NORTH CAROLINACOUNTY OF MECKLENBURG, SS.

Before me, the undersigned authority, on this day personally appeared John Williamson, as Testator, JEFF HAWKINS, KALEB KIDD as Witness, known to me to be the Testator and the Witnesses, respectively, whose names are signed to the attached or foregoing instrument, and, all of these persons being by me duly sworn, the Testator declared to me and to the Witnesses in my presence that the instrument is the Testator's Last Will and Testament and that the Testator has willingly signed or directed another to sign for him/her, and that the Testator executed it as their own free and voluntary act for the purposes therein expressed; and each of the Witnesses stated to me, in the presence of the Testator, that they signed the Last Will and Testament as Witnesses and that to the best of their knowledge the Testator was eighteen (18) years of age or over, of sound mind, and under no constraint or undue influence.

John Dale Williamson
Testator Signature

Jeff Hawkins
Witness Signature

Jeff Hawkins
Witness Print Name

Kaleb Kidd
Witness Signature

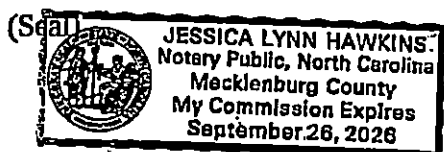
Kaleb Kidd
Witness Print Name

Subscribed and sworn to before me by the said Testator, John Williamson, and the

above listed witnesses this 24th day of NOVEMBER, 2022.

Notary Public Signature Jessica Lynn Hawkins JESSICA LYNN HAWKINS

My Commission Expires: 9-26-2026



There shall not be any other individual I select to be a Pet Guardian. If the Pet Guardian is not able to serve then the Personal Representative will have the power to choose another individual to act in their place.

There shall be no funds appropriated to the Pet Guardian in this Last Will and Testament for the care of the Pets.

17. GOVERNING LAW

This document shall be governed by the laws of the state of South Carolina.

18. SPECIAL WISHES AND DIRECTIVES

I declare, in addition to the statements in this Last Will and Testament, the following Special Wishes and Directives:

i would like to be cremated

19. BINDING ARRANGEMENT

Any decision by my Personal Representative with respect to any discretionary power hereunder shall be final and binding on all persons interested. Unless due to my Executor's own willful default or gross negligence, no Executor shall be liable for said Executor's acts or omissions or those of any co-Executor or prior Executor.

I, the undersigned John Williamson, do hereby declare that I signed and executed this instrument as my last Will, that I signed it willingly in the presence of each of the undersigned witnesses, and that I executed it as my free and voluntary act for the purposes herein expressed, on this 24th day of NOVEMBER, 2022.

Testator Signature John Dale Williamson

Printed Name: John Williamson

The foregoing instrument, on this 24 day of NOVEMBER, 2022, subscribed on each page and at the end thereof by John Williamson, the above-named Testator, and by (him/her) signed, sealed, published and declared to be (his/her) LAST WILL AND TESTAMENT, in the presence of us and each of us, who thereupon, at (his/her) request, in (his/her) presence, and in the presence of each other, have hereunto subscribed our names as attesting witnesses thereto.

Jeff Hawkins
Witness Signature

Jeff Hawkins 10278 Silver Mine Rd. Fort Mill, SC 29707
Print Name & Mailing Address

Kaleb Kidd
Witness Signature

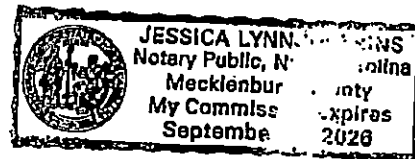
Kaleb Kidd 930 Dixon Rd Ellenboro NC 28040
Print Name & Mailing Address

NOTARY ACKNOWLEDGMENTSTATE OF NORTH CAROLINAMECKLENBURG County, ss.

The undersigned, being a Notary Public certified in NORTH CAROLINA declares that, John Williamson, making this Durable Health Care Power of Attorney has dated and signed or marked it in my presence and appears to me to be of sound mind and free from duress. I further declare I am not related to John Williamson by blood, marriage, or adoption, or a person designated to make medical decisions on his/her behalf. I am not directly involved in providing health care to the person signing. I am not entitled to any part of his/her estate under a will now existing or by operation of law. In the event the person acknowledging this Durable Health Care Power of Attorney is physically unable to sign or mark this document, I verify that he/she directly indicated to me that this Durable Health Care Power of Attorney expresses his/her wishes and that he/she intends to adopt the Durable Health Care Power of Attorney at this time.

WITNESS MY HAND AND SEAL this 24th day of NOVEMBER, 2022

Jessica Lynn Hawkins
Notary Public

Print Name: JESSICA LYNN HAWKINSMy Commission Expires: 9-26-2020**WITNESS STATEMENT AND ACKNOWLEDGMENT**

I am not the person appointed as agent or successor agent in this medical power of attorney. I am not related to John Williamson by blood or marriage. I am not entitled to any portion of the John Williamson's estate, nor do I have any claim against their estate. I am not the attending physician of John Williamson or an employee of the attending physician. I am not involved in providing direct patient care to John Williamson and not an officer, director, partner, or business office employee of the health care facility or of any parent organization of the healthcare facility.

SIGNATURE OF THE FIRST WITNESS

Signature: Jeff Hawkins

Print Name: Jeff Hawkins Date: 11-24-2022Address: 10278 Silver Mine Rd. Fort Mill, SC 29707**SIGNATURE OF THE SECOND WITNESS**

Signature: Kaleb Kidel

Print Name: Kaleb Kidd Date: 11/24/22

Address: 930 Dixon Rd, Ellenboro, NC, 28040

5. The allegations in the first sentence of Paragraph 5 are admitted. Respondent Errick L. Williamson admits that Robin Beckler is a beneficiary of the Estate of John Dale Williamson ("Decedent"). Respondent Errick L. Williamson is without knowledge as to the remaining allegations of Paragraph 5.
6. The allegations of Paragraph 6 are admitted for jurisdictional purposes only.
7. The allegations of Paragraph 7 are admitted for jurisdictional purposes only.
8. The allegations of Paragraph 8 are admitted.
9. As to the allegations in Paragraph 9, Respondent Errick L. Williamson admits that at the time of Decedent's death, Decedent was not married and did not have any children. All allegations not specifically admitted are denied.
10. As to the allegations in Paragraph 10, Respondent Errick L. Williamson admits that Decedent was the brother of Respondent Derrick Williamson who is the father of Respondent Errick L. Williamson. All allegations not specifically admitted are denied.
11. As to the allegations in Paragraph 11, Respondent Errick L. Williamson admits that at the time of his death, Decedent owned real estate in South Carolina. Respondent denies that Decedent owned property in North Carolina. Respondent Errick L. Williamson is without knowledge as to the remaining allegations of Paragraph 11. All allegations not specifically admitted are denied.
12. As to the allegations in Paragraph 12, Respondent Errick L. Williamson admits that before and at the time of his death, Decedent suffered from Parkinson's disease. The remaining allegations of Paragraph 12 are denied. All allegations not specifically admitted are denied.

13. As to the allegations in Paragraph 13, Respondent Errick L. Williamson admits that during the last six to eight weeks of Decedent's life, he was bedridden and unable to care for himself. The remaining allegations of Paragraph 13 are denied. All allegations not specifically admitted are denied.
14. The allegations of Paragraph 14 are denied as phrased.
15. As to the allegations in Paragraph 15, Respondent Errick L. Williamson admits that for some time prior to his death, Decedent received hospice care. The remaining allegations of Paragraph 15 are denied. All allegations not specifically admitted are denied.
16. As to the allegations in Paragraph 16, Respondent Errick L. Williamson admits that the Death Certificate indicates that the cause of death of the Decedent was Parkinson's disease. Respondent Errick L. Williamson states that the copy of the Petition received by him did not have an Exhibit A attached. The remaining allegations of Paragraph 16 are denied. All allegations not specifically admitted are denied.
17. Each and every allegation included in Paragraph 17 is denied.
18. As to the allegations in Paragraph 18, Respondent admits that after Decedent's death, Petitioner and Crystal Williams attempted to discuss with Respondent the subject of Decedent's Estate. The remaining allegations in Paragraph 18 are denied. All allegations not specifically admitted above are denied.
19. The allegations in Paragraph 19 are denied.
20. As to the allegations in Paragraph 20, Respondent Errick L. Williamson admits that on January 3, 2023, he filed an Application for Probate, attached to which was the Last Will and Testament of John Williamson (the "Will"). The remaining allegations in Paragraph 20 are denied. All allegations not specifically admitted are denied.

21. Respondent Errick L. Williamson is without knowledge as to the truth of the allegations included in Paragraph 21 and, accordingly, denies such allegations.
22. As to the allegations in Paragraph 22, Respondent Errick L. Williamson states that the Will is the best evidence of the terms therein.
23. As to the allegations in Paragraph 23, Respondent Errick L. Williamson states that the Will is the best evidence of the terms therein.
24. As to the allegations in Paragraph 24, Respondent Errick L. Williamson states that the Will is the best evidence of the terms therein.
25. The allegations in Paragraph 25 are denied.
26. As to the allegations in Paragraph 26, Respondent Errick L. Williamson admits that Decedent executed the Will on November 24, 2022, five days before his death on November 29, 2022. The remaining allegations in Paragraph 26 are denied. All allegations not specifically admitted are denied.
27. The allegations in Paragraph 27 are denied.
28. The allegations in Paragraph 28 are denied.
29. Respondent Errick L. Williamson incorporates his responses to Paragraphs 1 through 28 above as fully as if the same were set forth herein in their entirety.
30. As to the allegations in Paragraph 30, Respondent Errick L. Williamson admits that Petitioner seeks a formal testacy proceeding but denies that Petitioner is entitled to any remedy or relief whatsoever.
31. As to the allegations in Paragraph 31, Respondent Errick L. Williamson admits that Petitioner seeks a formal testacy proceeding but denies that Petitioner is entitled to any remedy or relief whatsoever and specifically denies that the Will was invalid and denies

that the Will was not signed by Decedent or in the Decedent's presence at the Decedent's direction.

32. Respondent Errick L. Williamson incorporates his responses to Paragraphs 1 through 31 above as fully as if the same were set forth herein in their entirety.

33. As to the allegations in Paragraph 33, Respondent Errick L. Williamson states that the formally enacted S.C. Code Ann. §62-3-203 is the best evidence of the language therein. All allegations not specifically admitted are denied.

34. As to the allegations in Paragraph 34, Respondent Errick L. Williamson denies that Petitioner is entitled to any remedy or relief whatsoever. All allegations not specifically admitted are denied.

35. As to the allegations in Paragraph 35, Respondent Errick L. Williamson denies that Petitioner is entitled to any remedy or relief whatsoever. All allegations not specifically admitted are denied.

36. Respondent Errick L. Williamson incorporates his responses to Paragraphs 1 through 35 above as fully as if the same were set forth herein in their entirety.

37. The allegations of Paragraph 37 are admitted but Respondent denies that such allegations have any legal significance.

38. The allegations of Paragraph 38 are denied.

39. The allegations of Paragraph 38 are denied.

40. Respondent Errick L. Williamson incorporates his responses to Paragraphs 1 through 39 above as fully as if the same were set forth herein in their entirety.

41. As to the allegations in Paragraph 41, Respondent Errick L. Williamson admits that Decedent signed the Will. The remaining allegations in Paragraph 41 are denied.

- 42. The allegations of Paragraph 42 are denied.
- 43. The allegations of Paragraph 43 are denied.
- 44. The allegations of Paragraph 44 are denied.
- 45. The allegations of Paragraph 45 are denied.
- 46. The allegations of Paragraph 46 are denied.
- 47. The allegations of Paragraph 47 are denied.
- 48. Respondent Errick L. Williamson incorporates his responses to Paragraphs 1 through 47
above as fully as if the same were set forth herein in their entirety.
- 49. The allegations of Paragraph 49 are denied.
- 50. The allegations of Paragraph 50 are denied.
- 51. Respondent Errick L. Williamson incorporates his responses to Paragraphs 1 through 50
above as fully as if the same were set forth herein in their entirety.
- 52. The allegations of Paragraph 52 are denied.
- 53. The allegations of Paragraph 53 are denied.
- 54. The allegations of Paragraph 54 are denied.
- 55. As to the allegations in Paragraph 55, Respondent Errick L. Williamson denies that
Petitioner is entitled to any remedy or relief whatsoever. All allegations not specifically
admitted are denied.
- 56. Respondent Errick L. Williamson incorporates his responses to Paragraphs 1 through 55
above as fully as if the same were set forth herein in their entirety.
- 57. The allegations of Paragraph 57 are denied.

58. As to the allegations in Paragraph 58, Respondent Errick L. Williamson denies that Petitioner is entitled to any remedy or relief whatsoever. All allegations not specifically admitted are denied.

59. As to the allegations in Paragraph 59, Respondent Errick L. Williamson denies that Petitioner is entitled to any remedy or relief whatsoever. All allegations not specifically admitted are denied.

Responding to the "Wherefore" clause included in the Petition, Respondent Errick L. Williamson denies the allegations of each and every subclause thereof and denies that Petitioner is entitled to any remedy or relief whatsoever.

FOR A SECOND DEFENSE
(FULL COMPLIANCE WITH DUTIES)

60. All prior paragraphs are hereby incorporated by reference as fully as if set forth below.

61. Respondent Errick L. Williamson has at all times complied fully with all duties imposed upon him pursuant to Decedent's lawfully executed Last Will and Testament, his appointment as Personal Representative of the Estate, and the laws of South Carolina.

FOR A THIRD DEFENSE
(WAIVER)

62. All prior paragraphs are hereby incorporated by reference as fully as if set forth below.

63. Petitioner's claims against Respondent and the Estate are barred by the doctrine of waiver.

FOR A THIRD DEFENSE
(ESTOPPEL)

64. All prior paragraphs are hereby incorporated by reference as fully as if set forth below.

65. Petitioner's claims against Respondent and the Estate are barred by the doctrine of estoppel.

Respectfully submitted,

This 20th day of June, 2023.

The Law Office of Rebecca McNerney PLLC

By: 

Rebecca McNerney

Attorney for Respondent

SC Bar # 76594

200 S. Broome Street

Waxhaw, North Carolina 28173

Phone: (980) 300-0144

Email: rebecca@rebeccamcnerneylaw.com

CERTIFICATE OF SERVICE

I, Rebecca McNerney, Counsel for Errick L. Williamson, do certify that on the 20th day of June 2023, I served a copy of the foregoing Respondent's Response to Petition to Set Aside Will and for Appointment of Personal Representative on all interested parties as follows:

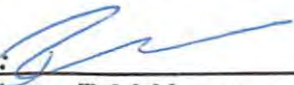
Via Electronic Mail

Nate Pierce

Attorney for Doug Williamson

Email: nate.pierce@mortongettys.com

The Law Office of Rebecca McNerney PLLC

By: 

Rebecca T. McNerney

Attorney for Respondent

SC Bar # 76594

200 S Broome Street

Waxhaw, NC 28173

Phone: (980) 300-0144

Email: rebecca@rebeccamcnerneylaw.com

1 STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

2 COUNTY OF YORK

Case No.: 2023-ES-46-00002

3
4
5 In re: Estate of John Dale Williamson

**CERTIFIED
COPY**

6 Doug Williamson,

7 Petitioner,

8 v.

9 Errick L. Williamson, individually;
10 Errick L. Williamson, as personal
representative of the Estate of John Dale
11 Williamson; Derrick Williamson; Robin
Beckler,

12 Respondents.
13
14
15

TRANSCRIPT OF AUDIO FILE
FROM
RECORDED HEARING

17 December 7, 2023
18
19
20
21
22

23 Transcribed by: KELLI M. RAPP, Court Reporter
24 704-223-8062
25 Kellirapp@gmail.com

Kelli Rapp, Court Reporter
kellirapp@gmail.com

Appearances

PARTIES IN ATTENDANCE:

Judge Presiding:

Honorable Carolyn E. Woodruff
Post Office Box 219
York, South Carolina 29745
803-684-8513

On Behalf of the Petitioner:

J. Nathaniel Pierce, Esq.
JOHNSTON, ALLISON & HORD, P.A.
1065 East Morehead Street
Charlotte, North Carolina 28204
npierce@jahlaw.com

On Behalf of the Respondent Errick Williamson:

Rebecca McNerney, Esq.
LAW OFFICE OF REBECCA MCNERNEY, PLLC
200 South Broome Street
Waxhaw, North Carolina 28173
rebecca@rebeccamcnerneylaw.com

Also Present:

Mr. Doug Williamson
Mrs. Crystal Williamson

Proceeding

P R O C E E D I N G

Thereupon:

THE COURT: This is a hearing in the matter of the Estate of John Dale Williamson. It's Case Number 2023-ES-46 Matter 2. And we have in the record a -- some motions. Those are Motions for Partial Summary Judgment that was filed by Mr. Pierce and a Motion to Compel. I also have a motion from Ms. McNerney for several things, which of course I've lost my notes where I had it all written out but -- here we go -- that was to amend the admissions or withdraw admissions, additional time for discovery, and striking the Motion to Compel. Is that an accurate summary of why we're here?

MS. MCNERNEY: Yes, Your Honor.

THE COURT: Okay.

MR. PIERCE: Yes, Your Honor.

THE COURT: All right. So, Mr. Pierce -- well, is there anything preliminarily we need to take up, or are you-all ready to argue your motions?

MR. PIERCE: Petitioner is ready, Your Honor.

THE COURT: All right.

MS. MCNERNEY: Yeah, nothing from me, Your Honor.

THE COURT: Okay, very good. Why don't you go first, Mr. Pierce.

MR. PIERCE: Thank you, Your Honor. And is it okay if we argue sitting today --

Proceeding

1 clear?

2 THE COURT: Yeah, it is, as far the timeliness
3 argument is concerned. I'm not sure why you would do that
4 unless you wish to change your response.

5 MS. McNERNEY: I don't wish to change my response.

6 THE COURT: So your response, if you withdrew and
7 re-filed --

8 MS. McNERNEY: Would be the same.

9 THE COURT: -- would be the same.

10 MS. McNERNEY: Yes, ma'am.

11 THE COURT: All right; gotcha.

12 MS. McNERNEY: Yes, ma'am. So I hope that's clear.

13 THE COURT: It is.

14 MS. McNERNEY: I'll go over it again if it's not.

15 THE COURT: Yeah. It's a lot of double-negatives, but
16 I think it's clear.

17 MS. McNERNEY: Okay. Your Honor, the second factor
18 that this Court should consider is whether there's any
19 prejudice. If you were to allow me to amend my admission, would
20 the movement be prejudiced? And the burden of proving prejudice
21 is, of course, on the party who obtained the admission, so on
22 Mr. Pierce. And the answer is no. Your Honor, this case is in
23 the early stages. There is no trial scheduled. We haven't even
24 done depositions. This is certainly not a case where any expert
25 has been retained that has relied on any deemed admission and

Proceeding

1 formed an opinion. I mean, there has been no money spent, you
2 know, or lost, you know, as a result of this.

3 Again, you know, our Responses, while four days late,
4 I mean, they were provided within 34 days of receipt. Your
5 Honor, if this Court allows us to amend or withdraw the
6 Admissions or alternatively allows me additional time to respond
7 such that my responses are timely, it will not in any way affect
8 the petitioner's burden of proof in this case. The burden of
9 proof on due execution, in fact, falls on me and my client as
10 the respondent here and the propounder of the will. So that
11 will not in any way affect anything that he would have to prove
12 at trial. That's on us and remains on us.

13 Your Honor, there has not been any bad faith here. I
14 will direct the Court's attention to -- if I can -- give me one
15 second.

16 THE COURT: Take your time.

17 MS. McNERNEY: Thank you. It's the -- I think it's
18 the Baughman case, Your Honor, that I cited in my Motion Brief.

19 THE COURT: Which case?

20 MS. McNERNEY: Baughman v. American Telephone that
21 outlines the Court's analysis in a situation where Request to
22 Admit are not timely responded to and then a Motion to Amend or
23 Withdraw is filed.

24 THE COURT: I'm looking at your --

25 MS. McNERNEY: Okay.

Proceeding

1 merits, the sole argument raised in the written brief from
2 Errick is that RFA Number 9 goes to the heart of the case, and
3 if deemed admitted could eliminate any presentation of the
4 merits of the case. That's a direct quote from the brief. This
5 argument is specifically refuted by Errick's own cited case law.
6 The Court in Scott specifically rejected the argument that there
7 is any distinction between admitted facts that go to the heart
8 or the crux of a case and those that do not. So the fact that
9 it's an important failure does not make the failure any more
10 binding. Additionally, Your Honor, you will see in
11 the discovery requests that have been provided at this point,
12 there is this repeated defense that the only issue before the
13 Court is the setting aside of a will. There are eight causes
14 of action in this case. Three of them are specifically aimed at
15 the validity of the will. So there's lack of statutory due
16 execution, there's undue influence, there's lack of capacity.
17 The rest of these are based on removal of the PR for malfeasance
18 or nonfeasance. There is an action for attorney's fees. There
19 is an action for executor days on tort, and action for
20 conversion. So to say that this cause of action -- or if Errick
21 -- if Doug is granted summary judgment on this one cause of
22 action, there's no trial on the merits is simply untrue. We're
23 going to be going forward on five other causes of action,
24 whether we win today or not. So to argue that there is not
25 going to be any presentation of the merits of the case if this

Kelli Rapp, Court Reporter
kellirapp@gmail.com

Proceeding

1 request is deemed admitted is simply untrue.

2 And next, Your Honor, as to prejudice, again, there's
3 only one argument that's raised in the written brief and it's
4 that the only prejudice that could be imputed to Petitioner
5 would be the burden of having to try the case on the merits.
6 This, again, is belied by the respondent's own case law, the
7 Scott case, the Greenville Housing Authority made essentially
8 the same argument to the court of appeals. They posited that
9 the appellant, who was the party who received the admission,
10 could never have just relied on the fact that liability would be
11 a deemed admitted throughout the course of litigation. So they
12 can't be prejudiced when liability is deemed admitted by failure
13 to respond to a request for admission. The Court specifically
14 rejected that argument.

15 THE COURT: Say that again. Run that by me again.

16 MR. PIERCE: Sure. So the Greenville Housing
17 Authority, and I'm shooting from the hip a little bit, Your
18 Honor, and I've got a copy of the case here if you would like to
19 take a look at it.

20 THE COURT: Sure.

21 MR. PIERCE: But Scott sued the Greenville Housing
22 Authority. The issue was -- the allegation by Scott was the
23 Greenville Housing Authority knew that the water heater was
24 dangerously inappropriately installed in a Greenville Housing
25 Authority property and that Scott or his child was burned when

Proceeding

1 the water came out too hot from the tap.

2 There was an admission that went to the liability,
3 directly to the liability of the Greenville Housing Authority.
4 And so we discussed this earlier, one of the Greenville Housing
5 Authority's arguments was this should not be deemed admitted
6 because it goes directly to liability. The Court rejected that
7 argument. They said the fact of this goes to the heart of the
8 crux, the matter, does not make it any different or any less
9 enforceable under Rule 36.

10 There was also this argument that was raised by the
11 Greenville Housing Authority that there can't be any prejudice
12 to Scott because Scott could never have known that we would
13 simply -- the Greenville Housing Authority would simply admit
14 liability at some point through the course of discovery. So the
15 Greenville Housing Authority's argument was there can't be
16 prejudice, this is a windfall, essentially, and the Court
17 rejected that argument. You know, and the Court's analysis of
18 the prejudice, I think is applicable to the situation that Doug
19 and parties like Doug in South Carolina probate courts find
20 themselves in. In fact, you know, we've been in a case in the
21 middle of last year that was very similar to this fact pattern,
22 and something that the court of appeals in the Scott case
23 returned to was the idea that a lot or most of the dispositive
24 evidence in this case is in the hands of one party or the other.

25 And so when they were talking about prejudice and the

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1 prejudice that Scott would experience if the request for
2 admission was not granted, there were two main factors. One was
3 that the Greenville Housing Authority had not participated in
4 good faith and discovery. We're going to talk about that here
5 in a moment, Your Honor. I mean, the discovery that we received
6 is woefully deficient. It's replete with inapplicable or
7 nonexistent defenses that are not recognized under South
8 Carolina law and our attempts to receive supplemental responses
9 have sort of been met with a kick rocks response. So we don't
10 believe that there is a good faith effort to participate in
11 discovery, heretofore. And a lot of the information that Doug
12 needs to prove his case is going to be directly in the hands of
13 the party that he's going against here. Errick lived in Dale's
14 house in the final months of Dale's life. We had this whole
15 argument during the motion to set aside the default where, you
16 know, Errick was sort of given a second bite at the apple to
17 enter a defense in this case.

18 THE COURT: Right.

19 MR. PIERCE: He was living in the house. He assumed
20 control over Dale's finances and his medical care. He was
21 receiving his mail. He was controlling who could come in and
22 out of the house. He was the one talking to Agapa Home Health
23 Care. He was the one who had to deal with Adult Protective
24 Services when two separate actions were opened against him by
25 Agapa Home Health Care. All of the physical evidence is in

Proceeding

1 control of Errick, as the PR of the estate and as the person who
2 was living in the house. Most of the -- I guess we call it the
3 communicative, the communication evidence in this case, text
4 messages, emails, written notes are in the possession of Errick.
5 We're being told none of these exist. We just have to take his
6 word for it, right? So we think that the situation that Doug is
7 facing, a lot of the smoking gun evidence that might exist in
8 this case is in Errick's possession and it behooves Errick not
9 to turn it over. We had a very similar situation in the Hashton
10 (phonetic) case where we have evidence of hundreds of text
11 messages between two parties to -- a witness and a party and
12 they just said, "Well, we don't have them any more." And there
13 was nothing we could do to prove that they still had them. We
14 just had to take their word for it.

15 So, Your Honor, there is prejudice here. It's not
16 simply having to try a case. We're prepared to try the case.
17 We're going to try the case on the other five causes of action,
18 and we believe that we're going to prevail. In fact, we believe
19 we would prevail, you know, on these other causes of action as
20 well, but the operative fact is admitted. Doug will be
21 prejudiced because he will essentially be giving Errick another
22 second bite at the apple. He understands what Doug's play book
23 is at this point. He knows what he either will or won't turn
24 over. He has already evidenced an intent not to turn over the
25 things that we're asking for, particularly communications

Proceeding

1 between himself and the witnesses to the will. So we think the
2 analysis the Scott court went through as to prejudice is
3 applicable here, and the Court in that case found that there was
4 prejudice for the two reasons that we've discussed, the failure
5 to participate meaningfully in discovery and the party who has
6 ultimate control over operative evidence. So we do believe
7 there would be prejudice to Doug in the event that there's an
8 opportunity for Errick -- Errick's untimely responses to be
9 deemed timely.

10 THE COURT: All right; thank you. Any follow-up,
11 Ms. McNerney?

12 MS. MCNERNEY: Yes, Your Honor.

13 THE COURT: And let me tell you this, too, based on
14 what I have heard so far, I am going to have to review these
15 cases before I actually issue a ruling, but go ahead.

16 MS. MCNERNEY: Your Honor, some points of
17 clarification, first of all, I want to clarify, you know, it has
18 been presented to this Court that Errick has gotten some sort of
19 already been given a second bite at the apple. Your Honor, when
20 we were before this Court originally on the Motion for Default
21 Judgment, you know, we explained to the Court and we explained
22 to Mr. Pierce at that time that Mr. Errick Williamson had not
23 been served. He didn't receive copies of the pleadings. He
24 never received them. And then when he did receive them, you
25 know, he acted diligently to retain counsel, and I filed a

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1 response on his behalf. And so, you know, this was never a
2 situation where he was served and then just failed to respond
3 and then we asked for that default judgment to be set aside.

4 It was a situation where he was never noticed.
5 Whether they want to believe that or not, he wasn't. That was
6 our -- that has been our position. That's what we represented
7 to the Court at the time. And so he hasn't been given a second
8 bite at the apple. I want to make sure that we are clear on
9 that.

10 THE COURT: I understand the characterizations. You
11 disagree with that. I understand.

12 MS. McNERNEY: And Your Honor, the Scott case I
13 believe it's -- I believe it has been misrepresented and here's
14 why. In the Scott case the trial court declined to deem the
15 Request for Admission admitted because they were -- the
16 responses were -- if the Court had deemed the request to admit
17 responses, then those responses would have been contrary to
18 denials in the pleading. Does that make sense?

19 THE COURT: Yes.

20 MS. McNERNEY: So -- and -- so the Court said, well,
21 you as the party who obtained the admission couldn't have
22 possibly thought that their admissions were really admissions
23 because they denied those things, those allegations --

24 THE COURT: The pleadings.

25 MS. McNERNEY: -- in the pleadings. And for that

Proceeding

1 again, you know, I believe is more of an attorney decision but
2 he said, "Let me speak with my client." And then he got back to
3 me and said, "We deny the request for an extension. I have
4 mailed in a Motion to Compel." So he mailed a Motion to Compel
5 for filing to this Court after I initiated communication with
6 him about the discovery and told him responses would be provided
7 within ten days, so essentially within 40 days of him even
8 serving us with discovery requests. So I just think that the
9 actions here are contrary to standard practice and I do believe
10 that they're violative of Rule 11.

11 I understand we're here. We can talk about the
12 discovery, you know. And if this Court compels us to produce
13 more information than we have produced, we will certainly comply
14 with that order, but I do believe that it was a premature filing
15 of a Motion to Compel under the circumstances.

16 THE COURT: Okay; all right. Anything else?

17 MR. PIERCE: No, Your Honor. On that, we filed the
18 Motion to Compel, and then essentially granted the extension
19 that was requested.

20 THE COURT: Well, you did say you were going to
21 withdraw the motion.

22 MR. PIERCE: Correct, if we received responses. We
23 didn't. And frankly --

24 THE COURT: But the bottom line is that you have not
25 received what you consider to be sufficient responses to this

Proceeding

1 date.

2 MR. PIERCE: That's correct, Your Honor. And I also
3 think there is sort of an improper burden shift here. If there
4 is a request for additional time to respond to the discovery,
5 that burden is not on me. I am not required to explain to the
6 Court why an extension was not granted. Because extensions are
7 not required to be given under the rules. If there's a request
8 for additional time, under Rule 6, the moving party needs to
9 show good cause. There is not even a reference to good cause.
10 There was no reference to good cause in the e-mail communication
11 with me. There was not, "Hey, my client got this to me late, I
12 need some more time." It was, "Can I have more time?" Okay,
13 no. We're not going to give you more time to answer the Request
14 for Admission. We'll give you your -- tacitly, implicitly
15 you're going to get your extension to the 20th and then here we
16 are. Because regardless of whether this was mailed in on the
17 12th, 13th, or the 21st, you can read our deficiency letter,
18 which I think is --

19 THE COURT: I will.

20 MR. PIERCE: -- explicit and detailed and explains why
21 we believe each bucket of evidence is relevant and discoverable
22 and the response we got was, "We decline to supplement." I
23 mean, it's a page and a fifth in response to a seven-page
24 deficiency letter. So we would be here regardless.

25 THE COURT: So just for talking, if I were to say,

Proceeding

1 okay, I'm going to grant your Motion to Compel, I'm going to
2 grant the relief pursuant to Rule 37 to compel Errick to respond
3 to the discovery request and ask you to draft an order, what
4 would your order say this Court is ordering Errick to do?

5 MR. PIERCE: Well, so that's where we come in -- and I
6 don't want to go back to the other lane, Your Honor, but that's
7 where we come into the issue of prejudice again. Because the
8 order would say that Errick is required to fully respond to the
9 Interrogatories and Request for Production of Documents that
10 were expounded on August the 30th of 2023, and that he is
11 required to do so within a certain period of time. And at that
12 point we just have to take Errick's word for it that he is
13 giving us everything that exists.

14 And we've run into this exact situation in other will
15 contest cases where what we're hearing is we have absolutely no
16 text message or email communication between me and the parties,
17 the witnesses to the will, one of whom is Errick Williamson's
18 half-brother, Kaleb Kidd; the other of whom is Errick's wife's
19 best friend. She is the notary from Mecklenburg County.

20 THE COURT: The best friend?

21 MR. PIERCE: Correct. And then her husband is the
22 other witness to the will. So these are witnesses who are
23 within the sphere of influence of Errick, all of the
24 communications between them are in the possession of Errick. So
25 this Court can't -- you know, they can -- this Court can order

Proceeding

1 Errick to fully respond, but only Errick can fully respond, and
2 so that's where this issue of prejudice comes back because we're
3 relying on the voracity of Errick's responses to be able to
4 move forward.

5 THE COURT: Does it not also affect your other causes
6 of action, this stonewalling that you're --

7 MR. PIERCE: It does, Your Honor. Because, you know,
8 the conversion and the executor de son tort, whether or not
9 Errick was authorized to make the expenditures that were made
10 from Dale's account, Dale Williamson received a social security
11 payment every month, and every month that account was drained
12 and it was drained for -- while Dale was laying in a bed with a
13 catheter, unable to talk --

14 THE COURT: Well, that all I've heard before.

15 MR. PIERCE: That's correct, Your Honor. But he
16 certainly was not going to Luke Combs concerts in October and
17 staying in Greenville in a hotel, you know. So whether or not
18 Errick was authorized to be making these expenditures, that's
19 going to be borne out in text message conversations,
20 potentially. All of which we have to rely on Errick to turn
21 over.

22 THE COURT: All right. And what is your response to
23 that, Ms. McNerney?

24 MS. MCNERNEY: Well, Your Honor, I think that -- first
25 of all, let me go back and address prejudice. I think that

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1 Petitioner is conflating prejudice, again, incorrectly with the
2 burden of litigating a case. That's not prejudice, nor is it
3 prejudice that he may not be able to obtain evidence to support
4 his allegations; that's not prejudice, and so I want to make
5 sure that's clear for the Court. Prejudice means certain things
6 --

7 THE COURT: I'll read the case.

8 MS. McNERNEY: -- not what he is presenting it as.

9 THE COURT: Okay.

10 MS. McNERNEY: Now, I just heard the Court use the
11 word stonewalling and I understood -- I understand why you're
12 using that word stonewalling, because of the presentation of
13 Mr. Pierce. My client has not been stonewalling. We simply
14 don't have information that he wants us to have. I understand
15 he wants certain evidence to exist. I understand he wants there
16 to be text messages and e-mail correspondence and documentation
17 that we will turn over to him that will prove his case. We
18 don't have it. I mean, we just don't have it. Now, he doesn't
19 have to rely on the word of Errick Williamson. I mean, that's
20 why you can do depositions. I mean, he can depose Errick
21 Williamson and he can dig into this a little bit if he wants to.
22 He can subpoena. He can depose third-party witnesses. He can
23 subpoena records from third parties. I mean, there's a lot that
24 he can do if he doesn't believe Errick Williamson's responses.
25 I mean, there's a lot he can do. For instance, if he wanted to

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Proceeding

1 ask Mr. Williamson to identify his cell phone provider and his
2 cell phone number so that then he could subpoena the records
3 from the provider, I mean, he could do that. He hasn't asked
4 for that but I -- he has asked for information we just don't
5 have, and he doesn't want to accept the response that we don't
6 have it. That's what we're running into.

7 THE COURT: Okay. If it was necessary to go forward
8 with discovery, what is left to be done as far as discovery is
9 concerned, assuming that there's an order to compel and that
10 there's additional information provided? But where are we in
11 regard to depositions and that kind of thing?

12 MR. PIERCE: We're essentially in square one, Your
13 Honor, and it's -- you know, there was this argument earlier
14 that we're early in the case. We filed this case in March.
15 We're here today in square one because we haven't gotten
16 sufficient discovery from Errick Williamson. We served
17 discovery, I think, within a week after this Court's Order of
18 setting aside the default. We've been moving expeditiously.

19 We're here because we're having to fight about whether
20 or not in 2023 people text each other. There's an allegation
21 that there's no text messages that exist. Okay. We can
22 subpoena AT&T. We can subpoena Verizon. We can subpoena
23 whoever. You've been in two trials with me where we've had to
24 go through this process. They don't tell you what the text
25 messages say.

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1 THE COURT: Right.

2 MR. PIERCE: They'll say a text message was sent on
3 this date, and then we have to rely on Errick Williamson, who's
4 facing civil liability, to tell the truth about what that text
5 message said or didn't say. So, you know, read page 10 of the
6 case, the prejudice issue --

7 THE COURT: Yeah, I will. I am going to --

8 MR. PIERCE: -- is exactly -- the analysis is exactly
9 the way it was laid out --

10 THE COURT: Well, I'm going to read all of the cases
11 that have been cited.

12 MR. PIERCE: But, Your Honor, we're going to take
13 depositions in this case. We have already subpoenaed a lot of
14 third parties. We have a substantial amount of documentation at
15 this case. We're going to be moving forward with the trial
16 whether the will is valid or not, and we have been working
17 diligently in that regard.

18 THE COURT: Okay.

19 MR. PIERCE: I believe we've -- MUSC, the Piedmont
20 issue --

21 THE COURT: Well, and I assume you both have gotten
22 copies of that order that I sent out last --

23 MR. PIERCE: Yes. And I'm sending that out to Chance
24 Farr either this afternoon or tomorrow --

25 THE COURT: Okay.

Proceeding

1 MR. PIERCE: -- the amended subpoena.

2 THE COURT: All right. So kind of, if this does go
3 forward, what time frame are we looking at in terms of a final
4 merits hearing?

5 MR. PIERCE: I need to depose three or four people. I
6 imagine there is going to be a substantial motions practice
7 baked in there, there has been in other cases where I'm probably
8 going to have to subpoena people's phones, to take them to
9 Reliance Forensics and get them analyzed. I would ask, Your
10 Honor, that a Litigation Hold Order be entered from the Court,
11 from the bench today that Errick Williamson or anyone in his
12 direct influence does not delete information that might be
13 relevant to this case to the extent it exists.

14 THE COURT: Are you talking about just on e-mails or
15 telephone messages or text messages?

16 MR. PIERCE: That's correct, Your Honor. And so I
17 -- I mean, I think we're probably four or five months before
18 we're done with discovery.

19 THE COURT: Before all of the information is obtained.
20 All right. I know with telephone text messaging it's time
21 consuming and not always productive. Is that your take on it
22 too, Ms. McNerney, as far as the time frame is concerned?

23 MS. MCNERNEY: Did you give a month or --

24 THE COURT: He said four to five months.

25 MR. PIERCE: I said four to five months.

Proceeding

1 MS. MCNERNEY: -- essentially for many of the
2 responses that they feel are inadequate, his deficiency letter
3 basically says we don't believe you, answer it again. And I
4 don't -- I'm not sure how to respond to that, you know. It
5 basically says we just don't believe that. That's not
6 believable. You were in the house. You've got to have
7 something. Please confirm your prior response. And I'm not
8 -- I'm just not sure how to respond to that. So I sent back a
9 letter, and I can provide the Court a copy of the letter that I
10 sent back and a copy of the supplemental responses that I did
11 send --

12 THE COURT: Why don't you do that.

13 MS. MCNERNEY: -- because I would like for you to have
14 that for your file. And I told Mr. Pierce that on the ones we
15 are declining to supplement, we're declining to supplement
16 because our prior response was sufficient. When, you know, if
17 he's asking for records and we don't have them and I said none,
18 and he says, well, I don't like that response answer it again,
19 I'm just not sure what to do with that.

20 THE COURT: And that was to your point about --

21 MR. PIERCE: And I would like to respond, Your Honor.

22 THE COURT: Hang on.

23 MS. MCNERNEY: Your Honor, he also is asking for
24 -- the other -- the other categories of what he considers
25 inappropriate responses that don't fall into that category are

Proceeding

1 essentially he is asking for a lot of information that occurred
2 from before the decedent passed away.

3 THE COURT: Yeah. That came to light when you were
4 talking about things like concerts and so on. We're only
5 talking about post-death in terms of what the information is.

6 MR. PIERCE: Your Honor, we have a claim for
7 conversion --

8 THE COURT: Undue influence, too.

9 MR. PIERCE: -- undue influence, conversion, executor
10 de son tort, removal of personal representative, all of this
11 places the character of Errick Williamson and his ability to
12 handle the assets of the estate directly at issue. If he is
13 taking social security money of Dale Williamson and buying
14 concert tickets with it, that is direct evidence that he should
15 not be the personal representative of this estate; that is
16 direct evidence that he should pay that money back to the
17 estate; that's direct evidence that he has committed fraud.

18 THE COURT: Have you alleged conversion?

19 MR. PIERCE: We have, Your Honor.

20 MS. McNERNEY: Your Honor, if they alleged conversion,
21 I'll look at it again. But in Mr. Pierce's deficiency letter he
22 referenced executor de son tort. He said, "I'm asking for this
23 information because it's directly related to executor de son
24 tort." Well, executor de son tort, at least my understanding,
25 is that it's -- it --

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1 THE COURT: It's post-death.

2 MS. McNERNEY: Yes, it's post-death. And so my
3 response then was I don't understand. You're asking for
4 pre-death information to support your cause of action for
5 executor de son tort. That is for post-death damages and I
6 don't know -- I don't understand the connection there.

7 THE COURT: I think that's the case, but I do think
8 that a conversion action or an undue influence action could
9 consist of things that happened prior to death.

10 MS. McNERNEY: Okay; all right. The other piece of it
11 is prior employment information and salary information. He had
12 requested detailed information about Errick Williamson's
13 employment history including salary, reason for job changes,
14 name of supervisors for the past five years. We responded in
15 our initial responses and provided information for the last two
16 and a half years. We explained and gave his employer, the name
17 of his supervisor, I think -- and then his prior employer for
18 the last two and a half years. And then we explained that two
19 and a half years ago he moved from California to South Carolina.
20 And so he wants my client's salary and he wants information
21 from, I guess, when he was employed in California. And, you
22 know, I spoke with my client about that. But, you know, my
23 client just feels like it's invasive and I understand that, and
24 irrelevant. I'm not sure why my client's employment information
25 from three years ago in the state of California would possibly

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1 be relevant to this action, nor do I understand why his salary
2 would be relevant to this action.

3 Mr. Pierce in his deficiency letter stated that he has to
4 prove a motive for forging a signature on a will. Well, he
5 doesn't have to prove motive. That's not an element of a
6 petition to set aside a will. But even if he's seeking that
7 information to support a motive, I think what he's really trying
8 to get at is, you know, is my client in a significant amount of
9 debt? Does he need money to pay? But that's not the questions
10 he has asked. He has asked for salary information.

11 And, Your Honor, you can have a person who makes
12 \$50,000 a year or a person who makes \$250,000 per year, and the
13 person who makes \$250,000 a year may be more money hungry or may
14 be in more debt than the person who makes \$50,000 a year. And
15 so to ask for a person's salary, we believe it's not relevant
16 and it doesn't --

17 THE COURT: It's not unusual, actually, Ms. McNerney,
18 in cases like this to have someone look into the financial
19 situation of the personal representative to determine whether
20 they have some motive.

21 MS. MCNERNEY: I understand that. I understand that.

22 THE COURT: So what exactly, Mr. Pierce, have you
23 asked for? Why have you gone back five years?

24 MR. PIERCE: I'm going back five years to determine
25 whether or not he has a pattern of being employed or not. I

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1 mean, there's an over-arching concern here as well. He is going
2 to be the primary witness for his case, more than likely. His
3 credibility is at issue in this case. Whether or not he is
4 capable of supporting himself financially is going to go
5 directly to the voracity of his testimony. If he had a
6 motivation to commit fraud, to steal social security money out
7 of this account, to forge a will so that he could take a bunch
8 of money that he would never be entitled to otherwise, all of
9 that is relevant to the voracity of his testimony. And whether
10 or not, you know, he's a spend thrift is also relevant. And
11 whether or not he was employed in South Carolina or California
12 makes no matter whatsoever.

13 THE COURT: So you're looking for a pattern of about
14 five years as opposed to two and a half?

15 MR. PIERCE: That's correct, Your Honor. I think five
16 years is sufficient to do that.

17 THE COURT: Well --

18 MR. PIERCE: The distinction between California and
19 South Carolina makes no -- I mean, the money spends either way.

20 THE COURT: Yeah, I don't think it's any more invasive
21 to talk about California than it is to talk about South
22 Carolina, and I would be interested also in why he made the
23 move. So I don't think that's onerous to ask for that
24 information, including the salary information for that period of
25 time.

Proceeding

1 MS. McNERNEY: Okay.

2 THE COURT: And again, that's not unusual.

3 MS. McNERNEY: Okay.

4 MR. PIERCE: And Your Honor, so there's an issue of we
5 don't -- you know, the response is, "We don't have it." What I
6 have said in here is if -- reiterate that you don't have it.
7 Put it in writing. Because why am I asking for this? Errick is
8 required to verify his responses, which he didn't do. I cannot
9 hold his feet to the fire at this point. If there is -- he
10 needs to state under oath that there was no responsive
11 documentation anywhere that he could gather to respond to these.

12 THE COURT: I understand. And I do need to get
13 copies, Ms. McNerney. I need to get copies of your letter and
14 your response and your supplemental responses.

15 MS. McNERNEY: Your Honor, I will give you -- I have a
16 copy of the supplemental responses that I can hand up to the
17 Court. I had accompanied the responses with a cover letter, and
18 the only one I have has some notes on it, so can I email a clean
19 copy to you and Mr. Pierce?

20 MR. PIERCE: I've got a clean copy.

21 MS. McNERNEY: You do? Then can we hand it up to her
22 now? And Your Honor, I don't believe the Rules of Civil
23 Procedure require discovery responses to be verified in the
24 state of South Carolina.

25 MR. PIERCE: 33, I believe, requires interrogatory

Proceeding

1 responses --

2 MS. McNERNEY: I mean, if that's the case, I've
3 learned something today.

4 MR. PIERCE: -- be signed by the party who is giving
5 the answers, and there's distinction between.

6 THE COURT: Rule 33.

7 MS. McNERNEY: Rule 33. Well, if all Mr. Pierce wants
8 is a verification, I can --

9 MR. PIERCE: That's all -- sorry.

10 MS. McNERNEY: -- certainly get that. I will have to
11 look up the rule, but that was not my understanding.

12 THE COURT: It says, "Answers to be signed by the
13 person making them and the objections signed by the attorney
14 making them."

15 MS. McNERNEY: I've never -- I've just never had
16 discovery responses verified. But if that's what he needs, I
17 can get that.

18 THE COURT: Okay.

19 MR. PIERCE: Well, I'll just take -- it's not what I
20 need, it's what the rules require. So we need to be able to say
21 -- if we are able to come across -- we're going to send out
22 third-party subpoenas. We're going to depose people. If we're
23 getting an answer that there is no way that we could have gotten
24 some information and he says that under oath, we can ask the
25 Court for our attorney's fees in having to recover that

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1 information from other people, so that's why we need it and
2 that's why the rules require it.

3 THE COURT: And you know, I'm not going to sit here
4 and read the whole Rule 33 as to interrogatories, but I think
5 you can certainly do that, Ms. McNerney, if you need to refresh
6 your memory and I will do the same thing. I don't see anything
7 about verification, but I'm assuming that your client is the one
8 making -- has he signed the interrogatories or just you?

9 MS. McNERNEY: The Responses to Interrogatories?

10 THE COURT: Yeah, the Responses.

11 MS. McNERNEY: No, ma'am, I signed them.

12 THE COURT: Okay. But he is the one actually making
13 them.

14 MS. McNERNEY: Well, yeah. I mean, I would think that
15 -- my understanding is that -- I mean, he gave me the responses
16 to put in. I wouldn't have known how to answer them without his
17 input, but my understanding was that if -- I mean, he's still
18 bound by them. Even I sign them on his behalf, he's still bound
19 by them.

20 THE COURT: Okay.

21 MS. McNERNEY: I just didn't think the rule required a
22 verification.

23 MR. PIERCE: Here's a copy, Your Honor.

24 THE COURT: Okay.

25 MS. McNERNEY: Can I see it just to make sure? Thank

Proceeding

1 you. Yeah, and then these are the supplemental. I'll hand them
2 to her. Thank you. This is the cover letter and the
3 Supplemental Responses.

4 THE COURT: Okay; thank you. All right. Anything
5 else?

6 MR. PIERCE: No, Your Honor.

7 THE COURT: All right. I have some cases to read, and
8 I'll get back to you as soon as I can on this.

9 MR. PIERCE: Thank you.

10 MS. McNERNEY: Thank you.

11 THE COURT: Thank you. That concludes our hearing.

12 [End of audio file.]

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Kelli Rapp, Court Reporter
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STATE OF SOUTH CAROLINA.

-----x

ERRICK L. WILLIAMSON

Plaintiff,

Case No.

-against-

2024CP4600110

DOUG WILLIAMSON,

Defendant.

-----x

August 2, 2024

York, S.C.

B E F O R E:

HONORABLE DANIEL HALL

A P P E A R A N C E S:

JOHN MARK SHIFLET,

Attorney for the Plaintiff

JAMES NATHANIAL PIERCE

Attorney for the Defendant

Aileen Butler

Official Court Reporter

1 THE COURT: All right, the first matter this
2 morning is 2024CP4602414. This is Errick L.
3 Williamson versus Doug Williamson. It's an
4 appeal from probate court filed by the plaintiff,
5 Errick Williamson. He is represented by Mr. John
6 Mark Shiflet. Representing the defendant is Mr.
7 James Nathaniel Pierce.

8 Mr. Pierce, I believe this is your motion.
9 Your appeal. I'll be glad to hear from you
10 first. Mr. Shiflet, if you'll just have a seat
11 we'll get to you in a second.

12 MR. PIERCE: Your Honor, this is actually
13 John Mark's client's appeal.

14 THE COURT: I'm sorry. Then you can have a
15 seat.

16 MR. PIERCE: Yes, sir.

17 THE COURT: Mr. Shiflet.

18 MR. SHIFLET: Thank you, Your Honor, I
19 appreciate that. So I thought we were a little
20 further down the list. I don't have all my notes
21 and everything organized yet.

22 THE COURT: Well, I'll give you a few
23 minutes.

24 MR. SHIFLET: No, no, no. I don't think I'm
25 going to use my PowerPoint with a hundred slides

STATE OF SOUTH CAROLINA

COUNTY OF YORK

In re: Estate of John Dale Williamson

Doug Williamson,

Petitioner,

v.

Errick L. Williamson, individually;
Errick L. Williamson, as personal
representative of the Estate of John Dale
Williamson; Derrick Williamson; Robin
Beckler,

Respondents.

IN THE COURT OF COMMON PLEAS

PROBATE COURT

Case Number: 2023-ES-46-00002

**PETITIONER'S FIRST
INTERROGATORIES TO RESPONDENT
ERRICK L. WILLIAMSON**

The Petitioner, Doug Williamson, ("Petitioner"), through the undersigned counsel, hereby serves the following Interrogatories and Requests for Production set forth below and requires the Respondent, Errick Williamson ("Respondent"), to serve a copy of his responses upon the undersigned counsel within thirty (30) days after service hereof, exclusive of the day of service in accordance with Rules 26, 33, and 34 of the South Carolina Rules of Civil Procedure.

DIRECTIONS AND INSTRUCTIONS

1. "You" and "your" and "Respondent(s)" refers to Errick Williamson, and includes any and all agents, servants, and employees of Errick Williamson.
2. "Decedent" refers to John Dale Williamson.
3. "Estate" refers to the Estate of John Dale Williamson pending in the York County, South Carolina Probate Court.
4. "Request" refers to any Interrogatory, Request for Production of Document, or Request for Admission.
5. "Person" shall be deemed to include, in the plural as well as singular, any natural person, firm, association, partnership, joint venture, corporation, or other legal entity, unless the

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context otherwise indicates.

6. "Possession, custody and control" of documents means possession, custody, or control or right to possession, custody, or control, by you, your attorneys, employees, officers, representatives, agents, and all other persons acting or purporting to act on your behalf.
7. "Documents" means all written or printed matter of any kind, including the original and all non-identical copies, different from the originals by reason of any notation made on such copies or otherwise, including, but not limited to, any correspondence, memoranda, notes, diaries, statistics, letters, emails, text messages, documents stored electronically on computer hard drives or servers, documents generated or received on Facebook and Twitter accounts or any other type of social or business internet networking account, or on YouTube, telegrams, telexes, teletypes, telefax, telecopies, minutes, agendas, contracts, reports, studies, surveys, statements, receipts, returns, summaries, pamphlets, books, prospectuses, interoffice and intra office communications, offers, notations of any sort of conversations, including telephone conversations and meetings, bulletins, computer printouts and records, invoices, worksheets, accountant notes, work papers, and all drafts, alterations, modifications, changes and amendments of any kind and, in addition thereto, any graphic or manual records, or representations of any kind including, without limitation, photographs, charts, graphs, microfiche, microfilm, video tape, records, and motion pictures, and electronic or mechanical records or representations of any kind, including without limitation tapes, cassettes, discs, CD's, DVD's, and recordings or the hard copies thereof or other data compilations. If such documents consist of other data compilations, they shall be translated by You into a reasonable usable form through appropriate means.
8. "All documents" means every document as defined above, which is in your possession, custody or control and includes documents which are not in your possession, custody or control which are known to you and which can be located or discovered by reasonable diligent efforts.
9. "Including" means including but not by way of limitation.
10. "Related," "relates" or "relating to" means constituting, comprising, evidencing, containing, setting forth, showing, disclosing, describing, explaining, summarizing, concerning, or referring to, directly or indirectly.
11. "Identify," "identification" or to "give the identity of" means:
 - (a) In the case of an individual to state his or her name, present or last known residence, present or last known telephone number, business affiliations, business address, job description, and if different from the latter, the last position held with You, and if applicable, the date the individual was last employed by or for You;
 - (b) In the case of a document, whether or not such document is deemed to be privileged, objectionable or subject to any claims of privilege, to provide the following information:
 - (1) the title or other means of identification of each such document;

- (2) the subject matter of each such document;
 - (3) the date each such document was prepared;
 - (4) the identity of the person or persons who prepared each such document;
 - (5) the identity of the person or persons receiving the document or for whom such document was prepared as well as the identity of each person receiving copies of the said document;
 - (6) the present location of any and all copies of each such document in Your possession, custody or control and if such copies are electronically stored, the particular device upon which each is stored with reference to a document number or computer directory file path to facilitate recovery of same;
 - (7) the identity of any and all persons who have custody or control of each such document or copies thereof;
 - (8) Whether You claim any privilege or other reason for non-production with respect to each such document or copies thereof, and if so, the factual and legal basis for the alleged privilege or non-production. In lieu of the foregoing, a copy of each such document may be supplied but said copy must indicate to which interrogatory it relates.
- (c) If any requested document existed at one time and was in Your possession, custody or control but has been lost, discarded or destroyed, or removed from Your possession, custody or control, indicate for each such document:
- (1) The identity of the document and a description of its contents indicating its dates, title and type of document;
 - (2) When the document was most recently in Your possession, custody or control and what disposition was made of it.
12. Identify any person who currently possesses the document.
 13. Plaintiff is required to answer fully and in writing, each of the following Requests and to serve a copy of the answers on counsel for Defendant thirty (30) days after service of the Requests.
 14. State any objections to any Request with specificity.
 15. As to any Request that you refuse to answer or are unable to answer, in whole or in part, for any reason, please state the reasons for your refusal or inability to answer. When you believe a complete answer to a particular Request or part of the Request is not possible, please answer each Request to the extent possible and furnish a statement explaining: (a)

the reason for your inability to answer further; and (b) what information or knowledge you do have concerning the unanswered portion.

16. Furnish all responsive information which is available to you and known to you, including any information in your possession or in the possession of your agents and/or attorneys.
17. Please retype each Request before answering. When Requests contain sub-parts, indicate in your answer the sub-part to which each particular part of your answer is responsive.
18. The conjunction "or" as used in these Requests should not be read to limit part of the Request but, whenever applicable, it should have the same meaning as the word "and." For example, a Request stating "support or refer" should be read as "support and refer" if an answer that does both can be made.
19. These Requests are continuing in nature and require supplemental answers in the event you or any other person acting on your behalf become aware of additional information between the time your answers are given and the time of trial that render your answers no longer true, accurate or complete.
20. When these Requests require that you identify a communication, if any part of the communication was written, identify the document or documents that refer to or evidence the communication and, to the extent that the communication was not transcribed or written, identify the date and time when the unwritten communication occurred, the place where the communication occurred, a narrative statement of the subject matter of the communication, and the identity of each person who was a party to the unwritten communication.
21. If any or all documents identified in your answers to these Requests are no longer in your possession, custody or control because of destruction, loss or any other reason, then please follow the instructions in sub-parts (a)- (e) below for each such document:
 - (a) describe the nature of the document (e.g., letter or memorandum);
 - (b) state the date of the document;
 - (c) identify the person(s) who sent and received the original and/or any copy of the document;
 - (d) state and detail the contents of the document; and
 - (e) state the manner and date of disposition of the document and without limitation, describe what disposition was made of it, the person responsible for making the decision regarding the disposition, and the person responsible for carrying out the disposition.

INTERROGATORIES

1. Given the names and addresses of persons known to the Respondent or Respondent's counsel to be witnesses concerned the facts of this case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

RESPONSE:

2. For each person known to the Respondent or Respondent's counsel to be a witness concerning the facts of this case, set forth either a summary sufficient to inform Petitioner of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

RESPONSE:

3. Set forth a list of photographs, plats, sketches, or other prepared documents in possession of the Respondent or Respondent's counsel, that relate to the claim or the defense in the case.

RESPONSE:

4. List the names and addresses of any expert witnesses whom the Respondent proposes to use as a witness at the trial of the case and state the subject matter of such witnesses' proposed testimony and a summary of the grounds or facts supporting any opinions expressed.

RESPONSE:

5. Describe your employment over the last five (5) years, including:
 - a. The name of the employer.
 - b. Your direct supervisor.

- c. Your salary.
- d. The length of your employment.
- e. The reason your employment ended.

RESPONSE:

6. Provide the names and addresses of the two witnesses to the Will.

RESPONSE:

7. Describe your relationship with the two witnesses to the Will.

RESPONSE:

8. Describe your communications with the two witnesses to the Will, including the date and method of the communications.

RESPONSE:

9. Identify your communications with the Decedent regarding the Will, including the date and method of the communications.

RESPONSE:

10. Identify your communications with the Decedent authorizing withdrawals from his personal bank account for the Respondent's use, including the date and method of the communications.

RESPONSE:

11. Identify any medical provider who provided care or services to Decedent including a description of the care or services provided and the dates during which the care or services were provided.

RESPONSE:

12. Describe your communications with third parties regarding the Will or the Decedent's capacity to write a will, including the date and method of the communications.

RESPONSE:

13. Identify any payments you have received since Decedent's death, from insurance, annuities, or otherwise, including the name of the person or entity that issue the payment, the date you received the payment, the amount of the payment, the form of the payment, and the account(s) into which you deposited the payment.

RESPONSE:

14. Identify any bank account known to you to be owned, in whole or in part, by the Decedent, including the financial institution housing the account, the full account number, and the owner(s) of the account.

RESPONSE:

15. Describe any and all withdrawals, deposits, or other activity taken by you with regard to the accounts listed in responses to Interrogatory No. 13 since November 29, 2022.

RESPONSE:

16. Identify any personal and/or real property of the Decedent you have sold, given away, donated, or otherwise transferred since November 29, 2022.

RESPONSE:

17. Provide a list of the Decedent's assets, including a description of each asset, the purported value, and the location.

RESPONSE:

18. Provide a list of any crime, other than minor traffic offenses, for which you have been arrested and/or convicted.

RESPONSE:

19. Provide a list of any lawsuit to which you have been a party or witness.

RESPONSE:

REQUESTS FOR PRODUCTION

1. Produce any and all evidence and documents, including electronic communications, which you intend to introduce or to be put into evidence at trial.

RESPONSE:

2. Produce any and all documents and correspondence, including electronic communications, that you or your counsel used, referenced, or identified in preparing responses to Petitioner's discovery requests.

RESPONSE:

3. Produce a complete and legible copy of any and all reports or summaries prepared by any expert witnesses with whom you or counsel consulted in connection with this case.

RESPONSE:

4. Produce all documents that you or counsel have received from any third party, by subpoena or otherwise, in connection with this case.

RESPONSE:

5. Produce a complete and legible copy of any and all written statements prepared by witnesses in connection with this case.

RESPONSE:

6. Produce copies of any and all notes, memoranda, letters, text messages, emails, and other

tangible or intangible materials which in any way relate to the claims or defenses in this action.

RESPONSE:

7. Produce copies of all medical records reflecting the care or services rendered by the medical providers listed in response to Interrogatory No. 11.

RESPONSE:

8. Produce copies of all communications, electronic or otherwise, between you and the witnesses to the Will from January 1, 2022, through present.

RESPONSE:

9. Produce copies of all communications, electronic or otherwise, between you and the Decedent from January 1, 2022, through the time and date of Decedent's death.

RESPONSE:

10. Produce copies of all communications, electronic or otherwise, between you and Derrick Williamson from January 1, 2022, through present.

RESPONSE:

11. Produce copies of all communications, electronic or otherwise, between you and the heirs of Decedent's Estate since November 29, 2022.

RESPONSE:

12. Produce copies of all communications, electronic or otherwise, between you and any third party relating to the Decedent, the Will, and/or the Estate from January 1, 2022, through present.

RESPONSE:

13. Produce copies of monthly statements for all bank accounts owned by you from November 29, 2022, through present.

RESPONSE:

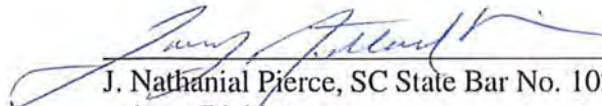
14. Produce copies of statements for bank accounts owned in whole or in part by the Decedent from November 29, 2021, through present.

RESPONSE:

15. Produce copies of any receipts, bills of lading, bills of sale, or any other documentation reflecting the transfer of personal and/ or real property of the Decedent you have sold, given away, donated, or otherwise transferred since November 29, 2022.

RESPONSE:

JOHNSTON, ALLISON & HORD, P.A.


J. Nathaniel Pierce, SC State Bar No. 102803
npierce@jahlaw.com
1065 East Morehead Street
Charlotte, NC 28204
Telephone No.: (704) 332-1181
Facsimile No.: (704) 376-162
Attorneys for Petitioner

This 30th day of August, 2023.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing **First set of Interrogatories and Requests for Production to Respondent Errick Williamson** were served upon the below on the 30th day of August 2023, via U.S. Mail to the following address:

Law Office of Rebecca McNerney, PLLC
Attention: Rebecca McNerney, Esq.
200 S. Broome Street
Waxhaw, North Carolina 28173

Derrick Williamson
1154 Deas Street
Rock Hill, South Carolina 29732

Robin Beckler
300 Thomasboro Road SW
Calabash, North Carolina 28467

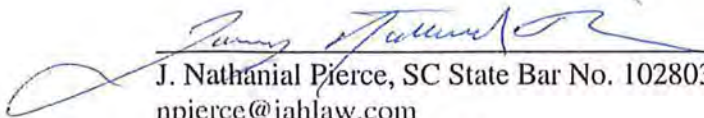
Piedmont Medical Center c/o DCM Services
1550 American Boulevard E., Suite 200
Bloomington, MN 55425

Piedmont Medical Center
222 South Herlong Avenue
Rock Hill, South Carolina 29732

Bank of America c/o CT Corporation
System
2 Office Park Court, Suite 103
Columbia, South Carolina 29223

Nephrology Associates
1436 Riverchase Boulevard
Rock Hill, South Carolina 29732

JOHNSTON, ALLISON & HORD, P.A.


J. Nathaniel Pierce, SC State Bar No. 102803
npierce@jahlaw.com
1065 East Morehead Street
Charlotte, NC 28204
Telephone No.: (704) 332-1181
Facsimile No.: (704) 376-162
Attorneys for Petitioner

This 30th day of August, 2023.

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF YORK

In re: Estate of John Dale Williamson

Case Number: 2023-ES-46-00002

Doug Williamson,

Petitioner,

v.

Errick L. Williamson, individually;
Errick L. Williamson, as personal
representative of the Estate of John Dale
Williamson; Derrick Williamson; Robin
Beckler,

Respondents.

**PETITIONER'S FIRST REQUESTS FOR
ADMISSION TO RESPONDENT ERRICK
L. WILLIAMSON**

The Petitioner, Doug Williamson, ("Petitioner"), through the undersigned counsel, hereby serves the following Requests for Admission and requires the Respondent, Errick Williamson ("Respondent"), to serve a copy of his responses upon the undersigned counsel within thirty (30) days after service hereof, exclusive of the day of service in accordance with Rules 26 and 36 of the South Carolina Rules of Civil Procedure.

REQUESTS FOR ADMISSION

1. Admit you signed the Application for Information Appointment and Probate attached hereto as Exhibit A.

RESPONSE:

2. Admit John Dale Williamson suffered from Parkinson's Disease.

RESPONSE:

3. Admit John Dale Williamson suffered from Parkinson's Disease on November 24, 2022.

RESPONSE:

4. Admit Parkinson's Disease was a cause of John Dale Williamson's death.

RESPONSE:

5. Admit John Dale Williamson suffered from hypertensive heart disease.

RESPONSE:

6. Admit John Dale Williamson suffered from hypertensive heart disease on November 24, 2022.

RESPONSE:

7. Admit hypertensive heart disease was a cause of John Dale Williamson's death.

RESPONSE:

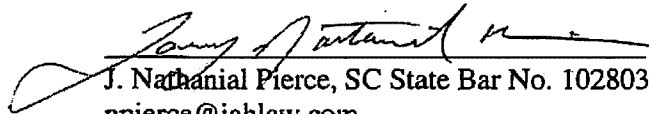
8. Admit John Dale Williamson was under palliative care on November 24, 2022.

RESPONSE:

9. Admit John Dale Williamson did not sign the Last Will and Testament attached hereto as Exhibit B.

RESPONSE:

JOHNSTON, ALLISON & HORD, P.A.



J. Nathaniel Pierce, SC State Bar No. 102803
npierce@jahlaw.com

1065 East Morehead Street

Charlotte, NC 28204

Telephone No.: (704) 332-1181

Facsimile No.: (704) 376-162

Attorneys for Petitioner

This 31st day of August, 2023.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing **First set of Requests for Admission to Respondent Errick Williamson** were served upon the below on the 31st day of August 2023, via U.S. Mail to the following address:

Law Office of Rebecca McNerney, PLLC
Attention: Rebecca McNerney, Esq.
200 S. Broome Street
Waxhaw, North Carolina 28173

Derrick Williamson
1154 Deas Street
Rock Hill, South Carolina 29732

Robin Beckler
300 Thomasboro Road SW
Calabash, North Carolina 28467

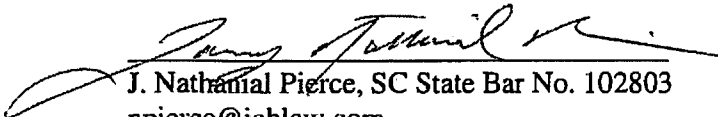
Piedmont Medical Center c/o DCM Services
1550 American Boulevard E., Suite 200
Bloomington, MN 55425

Piedmont Medical Center
222 South Herlong Avenue
Rock Hill, South Carolina 29732

Bank of America c/o CT Corporation
System
2 Office Park Court, Suite 103
Columbia, South Carolina 29223

Nephrology Associates
1436 Riverchase Boulevard
Rock Hill, South Carolina 29732

JOHNSTON, ALLISON & HORD, P.A.


J. Nathaniel Pierce, SC State Bar No. 102803
npierce@jahlaw.com
1065 East Morehead Street
Charlotte, NC 28204
Telephone No.: (704) 332-1181
Facsimile No.: (704) 376-162
Attorneys for Petitioner

This 31st day of August, 2023.

STATE OF SOUTH CAROLINA

COUNTY OF: YORK

IN THE MATTER OF:
JOHN DALE WILLIAMSON
(Decedent)

IN THE PROBATE COURT

CASE NUMBER: 2023ES4600002

***COMPLETE THIS SECTION ONLY IF FILING PETITION
FOR FORMAL TESTACY AND/OR FORMAL APPOINTMENT**

Petitioner(s)

vs.

Respondent(s)

APPLICATION FOR INFORMAL

(check any that apply)

☒ PROBATE OF WILL☒ APPOINTMENT***PETITION FOR FORMAL**☐ TESTACY☐ APPOINTMENTIf this is a formal filing, please explain on page 4 or attach pleadings pursuant to *SC Rules of Civil Procedure*.***NOTE: IF THIS IS A FORMAL PROCEEDING, IN ADDITION TO THIS FORM PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC), AND PAY THE STATUTORY FILING FEE OF \$180.00. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.****I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.**1. Applicant/Petitioner(s): ERRICK L. WILLIAMSONAddress: 1154 DEAS ST., ROCK HILL, SC 29732

Telephone (Work): _____

(Home): _____

(Cell): (803)388-2010

Email: _____

Relationship to Decedent: NEPHEW**2. Decedent Information:**

Full Legal Name

(Including all known names): JOHN DALE WILLIAMSONDate of Birth: 10/20/1952Date of Death: 11/29/2022Age at Date of Death: 70**3. Venue for this proceeding is proper in this County because:**☒ Decedent was domiciled in this County at date of death:Address: 1153 DEAS ST., ROCK HILL County: YORK State: South Carolina.☐ Decedent was **not** domiciled in **South Carolina**, but property of Decedent was located in this County at date of death at:Address: _____ County: YORK State: South Carolina☐ Decedent has a right to take legal action in this County because:

If the above address is the address of a nursing home, prison, or other residential facility, please give the last address of the Decedent prior to entering a facility:

FORM #300ES (09/2020)

62-2-504, 62-3-102, 62-3-203, 62-3-301, 62-3-302, 62-3-303, 62-3-308, 62-3-311, 62-3-401, 62-3-402,
62-3-404, 62-3-408, 62-3-414, 62-3-601, 62-3-602, 62-3-704, 62-3-804, 44-22-100, 44-23-1120**EXHIBIT****A**

4(a). Names and addresses of beneficiaries (devisees) named in the Will.

Full Legal Name (including all known names)	Year of Birth	Full Address	Email Address	Relationship to Decedent
ERRICK L. WILLIAMSON		1154 DEAS ST. ROCK HILL, SC 29732		NEPHEW
DERRICK WILLIAMSON		1154 DEAS ST. ROCK HILL, SC 29732		BROTHER

☐ See attached for additional devisees (check if applicable).

4(b). Names and addresses of intestate heirs who are not devisees (persons who inherit if Decedent left no Will).

Full Legal Name (including all known names)	Year of Birth	Full Address	Email Address	Relationship to Decedent
DERRICK WILLIAMSON		1154 DEAS ST. ROCK HILL, SC 29732		BROTHER
DOUGLAS WILLIAMSON		112 W. SUMMERSBY ST. FORT MILL, SC 29715		BROTHER

☐ See attached for additional intestate heirs (check if applicable).

4(c). Did all of the above persons survive one hundred and twenty (120) hours since the death of Decedent?

☒ YES ☐ NO If no, please explain on page 4.

5. Did Decedent have any change of marital status or the birth or adoption of any children after execution of this Will, if one exists, or has any child of the Decedent been born since his/her death, or is any birth of a child of the Decedent anticipated? (This includes illegitimate children.)

☒ NO ☐ YES If yes, please explain, on page 4.

6. To the best of your knowledge, was the Decedent a patient in a non-private State of South Carolina mental health facility during his/her lifetime?

☒ NO ☐ YES If yes, please explain, on page 4.

7. Has a Guardian or Conservator ever been appointed by a Court for this person?

☒ NO ☐ YES If yes, please explain on page 4.

8. Has a Personal Representative of the Decedent been appointed prior to this date by a Court in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including name and address of such Personal Representative on page 4.

9. Have you received or are you aware of any Demands for Notice (FORM #111ES D) of any probate or appointment proceeding concerning the Decedent that may have been filed in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including names and addresses on page 4.

10. Have more than ten (10) years passed since the Decedent's death?

☒ NO ☐ YES If yes, please state circumstances authorizing tardy probate on page 4.

11(a). Did the Decedent own probate real estate?

☐ NO ☒ YES If yes, an approximate value of \$TBD (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

11(b). Did the Decedent own probate personal property?

☐ NO ☒ YES If yes, an approximate value of \$TBD (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

11(c). Are you seeking appointment as Personal Representative in order to pursue civil litigation on behalf of the Decedent's estate? Is there a civil litigation attorney?

☒ NO ☐ YES If yes, please provide the name of the civil litigation attorney: _____

11(d). At the time of Decedent's death, was he or she involved in any pending civil litigation? Is there a civil litigation attorney?

☒ NO ☐ YES If yes, please state the circumstances and name of attorney on page 4.

11(e). If you answered NO to questions 11(a) - 11(d) above, but are seeking the appointment of a Personal Representative, please explain why the appointment is requested on page 4.

12. Have you made a diligent search for a Will of the Decedent?

☒ YES
☐ NO If no, please explain on page 4.

II. IF A WILL EXISTS, PLEASE COMPLETE THIS SECTION.

1. Regarding the Decedent's Will:

- ☐ The original is attached.
- ☒ The original is in the Court's possession.
- ☐ An exemplified (authenticated) copy of a Will probated in another jurisdiction is attached.
- ☐ An exemplified (authenticated) copy of a Will not probated in another jurisdiction is attached.
- ☐ The original of the Will is lost, destroyed, or otherwise unavailable, however, a copy or a description of its contents is attached. (for formal proceeding, explain below or attach supplemental pleadings)

2. The execution date of the Will was: 11/24/2022
Codicil(s): _____

3. Is there a memorandum that disposes of tangible personal property pursuant to 62-2-512?

☒ NO ☐ YES If yes, attach hereto.

4. To the best of your knowledge, do you believe the Will listed above is the Decedent's validly executed last Will?

☒ YES ☐ NO If no, please explain on page 4.

5. To the best of your knowledge, is any witness to the will an "interested witness" (i.e., does the will make any devise to a witness, a witness's spouse, or a witness's issue)?

☒ NO ☐ YES If yes, please explain on page 4.

COMPLETE EXPLANATION(S) FOR QUESTIONS IN SECTIONS I and II HERE.

(If more space is required, use additional sheets.)

III. IF APPLYING FOR INFORMAL OR FORMAL APPOINTMENT, PLEASE COMPLETE THE FOLLOWING.

1. If the Applicant/Petitioner is not the proposed Personal Representative(s), list name and address of the person you are proposing be appointed as the fiduciary:

2. Priority for appointment of the proposed Personal Representative (whether applicant or nominee) is:
 - ☒ named as Primary Personal Representative in Will
 - ☐ named as Alternate Personal Representative in Will
 - ☐ nominee of Primary Personal Representative in Will
 - ☐ nominee of Alternate Personal Representative in Will
 - ☐ surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
 - ☐ other devisee of Decedent (describe): _____ or nominee of said devisee
 - ☐ surviving spouse of Decedent or nominee of said spouse
 - ☐ other heir of Decedent (describe): _____ or nominee of said heir
 - ☐ creditor (forty-five (45) days after death must have passed) or nominee of creditor; written statement of claim, FORM 371ES, is attached.
 - ☐ other (describe): _____
3. List below the name(s) of any other person(s), if any, having an equal or higher priority of appointment than the proposed Personal Representative:

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 3rd day
of JANUARY, 2023.

Signature of
Applicant/Petitioner: Eric D. Williamson

Dana Mayfield
Notary Public for South Carolina
My Commission Expires: 6/6/2029

SWORN to before me this _____ day
of _____, 20____

Signature of Co-
Applicant/Co-Petitioner: _____

Notary Public for South Carolina
My Commission Expires: _____

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a Will executed NOVEMBER 24, 2022 and

- ☐ Codicil executed _____ and
☐ Memorandum

be informally ☒ GRANTED ☐ DENIED.

Executed this 3rd day of JANUARY, 2023.

Carolyn E. Woodruff

Carolyn E. Woodruff, Probate Court Judge

☐ For formal probate of Will, see separate order executed _____.

ORDER OF INFORMAL APPOINTMENT

IT IS HEREBY ORDERED that the above Application for Appointment be granted upon the filing of an appropriate bond, if applicable, and upon the signing of the Qualification and Statement of Acceptance of appointment.

Bond

- ☐ Fiduciary Bond in the amount of \$ _____
☒ Bond not required for Personal Representative nominated by Will
☐ Bond not required as Personal Representative is sole heir or sole devisee
☐ Bond not required as Personal Representative is state agency, bank, or trust company
☐ Bond waivers filed
☐ See order dated _____
☐ Other: _____

Notice to Creditors

- ☒ Required
☐ Not Required

Executed this 3rd day of JANUARY, 2023.

Carolyn E. Woodruff

Carolyn E. Woodruff, Probate Court Judge

☐ For formal appointment of Personal Representative, see separate order executed _____.

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate. I further submit personally to the jurisdiction of the Court in any proceeding relating to the Estate.

Signature: Errick L. Williamson
 Print Name: ERRICK L. WILLIAMSON
 Address: 1154 DEAS ST.
ROCK HILL, SC 29732
 Telephone (Work): _____
 (Home): _____
 (Cell): (803)389-2010
 Email: _____

Signature: _____
 Print Name: _____
 Address: _____
 Telephone (Work): _____
 (Home): _____
 (Cell): _____
 Email: _____

*Attorney: _____
 Address: _____
 Telephone: _____
 Email: _____

***By completing this information, attorney is designated as attorney of record for assisting Personal Representative until proper withdrawal.**

FILED RECEIVED

Last Will and Testament 2023 JAN -3 A 10:41

of

CAROLYN E. WOODRUFF
JUDGE OF PROBATE
YORK COUNTY, SC

John Williamson

I, John Williamson, with a place of residence at 1153 Deas st, Rock Hill, South Carolina, 29732, being of sound mind and not acting under duress or undue influence while fully understanding the nature and extent of all my property and of this disposition thereof, do hereby make, publish, and declare this document to be my Last Will and Testament, and hereby revoke any and all other wills and codicils heretofore made by me, Hereinafter known as the "Testator".

1. FAMILY IDENTIFICATION

I am not married.

I do not have any children.

2. EXCLUSIONS

It is my intention to exclude the following person(s) from receiving any distributions in association with this Last Will and Testament: Crystal Williamson

3. EXPENSES & TAXES

I direct that all my debts, and expenses of my last illness, funeral, and burial, be paid as soon after my death as may be reasonably convenient, and I hereby authorize my Personal Representative, hereinafter appointed, to settle and discharge, in his or her absolute discretion, any claims made against my estate to be first paid.

I further direct that my Personal Representative shall pay out of my estate any and all estate and inheritance taxes payable by reason of my death in respect of all items included in the computation of such taxes, whether passing under this Will or otherwise. Said taxes shall be paid by my Personal Representative as if such taxes were my debts without recovery of any part of such tax payments from anyone who receives any item included in such computation.

4. SPECIAL BEQUESTS

I shall have no special bequests under this Last Will and Testament with all property, personal and real, to be under my Residual Estate.

5. PERSONAL PROPERTY

I direct that all of my personal property that has not been directed as specific bequests or a part of my residual estate be distributed to Erick Williamson.

6. DIGITAL ASSETS



Page 1

I shall not have my social media accounts left with a representative. Therefore, after I die, all social media accounts that I have shall be left 'as-is'.

7. RESIDUAL ESTATE

I devise and bequeath my property, both real and personal wherever situated including any life insurance policies I may have to the following Two (2) Beneficiaries:

Errick Williamson who is my Nephew and entitled to 80% of my Residual Estate.

Derrick Williamson who is my brother and entitled to 20% of my Residual Estate.

8. OTHER PROPERTY

If there is any other property not part of the Residual Estate of Personal Property of this Last Will and Testament all other property should be transferred to Derrick Williamson.

9. PREDECEASE

If any other of my Beneficiaries have predeceased me, then any property that they would have received if they had not predeceased me shall be distributed to Chantel Williamson.

If any of my property cannot be readily sold and distributed, then it may be donated to any charitable organization or organizations of my Personal Representative's choice. If any property cannot be readily sold or donated, my Personal Representative may, without liability, dispose of such property as my Personal Representative may deem appropriate. I authorize my Personal Representative to pay as an administration expense of my estate the expense of selling, advertising for sale, packing, shipping, insuring and delivering such property.

10. OMISSION

Except to the extent that I have included them in this Will, I have intentionally, and not as a result of any mistake or inadvertence, omitted in this Will to provide for any family members and/or issue of mine, if any, however defined by law, presently living or hereafter born or adopted.

11. PERSONAL REPRESENTATIVE

I nominate and appoint Errick Williamson, of 1153 Deas st, Rock Hill, South Carolina, 29732 as Personal Representative of my estate and I request that he/she be appointed temporary Personal Representative if he/she applies.

There shall not be a Secondary Personal Representative. If the above-named individual cannot serve, then I shall desire a court-appointed Personal Representative to act on behalf of my intentions written in this last will and testament.

12. DISCRETIONARY POWERS OF PERSONAL REPRESENTATIVE

My Personal Representative, shall have and may exercise the following discretionary powers in addition to any common law or statutory powers without the necessity of court license or approval:

A. To retain for whatever period my Personal Representative deems advisable any property, including property owned by me at my death, and to invest and reinvest in any property, both real and personal, regardless of whether any particular investment would be proper for a Personal Representative and regardless of the extent of diversification of the assets held hereunder.

B. To sell and to grant options to purchase all or any part of my estate, both real and personal, at any time, at public or private sale, for consideration, whether or not the highest possible consideration, and upon terms, including credit, as my Personal Representative deems advisable, and to execute, acknowledge, and deliver deeds or other instruments in connection therewith.

C. To lease any real estate for terms and conditions as my Personal Representative deems advisable, including the granting of options to renew, options to extend the term or terms, and options to purchase.

D. To pay, compromise, settle or otherwise adjust any claims, including taxes, asserted in favor of or against me, my estate or my Personal Representative.

E. To make any separation into shares in whole or in part in kind and at values determined by my Personal Representative, with or without regard to tax basis, and to allocate different kinds and disproportionate amounts of property and undivided interests in property among the shares.

F. To make such elections under the tax laws as my Personal Representative shall deem appropriate, including elections with respect to qualified terminable interest property, exemptions and the use of deductions as income tax or estate tax deductions, and to determine whether to make any adjustments between income and principal on account of any election so made.

G. To make any elections permitted under any pension, profit sharing, employee stock ownership or other benefit plans.

H. To employ others in connection with the administration of my estate, including legal counsel, investment advisors, brokers, accountants and agents and to pay reasonable compensation in addition to my Personal Representative's compensation.

I. To vote any shares of stock or other securities in person or by proxy; to assert or waive any stockholder's rights or privilege to subscribe for or otherwise acquire additional stock; to deposit securities in any voting trust or with any committee.

J. To borrow and to pledge or mortgage any property as collateral; and to make secured or unsecured loans. My Personal Representative is specifically authorized to make loans without interest to any beneficiary hereunder. No individual or entity loaning property to my Personal Representative or trustee shall be held to see to the application of such property.

K. To work in absolute discretion and determine the allocation of any GST exemption available to me at my death to property passing under this Will or otherwise. The determination of my Personal Representative with respect to any elections or allocation, if made or taken in good faith, shall be binding upon all affected.

L. To make decisions and settle any and all claims against the Estate including any Beneficiaries that may contest their Residual Estate or this Last Will and Testament.

M. The Personal Representative shall not be compensated for their time and effort involved with this Last Will and Testament.

13. CONTESTING BENEFICIARY

If any beneficiary under this Will, or any trust herein mentioned, contests or attacks this Will or any of its provisions, any share or interest in my estate given to that contesting beneficiary under this Will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me.

A. I direct that the representation by a guardian ad litem of the interests of persons unborn, unascertained or legally incompetent to act in proceedings for the allowance of accounts hereunder be dispensed with to the extent permitted by law.

14. GENDER

Whenever the context permits, the term "Personal Representative" shall include "Executor" and "Administrator," the use of a particular gender shall include any other gender, and references to the singular or the plural shall be interchangeable. All references to the Internal Revenue Code shall mean the Internal Revenue Code of 1986 or any successor Code. All references to estate taxes shall include inheritance and other death taxes.

15. ASSIGNMENT

The interest of any beneficiary in this Will, shall not be alienable, assignable, attachable, transferable nor paid by way of anticipation, nor in compliance with any order, assignment or covenant and shall not be applied to, or held liable for, any of their debts or obligations either in law or equity and shall not in any event pass to his, her, or their assignee under any instrument or under any insolvency or bankruptcy law, and shall not be subject to the interference or control of creditors, spouses or others.

16. PET HEALTHCARE DIRECTIVE

I would like the following one (1) pet described as:

Name of Pet: Blacky Type of Pet: cat

Hereinafter known as the "Pets". The Pets are to be placed with Chantel Williamson of 1153 Deas st, Rock Hill, South Carolina, 29732, Hereinafter known as the 'Pet Guardian', and shall act as the caretaker of the Pets.

TESTAMENTARY AFFIDAVIT

STATE OF NORTH CAROLINACOUNTY OF MECKLENBURG, SS.

Before me, the undersigned authority, on this day personally appeared John Williamson, as Testator, JEFF HAWKINS, KALEB KIDD as Witness, known to me to be the Testator and the Witnesses, respectively, whose names are signed to the attached or foregoing instrument, and, all of these persons being by me duly sworn, the Testator declared to me and to the Witnesses in my presence that the instrument is the Testator's Last Will and Testament and that the Testator has willingly signed or directed another to sign for him/her, and that the Testator executed it as their own free and voluntary act for the purposes therein expressed; and each of the Witnesses stated to me, in the presence of the Testator, that they signed the Last Will and Testament as Witnesses and that to the best of their knowledge the Testator was eighteen (18) years of age or over, of sound mind, and under no constraint or undue influence.

John Dale Williamson
Testator Signature

Jeff Hawkins
Witness Signature

Jeff Hawkins
Witness Print Name

Kaleb Kidd
Witness Signature

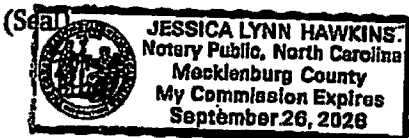
Kaleb Kidd
Witness Print Name

Subscribed and sworn to before me by the said Testator, John Williamson, and the

above listed witnesses this 24th day of NOVEMBER, 2022.

Notary Public Signature Jessica Lynn Hawkins JESSICA LYNN HAWKINS

My Commission Expires: 9-26-2026



There shall not be any other individual I select to be a Pet Guardian. If the Pet Guardian is not able to serve then the Personal Representative will have the power to choose another individual to act in their place.

There shall be no funds appropriated to the Pet Guardian in this Last Will and Testament for the care of the Pets.

17. GOVERNING LAW

This document shall be governed by the laws of the state of South Carolina.

18. SPECIAL WISHES AND DIRECTIVES

I declare, in addition to the statements in this Last Will and Testament, the following Special Wishes and Directives:

i would like to be cremated

19. BINDING ARRANGEMENT

Any decision by my Personal Representative with respect to any discretionary power hereunder shall be final and binding on all persons interested. Unless due to my Executor's own willful default or gross negligence, no Executor shall be liable for said Executor's acts or omissions or those of any co-Executor or prior Executor.

I, the undersigned John Williamson, do hereby declare that I signed and executed this instrument as my last Will, that I signed it willingly in the presence of each of the undersigned witnesses, and that I executed it as my free and voluntary act for the purposes herein expressed, on this 24th day of NOVEMBER, 2022.

Testator Signature John Dale Williamson

Printed Name: John Williamson

The foregoing instrument, on this 24 day of NOVEMBER 20 22, subscribed on each page and at the end thereof by John Williamson, the above-named Testator, and by (him/her) signed, sealed, published and declared to be (his/her) LAST WILL AND TESTAMENT, in the presence of us and each of us, who thereupon, at (his/her) request, in (his/her) presence, and in the presence of each other, have hereunto subscribed our names as attesting witnesses thereto.

Jeff Hawkins
Witness Signature

Jeff Hawkins 10278 Silver Mine Rd. Fort Mill, SC 29707
Print Name & Mailing Address

Kaleb Kidd
Witness Signature

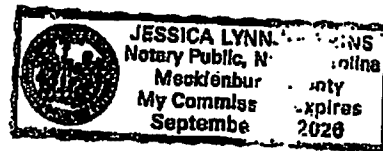
Kaleb Kidd 930 Dixon Rd Ellenboro NC 28040
Print Name & Mailing Address

NOTARY ACKNOWLEDGMENTSTATE OF NORTH CAROLINAMECKLENBURG County, ss.

The undersigned, being a Notary Public certified in NORTH CAROLINA declares that, John Williamson, making this Durable Health Care Power of Attorney has dated and signed or marked it in my presence and appears to me to be of sound mind and free from duress. I further declare I am not related to John Williamson by blood, marriage, or adoption, or a person designated to make medical decisions on his/her behalf. I am not directly involved in providing health care to the person signing. I am not entitled to any part of his/her estate under a will now existing or by operation of law. In the event the person acknowledging this Durable Health Care Power of Attorney is physically unable to sign or mark this document, I verify that he/she directly indicated to me that this Durable Health Care Power of Attorney expresses his/her wishes and that he/she intends to adopt the Durable Health Care Power of Attorney at this time.

WITNESS MY HAND AND SEAL this 24TH day of NOVEMBER, 2022

Jessica Lynn Hawkins
Notary Public

Print Name: JESSICA LYNN HAWKINSMy Commission Expires: 09-26-2026**WITNESS STATEMENT AND ACKNOWLEDGMENT**

I am not the person appointed as agent or successor agent in this medical power of attorney. I am not related to John Williamson by blood or marriage. I am not entitled to any portion of the John Williamson's estate, nor do I have any claim against their estate. I am not the attending physician of John Williamson or an employee of the attending physician. I am not involved in providing direct patient care to John Williamson and not an officer, director, partner, or business office employee of the health care facility or of any parent organization of the healthcare facility.

SIGNATURE OF THE FIRST WITNESSSignature: Jeff HawkinsPrint Name: Jeff Hawkins Date: 11-24-2022Address: 10278 Silver Mine Rd. Fort Mill, SC 29707**SIGNATURE OF THE SECOND WITNESS**Signature: Ralee Kidd

Print Name: Kaleb Kidd Date: 11/24/22
Address: 930 Dixon Rd, Ellenboro, NC, 28040

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Doug Williamson,

Plaintiff,

Vs.

**Errick L. Williamson, Individually,
Errick L. Williamson, as Personal
Representative of the Estate of John
Dale Williamson, Derrick L.
Williamson, and Robin Beckler,**

Defendants.

**IN THE MATTER OF THE ESTATE
OF JOHN DALE WILLIAMSON**

IN THE PROBATE COURT

CASE NO. 23-ES-46-2

**DEFENDANT ERRICK L.
WILLIAMSON'S RESPONSES TO
PLAINTIFF'S FIRST
REQUESTS FOR ADMISSIONS**

TO: J. Nathaniel Pierce, Attorney for Plaintiff Doug Williamson

FROM: Rebecca McNemey, Attorney for Defendant Errick L. Williamson

DATE: October 11, 2023

Now comes Defendant Enick L. Williamson, Defendant (hereinafter, "this Defendant"), by and through his Attorney, Rebecca McNemey, and responds to Plaintiff's First Requests for Admissions as follows:

1. Admit you signed the Application for Informal Appointment and Probate attached [to Plaintiff's Requests for Admissions] as Exhibit A.

RESPONSE:

Admitted.

EXHIBIT

D

2. Admit John Dale Williamson suffered from Parkinson's Disease.

RESPONSE:

This Defendant is not a medical expert and is without sufficient knowledge or expertise to admit or deny that John Dale Williamson suffered from Parkinson's Disease. This Defendant states that upon and information and belief, John Dale Williamson had been diagnosed with Parkinson's Disease.

3. Admit John Dale Williamson suffered from Parkinson's Disease on November 24, 2022.

RESPONSE:

This Defendant is not a medical expert and is without sufficient knowledge or expertise to admit or deny that John Dale Williamson suffered from Parkinson's Disease. This Defendant states that upon and information and belief, John Dale Williamson had been diagnosed with Parkinson's Disease.

4. Admit Parkinson's Disease was a cause of John Dale Williamson's death.

RESPONSE:

This Defendant is not a medical expert and is without sufficient knowledge or expertise to admit or deny this Request. This Defendant admits that the Death Certificate states that Decedent's cause of death was Parkinson's Disease.

5. Admit John Dale Williamson suffered from hypertensive heart disease.

RESPONSE:

This Defendant is not a medical expert and is without sufficient knowledge or expertise to admit or deny that John Dale Williamson suffered from hypertensive heart disease. This Defendant states that upon information and belief, John Dale Williamson had been diagnosed with high blood pressure.

6. Admit that John Dale Williamson suffered from hypertensive heart disease on November 24, 2022.

RESPONSE:

This Defendant is not a medical expert and is without sufficient knowledge or expertise to admit or deny that John Dale Williamson suffered from hypertensive heart disease on November 24, 2022.

7. Admit that hypertensive heart disease was a cause of John Dale Williamson's death.

RESPONSE:

This Defendant is not a medical or pathologic expert and is without sufficient knowledge or expertise to admit or deny this Request.

8. Admit that John Dale Williamson was under palliative care on November 22, 2022.

RESPONSE:

Denied.

9. Admit that John Dale Williamson did not sign the Last Will and Testament attached hereto as Exhibit B.

RESPONSE:

Denied.

This 11th day of October, 2023.

The Law Office of Rebecca McNerney PLLC

By: 

Rebecca McNerney

Attorney for Defendant Errick L. Williamson

SC Bar #76594

200 S. Broom Street

Waxhaw, South Carolina 28173
Phone: (980) 300-0144
Email: rebecca@rebeccamcnerneylaw.com

Certificate of Service

I, Rebecca McNerney, Attorney for Defendant Errick L. Williamson, do certify that on the 11 day of October, 2023, I served a copy of the attached Defendant Errick L. Williamson's Responses to Plaintiff's First Requests for Admissions as follows:

Via Electronic Mail

Nate Pierce

Nate.pierce@jahlaw.com

The Law Office of Rebecca McNerney PLLC

By: 

Rebecca McNerney

Attorney for Defendant Errick L. Williamson

SC Bar # 76594

200 S. Broome Street

Waxhaw, South Carolina 28173

Phone: (980) 300-0144

Email: rebecca@rebeccamcnerneylaw.com

TATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF YORK	)	CASE NO. 23-ES-46-2
	)	
Doug Williamson,	)	
	)	
Plaintiff,	)	DEFENDANT ERRICK L.
	)	WILLIAMSON'S RESPONSES TO
Vs.	)	PLAINTIFF'S FIRST
	)	INTERROGATORIES AND REQUEST
	)	FOR PRODUCTION OF DOCUMENTS
Errick L. Williamson, Individually,	)	
Errick L. Williamson, as Personal	)	
Representative of the Estate of John	)	
Dale Williamson, Derrick L.	)	
Williamson, and Robin Beckler,	)	
	)	
Defendants.	)	
	)	
IN THE MATTER OF THE ESTATE	)	
OF JOHN DALE WILLIAMSON	)	
	)	
	)	

TO: J. Nathaniel Pierce, Attorney for Plaintiff Doug Williamson

FROM: Rebecca McNerney, Attorney for Defendant Errick L. Williamson

DATE: October 17, 2023

Now comes Defendant Errick L. Williamson, Defendant (hereinafter, "this Defendant"), by and through his Attorney, Rebecca McNerney, and provides the following responses to Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Errick L. Williamson.

PRELIMINARY STATEMENT

This Defendant's investigation and development of all facts and circumstances relating to this action are ongoing. These responses and objections are made without prejudice to, and are not a waiver of, this Defendant's right to rely on other witnesses, facts or documents at trial.

By making the accompanying responses and objections to Plaintiff's First Set of Interrogatories and Request for Production of Documents, this Defendant does not waive, and hereby expressly reserves, his right to assert any and all objections as to the admissibility of such responses into evidence in this action, or in any other proceedings, on and any all grounds, including relevancy.

This Defendant will not produce publicly accessible document or documents that are already in the custody, control and possession of Plaintiff.

This Defendant expressly reserves the right to supplement, clarify, revise, or correct any of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental responses.

GENERAL OBJECTIONS

This Defendant objects to each instruction, definition, document request, and interrogatory to the extent that it purports to impose any requirement or discovery obligation greater than or different from those under the South Carolina Rules of Civil Procedure and Orders of the Court.

This Defendant objects to each document request that calls for production of a privilege log for internal documents of this Defendant or this Defendant's Attorney as any such request is unreasonable and unduly burdensome in light of the work product doctrine and other privileges.

This Defendant objects to each instruction, definition, document request, and interrogatory as overbroad and unduly burdensome to the extent that it seeks documents or information that is equally accessible to Plaintiff or more readily accessible to Plaintiff than this Defendant, documents or information that Defendant previously produced to Plaintiff, documents or information in Plaintiff's possession, and documents or information that are publicly accessible. The burden of responding to such requests is substantially the same or less for Plaintiff than for this Defendant.

This Defendant objects to each interrogatory and request for production that requires the disclosure of the mental impressions of this Defendant's Attorney or requires this Defendant to marshal the available evidence that he will present at trial.

RESPONSES TO INTERROGATORIES

1. Give the names and addresses of persons known to the Defendant or Defendant's counsel to be witnesses concerning the facts of this case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

RESPONSE:

Parties to this case.

Chantel Williamson – wife of the Defendant.

**Linda Sexton
2535 JS Dirt Rd.
York, SC 29745**

**Annette Crawford
4244 NC-150
Lexington, NC 27295**

**Jessica Lynn Hawkins
10278 Silver Mine Road
Fort Mill, SC 29707**

**Jeff Hawkins
10278 Silver Mine Road
Fort Mill, SC 29707**

**Kaleb Kidd
930 Dixon Road
Ellenboro, NC 28040**

No statements have been taken.

2. For each person known to the Defendant or Defendant's counsel to be a witness concerning the facts of this case, set forth either a summary sufficient to inform Plaintiff of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witness.

ANSWER:

Ms. Sexton, Ms. Bailey and Ms. Williamson may testify to the Decedent's state of mind in the months and weeks preceding his death and his statements as to his intents with respect to the disposition of his property after his death.

Ms. Hawkins, Mr. Hawkins and Mr. Kidd may testify as to events preceding the Decedent's execution of his will and of his state of mind and his mental and testamentary capacity at the time Mr. Williamson executed his will.

RESPONSE:

3. Set forth a list of photographs, lists, plats, sketches, or other prepared document in possession of the Defendant or Defendant's counsel that relate to the claim or defense in the case.

OBJECTION:

This interrogatory requests the work product of this Defendant and/or this Defendant's counsel which information is privileged. Further, this interrogatory is overbroad as this Defendant cannot be expected to know, at this time, each document that "relate" to this Defendant's defenses or to the claims or to the claims or defenses of any party other than this Defendant. Further, this interrogatory requires that this Defendant marshal all of his available evidence he intends to produce at trial. Without waiving the objections, Plaintiff responds as follows:

ANSWER:

None at this time.

4. List the names and addresses of any expert witnesses whom the Defendant proposes to use as a witness at the trial of this case and state the subject matter of such witnesses'

proposed testimony and a summary of the grounds or facts supporting any opinion expressed.

OBJECTION:

Defendant is not required to provide expert witness disclosures outside of the parameters of South Carolina Rule of Civil Procedure 26(4)(A). Subject to the objection, Defendant responds as follows:

ANSWER:

Defendant will provide expert witness information as required by the disclosure rules outlined in SCRCP 26(4)(A). At this time, Plaintiff has not retained any expert witness for the purposes of this lawsuit.

5. Describe your employment over the last five (5) years, including:

- a. The name of the employer;
- b. Your direct supervisor;
- c. Your salary;
- d. The length of your employment;
- e. The reason your employment ended.

OBJECTION:

Defendant objects to this Interrogatory to the extent that it seeks information concerning his salary on the basis that this information has no relevance to the issues in this case and is not likely to lead to the discovery of admissible evidence.

Without waiving this objection, Defendant responds as follows:

RESPONSE:

Defendant is currently employed by Classic Rock Masonry and has been employed there for almost two years. His supervisor is John Schultz. Prior to his employment

with Classic Rock, Defendant was employed at Shick Plumbing for one year.

Defendant moved from California to Rock Hill in May 2021.

6. Provide the names and addresses of the two witnesses to the Will.

RESPONSE:

**Jeff Hawkins
Kaleb Kidd**

See Response to Interrogatory No. 1 above.

7. Describe your relationship with the two witnesses to the Will.

RESPONSE:

Defendant's wife, Chantel, and Mr. Hawkins' wife, Jessica Lynn Hawkins, were co-workers. Mr. Hawkins is an acquaintance of Defendant whom Defendant knows only through the wives.

Mr. Kidd is the Defendant's half-brother, the son of Defendant's mother.

8. Describe your communications with the two witnesses to the Will, including the date and method of the communications.

OBJECTION:

This Defendant objects to this Interrogatory on the grounds that it is overbroad in scope and in the relevant time period. Any communications that this Defendant may have had with either Mr. Hawkins or Mr. Kidd on matters totally unrelated to the Decedent or the Will or which were remote in time to the execution of the Will have no relevance to the issues raised in this litigation and are not discoverable. Further objecting, Defendant states that the word "communications" is overbroad as to time, method, and substance, thus rendering it impossible for Defendant to

respond to this Interrogatory. Defendant will respond to a properly phrased Interrogatory.

9. Identify your communications with the Decedent regarding the Will, including the date and method of communications.

OBJECTION:

This Defendant objects to this Interrogatory on the grounds that it is overbroad in scope and in the relevant time period. Without waiving this Objection, Defendant responds as follows:

RESPONSE:

In the summer of 2022, Defendant learned from the Decedent that the Decedent had executed a will sometime in the past and that Decedent was looking for that will but could not locate it. In October 2022, the Decedent discussed with Defendant about making a new will and the Decedent talked with Defendant about how the Decedent wanted to leave his property – the percentages he wished to leave to certain heirs. Several weeks later, the Decedent and Defendant talked again about Decedent's intent to sign a new will and the Decedent asked Defendant to take notes regarding his intended bequests.

10. Identify your communications with the Decedent authorizing withdrawals from his personal bank account for the Defendant's use, including the date and method of communications.

OBJECTION:

Petitioner's Petition seeks only to set aside the Will. Accordingly, the information requested in this Interrogatory is neither relevant nor likely to lead to the discovery of admissible evidence.

11. Identify any medical provider who provided care or services to Decedent including a description of the care or services provided and the dates during which the care or services were provided.

RESPONSE:

CMC-Pineville Hospital

Agape Hospice

12. Describe your communications with third parties regarding the Will or the Decedent's capacity to write a will, including the date and method of the communications.

OBJECTION:

This Defendant objects to this Interrogatory on the grounds that it is overbroad in scope and in the relevant time period. Any communications that this Defendant may have had with any third party which were remote in time to the execution of the Will have no relevance to the issues raised in this litigation and are not discoverable. This Defendant also objects to disclosure of any communications protected by any legal privilege, including marital privilege or otherwise. Further objecting, Defendant states that the word "communications" is overbroad as to time, method, and substance, thus rendering it impossible for Defendant to respond to this Interrogatory.

13. Identify any payments you have received since the Decedent's death, from insurance, annuities, or otherwise, including the name of the person or entity that issued the

payment, the date you received the payment, the amount of the payment, the form of the payment, and the account(s) into which you deposited the payment.

OBJECTION:

This Defendant objects to this Interrogatory on the ground that it is overbroad in scope. Payments that this Defendant may have received from sources totally unrelated to the Decedent or the Estate have no relevance to the issues in this litigation and are not discoverable. Further objecting, this Defendant objects to disclosure of the amount of any relevant payments on grounds of relevance. Without waiving these objections, this Defendant responds as follows:

ANSWER:

Limiting this Defendant's Answer to this Interrogatory to payments received by him or by the Estate, this Defendant states that he was named co-beneficiary on a brokerage account held by Ameriprise.

14. Identify any bank account known to you to be owned, in whole or in part, by the Decedent, including the financial institution housing the account, the full account number, and the owner(s) of the account.

RESPONSE:

Family Trust Federal Credit Union: 0000118479

Bank of America: Defendant does not have information regarding the Decedent's account.

15. Identify any and all withdrawals, deposits, or other activity taken by you with regard to the accounts listed in responses to Interrogatory No. 13 since November 29, 2022.

RESPONSE:

Petitioner's Petition seeks only to set aside the Will. Accordingly, the information requested in this Interrogatory is neither relevant nor likely to lead to the discovery of admissible evidence.

16. Identify any personal and/or real property of the Decedent you have sold, given away, donated, or otherwise transferred since November 29, 2022.

RESPONSE:

None.

17. Provide a list of the Decedent's assets, including a description of each asset, the purported value, and the location.

RESPONSE:

Real estate:

**1153 Deas St.
Rock Hill, SC
\$88,438**

**Lot 1B Rowland Rd.
Anderson County, SC
\$131,000**

**Lot 217, Section 43, PB 36 PG 619
Kershaw County, SC
\$186,300**

The Decedent owned three boats, one trailer, and seven vehicles, all inoperable. Defendant has attached a copy of the titles to these vehicles to these Responses.

18. Provide a list of any crime, other than minor traffic offenses, for which you have been arrested or convicted.

RESPONSE:

Objection, relevancy and privacy. Subject to that objection, Defendant has had no felony conviction in ten years.

19. Provide a list of any lawsuit to which you have been a party or witness.

RESPONSE:

None.

REQUESTS FOR PRODUCTION

1. Produce any and all evidence and documents, including electronic communications, which you intend to introduce or put into evidence at trial.

OBJECTION:

This Defendant has no way of knowing which claims or defenses may be asserted by any party other than this Defendant. This Request for Production is also overbroad and unduly burdensome as it is not limited in time or scope. Further, this Request requires that Plaintiff marshal all of his available evidence he intends to produce at trial. This Defendant does not know at this time what documents he will introduce into evidence at trial and reserves the right to identify trial exhibits closer to trial.

2. Produce any and all documents and correspondence, including electronic communications, that you or your counsel used, referenced, or identified in preparing responses to Plaintiff's discovery responses.

OBJECTION:

This Request seeks the work product of this Defendant and/or of this Defendant's counsel which information is privileged.

3. Produce a complete and legible copy of any and all reports or summaries prepared by any expert witnesses with whom your or counsel consulted in connection with this case.

RESPONSE:

This Defendant will provide expert witness information as required by the disclosure rules outlined in SCRCP 26(4)(A). At this time, this Defendant has not retained any expert witness for the purposes of this lawsuit.

4. Produce all documents that you or counsel have received from any third party, by subpoena or otherwise, in connection with this case.

OBJECTION:

This Request seeks the work product of this Defendant and/or of this Defendant's counsel which information is privileged. This Defendant also objects to the extent that any documents responsive to this Request that are equally accessible to Plaintiff or more readily accessible to Plaintiff than this Defendant, documents or information that Defendant previously produced to Plaintiff, documents or information in Plaintiff's possession, and documents or information that are publicly accessible. The burden of responding to such requests is substantially the

same or less for Plaintiff than for this Defendant. Subject to this objection, this

Defendant responds as follows:

RESPONSE:

None.

5. Produce a complete and legible copy of any and all written statements prepared by witnesses in connection with this case.

RESPONSE:

None.

6. Produce copies of any and all notes, memoranda, letters, text messages, emails, and other tangible or intangible materials which in any way relate to the claims or defenses in this action.

OBJECTION:

This Request seeks the work product of this Defendant and/or this Defendant's counsel which information is privileged. Further, this Request is overbroad as this Defendant cannot be expected to know, at this time, each document that "relates" to this Defendant's defenses or to the claims or to the claims or defenses of any party other than this Defendant. Further, this Request requires that this Defendant marshal all of his available evidence he intends to produce at trial. Without waiving the objections, Plaintiff responds as follows:

ANSWER:

None at this time.

7. Produce copies of all medical records reflecting the care or services rendered by medical providers listed in response to Interrogatory No. 11.

RESPONSE:

This Defendant has no documents responsive to this Request in his possession, custody or control.

8. Produce copies of all communications, electronic or otherwise, between you and the witnesses to the Will from January 1, 2022 through the present.

RESPONSE:

None.

9. Produce copies of all communications, electronic or otherwise, between you and the Decedent from January 1, 2022, through the time and date of Decedent's death.

RESPONSE:

None.

10. Produce copies of all communications, electronic or otherwise, between you and Derrick Williamson from January 1, 2022 through the present.

RESPONSE:

None.

11. Produce copies of all communications, electronic or otherwise, between you and the heirs of Decedent's Estate since November 29, 2022.

RESPONSE:

None.

12. Produce copies of all communications, electronic or otherwise, between you and any third party relating to the Decedent, the Will, and/or the Estate from January 1, 2022 through present.

RESPONSE:

None.

13. Produce copies of monthly statements for all bank accounts owned by you from November 19, 2022, through present.

OBJECTION:

Relevancy and privacy.

14. Produce copies of statements for bank accounts owned in whole or in part by the Decedent from November 29, 2021 through present.

RESPONSE:

Defendant will produce documents responsive to this Request upon receipt.

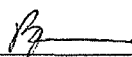
15. Produce copies of any receipts, bills of lading, bills of sale, or any other documentation reflecting the transfer of personal and/or real property of the Decedent you have sold, given away, donated, or otherwise transferred since November 29, 2022.

RESPONSE:

None.

This 17th day of October, 2023.

The Law Office of Rebecca McNerney PLLC

By: _____

Rebecca McNerney

Attorney for Defendant Errick L. Williamson

SC Bar #76594

200 S. Broom Street

Waxhaw, South Carolina 28173

Phone: (980) 300-0144

Email: rebecca@rebeccamcnerneylaw.com

Certificate of Service

I, Rebecca McNerney, Attorney for Defendant Errick L. Williamson, do certify that on the ____ day of October, 2023, I served a copy of the attached Defendant Errick L. Williamson's Responses to Plaintiff's First Set of Interrogatories and Request for Production of Documents to Plaintiff as follows:

Via Electronic Mail

Nate Pierce

Nate.pierce@jahlaw.com

Via First Class Mail

Derrick Williamson

1154 Dease Street

Rock Hill, SC 29732

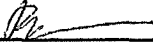
Via First Class Mail

Robin Beckler

300 Thomasboro Road SW

Callabash, NC 28467

The Law Office of Rebecca McNerney PLLC

By: 

Rebecca McNerney

Attorney for Defendant Errick L. Williamson

SC Bar # 76594

200 S. Broome Street

Waxhaw, South Carolina 28173

Phone: (980) 300-0144

Email: rebecca@rebeccamcnerneylaw.com

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2023 OCT 19 P 3:49

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF YORK

CAROLYN E. WOODRUFF
JUDGE OF PROBATE
YORK COUNTY, SC

In re: Estate of John Dale Williamson

Case Number: 2023-ES-46-00002

Doug Williamson,

Petitioner,

v.

Errick L. Williamson, individually;
Errick L. Williamson, as personal
representative of the Estate of John Dale
Williamson; Derrick Williamson; Robin
Beckler,

Respondents.

**MOTION TO COMPEL DISCOVERY
RESPONSES FROM RESPONDENT
ERRICK WILLIAMSON**

Petitioner Doug Williamson ("Petitioner" or "Doug"), by and through the undersigned counsel, hereby moves the Court, pursuant to Rules 37 and 45 of the South Carolina Rules of Civil Procedure, for an Order compelling Respondent Errick Williamson ("Errick") to respond to the Interrogatories and Requests for Production served by Petitioner on or about August 30, 2023. In support of this Motion, Petitioner respectfully shows the Court the following:

FACTUAL AND PROCEDURAL BACKGROUND

1. Doug is one of John Dale Williamson's ("Decedent" or "Dale") living brothers. Dale has two other living siblings, a brother, Respondent Derrick Williamson ("Derrick"), and a sister, Respondent Robin Beckler ("Robin").
2. Dale died on November 29, 2022, of, *inter alla*, complications from Parkinson's Disease.

3. On January 3, 2023, Errick filed with the York County Probate Court the purported Last Will and Testament of John Dale Williamson ("Will"). Simultaneously, Errick sought and received appointment as the personal representative of Dale's estate ("Estate").

4. In the Will, Errick stands to take eighty percent of Dale's Residual Estate, defined in the Will as "real and personal property wherever situated including any life insurance policies" Derrick stands to take the other twenty percent of Dale's Residual Estate, as defined in the Will.

5. Dale purportedly signed the Will on November 24, 2022, when he was under full-time hospice care and only five days before his death.

6. Upon information and belief, Dale was not of sound mind on November 24, 2022, nor was he capable of understanding or knowing the extent of his estate, the objects of his affection, or to whom he wished to give his property.

7. Since his appointment as personal representative, Errick has failed to take any meaningful steps towards administration of the Estate, failed to pay property taxes as they came due, and failed to redeem a substantial Estate asset from tax sale.

8. Doug filed a Petition on March 17, 2023, seeking to set aside the Will for failure of due execution, lack of capacity, and undue influence. Doug also seeks removal of Errick as personal representative, recovery of damages due to Errick's errors and omissions as personal representative, and recovery of his attorneys' fees.

9. Errick failed to timely respond to the Petition, and Doug moved for entry of default. Ultimately, the Court set aside the Default and allowed Errick to file an Answer.

10. If Petitioner prevails in this action, he will take under the South Carolina intestacy statute, whereas at present he stands to take nothing from the Estate.

DISCOVERY REQUESTS TO ERRICK

11. On or about August 30, 2023, Doug served Errick with Interrogatories and Requests for Production (the "Discovery Requests") pursuant to Rules 33 and 34 of the South Carolina Rules of Civil Procedure ("SCRCP"). A true and accurate copy of the Discovery Requests is attached hereto as Exhibit A.

12. Doug served the Discovery Requests via regular United States Mail, in compliance with Rule 5(a), SCRCP. Pursuant to Rules 6(e), 33, 34, SCRCP, Errick's responses to the Discovery Requests were due on or before Wednesday, October 4, 2023.

13. On or about August 31, 2023, Doug served Errick with Requests for Admission pursuant to Rule 36, SCRCP. A true and accurate copy of the Requests for Admission is attached as Exhibit B.

14. Doug served the Discovery Requests via regular United States Mail, in compliance with Rule 5(a), SCRCP. Pursuant to Rules 6(e) and 36, SCRCP, Errick's responses to the Requests for Admission were due on or before Thursday, October 5, 2023.

15. Errick did not respond timely to the Requests for Admission. Pursuant to Rule 36, SCRCP, the matters for which admission were requested are deemed conclusively established.

16. Errick neither timely responded nor timely objected to the Discovery Requests, and the time for response and/or objection has passed.

17. Counsel for Errick emailed counsel for Doug on October 10, 2023, requesting an extension through October 20, 2023 to respond to the Discovery Requests and Requests for Admission.

18. On October 11, 2023, counsel for Errick provided untimely responses to the Requests for Admission.

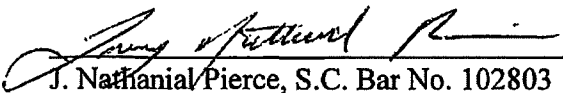
19. On October 12, 2023, counsel for Doug informed counsel for Errick that no extension would be granted as to the Requests for Admission nor Discovery Requests, that Doug would file this Motion to Compel, but agreed not to seek a hearing before October 20, 2023.

WHEREFORE, Plaintiff requests that the Court:

1. Pursuant to Rule 37(a)(2), SCRCF, compel Errick to respond to the Discovery Requests within ten (10) days;
2. Pursuant to Rule 37(a)(4), SCRCF, order Errick to pay Doug's attorneys' fees and costs associated with prosecuting this Motion to Compel; and
3. For such other and further relief as the Court deems just and proper.

This the 12th day of October, 2023

JOHNSTON, ALLISON & HORD, P.A.


J. Nathaniel Pierce, S.C. Bar No. 102803
npierce@jahlaw.com
1065 E. Morehead Street
Charlotte, North Carolina 28204
Telephone: (704) 332-1181
Counsel for Petitioner

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing **Motion to Compel Discovery Responses from Respondent Errick Williamson** was served upon the below on the 12th day of October, 2023, via U.S. Mail to the following addresses:

Law Office of Rebecca McNerney, PLLC
Attention: Rebecca McNerney, Esq.
200 S. Broome Street
Waxhaw, North Carolina 28173
Counsel for Respondent Errick Williamson

Derrick Williamson
1154 Deas Street
Rock Hill, South Carolina 29732

Robin Beckler
300 Thomasboro Road SW
Calabash, North Carolina 28467

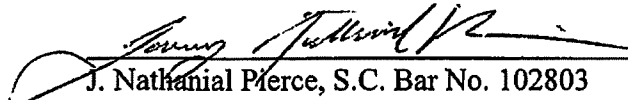
Nephrology Associates
1436 Riverchase Boulevard
Rock Hill, South Carolina 29732

Holcombe Bomar, P.A.
Attention: Chance Farr, Esq.
410 South Herlong Avenue, Suite 102
Rock Hill, South Carolina 29732
*Counsel for Amisub of South Carolina, Inc.
d/b/a Piedmont Medical Center*

Bank of America, N.A.
c/o CT Corporation System
2 Office Park Court, Suite 103
Columbia, South Carolina 29223

This the 12th day of October, 2023

JOHNSTON, ALLISON & HORD, P.A.


J. Nathaniel Pierce, S.C. Bar No. 102803
npierce@jahlaw.com
1065 E. Morehead Street
Charlotte, North Carolina 28204
Telephone: (704) 332-1181
Counsel for Petitioner

STATE OF SOUTH CAROLINA

COUNTY OF YORK

In re: Estate of John Dale Williamson

Doug Williamson,

Petitioner,

v.

Errick L. Williamson, individually;
Errick L. Williamson, as personal
representative of the Estate of John Dale
Williamson; Derrick Williamson; Robin
Beckler,

Respondents.

IN THE COURT OF COMMON PLEAS

PROBATE COURT

Case Number: 2023-ES-46-00002

**PETITIONER'S FIRST
INTERROGATORIES TO RESPONDENT
ERRICK L. WILLIAMSON**

The Petitioner, Doug Williamson, ("Petitioner"), through the undersigned counsel, hereby serves the following Interrogatories and Requests for Production set forth below and requires the Respondent, Errick Williamson ("Respondent"), to serve a copy of his responses upon the undersigned counsel within thirty (30) days after service hereof, exclusive of the day of service in accordance with Rules 26, 33, and 34 of the South Carolina Rules of Civil Procedure.

DIRECTIONS AND INSTRUCTIONS

1. "You" and "your" and "Respondent(s)" refers to Errick Williamson, and includes any and all agents, servants, and employees of Errick Williamson.
2. "Decedent" refers to John Dale Williamson.
3. "Estate" refers to the Estate of John Dale Williamson pending in the York County, South Carolina Probate Court.
4. "Request" refers to any Interrogatory, Request for Production of Document, or Request for Admission.
5. "Person" shall be deemed to include, in the plural as well as singular, any natural person, firm, association, partnership, joint venture, corporation, or other legal entity, unless the



context otherwise indicates.

6. **"Possession, custody and control"** of documents means possession, custody, or control or right to possession, custody, or control, by you, your attorneys, employees, officers, representatives, agents, and all other persons acting or purporting to act on your behalf.
7. **"Documents"** means all written or printed matter of any kind, including the original and all non-identical copies, different from the originals by reason of any notation made on such copies or otherwise, including, but not limited to, any correspondence, memoranda, notes, diaries, statistics, letters, emails, text messages, documents stored electronically on computer hard drives or servers, documents generated or received on Facebook and Twitter accounts or any other type of social or business internet networking account, or on You Tube, telegrams, telexes, teletypes, telefax, telecopies, minutes, agendas, contracts, reports, studies, surveys, statements, receipts, returns, summaries, pamphlets, books, prospectuses, interoffice and intra office communications, offers, notations of any sort of conversations, including telephone conversations and meetings, bulletins, computer printouts and records, invoices, worksheets, accountant notes, work papers, and all drafts, alterations, modifications, changes and amendments of any kind and, in addition thereto, any graphic or manual records, or representations of any kind including, without limitation, photographs, charts, graphs, microfiche, microfilm, video tape, records, and motion pictures, and electronic or mechanical records or representations of any kind, including without limitation tapes, cassettes, discs, CD's, DVD's, and recordings or the hard copies thereof or other data compilations. If such documents consist of other data compilations, they shall be translated by You into a reasonable usable form through appropriate means.
8. **"All documents"** means every document as defined above, which is in your possession, custody or control and includes documents which are not in your possession, custody or control which are known to you and which can be located or discovered by reasonable diligent efforts.
9. **"Including"** means including but not by way of limitation.
10. **"Related," "relates" or "relating to"** means constituting, comprising, evidencing, containing, setting forth, showing, disclosing, describing, explaining, summarizing, concerning, or referring to, directly or indirectly.
11. **"Identify," "identification" or to "give the identity of"** means:
 - (a) In the case of an individual to state his or her name, present or last known residence, present or last known telephone number, business affiliations, business address, job description, and if different from the latter, the last position held with You, and if applicable, the date the individual was last employed by or for You;
 - (b) In the case of a document, whether or not such document is deemed to be privileged, objectionable or subject to any claims of privilege, to provide the following information:
 - (1) the title or other means of identification of each such document;

- (2) the subject matter of each such document;
 - (3) the date each such document was prepared;
 - (4) the identity of the person or persons who prepared each such document;
 - (5) the identity of the person or persons receiving the document or for whom such document was prepared as well as the identity of each person receiving copies of the said document;
 - (6) the present location of any and all copies of each such document in Your possession, custody or control and if such copies are electronically stored, the particular device upon which each is stored with reference to a document number or computer directory file path to facilitate recovery of same;
 - (7) the identity of any and all persons who have custody or control of each such document or copies thereof;
 - (8) Whether You claim any privilege or other reason for non-production with respect to each such document or copies thereof, and if so, the factual and legal basis for the alleged privilege or non-production. In lieu of the foregoing, a copy of each such document may be supplied but said copy must indicate to which interrogatory it relates.
- (c) If any requested document existed at one time and was in Your possession, custody or control but has been lost, discarded or destroyed, or removed from Your possession, custody or control, indicate for each such document:
- (1) The identity of the document and a description of its contents indicating its dates, title and type of document;
 - (2) When the document was most recently in Your possession, custody or control and what disposition was made of it.
12. Identify any person who currently possesses the document.
13. Plaintiff is required to answer fully and in writing, each of the following Requests and to serve a copy of the answers on counsel for Defendant thirty (30) days after service of the Requests.
14. State any objections to any Request with specificity.
15. As to any Request that you refuse to answer or are unable to answer, in whole or in part, for any reason, please state the reasons for your refusal or inability to answer. When you believe a complete answer to a particular Request or part of the Request is not possible, please answer each Request to the extent possible and furnish a statement explaining: (a)

the reason for your inability to answer further; and (b) what information or knowledge you do have concerning the unanswered portion.

16. Furnish all responsive information which is available to you and known to you, including any information in your possession or in the possession of your agents and/or attorneys.
17. Please retype each Request before answering. When Requests contain sub-parts, indicate in your answer the sub-part to which each particular part of your answer is responsive.
18. The conjunction "or" as used in these Requests should not be read to limit part of the Request but, whenever applicable, it should have the same meaning as the word "and." For example, a Request stating "support or refer" should be read as "support and refer" if an answer that does both can be made.
19. These Requests are continuing in nature and require supplemental answers in the event you or any other person acting on your behalf become aware of additional information between the time your answers are given and the time of trial that render your answers no longer true, accurate or complete.
20. When these Requests require that you identify a communication, if any part of the communication was written, identify the document or documents that refer to or evidence the communication and, to the extent that the communication was not transcribed or written, identify the date and time when the unwritten communication occurred, the place where the communication occurred, a narrative statement of the subject matter of the communication, and the identity of each person who was a party to the unwritten communication.
21. If any or all documents identified in your answers to these Requests are no longer in your possession, custody or control because of destruction, loss or any other reason, then please follow the instructions in sub-parts (a)- (e) below for each such document:
 - (a) describe the nature of the document (e.g., letter or memorandum);
 - (b) state the date of the document;
 - (c) identify the person(s) who sent and received the original and/or any copy of the document;
 - (d) state and detail the contents of the document; and
 - (e) state the manner and date of disposition of the document and without limitation, describe what disposition was made of it, the person responsible for making the decision regarding the disposition, and the person responsible for carrying out the disposition.

INTERROGATORIES

1. Given the names and addresses of persons known to the Respondent or Respondent's counsel to be witnesses concerned the facts of this case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

RESPONSE:

2. For each person known to the Respondent or Respondent's counsel to be a witness concerning the facts of this case, set forth either a summary sufficient to inform Petitioner of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

RESPONSE:

3. Set forth a list of photographs, plats, sketches, or other prepared documents in possession of the Respondent or Respondent's counsel, that relate to the claim or the defense in the case.

RESPONSE:

4. List the names and addresses of any expert witnesses whom the Respondent proposes to use as a witness at the trial of the case and state the subject matter of such witnesses' proposed testimony and a summary of the grounds or facts supporting any opinions expressed.

RESPONSE:

5. Describe your employment over the last five (5) years, including:
 - a. The name of the employer.
 - b. Your direct supervisor.

- c. Your salary.
- d. The length of your employment.
- e. The reason your employment ended.

RESPONSE:

6. Provide the names and addresses of the two witnesses to the Will.

RESPONSE:

7. Describe your relationship with the two witnesses to the Will.

RESPONSE:

8. Describe your communications with the two witnesses to the Will, including the date and method of the communications.

RESPONSE:

9. Identify your communications with the Decedent regarding the Will, including the date and method of the communications.

RESPONSE:

10. Identify your communications with the Decedent authorizing withdrawals from his personal bank account for the Respondent's use, including the date and method of the communications.

RESPONSE:

11. Identify any medical provider who provided care or services to Decedent including a description of the care or services provided and the dates during which the care or services were provided.

RESPONSE:

12. Describe your communications with third parties regarding the Will or the Decedent's capacity to write a will, including the date and method of the communications.

RESPONSE:

13. Identify any payments you have received since Decedent's death, from insurance, annuities, or otherwise, including the name of the person or entity that issue the payment, the date you received the payment, the amount of the payment, the form of the payment, and the account(s) into which you deposited the payment.

RESPONSE:

14. Identify any bank account known to you to be owned, in whole or in part, by the Decedent, including the financial institution housing the account, the full account number, and the owner(s) of the account.

RESPONSE:

15. Describe any and all withdrawals, deposits, or other activity taken by you with regard to the accounts listed in responses to Interrogatory No. 13 since November 29, 2022.

RESPONSE:

16. Identify any personal and/or real property of the Decedent you have sold, given away, donated, or otherwise transferred since November 29, 2022.

RESPONSE:

17. Provide a list of the Decedent's assets, including a description of each asset, the purported value, and the location.

RESPONSE:

18. Provide a list of any crime, other than minor traffic offenses, for which you have been arrested and/or convicted.

RESPONSE:

19. Provide a list of any lawsuit to which you have been a party or witness.

RESPONSE:

REQUESTS FOR PRODUCTION

1. Produce any and all evidence and documents, including electronic communications, which you intend to introduce or to be put into evidence at trial.

RESPONSE:

2. Produce any and all documents and correspondence, including electronic communications, that you or your counsel used, referenced, or identified in preparing responses to Petitioner's discovery requests.

RESPONSE:

3. Produce a complete and legible copy of any and all reports or summaries prepared by any expert witnesses with whom you or counsel consulted in connection with this case.

RESPONSE:

4. Produce all documents that you or counsel have received from any third party, by subpoena or otherwise, in connection with this case.

RESPONSE:

5. Produce a complete and legible copy of any and all written statements prepared by witnesses in connection with this case.

RESPONSE:

6. Produce copies of any and all notes, memoranda, letters, text messages, emails, and other

tangible or intangible materials which in any way relate to the claims or defenses in this action.

RESPONSE:

7. Produce copies of all medical records reflecting the care or services rendered by the medical providers listed in response to Interrogatory No. 11.

RESPONSE:

8. Produce copies of all communications, electronic or otherwise, between you and the witnesses to the Will from January 1, 2022, through present.

RESPONSE:

9. Produce copies of all communications, electronic or otherwise, between you and the Decedent from January 1, 2022, through the time and date of Decedent's death.

RESPONSE:

10. Produce copies of all communications, electronic or otherwise, between you and Derrick Williamson from January 1, 2022, through present.

RESPONSE:

11. Produce copies of all communications, electronic or otherwise, between you and the heirs of Decedent's Estate since November 29, 2022.

RESPONSE:

12. Produce copies of all communications, electronic or otherwise, between you and any third party relating to the Decedent, the Will, and/or the Estate from January 1, 2022, through present.

RESPONSE:

13. Produce copies of monthly statements for all bank accounts owned by you from November 29, 2022, through present.

RESPONSE:

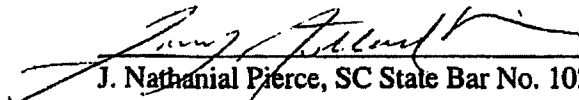
14. Produce copies of statements for bank accounts owned in whole or in part by the Decedent from November 29, 2021, through present.

RESPONSE:

15. Produce copies of any receipts, bills of lading, bills of sale, or any other documentation reflecting the transfer of personal and/ or real property of the Decedent you have sold, given away, donated, or otherwise transferred since November 29, 2022.

RESPONSE:

JOHNSTON, ALLISON & HORD, P.A.


J. Nathaniel Pierce, SC State Bar No. 102803
npierce@jahlaw.com
1065 East Morehead Street
Charlotte, NC 28204
Telephone No.: (704) 332-1181
Facsimile No.: (704) 376-162
Attorneys for Petitioner

This 30th day of August, 2023.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing **First set of Interrogatories and Requests for Production to Respondent Errick Williamson** were served upon the below on the 30th day of August 2023, via U.S. Mail to the following address:

Law Office of Rebecca McNerney, PLLC
Attention: Rebecca McNerney, Esq.
200 S. Broome Street
Waxhaw, North Carolina 28173

Derrick Williamson
1154 Deas Street
Rock Hill, South Carolina 29732

Robin Beckler
300 Thomasboro Road SW
Calabash, North Carolina 28467

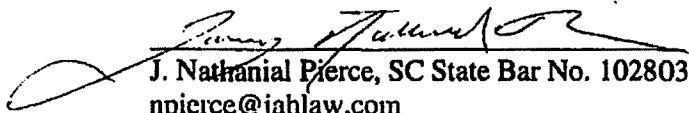
Piedmont Medical Center c/o DCM Services
1550 American Boulevard E., Suite 200
Bloomington, MN 55425

Piedmont Medical Center
222 South Herlong Avenue
Rock Hill, South Carolina 29732

Bank of America c/o CT Corporation
System
2 Office Park Court, Suite 103
Columbia, South Carolina 29223

Nephrology Associates
1436 Riverchase Boulevard
Rock Hill, South Carolina 29732

JOHNSTON, ALLISON & HORD, P.A.


J. Nathaniel Pierce, SC State Bar No. 102803
npierce@jahlaw.com
1065 East Morehead Street
Charlotte, NC 28204
Telephone No.: (704) 332-1181
Facsimile No.: (704) 376-162
Attorneys for Petitioner

This 30th day of August, 2023.

STATE OF SOUTH CAROLINA

COUNTY OF YORK

In re: Estate of John Dale Williamson

Doug Williamson,

Petitioner,

v.

Errick L. Williamson, individually;
Errick L. Williamson, as personal
representative of the Estate of John Dale
Williamson; Derrick Williamson; Robin
Beckler,

Respondents.

IN THE PROBATE COURT

Case Number: 2023-ES-46-00002

**PETITIONER'S FIRST REQUESTS FOR
ADMISSION TO RESPONDENT ERRICK
L. WILLIAMSON**

The Petitioner, Doug Williamson, ("Petitioner"), through the undersigned counsel, hereby serves the following Requests for Admission and requires the Respondent, Errick Williamson ("Respondent"), to serve a copy of his responses upon the undersigned counsel within thirty (30) days after service hereof, exclusive of the day of service in accordance with Rules 26 and 36 of the South Carolina Rules of Civil Procedure.

REQUESTS FOR ADMISSION

1. Admit you signed the Application for Information Appointment and Probate attached hereto as Exhibit A.

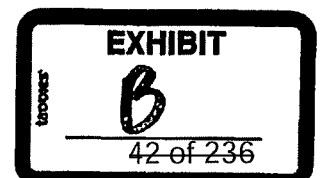
RESPONSE:

2. Admit John Dale Williamson suffered from Parkinson's Disease.

RESPONSE:

3. Admit John Dale Williamson suffered from Parkinson's Disease on November 24, 2022.

RESPONSE:



4. Admit Parkinson's Disease was a cause of John Dale Williamson's death.

RESPONSE:

5. Admit John Dale Williamson suffered from hypertensive heart disease.

RESPONSE:

6. Admit John Dale Williamson suffered from hypertensive heart disease on November 24, 2022.

RESPONSE:

7. Admit hypertensive heart disease was a cause of John Dale Williamson's death.

RESPONSE:

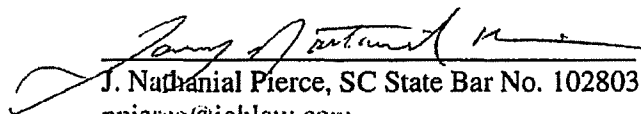
8. Admit John Dale Williamson was under palliative care on November 24, 2022.

RESPONSE:

9. Admit John Dale Williamson did not sign the Last Will and Testament attached hereto as Exhibit B.

RESPONSE:

JOHNSTON, ALLISON & HORD, P.A.


J. Nathaniel Pierce, SC State Bar No. 102803
npierce@jahlaw.com

1065 East Morehead Street
Charlotte, NC 28204
Telephone No.: (704) 332-1181
Facsimile No.: (704) 376-162
Attorneys for Petitioner

This 31st day of August, 2023.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing **First set of Requests for Admission to Respondent Errick Williamson** were served upon the below on the 31st day of August 2023, via U.S. Mail to the following address:

Law Office of Rebecca McNerney, PLLC
Attention: Rebecca McNerney, Esq.
200 S. Broome Street
Waxhaw, North Carolina 28173

Derrick Williamson
1154 Deas Street
Rock Hill, South Carolina 29732

Robin Beckler
300 Thomasboro Road SW
Calabash, North Carolina 28467

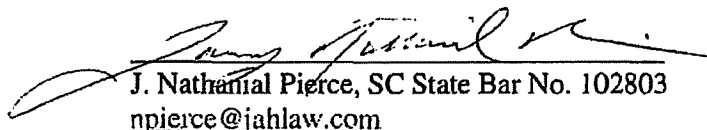
Piedmont Medical Center c/o DCM Services
1550 American Boulevard E., Suite 200
Bloomington, MN 55425

Piedmont Medical Center
222 South Herlong Avenue
Rock Hill, South Carolina 29732

Bank of America c/o CT Corporation
System
2 Office Park Court, Suite 103
Columbia, South Carolina 29223

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1436 Riverchase Boulevard
Rock Hill, South Carolina 29732

JOHNSTON, ALLISON & HORD, P.A.



J. Nathaniel Pierce, SC State Bar No. 102803
npierce@jahlaw.com

1065 East Morehead Street
Charlotte, NC 28204
Telephone No.: (704) 332-1181
Facsimile No.: (704) 376-162
Attorneys for Petitioner

This 31st day of August, 2023.



Nate Pierce
Attorney

WRITER'S E-MAIL ADDRESS:
npierce@jahlaw.com

WRITER'S DIRECT DIAL:
704-998-2211

October 24, 2023

VIA U.S. MAIL AND E-MAIL

The Law Office of Rebecca McNerney, PLLC
Attention: Rebecca McNerney, Esq.
200 S. Broome Street
Waxhaw, North Carolina 28173
rebecca@rebeccamcnerneylaw.com

Re: *Doug Williamson v. Errick L. Williamson, et al.*, Case No. 23-ES-46-00002

Dear Rebecca:

I, on behalf of Petitioner Doug Williamson ("Petitioner" or "Doug"), have reviewed the discovery responses of Respondent Errick L. Williamson ("Respondent" or "Errick") propounded by your office and served via electronic mail on Thursday, October 20, 2023. In short, the discovery answers and responses are insufficient. In addition, many of the objections raised by Respondent are not well-founded pursuant to the South Carolina Rules of Civil Procedure and South Carolina law. This correspondence addresses some of those deficiencies more fully below. Please accept this correspondence as Petitioner's request for Respondent to supplement the answers and responses in line with our comments below.

Interrogatory No. 3

Interrogatory No. 3 is a standard interrogatory seeking the identification of photographs, plats, sketches, or other prepared documents "in possession of the Respondent or Respondent's Counsel" relating to the claims of this action. In your response, you object to this Interrogatory as overbroad, positing "this Defendant cannot be expected to know, at this time, each document that 'relate' to this Defendant's defenses" or the claims of this action. This Interrogatory does not request or require you or your client to know each document in existence that relate to the claims or defenses of this action. It requests that you review the documents in your or your client's possession and, if they are relevant to the claims or defenses of this action, to describe them. Further, the term "relate" is defined in the Interrogatories served on your office.

Given your client's residence in the home of John Dale Williamson ("Decedent"), his exertion of control over the financial and healthcare affairs of the Decedent in 2022, and his appointment to and occupation of the position of personal representative, it does not stand to reason he would be in possession of no documents related to this matter. In the event your client is in possession of electronic correspondence – emails or text messages – responsive to this Interrogatory, he is reminded of his ongoing obligation to maintain and not destroy such evidence.

Please supplement Respondent's response to this Interrogatory by Friday, November 3, 2023, or confirm in writing that he does not, in fact, have a single document in his possession related to the claims or defenses of this action.

Interrogatory No. 5

Interrogatory No. 5 requests Respondent's employment history over the last five (5) years, including the name of his employer(s), his direct supervisor(s), his salary, the length of his employment, and the reason his employment ended. In response, you object to provision of your client's salary information. Additionally, you fail to identify your client's employment history, as outlined above, for five years. Your response encompasses less than three years, and you provide no explanation for the reason(s) your client's employment terminated.

This information is germane to the action and discoverable. The claims against your client include Undue Influence, *Executor de son tort*, Removal of Personal Representative, and a demand for attorneys' fees. Each of these claims require, explicitly or implicitly, that Petitioner establish your client's motive in, *inter alia*, procuring the execution or the forgery of the Last Will and Testament of John Dale Williamson ("Will"). Your client's employment history, and therefore his ability or inability to support himself financially, is germane to his motives in procuring the execution of the Will by undue influence or, in the alternative, through forgery. It is also germane to the existence of grounds for the Court to award attorneys' fees under S.C. Code Ann. § 62-1-111.

Please supplement Respondent's response to this Interrogatory by Friday, November 3, 2023.

Interrogatory No. 8

Interrogatory No. 8 requests that Respondent "describe [his] communications with the two witnesses to the Will, including the date and method of the communication." You object to this Interrogatory as overbroad, as no time period limitation is provided. You further object on the ground that you cannot ascertain the meaning of the phrase "communications."

Petitioner will limit the request to communications between Respondent and the witnesses to the Will – Jeff Hawkins and Kaleb Kidd – from January 1, 2022 to present relating to the Will, the execution of the Will, the Decedent, the health of the Decedent, the death of the Decedent, the Estate of John Dale Williamson ("Estate"), any assets of the Estate, and this litigation. Additionally, we provide the below definition of the word "communications":

"Communications," "correspondence," or the like means any transmission, conveyance, or exchange of information, words, or ideas, whether by written, oral, electronic, or other means, including, but not limited to, any meeting, discussion, contact, conference, telephone conversation, text message, electronic or instant message, email, internet posting, letter, memorandum, document, message, facsimile, or other form of written or oral transmission or exchange.

The requested information is directly relevant to the claims of Undue Influence, Failure of Due Execution, *Executor de son tort*, and Attorneys' Fees. In the event your client is in possession of electronic correspondence – emails or text messages – responsive to this Interrogatory, he is reminded of his ongoing obligation to maintain and not destroy such evidence.

Please supplement Respondent's response to this Interrogatory by Friday, November 3, 2023.

Interrogatory No. 10

Interrogatory No. 10 requests that Respondent "[i]dentify communications with the Decedent authorizing withdrawals from his personal bank account for the Respondent's use, including the date and method of communications." You object to this Interrogatory, stating "Petitioner's Petition seeks only to set aside the Will. Accordingly, the information requested in this Interrogatory is neither relevant nor likely to lead to the discovery of admissible evidence."

As noted above, Petitioner's Petition seeks more than the setting aside of the Will. The Petition also seeks removal of Respondent as personal representative, the recovery of damages for *Executor de son tort*, and recovery of Attorneys' Fees. The requested information is directly relevant to the claim for *Executor de son tort* and Respondent's removal as personal representative, and is, at least, circumstantially related to Petitioner's other claims. Further, the requested information is directly related to the issue of damages, as any assets converted by Respondent prior to Decedent's death are recoverable by the Estate for the benefit of the beneficiaries.

Please supplement Respondent's response to this Interrogatory by Friday, November 3, 2023.

Interrogatory No. 12

Interrogatory No. 12 requests that Respondent "[i]dentify [his] communications with third parties regarding the Will or the Decedent's capacity to write a will, including the date and method of communication. You object to this Interrogatory, first, as "overbroad in scope and relevant time period."

The scope of this Interrogatory is sufficiently tailored to the needs of this action, which directly involves Decedent's capacity to make a will, or the lack thereof. Further, the timeframe for this Interrogatory is not overly broad. By his own response to Interrogatory No. 9, Respondent states Decedent first discussed executing a will in the summer of 2022. Further, people generally do not seek advice on the capacity of another to make a will on a frequent basis, and the identification of any such instances by Respondent should not be unreasonably taxing.

Next, you object to this Interrogatory on the grounds of privilege, including "legal" and "marital" privilege. First, you have established that any attorney-client privilege exists. In the event you claim that Respondent, and not Decedent, was the client in attorney-client relationship related to Decedent's capacity to write a will, please provide sufficient information in support of such claim. Second, there is no blanket "marital" privilege in South Carolina civil cases. While a limited

privilege exists as to “confidential” communications, you must provide basic facts establishing the applicability of such privilege.

Finally, if you claim any response to this Interrogatory is protected by the attorney-client privilege, you are required by the instructions provided by my office and the South Carolina Rules of Civil Procedure to provide a privilege log in response. You have provided no such privilege log.

Please supplement Respondent’s response to this Interrogatory by Friday, November 3, 2023.

Interrogatory No. 13

Interrogatory No. 13 requests that Respondent “[i]dentify any payments [he] has received since Decedent’s death, from insurance, annuities, or otherwise” You object to this Interrogatory on the grounds that it is “overbroad in scope” because “[p]ayments received by this Defendant from sources totally unrelated to the Decedent or the Estate have no relevance to the issues in this litigation and are not discoverable.”

This Interrogatory is not overbroad in scope. The Will that Petitioner alleges Respondent procured by undue influence and/or forged specifically cites “life insurance policies” as an asset to which Respondent is entitled to. The drafter of the Will placed insurance policies directly in issue. Therefore, any insurance payments received by Respondent under the challenged Will are directly relevant to this action. Additionally, given the claims against Respondent, information related to other assets of the Decedent potentially procured by fraud or undue influence are also relevant.

Please supplement Respondent’s response to this Interrogatory by Friday, November 3, 2023.

Interrogatory No. 15

Interrogatory No. 15 requests that Respondent “[i]dentify any and all withdrawals, deposits, or other activity taken by you with regard to the accounts [of the Decedent] since November 29, 2022. You object on the ground that “Petitioner’s Petition seeks only to set aside the Will. Accordingly, the information requested in this Interrogatory is neither relevant nor likely to lead to the discovery of admissible evidence.”

As noted above, Petitioner’s Petition seeks more than the setting aside of the Will. The Petition also seeks removal of Respondent as personal representative, the recovery of damages for *Executor de son tort*, and recovery of Attorneys’ Fees. The requested information is directly relevant to the claim for *Executor de son tort* and Respondent’s removal as personal representative, and is, at least, circumstantially related to Petitioner’s other claims. Further, the requested information is directly related to the issue of damages, as any assets converted by Respondent prior to Decedent’s death are recoverable by the Estate for the benefit of the beneficiaries.

Please supplement Respondent's response to this Interrogatory by Friday, November 3, 2023.

Interrogatory No. 18

Interrogatory No. 18 requests that Respondent "[p]rovide a list of any crime, other than minor traffic offenses, for which [he] has been arrested or convicted." You object to this Interrogatory on the grounds of "relevancy" and "privacy."

There is no blanket privilege for "privacy," and therefore it does not constitute a valid objection. The credibility of a party opponent is always relevant, and the requested information is germane to Respondent's credibility as a witness.

Please supplement Respondent's response to this Interrogatory by Friday, November 3, 2023.

Request for Production No. 2

Request for Production ("RPD") No. 2 requests "any and all documents and correspondence, including electronic communications, that [Respondent or his counsel] used, referenced, or identified in preparing responses" to these discovery requests. You object, citing the work product doctrine.

The work product doctrine protects documents prepared in anticipation of litigation or for trial. It does not protect documents that existed before the litigation or were produced for reasons after the institution of litigation for separate and distinct reasons. In the event you claim documents responsive to this RPD exist and are protected by the work product or any other privilege, the instructions in Petitioner's discovery requests and the South Carolina Rules of Civil Procedure require the production of a privilege log. Respondent has produced no such privilege log.

Please supplement Respondent's response to this RPD by Friday, November 3, 2023.

Request for Production No. 6

RPD No. 6 requests "any and all notes, memoranda, letters, text messages, emails, and other tangible or intangible materials which in any way relate to the claims or defenses in this action." You object on the grounds of the work product doctrine and overbreadth.

The work product doctrine protects documents prepared in anticipation of litigation or for trial. It does not protect documents that existed before the litigation or were produced for reasons after the institution of litigation for separate and distinct reasons. In the event you claim documents responsive to this RPD exist and are protected by the work product or any other privilege, the instructions in Petitioner's discovery requests and the South Carolina Rules of Civil Procedure require the production of a privilege log. Respondent has produced no such privilege log.

The request is not overbroad. It specifically limits the request to those documents related to the claims or defenses in this action. The objection of overbreadth essentially equates to an objection for irrelevance, as the South Carolina Rules of Civil Procedure limits the scope of discovery to materials that are relevant or reasonably calculated to lead to the discovery of materials that are admissible at trial. Therefore, your objection for overbreadth is not a valid objection.

Please supplement Respondent's response to this RPD by Friday, November 3, 2023.

Request for Production No. 8

RPD No. 8 requests "copies of all communications, electronic or otherwise, between you and the witnesses to the Will from January 1, 2022 through the present." You respond simply with "none."

Given your objection to Interrogatory No. 8, it seems unlikely that there are no communications whatsoever between Respondent and the witnesses to the Will. In the event there are, in fact, zero communications responsive to this RPD, please confirm in writing. If there were communications responsive to this RPD that have been destroyed, please state as much in writing, along with the date and reason for the deletion.

Please supplement Respondent's response to this RPD by Friday, November 3, 2023, or confirm in writing that he does not, in fact, have a single document in his possession responsive to this RPD.

Request for Production No. 12

RPD No. 12 requests "copies of all communications, electronic or otherwise, between you and any third party relating to the Decedent, the Will, and/or the Estate from January 1, 2022." You respond simply with "none."

It seems unlikely that there are no communications whatsoever between Respondent and any third party related to the Decedent, the Will, and/or the Estate, especially given your response to Interrogatory No. 13. In the event there are, in fact, zero communications responsive to this RPD, please confirm in writing. If there were communications responsive to this RPD that have been destroyed, please state as much in writing, along with the date and reason for the deletion.

Please supplement Respondent's response to this RPD by Friday, November 3, 2023, or confirm in writing that he does not, in fact, have a single document in his possession responsive to this RPD.

Request for Production No. 13

RPD No. 13 requests "copies of monthly statements for all bank accounts owned by you from November 19, 2022, through present." You object on grounds of "relevancy" and "privacy."

Again, there is no blanket objection for “privacy,” and this is not a valid objection. Further, the documents requested are directly relevant to the claims in this action, particularly Petitioner’s claim for *Executor de son tort*. In that claim, Petitioner alleges that Respondent acquired property of the Decedent in a fraudulent manner. A review of Respondent’s monthly statement will confirm or deny any such transfers occurred through such accounts.

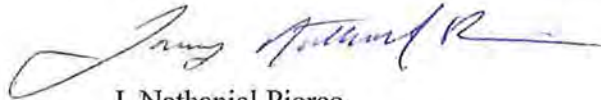
Please supplement Respondent’s response to this RPD by Friday, November 3, 2023.

In a good faith attempt to avoid the need for Court intervention to resolve disputes related to Respondent’s deficient answers and responses, Petitioner requests that Respondent remedy the deficiencies by serving supplemental answers and responses as requested herein on or before Friday, November 3, 2023. Please do not hesitate to contact me if you wish to discuss the necessity for supplemental answers and responses.

Thank you for your kind consideration to this matter.

Sincerely,

JOHNSTON, ALLISON & HORD, P.A.

A handwritten signature in blue ink, appearing to read "J. Nathaniel Pierce", is written over a horizontal line.

J. Nathaniel Pierce

FILED RECEIVED

STATE OF SOUTH CAROLINA 2023 NOV -6 PM 3:45 THE PROBATE COURT

COUNTY OF YORK

CAROLINE E. WOODRUFF

JUDGE OF PROBATE

In re: Estate of John Dale Williamson YORK COUNTY, SC Case Number: 2023-ES-46-00002

Doug Williamson,

Petitioner,

v.

Errick L. Williamson, individually;
Errick L. Williamson, as personal
representative of the Estate of John Dale
Williamson; Derrick Williamson; Robin
Beckler,

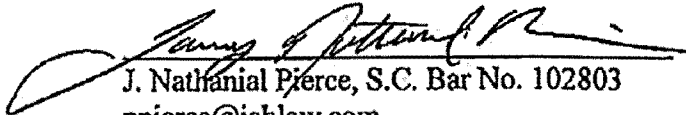
Respondents.

**MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Petitioner Doug Williamson ("Petitioner" or "Doug"), by and through the undersigned counsel, hereby moves the Court for partial summary judgment on Petitioner's fifth cause of action, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure ("SCRCP"). Petitioner files a separate Memorandum in Support contemporaneously with this Motion.

Respectfully Submitted,

JOHNSTON, ALLISON & HORD, P.A.



J. Nathaniel Pierce, S.C. Bar No. 102803

npierce@jahlaw.com

1065 E. Morehead Street

Charlotte, North Carolina 28204

Telephone: (704) 332-1181

Counsel for Petitioner

November 1, 2023
Charlotte, North Carolina

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing **Motion for Partial Summary Judgment** was served upon the below on November 1, 2023 via U.S. Mail to the following addresses:

Law Office of Rebecca McNerney, PLLC
Attention: Rebecca McNerney, Esq.
200 S. Broome Street
Waxhaw, North Carolina 28173
Counsel for Respondent Errick Williamson

Derrick Williamson
1154 Deas Street
Rock Hill, South Carolina 29732

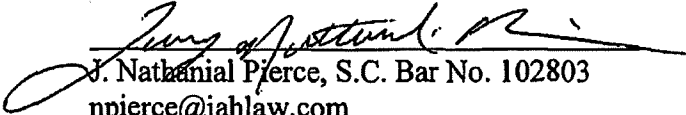
Robin Beckler
300 Thomasboro Road SW
Calabash, North Carolina 28467

Nephrology Associates
1436 Riverchase Boulevard
Rock Hill, South Carolina 29732

Holcombe Bomar, P.A.
Attention: Chance Farr, Esq.
410 South Herlong Avenue, Suite 102
Rock Hill, South Carolina 29732
*Counsel for Amisub of South Carolina, Inc.
d/b/a Piedmont Medical Center*

Bank of America, N.A.
c/o CT Corporation System
2 Office Park Court, Suite 103
Columbia, South Carolina 29223

JOHNSTON, ALLISON & HORD, P.A.


J. Nathaniel Pierce, S.C. Bar No. 102803
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Charlotte, North Carolina 28204
Telephone: (704) 332-1181
Counsel for Petitioner

November 1, 2023
Charlotte, North Carolina

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STATE OF SOUTH CAROLINA IN THE PROBATE COURT
2023 NOV -6 P 5:44
COUNTY OF YORK CAROLYN E. WOODRUFF
JUDGE OF PROBATE
In re: Estate of John Dale Williamson Case Number: 2023-ES-46-00002
YORK COUNTY, SC

Doug Williamson,

Petitioner,

v.

Errick L. Williamson, individually;
Errick L. Williamson, as personal
representative of the Estate of John Dale
Williamson; Derrick Williamson; Robin
Beckler,

Respondents.

**MEMORANDUM IN SUPPORT OF
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Petitioner Doug Williamson ("Petitioner" or "Doug"), by and through the undersigned counsel, submits this Memorandum in Support of his Motion for Partial Summary Judgment, filed contemporaneously herewith, and would show unto this Honorable Court the following:

STANDARD OF REVIEW

Summary judgment is appropriate when it is clear there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. *Baird v. Charleston County*, 333 S.C. 519, 520, 511 S.E.2d 69, 74 (1999); Rule 56(c), South Carolina Rules of Civil Procedure ("SCRCP"). The proper standard for a party opposing a motion for summary judgment is the "genuine issue of material fact" standard. *Kitchen Planners, LLC v. Friedman*, 2023 S.C. LEXIS 164, at *8 (August 23, 2023). The nonmoving party must do more than simply show there is some metaphysical doubt as to the material facts, and they must come forward with *specific facts* showing there is a genuine issue of material fact for trial. *See Baughman v. American Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991) (emphasis added). Rule 56(e) specifically prohibits the nonmoving party from resting upon the mere allegations or denials of its pleadings. *Id.*; Rule 56(e), SCRCP. In ruling on a motion for

summary judgment, the Court may consider the pleadings, depositions, interrogatory answers, admissions, and affidavits in determining whether there is a genuine issue of fact for trial. *See Thomas v. Waters*, 315 S.C. 524, 526, 445 S.E.2d 659, 661 (Ct. App. 1994) (citing *Dickert v. Metropolitan Life Ins. Co.*, 306 S.C. 311, 313, 411 S.E.2d 672, 673 (Ct. App. 1993)).

FACTUAL BACKGROUND

Petitioner's Motion for Partial Summary Judgment focuses on the viability, or lack thereof, of the Last Will and Testament (the "Will") of John Dale Williamson ("Decedent" or "Dale"), dated November 24, 2022, and submitted to this Court by Respondent Errick L. Williamson ("Respondent" or "Errick") on January 3, 2023. A copy of the Will is attached hereto as Exhibit A. Doug is one of Dale's three surviving siblings, along with Respondents Derrick Williamson ("Derrick") Robin Beckler ("Robin"). Dale was not married, nor did he have any children. Respondent is Dale's adult nephew. Derrick is Respondent's father.

Dale suffered from Parkinson's disease. As an unfortunate result, Dale was not of sound mind in the final months of his life and relied heavily on the assistance of others to accomplish daily tasks. During the last six to eight weeks of Dale's life, the advanced nature of his disease left him bedridden and unable to care for himself. Errick and Derrick allege to have been caring for Dale during this time. Errick moved into Dale's house, located at 1153 Deas Street, Rock Hill, South Carolina (the "Property") and asserted control over Dale's medical, legal, and financial affairs. Errick required Dale's family to schedule their visits and restricted their access to Dale.

Starting on May 20, 2022, Dale received in-home hospice care at the Property through Agape Care, Inc. ("Agape"). Dale received regular visits from Agape home health aides, nurses, and social workers during this time. In the final months of his life, Dale received a substantial amount of palliative medication. Dale passed away due to complications from Parkinson's disease on November 29, 2022. A copy of Dale's Death Certificate is attached hereto as Exhibit B.

Following Dale's death, Doug and his wife, Crystal Williamson ("Crystal"), attempted to discuss the disposition of Dale's Estate with Errick. Errick repeatedly represented to Doug and Crystal that Dale did not have a will. Despite these repeated representations, Errick filed the Will with the York County, South Carolina Probate Court on January 3, 2023. Simultaneously, Errick sought and received appointment as the personal representative of Dale's estate (the "Estate"). The first time Doug and Crystal learned of the Will was when they received a letter from Errick containing an Information to Heirs filing.

In the Will, Errick stands to take eighty percent of Dale's Residual Estate, defined in the Will as "real and personal property wherever situated including any life insurance policies" Derrick stands to take the other twenty percent of Dale's Residual Estate. The Will specifically excludes Crystal, even though she is not an heir of the Estate. Upon information and belief, no attorney drafted the Will. This is apparent, as the Will specifically excludes non-heirs and purports to devise non-probate assets, like life insurance policies. Prior to his death, and months before Dale allegedly signed the Will, Errick and Derrick took Dale to an attorney who ultimately refused to write and execute a will for Dale given his apparent lack of capacity.

Dale purportedly signed the Will on November 24, 2022, only days before his death, at a time when he was under full-time hospice care and receiving near-constant palliative medication. Dale was not of sound mind on November 24, 2022, nor was he capable of understanding or knowing the extent of his estate, the objects of his affection, or to whom he wished to give his property.

ARGUMENT

I. The Will is invalid for lack of due execution.

Respondent is unable to show that Dale signed the Will, or instructed another individual to sign the Will in his name at his direction, and therefore the Will is invalid for failure of due execution. Proponents of a will have the burden of establishing prima facie proof of due execution in all cases.

S.C. Code Ann. § 62-3-407 (2013, as amended). The South Carolina Probate Code (the “Code”) requires every will to be (1) in writing; (2) signed by the testator or signed in the testator’s name by some other individual in the testator’s presence and by the testator’s direction; and (3) signed by at least two individuals, each of whom witnessed either the signing or the testator’s acknowledgment of the signature of the will. S.C. Code Ann. § 62-2-502 (Supp. 2020).

On August 30, 2023, Doug served Respondent with Interrogatories and Requests for Production pursuant to Rules 33 and 34, SCRCPP. Respondent’s response to the Interrogatories and RFP’s came due on Wednesday, October 4, 2023. On August 31, 2023, Doug served Respondent with Requests for Admission pursuant to Rule 36, SCRCPP. Respondent’s response to the Requests for Admission came due on Thursday, October 5, 2023.¹ Petitioner’s Interrogatories, Requests for Production, and Requests for Admission are attached hereto as Exhibit C. Respondent failed to answer, object, or otherwise respond within the time prescribed to the Interrogatories, Requests for Production, or Requests for Admission. Rule 36, SCRCPP, provides in pertinent part:

Each matter of which an admission is requested shall be separately set forth . . . [t]he matter is admitted unless, within 30 days after service of the request . . . the party to whom the request is directed serves upon the party requesting the admission a written answer or objection address to the matter

Doug’s ninth Requests for Admission requests that Respondent admit “John Dale Williamson did not sign [the Will].” Because Respondent failed to timely respond to this or any Request for Admission propounded by Doug, the fact that Dale did not sign the Will is deemed admitted. Accordingly, Respondent cannot make a prima facie or substantive showing of the Will’s due execution.

Admittedly, Respondent’s failure to timely respond to Petitioner’s Requests for Admission may not be dispositive in and of itself. The Code provides execution can be established where a will

¹ Pursuant to Rules 33, 34, and 36, SCRCPP, Respondent had thirty days from the date of service to answer, object, or otherwise respond. Pursuant to Rule 6(e), SCRCPP, and because Petitioner served the Discovery Requests by mail, Respondent’s time to respond increased to thirty-five days.

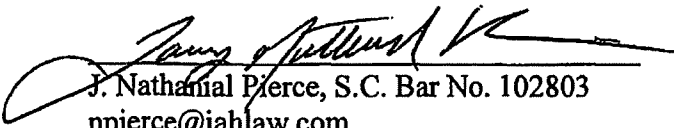
is “signed in the testator’s name by some other individual in the testator’s presence and by the testator’s direction.” S.C. Code Ann. § 62-2-502 (Supp. 2020). However, in Errick’s untimely responses to Doug’s Requests for Admission, he denies “John Dale williamson did not sign [the Will].”² A copy of Errick’s untimely responses to Doug’s Requests for Admission are attached hereto as Exhibit D. Additionally, in response to paragraphs 26, 31, 41, 49, and 50 of the Petitioner, Errick similarly alleges Dale signed the Will himself. As such, Errick is estopped from reversing course and arguing that he or someone else signed the Will on Dale’s behalf.

CONCLUSION

For the reasons set forth above, Doug requests this Court enter summary judgment in his favor on his fifth cause of action, finding the Will invalid for want of due execution. Further, Doug requests that his attorneys’ fees and costs to be awarded pursuant to S.C. Code Ann. § 62-1-111.

Respectfully Submitted,

JOHNSTON, ALLISON & HORD, P.A.



J. Nathaniel Pierce, S.C. Bar No. 102803
npierce@jahlaw.com
1065 E. Morehead Street
Charlotte, North Carolina 28204
Telephone: (704) 332-1181
Counsel for Petitioner

November 1, 2023
Charlotte, North Carolina

² Errick’s responses to Doug’s Requests for Admission were untimely and therefore ineffective to constitute a denial. However, this response does clearly establish Errick’s position that Dale, himself, signed the Will.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing **Memorandum in Support of Motion for Partial Summary Judgment** was served upon the below on the November 1, 2023, via U.S. Mail to the following addresses:

Law Office of Rebecca McNerney, PLLC
Attention: Rebecca McNerney, Esq.
200 S. Broome Street
Waxhaw, North Carolina 28173
Counsel for Respondent Errick Williamson

Derrick Williamson
1154 Deas Street
Rock Hill, South Carolina 29732

Robin Beckler
300 Thomasboro Road SW
Calabash, North Carolina 28467

Nephrology Associates
1436 Riverchase Boulevard
Rock Hill, South Carolina 29732

Holcombe Bomar, P.A.
Attention: Chance Farr, Esq.
410 South Herlong Avenue, Suite 102
Rock Hill, South Carolina 29732
*Counsel for Amisub of South Carolina, Inc.
d/b/a Piedmont Medical Center*

Bank of America, N.A.
c/o CT Corporation System
2 Office Park Court, Suite 103
Columbia, South Carolina 29223

JOHNSTON, ALLISON & HORD, P.A.


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1065 E. Morehead Street
Charlotte, North Carolina 28204
Telephone: (704) 332-1181
Counsel for Petitioner

November 1, 2023
Charlotte, North Carolina

FILED RECEIVED

Last Will and Testament

2023 JAN -3 A 10:41

ofCAROLYN E. WOODRUFF
JUDGE OF PROBATE
YORK COUNTY, SC**John Williamson**

I, John Williamson, with a place of residence at 1153 Deas st, Rock Hill, South Carolina, 29732, being of sound mind and not acting under duress or undue influence while fully understanding the nature and extent of all my property and of this disposition thereof, do hereby make, publish, and declare this document to be my Last Will and Testament, and hereby revoke any and all other wills and codicils heretofore made by me, Hereinafter known as the "Testator".

1. FAMILY IDENTIFICATION

I am not married.

I do not have any children.

2. EXCLUSIONS

It is my intention to exclude the following person(s) from receiving any distributions in association with this Last Will and Testament: Crystal Williamson

3. EXPENSES & TAXES

I direct that all my debts, and expenses of my last illness, funeral, and burial, be paid as soon after my death as may be reasonably convenient, and I hereby authorize my Personal Representative, hereinafter appointed, to settle and discharge, in his or her absolute discretion, any claims made against my estate to be first paid.

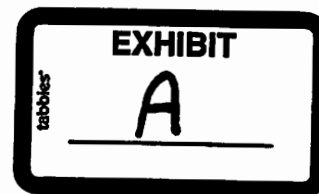
I further direct that my Personal Representative shall pay out of my estate any and all estate and inheritance taxes payable by reason of my death in respect of all items included in the computation of such taxes, whether passing under this Will or otherwise. Said taxes shall be paid by my Personal Representative as if such taxes were my debts without recovery of any part of such tax payments from anyone who receives any item included in such computation.

4. SPECIAL BEQUESTS

I shall have no special bequests under this Last Will and Testament with all property, personal and real, to be under my Residual Estate.

5. PERSONAL PROPERTY

I direct that all of my personal property that has not been directed as specific bequests or a part of my residual estate be distributed to Errick Williamson.

6. DIGITAL ASSETS

Page 1

I shall not have my social media accounts left with a representative. Therefore, after I die, all social media accounts that I have shall be left 'as-is'.

7. RESIDUAL ESTATE

I devise and bequeath my property, both real and personal wherever situated including any life insurance policies I may have to the following Two (2) Beneficiaries:

Erick Williamson who is my Nephew and entitled to 80% of my Residual Estate.

Derrick Williamson who is my brother and entitled to 20% of my Residual Estate.

8. OTHER PROPERTY

If there is any other property not part of the Residual Estate of Personal Property of this Last Will and Testament all other property should be transferred to Derrick Williamson.

9. PREDECEASE

If any other of my Beneficiaries have predeceased me, then any property that they would have received if they had not predeceased me shall be distributed to Chantel Williamson.

If any of my property cannot be readily sold and distributed, then it may be donated to any charitable organization or organizations of my Personal Representative's choice. If any property cannot be readily sold or donated, my Personal Representative may, without liability, dispose of such property as my Personal Representative may deem appropriate. I authorize my Personal Representative to pay as an administration expense of my estate the expense of selling, advertising for sale, packing, shipping, insuring and delivering such property.

10. OMISSION

Except to the extent that I have included them in this Will, I have intentionally, and not as a result of any mistake or inadvertence, omitted in this Will to provide for any family members and/or issue of mine, if any, however defined by law, presently living or hereafter born or adopted.

11. PERSONAL REPRESENTATIVE

I nominate and appoint Erick Williamson, of 1153 Deas st, Rock Hill, South Carolina, 29732 as Personal Representative of my estate and I request that he/she be appointed temporary Personal Representative if he/she applies.

There shall not be a Secondary Personal Representative. If the above-named individual cannot serve, then I shall desire a court-appointed Personal Representative to act on behalf of my intentions written in this last will and testament.

12. DISCRETIONARY POWERS OF PERSONAL REPRESENTATIVE

My Personal Representative, shall have and may exercise the following discretionary powers in addition to any common law or statutory powers without the necessity of court license or approval:

A. To retain for whatever period my Personal Representative deems advisable any property, including property owned by me at my death, and to invest and reinvest in any property, both real and personal, regardless of whether any particular investment would be proper for a Personal Representative and regardless of the extent of diversification of the assets held hereunder.

B. To sell and to grant options to purchase all or any part of my estate, both real and personal, at any time, at public or private sale, for consideration, whether or not the highest possible consideration, and upon terms, including credit, as my Personal Representative deems advisable, and to execute, acknowledge, and deliver deeds or other instruments in connection therewith.

C. To lease any real estate for terms and conditions as my Personal Representative deems advisable, including the granting of options to renew, options to extend the term or terms, and options to purchase.

D. To pay, compromise, settle or otherwise adjust any claims, including taxes, asserted in favor of or against me, my estate or my Personal Representative.

E. To make any separation into shares in whole or in part in kind and at values determined by my Personal Representative, with or without regard to tax basis, and to allocate different kinds and disproportionate amounts of property and undivided interests in property among the shares.

F. To make such elections under the tax laws as my Personal Representative shall deem appropriate, including elections with respect to qualified terminable interest property, exemptions and the use of deductions as income tax or estate tax deductions, and to determine whether to make any adjustments between income and principal on account of any election so made.

G. To make any elections permitted under any pension, profit sharing, employee stock ownership or other benefit plans.

H. To employ others in connection with the administration of my estate, including legal counsel, investment advisors, brokers, accountants and agents and to pay reasonable compensation in addition to my Personal Representative's compensation.

I. To vote any shares of stock or other securities in person or by proxy; to assert or waive any stockholder's rights or privilege to subscribe for or otherwise acquire additional stock; to deposit securities in any voting trust or with any committee.

J. To borrow and to pledge or mortgage any property as collateral; and to make secured or unsecured loans. My Personal Representative is specifically authorized to make loans without interest to any beneficiary hereunder. No individual or entity loaning property to my Personal Representative or trustee shall be held to see to the application of such property.

K. To work in absolute discretion and determine the allocation of any GST exemption available to me at my death to property passing under this Will or otherwise. The determination of my Personal Representative with respect to any elections or allocation, if made or taken in good faith, shall be binding upon all affected.

L. To make decisions and settle any and all claims against the Estate including any Beneficiaries that may contest their Residual Estate or this Last Will and Testament.

M. The Personal Representative shall not be compensated for their time and effort involved with this Last Will and Testament.

13. CONTESTING BENEFICIARY

If any beneficiary under this Will, or any trust herein mentioned, contests or attacks this Will or any of its provisions, any share or interest in my estate given to that contesting beneficiary under this Will is revoked and shall be disposed of in the same manner provided herein as if that contesting beneficiary had predeceased me.

A. I direct that the representation by a guardian ad litem of the interests of persons unborn, unascertained or legally incompetent to act in proceedings for the allowance of accounts hereunder be dispensed with to the extent permitted by law.

14. GENDER

Whenever the context permits, the term "Personal Representative" shall include "Executor" and "Administrator," the use of a particular gender shall include any other gender, and references to the singular or the plural shall be interchangeable. All references to the Internal Revenue Code shall mean the Internal Revenue Code of 1986 or any successor Code. All references to estate taxes shall include inheritance and other death taxes.

15. ASSIGNMENT

The interest of any beneficiary in this Will, shall not be alienable, assignable, attachable, transferable nor paid by way of anticipation, nor in compliance with any order, assignment or covenant and shall not be applied to, or held liable for, any of their debts or obligations either in law or equity and shall not in any event pass to his, her, or their assignee under any instrument or under any insolvency or bankruptcy law, and shall not be subject to the interference or control of creditors, spouses or others.

16. PET HEALTHCARE DIRECTIVE

I would like the following one (1) pet described as:

Name of Pet: Blacky **Type of Pet:** cat

Hereinafter known as the "Pets". The Pets are to be placed with Chantel Williamson of 1153 Deas st, Rock Hill, South Carolina, 29732, Hereinafter known as the 'Pet Guardian', and shall act as the caretaker of the Pets.

There shall not be any other individual I select to be a Pet Guardian. If the Pet Guardian is not able to serve then the Personal Representative will have the power to choose another individual to act in their place.

There shall be no funds appropriated to the Pet Guardian in this Last Will and Testament for the care of the Pets.

17. GOVERNING LAW

This document shall be governed by the laws of the state of South Carolina.

18. SPECIAL WISHES AND DIRECTIVES

I declare, in addition to the statements in this Last Will and Testament, the following Special Wishes and Directives:

i would like to be cremated

19. BINDING ARRANGEMENT

Any decision by my Personal Representative with respect to any discretionary power hereunder shall be final and binding on all persons interested. Unless due to my Executor's own willful default or gross negligence, no Executor shall be liable for said Executor's acts or omissions or those of any co-Executor or prior Executor.

I, the undersigned John Williamson, do hereby declare that I signed and executed this instrument as my last Will, that I signed it willingly in the presence of each of the undersigned witnesses, and that I executed it as my free and voluntary act for the purposes herein expressed, on this 24th day of NOVEMBER, 2022.

Testator Signature John Dale Williams

Printed Name: John Williamson

The foregoing instrument, on this 24 day of NOVEMBER, 20 22, subscribed on each page and at the end thereof by John Williamson, the above-named Testator, and by (him/her) signed, sealed, published and declared to be (his/her) LAST WILL AND TESTAMENT, in the presence of us and each of us, who thereupon, at (his/her) request, in (his/her) presence, and in the presence of each other, have hereunto subscribed our names as attesting witnesses thereto.

Jeff Hawkins
Witness Signature

Jeff Hawkins 10278 Silver Mine Rd. Fort Mill, SC 29707
Print Name & Mailing Address

Kaleb Kidd
Witness Signature

Kaleb Kidd 930 Dixon Rd Ellenboro NC 28040
Print Name & Mailing Address

TESTAMENTARY AFFIDAVIT

STATE OF NORTH CAROLINACOUNTY OF MECKLENBURG, SS.

Before me, the undersigned authority, on this day personally appeared John Williamson, as Testator, JEFF HAWKINS, KALEB KIDD as Witness, known to me to be the Testator and the Witnesses, respectively, whose names are signed to the attached or foregoing instrument, and, all of these persons being by me duly sworn, the Testator declared to me and to the Witnesses in my presence that the instrument is the Testator's Last Will and Testament and that the Testator has willingly signed or directed another to sign for him/her, and that the Testator executed it as their own free and voluntary act for the purposes therein expressed; and each of the Witnesses stated to me, in the presence of the Testator, that they signed the Last Will and Testament as Witnesses and that to the best of their knowledge the Testator was eighteen (18) years of age or over, of sound mind, and under no constraint or undue influence.

John Dale Williamson
Testator Signature

Jeff Hawkins
Witness Signature

Jeff Hawkins
Witness Print Name

Kaleb Kidd
Witness Signature

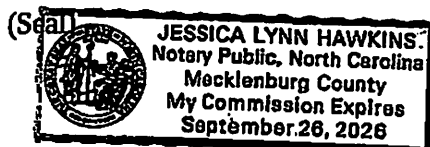
Kaleb Kidd
Witness Print Name

Subscribed and sworn to before me by the said Testator, John Williamson, and the

above listed witnesses this 24th day of NOVEMBER, 2022.

Notary Public Signature Jessica Lynn Hawkins JESSICA LYNN HAWKINS

My Commission Expires: 9-26-2026

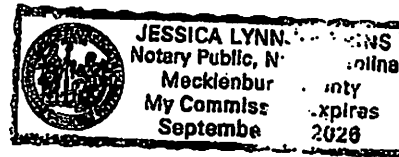


NOTARY ACKNOWLEDGMENTSTATE OF NORTH CAROLINAMECKLENBURG County, ss.

The undersigned, being a Notary Public certified in NORTH CAROLINA declares that, John Williamson, making this Durable Health Care Power of Attorney has dated and signed or marked it in my presence and appears to me to be of sound mind and free from duress. I further declare I am not related to John Williamson by blood, marriage, or adoption, or a person designated to make medical decisions on his/her behalf. I am not directly involved in providing health care to the person signing. I am not entitled to any part of his/her estate under a will now existing or by operation of law. In the event the person acknowledging this Durable Health Care Power of Attorney is physically unable to sign or mark this document, I verify that he/she directly indicated to me that this Durable Health Care Power of Attorney expresses his/her wishes and that he/she intends to adopt the Durable Health Care Power of Attorney at this time.

WITNESS MY HAND AND SEAL this 24th day of NOVEMBER, 2022

Jessica Lynn Hawkins
Notary Public

Print Name: JESSICA LYNN HAWKINSMy Commission Expires: 9-26-2020**WITNESS STATEMENT AND ACKNOWLEDGMENT**

I am not the person appointed as agent or successor agent in this medical power of attorney. I am not related to John Williamson by blood or marriage. I am not entitled to any portion of the John Williamson's estate, nor do I have any claim against their estate. I am not the attending physician of John Williamson or an employee of the attending physician. I am not involved in providing direct patient care to John Williamson and not an officer, director, partner, or business office employee of the health care facility or of any parent organization of the healthcare facility.

SIGNATURE OF THE FIRST WITNESSSignature: Jeff HawkinsPrint Name: Jeff Hawkins Date: 11-24-2022Address: 10278 Silver Mine Rd. Fort Mill, SC 29707**SIGNATURE OF THE SECOND WITNESS**Signature: Raleb Kidd

Print Name: Kaleb Kidd Date: 11/24/22
Address: 930 Dixon Rd, Ellenboro, NC, 28040

DEATH CERTIFICATION

139-2022-055245

* JOHN DALE WILLIAMSON *

AKA: N/A

DECEDENT INFORMATION

DATE OF DEATH: NOVEMBER 29, 2022
PLACE OF DEATH TYPE: DECEDENT'S HOME
PLACE OF DEATH NAME AND ADDRESS: 1153 DEAS STREET, ROCK HILL, SC, 29732
CITY OF DEATH: ROCK HILL
MARITAL STATUS: NEVER MARRIED
SURVIVING SPOUSE: N/A
MOTHER NAME: VIRGINA JUNE WILLIAMS
FATHER NAME: WILLIAM LEWIS WILLIAMSON
RESIDENCE: 1153 DEAS STREET, ROCK HILL, YORK COUNTY, SC, 29732

TIME OF DEATH: 0851

SOCIAL SECURITY NUMBER: [REDACTED]

COUNTY OF DEATH: YORK

DATE OF BIRTH: [REDACTED]

AGE: 70 YEARS

PLACE OF BIRTH: SOUTH CAROLINA

SEX: MALE

ARMED FORCES: NO

INFORMANT INFORMATION

NAME: ERRICK LEWIS WILLIAMSON
MAILING ADDRESS: 1153 DEAS STREET, ROCK HILL, SC, 29732

RELATIONSHIP: NEPHEW

DISPOSITION/FUNERAL HOME INFORMATION

PLACE: GRANDVIEW MEMORIAL PARK-CHERRY ROAD, ROCK HILL, SC, 29732
FUNERAL HOME: PARKER FUNERAL HOME
FUNERAL HOME ADDRESS: 870 SALUDA ST., ROCK HILL, SC, 29730
FUNERAL DIRECTOR NAME: EZZARD C PARKER
EMBALMER: N/A

METHOD: CREMATION

LICENSE NUMBER: 2084

LICENSE NUMBER: N/A

MEDICAL INFORMATION

CERTIFIER: MD ADEDIJI OLUDAYISI OSINLOYE
ADDRESS: 1053 CENTER STREET, WEST COLUMBIA, SC, 29169
CAUSE OF DEATH - PART I:
PARKINSON'S DISEASE

LICENSE NUMBER: 31254

MANNER OF DEATH: NATURAL

OTHER SIGNIFICANT CONDITIONS - PART II: HYPERTENSIVE HEART DISEASE

CORONER CONTACTED?: YES

DATE OF INJURY: N/A

LOCATION OF INJURY: N/A

PLACE OF INJURY: N/A

HOW INJURY OCCURRED: N/A

AUTOPSY PERFORMED?: NO

AUTOPSY AVAILABLE?: N/A

TIME OF INJURY: N/A

INJURY AT WORK?: N/A

DATE FILED: DECEMBER 02, 2022

DATE ISSUED: DECEMBER 05, 2022

AMENDMENT HISTORY

N/A

SC11047634

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

E. D. Simmer
Edward D. Simmer, MD, MPH, DFAPA
Director and State Registrar

Caleb N. Cox
Caleb N. Cox
Assistant State Registrar

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

Revision Date: 08/09/2022

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

EXHIBIT

B

STATE OF SOUTH CAROLINA

COUNTY OF YORK

In re: Estate of John Dale Williamson

Doug Williamson,

Petitioner,

v.

Errick L. Williamson, individually;
 Errick L. Williamson, as personal
 representative of the Estate of John Dale
 Williamson; Derrick Williamson; Robin
 Beckler,

Respondents.

IN THE COURT OF COMMON PLEAS

PROBATE COURT

Case Number: 2023-ES-46-00002

**PETITIONER'S FIRST
 INTERROGATORIES TO RESPONDENT
 ERRICK L. WILLIAMSON**

The Petitioner, Doug Williamson, ("Petitioner"), through the undersigned counsel, hereby serves the following Interrogatories and Requests for Production set forth below and requires the Respondent, Errick Williamson ("Respondent"), to serve a copy of his responses upon the undersigned counsel within thirty (30) days after service hereof, exclusive of the day of service in accordance with Rules 26, 33, and 34 of the South Carolina Rules of Civil Procedure.

DIRECTIONS AND INSTRUCTIONS

1. "You" and "your" and "Respondent(s)" refers to Errick Williamson, and includes any and all agents, servants, and employees of Errick Williamson.
2. "Decedent" refers to John Dale Williamson.
3. "Estate" refers to the Estate of John Dale Williamson pending in the York County, South Carolina Probate Court.
4. "Request" refers to any Interrogatory, Request for Production of Document, or Request for Admission.
5. "Person" shall be deemed to include, in the plural as well as singular, any natural person, firm, association, partnership, joint venture, corporation, or other legal entity, unless the

context otherwise indicates.

6. "Possession, custody and control" of documents means possession, custody, or control or right to possession, custody, or control, by you, your attorneys, employees, officers, representatives, agents, and all other persons acting or purporting to act on your behalf.
7. "Documents" means all written or printed matter of any kind, including the original and all non-identical copies, different from the originals by reason of any notation made on such copies or otherwise, including, but not limited to, any correspondence, memoranda, notes, diaries, statistics, letters, emails, text messages, documents stored electronically on computer hard drives or servers, documents generated or received on Facebook and Twitter accounts or any other type of social or business internet networking account, or on YouTube, telegrams, telexes, teletypes, telefax, telecopies, minutes, agendas, contracts, reports, studies, surveys, statements, receipts, returns, summaries, pamphlets, books, prospectuses, interoffice and intra office communications, offers, notations of any sort of conversations, including telephone conversations and meetings, bulletins, computer printouts and records, invoices, worksheets, accountant notes, work papers, and all drafts, alterations, modifications, changes and amendments of any kind and, in addition thereto, any graphic or manual records, or representations of any kind including, without limitation, photographs, charts, graphs, microfiche, microfilm, video tape, records, and motion pictures, and electronic or mechanical records or representations of any kind, including without limitation tapes, cassettes, discs, CD's, DVD's, and recordings or the hard copies thereof or other data compilations. If such documents consist of other data compilations, they shall be translated by You into a reasonable usable form through appropriate means.
8. "All documents" means every document as defined above, which is in your possession, custody or control and includes documents which are not in your possession, custody or control which are known to you and which can be located or discovered by reasonable diligent efforts.
9. "Including" means including but not by way of limitation.
10. "Related," "relates" or "relating to" means constituting, comprising, evidencing, containing, setting forth, showing, disclosing, describing, explaining, summarizing, concerning, or referring to, directly or indirectly.
11. "Identify," "identification" or to "give the identity of" means:
 - (a) In the case of an individual to state his or her name, present or last known residence, present or last known telephone number, business affiliations, business address, job description, and if different from the latter, the last position held with You, and if applicable, the date the individual was last employed by or for You;
 - (b) In the case of a document, whether or not such document is deemed to be privileged, objectionable or subject to any claims of privilege, to provide the following information:
 - (1) the title or other means of identification of each such document;

- (2) the subject matter of each such document;
 - (3) the date each such document was prepared;
 - (4) the identity of the person or persons who prepared each such document;
 - (5) the identity of the person or persons receiving the document or for whom such document was prepared as well as the identity of each person receiving copies of the said document;
 - (6) the present location of any and all copies of each such document in Your possession, custody or control and if such copies are electronically stored, the particular device upon which each is stored with reference to a document number or computer directory file path to facilitate recovery of same;
 - (7) the identity of any and all persons who have custody or control of each such document or copies thereof;
 - (8) Whether You claim any privilege or other reason for non-production with respect to each such document or copies thereof, and if so, the factual and legal basis for the alleged privilege or non-production. In lieu of the foregoing, a copy of each such document may be supplied but said copy must indicate to which interrogatory it relates.
- (c) If any requested document existed at one time and was in Your possession, custody or control but has been lost, discarded or destroyed, or removed from Your possession, custody or control, indicate for each such document:
- (1) The identity of the document and a description of its contents indicating its dates, title and type of document;
 - (2) When the document was most recently in Your possession, custody or control and what disposition was made of it.
12. Identify any person who currently possesses the document.
13. Plaintiff is required to answer fully and in writing, each of the following Requests and to serve a copy of the answers on counsel for Defendant thirty (30) days after service of the Requests.
14. State any objections to any Request with specificity.
15. As to any Request that you refuse to answer or are unable to answer, in whole or in part, for any reason, please state the reasons for your refusal or inability to answer. When you believe a complete answer to a particular Request or part of the Request is not possible, please answer each Request to the extent possible and furnish a statement explaining: (a)

the reason for your inability to answer further; and (b) what information or knowledge you do have concerning the unanswered portion.

16. Furnish all responsive information which is available to you and known to you, including any information in your possession or in the possession of your agents and/or attorneys.
17. Please retype each Request before answering. When Requests contain sub-parts, indicate in your answer the sub-part to which each particular part of your answer is responsive.
18. The conjunction "or" as used in these Requests should not be read to limit part of the Request but, whenever applicable, it should have the same meaning as the word "and." For example, a Request stating "support or refer" should be read as "support and refer" if an answer that does both can be made.
19. These Requests are continuing in nature and require supplemental answers in the event you or any other person acting on your behalf become aware of additional information between the time your answers are given and the time of trial that render your answers no longer true, accurate or complete.
20. When these Requests require that you identify a communication, if any part of the communication was written, identify the document or documents that refer to or evidence the communication and, to the extent that the communication was not transcribed or written, identify the date and time when the unwritten communication occurred, the place where the communication occurred, a narrative statement of the subject matter of the communication, and the identity of each person who was a party to the unwritten communication.
21. If any or all documents identified in your answers to these Requests are no longer in your possession, custody or control because of destruction, loss or any other reason, then please follow the instructions in sub-parts (a)- (e) below for each such document:
 - (a) describe the nature of the document (e.g., letter or memorandum);
 - (b) state the date of the document;
 - (c) identify the person(s) who sent and received the original and/or any copy of the document;
 - (d) state and detail the contents of the document; and
 - (e) state the manner and date of disposition of the document and without limitation, describe what disposition was made of it, the person responsible for making the decision regarding the disposition, and the person responsible for carrying out the disposition.

INTERROGATORIES

1. Given the names and addresses of persons known to the Respondent or Respondent's counsel to be witnesses concerned the facts of this case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

RESPONSE:

2. For each person known to the Respondent or Respondent's counsel to be a witness concerning the facts of this case, set forth either a summary sufficient to inform Petitioner of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

RESPONSE:

3. Set forth a list of photographs, plats, sketches, or other prepared documents in possession of the Respondent or Respondent's counsel, that relate to the claim or the defense in the case.

RESPONSE:

4. List the names and addresses of any expert witnesses whom the Respondent proposes to use as a witness at the trial of the case and state the subject matter of such witnesses' proposed testimony and a summary of the grounds or facts supporting any opinions expressed.

RESPONSE:

5. Describe your employment over the last five (5) years, including:
 - a. The name of the employer.
 - b. Your direct supervisor.

- c. Your salary.
- d. The length of your employment.
- e. The reason your employment ended.

RESPONSE:

6. Provide the names and addresses of the two witnesses to the Will.

RESPONSE:

7. Describe your relationship with the two witnesses to the Will.

RESPONSE:

8. Describe your communications with the two witnesses to the Will, including the date and method of the communications.

RESPONSE:

9. Identify your communications with the Decedent regarding the Will, including the date and method of the communications.

RESPONSE:

10. Identify your communications with the Decedent authorizing withdrawals from his personal bank account for the Respondent's use, including the date and method of the communications.

RESPONSE:

11. Identify any medical provider who provided care or services to Decedent including a description of the care or services provided and the dates during which the care or services were provided.

RESPONSE:

12. Describe your communications with third parties regarding the Will or the Decedent's capacity to write a will, including the date and method of the communications.

RESPONSE:

13. Identify any payments you have received since Decedent's death, from insurance, annuities, or otherwise, including the name of the person or entity that issue the payment, the date you received the payment, the amount of the payment, the form of the payment, and the account(s) into which you deposited the payment.

RESPONSE:

14. Identify any bank account known to you to be owned, in whole or in part, by the Decedent, including the financial institution housing the account, the full account number, and the owner(s) of the account.

RESPONSE:

15. Describe any and all withdrawals, deposits, or other activity taken by you with regard to the accounts listed in responses to Interrogatory No. 13 since November 29, 2022.

RESPONSE:

16. Identify any personal and/or real property of the Decedent you have sold, given away, donated, or otherwise transferred since November 29, 2022.

RESPONSE:

17. Provide a list of the Decedent's assets, including a description of each asset, the purported value, and the location.

RESPONSE:

18. Provide a list of any crime, other than minor traffic offenses, for which you have been arrested and/or convicted.

RESPONSE:

19. Provide a list of any lawsuit to which you have been a party or witness.

RESPONSE:

REQUESTS FOR PRODUCTION

1. Produce any and all evidence and documents, including electronic communications, which you intend to introduce or to be put into evidence at trial.

RESPONSE:

2. Produce any and all documents and correspondence, including electronic communications, that you or your counsel used, referenced, or identified in preparing responses to Petitioner's discovery requests.

RESPONSE:

3. Produce a complete and legible copy of any and all reports or summaries prepared by any expert witnesses with whom you or counsel consulted in connection with this case.

RESPONSE:

4. Produce all documents that you or counsel have received from any third party, by subpoena or otherwise, in connection with this case.

RESPONSE:

5. Produce a complete and legible copy of any and all written statements prepared by witnesses in connection with this case.

RESPONSE:

6. Produce copies of any and all notes, memoranda, letters, text messages, emails, and other

tangible or intangible materials which in any way relate to the claims or defenses in this action.

RESPONSE:

7. Produce copies of all medical records reflecting the care or services rendered by the medical providers listed in response to Interrogatory No. 11.

RESPONSE:

8. Produce copies of all communications, electronic or otherwise, between you and the witnesses to the Will from January 1, 2022, through present.

RESPONSE:

9. Produce copies of all communications, electronic or otherwise, between you and the Decedent from January 1, 2022, through the time and date of Decedent's death.

RESPONSE:

10. Produce copies of all communications, electronic or otherwise, between you and Derrick Williamson from January 1, 2022, through present.

RESPONSE:

11. Produce copies of all communications, electronic or otherwise, between you and the heirs of Decedent's Estate since November 29, 2022.

RESPONSE:

12. Produce copies of all communications, electronic or otherwise, between you and any third party relating to the Decedent, the Will, and/or the Estate from January 1, 2022, through present.

RESPONSE:

13. Produce copies of monthly statements for all bank accounts owned by you from November 29, 2022, through present.

RESPONSE:

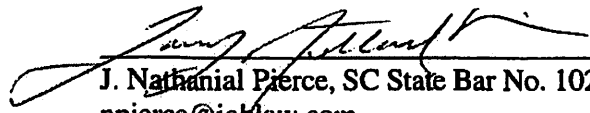
14. Produce copies of statements for bank accounts owned in whole or in part by the Decedent from November 29, 2021, through present.

RESPONSE:

15. Produce copies of any receipts, bills of lading, bills of sale, or any other documentation reflecting the transfer of personal and/ or real property of the Decedent you have sold, given away, donated, or otherwise transferred since November 29, 2022.

RESPONSE:

JOHNSTON, ALLISON & HORD, P.A.


J. Nathaniel Pierce, SC State Bar No. 102803
npierce@jahlaw.com
1065 East Morehead Street
Charlotte, NC 28204
Telephone No.: (704) 332-1181
Facsimile No.: (704) 376-162
Attorneys for Petitioner

This 30th day of August, 2023.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing **First set of Interrogatories and Requests for Production to Respondent Errick Williamson** were served upon the below on the 30th day of August 2023, via U.S. Mail to the following address:

Law Office of Rebecca McNerney, PLLC
Attention: Rebecca McNerney, Esq.
200 S. Broome Street
Waxhaw, North Carolina 28173

Derrick Williamson
1154 Deas Street
Rock Hill, South Carolina 29732

Robin Beckler
300 Thomasboro Road SW
Calabash, North Carolina 28467

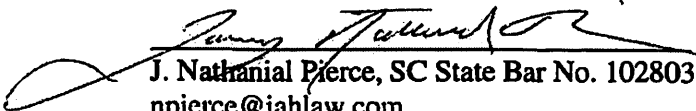
Piedmont Medical Center c/o DCM Services
1550 American Boulevard E., Suite 200
Bloomington, MN 55425

Piedmont Medical Center
222 South Herlong Avenue
Rock Hill, South Carolina 29732

Bank of America c/o CT Corporation
System
2 Office Park Court, Suite 103
Columbia, South Carolina 29223

Nephrology Associates
1436 Riverchase Boulevard
Rock Hill, South Carolina 29732

JOHNSTON, ALLISON & HORD, P.A.


J. Nathaniel Pierce, SC State Bar No. 102803
npierce@jahlaw.com
1065 East Morehead Street
Charlotte, NC 28204
Telephone No.: (704) 332-1181
Facsimile No.: (704) 376-162
Attorneys for Petitioner

This 30th day of August, 2023.

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Doug Williamson,

Plaintiff,

Vs.

**Errick L. Williamson, Individually,
Errick L. Williamson, as Personal
Representative of the Estate of John
Dale Williamson, Derrick L.
Williamson, and Robin Beckler,**

Defendants.

**IN THE MATTER OF THE ESTATE
OF JOHN DALE WILLIAMSON**

IN THE PROBATE COURT

CASE NO. 23-ES-46-2

**DEFENDANT ERRICK L.
WILLIAMSON'S RESPONSES TO
PLAINTIFF'S FIRST
REQUESTS FOR ADMISSIONS**

TO: J. Nathaniel Pierce, Attorney for Plaintiff Doug Williamson

FROM: Rebecca McNerney, Attorney for Defendant Errick L. Williamson

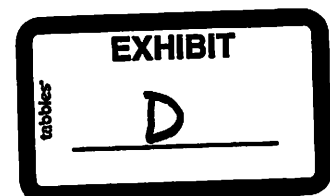
DATE: October 11, 2023

Now comes Defendant Errick L. Williamson, Defendant (hereinafter, "this Defendant"), by and through his Attorney, Rebecca McNerney, and responds to Plaintiff's First Requests for Admissions as follows:

1. Admit you signed the Application for Informal Appointment and Probate attached [to Plaintiff's Requests for Admissions] as Exhibit A.

RESPONSE:

Admitted.



2. Admit John Dale Williamson suffered from Parkinson's Disease.

RESPONSE:

This Defendant is not a medical expert and is without sufficient knowledge or expertise to admit or deny that John Dale Williamson suffered from Parkinson's Disease. This Defendant states that upon and information and belief, John Dale Williamson had been diagnosed with Parkinson's Disease.

3. Admit John Dale Williamson suffered from Parkinson's Disease on November 24, 2022.

RESPONSE:

This Defendant is not a medical expert and is without sufficient knowledge or expertise to admit or deny that John Dale Williamson suffered from Parkinson's Disease. This Defendant states that upon and information and belief, John Dale Williamson had been diagnosed with Parkinson's Disease.

4. Admit Parkinson's Disease was a cause of John Dale Williamson's death.

RESPONSE:

This Defendant is not a medical expert and is without sufficient knowledge or expertise to admit or deny this Request. This Defendant admits that the Death Certificate states that Decedent's cause of death was Parkinson's Disease.

5. Admit John Dale Williamson suffered from hypertensive heart disease.

RESPONSE:

This Defendant is not a medical expert and is without sufficient knowledge or expertise to admit or deny that John Dale Williamson suffered from hypertensive heart disease. This Defendant states that upon information and belief, John Dale Williamson had been diagnosed with high blood pressure.

6. Admit that John Dale Williamson suffered from hypertensive heart disease on November 24, 2022.

RESPONSE:

This Defendant is not a medical expert and is without sufficient knowledge or expertise to admit or deny that John Dale Williamson suffered from hypertensive heart disease on November 24, 2022.

7. Admit that hypertensive heart disease was a cause of John Dale Williamson's death.

RESPONSE:

This Defendant is not a medical or pathologic expert and is without sufficient knowledge or expertise to admit or deny this Request.

8. Admit that John Dale Williamson was under palliative care on November 22, 2022.

RESPONSE:

Denied.

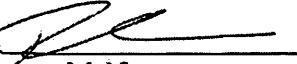
9. Admit that John Dale Williamson did not sign the Last Will and Testament attached hereto as Exhibit B.

RESPONSE:

Denied.

This 11th day of October, 2023.

The Law Office of Rebecca McNerney PLLC

By: 

Rebecca McNerney

Attorney for Defendant Errick L. Williamson

SC Bar #76594

200 S. Broom Street

Waxhaw, South Carolina 28173

Phone: (980) 300-0144

Email: rebecca@rebeccamcnerneylaw.com

Certificate of Service

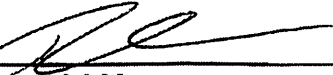
I, Rebecca McNerney, Attorney for Defendant Errick L. Williamson, do certify that on the 11th day of October, 2023, I served a copy of the attached Defendant Errick L. Williamson's Responses to Plaintiff's First Requests for Admissions as follows:

Via Electronic Mail

Nate Pierce

Nate.pierce@jahlaw.com

The Law Office of Rebecca McNerney PLLC

By: 

Rebecca McNerney

Attorney for Defendant Errick L. Williamson

SC Bar # 76594

200 S. Broome Street

Waxhaw, South Carolina 28173

Phone: (980) 300-0144

Email: rebecca@rebeccamcnerneylaw.com



Serving Clients in North Carolina and South Carolina

November 22, 2023

Via Electronic Mail

Nate Pierce

Email: npierce@jahlaw.com

RE: EO Williamson Discovery

Dear Nate,

I am in receipt of your letter dated October 24, 2023 in which you request supplemental responses to Petitioner's Interrogatories and Requests for Production. Respondent agrees to supplement his responses to Interrogatories Number 8, 12, 15, and 18, and the supplemental responses are attached. Respondent addresses your other requests for supplemental responses below:

Int # 3

Respondent declines to supplement his prior response as his prior response is sufficient.

Int # 5

With regard to Interrogatory Number 5, Respondent has provided certain employment information for the past three years. Petitioner's request for information outside of this time frame is overbroad and irrelevant, and is not calculated to lead to the discovery of admissible evidence. Further, Petitioner's request for Respondent's salary information and reasons for job changes is overbroad, invasive, irrelevant, and is not calculated to lead to the discovery of admissible evidence.

Int # 10

With regard to Interrogatory Number 10, Respondent stands upon his prior objection to answering this Interrogatory on the basis that the requested information is not relevant to the pending claims. Executor de son tort involves wrongdoing after a Decedent's death and pertains to estate assets. You request information from prior to Decedent's death and about non-estate assets.

Int # 13

The information sought is overbroad, invasive, and irrelevant, and is not calculated to lead to the discovery of admissible evidence. The complaint seeks only to set aside the Will. Life insurance proceeds are not an estate asset, and the Will's reference to life insurance proceeds is non-controlling as to the distribution of those proceeds.

RFP # 2, 6, 8, 12, 13

Respondent declines to supplement his prior response as his prior response is sufficient.

Sincerely Yours,

A handwritten signature in black ink, appearing to read 'Rebecca', followed by a long, sweeping horizontal line.

Rebecca McNerney
Attorney at Law

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF YORK	)	CASE NO. 23-ES-46-2
	)	
Doug Williamson,	)	
	)	
Plaintiff,	)	DEFENDANT ERRICK L.
	)	WILLIAMSON'S SUPPLEMENTAL
Vs.	)	RESPONSES TO PLAINTIFF'S FIRST
	)	INTERROGATORIES AND REQUEST
	)	FOR PRODUCTION OF DOCUMENTS
	)	
Errick L. Williamson, Individually,	)	
Errick L. Williamson, as Personal	)	
Representative of the Estate of John	)	
Dale Williamson, Derrick L.	)	
Williamson, and Robin Beckler,	)	
	)	
Defendants.	)	
	)	
IN THE MATTER OF THE ESTATE	)	
OF JOHN DALE WILLIAMSON	)	
	)	
	)	

TO: J. Nathaniel Pierce, Attorney for Plaintiff Doug Williamson

FROM: Rebecca McNerney, Attorney for Defendant Errick L. Williamson

DATE: November 22, 2023

Now comes Defendant Errick L. Williamson, Defendant (hereinafter, "this Defendant"), by and through his Attorney, Rebecca McNerney, and provides the following supplemental responses to Plaintiff's First Set of Interrogatories to Errick L. Williamson.

PRELIMINARY STATEMENT

This Defendant's investigation and development of all facts and circumstances relating to this action are ongoing. These responses and objections are made without prejudice to, and are not a waiver of, this Defendant's right to rely on other witnesses, facts or documents at trial.

By making the accompanying responses and objections to Plaintiff's First Set of Interrogatories and Request for Production of Documents, this Defendant does not waive, and hereby expressly reserves, his right to assert to assert any and all objections as to the admissibility of such responses into evidence in this action, or in any other proceedings, on and any all grounds, including relevancy.

This Defendant will not produce publicly accessible document or documents that are already in the custody, control and possession of Plaintiff.

This Defendant expressly reserves the right to supplement, clarify, revise, or correct any of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental responses.

GENERAL OBJECTIONS

This Defendant objects to each instruction, definition, document request, and interrogatory to the extent that it purports to impose any requirement or discovery obligation greater than or different from those under the South Carolina Rules of Civil Procedure and Orders of the Court.

This Defendant objects to each document request that calls for production of a privilege log for internal documents of this Defendant or this Defendant's Attorney as any such request is unreasonable and unduly burdensome in light of the work product doctrine and other privileges.

This Defendant objects to each instruction, definition, document request, and interrogatory as overbroad and unduly burdensome to the extent that it seeks documents or information that is equally accessible to Plaintiff or more readily accessible to Plaintiff than this Defendant, documents or information that Defendant previously produced to Plaintiff, documents or information in Plaintiff's possession, and documents or information that are publicly accessible. The burden of responding to such requests is substantially the same or less for Plaintiff than for this Defendant.

This Defendant objects to each interrogatory and request for production that requires the disclosure of the mental impressions of this Defendant's Attorney or requires this Defendant to marshal the available evidence that he will present at trial.

SUPPLEMENTAL RESPONSES TO INTERROGATORIES

8. (As modified). Describe all communications between Respondent and the witness to the Will – Jeff Hawkins and Kaleb Kidd – from January 1, 2022 to present relating to the Will, the execution of the Will, the Decedent, the health of the Decedent, the death of the Decedent, the Estate of John Dale Williamson ("Estate"), any assets of the Estate, and this litigation.

SUPPLEMENTAL ANSWER:

On November 24, 2022, Respondent asked the two witnesses if they would witness John Dale Williamson's signature to the Will. They responded that they would do so. Respondent has not had any other conversations with the witnesses to the will as to any of the above referenced topics.

12. Describe your communications with third parties regarding the Will or the Decedent's capacity to write a will, including the date and method of the communications.

SUPPLEMENTAL ANSWER:

On November 24, 2022, Respondent verbally asked the witnesses to the Will if they would witness John Dale Williamson sign the Will. Respondent has not had any other conversations with any third parties as to any of the above referenced topics, except for a conversation with Respondent's spouse, which is protected and privileged.

15. Identify any and all withdrawals, deposits, or other activity taken by you with regard to the accounts listed in responses to Interrogatory No. 13 since November 29, 2022.

OBJECTION: Relevance. Petitioner seeks only to set aside the Will.

SUPPLEMENTAL ANSWER: Without waiving the objection, Respondent is requesting bank statements for accounts owned by Decedent, from Decedent's date of death to present, and will provide the statements upon receipt. Respondent has not made any withdrawals from or deposits to either of the accounts identified in Interrogatory Number 13. After Decedent's death, Respondent's wife notified the financial institutions of Decedent's death.

18. Provide a list of any crime, other than minor traffic offenses, for which you have been arrested and/or convicted.

OBJECTION: Respondent objects on grounds of relevancy, overbreadth, and invasiveness.

SUPPLEMENTAL ANSWER: Without waiving the objection, Respondent has not been charged with or convicted of any offenses in the last ten years. Respondent has never been charged or convicted of any offenses related to honesty or truthfulness.

This 22nd day of November 2023.

The Law Office of Rebecca McNerney PLLC

By:  _____

Rebecca McNerney

Attorney for Defendant Errick L. Williamson

SC Bar #76594

200 S. Broom Street

Waxhaw, South Carolina 28173

Phone: (980) 300-0144

Email: rebecca@rebeccamcnerneylaw.com

Certificate of Service

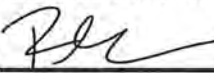
I, Rebecca McNerney, Attorney for Defendant Errick L. Williamson, do certify that on the 22nd day of November 2023, I served a copy of the attached Defendant Errick L. Williamson's Supplemental Responses to Plaintiff's First Set of Interrogatories and Request for Production of Documents to Respondent as follows:

Via Electronic Mail

Nate Pierce

Nate.pierce@jahlaw.com

The Law Office of Rebecca McNerney PLLC

By: 

Rebecca McNerney

Attorney for Defendant Errick L. Williamson

SC Bar # 76594

200 S. Broome Street

Waxhaw, South Carolina 28173

Phone: (980) 300-0144

Email: rebecca@rebeccamcnerneylaw.com

		FILED RECEIVED	
STATE OF SOUTH CAROLINA		2023 NOV 27 A 9:15	IN THE PROBATE COURT
COUNTY OF YORK		CAROLYN E. WOODRUFF	FILE NO 23-ES-46-2
		JUDGE OF PROBATE	
		YORK COUNTY, SC	
Doug Williamson,	)		
	)		
Petitioner,	)		
	)		
Vs.	)		
	)		
Errick L. Williamson, Individually, Errick	)		
L. Williamson, as Personal Representative	)		
Of the Estate of John Dale Williamson,	)		
Derrick Williamson, and Robin Beckler,	)		
	)		
Respondents.	)		
	)		
	)		
IN THE MATTER OF THE ESTATE	)		
OF JOHN DALE WILLIAMSON	)		
	)		

MOTION TO WITHDRAW/AMEND
ADMISSIONS, OR ALTERNATIVELY,
FOR ADDITIONAL TIME TO SERVE
DISCOVERY RESPONSES, AND
MOTION TO STRIKE PETITIONER'S
MOTION TO COMPEL

NOW COMES Respondent Errick L. Williamson, and submits his Motion and brief in support, filed contemporaneously herewith, pursuant to SCRCP 36 and *Scott v. Greenville Housing Auth.*, 353 S.C. 639, 645, 579 S.E.2d 151, 154 (Ct. App. 2003), to withdraw/amend the admissions, or alternatively, pursuant to SCRCP 36 and *Collins v. White*, 363 S.C. 546, 611 S.E.2d 262 (Ct. App. 2005), for this Court to retroactively provide Respondent additional time to respond to Petitioner's Requests to Admit, and pursuant to SCRCP 11 and SCRCP 37, to strike Petitioner's Motion to Compel.

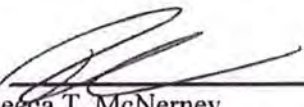
WHEREFORE, Respondent Errick L. Williamson respectfully requests the following relief:

1. This Court allow Respondent to withdraw or amend the admissions;
2. Alternatively, this Court deem Respondent's Responses to the RFA, served on 10/11/23, timely;

3. To strike Petitioner's Motion to Compel;
4. Any other just and appropriate relief this Court deems proper.

Respectfully submitted, this 21st day of November 2023.

The Law Office of Rebecca McNerney PLLC

By: 
Rebecca T. McNerney
Counsel for Errick L. Williamson
SC Bar # 76594
200 S Broome Street
Waxhaw, North Carolina 28173
Phone: (980) 300-0144
Email: rebecca@rebeccamcnerneylaw.com

Certificate of Service

I, Rebecca McNerney, Counsel for Errick L. Williamson, do certify that on the 21st day of November 2023, I served a copy of the foregoing Motion to Withdraw/Amend Admissions, or Alternatively, for Additional Time to Serve Discovery Responses, and Motion to Strike Petitioner's Motion to Compel on all interested parties as follows:

Via Electronic Mail

Nate Pierce
Attorney for Doug Williamson
Email: npierce@jahlaw.com

Via First Class Mail

Derrick Williamson
1154 Dease Street
Rock Hill, SC 29732

Via First Class Mail

Robin Beckler
300 Thomasboro Road SW
Callabash, NC 28467

Via First Class Mail

Piedmont Medical Center c/o DCM Services
1550 American Blvd. E. Ste 200
Bloomington, MN 55425-1116

Via First Class Mail

Piedmont Medical Center
222 South Herlong Ave.
Rock Hill, SC 29732

Via First Class Mail

Bank of America c/o Corporation Trust Company
1209 Orange Street
Wilmington, DE 12081

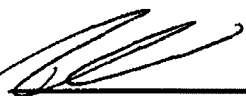
Via First Class Mail

Bank of America c/o C T Corporation System
2 Office Part Court Ste 103
Columbia, SC 29223

Via First Class Mail

Nephrology Associates
1436 Riverchase Blvd.
Rock Hill, SC 29732

The Law Office of Rebecca McNerney PLLC

By: 
Rebecca T. McNerney
Counsel for Errick L. Williamson
SC Bar # 76594
200 S Broome Street
Waxhaw, North Carolina 28173
Phone: (980) 300-0144
Email: rebecca@rebeccamcnerneylaw.com

		FILED RECEIVED	
STATE OF SOUTH CAROLINA	2023 NOV 27 A 9:15		IN THE PROBATE COURT
COUNTY OF YORK	CAROLYN E. WOODRUFF		FILE NO 23-ES-46-2
Doug Williamson,	JUDGE OF PROBATE		
	YORK COUNTY, SC		
Petitioner,	)		
	)		
Vs.	)	BRIEF IN SUPPORT OF MOTION TO	
	)	WITHDRAW/AMEND ADMISSIONS, OR	
	)	ALTERNATIVELY, FOR ADDITIONAL	
Errick L. Williamson, Individually, Errick	)	TIME TO SERVE DISCOVERY	
L. Williamson, as Personal Representative	)	RESPONSES, IN SUPPORT OF MOTION	
Of the Estate of John Dale Williamson,	)	TO STRIKE PETITIONER'S MOTION TO	
Derrick Williamson, and Robin Beckler,	)	COMPEL, IN OPPOSITION TO	
	)	PETITIONER'S MOTION TO COMPEL,	
Respondents.	)	AND IN OPPOSITION TO	
	)	PETITIONER'S MOTION FOR PARTIAL	
	)	SUMMARY JUDGMENT	
IN THE MATTER OF THE ESTATE	)		
OF JOHN DALE WILLIAMSON	)		

NOW COMES Respondent Errick L. Williamson, by and through Counsel, and submits this brief (1) in support of his Motion to Withdraw/Amend Admissions, or Alternatively, For Additional Time to Serve Discovery Responses, (2) in support of Respondent's Motion to Strike Petitioner's Motion to Compel, (3) in opposition to Petitioner's Motion to Compel, and (4) in opposition to Petitioner's Motion for Partial Summary Judgment.

FACTUAL AND PROCEDURAL HISTORY

On November 29, 2022, Decedent John Dale Williamson passed away. Respondent Errick Williamson, his nephew, is a beneficiary of Decedent's Will. The Will is witnessed by two independent witnesses and notarized. On January 3, 2023, Respondent submitted the Will to probate and was subsequently appointed Personal Representative of the Estate. On March 17, 2023, Petitioner filed a Petition to Set Aside the Will. Petitioner, believing he had lawfully served Respondent, filed a Motion for Entry of Default against Respondent after thirty days

passed with no Answer to the Petition being filed. Upon receiving the Motion for Entry of Default, Respondent retained Counsel who filed a Response to the Motion for Entry of Default and a Motion to Set Aside Entry of Default. On August 24, 2023, this Court held a hearing after which this Court granted Respondent's Motion to Set Aside Default. On September 7, 2023, Respondent, through Counsel, received Requests for Admissions with a certificate of service by mailing dated August 31, 2023. Pursuant to the SCRCPP, responses to the RFA would have been due on October 5, 2023. However, as the RFA were not received by Petitioner until September 7, 2023, thirty days from September 7, 2023 would have been October 7, 2023, a Saturday. The next business day was October 9, 2023. Despite October 5, 2023 passing, Counsel for Petitioner did not contact Counsel for Respondent to confer on the discovery as required by SCRCPP 11.

On October 10, 2023, Counsel for Respondent reached out to Counsel for Petitioner and requested an extension to respond to the discovery requests until October 20, 2023. Counsel for Petitioner indicated that he would ask his Client about the requested extension. Upon receiving Counsel for Petitioner's response on October 11, 2023, that same day, Counsel for Respondent served responses to the RFA. On October 13, 2023, Counsel for Petitioner indicated that the request for extension was denied and that he would be filing a motion to compel, despite Undersigned's previous request for a limited extension through October 20, 2023. Counsel for Respondent served responses to the other discovery requests on October 19, 2023.

ARGUMENT

I. This Court may allow Respondent to withdraw/amend the admissions.

Respondent requests that this Court allow Respondent to withdraw or amend the admissions. Both SCRCPP 36(b) and the South Carolina Court of Appeals, in *Scott v. Greenville Housing Auth.*, 353 S.C. 639, 645, 579 S.E.2d 151, 154 (Ct. App. 2003), allow a trial court to

consider and to grant a party's motion to withdraw/amend previously established admissions. SCRCP 36(b) Effect of Admission reads, "Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Rule 16 governing amendment of a pre-trial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subverted thereby and the party who obtained the admissions fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits." See also *Baughman v. American Tel. & Tel. Co.*, 306 S.C. 101, 109-110, 410 S.E.2d 537, 542 (1991) regarding the Court's analysis when presented with a Motion to Withdraw Admissions.

A. First Prong: Will the withdrawal of the admission subserve the presentation of the case on the merits?

RFA Number 9, which provides the basis for Petitioner's Motion, reads "Admit John Dale Williamson did not sign the Last Will and Testament attached hereto as Exhibit B". On October 10, 2011, Respondent denied this RFA. RFA #9 goes to the heart of the case, and if deemed admitted, could eliminate any presentation of the merits of the case. Allowing withdrawal of the admission will, on the other hand, promote the interests of justice and allow the parties and this Court to resolve this case on the merits.

B. Second Prong: Can Petitioner prove that he will suffer prejudice in maintaining his action if the Court allows the withdrawal of the admission?

The burden of proving prejudice is on the party who obtained the admission. When interpreting the SC Rules of Civil Procedure, South Carolina courts routinely look to cases interpreting the Federal Rules of Civil Procedure for guidance. See *Angela Patton, Alexia L. v.*

Gregory A. Miller, M.D., Rock Hill Gynecological & Obstetrical Assocs., P.A., 804 S.E.2d 252, 420 S.C. 471 (S.C. 2017) and *Gardner v. Newsome Chevrolet–Buick, Inc.*, 304 S.C. 328, 330, 404 S.E.2d 200, 201 (1991). In this matter, there is no scheduled trial, and discovery remains in the early stages. The only “prejudice” that could be imputed to Petitioner would be the burden of having to try the case on the merits. This is not the type of prejudice contemplated by Rule 36(b).

The prejudice contemplated by Rule 36(b) is 'not simply that the party who obtained the admission will now have to convince the factfinder of its truth.'" [Hadley v. United States, 45 F.3d 1345, 1348 (9th Cir. 1995)] (quoting *Brook Village North Associates v. General Electric Co.*, 686 F.2d 66, 70 (9th Cir. 1982)). "Rather, it relates to the difficulty a party may face in proving its case, e.g., caused by the unavailability of key witnesses, because of the sudden need to obtain evidence with respect to the questions previously deemed admitted." *Id.* (internal quotation marks omitted). A lack of discovery, without more, does not constitute prejudice. *Conlon*, 474 F.3d at 624. Prejudice is more likely to be found where the motion for withdrawal is made during trial or when a trial is imminent. *See id.* at 624; *Hadley*, 45 F.3d at 1348.

O'Neal v. City of Pac., CASE NO. C11-0231RSM (W.D. Wash. Jan 23, 2013), P. 7.

II. This Court may grant Respondent additional time to serve responses to RFA.

In the event this Court does not allow Respondent to withdraw/amend admissions, Respondent alternatively requests that this Court allow Respondent additional time to serve discovery responses and deem the responses to the RFA served on 10/11/23 timely. The South Carolina Court of Appeals, in *Collins v. White*, 363 S.C. 546, 611 S.E.2d 262 (Ct. App. 2005), states that trial courts may retroactively provide a party additional time to respond to discovery requests. Here, Respondent served his responses to the RFA within 34 days of receipt. As standard practice, attorneys grant to each other at least one 30 day extension to provide discovery responses and even to answer complaints. Further, as standard practice, attorneys confer with each other, and indeed are required to confer with each other pursuant to SCRCP 11, regarding discovery disputes before involving the court. Despite Respondent's request for only a 10 day

extension to respond to discovery, the request was denied for no apparent reason. Not only was the request for extension denied, but Petitioner filed a motion to compel discovery responses after Respondent initiated contact about the discovery indicating responses would be provided within ten days. SCRCP 37(a) requires reasonable notice to opposing counsel before a motion to compel is filed.

Because Respondent has made only one request for only a limited extension, because responses were provided within a reasonable time, and because no prejudice will result to Petitioner by allowing an additional 10 days to respond to the RFA, Respondent respectfully requests that this Court issue an Order that Respondent's responses to the RFA, served on 10/11/23 are deemed timely.

III. The interests of justice will be served by allowing the parties and this Court to resolve this case on the merits rather than procedural technicalities.

The South Carolina Supreme Court and the United States Supreme Court have held that the Rules of Civil Procedure were created to ensure efficiency and fairness and that they are not to be used to avoid a trial on the merits or as a weapon to be wielded based on technical deficiencies. As the Supreme Court of the United States wrote in 1962, "It is . . . entirely contrary to the spirit of the ... Rules of Civil Procedure for decisions on the merits to be avoided on the basis of such mere technicalities. "The ... Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." *Foman v. Davis*, 371 U.S. 178, 181-182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962) (quoting *Conley v. Gibson*, 355 U.S. 41, 48, 78 S.Ct. 99, 103, 2 L.Ed.2d 80, 86 (1957)); see also *Maybank v. BB&T Corp.* , 416 S.C. 541, 565, 787 S.E.2d 498, 510 (2016).

Likewise, as recognized by the South Carolina Supreme Court in *Angela Patton, Alexia L. v. Gregory A. Miller, M.D., Rock Hill Gynecological & Obstetrical Assocs., P.A.*, 804 S.E.2d 252, 420 S.C. 471 (S.C. 2017), "The federal rules are designed to discourage battles over mere form and to sweep away needless procedural controversies that either delay a trial on the merits or deny a party his day in court because of technical deficiencies." Charles Alan Wright, Arthur R. Miller & Adam N. Steinman, *Federal Practice and Procedure* § 1029 (4th ed. 2015).

Similarly, "The spirit of the Rules is to settle controversies upon their merits rather than to dismiss actions on technical grounds, to permit amendments liberally, and to avoid, if possible, depriving a litigant of a chance to bring a case to trial." 3 *Cyclopedia of Federal Procedure* § 8.2 (3d ed., rev. 2017). *Angela*, 804 S.3.2d at 493.

IV. SCRPC 11 and SCRPC 37

SCRPC 11 states, "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." Accordingly, SCRPC 11 requires attorneys to work together to resolve discovery disputes prior to involving the Court. Here, after Respondent initiated contact with Petitioner indicating that he would provide discovery responses within 10 days, Petitioner responded that the requested extension was denied and that he would be filing a motion to compel.

Further, SCRPC 37 allows a motion to compel upon reasonable notice. The implicit instruction here is that reasonable notice must be provided **before** a motion to compel is filed. The purpose of this condition precedent is to give meaning to SCRPC 11, to avoid wasting the Court's time, and to encourage resolution on discovery matters. Petitioner's conduct in this case

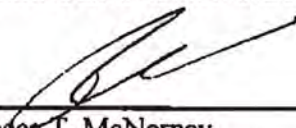
is contrary to standard practice, violative of the rules of civil procedure, and unnecessarily imposes a burden on an already overwhelmed court docket. Accordingly, Respondent requests that this Court strike Petitioner's Motion to Compel.

CONCLUSION

For the reasons stated herein, Respondent respectfully requests that this Court allow the admissions to be withdrawn or amended, or alternatively, deem Respondent's Responses to the RFA timely, strike Petitioner's Motion to Compel, and deny Petitioner's Motion for Partial Summary Judgment.

Respectfully submitted, this 21st day of November 2023.

The Law Office of Rebecca McNerney PLLC

By: 
Rebecca T. McNerney
Counsel for Errick L. Williamson
SC Bar # 76594
200 S Broome Street
Waxhaw, North Carolina 28173
Phone: (980) 300-0144
Email: rebecca@rebeccamcnerneylaw.com

FILED RECEIVED

2023 NOV 27 A 9:16

Certificate of Service

CAROLYN E. WOODRUFF
JUDGE OF PROBATE
YORK COUNTY, SC

I, Rebecca McNeerney, Counsel for Erick L. Williamson, do certify that on the 21st day of November 2023, I served a copy of the foregoing Brief in Support of Motion to Withdraw/Amend Admissions, or Alternatively, to Allow Additional Time to Serve Discovery Responses, in support of Motion to Strike Petitioner's Motion to Compel, in opposition to Petitioner's Motion to Compel, and in opposition to Petitioner's Motion for Partial Summary Judgment on all interested parties as follows:

Via Electronic Mail

Nate Pierce
Attorney for Doug Williamson
Email: npierce@jahlaw.com

Via First Class Mail

Derrick Williamson
1154 Dease Street
Rock Hill, SC 29732

Via First Class Mail

Robin Beckler
300 Thomasboro Road SW
Callabash, NC 28467

Via First Class Mail

Piedmont Medical Center c/o DCM Services
1550 American Blvd. E. Ste 200
Bloomington, MN 55425-1116

Via First Class Mail

Piedmont Medical Center
222 South Herlong Ave.
Rock Hill, SC 29732

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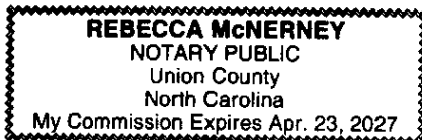
STATE OF SOUTH CAROLINA	)	IN THE CIRCUIT COURT
COUNTY OF YORK	)	Appeal from Probate Court for York County
	)	CASE NUMBER: 23-ES-46--2
IN THE MATTER OF:	)	
EO John Dale Williamson	)	
(Decedent)	)	
Errick L. Williamson, Individually, Errick L. Williamson, as Personal Representative of the Estate of John Dale Williamson,	)	NOTICE OF INTENT TO APPEAL TO
	)	CIRCUIT COURT
Appellant(s),	)	
vs.	)	
Doug Williamson, Derrick Williamson, Robin Beckler,	)	
Respondent(s).	)	

Pursuant to SCPC 62-1-308, Appellant hereby provides his/her/its Notice of Appellant's Intent to Appeal the Order/Sentence/Decree of the Probate Court dated January 5, 2024. Said Order/Sentence/Decree was received by the Appellant or Appellant's counsel on January 8, 2024. A copy of said Final Order is attached.

SWORN to before me this 11th
day of January, 2024.

Notary Public for: Union County, North Carolina
My Commission Expires: 04/23/27

Respectfully submitted,
Signature: *Errick L. Williamson*
Print Name: Errick L. Williamson
Address: 1153 Deas Street
Rock Hill, SC 29732
Telephone (Work): _____
(Home): _____
(Cell): 803-389-2010
Email: worldsfavoritepeanut@gmail.com
Relationship to Decedent/Estate: Nephew/Personal Representative



Attorney: Rebecca McNerney
Address: 200 S Broome Street
Waxhaw, NC 28173
Telephone: 980-300-0144
Email: rebecca@rebeccamcnerneylaw.com

IMPORTANT:

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

STATE OF SOUTH CAROLINA

COUNTY OF YORK

In re: Estate of John Dale Williamson

Doug Williamson,

Petitioner,

v.

Errick L. Williamson, individually;
Errick L. Williamson, as personal
representative of the Estate of John Dale
Williamson; Derrick Williamson; Robin
Beckler,

Respondents.

IN THE PROBATE COURT

Case Number: 2023-ES-46-00002

**ORDER GRANTING PETITIONER'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT AND DENYING
RESPONDENT ERRICK WILLIAMSON'S
MOTION TO WITHDRAW OR AMEND
ADMISSIONS OR, IN THE
ALTERNATIVE, FOR AN EXTENSION
OF TIME TO SERVE DISCOVERY
RESPONSES**

This matter came before the Court pursuant to the Motion of Petitioner Doug Williamson (hereinafter referred to as Doug) for Partial Summary Judgment, and the Motion of Respondent Errick Williamson (hereinafter referred to as Errick) to Withdraw or Amend Admissions or, in the alternative, for Extension of Time to Serve Discovery Responses. The Court held a hearing on the above-referenced motions on December 7, 2023. Present were counsel for Petitioner, J. Nathaniel Pierce; counsel for Respondent, Rebecca McNerney; Doug; and Doug's wife, Crystal Williamson. Having reviewed all matters of record and having considered the testimonial and documentary evidence presented and the arguments of counsel, the Court finds as follows:

FINDINGS OF FACT

1. On August 30, 2023, Doug served Errick with Interrogatories and Requests for Production (hereinafter referred to as the RFPs) pursuant to Rules 33 and 34 of the South Carolina Rules of Civil Procedure (hereinafter referred to as the SCRCPP). Errick's responses to the Interrogatories and RFPs were due October 4, 2023.

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2. On August 31, 2023, Doug served Errick with Requests for Admission (hereinafter referred to as the RFAs) pursuant to SCRCP Rule 36. Errick's response to the Requests for Admission were due October 5, 2023.

3. Doug served Errick with the Interrogatories, RFPs, and RFAs via regular United States mail.

4. Doug's RFAs were comprised of nine individual Requests.

5. Doug's ninth RFA (hereinafter referred to as RFA 9) requests admission or denial of a single fact: that "John Dale Williamson did not sign [the Will]." Attached to the RFAs as an exhibit was the Last Will and Testament (hereinafter referred to as the Will) of John Dale Williamson (hereinafter referred to as the Decedent), which was filed with this Court on January 3, 2023.

6. Errick failed to timely answer, object, or otherwise respond to the Interrogatories, RFPs, or RFAs.

7. Errick responded to RFA 9, but after the expiration of the time for answering.

8. Errick did not request an extension of time to respond or move for a protective order prior to the expiration of the time for answering.

9. Doug mailed for filing a Motion for Partial Summary Judgment predicated on Errick's failure to timely respond to RFAs, on November 1, 2023. The Court stamped Doug's motion on November 6, 2023. Doug's counsel served a copy of the Motion for Partial Summary Judgment on Errick's counsel on November 1, 2023.

10. Errick filed a Motion to Withdraw/Amend Admissions or, in the alternative, for Additional Time to Serve Discovery Responses, on November 27, 2023.

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11. Errick's Motion to Withdraw/Amend Admissions or, in the alternative, for Additional Time to Serve Discovery Responses was filed after responses to the RFAs were due.

CONCLUSIONS OF LAW

1. Summary judgment is appropriate when it is clear there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. *Baird v. Charleston County*, 333 S.C. 519, 520, 511 S.E.2d 69, 74 (1999); SCRPC Rule 56(c).

2. The proper standard for a party opposing a motion for summary judgment is the "genuine issue of material fact" standard. *Kitchen Planners, LLC v. Friedman*, 2023 S.C. LEXIS 164, at *8 (August 23, 2023).

3. The non-moving party must do more than simply show there is some metaphysical doubt as to the material facts, and they must come forward with *specific facts* showing there is a genuine issue of material fact for trial. See *Baughman v. American Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991) (emphasis added).

4. Rule 56(e) specifically prohibits the non-moving party from resting upon the mere allegations or denials of its pleadings. *Id.*; SCRPC Rule 56(e).

5. Proponents of a will have the burden of establishing prima facie proof of due execution in all cases. S.C. Code Ann. § 62-3-407 (2013, as amended).

6. The South Carolina Probate Code (hereinafter referred to as the Code) requires every will to be (1) in writing; (2) signed by the testator or signed in the testator's name by some other individual in the testator's presence and by the testator's direction; and (3) signed by at least two individuals, each of whom witnessed either the signing or the testator's acknowledgment of the signature of the will. S.C. Code Ann. § 62-2-502 (Supp. 2020).

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7. Doug properly served the RFAs on Errick's counsel pursuant to the SCRCP, and counsel for Errick received the RFAs.

8. Errick's response to the RFAs were due on or before October 5, 2023.

9. Errick failed to timely respond to the RFAs.

10. RFA #9 was unambiguous.

11. Errick provided no explanation for the failure to timely respond to the RFA's.

12. Based on the facts of this case and its review of relevant case law, the Court concludes that RFA 9 is deemed admitted and its admission is the legal basis on which summary judgment may be granted as to execution of the Will.

13. The Court reviewed the following cases: *Scott v. Greenville Housing Authority*, 579 S.E.2d 151 (Ct. App. 2003); *Baughman, et al. v. American Telephone & Telegraph Co.*, 410 S.E.2d 537 (1991); *Commerce Center of Greenville v. McElveen*, 556 S.E.2d 718 (Ct. App. 2001); *Nexstar Media Group v. Davis*, 848 S.E.2d 597 (Ct. App. 2020); *Barber v. Hobbs*, 437 S.E.2d 409 (Ct. App. 1993); *Collins Entertainment v. White*, 611 S.E.2d 262 (Ct. App. 2005); *Adams v. Orr*, 194 S.E.2d 232 (1973); and the unpublished opinion in *Phillips v. Bayless* (No. 2006-UP-379).

14. The *Scott* case is on point and controls the outcome in this case.

15. The Court concludes that the case at bar is distinguishable from cases where withdrawal of admissions was permitted. *See Baughman* (allowing withdrawal of admissions when a motion for protective order was made prior to the expiration of the time for answering); *Commerce Center* (allowing modification of admissions where the responding party timely responded and reserved the right to supplement responses); *Adams* (allowing withdrawal of admission where the subject request, as worded, was subject to more than one reasonable interpretation); and *Collins Entertainment* (allowing withdrawal of admission where the first set

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of requests for admission was sent to an incorrect address and failure to respond to the second requests for admission was not raised until trial).

16. In *Scott*, the trial court allowed an admission to be withdrawn because of its view that the failure to respond was not binding if it would conflict with answers in a pleading. It stated that the admission was "superfluous" to the pleadings and therefore could not be determinative of an ultimate issue. The Court of Appeals reversed, stating that even if an admission goes to the heart of the case: "if the language of the request for admission specifically goes to an issue in the pleadings, the admission resulting from the party's failure to respond may override the pleadings."

17. In its ruling, the Court of Appeals also found the trial court failed to consider whether or not the trial court's allowance of a withdrawal was prejudicial to the party who obtained the admission. It noted that the Greenville Housing Authority, the non-responding party, had sole control of the evidence needed by the party who obtained the admission and had failed to engage in discovery in good faith, and remanded the matter for further proceedings consistent with its opinion.

18. In the *Nexstar Media* case, the South Carolina Court of Appeals quotes *Scott*:

This court has affirmed the seriousness of the ramifications for a failure to respond to requests in a timely manner. In *Scott v. Greenville Housing Authority*, this Court stated: "South Carolina has long had the discovery rule that failure to respond to requests for admissions renders any matter listed in the request conclusively admitted for trial." 353 S.C. 639, 645, 579 S.E.2d 151, 154 (Ct. App. 2003). The *Scott* court further noted: "[O]ur courts have repeatedly found that failure to respond to requests for admissions deems matters contained therein admitted for trial, regardless of whether the admission concerns a matter responded to in a party's pleadings." *Id* at 646, 579 S.E.2d at 154-55.

The Court of Appeals also recognizes, however, that the rule is not hard and fast:

However, South Carolina jurisprudence also establishes a trial court may use its discretion in finding requests to admit are not deemed admitted when the circumstances indicate otherwise. For example, the Supreme Court affirmed the decision of a trial court to not deem requests admitted when counsel for one party

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represented to the trial court "he had no memory of the delivery and service of the requests," and another denied having received a letter following up on the status of the requests. *Crestwood Golf Club, Inc. v. Potter*, 328 S.C. 201, 219, 493 S.E.2d 826, 836 (1997). "The master in equity did not abuse his discretion by refusing to deem admitted the requests for admission, particularly in light of the lack of hard proof that [the party] actually received the requests." *Id.*

19. Pursuant to SCRCP Rule 36(b), an admission is conclusively established unless the Court permits its withdrawal.

20. When a party moves to withdraw or amend the admissions after the time for responding expires, the Court may engage in the analysis outlined in Rule 36(b) to determine whether the presentation on the merits would be subserved by the withdrawal of the admission and whether the party who obtained the admissions will be prejudiced if the Court allows the withdrawal of the admission.

21. To reiterate, in *Scott* the trial court allowed the withdrawal of the admissions because the party who was deemed to have admitted liability claimed its admission went to the crux of the case and presentation on the merits would be served if the admissions were withdrawn. Weighing that argument against the prejudice to the party who obtained the admissions, the Court of Appeals found that the trial court misapplied the law in regard to a conflict between an admission and a pleading, and emphasized, because of the importance of an opportunity for full and fair discovery, the necessity of taking prejudice into consideration even where the admission goes to the merits.

22. The *Scott* court also noted Federal Rule of Civil Procedure ("FRCP") 26 is similar to South Carolina's Rule and that "[s]ome federal courts have held that requests for admission are not objectionable merely because they go to the ultimate facts or other issues that must be proven by the plaintiff. See, e.g., *Cereghino v. Boeing Co.*, 873 F. Supp. 398, 403 (D. Or. 1994) (holding a request for admission under Rule 36, and a resultant admission, are not

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improper merely because they . . . relate to an "ultimate fact," or prove dispositive of the entire case). Although the *Scott* court noted that "when discovery rights are trampled, prejudice must be presumed . . . [u]nless the party who has failed to submit to discovery can show a lack of prejudice, reversal is mandated," other courts have focused on the language of SCRCP 36(b) and whether the party who has obtained the admission is prejudiced if it is withdrawn.

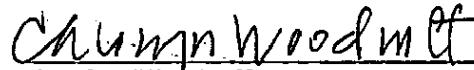
23. Based on the facts at bar and the reasoning of the cases the Court has reviewed, and based in particular on *Scott*, the arguments of counsel, the Court's review of the discovery exchanges in the record, and weighing the furtherance of a presentation on the merits against prejudice as a result of failure to engage in discovery in good faith, the Court concludes that (a) the allowance of the withdrawal or amendment of Errick's RFA #9 should not be granted on the ground that it goes to the heart of the case, whether or not the Will is valid – this is one of the reasons that the Court of Appeals reversed the trial court in *Scott*, and (b) the Respondent has failed to respond to discovery requests in a timely manner and in good faith, and if the Respondent is allowed to withdraw his admissions, the Petitioner's opportunity for full and fair trial preparation is further prejudiced.
24. Because Errick's failure to respond to RFA 9 results in an admission that the Will was not signed by the Decedent, the Will was not properly executed. As the proponent of the Will, Errick has not carried his burden of establishing *prima facie* proof of due execution. See S. C. Code Ann. §62-3-407. There is therefore no question of fact, partial summary judgment is appropriate on the issue of due execution, and the failure of execution invalidates the Will.

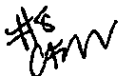
IT IS ORDERED:

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1. Respondent Errick Williamson's Motion to Withdraw or Amend Admissions is denied.
2. Respondent Errick Williamson's Motion, in the alternative, for Additional Time to Serve Discovery Responses is denied.
3. Petitioner Doug Williamson's Motion for Partial Summary Judgment as to his fifth cause of action for invalidation of the Will for failure of due execution is granted.
4. Pursuant to the Court's verbal order at the hearing, no party is to delete any digital or telephone communications pending further order of the Court.

January 5, 2024


Carolyn Woodruff
Judge of Probate
York County, South Carolina



Certificate of Service

I, Rebecca McNerney, Counsel for Errick L. Williamson, do certify that on the 11th day of January 2024, I served a copy of the foregoing Notice of Intent to Appeal on all interested parties as follows:

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**THE STATE OF SOUTH CAROLINA
IN THE CIRCUIT COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT**

APPEAL FROM THE PROBATE COURT

Carolyn E. Woodruff, Judge of Probate

**Circuit Court Case No. 2024-CP-46-110
Probate Case No. 2023-ES-46-2**

Errick L. Williamson Appellant

v.

Doug Williamson Respondent

[INITIAL] BRIEF OF APPELLANT

/s/ John Mark Shiflet

John Mark Shiflet

SC Bar # 0079692

John Mark Shiflet Attorney at Law

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STATEMENT OF ISSUES ON APPEAL

1. DID THE COURT CORRECTLY APPLY THE FACTUAL AND LEGAL ANALYSIS, AS OUTLINED IN SCRCP 36(B) AND SCOTT V. GREENVILLE HOUSING AUTHORITY, 353 S.C. 639, 579 S.E.2D 151 (S.C. APP. 2003) AND *BAUGHMAN V. AMERICAN TEL. & TEL. CO.*, 306 S.C. 101, 109-110, 410 S.E.2D 537, 542 (1991), IN RULING UPON APPELLANT'S MOTION TO AMEND OR WITHDRAW ADMISSIONS?
2. SPECIFICALLY, DID THE COURT ERR IN FINDING THAT THIS MATTER WAS INDISTINGUISHABLE FROM SCOTT AND THAT SCOTT CONTROLLED THE OUTCOME?
3. SPECIFICALLY, DID THE COURT ERR IN FINDING THAT THE PRESENTATION OF THE MERITS WOULD NOT BE FURTHERED BY THE WITHDRAWAL OF THE ADMISSIONS?
4. SPECIFICALLY, DID THE COURT ERR IN FAILING TO REQUIRE PETITIONER TO SATISFY THE COURT THAT HE WOULD BE PREJUDICED BY THE WITHDRAWAL OF THE ADMISSIONS?
5. SPECIFICALLY, DID THE COURT ERR IN ITS FINDING THAT "IF THE RESPONDENT IS ALLOWED TO WITHDRAW HIS ADMISSIONS, PETITIONER'S OPPORTUNITY FOR FULL AND FAIR TRIAL PREPARATION IS FURTHER PREJUDICED"?
6. SPECIFICALLY, DID THE COURT ERR IN FINDING THAT PETITIONER WOULD SUFFER PREJUDICE IF THE ADMISSION WERE WITHDRAWN?
7. SPECIFICALLY, DID THE COURT ERR IN FINDING THAT RESPONDENT'S CONDUCT IN RESPONDING TO INTERROGATORIES AND REQUESTS FOR PRODUCTION AMOUNTED TO PREJUDICE IN THE CONTEXT OF SCRCP 36(B)?
8. SPECIFICALLY, DID THE COURT ERR IN ITS FINDING THAT "RESPONDENT HAS FAILED TO RESPOND TO DISCOVERY REQUESTS IN A TIMELY MANNER AND IN GOOD FAITH"?
9. SPECIFICALLY, DID THE COURT ERR IN ITS FINDING THAT THERE WAS A "FAILURE TO ENGAGE IN DISCOVERY IN GOOD FAITH"?
10. SPECIFICALLY, DID THE COURT ERR IN FINDING THAT PETITIONER SUFFERED PREJUDICE "AS A RESULT OF FAILURE TO ENGAGE IN DISCOVERY IN GOOD FAITH"?
11. DID THE COURT ERR IN FINDING THAT THE DEEMED ADMISSION TO REQUEST FOR ADMISSION #9, IF NOT WITHDRAWN, LEFT NO GENUINE ISSUE OF MATERIAL FACT AS TO WHETHER THE DECEDENT SIGNED THE WILL?

STATEMENT OF THE CASE

On November 29, 2022, Decedent John Dale Williamson passed away. Appellant, Errick Williamson, his nephew, is a beneficiary of Decedent's Will. The Will is witnessed by two independent witnesses and notarized. On January 3, 2023, Appellant submitted the Will to probate and was subsequently appointed Personal Representative of the Estate. On March 17, 2023, Doug Williamson, Respondent, filed a Petition to Set Aside the Will.

Respondent, believing he had lawfully served Appellant, filed a Motion for Entry of Default against Appellant after thirty days passed with no Answer to the Petition being filed. Upon receiving the Motion for Entry of Default, Respondent retained Counsel who filed a Response to the Motion for Entry of Default and a Motion to Set Aside Entry of Default. On August 24, 2023, this Court held a hearing after which this Court granted Appellant's Motion to Set Aside Default. On September 7, 2023, Appellant, through Counsel, received Requests for Admissions with a certificate of service by mailing dated August 31, 2023. Pursuant to the SCRCP, responses to the RFA would have been due on October 5, 2023. However, as the RFA were not received by Appellant until September 7, 2023, thirty days from September 7, 2023 would have been October 7, 2023, a Saturday. The next business day was October 9, 2023. Despite October 5, 2023, passing, Counsel for Petitioner did not contact Counsel for Appellant to confer on the discovery as required by SCRCP 11.

On October 10, 2023, Counsel for Appellant reached out to Counsel for Respondent and requested an extension to respond to the discovery requests until October 20, 2023. Counsel for Respondent indicated that he would ask his client about the requested extension. Upon receiving Counsel for Respondent's response on October 11, 2023, that same day, Counsel for Appellant served responses to the RFA. On October 13, 2023, Counsel for Respondent indicated that the request for extension was denied and that he would be filing a motion to compel, despite counsel's

previous request for a limited extension through October 20, 2023. Counsel for Appellant served responses to the other discovery requests on October 19, 2023.

Respondent filed a Motion for Partial Summary Judgment and Memorandum in Support, with Exhibits A-D, on November 6, 2023. On November 21, 2023 Appellant filed a Motion to Withdraw/Amend Admissions, or alternatively, for Additional Time to Serve Discovery Responses, and Motion to Strike Petitioner's Motion to Compel, and accompanying Brief in Support of Motion to Withdraw/Amend Admissions, or alternatively, for Additional Time to Serve Discovery Responses, In Support of Motion to Strike Petitioner's Motion to Compel, in Opposition to Petitioner's Motion to Compel, and in Opposition to Petitioner's Motion for Partial Summary Judgment, all dated November 21, 2023.

The matter was scheduled for a hearing in the York County Probate court on December 7, 2023. Ruling in favor of Respondent, the Probate Court issued two orders on January 5, 2024; the first granting Respondent's Motion for Partial Summary Judgment and Denying Appellant, Errick Williamson's Motion to Withdraw or Amend Admissions or, in the alternative, for an Extension of Time to Serve Discovery Responses, and the second Order, Granting Respondent's Motion to compel and Denying Appellant, Errick Williamson's Motion to Strike Petitioner's Motion to Compel.

Appellant filed Notice of Intent to Appeal filed January 11, 2024.

STANDARD OF REVIEW

Appeal from the probate court is governed by the provisions of the Probate Code. The Code provides that a final order or decree of the probate court may be appealed to the circuit court. S.C. Code Ann. § 62-1-308(a) (Supp. 1992). The circuit court must hear and determine the appeal "according to the rules of law." S.C. Code Ann. § 62-1-308(d) (1987). As used in this statute, the phrase "according to the rules of law" means according to the rules governing appeals. See *Ex parte White*, 33 S.C. 442, 12 S.E. 5 (1890); *Eagles v. South Carolina National Bank*, 301 S.C. 402, 392 S.E.2d 187 (Ct.App. 1990).

"In reviewing the grant of [a] summary judgment motion, the [appellate court] applies the same standard as the trial court under Rule 56(c), SCRPC." *In re Estate of Smith*, 419 S.C. 111, 116, 796 S.E.2d 158, 160 (Ct. App. 2016) (second alteration by court) (quoting *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 438–39 (2003)).

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

As to the Motion to Withdraw or Amend, an Appellate court will not interfere with discovery decisions unless the trial court abused its discretion. *Griffin Grading v. Tire Service Equipment*, 334 S.C. 193, 511 S.E.2d 716 (S.C. App. 1999)

ARGUMENTS

I. THE TRIAL COURT ABUSED ITS DISCRETION IN DENYING APPELLANTS' MOTION TO WITHDRAW OR AMEND THE DEEMED ADMISSIONS UNDER RULE 36(B).

Both SCRCP 36(b) and the South Carolina Court of Appeals, in *Scott v. Greenville Housing Auth.*, 353 S.C. 639, 645, 579 S.E.2d 151, 154 (Ct. App. 2003), allow a trial court to consider and to grant a party's motion to withdraw/amend previously established admissions. SCRCP 36(b) Effect of Admission reads, "Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Rule 16 governing amendment of a pre-trial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admissions fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits." See also *Baughman v. American Tel. & Tel. Co.*, 306 S.C. 101, 109-110, 410 S.E.2d 537, 542 (1991) regarding the Court's analysis when presented with a Motion to Withdraw Admissions. *Collins Entertainment, Inc. v. White*, 611 S.E.2d 262, 363 S.C. 546 (S.C. 2005), *Nexstar Media Grp., Inc. v. Davis Roofing Grp., LLC*, 431 S.C. 593, 848 S.E.2d 597 (S.C. App. 2020); *Commerce Center v. McELveen*, 347 S.C. 545, 556 S.E.2d 718 (S.C. App. 2001)

Two requirements, therefore, must be met before an admission may be withdrawn: (1) presentation of the merits of the action must be subserved, and (2) the party who obtained the admission must not be prejudiced by the withdrawal.

A. The Trial Court erred in failing to find that the presentation of the merits would be furthered by withdrawal of the admissions.

RFA Number 9, which provides the basis for Respondent's Motion for Partial Summary Judgment, reads "Admit John Dale Williamson did not sign the Last Will and Testament attached

hereto as Exhibit B". (Ex. C to Mem. In Supp November 6, 2023). On October 10, 2011, Appellant denied this RFA. RFA #9 goes to the heart of the case, and if deemed admitted, could eliminate any presentation of the merits of the case. Allowing withdrawal of the admission will, on the other hand, promote the interests of justice and allow the parties to resolve this case on the merits.

B. The Trial Court failed to correctly apply the factual and legal analysis, as outlined in 36(b) SCRPC and Scott v. Greenville Housing Authority.

While the Trial Court did consider other cases in reaching its decision, it placed a great deal of importance on *Scott v. Greenville Housing Auth.,*. In dispensing with the other authorities, the Court stated, "*that the case at bar is distinguishable from cases where withdrawal of admissions was permitted,*" and in contrast, "*The Scott case is on point and controls the outcome in this case.*" (Order from January 5, 2024, paragraph 14).

As an initial matter, the Appellant concedes that certain statements of law the Court restated and relied on in its order are valid legal principles. Namely, that even if an admission goes to the heart of the case, and was denied specifically in the pleadings, the admission resulting from the party's failure to respond may override the pleadings. More specifically, as it applied and was held and in *Scott*, "Rule 36(a) does not condition the binding effect of requests for admissions upon whether the requests address issues asserted or denied in the pleadings."

However, in its ultimate analysis, the trial Court appeared to conflate the otherwise accurate statement of law, with the prejudice analysis required by RULE 36(b), SCRPC, stating,

Based on the facts at bar and the reasoning of the cases the Court has reviewed; and based in particular on *Scott*, the arguments of counsel, the Court's review of the discovery exchanges in the record, and weighing the furtherance of a presentation on the merits against prejudice as a result of failure to engage in discovery in good faith, the Court concludes that (a) the allowance of the withdrawal or amendment of Errick's RFA #9 should not be granted on the ground that it goes to the heart of the case, whether or not the Will is valid - this is one of the reasons that the Court of Appeals reversed the trial court in Scott, and (b) the Respondent has failed to respond to discovery requests in a timely manner and in good faith, and if the

Respondent is allowed to withdraw his admissions, the Petitioner's opportunity for full and fair trial preparation is further prejudiced.
(Order from January 5, 2024, paragraph 23).

While certainly the admission in the case at hand goes to the heart of the matter, and this fact is relevant to the first half of the test in Rule 36(b), which is satisfied when upholding the admissions would practically eliminate any presentation of the merits of the case. *Hadley v. U.S.*, 45 F.3d 1345 (9th Cir. 1995).

Allowance of the withdrawal of RFA #9 should have been granted, not simply on the grounds that it went to the heart of the case, but because the Respondent was unable to, and failed to show any prejudice in maintaining the action on the merits.

C. The Court erred in finding that Respondents' failure to respond to discovery requests in a timely manner and in good faith, would further prejudice the Petitioner's opportunity for full and fair trial preparation if the Respondent were allowed to withdraw his admissions.

Withdrawal/Amendment of the Admissions Will Not Prejudice Respondent in maintaining the merits of the action. Appellants' failure to respond to the requests for admission does not constitute prejudice against the Respondent. With regard to requests for admission, prejudice relates to the difficulty a party may have in proving its case, such as problems caused by the unavailability of key witnesses or the sudden need to obtain evidence with respect to the questions previously deemed admitted. *Gardner v. Newsome Chevrolet-Buick, Inc.*, 304 S.C. 328, 404 S.E.2d 200 (S.C. 1990), *Hadley v. U.S.*, 45 F.3d 1345 (9th Cir. 1995), *Conlon v. U.S.*, 474 F.3d 616 (9th Cir. 2007), *O'Neal v. City of Pac.*, CASE NO. C11-0231RSM (W.D. Wash. Jan 23, 2013)

The burden of proving prejudice is on the party who obtained the admission. When interpreting the SC Rules of Civil Procedure, South Carolina courts routinely look to cases interpreting the Federal Rules of Civil Procedure for guidance. See *Angela Patton, Alexia L. v. Gregory A. Miller, MD., Rock Hill Gynecological & Obstetrical Assocs., P.A.*, 804 S.E.2d 252,

420 S.C. 471 (S.C. 2017) and *Gardner v. Newsome Chevrolet-Buick, Inc.*, 304 S.C. 328, 330, 404 S.E.2d 200,201 (1991).

The prejudice contemplated by Rule 36(b) is 'not simply that the party who obtained the admission will now have to convince the factfinder of its truth.'" [Hadley v. United States, 45 F.3d 1345, 1348 (9th Cir. 1995)] (quoting *Brook Village North Associates v. General Electric Co.*, 686 F.2d 66, 70 (9th Cir. 1982). "Rather, it relates to the difficulty a party may face in proving its case, e.g., caused by the unavailability of key witnesses, because of the sudden need to obtain evidence with respect to the questions previously deemed admitted." *Id* (internal quotation marks omitted). A lack of discovery, without more, does not constitute prejudice. *Conlon*, 474 F.3d at 624. Prejudice is more likely to be found where the motion for withdrawal is made during trial or when a trial is imminent. See *id.* at 624; *Hadley*, 45 F.3d at 1348.

O'Neal v. City of Pac., CASE NO. CII-0231RSM(W.D. Wash. Jan 23, 2013), P. 7.

In this matter, there is no scheduled trial, and discovery remains in the early stages. The only "prejudice" that could be imputed to Respondent would be the burden of having to try the case on the merits. This is not the type of prejudice contemplated by Rule 36(b).

The trial court appears to take the position that the prejudice requirement of 36(b) SCRCP was shown in this case by Appellant's purported failures to respond to discovery requests in good faith or in a timely manner. However, a comparison between the circumstances present in this case, and those in *Scott* reveals vastly different cases in the context of a prejudice analysis.

In *Brown*, the Court emphasizes that Greenville Housing Authority (GHA) so abused the discovery process by intentionally withholding documents that clearly existed and were discovered only at trial, was the manner of conduct arising to prejudice. Specifically, GHA never responded to the RFA and only partially responded to the other discovery requests two days before trial. On the morning of trial, *Scott* asked for the court to deem their RFA admitted due to GHA's failure to respond to the RFA. The court declined to do so but continued the trial to allow additional discovery and for *Scott* to file a motion to compel. *Scott* filed a motion to compel which was followed by a court order in which GHA was ordered to search their records and provide an

affidavit of their search within 14 days. When none was provided Scott filed for sanctions, at which time GHA produced only partial records. Finally, during trial, a witness testified that additional records existed that had never been disclosed. The court summarized such conduct, stating, *"this record exemplifies a paradigm of contumacy and intransigence in the discovery arena. A review of the record does not reveal a paucity or a modicum of response. The activity by GHA demonstrates a nihility in the discovery activity. Concomitantly, we reverse the trial court's finding that the ultimate issue could not be determined by the admission because it was "superfluous" to the pleadings."*

Those facts and circumstances present in *Scott*, are simply not present in the case at hand. While the Appellant in this case did fail to timely file responses to Respondent's RTA, the responses were filed only six days after the deadline. Additionally, as of the date of the hearing on December 7, 2023 counsel for Respondent represented that he anticipated an additional "four or five months before we are done with discovery." (Hr'g Tr., Dec. 7, 2023 p. 45, lines 17-18).

II. THE INTERESTS OF IUSTICE WILL BE SERVED BY ALLOWING THE PARTIES AND THIS COURT TO RESOLVE THIS CASE ON THE MERITS RATHER THAN PROCEDURAL TECHNICALITIES.

The South Carolina Supreme Court and the United States Supreme Court have held that the Rules of Civil Procedure were created to ensure efficiency and fairness and that they are not to be used to avoid a trial on the merits or as a weapon to be wielded based on technical deficiencies. As the Supreme Court of the United States wrote in 1962, "It is ... entirely contrary to the spirit of the ... Rules of Civil Procedure for decisions on the merits to be avoided on the basis of such mere technicalities. "The ... Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." *Foman v. Davis*, 371 U.S. 178, 181-182,

83 S.Ct. 227, 9 L.Ed.2d 222 (1962) (quoting *Conley v. Gibson*, 355 U.S. 41, 48, 78 S.Ct. 99, 103, 2 L.Ed.2d 80, 86 (1957)); see also *Maybank v. BB&T Corp.*, 416 S.C. 541, 565, 787 S.E.2d 498,510 (2016).

Likewise, as recognized by the South Carolina Supreme Court in *Angela Patton, Alexia L. v. Gregory A. Miller, MD., Rock Hill Gynecological & Obstetrical Assocs., P.A.*, 804 S.E.2d 252,420 S.C. 471 (S.C. 2017), "The federal rules are designed to discourage battles over mere form and to sweep away needless procedural controversies that either delay a trial on the merits or deny a party his day in court because of technical deficiencies." Charles Alan Wright, Arthur R. Miller & Adam N. Steinman, *Federal Practice and Procedure* § 1029 (4th ed. 2015). Similarly, "The spirit of the Rules is to settle controversies upon their merits rather than to dismiss actions on technical grounds, to permit amendments liberally, and to avoid, if possible, depriving a litigant of a chance to bring a case to trial." 3 *Cyclopedia of Federal Procedure* § 8.2 (3d ed., rev. 2017). *Angela*, 804 S.3.2d at 493.

III. WHERE THE TRIAL COURT FAILED TO EXERCISE ITS DISCRETION PURSUANT TO 36(B), THE TRIAL COURT ERRED IN GRANTING RESPONDENTS' MOTION FOR PARTIAL SUMMARY JUDGEMENT.

Respondent's Motion for Partial Summary Judgement should be reversed as it was based RFA Number 9.

CONCLUSION

This matter should be determined on the merits, and it would not serve the purpose of the civil rules to supplant those facts by accepting plaintiff's contention that the requests are deemed admitted.

For the reasons set forth above, this Court should reverse the judgment of the probate court denying Appellant's Motion to Withdraw/Amend and granting Respondent's Motion for Partial Summary Judgement.

Respectfully submitted this 8TH day of April 2024.

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**THE STATE OF SOUTH CAROLINA
IN THE CIRCUIT COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT**

APPEAL FROM THE PROBATE COURT

Carolyn E. Woodruff, Judge of Probate

**Circuit Court Case No. 2024-CP-46-110
Probate Case No. 2023-ES-46-2**

Errick L. Williamson Appellant

v.

Doug Williamson Respondent

CERTIFICATE OF SERVICE

The undersigned certifies that on the 8TH day of April 2024,, he served a copy of Appellant's

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STATE OF SOUTH CAROLINA
IN THE CIRCUIT COURT

APPEAL FROM YORK COUNTY PROBATE COURT
Case Number 2023-ES-46-00002
The Honorable Carolyn Woodruff, Probate Judge

Appellate Case Number 2024-CP-46-00110

Errick L. Williamson.....Appellant,

v.

Doug Williamson.....Respondent.

RESPONDENT'S BRIEF

Respondent Doug Williamson, by and through the undersigned counsel, hereby submits
his brief pursuant to S.C. Code Ann. § 62-1-308(e).

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STATEMENT OF ISSUES ON APPEAL

- I. Did the Probate Court abuse its discretion in denying Appellant's Motion to Withdraw?
- II. Did the Probate Court properly grant Respondent's Motion for Partial Summary Judgment?

STATEMENT OF THE CASE

Doug Williamson ("Doug"), the Respondent in this Appeal, is one of John Dale Williamson's ("Decedent" or "Dale"), three surviving siblings, along with Derrick Williamson ("Derrick") and Robin Beckler ("Robin"). Dale was not married, nor did he have any children. Errick L. Williamson ("Errick"), the Appellant, is Dale's adult nephew. Derrick is Errick's father.

Dale suffered from Parkinson's disease. Dale was not of sound mind in the final months of his life, and he relied heavily on the assistance of others to accomplish daily tasks. During the last six to eight weeks of Dale's life, the advanced nature of his disease left him bedridden and unable to care for himself. Errick and his wife, Chantelle Williamson, allege to have been caring for Dale during this time. Errick and Chantelle moved into Dale's house, located at 1153 Deas Street, Rock Hill, South Carolina (the "Property") and asserted control over Dale's medical, legal, and financial affairs. Errick required Dale's family to schedule their visits and restricted their access to Dale.

Starting on May 20, 2022, Dale received in-home hospice care at the Property through Agape Care, Inc. ("Agape"). Dale received regular visits from Agape home health aides, nurses, and social workers during this time. In the final months of his life, Dale received a substantial amount of palliative medication. Dale passed away due to complications from Parkinson's disease on November 29, 2022.

Following Dale's death, Doug and his wife, Crystal Williamson ("Crystal"), attempted to discuss the disposition of Dale's Estate with Errick. Errick repeatedly represented to Doug and Crystal that Dale did not have a will. Despite these repeated representations, Errick filed the

purported Last Will and Testament of John Dale Williamson (the “Will”) with the York County, South Carolina Probate Court on January 3, 2023. Simultaneously, Errick sought and received appointment as the personal representative of Dale’s estate (the “Estate”). The first time Doug and Crystal learned of the Will was when they received a letter from Errick containing an Information to Heirs filing.

In the Will, Errick stands to take eighty percent of Dale’s residual estate, defined in the Will as “real and personal property wherever situated including any life insurance policies” Derrick stands to take the other twenty percent of Dale’s residual estate. The Will specifically excludes Crystal, though she is not a legal heir of the Estate. It is clear that no attorney drafted the Will, as the Will specifically excludes non-heirs and purports to devise non-probate assets, like life insurance policies.

Dale purportedly signed the Will on November 24, 2022, only days before his death and at a time when he was under full-time hospice care and receiving near-constant palliative medication. Dale was not of sound mind on November 24, 2022, nor was he capable of understanding or knowing the extent of his estate, the objects of his affection, or to whom he wished to give his property.

On March 15, 2023, Doug filed a Petition to Set Aside Will and for Appointment of Personal Representative. On August 30, 2023, Doug served Errick with Interrogatories and Requests for Production of Documents. On August 31, 2023, Doug served Errick with Requests for Admission pursuant to Rule 36 of the South Carolina Rules of Civil Procedure (“SCRCP”). Errick’s responses to the Interrogatories and Requests for Production were due on October 4, 2023, and his responses to the Requests for Admission were due on October 5, 2023.¹ Errick failed to

¹ Doug served the Requests for Admission via regular United States Mail, as authorized by Rule 5, SCRCP, ultimately allowing Errick thirty-five (35) days from the day of mailing to respond.

answer, object, or otherwise respond to the Interrogatories, Requests for Production of Documents, or Requests for Admission within the time prescribed by the SCRCPP. Additionally, Errick failed to seek an extension of his time to respond prior to the expiration of the same.

On October 19, 2023, Doug filed a Motion to Compel Errick's discovery responses. On November 6, 2023, Doug filed a Motion for Partial Summary Judgment, pursuant to Rule 56, SCRCPP, as to his fifth cause of action. Doug's Motion for Partial Summary Judgment focused narrowly on the due execution of the Will. In response, on November 21, 2023, Errick filed a "Motion to Withdraw/Amend Admission, or Alternatively, for Additional Time to Serve Discovery Responses, and Motion to Strike Petitioner's Motion to Compel" ("Motion to Withdraw"). Errick also filed a document entitled "Brief In Support of Motion to Withdraw/Amend Admissions, or Alternatively, for Additional Time to Serve Discovery Responses, in Support of Motion to Strike Petitioner's Motion to Compel, in Opposition to Petitioner's Motion to Compel, and in Opposition to Petitioner's Motion for Partial Summary Judgment" ("Brief in Support of Motion to Withdraw"). The Brief in Support of Motion to Withdraw contained no exhibits or affidavits.

The York County Probate Court, the Honorable Carolyn Woodruff, presiding, heard Doug's Motions to Compel and for Partial Summary Judgment, as well as Errick's Motion to Withdraw, on December 7, 2024 (the "Hearing"). Judge Woodruff denied Errick's Motion to Withdraw and granted Doug's Motions to Compel for Partial Summary Judgment, via written orders filed January 5, 2024. This appeal by Errick followed on January 11, 2024.

STANDARD OF REVIEW

Motion to Withdraw

“A trial court’s rulings in matters related to discovery generally will not be disturbed on appeal in the absence of a clear abuse of discretion.” *Stokes-Craven Holding Corp. v. McKenzie*, 416 S.C. 517, 536, 787 S.E.2d 485, 495 (2016) (citing *Dunn v. Dunn*, 298 S.C. 499, 381 S.E.2d 734 (1989)). “An abuse of discretion occurs when the trial court’s order is controlled by an error of law or when there is no evidentiary support for the trial court’s factual conclusions.” *Id.* (citing *Sundown Operating Co. v. Intedg Indus., Inc.*, 383 S.C. 601, 681 S.E.2d 885 (2009)); *see also* *Wilson v. Dallas*, 403 S.C. 411, 425, 743 S.E.2d 746, 754 (2013). The burden is upon the party appealing from the order to demonstrate the trial court abused its discretion. *Dunn*, 298 S.C. at 502, 381 S.E.2d at 735.

Motion for Partial Summary Judgment

When reviewing a grant of summary judgment, appellate courts apply the same standard that governs the trial court under Rule 56(c). Summary judgment is appropriate when it is clear there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. *Baird v. Charleston Cnty.*, 333 S.C. 519, 529, 511 S.E.2d 69, 74 (1999); Rule 56(c), SCRPC. The proper standard for a party opposing a motion for summary judgment is the “genuine issue of material fact” standard. *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023).

Once the moving party carries its initial burden on a motion for summary judgment, the opposing party must do more than simply show there is some metaphysical doubt as to the material facts. *See Baughman v. American Tel. & Tel. Co.*, 306 S.C. 101, 115 410 S.E.2d 537, 545 (1991). Instead, the opposing party must come forward with “*specific facts* showing there is a genuine

issue of material fact for trial.” *See id.* (emphasis added) (internal citation omitted). Rule 56(e) specifically prohibits the nonmoving party from resting upon the mere allegations or denials of its pleadings. *Id.*; Rule 56(e), SCRCPP. In ruling on a motion for summary judgment, the Court may consider the pleadings, depositions, interrogatory answers, admissions, and affidavits in determining whether there is a genuine issue of fact for trial. *See Thomas v. Waters*, 315 S.C. 524, 526, 445 S.E.2d 659, 661 (Ct. App. 1994) (citing *Dickert v. Metropolitan Life Ins. Co.*, 306 S.C. 311, 313, 411 S.E.2d 672, 673 (Ct. App. 1993)).

ARGUMENT

I. The Probate Court did not abuse its discretion in denying Appellant’s Motion to Withdraw.

The Probate Court did not abuse its discretion by denying Appellant’s Motion to Withdraw. Rule 36, SCRCPP, authorizes litigants to “serve upon any other party a written request for the admission . . . of the truth of any matters within the scope of Rule 26(b).” SCRCPP 36(a). Rule 36 also provides:

[The subject matter of a request for admission] is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow or as stipulated in writing by the parties pursuant to Rules 29 and 6(b), the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney.

Id.; *see also Scott v. Greenville Hous. Auth.*, 353 S.C. 639, 647, 579 S.E.2d 151, 155 (2003) (“Under Rule 36(a), SCRCPP, all matters contained in a Request for Admission are admitted unless the party serves answers or objects within a certain time.”). Rule 36(b) provides “[a]ny matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission.” SCRCPP 36(b).

Because “[t]he purpose of Rule 36 is to allow parties to narrow the issues and determine which facts do not need to be proven because they are admitted,” “[t]he court *may* permit withdrawal or amendment when the presentation of the merits of the action will be subverted thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits.” Rule 36(b), SCRCP (emphasis added); *Scott*, 353 S.C. at 651, 579 S.E.2d at 157 (emphasis added); *Baughman*, 306 S.C. at 110, 410 S.E.2d at 542 (emphasis added); *see also Commerce Ctr. of Greenville, Inc. v. W. Powers McElveen & Assocs.*, 347 S.C. 545, 557, 556 S.E.2d 718, 724 (Ct. App. 2001) (emphasis added).

“[A]n admission precludes the admitting party from arguing facts at trial contrary to its responses to a request to admit, absent an amendment to or revocation of the admission as allowed under the rules.” *Scott*, 353 S.C. at 648, 579 S.E.2d at 155–56; SCRCP 36(b). Failing to respond to requests for admission causes those requests to be admitted, “regardless of whether the admission concerns a matter responded to in a party’s pleadings.” *Scott*, 353 S.C. at 646, 579 S.E.2d at 154–55. “[I]f the language of the request for admission specifically goes to an issue in the pleadings, the admission resulting from a party’s failure to respond to the request may override the pleadings.” *Id.*, 353 S.C. at 650, 579 S.E.2d at 157. This is true even where the fact admitted goes to the ultimate issue of the case. *See id.*

On August 31, 2023, Doug served Errick with the Requests for Admission. Errick’s responses to the Requests for Admission were due on Thursday, October 5, 2023.² Doug’s ninth Requests for Admission asked Errick to admit that “John Dale Williamson did not sign [the Will].”

² Pursuant to Rules 6(e) and 36, SCRCP.

Because Errick failed to timely respond to this, or any, Request for Admission propounded by Doug, the fact that Dale did not sign the Will is deemed admitted.

It was not until November 21, 2023, that Errick, through counsel, filed his Motion to Withdraw. In this motion, Errick raised only two arguments in support of withdrawal of his admission: (1) RFA No. 9 “goes to the heart of the case and, if deemed admitted, could eliminate any presentation of the merits of the case”; and (2) Doug would not be prejudiced if the Probate Court allowed Errick to withdraw his admission. Errick cited to and relied on, *inter alia*, *Scott* in making his argument.³

In its order denying the Motion to Withdraw, the Probate Court noted that “[t]he *Scott* case is on point and controls the outcome in this case.” Order Granting Pet’r’s Mot. Partial Summ. J., ¶ 14. First, the Probate Court found Errick’s argument as to Request for Admission No. 9 going to the “heart of the case” unpersuasive. Order Granting Pet’r’s Mot. Partial Summ. J., ¶ 23. The Probate Court noted that, in *Scott*, the South Carolina Court of Appeals specifically rejected this argument and reversed the trial court that allowed withdrawal of an admission on this ground. *Id.*

Second, the Probate Court ruled that Doug would, in fact, be prejudiced should Errick be permitted to withdraw his admission. Order Granting Pet’r’s Mot. Partial Summ. J., ¶ 23. Here again, the Probate Court’s Order tracks with the ruling *Scott*, where the Court of Appeals found the Greenville Housing Authority had sole control of the evidence needed by the party who obtained the admission, and that the Greenville Housing Authority had failed to engage in discovery in good faith. *Scott*, 353 S.C. at 652. For this reason, the *Scott* court found that the party who obtained the admission would be prejudiced should the admission be withdrawn. *Id.* The issue of prejudice was the subject of extensive argument at the Hearing. Tr. Of Hr’g on Pet’r’s Mot.

³ Respondent apparently argues in his brief that the Probate Court erred by relying on *Scott*, though it was Respondent who relied on this case in the first instance.

Summ. J., 20:2-24:9; 40:5-41:21; 43:19-44:6. Additionally, Doug's counsel addressed, at length, Errick's failure to participate in discovery in good faith. Tr. Of Hr'g on Pet'r's Mot. Summ. J. 19:10-21:1; 22:5-24:9. The Court received and considered the discovery requests and responses; correspondence between counsel related to Errick's failure to participate in discovery; testimony from counsel regarding the discovery process as of December 7, 2023; Doug's initial discovery requests; and Errick's untimely and deficient response. Order Granting Pet'r's Mot. Partial Summ. J., ¶ 23; Tr. Of Hr'g on Pet'r's Mot. Summ. J. 19:10-21:1; 22:5-24:9; 34:21-24; 35:9-37:15; 40:5-41:21; 43:19-44:6; 60:12-24; 62:23-63:5.

Finally, the Probate Court distinguished “the case at bar . . . from cases where withdrawal of admissions was permitted,” including *Baughman, supra*, (allowing withdrawal of admissions when a motion for protective order was made prior to the expiration of the time for answering), *Commerce Center, supra*, (allowing modification of admissions where the responding party timely responded and reserved the right to supplement responses), *Adams v. Orr*, 260 S.C. 92, 194 S.E.2d 232 (1973) (allowing withdrawal of admission where the subject request, as worded, was subject to more than one reasonable interpretation), and *Collins Entm't, Inc. v. White*, 363 S.C. 546, 611 S.E.2d 262 (Ct. App. 2005) (allowing withdrawal of admission where the first set of requests for admission was sent to an incorrect address and failure to respond to the second requests for admission was not raised until trial). Order Granting Pet'r's Mot. Partial Summ. J., ¶ 15.⁴

Ultimately, Judge Woodruff concluded that:

Based on the facts at bar and the reasoning of the cases the Court has reviewed, and based in particular on *Scott*, the arguments of counsel, the Court's review of the discovery exchanges in the record, and weighing the furtherance of a presentation on the merits against prejudice as a result of failure to engage in discovery in good faith, the Court concludes that (a) the allowance of the withdrawal or amendment

⁴ The Court also considered *Nexstar Media Grp. v. Davis*, 431 S.C. 593, 848 S.E.2d 597 (Ct. App. 2020); *Barber v. Hobbs*, 313 S.C. 319, 437 S.E.2d 409 (Ct. App. 1993); and the unpublished opinion in *Phillips v. Bayless*, (No. 2006-UP-379).

of Errick's RFA #9 should not be granted on the ground that it goes to the heart of the case . . . and (b) the Respondent has failed to respond to discovery in a timely manner and in good faith, and if the Respondent is allowed to withdraw his admissions, the Petitioner's opportunity for full and fair trial preparation is further prejudiced.

For these well-supported reasons, the Court denied Errick's Motion to Withdraw. However, it is important to note again that in no event was Judge Woodruff required to allow withdrawal of the admission. *See* Rule 36(b), SCRCP (“[T]he court *may* permit withdrawal or amendment”) (emphasis added).

As Judge Woodruff's Order makes abundantly clear, the Probate Court's decision to deny Errick's Motion to Withdraw has firm legal and factual support. Judge Woodruff did not abuse her discretion in denying Errick's Motion to Withdraw, and her ruling must be affirmed.

II. The Probate Court properly granted Respondent's Motion for Partial Summary Judgment.

The Probate Court properly granted Respondent's Motion for Partial Summary Judgment. As set forth above, Errick is deemed to have admitted that “the Will was not signed by the Decedent” Order Granting Pet'r's Mot. Partial Summ. J., ¶ 24. For this reason, it is clear there is no genuine issue of material fact, and Doug is entitled to judgment as a matter of law.

Proponents of a will, like Errick in the case at bar, have the burden of establishing prima facie proof of due execution in all cases. S.C. Code Ann. § 62-3-407 (2013, as amended). Pursuant to the South Carolina Probate Code, every will shall be: (1) in writing; (2) signed by the testator or signed in the testator's name by some other individual in the testator's presence and by the testator's direction; and (3) signed by at least two individuals each of whom witnessed either the signing or the testator's acknowledgment of the signature or of the will. S.C. Code Ann. § 62-2-502 (Supp. 2020).

As set forth above, the Court properly denied Errick's Motion to Withdraw. Errick is deemed to have admitted that John Dale Williamson did not sign the Will and, therefore, the Will was not properly executed. The Court ultimately held that, for these reasons, "Errick has not carried his burden of establishing *prima facie* proof of due execution There is therefore no question of fact, partial summary judgment is appropriate on the issue of due execution, and the failure of execution invalidates the Will." Order Granting Pet'r's Mot. Partial Summ. J., ¶ 24.

Because Doug carried his initial burden, it became the responsibility of Errick to come forward with *specific facts* showing that there is a genuine issue for trial. See *Baughman*, 306 S.C. at 115, 410 S.E.2d at 545. Errick wholly failed to do so. Other than passing references in its caption, introductory paragraph, and conclusion, Errick's Brief in Support of Motion to Withdraw makes no mention of Doug's Motion for Partial Summary Judgment. Instead, Errick dedicated the entirety of his brief to withdrawing his admission or, in the alternative, to attaining additional time to respond to Doug's discovery requests. Errick presented *no* argument in response to a properly pled and supported Motion for Partial Summary Judgment, let alone specific facts establishing a genuine issue for trial. Rule 56(e) expressly provides that if a party fails to defend itself, then summary judgment, if appropriate, "shall be entered against him." SCRCP, 56(e). For this reason, and those set forth above, it is clear there is no genuine issue of material fact, Doug is entitled to judgment as a matter of law, and Judge Woodruff's grant of Doug's Motion for Partial Summary Judgment must be affirmed.

CONCLUSION

The Probate Court did not abuse its discretion by denying Errick's Motion to Withdraw, as the decision was firmly rooted in law and supported by the facts. Because the Probate Court properly granted Doug's Motion for Partial Summary Judgment, Doug therefore respectfully

requests that this Court affirm the Probate Court's denial of Errick's Motion to Withdraw and granting of Doug's Motion for Partial Summary Judgment.

Respectfully Submitted,

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May 8, 2024

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STATE OF SOUTH CAROLINA
IN THE CIRCUIT COURT

APPEAL FROM YORK COUNTY PROBATE COURT
Case Number 2023-ES-46-00002
The Honorable Carolyn Woodruff, Probate Judge

Appellate Case Number 2024-CP-46-00110

Errick L. Williamson.....Appellant,

v.

Doug Williamson.....Respondent.

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**THE STATE OF SOUTH CAROLINA
IN THE CIRCUIT COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT**

APPEAL FROM THE PROBATE COURT

Carolyn E. Woodruff, Judge of Probate

**Circuit Court Case No. 2024-CP-46-110
Probate Case No. 2023-ES-46-2**

Errick L. Williamson Appellant

v.

Doug Williamson Respondent

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ARGUMENTS

I. THE TRIAL COURT'S FAILURE TO CORRECTLY APPLY THE FACTUAL AND LEGAL ANALYSIS, MANDATED BY SCRPC 36(B) HAD THE EFFECT OF CONFLATING AND DIMINISHING THE PREJUDICE ANALYSIS

Rule 36(b), SCRPC provides the circumstances where a trial court may grant a motion to withdraw or amend an admission. Specifically, the rule sets out a two-prong approach to the analysis, wherein the court may permit withdrawal or amendment when the presentation of the merits of the action will be subverted thereby *and* the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits.” Rule 36(b), SCRPC (emphasis added); *Scott*, 353 S.C. at 651, 579 S.E.2d at 157 (emphasis added); *Baughman*, 306 S.C. at 110, 410 S.E.2d at 542 (emphasis added); see also *Commerce Ctr. of Greenville, Inc. v. W. Powers McElveen & Assocs.*, 347 S.C. 545, 557, 556 S.E.2d 718, 724 (Ct. App. 2001) (emphasis added).

Both the Probate Court Order Granting Petitioner’s Motion for Partial Summary Judgment and Respondent’s Brief, on numerous occasions state two similar principles of law: 1) that an admission is or can be effective regardless of whether the admission concerns a matter responded to in a party’s pleadings, and/or an admission resulting from a party’s failure to respond to the request may override the pleadings, and 2) that this is true even where the fact admitted goes to the ultimate issue of the case.

In each instance these rules are included or incorporated into the analysis, they are accurate statements of law. However, the Probate Court’s Order lacks the proper analysis called for by Rule 36(b) where the Order failed to consider that the same facts are relevant and probative of the first prong of rule 36(b), satisfying the requirement that allowance of the amendment would serve presentation of the merits. See *Baughman*, 306 S.C. 101, 110, 410 S.E.2d 537, 542 (S.C.

1990) (“[I]n this case, both requirements of the test are satisfied. First, presentation of the merits will be subserved since the admissions, if not dispositive, involve key factual elements of Plaintiffs’ causes of action.”).

In its order, the Probate Court, held, “the allowance of the withdrawal or amendment of Errick’s RFA #9 should not be granted on the ground that it goes to the heart of the case, whether or not the Will is valid —this is one of the reasons that the Court of Appeals reversed the trial court in *Scott*...” Order Granting Pet’r’s Mot. Partial Summ. J., ¶ 23.

The Appellant agrees that withdrawal or amendment should not have been granted solely on the ground that the admission went to the heart of the case. Rather withdrawal or amendment should have been granted because the admission went to the heart of the case and where there was no evidence that withdrawal or amendment would prejudice Respondent in maintaining his action on the merits.

Appellant’s written and oral arguments concerning the admission going to the heart of the case were presented, not as a standalone ground in support of his motion to withdraw or amend. Rather, the same was offered to show the dispositive effect the admission would most certainly have on the principal cause of action in this litigation, and that allowing the withdrawal would serve the presentation of the merits of the action as required by the first prong of the 36(b) analysis. The courts reliance and emphasis on the holding from *Scott v. Greenville Housing Auth.*, (as discussed supra) had the effect of conflating and diminishing the prejudice analysis called for by the second prong of 36(b).

II. THE TRIAL COURT ABUSED ITS DISCRETION WHERE NO EVIDENCE SUPPORTED ITS FACTUAL CONCLUSION THAT APPELLANT FAILED TO ENGAGE IN DISCOVERY IN GOOD FAITH RESULTING IN PREJUDICE TO RESPONDENT

The prejudice that Respondent was required to demonstrate would arise if the court allowed amendment or withdrawal is a moving target that necessitates thorough and thoughtful analysis. Prejudice may arise or not depending on numerous variables and evolving circumstances.

The entirety of the Probate Court's analysis as to both prongs of Rule 36(b) is set fourth in about eight lines of paragraph 23, the language pertinent to the prejudice analysis provides, "[a]nd weighing the furtherance of a presentation on the merits against prejudice as a result of failure to engage in discovery in good faith...[t]he Respondent has failed to respond to discovery requests in a timely manner and in good faith, and if the Respondent is allowed to withdraw his admissions, the Petitioner's opportunity for full and fair trial preparation is further prejudiced." Order Granting Pet'r's Mot. Partial Summ. J., ¶ 23.

The trial court abused its discretion where there is no evidentiary support for the trial court's factual conclusions, summarily set out in paragraph 23 of the order. The court simply concludes Respondent failed to respond to discovery requests in a timely manner and in good faith, and further found these conclusions resulted in both prior and future prejudice. The court made no specific factual or evidentiary findings in support of its conclusion that, Appellant failed to respond in a timely manner or in good faith.

The Appellant actively engaged in the discovery process, filing responses and supplemental responses to Respondent requests. While some of Appellant's responses were just past the technical deadlines¹, his responsiveness certainly did not cause significant or disruptive delays. The actual issues and obstacles in the discovery process in this case involve disputes concerning

¹ Response to RFA was filed on October 11, 2023, six days (four business days) after the October 4, 2023, deadline.

the appropriateness of certain objections and privileges raised in conjunction with Respondent's suspicions and beliefs related to the availability, or production of certain documentary evidence.

The Respondent's perspective and legal position concerning the determination of prejudice, largely mirrors that of the Probate Court as set out in its Order, that is, prejudice arose in the *Scott* case based on GHA's exclusive possession and control of certain documentary evidence coupled with their failure to participate in discovery in good faith.

While this is an accurate statement of the legal findings from *Scott*, Respondent has, at no point in the trial court proceedings or the current appeal provided any factual similarities as to how the facts amounting to bad faith in *Scott* are present or are similar to the facts of this case.² It is clear that the circumstances and actions on the part of GHA - underlying the Court of Appeals finding of prejudice based on bad faith are particularly unique and provide no comparative value with the case at hand.

It is worth considering the basis for Respondent's view or belief that Appellant has failed to engage in meaningful discovery in good faith. At the December 7, 2023 hearing, Counsel for Respondent argued at length concerning prejudice in the discovery process. In responding to the Court's question about what the Order to Compel should say, after summarizing the standard terms he would expect, Counsel for Respondent continued stating.

"[a]t that point we just have to take Errick's word for it that he is giving us everything that exists...[t]his Court can order Errick to fully respond, but only Errick can fully respond, and that's where this issue of prejudice comes back because we're relying on the voracity of Errick's responses to be able to move forward."

See Tr. Of Hr'g on Pet'r's Mot. Summ. J. 40:11 - 40:13; 40:25 - 41:4. Counsel for Respondent expressed additional frustration stating,

Most of the -- I guess we call it the communicative, the communication evidence in this case, text messages, emails, written notes are in the possession of Errick. We're being told none of

² Other than Respondent's assertions or claims of bad faith. No specific facts from *Scott* have been offered or argued as evidence of lack of good faith in this case.

these exist. We just have to take his word for it, right? So we think that the situation that Doug is facing, a lot of the smoking gun evidence that might exist in this case is in Errick's possession and it behooves Errick not to turn it over. We had a very similar situation in the Hashton (phonetic) case where we have evidence of hundreds of text messages between two parties to -- a witness and a party and they just said, "Well, we don't have them anymore." And there was nothing we could do to prove that they still had them. We just had to take their word for it."

See Tr. Of Hr'g on Pet'r's Mot. Summ. J. 23:4 – 23:14

These statements are significant in that they show Respondent's real motivations and basis for believing the Appellant "must be" acting in bad faith. Respondent's claims of prejudice or potential for prejudice are not based on any known or established facts or evidence, rather they are based solely upon his beliefs, feelings, suspicions, and assumptions concerning the veracity of Appellant's character.

Furthermore, the above statements and the *Scott* case offer two important distinctions related to the question of prejudice. In the second excerpt above, counsel for Respondent referenced the Hashton (phonetic) case where there was evidence of hundreds of text messages. Likewise, in *Scott*, the court noted, "GHA either denied the existence of or did not provide Scott with discovery records it clearly had access to prior to the first date the trial was scheduled. In the case at hand there has been no instance or occasion with evidence showing some discovery item/document does exist and hasn't been provided.

By way of contrast from the Probate Court's Order in the case at bar, the Court of Appeals in *Scott*, 353 S.C. 639 at 651, 579 S.E.2d 151, finding prejudice would arise if the admission were withdrawn, set out the numerous specific facts with analysis as to how prejudice arose as a result of egregious actions attributable to Greenville Housing Authority.

The determination of prejudice requires a full analysis of many factors, and while a full analysis of the many points of law³ guiding this determination⁴, is beyond the scope of this Brief in Reply, it is worth noting in summary fashion that there is no evidentiary basis or specific

³ *Hadley v. U.S.*, 45 F.3d 1345 (9th Cir. 1995); *O'Neal v. City of Pac.*, CASE NO. C11-0231RSM (W.D. Wash. Jan 23, 2013); *Conlon v. U.S.*, 474 F.3d 616 (9th Cir. 2007); *Angela Patton, Alexia L. v. Gregory A. Miller, M.D., Rock Hill Gynecological & Obstetrical Assocs., P.A.*, 804 S.E.2d 252, 420 S.C. 471 (S.C. 2017); *Gardner v. Newsome Chevrolet-Buick, Inc.*, 304 S.C. 328, 404 S.E.2d 200 (S.C. 1990); 999 v. *C.I.T. Corp.*, 776 F.2d 866, 869 (9th Cir.1985).

⁴ See in particular, *Conlon v. U.S.*, 474 F.3d 616, including an in-depth analysis concerning the determination of prejudice in the context of a motion to withdraw an admission under Fed. R. Civ. P. 36. *Conlon* also provides an instructive analysis and comparison of the factors present in *Hadley*, 45 F.3d 1345, and 999, 776 F.2d 866, ultimately finding that Cologne fell somewhere between *Hadley* and 999.

findings: 1) showing any form of reliance on the part of Respondent, 2) that prejudice can exist or arise under the law when an additional four to five additional months of discovery is anticipated by Respondent, See Tr. Of Hr'g on Pet'r's Mot. Summ. J. 45:16 – 45:18:10-21:1,

III. THE TRIAL COURTS GRANT OF PARTIAL SUMMARY JUDGEMENT IS BASED EXCLUSIVELY ON THE ADMISSION OF RF A-9, AND THEREFORE NECESSARILY ON THE TRIAL COURT'S DENIAL OF APPELLANT'S MOTION TO WITHDRAW OR AMEND

The Probate Court's Order granting Respondent's Motion for Partial Summary Judgment provides, "Because Errick's failure to respond to RFA 9 results in an admission that the Will was not signed by the Decedent, the Will was not properly executed. As the proponent of the Will, Errick has not carried his burden of establishing prima facie proof of due execution. See S.C. Code Ann. §62-3-407. There is therefore no question of fact, partial summary judgment is appropriate on the issue of due execution, and the failure of execution invalidates the Will.

As the Grant of Partial Summary Judgment relied entirely on the admission of RFA-9 and consequently depends on the Court's Order Denying Appellant's Motion to amend or withdraw.

CONCLUSION

The trial court's failure to correctly apply the factual and legal analysis mandated by SCRCP 36(b) and reliance and emphasis on the holding from *Scott v. Greenville Housing Auth.*, conflated and diminished the prejudice analysis called for by the second prong of 36(b).

Ultimately, the trial court abused its discretion where there is no evidentiary support for the trial court's factual conclusions, and unsupported determination of prejudice. For the foregoing reasons, this Court should reverse the judgment of the probate court denying Appellant's Motion to Withdraw/Amend and granting Respondent's Motion for Partial Summary Judgment.

Respectfully submitted this 20th day of May, 2024.

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**THE STATE OF SOUTH CAROLINA
IN THE CIRCUIT COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT**

APPEAL FROM THE PROBATE COURT

Carolyn E. Woodruff, Judge of Probate

**Circuit Court Case No. 2024-CP-46-110
Probate Case No. 2023-ES-46-2**

Errick L. Williamson Appellant

v.

Doug Williamson Respondent

CERTIFICATE OF SERVICE

The undersigned certifies that on the 20th day of May, 2024,, he served a copy of Appellant's

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

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**THE STATE OF SOUTH CAROLINA
IN THE CIRCUIT COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT**

APPEAL FROM THE PROBATE COURT

Carolyn E. Woodruff, Judge of Probate

Circuit Court Case No. 2024-CP-46-110

Probate Case No. 2023-ES-46-2

Errick L. Williamson Appellant

v.

Doug Williamson Respondent

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Daniel B. Hall, Circuit Court Judge

Case No. 2024-CP-46-00110

Errick L. Williamson, individually
and as Personal Representative of the Estate of John Dale Williamson, Appellant,

v.

Doug Williamson, Respondent.

NOTICE OF APPEAL

Errick L. Williamson, individually and as Personal Representative of the Estate of John Dale Williamson (“Appellant”), hereby gives notice of appeal to the Court of Appeals of South Carolina from the Order entered on August 6, 2024, in the Court of Common Pleas of York County by the Honorable Daniel D. Hall. A true and correct copy of the August 6 Order is attached as Exhibit A. Because the August 6 Order relied on an Order from the Probate Court, the Probate Court’s Order is attached as Exhibit B.

Respectfully submitted this the 4th day of September 2024.



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Sep 04 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Daniel B. Hall, Circuit Court Judge

Case No. 2024-CP-46-00110

Errick L. Williamson, individually
and as Personal Representative of the Estate of John Dale Williamson,

Appellant,

v.

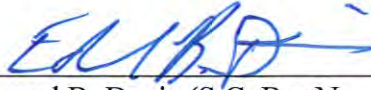
Doug Williamson,

Respondent.

NOTICE OF APPEAL

Errick L. Williamson, individually and as Personal Representative of the Estate of John Dale Williamson (“Appellant”), hereby gives notice of appeal to the Court of Appeals of South Carolina from the Order entered on August 6, 2024, in the Court of Common Pleas of York County by the Honorable Daniel D. Hall. A true and correct copy of the August 6 Order is attached as Exhibit A. Because the August 6 Order relied on an Order from the Probate Court, the Probate Court’s Order is attached as Exhibit B.

Respectfully submitted this the 4th day of September 2024.



Edward B. Davis (S.C. Bar No. 16713)

BELL, DAVIS & PITT, P.A.

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Charlotte, NC 28202

Telephone: 704-227-0400

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*Counsel for Errick L. Williamson, individually and as
Personal Representative of the Estate of John Dale
Williamson*

Other Counsel of Record:

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Johnston, Allison & Hord, P.A.

1065 E. Morehead Street

Charlotte, NC 28204

npierce@jahlaw.com

Counsel for Respondent

With US Mail to:

Derrick Williamson

1154 Dease Street

Rock Hill, SC 29732

Robin Beckler

300 Thomasboro Road SW

Calabash, NC 28467

Certificate of Service

I, Rebecca McNERNEY, Counsel for Errick L. Williamson, do certify that on the 11th day of January 2024, I served a copy of the foregoing Notice of Intent to Appeal on all interested parties as follows:

Via Electronic Mail and First Class Mail

Nate Pierce
Attorney for Doug Williamson
Johnston Allison Hord
1065 East Morehead Street
Charlotte, NC 28204
Email: npierce@jahlaw.com

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Sep 04 2024

SC Court of Appeals

Via First Class Mail

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1154 Dease Street
Rock Hill, SC 29732

Via First Class Mail

Robin Beckler
300 Thomasboro Road SW
Callabash, NC 28467

Via First Class Mail

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Bloomington, MN 55425-1116

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Piedmont Medical Center
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Via First Class Mail

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1209 Orange Street
Wilmington, DE 12081

Via First Class Mail

Bank of America c/o C T Corporation System
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Columbia, SC 29223

Via First Class Mail

Nephrology Associates

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Rock Hill, SC 29732

The Law Office of Rebecca McNerney PLLC

By: 
Rebecca T. McNerney
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Sep 04 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Daniel B. Hall, Circuit Court Judge

Case No. 2024-CP-46-00110

Errick L. Williamson, individually
and as Personal Representative of the Estate of John Dale Williamson,

Appellant,

v.

Doug Williamson,

Respondent.

PROOF OF SERVICE

I certify that I have served the *Notice of Appeal* on Respondent Doug Williamson via his attorney, J. Nathaniel Pierce, by: (a) sending a .pdf to J. Nathaniel Pierce's e-mail address listed in the AIS (npierce@jahlaw.com) (email is attached); (b) electronic filing with the lower court (NEF is attached); and (c) by depositing a copy of the same in the United States Mail, postage prepaid, on September 4, 2024, addressed to J. Nathaniel Pierce, Johnston, Allison & Hord, P.A., 1065 E. Morehead Street Charlotte, NC 28204.

I certify that I have served the *Notice of Appeal* on Derrick Williamson by depositing a copy of the same in the United States Mail, postage prepaid on September 4, 2024, addressed to 1154 Dease Street, Rock Hill, SC 29732.

I certify that I have served the *Notice of Appeal* on Robin Beckler by depositing a copy of the same in the United States Mail, postage prepaid on September 4, 2024, addressed to 300 Thomasboro Road SW, Calabash, NC 28467.

This the 4th day of September, 2024.



Edward B. Davis (S.C. Bar No. 16713)

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*Counsel for Errick L. Williamson,
individually and as Personal Representative
of the Estate of John Dale Williamson*

Susannah R. Cook

From: Susannah R. Cook
Sent: Wednesday, September 4, 2024 4:03 PM
To: Pierce, Nate
Cc: Ward Davis; Kevin J. Roak
Subject: RE: Notice of Appeal by Errick L. Williamson
Attachments: 2024-09-04 Notice of Appeal by Errick L. Williamson.pdf

Mr. Pierce,

Pursuant to the order of the Supreme Court of South Carolina regarding methods of electronic filing and service, documents must be served as an attachment in .pdf format. As such, I'm attaching a .pdf of the *Notice of Appeal* to this email.

Regards,
Susannah Cook

From: Pierce, Nate <npierce@jahlaw.com>
Sent: Wednesday, September 4, 2024 3:51 PM
To: Susannah R. Cook <scook@belldavispitt.com>
Cc: Ward Davis <ward.davis@belldavispitt.com>; Kevin J. Roak <kroak@belldavispitt.com>
Subject: RE: Notice of Appeal by Errick L. Williamson

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Thank you, Susannah. Received.

Nate

From: Susannah R. Cook <scook@belldavispitt.com>
Sent: Wednesday, September 4, 2024 3:45 PM
To: Pierce, Nate <npierce@jahlaw.com>
Cc: Ward Davis <ward.davis@belldavispitt.com>; Kevin J. Roak <kroak@belldavispitt.com>
Subject: Notice of Appeal by Errick L. Williamson

Caution: This message is from an external sender.

Mr. Pierce,

Please use the link below to access the *Notice of Appeal* that was just submitted for electronic filing with the York County Clerk of Court. A hard copy will follow by mail.

Regards,
Susannah Cook

ShareFile Attachments

Expires March 6, 2025

2024-09-04 Notice of Appeal by Errick L. Wi...son.pdf

6.5 MB

[Download Attachments](#)

Susannah Cook uses ShareFile to share documents securely.



Susannah R. Cook

Legal Assistant

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Subject: Courtesy NEF RE: 2024CP4600110

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******* IMPORTANT NOTICE - READ THIS INFORMATION *******
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A filing has been submitted to the court RE: 2024CP4600110

Official File Stamp: 09-04-2024 03:37:59 PM
Court: CIRCUIT COURT
Common Pleas
York
Case Caption: Errick L Williamson , plaintiff, et al VS Doug Williamson ,
defendant, et al
Document(s) Submitted: Appeal/Notice of Appeal to Court of Appeals
- Exhibit/Filing of Exhibits
- Exhibit/Filing of Exhibits
Service/Certificate Of Service
Filed by or on behalf of: Edward Bilbro Davis

This notice was automatically generated by the Court's auto-notification system.

The following people were served electronically:

John Mark Shiflet for Errick L Williamson et al
James Nathaniel Pierce for Doug Williamson
Rebecca T. McNerney for Errick L Williamson
Edward Bilbro Davis for Errick L Williamson, Errick L
Williamson Prs

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

Derrick Williamson

Robin Beckler

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**Susannah R. Cook**

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**From:** Susannah R. Cook  
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**To:** baileen23@gmail.com; transcripts@sccourts.org  
**Cc:** Ward Davis; Kevin J. Roak; ctappfilings@sccourts.org; Pierce, Nate; cwhite@jahlaw.com  
**Subject:** Request for hearing transcript, York County 2024CP4600110 Errick L. Williamson v. Doug Williamson  
**Attachments:** Transcript Request Form.pdf

Hello,

Please see the attached transcript request form. Please acknowledge receipt of the same and let me know if any other information is needed at this time. In accordance with Rule 207(a)(1), SCACR, we are copying all parties, the Office of Court Administration, and the clerk of the appellate court on this communication.

Regards,  
Susannah Cook



## South Carolina Judicial Branch

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Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, the transcribed paper copy is the official record of court proceedings. You may request a transcript by completing this form and emailing it to the Court Reporter/Transcriptionist and to South Carolina Court Administration at [transcripts@sccourts.org](mailto:transcripts@sccourts.org). If WebEx or DCRP were used to capture the record, please indicate below and send the form to [transcripts@sccourts.org](mailto:transcripts@sccourts.org).

| Requestor's Information                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|
| <b>Full Name</b><br>Edward B. Davis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                          | <b>Law Firm/Agency</b><br>Bell, Davis & Pitt, P.A.                                                                                                                                                                                                                                                                                                                                                            | <b>Phone Number</b><br>704-227-0400                                                          |
| <b>Email Address</b><br>Ward.davis@belldavispitt.com                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                          | <b>Mailing Address</b><br>227 W. Trade Street, Suite 1800, Charlotte, NC 28202                                                                                                                                                                                                                                                                                                                                |                                                                                              |
| <b>Is the requestor a party in the case?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No<br><b>If no, does the requestor represent a party?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, name of party Errick L. Williamson                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                              |
| Transcript Information                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                              |
| <b>Docket Number</b><br>2024CP4600110                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>Full Case Caption</b> (i.e. State v. John Doe or John Smith v. Jane Smith)<br>Errick L. Williamson v. Doug Williamson |                                                                                                                                                                                                                                                                                                                                                                                                               | <b>Circuit</b> <input checked="" type="checkbox"/><br><b>Family</b> <input type="checkbox"/> |
| <b>Date(s) of Proceeding</b><br>August 2, 2024                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>County</b> York                                                                                                       | <b>Appeal pending</b><br><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                                                                                  | <b>Death Penalty</b><br><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  |
| <b>Presiding Judge</b><br>Daniel D. Hall                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                          | <b>Special Circumstances</b><br>Is the hearing to be transcribed one of the following:<br><input type="checkbox"/> Termination of parental rights<br><input type="checkbox"/> Adoption<br><input type="checkbox"/> Any actions involving child custody/visitation.                                                                                                                                            |                                                                                              |
| <b>Opposing Counsel(s)</b> (name and email address)<br>J. Nathaniel Pierce, <a href="mailto:npierce@jahlaw.com">npierce@jahlaw.com</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                          | <b>Delivery Timeframe</b><br>(check Rule 607 for current page rates)<br><input type="checkbox"/> Quote<br><input type="checkbox"/> Rough Draft<br><input type="checkbox"/> Overnight delivery<br><input type="checkbox"/> Daily delivery<br><input type="checkbox"/> Expedited delivery (7 days) <b>Due on/before:</b> <input type="text"/><br><input checked="" type="checkbox"/> Regular delivery (60 days) |                                                                                              |
| <b>Court Reporter(s)</b><br>AB Contract Circuit                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <input type="checkbox"/> WebEx<br><input type="checkbox"/> DCRP                                                          | <b>Delivery Method</b> (additional fees may apply)<br><input checked="" type="checkbox"/> PDF / Email<br><input type="checkbox"/> Hard Copy/Priority Mail (\$50 + shipping)<br><input type="checkbox"/> PDF & Hard Copy/Priority Mail (\$50 + shipping)                                                                                                                                                       |                                                                                              |
| <b>Portion of proceeding to be transcribed</b><br><input checked="" type="checkbox"/> Entire hearing<br><input type="checkbox"/> Voir dire by juror<br><input type="checkbox"/> Jury selection<br><input type="checkbox"/> Plaintiff's opening statement<br><input type="checkbox"/> Defendant's opening statement<br><input type="checkbox"/> Plaintiff's closing arguments<br><input type="checkbox"/> Defendant's closing arguments<br><input type="checkbox"/> Entire direct examination<br><input type="checkbox"/> Entire cross examination<br><input type="checkbox"/> Entire redirect<br><input type="checkbox"/> Examination of witness (W) by attorney (A)<br>W: <input type="text"/><br>A: <input type="text"/><br><input type="checkbox"/> Ruling of the court |                                                                                                                          | <b>Responsible Payor</b><br><input type="checkbox"/> Private / Self<br><input type="checkbox"/> Court Appointed Counsel<br><input checked="" type="checkbox"/> Appeals Attorney Edward B. Davis<br>Email <a href="mailto:ward.davis@belldavispitt.com">ward.davis@belldavispitt.com</a><br><input type="checkbox"/> Other <input type="text"/>                                                                |                                                                                              |
| <b>Next Hearing Date</b> <input type="text"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                              |

**Requestor's Signature:** Edward B. Davis **Date:** September 10, 2024  
(Typed name will serve as signature)

**NOTE:** Requests will be processed pursuant to Rule 207 and 607 of the SCACR. Rule 607(h) governs the fees for transcripts, which are not provided for free or at reduced rates to any party, regardless of indigent status. Please promptly submit your payment in the method of payment requested, in order for the transcript to be produced. In some cases, a deposit may be required before the transcript can be placed in the production queue. You may also request a quote before deciding to order. **If you need to cancel the transcript request for any reason, you are responsible for paying for the pages of the transcript that have already been completed at the time of the cancellation.**

If you are ordering a transcript pursuant to Rule 207(a)(1), SCACR, you must contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter or transcriptionist.

**Apr 15 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

---

APPEAL FROM YORK COUNTY

Circuit Court of Common Pleas

Daniel B. Hall, Circuit Court Judge

---

Case No. 2024-CP-46-00110

Appellate Case No.: 2024-001466

---

In re: Estate of John Dale Williamson

Doug Williamson, Respondent

v.

Errick L. Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below,  
of whom Errick L. Williamson, individually, and Errick L. Williamson, as personal representative of the Estate of John Dale Williamson is the Appellant.

---

**PROOF OF SERVICE**

---

The undersigned certifies that on the 14<sup>th</sup> day of March 2025, he served a copy of the Record on Appeal as follows:

**Via Electronic Filing, and Electronic Mail**

J. Nathaniel Pierce  
Johnston Allison & Hord, P.A.  
1065 East Morehead Street  
Charlotte, NC 28204  
Email: [npierce@jahlaw.com](mailto:npierce@jahlaw.com)

/s/ Edward B. Davis  
Edward B. Davis (S.C. Bar No. 16713)  
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(704) 227-0400  
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Counsel for Appellant

(Intentionally blank)

**RECEIVED**

**Apr 15 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM YORK COUNTY

Circuit Court of Common Pleas

Daniel B. Hall, Circuit Court Judge

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Errick L. Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below,  
of whom Errick L. Williamson, individually, and Errick L. Williamson, as personal representative of the Estate of John Dale Williamson is the Appellant.

---

**FINAL BRIEF OF APPELLANT**

---

Edward B. Davis, S.C. Bar No. 16713  
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*Counsel for Appellant*

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**STATEMENT OF ISSUES ON APPEAL**

- I. Did the Probate Court err by not allowing Errick Williamson to withdraw admissions pursuant to Rule 36(b), SCRCF?
- II. Did the Probate Court abuse its discretion when it evaluated whether Errick Williamson should be allowed to withdraw admissions pursuant to Rule 36(b), SCRCF?
- III. Did the Probate Court properly grant Doug Williamson's Motion for Partial Summary Judgment and did the Circuit Court properly affirm the Probate Court's Order?

**STATEMENT OF THE CASE**

John Dale Williamson ("John Dale") passed away in November 2022. (R. p. 23, ¶ 16). Appellant Errick Williamson ("Errick"), John Dale's nephew, is a beneficiary of John Dale's will, which bears John Dale's signature. (R. pp. 24, ¶ 22, and 66-70). The Will was witnessed by two independent witnesses, Jeff Hawkins and Kaleb Kidd. (R. pp. 66-70). John Dale, Jeff Hawkins, and Kaleb Kidd all signed the Will in front of Jessica Lynn Hawkins, a notary public in North Carolina. (R. pp. 66-70). The Will appoints Errick as the personal representative of John Dale's estate. (R. p. 63, ¶ 11).

Respondent Doug Williamson ("Doug") is one of John Dale's brothers. (R. p. 22, ¶ 8). He filed a Petition to Set Aside Will and for Appointment of Personal Representative in York County's Probate Court in March 2023 (the "Petition"). (R. p. 21). In the Petition, Doug argued that the Will should be set aside or found invalid, Errick should be removed as the personal representative, property should be returned to the estate, and a new personal representative should be appointed. (R. pp. 22, ¶ 8 and 24-28). If the Will is set aside, then Doug will benefit as one of John Dale's

heirs. (R. p. 25, ¶ 33). Additionally, Errick receives eighty percent of John Dale's residual estate per the Will, but he would likely receive significantly less or nothing if the Will is invalid. (R. p. 63, ¶ 7).

While litigating the Petition, Doug served Interrogatories and Requests for Production on August 30, 2023 (the "Interrogatories and RFPs"). (R. p. 121). He then served Rule 36 Requests for Admission (the "Requests") on August 31, 2023, which were served by mail and received by Errick's counsel on September 7, 2023. (R. pp. 123 and 258). One of the Requests, Request No. 9, stated: "Admit that John Dale Williamson did not sign the Last Will and Testament attached hereto as Exhibit B." (R. p. 123).

On October 10, 2023, through counsel, Errick requested an additional ten days to respond to both the Requests and Interrogatories and RFPs. (R. p. 164, ¶ 17). Doug denied the request for more time to serve responses to the Requests, and he did not even allow Errick ten additional days to respond to the Interrogatories and RFPs. (R. p. 165, ¶ 19). Errick responded to the Requests on October 11, 2023. (R. p. 164, ¶ 18). In his responses, Errick denied Request 9. (R. p. 142).

Doug then immediately served a Motion to Compel regarding the Interrogatories and RFPs on October 12, 2023, which he did without even attempting to work out any discovery disputes or waiting to see Errick's discovery responses. (R. p. 165). The Motion to Compel was filed on October 19, 2023, which was actually after Errick served his responses to the Interrogatories and RFPs on October 17, 2023. (R. pp. 145 and 162). Peculiarly, Doug did send a discovery deficiency letter to

Errick, but he did so only *after* he filed the Motion to Compel. (R. p. 181). Ultimately, as noted in his response letter and during the hearing, Errick complied and provided additional documents and responses to the *extent they existed* as required by law or the court. (R. pp. 100-08 and 222). Perhaps most importantly, however, the disputes within the Motion to Compel—whether Doug should get five- or two-and-a-half-years of employment records, whether Doug is entitled to confidential spousal communications, the requirements of verifying responses to Interrogatories, and whether certain documents exist—are not impacted by the Requests. (See R. pp. 100-08, 140-61, and 222-23).

In November 2023, Doug filed a Motion for Partial Summary Judgment and supporting brief (the “Partial MSJ”). The Partial MSJ relates to Doug’s fifth cause of action, failure of due execution. (R. pp. 27, ¶¶ 48-50, and 188-95). Doug argued that Errick was late in responding to the Requests, so the Requests are deemed admitted, including Request 9. (R. pp. 193-94). If Errick cannot prove the Will was executed by John Dale, then there was no way that Errick could meet his burden to prove the Will was properly executed. (R. pp. 193-94). That would mean the Will is invalid. (R. p. 194). To make his argument, in addition to relying on the deemed admitted Request 9, Doug actually also relied on Errick’s October 11 responses to the Requests. (R. pp. 193-94). Later in November, Errick filed a Motion to Withdraw/Amend Admissions, or Alternatively, for Additional Time to Serve Discovery Responses, and Motion to Strike Petitioner’s Motion to Compel and supporting brief (the “Motion to Withdraw or Amend”). (R. pp. 230-242).

The Partial MSJ and Motion to Withdraw or Amend were heard in the Probate Court in December 2023. (R. p. 80). Probate Court Transcript, p. 1. The Probate Court granted the Partial MSJ, invalidated the Will, and denied the Motion to Withdraw or Amend on January 5, 2024 (the “Probate Order”).<sup>1</sup> (R. pp. 4-11). The Probate Order was based on the deemed admission to Request 9. (R. pp. 7, ¶¶ 10-12, and 10, ¶¶ 23-24). The Court reasoned that Errick did not timely respond to the Requests, so Request 9 was deemed admitted (along with all other Requests). (R. p. 7, ¶ 12). The Probate Court also refused to allow Errick to withdraw the deemed admissions. (R. pp. 9-10, ¶¶ 21-24). Because Errick “admitted” that John Dale did not sign the Will, the Court held that Errick cannot meet his burden of presenting *prima facie* evidence that the Will was duly executed. (R. pp. 9-10, ¶¶ 21-24). Thus, the witnessed and notarized Will was invalidated by the Probate Court. (R. pp. 9-10, ¶¶ 21-24).

The Probate Court issued these findings and holdings even though Errick’s actual responses were served only days after the deadline and, importantly per South Carolina’s Supreme Court, months before the responses were ordered admitted. (R. pp. 4, 123, and 142). The Probate Court issued these findings and holdings even though Errick attempted to withdraw the admissions in advance of the hearing on the Partial MSJ, which the Court of Appeals has held to be significant. (R. p. 230). And the Probate Court issued these findings and holdings even though no depositions had been taken, no experts were disclosed, no admissions had been relied upon, there

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<sup>1</sup> The Probate Court also granted the Motion to Compel on the same day.

were still five to six months of discovery left, and trial was not set. (R. pp. 83-84, 92, and 99).

Because the Probate Order involved the merits and finally determined the validity of the Will—a substantial matter in the Petition—Errick timely appealed the Probate Order to York County’s Circuit Court of Common Pleas on January 11, 2024. (R. p. 243). The matter was briefed, and oral argument was held on August 2, 2024. (R. p. 109). On August 6, 2024, the Circuit Court entered a two-sentence Order that affirmed the Probate Order based upon the record from the Probate Court (the “Circuit Court Order”). (R. p. 17). Errick timely appealed the Circuit Court Order and Probate Order by filing and serving the Notice of Appeal on September 4, 2024. (R. pp. 300-11). The transcript of the August 2, 2024 hearing was ordered on September 10, 2024, and Errick received it on October 4, 2024. (R. pp. 312-13). After a Consent Motion, this Court extended the deadline for Errick to file the initial brief and designation of matter until December 4, 2024. (R. p. 21).

As it currently stands, John Dale’s wishes for how his estate should be distributed will not even be evaluated, let alone fulfilled. Instead, his assets will be distributed in a manner counter to his intentions because of a purely procedural issue, which is contrary to South Carolina precedent.

### **STANDARD OF REVIEW**

A lower court’s refusal to allow a party to withdraw admissions pursuant to Rule 36(b), SCRCP, is reviewed for an abuse of discretion. *Scott v. Greenville Hous. Auth.*, 353 S.C. 639, 650, 579 S.E.2d 151, 157 (Ct. App. 2003). It is an abuse of

discretion “when the court's decision is unsupported by the evidence or controlled by an error of law.” *State v. King*, 422 S.C. 47, 54, 810 S.E.2d 18, 22 (2017). “It is an equal abuse of discretion to refuse to exercise discretionary authority when it is warranted as it is to exercise the discretion improperly.” *City of Charleston Hous. Auth. v. Brown*, 437 S.C. 514, 525, 878 S.E.2d 913, 919 (Ct. App. 2022) (citation omitted). Thus, properly exercising discretion “begins with the trial court's clear understanding of the applicable law, continues with the court's sound analysis of the situation before it in light of the law, and ends with the trial court's ruling that follows the law and is supported by the facts and circumstances.” *Morris v. BB & T Corp.*, 438 S.C. 582, 587, 885 S.E.2d 394, 397 (2023).

The standard of review for motions for summary judgment is the same as the standard in Rule 56, SCRCP. *Matter of Est. of Smith*, 419 S.C. 111, 116, 796 S.E.2d 158, 160 (Ct. App. 2016). Summary judgment should only be affirmed “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgement as a matter of law.” *Id.* (citing Rule 56, SCRCP). “Summary judgment is a drastic remedy which should be cautiously invoked so that no person will be improperly deprived of a trial of the disputed factual issues.” *Jones ex rel. Jones v. Enter. Leasing Co.-Se.*, 383 S.C. 259, 263, 678 S.E.2d 819, 821 (Ct. App. 2009) (citing *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1991)).

### **ARGUMENTS**

**I. The Probate Court should have allowed the deemed admissions to the Requests to be withdrawn.**

Rule 36(b), SCRPC, states that “the court may permit withdrawal or amendment [of an admission] when the presentation of the merits of the action will be subserved thereby and the party who obtained the admissions fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits.” Thus, there are two questions that the Court evaluates: (1) Does allowing amendment or withdrawal further the presentation of the merits of the matter? (2) Would an amendment or withdrawal prejudice the party that obtained the admission? *Id.*

“The prejudice contemplated by Rule 36(b) is ‘not simply that the party who obtained the admission will now have to convince the factfinder of its truth. Rather, it relates to the difficulty a party may face in proving its case, *e.g.*, caused by the unavailability of key witnesses, because of the sudden need to obtain evidence.’ ” *Hadley v. United States*, 45 F.3d 1345, 1348 (9th Cir. 1995); *see Scott*, 353 S.C. at 648-49, 579 S.E.2d at 156 (noting that Federal Rule 36 is substantively similar to Rule 36, SCRPC, and favorably citing to Federal interpretations) and *Gardner v. Newsome Chevrolet-Buick, Inc.*, 304 S.C. 328, 330, 404 S.E.2d 200, 201 (1991) (“Since our Rules of Procedure are based on the Federal Rules, where there is no South Carolina law, we look to the construction placed on the Federal Rules of Civil Procedure.”).

South Carolina’s Supreme Court has had the opportunity to evaluate the interpretation and application of Rule 36(b), SCRPC. *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 110, 410 S.E.2d 537, 542 (1991). In *Baughman*, Requests for

Admission were served on July 29, 1988. *Id.* at 306 S.C. at 106, 410 S.E.2d at 540. Because of the nature of the *Baughman* Requests, the plaintiffs filed for a protective order before any responses were due. The plaintiffs did not timely serve responses to the *Baughman* Requests, and the *Baughman* Requests were ultimately ordered admitted on October 28, 1988, and partial summary judgment was granted. *Id.* This was so, even though the plaintiffs provided responses to the *Baughman* Requests on October 24, 1988, which was before the *Baughman* Requests were ordered admitted by the trial court and partial summary judgment was granted. *Id.* Plaintiffs moved to have the deemed admissions withdrawn, the October 24, 1988 responses substituted, and the partial summary judgment vacated, but they were unsuccessful at the trial court. *Id.* at 306 S.C. at 106-07, 410 S.E.2d at 540-41.

The Supreme Court held that the refusal to allow withdrawal of the deemed admissions was an error for two separate—yet each individually sufficient—reasons. *Id.* at 306 S.C. at 109-10, 410 S.E.2d at 542. First, the timely Motion for Protective Order was alone sufficient reason to justify withdrawing the deemed admissions. *Id.* at 306 S.C. at 109, 410 S.E.2d at 542 (citing the Federal interpretation in *Wright & Miller*).

Another alternative reason also justified withdrawal. *Id.* “Furthermore, Plaintiffs *should have been permitted* to withdraw the deemed admissions and file the responses of October 24, 1988. Rule 36(b), S.C.R.C.P., sets forth the test for withdrawal of an admission and, by implication, the filing of a late response.” *Id.* (emphasis added). The Supreme Court stated that both prongs of Rule 36(b) were



satisfied because the admissions involved “key factual elements” and “since Plaintiffs’ responses were filed even before the requests were *ordered admitted*, [the] defense could not possibly have been prejudiced.” *Id.* at 306 S.C. at 110, 410 S.E.2d at 542 (emphasis added). Because of the error, the matter was “remanded for further proceedings consistent with [the] opinion.” *Id.* at 306 S.C. at 118, 410 S.E.2d at 547. Thus, the Supreme Court has interpreted Rule 36(b), SCRCP, to mean that, when the two-prong test is satisfied and the litigant provides answers to Requests for Admission before they are “ordered admitted,” the defense could “not possibly have been prejudiced,” and the responses should be allowed to be withdrawn or amended.

In unpublished opinions, the Court of Appeals has recognized the mandatory nature of applying the two-step test and identified another key factor. *Phillips v. Bayless*, No. 2006-UP-379, 2006 WL 7287200, at \*4 (S.C. Ct. App. Nov. 21, 2006) (“Once a party moves for withdrawal or amendment of the admission, *the court applies* [the two-part test in Rule 36(b), SCRCP.]” (emphasis added)). The Court in *Bennett v. Carter* also confirmed that the trial court had to apply the Rule 36(b) test and remanded because, even though the test was satisfied, the trial court did not permit withdrawal. *Bennett v. Carter*, No. 2015-UP-491, 2015 WL 5968253, at \*1 (S.C. Ct. App. Oct. 14, 2015), *aff’d as modified*, 421 S.C. 374, 807 S.E.2d 197 (2017). In the same case, the Court also held that it was timely to submit a motion to withdraw or amend *even after* the trial court stated it was going to grant summary judgment based upon deemed admissions but before the order was entered. *Id.*

Holding otherwise, the Court said, was an error. *Id.* (“We also believe the trial court erred in finding the motion to amend or withdraw the response was untimely.”).

Errick met the standard outlined in *Baughman*: He satisfied the two-part test in Rule 36(b), SCRCP, and he served responses to the Requests before the Requests were “ordered admitted.” (R. pp. 4 and 140). He also met the standard outlined in *Bennett* because he moved to withdraw or amend the deemed responses before any Probate Order was entered. (R. pp. 4 and 230). The Probate Court and Circuit Court erred by not following this established precedent and guidance. Thus, this Court should follow the Supreme Court’s analysis and the unpublished opinions and direct the Probate Court and Circuit Court to allow withdrawal and amendment of Errick’s deemed admissions.

**II. The Probate Court abused its discretion by misapplying the two-step test in *Scott* and ignoring relevant authority in other cited cases.**

**A. *Scott v. Greenville Hous. Auth.***

**1. The defendant’s egregious conduct in *Scott*.**

The Probate Order stated that the “*Scott* case is on point and controls the outcome in this case.” (R. p. 7, ¶ 14). Thus, it is important to detail the actual facts in *Scott* and the Court of Appeals’ ultimate holdings. In *Scott*, a parent, Edgar Scott, left his three-year-old (the “Child”) with a babysitter at a property owned by the defendant, Greenville Housing Authority (the “Authority”). *Scott*, 353 S.C. at 642, 579 S.E.2d at 152. The Child severely burned his hands while washing them in a bathroom, and Scott sued the Authority. *Id.* As detailed below, *Scott* involved

egregious actions by the defendant that prejudiced the plaintiff's ability to prosecute its case. Those actions are not present in this case.

Scott served discovery in November 2000, which included requests for inspection of records of the hot water heaters and Requests for Admission. The *Scott* Requests went right to the heart of whether the Authority had knowledge about the hot water heaters and whether the Authority was liable for the Child's injuries. *Id.* at 353 S.C. at 642, 579 S.E.2d at 153. The Authority did not respond to the discovery within thirty days, only produced documents two days before the first-scheduled trial, and never responded to the Requests for Admission. *Id.* The first trial was continued "to allow Scott to file motions to compel and for [the Authority] to provide Scott with discovery." *Id.* at 353 S.C. at 643, 579 S.E.2d at 153. The trial court did, however, strike the Authority's admissions regarding liability and negligence because similar allegations existed in the Complaint and were denied in the Answer. *Id.* Scott's motion to reconsider striking the admissions was unsuccessful. *Id.*

Scott then moved to compel records, and the trial court granted the motion. *Id.* at 353 S.C. at 644, 579 S.E.2d at 153. Still, the Authority refused to timely produce records. When the Authority finally produced additional records, it also produced an affidavit stating "all of the documents concerning the hot water heaters" were given to the Authority's attorney. *Id.* No responsive documents "regarding other inspections or the purchase, manufacture, maintenance, warranty, or any other requested information regarding the hot water heater" were produced. *Id.*

The matter was called for trial a second time on April 23, 2001. *Id.* At trial, the Authority stated that it actually did have more records. *Id.* at 353 S.C. at 644, 579 S.E.2d at 154. After the Authority obtained the new records during a lunch break, a mistrial was granted. *Id.* Scott's request for attorneys' fees and sanctions was granted, "but the court denied Scott's request to strike [the Authority's] denial of knowledge regarding the hot water heaters." *Id.*

The Court of Appeals was forceful in its description of the Authority's actions. *Id.* The "record exemplifies a paradigm of contumacy and intransigence in the discovery arena. A review of the record does *not* reveal a paucity or a modicum of response. The activity by [the Authority] demonstrates a nihility in the discovery activity." *Id.* (emphasis in original).

## 2. Legal analysis in *Scott*.

The first part of *Scott* is about whether it is proper for Requests for Admission to go to the heart of the matter. *Id.* at 353 S.C. at 645-50, 579 S.E.2d at 154-57. The answer is yes, it is proper. *Id.* at 353 S.C. at 650, 579 S.E.2d at 157 ("if the language of the request for admission specifically goes to an issue in the pleadings, the admission resulting from a party's failure to respond to the request may override the pleadings"). But that issue is not at dispute in this appeal.

The second part of *Scott* is about when admissions can be withdrawn. In *Scott*, it was an abuse of discretion for the trial court to allow the deemed admissions to be withdrawn, but that was only in the context of a "paradigm of contumacy and intransigence in the discovery arena" without any "paucity or a modicum of response."

*Id.* at 353 S.C. at 652, 579 S.E.2d at 158. The Court held that the “gist and gravamen of the discovery rules mandate full and fair disclosure to prevent a trial from becoming a guessing game or one of ambush for either party. Essentially, the rights of discovery articulated by the rules give the attorney the means to prepare for trial.” *Id.* at 353 S.C. at 652, 579 S.E.2d at 158 (internal citations omitted). Only “[w]hen discovery rights are trampled, prejudice must be presumed.” *Id.* But otherwise, prejudice is not presumed, and the burden remains on the party who obtained the admission to prove prejudice. Rule 36(b), SCRPC.

The Court found that the trial court failed to address the prejudice caused by the Authority. *Scott* at 353 S.C. at 652, 579 S.E.2d at 158. The Authority did a host of things: (1) “either denied the existence of or did not provide Scott with discovery records it clearly had access to prior to the first date the trial was scheduled;” (2) prevented Scott from obtaining needed discovery, which was in the exclusive control of the Authority; and (3) continued to impede Scott’s ability to present his case, including by surprising Scott with records during the second trial. *Id.* Thus, because Scott’s discovery rights were trampled and his ability to prosecute the case was clearly prejudiced, the Court of Appeals held it was an abuse to allow the admissions to be withdrawn. *Id.*

## **B. The Probate Order.**

### **1. Initial findings and holdings.**

In the Probate Order, the Probate Court found that Errick’s responses to Doug’s Interrogatories and RFPs were due October 4, 2023, and his responses to the

Requests were due October 5, 2023. (R. pp. 4-5, ¶¶ 1-3). Per the Court, Errick was late in responding to all Doug’s discovery. (R. p. 5, ¶ 6). In its analysis, the Probate Court stated that Doug’s Partial MSJ was based on Errick’s failure to timely respond to the Requests, specifically Request 9. (R. p. 5, ¶¶ 7 and 9).

The Probate Court cited S.C.Code Ann. § 62-3-407 and held that proponents of a will have the burden to establish *prima facie* proof of execution. (R. p. 6, ¶ 5). Because the Probate Court deemed Request 9—that John Dale did not sign the Will—to be admitted, the Probate Court held there was no way Errick could make a *prima facie* case that the Will was executed. (R. pp. 6-7, ¶¶ 6-12). Thus, summary judgment was appropriate, and the Will was set aside. (R. p. 7, ¶ 12).

2. The Probate Court missed an important aspect of *Baughman* and other important caselaw.

Ultimately, the Probate Court held that Errick could not have the admissions to the Requests withdrawn or amended. (R. p. 10, ¶ 23). To get to this holding, the Probate Court first distinguished cases where withdrawal was permitted, which are generally helpful to Errick. (R. pp. 7-8, ¶ 15). One such case is *Baughman*, which is discussed above. The Probate Court claimed *Baughman* was distinguishable because it included a timely Motion for Protective Order. (R. pp. 7-8, ¶ 15 (implying that *Baughman* was based *only* upon the timely protective order)).

But, as detailed above, that was only one independent and sufficient reason justifying withdrawal of the Requests for Admission in *Baughman* that were ordered admitted. The Probate Court failed to consider the second independent reason, satisfaction of the two-prong test and providing answers before the Requests for

Admission are “ordered admitted.” Errick satisfied the test and fulfilled the requirement to provide answers before the Requests were ordered admitted. In sum, the trial court did not have a clear understanding of the applicable law in *Baughman*, which is an error that justifies reversal. *Morris*, 438 S.C. at 587, 885 S.E.2d at 397.

The Probate Court also did not fully consider *Phillips* (only briefly citing in Paragraph 13) or *Bennett*. There was no mention of the holding in *Bennett* that “the trial court erred in finding the motion to amend or withdraw the response was untimely.” *Bennett*, 2015 WL 5968253, at \*1. In *Bennett*, the motion to withdraw the deemed admitted requests was filed *after* the trial court orally granted summary judgment (but before the order was officially entered). *Id.* In this case, Errick submitted the Motion to Withdraw or Amend before the hearing on the Partial MSJ and well before the Probate Court entered a formal Order. Again, that is an error that justifies reversal.

### 3. The Probate Court misapplied *Scott*.

Next, the Probate Court applied *Scott*, but it failed to properly analyze and contextualize meaningful factual differences. The Probate Order is somewhat opaque, but it does state that “the necessity of taking prejudice into consideration” is an important consideration, which is true. (R. p. 9, ¶ 21). The Probate Order also states that the Federal Rules are similar to South Carolina’s Rules and favorably cited to Federal Law, which is proper. (R. pp. 9-10, ¶ 22). But the Probate Court failed to properly analyze prejudice or compare the facts of *Scott* to the facts of this case, ignored or misinterpreted important Federal guidance on the definition of

“prejudice” as applied to Rule 36(b), and made sweeping conclusions not grounded in fact. (R. pp. 9-10, ¶¶ 22-23).

In Paragraph 22, the Probate Court cited discovery rights in *Scott* that were trampled. Then, the Probate Court concluded in Paragraph 23 that Errick failed to engage in discovery in “good faith” and that Doug’s “opportunity for full and fair trial preparation is further prejudiced.” Neither conclusion is justified.

First, in *Scott*, the Authority repeatedly failed to comply with the Rules and a judicial Order, caused the first trial to be reset, and conveniently found responsive documents during the middle of the second trial, thus necessitating a mistrial, the need for a third scheduled trial, and severe sanctions. Only then was there a trampling of rights that meant the trial court abused its discretion by allowing withdrawal. None of these facts are present here, and there was no trampling.

Further, Errick participated in discovery in good faith, and Doug has a full and fair opportunity to prepare for trial. Discovery is still ongoing, no trial has been set, no depositions have been taken, experts have not been disclosed or relied upon admissions, and Doug has not identified any specific documents that he is entitled to that will not be produced. To the contrary, Errick’s counsel—acting in good faith—provided answers, made supplemental responses, and expressed a willingness to comply with any Order granting Doug’s Motion to Compel. (R. p. 92). In stark contrast to *Scott*, Errick missed a deadline by a few days, and there is not sufficient evidence that the delay prejudiced Doug. The entire discovery dispute pre-appeal



lasted significantly shorter than the dispute in *Scott*, and Doug would separately have the opportunity to seek relief for any alleged refusal to comply with future discovery.

Finally, Errick both: (1) served his responses (October 11, 2023); and (2) moved to have the admissions withdrawn (November 27, 2023) well before the Requests were deemed admitted by Order (January 5, 2024). That particular timing was compelling in *Baughman* and *Bennett*, and those courts both found the trial courts erred by ignoring the significant dates. *Baughman*, 306 S.C. at 110, 410 S.E.2d at 542; *Bennett*, 2015 WL 5968253, at \*1. This Court should also hold that the lower courts erred and abused their discretion.

**III. Proper application of *Scott*, *Baughman*, and other caselaw shows that the Probate Court abused its discretion because it should have allowed Errick to withdraw or amend his responses to the Requests. Consequently, the Probate Order and Circuit Court Order should be reversed.**

Errick should have been able to withdraw or amend his responses to the Requests. *Baughman*, *Scott*, *Bennett*, and other cases provide a path for how the lower courts should resolve this type of matter, but that path was ignored in this case. The Probate Court did not evaluate the second independent reason justifying withdrawal identified in *Baughman*, failed to consider *Bennett*, and did not properly weigh the facts present in *Scott*. Consequently, the test in Rule 36(b), SCRCF, that the Probate Court purported to apply was not properly followed. That was an abuse of discretion.

The first part of the Rule 36(b) test—subserving the merits—is satisfied because Request 9 was a crucial issue that was outcome determinative. (R. pp. 7, ¶

12, and 10, ¶¶ 23-24); *see also Barber v. Hobbs*, 313 S.C. 319, 321, 437 S.E.2d 409, 410 (Ct. App. 1993). The second prong—lack of prejudice—is also satisfied because Doug cannot meet his burden to show he is prejudiced by allowing the responses to be amended.

First, the fact that, after withdrawal or amendment, Doug would now have to prove his case on the merits is not prejudice in the context of Rule 36(b), SCRPC. *See Hadley*. Discovery had just started, there was no detrimental reliance on admissions, there was still ample time to find facts and review documents, and trial had not yet been set. Given the early stage, there is no risk of a “guessing game” or “ambush” based on allowing amendment to the responses to the Requests, which are factors that were present in *Scott*. Doug has not shown how he would be prejudiced by having the admissions withdrawn or what different strategic decisions would have been made (other than having to argue the merits). *See Barber*, 313 S.C. at 322, 437 S.E.2d at 410.

Further, although slightly dilatory, Errick has complied with discovery requirements and has not trampled on Doug’s discovery rights. *See Scott*. The disputes related to the Motion to Compel were brief, were not in bad faith, and have not caused prejudice relevant to the Requests. Errick’s counsel also expressed a willingness to produce any necessary additional responses during discovery (and did provide such documents). (R. p. 92). Therefore, there was no bad faith by Errick, Errick has not trampled Doug’s discovery rights, and prejudice cannot be assumed. Instead, it must be proven by Doug. It was not. There is no evidence in the record

that would support a finding that Doug's ability to fully and fairly prepare for trial was specifically impaired by the short delay in providing responses to the Requests.

Moreover, allowing withdrawal will further the purposes of the Rules of Civil Procedure. "It is too late in the day and entirely contrary to the spirit of the Federal Rules of Civil Procedure for decisions on the merits to be avoided on the basis of such mere technicalities." *Foman v. Davis*, 371 U.S. 178, 181, 83 S. Ct. 227, 230 (1962). South Carolina's Supreme Court has expressed the same sentiment: "The spirit of the Rules is to settle controversies upon their merits rather than to dismiss actions on technical grounds, to permit amendments liberally, and to avoid, if possible, depriving a litigant of a chance to bring a case to trial." *Patton v. Miller*, 420 S.C. 471, 493, 804 S.E.2d 252, 263 (2017) (citing 3 *Cyclopedia of Federal Procedure* § 8.2 (3d ed., rev. 2017) in the context of whether to allow amendment based upon Rule 15, SCRCF). With that fundamental policy backdrop, Rule 36(b) and the applicable caselaw specifically identifies means to have ordered admissions withdrawn so that matters may be tried on their merits. This Court should require the Probate Court and Circuit Court to employ those methods.

By granting partial summary judgment, the Probate Court "improperly deprived" Errick of his right to "a trial of the disputed factual issues." *See Jones ex rel. Jones*, 383 S.C. at 263, 678 S.E.2d at 821. The record before the Probate Court, Circuit Court, and this Court all contains the signed and notarized copy of the Will, which is prima facie evidence sufficient to defeat the Partial MSJ. This case is not simply about Errick's rights, but it is also about protecting all beneficiaries of the

Will, not just Errick. And, more importantly, it is about making sure that John Dale is not improperly deprived of the ability to control the disposition of his estate. The questions presented in this case should be decided on the merits, and, if appropriate, the Will should be enforced by the courts.

In sum, the Probate Order was both controlled by an error of law and based upon evidence not in the Record. The trial court did not have a clear understanding of the applicable law, did not apply sound analysis to the situation, and issued a ruling that failed to follow the law or be supported by the facts. Without the improper refusal to allow the admission to Request 9 to be withdrawn, there is no basis for the Probate Order. Thus, the Probate Court abused its discretion when it granted summary judgment based upon the deemed admission to Request 9. (R. p. 10, ¶ 24); *Morris*, 438 S.C. 582 at 587, 885 S.E.2d at 397. The Probate Order and the Circuit Court Order, which simply affirms the Probate Order, should both be reversed. Errick's responses from October 11, 2023, should be accepted as the official responses to the Requests.

### **CONCLUSION**

This Court should enter an Order: (1) holding that the Probate Court and Circuit Court abused their discretion by not allowing the deemed admissions to the Requests to be withdrawn and amended; (2) requiring the Probate Court and Circuit Court to properly follow the law in *Baughman*, *Bennett*, and *Scott*; and (3) specifically requiring the Probate Court and Circuit Court to enter Orders allowing the deemed

admissions to the Requests to be withdrawn and stating that Errick's responses from October 11, 2023, are accepted as the official responses to the Requests.

Respectfully submitted this the 2<sup>nd</sup> day of April 2025.

/s/ Edward B. Davis

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**Apr 15 2025**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM YORK COUNTY

Circuit Court of Common Pleas

The Honorable Daniel D. Hall, Circuit Court Judge

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Case No. 2024-CP-46-001100  
Appellate Case No. 2024-001466

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In re: Estate of John Dale Williamson

Doug Williamson, Respondent

v.

Errick L. Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below,  
of whom Errick L. Williamson, individually, and Errick L. Williamson, as personal representative of the Estate of John Dale Williamson is the Appellant.

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RESPONDENT'S FINAL BRIEF

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Respectfully Submitted,

**JOHNSTON, ALLISON & HORD, P.A.**

*s/ J. Nathaniel Pierce*

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**STATEMENT OF ISSUES ON APPEAL**

- I. Did the Probate Court abuse its discretion by denying Errick's Motion to Withdraw in accordance with Rule 36, SCRPC?
- II. Did the Probate Court properly grant Doug's Motion for Partial Summary Judgment in accordance with Rule 56, SCRPC, and did the Circuit Court properly affirm the Probate Court's Order?

**STATEMENT OF THE CASE**

John Dale Williamson ("Decedent" or "Dale") suffered from Parkinson's disease. (R. p. 22). As early as May 20, 2022, Dale received in-home hospice care from Agape Care, Inc. ("Agape"). (R. pp. 22-23). From May to November 2022, Agape regularly visited Dale with home health aides, nurses, and social workers. (*Id.*).

In the final months leading up to his death, Dale's condition worsened, and he was not of sound mind, as his Parkinson's disease progressed. (R. p. 22). Dale received a substantial amount of palliative medicine, as well as daily assistance with the most basic tasks. (R. p. 23). Particularly during the last six to eight weeks of Dale's life, Dale needed around-the-clock care, as the advanced stages of his disease left him bedridden. (R. pp. 22-23). Dale passed away on November 29, 2022, from, *inter alia*, complications caused by the Parkinson's disease. (R. p. 23).

Dale was not married, and he had no children, but he was one of three surviving siblings: Doug Williamson ("Doug"), the respondent in this appeal; Derrick Williamson ("Derrick"); and Robin Beckler ("Robin"). (R. p. 22). Derrick is the father of Errick L. Williamson ("Errick"), the appellant in this matter. (*Id.*).

During Dale's last few months, Errick and his wife Chantelle moved into Dale's house at 1153 Deas Street, Rock Hill, South Carolina, to allegedly care for Dale. (R.

pp. 22-23). Errick and Chantelle also asserted control over Dale's medical, legal, and financial matters, even controlling which family members and friends could visit Dale. (R. pp. 22-23, 26).

After Dale's death, Doug and his wife, Crystal Williamson ("Crystal"), tried to speak with Errick about the disposition of Dale's estate to ensure that everything was carried out per Dale's final wishes. (R. p. 23). On multiple occasions, Errick represented to Doug and Crystal that Dale did not have a will, and neither Doug nor Crystal had any indication that Dale may have executed a will. (*Id.*). However, out of the blue, Errick filed the purported Last Will and Testament of John Dale Williamson (the "Will") with the York County, South Carolina Probate Court on January 3, 2023. (R. pp. 23, 62-70). Errick was also simultaneously appointed as the personal representative of Dale's estate (the "Estate"). (R. p. 23). Rather than provide any notice to Doug and Crystal of these events, Errick merely sent them a letter containing an Information to Heirs filing – this was the first time Doug and Crystal learned of the purported Will. (R. p. 23).

Since Errick's appointment as personal representative, Errick has taken no meaningful steps to administer the Estate, has failed to pay property taxes that were due, and has failed to redeem a substantial Estate asset from tax sale. (R. p. 163).

It is crucial to note that Dale allegedly signed the Will on November 24, 2022, a mere five days before his death. (R. p. 24). At the time, Dale was receiving around-the-clock hospice care and near-constant palliative medication. (R. pp. 22-23). Dale was not of sound mind on November 24, 2022, and he could no longer understand or

know the extent of his estate, the objects of his affection, or to whom he wished to give his property. (R. pp. 22-23, 26).

Under the Will, Errick would take eighty percent (80%) of Dale's residual estate, which is defined as "real and personal property wherever situated including any life insurance policies...." (R. pp. 24, 63). Meanwhile, Derrick, Errick's father, would take the other twenty percent (20%) of Dale's residual estate. (*Id.*). For some reason, the Will explicitly excludes Crystal, who is not a legal heir of the Estate. (R. pp. 24, 62). The Will also purports to devise non-probate assets, such as life insurance policies. (R. pp. 24, 63).

On March 15, 2023, Doug filed a Petition to Set Aside Will and for Appointment of Personal Representative.<sup>1</sup> On August 30, 2023, Doug served Errick with Interrogatories and Requests for Production ("RFPs") via United States Mail, in compliance with Rule 5(a), South Carolina Rules of Civil Procedure ("SCRCP"). (R. pp. 4-5, 12-13). According to Rules 6(e), 33, and 34 of the SCRCP, Errick's responses to the Interrogatories and Requests for Production were due on or before October 4, 2023. (R. pp. 4, 12).

On August 31, 2023, Doug served Errick with nine (9) Requests for Admission ("RFAs") pursuant to Rule 36 of the SCRCP. (R. pp. 5, 122-139). RFA No. 9 specifically stated, "Admit John Dale Williamson did not sign the Last Will and Testament

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<sup>1</sup> Errick failed to timely respond to the Petition, and Doug moved for entry of default. Ultimately, the Court set aside the Default and allowed Errick to file an Answer. (R. p. 163).

attached hereto as Exhibit B.”<sup>2</sup> (R. p. 123). Pursuant to Rules 6(e) and 36, SCRCP, Errick’s responses to the RFAs were due on or before October 5, 2023. (R. p. 5).

Errick failed to respond to the Interrogatories, RFPs, and/or RFAs during the time prescribed by the SCRCP. (R. p. 5). Further, Errick failed or refused to seek an extension of time during the time prescribed by the SCRCP. (*Id.*). As such, each of the RFAs was deemed to be admitted pursuant to Rule 36, SCRCP. (R. p. 7). Importantly, according to RFA No. 9, Errick admitted that “John Dale Williamson did not sign the [Will].” (R. pp. 7, 123).

On October 10, 2023, after Errick’s responses to the discovery requests were due, Errick’s counsel requested ten (10) additional days to respond. (R. p. 164). On October 11, Errick untimely served responses to the RFAs. (*Id.*). On October 12, Doug’s counsel notified Errick’s counsel that Errick’s extension request was denied and that a Motion to Compel responses to Doug’s Interrogatories and RFPs had been mailed to the Court for filing. (R. p. 165). However, Doug’s counsel indicated that Doug would not seek a hearing on the Motion to Compel before October 20, 2023, the date on which Errick represented he would respond to the Interrogatories and RFPs. (*Id.*). The Probate Court filed the Motion to Compel on October 19, 2023, which is the same date on which Errick served responses to Doug’s Interrogatories and RFPs. (R. pp. 13, 165).

Upon review of Errick’s responses, Doug’s counsel sent a deficiency letter to Errick’s counsel on October 24, 2023 (the “Deficiency Letter”). (R. p. 13). The

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<sup>2</sup> The Last Will and Testament that was attached as Exhibit B to Doug’s RFAs to Errick, and which is referenced specifically in RFA No. 9, is the same will referenced throughout this brief as “the Will.”



Deficiency Letter noted a myriad of problems with Errick's responses, including his responses to Interrogatories 3, 5, 8, 10, 12, 13, 15, and 18. (*Id.*). Errick had not signed and served a verification for the Interrogatories, as required by Rule 33, SCRCP. (*Id.*). Additionally, the Deficiency Letter also flagged issues with Errick's responses to RFPs 2, 6, 8, 12, and 13. (*Id.*).

On November 6, 2023, Doug filed a Motion for Partial Summary Judgment, pursuant to Rule 56, SCRCP, regarding his fifth cause of action related to the execution of the Will. (R. pp. 188-221). In particular, Doug's Motion for Partial Summary Judgment related to Errick's admission to RFA No. 9, indicating that "John Dale Williamson did not sign [the Will]." (R. pp. 123, 192-194).

On November 21, 2023, Errick filed a Motion to Withdraw/Amend Admissions, or Alternatively, for Additional Time to Serve Discovery Responses, and Motion to Strike Petitioner's Motion to Compel ("Motion to Withdraw"). (R. pp. 230-233). This was Errick's first attempt to remedy his failure to timely respond to the RFAs. Errick simultaneously filed a brief in support of his Motion to Withdraw, which contained no exhibits or affidavits, and Errick failed to respond to Doug's Motion for Partial Summary Judgment. (R. pp. 234-242).

Further, Errick did not respond to the Deficiency Letter until November 22, 2023, at which point he supplemented certain discovery responses, without supplementing all of them. (R. p. 14). In particular, Errick refused to supplement his responses to Interrogatories 3, 5, 10, and 13. (*Id.*). Errick also refused to supplement his responses to any of the outstanding RFPs. (R. pp. 14, 222-223).

Errick filed a Motion to Strike Petitioner's Motion to Compel on November 27, 2023. (R. pp. 230-233). Again, Errick did not file anything directly in opposition to Doug's Motion for Partial Summary Judgment.

On December 7, 2023, the Honorable Carolyn Woodruff, the presiding Judge for the York County Probate Court, heard Doug's Motions to Compel and for Partial Summary Judgment, along with Errick's Motion to Withdraw. (R. pp. 80-108). Pursuant to her written Orders filed on January 5, 2024, Judge Woodruff granted Doug's Motions to Compel and for Partial Summary Judgment and denied Errick's Motion to Withdraw. (R. pp. 4-16).

On January 11, 2024, Errick appealed Judge Woodruff's Order. On August 2, 2024, the York County Circuit Court of Common Pleas heard oral arguments from counsel for Doug and Errick. (R. pp. 109-110). Via a written Order filed on August 6, 2024, the Court affirmed the Probate Court's ruling. (R. pp. 17-19).

Subsequently, on September 4, 2024, Errick appealed the Circuit Court's Order, along with the Probate Order, by filing and serving a Notice of Appeal with the Court of Appeals. (R. pp. 300-311). Errick then filed and served his initial appellant brief on December 4, 2024. Initial Br. of App.

### **ARGUMENT**

#### **I. The Probate Court did not abuse its discretion by denying Errick's Motion to Withdraw.**

The Probate Court did not abuse its discretion by denying Errick's Motion to Withdraw in accordance with Rule 36(b), SCRCF, and precedential South Carolina caselaw.

**A. The standard of review for the Probate Court’s denial of Errick’s Motion to Withdraw is abuse of discretion.**

“A trial court’s ruling in matters related to discovery generally will not be disturbed on appeal in the absence of a clear abuse of discretion.” *Stokes-Craven Holding Corp. v. McKenzie*, 416 S.C. 517, 536, 787 S.E.2d 485, 495 (2016) (citing *Dunn v. Dunn*, 298 S.C. 499, 502, 381 S.E.2d 734, 735 (1989)). “An abuse of discretion occurs when the trial court’s order is controlled by an error of law or when there is no evidentiary support for the trial court’s factual conclusion.” *Id.* (citing *Sundown Operating Co. v. Intedg Indus., Inc.*, 383 S.C. 601, 607, 681 S.E.2d 885, 888 (2009)); *see also Wilson v. Dallas*, 403 S.C. 411, 425, 743 S.E.2d 746, 754 (2013).

South Carolina appellate courts largely defer to the decision-making of the trial court, as the judges who consider the evidence presented to them are in the best position to observe and rule on the credibility of the parties and/or witnesses. *Trustgard Ins. Co. v. Full Logistics, Inc.*, 442 S.C. 485, 505–06, 900 S.E.2d 448, 459 (Ct. App. 2023) (“Credibility determinations regarding testimony are a matter for the finder of fact, who has the opportunity to observe the witnesses, and those determinations are entitled to great deference on appeal. Because the appellate court lacks the opportunity for direct observation of the witnesses, it should accord great deference to [circuit] court findings where matters of credibility are involved.”) (internal citations omitted); *see also South Carolina Dep’t of Social Services v. Forrester*, 282 S.C. 512, 515–16, 320 S.E.2d 39, 42 (Ct. App. 1984).

“The burden is upon the party appealing from the order to demonstrate the trial court abused its discretion.” *Dunn*, 298 S.C. at 502, 381 S.E.2d at 735 (internal

citation omitted). The burden of proof for abuse of discretion is a high bar, as “the exercise of [a judge’s] discretion will not be disturbed on appeal absent a clear showing of an abuse of discretion, the commission of legal error in its exercise *and* prejudice to the rights of the appellant.” *Clark v. Ross*, 284 S.C. 543, 549, 328 S.E.2d 91, 97 (Ct. App. 1985) (emphasis added); *see also First Sav. Bank v. McLean*, 314 S.C. 361, 362, 444 S.E.2d 513, 514 (Ct. App. 1994) (“Mere allegations of error are not sufficient to demonstrate an abuse of discretion. On appeal, the burden of showing abuse of discretion is on the party challenging the trial court’s ruling.”) (internal citation omitted).

**B. The Probate Court adhered to the clear terms of Rule 36, SCRCP, when it denied Errick’s Motion to Withdraw.**

Rule 36(a), SCRCP, in relevant part states,

A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rule 26(b) set forth in the request that relate to statements or opinions of facts or of the application of law to fact, including the genuineness of any documents described in the request....The matter is admitted **unless**, within 30 days after service of the request, or within such shorter or longer time as the court may allow or as stipulated in writing by the parties pursuant to Rules 29 and 6(b), the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by attorney...R. 36(a), SCRCP (emphasis added).

“Under Rule 36(a), SCRCP, all matters contained in a Request for Admission are admitted unless the party serves answers or objects within a certain time.” *Scott v. Greenville Hos. Auth.*, 353 S.C. 639, 647, 579 S.E.2d 151, 155 (Ct. App. 2003).

Further, Rule 36(b), SCRCP, in relevant part, says,

Any matter admitted under this rule is **conclusively established** **unless the court on motion permits** withdrawal or amendment of the admission. Subject to the provisions of Rule 16 governing amendment of a pre-trial order, the court **may permit** withdrawal or amendment when the presentation of the merits of the action will be subverted thereby **and** the party who obtained the admissions fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits. R. 36(b), SCRCP (emphasis added).

The “failure to respond to requests for admissions deems matters contained therein admitted for trial, regardless of whether the admission concerns a matter responded to in a party’s pleadings.” *Scott*, 353 S.C. at 646, 579 S.E.2d at 154–55. Per the plain language of Rule 36, if a party fails to timely respond to requests for admission, those requests are conclusively deemed to be admitted for purposes of that litigation. Rule 36, SCRCP. Not only does the failure to respond mean that those requests for admission are considered true for purposes of the litigation, but “an admission [also] precludes the admitting party from arguing facts at trial contrary to its responses to a request to admit, absent an amendment to or revocation of the admission as allowed under the rules.” *Id.*, 353 S.C. at 648, 579 S.E.2d at 155–56.

Here, Errick indisputably and admittedly did not respond to the RFAs before the deadline to do so. On August 31, 2023, Doug served Errick with the RFAs. Pursuant to Rules 6(e) and 36, SCRCP, Errick’s responses to the RFAs were due on or before October 5, 2023. This included Errick’s response to RFA No. 9, which asked Errick to admit that “John Dale Williamson did not sign [the Will].” Errick admittedly failed and refused to respond to the RFAs, including RFA No. 9, by the October 5 deadline. Pursuant to the clear wording of Rule 36, SCRCP, all of the RFAs, including RFA No. 9, are deemed to be admitted. Errick’s argument that an admission must be

“ordered” to be deemed admitted contradicts the plain language of Rule 36 and cases like *Scott*.

**C. South Carolina courts are not required to allow the withdrawal of admissions.**

Rule 36(b), SCRPC, states, “Any matter admitted under this rule is conclusively established *unless* the court on motion permits withdrawal or amendment of the admission. . . [T]he court *may* permit withdrawal or amendment. . .” R. 36(b), SCRPC (emphasis added). Rule 36 does not require or mandate South Carolina courts to permit withdrawal or amendment of admissions. Rule 36(b) merely enables South Carolina judges to evaluate whether they believe withdrawal may be appropriate given the circumstances. “South Carolina jurisprudence also establishes a trial court may use its discretion in finding requests to admit are not deemed admitted when the circumstances indicate otherwise.” (R. pp. 8-9) (quoting *Nexstar Media Grp., Inc. v. Davis Roofing Grp., LLC*, 431 S.C. 593, 848 S.E.2d 597 (Ct. App. 2020)). Again, the discretion as to whether to allow a withdrawal of admissions lies solely with the trial court. *See also* (R. p. 9) (“When a party moves to withdraw or amend the admissions after the time for responding expires, the Court *may* engage in the analysis outlined in Rule 36(b) to determine whether the presentation on the merits would be subserved by the withdrawal of the admission and whether the party who obtained will be prejudiced if the court allows the withdrawal of the admission.”) (emphasis added).

**D. Although South Carolina trial courts are not required to allow the withdrawal of admissions, they may do so when both elements of a two-part test are met.**

Rule 36(b) explains that the trial court may permit withdrawal if (1) “the presentation of the merits of the action will be subserved thereby” and (2) “the party who obtained the admissions fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits” (i.e., the “Rule 36(b) test”). Rule 36(b), SCRCP. Both elements of the Rule 36(b) test must be met for the withdrawal of admissions to be permissible. *See Scott*, 353 S.C. at 650–51, 579 S.E.2d at 157; *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 110, 410 S.E.2d 537, 542 (1991); *Bennett v. Carter*, No. 2015-UP-491, 2015 WL 5968253, 2015 S.C. App. Unpub. LEXIS 627, at \*2–3 (Ct. App. Oct. 14, 2015), *aff’d in part*, 421 S.C. 374, 807 S.E.2d 197 (2017); *Phillips v. Bayless*, No. 2006-UP-379, 2006 WL 7287200, 2006 S.C. App. Unpub. LEXIS 423, at \*9 (App. Nov. 21, 2006).

Here, Errick waited to file his Motion to Withdraw until November 21, 2023, which was seven weeks after his RFA responses were due. In support of his Motion, Errick analyzed the Rule 36(b) test, alleging that he met both required elements. Errick explained, “[T]he court may permit withdrawal or amendment when the presentation of the merits of the action would be subserved thereby and the party who obtained the admissions fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits.” (R. p. 236). Errick then claimed that RFA No. 9 went “to the heart of the case and, if deemed admitted, could eliminate any presentation of the merits of the case.” (*Id.*). Errick also argued that Doug would not be prejudiced by the withdrawal. (R. pp. 236-237).

Ultimately, the Probate Court determined that Errick's Motion to Withdraw failed both elements of the Rule 36(b) test, as (1) Errick failed to meet his burden of showing that the presentation of merits would be furthered by his amendment to the Requests for Admission, and (2) Doug would be prejudiced if Errick were permitted to withdraw his admission. (R. p. 10). For the same reasons, this Court should affirm the Probate Court and Circuit Court's denial of Errick's Motion to Withdraw.

a. **The Probate Court properly determined that Errick's presentation of the merits would not be furthered by the withdrawal of his admissions.**

First, the Probate Court appropriately determined that Errick failed to meet his burden of showing that the presentation of merits would be furthered by his amendment to the RFAs. Before the Probate Court, Errick attempted to assert that "RFA #9 goes to the heart of the case, and if deemed admitted, could eliminate any presentation of the merits of the case." (R. pp. 261-262). However, the Court in *Scott* debunked this exact argument. As the Probate Court's Order explains:

In *Scott*, the trial court allowed an admission to be withdrawn because of its view that the failure to respond was not binding if it would conflict with answers in a pleading. It stated that the admission was "superfluous" to the pleadings and therefore could not be determinative of an ultimate issue. The Court of Appeals reversed, stating that even if an admission goes to the heart of the case: "if the language of the request for admission specifically goes to an issue in the pleadings, the admission resulting from the party's failure to respond may override the pleadings.

(R. p. 8) (citing *Scott*, 353 S.C. at 650, 579 S.E.2d at 157) (emphasis added). The Probate Court then concluded,

Based on the facts at bar and the reasoning of the cases the Court has reviewed, and based in particular on *Scott*, the arguments of counsel,



the Court's review of the discovery exchanges in the record, and weighing the furtherance of a presentation on the merits against prejudice as a result of failure to engage in discovery in good faith, the Court concludes that (a) the allowance of the withdrawal or amendment of Errick's RFA #9 should not be granted on the ground that it goes to the heart of the case, whether or not the Will is valid – this is one of the reasons that the Court of Appeals reversed the trial court in *Scott* . . .

(R. p. 10). Errick clearly has failed to prove that the presentation of merits in this case would be furthered if he were allowed to withdraw his admission based on the precedential holding in *Scott*, which dealt with the same issue Errick now seeks to raise.

**b. The Probate Court properly determined that Doug would be prejudiced if Errick were permitted to withdraw his admissions.**

Second, the Probate Court appropriately determined that Doug would be prejudiced if Errick were permitted to withdraw his admission. According to the second element of the Rule 36(b) test, the trial court may permit withdrawal of an admission if “the party who obtained the admissions fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits.” R. 36(b), SCRCP.

In particular, South Carolina courts have held that prejudice is apparent when a party's discovery rights are affected: “Discovery is the quintessence of preparation for trial and, when discovery rights are trampled, prejudice must be presumed.” *Scott*, 353 S.C. at 652, 579 S.E.2d at 158 (internal citation omitted). In *Scott*, the plaintiff needed defendant's discovery responses “in order to prove his case.” *Id.* Without the defendant's good faith cooperation during discovery, the plaintiff lacked key records

and information which were in the defendant's sole custody. *Id.* Because the defendant failed to participate in discovery in good faith, the Court of Appeals determined that "[t]he trial court erred in failing to find that [the plaintiff] was prejudiced." *Id.*

During the Probate Court Hearing, counsel argued Errick's failure to participate in discovery in good faith, and the attendant prejudice to Doug, at length. (R. p. 86, line 2-p. 90, line 9; p. 94, line 5-p. 95, line 21; p. 97, line 19-p. 98, line 6). Doug's counsel argued that Errick had failed to participate in discovery in good faith. (R. p. 85, line 10-p.87, line 1; p.88, line 5-p.90, line 9). Doug also argued that key documents and information were solely in Errick's possession. (R. p. 88 line 19-p.90, line 9). In support, Doug argued that Errick was, before and after Dale's death, living in Dale's house; Errick assumed control over Dale's finances and medical care; Errick was receiving Dale's mail; Errick was controlling who could come in and out of Dale's house; Errick was dealing directly with Agape, Dale's in-home medical care provider; Errick is the personal representative of the Estate; and Errick was in possession of the communications between himself and the witnesses to the Will. (R. p.88, line 19-p. 89, line 4). In addition to hearing arguments by counsel, the Probate Court evaluated the credibility of the arguments presented by reviewing and considering Doug's initial discovery requests; Errick's untimely and deficient discovery responses; Doug's deficiency letter to Errick; and Errick's response to the same. (R. p. 10).

After its thorough review of the facts, discovery and related responses, oral arguments, caselaw, and case file, the Probate Court properly concluded that:

Based on the facts at bar and the reasoning of the cases the Court has reviewed, and based in particular on *Scott*, the arguments of counsel, the Court's review of the discovery exchanges in the record, and weighing the furtherance of a presentation on the merits against prejudice as a result of failure to engage in discovery in good faith, the Court concludes that . . . (b) the Respondent [i.e., Errick] has failed to respond to discovery requests in a timely manner and in good faith, and if the Respondent is allowed to withdraw his admissions, the Petitioner's [i.e., Doug's] opportunity for full and fair trial preparation is further prejudiced."

(*Id.*). The Circuit Court, after its own review, affirmed Judge Woodruff's denial of Errick's Motion to Withdraw as properly supported.

**E. The Probate Court did not misapply *Scott*, nor did it misapply other important caselaw.**

The Probate Court did not err in its reliance on, or application of, *Scott*, a precedential South Carolina case that is directly on point. Errick argues to the contrary, positing that the Probate Court's application of *Scott* constitutes abuse of discretion, meaning that the Probate Court's application was an "error of law" or based on factual conclusions that have "no evidentiary support." *See Stokes-Craven Holding Corp.*, 416 S.C. at 536, 787 S.E.2d at 495. (emphasis added). Similarly, the Probate Court did not misapply *Baughman*, nor did it miss "important aspect[s]" of "other important caselaw." *See* Initial Br. of App., p. 14. In support of this argument, Errick contends the Probate Court should have relied on *Phillips* and *Bennett*, two unpublished South Carolina opinions. *See* Initial Br. of App., p. 15; *Phillips*, 2006 WL 7287200, 2006 S.C. App. Unpub. LEXIS 423; *Bennett*, 2015 WL 5968253, 2015 S.C. App. Unpub. LEXIS 627.

The Probate Court did not misapply *Scott*. After analyzing arguments by counsel, Doug’s initial discovery requests; Errick’s untimely and deficient discovery responses; Doug’s deficiency letter to Errick; and Errick’s response to the same, the Court ruled that Errick had “failed to respond to discovery requests in a timely manner and in good faith . . . .” (R. p. 10). Errick takes exception with the factual distinctions that he believes the Probate Court should have drawn between *Scott* and the case at bar. *See* Initial Br. of App., pp. 16–17. However, that is not the question on an abuse of process review. Rather, the question is whether the Probate Court’s Order is controlled by an error of law, or if it has any factual support. *See Stokes-Craven Holding Corp.*, 416 S.C. at 536, 787 S.E.2d at 495. The Probate Court considered, as set forth in more detail herein, “the arguments of counsel” and “the discovery exchanges in the record.” (R. p. 10). As the trial court, the Probate Court was in the best position to evaluate the evidence presented, to determine the credibility of the arguments presented, and to draw factual conclusions in light of the same. *See generally Trustgard*, 442 S.C. at 505–06, 900 S.E.2d at 459. The Probate Court’s application of *Scott* was not controlled by an error of law, and it was factually supported by the record.

Errick next alleges that the Probate Court misapplied the *Baughman* case, despite the lack of analogous case facts. The parties in *Baughman* were embroiled in years-long litigation, involving “more than 300 depositions” and “900 pages” of requests for admission. *Baughman*, 306 S.C. at 104, 106, 410 S.E.2d at 539–40. Given the sheer volume of discovery requests, during plaintiff’s time for responding to the

requests for admission, “Plaintiffs filed a motion for protective order,” indicating that the requests were unduly burdensome and in improper form, asking the Court for additional time to prepare responses and collect necessary information. *Id.*, 306 S.C. at 106, 410 S.E.2d at 540. In turn, the defendants argued the plaintiff had admitted to the 900 pages of requests by failing to timely respond. *Id.* The Supreme Court of South Carolina disagreed. Importantly, the Supreme Court determined that a timely motion for protective order, which is “made in good faith . . . operates to prevent the matters from being deemed admitted.” *Id.*, 306 S.C. at 106, 109, 410 S.E.2d at 540, 542. The responding party was attempting to participate in discovery in good faith, even though “[t]he amount and form of Nassau’s requests were arguably oppressive.” *Id.* n.2 (internal citations omitted).

The case at bar is not analogous to *Baughman*, with hundreds of pages and too many requests for the plaintiff to timely respond to. Unlike the plaintiff in *Baughman*, Errick did not request any relief from the Court (in the form of a motion for protective order, an extension of time to answer, or otherwise) during the prescribed time period for responding to the RFAs. As such, the Probate Court found that “Errick failed to timely answer, object, or otherwise respond to the Interrogatories, RFPs, or RFAs;” that “Errick responded to RFA 9, but after the expiration of the time for answer;” and “Errick did not request an extension of time to respond or move for a protective order prior to the expiration of the time for answering.” (R. p. 5). Additionally, Doug’s RFAs were limited in number and scope and were for the proper purpose of asking for admissions, or conversely, denials. Yet

Errick failed to respond to the limited number of clearly worded requests for admission before the deadline. The Probate Court specifically found that Errick satisfied neither prong of the Rule 36(b) test, outlined in *Baughman*. (R. p. 10).

Errick's reliance on *Bennet* is similarly misplaced. In *Bennett*, there were 171 requests for admission, some of which, including the request at issue in the case, were ambiguous. *Bennett*, 2015 WL 5968253, 2015 S.C. App. Unpub. LEXIS 627, at \*2. Given "the sheer number of requests for admission" or "the confusing language" of the request at issue, there was conflicting evidence as to what the responding party's position on the facts was. *Id.* Importantly, the responding party seemingly tried to timely answer the request for admission but later realized she had answered incorrectly. *Id.* The Court held that "[b]ecause the record contains conflicting evidence, presentation of the merits would be furthered by the withdrawal or amendment of the response." *Id.* at \*2–3. Unlike the responding party in *Bennett*, Errick did not timely respond to discovery, had not given contradictory deposition testimony, nor had he been asked to respond to 171 requests. Instead, Errick failed and refused to respond to a mere nine RFAs. Further, the Probate Court determined that RFA No. 9 "was unambiguous." (R. p. 7). Unlike the responding party in *Bennett*, who timely, but incorrectly, answered an ambiguous request, Errick asked the Court to allow him to withdraw his admission because he simply failed to timely answer the RFAs.

The Probate Court also distinguished other South Carolina cases, including *Commerce Center of Greenville v. McElveen*, 347 S.C. 545, 556 S.E.2d 718 (Ct. App.

2001) (“allowing modification of admissions where the responding party timely responded and reserved the right to supplement responses”); *Adams v. Orr*, 260 S.C. 92, 194 S.E.2d 232 (1973) (“allowing withdrawal of admission where the subject request, as worded, was subject to more than one reasonable interpretation”); and *Collins Entm’t v. White*, 363 S.C. 546, 611 S.E.2d 262 (Ct. App. 2005) (“allowing withdrawal of admission where the first set of requests for admission was sent to an incorrect address and failure to respond to the second requests for admission was not raised until trial”). (R. pp. 7-8). None of these mitigating circumstances are present in the case at bar; the Probate Court properly distinguished the facts in this case from those where admissions were allowed to be withdrawn.

Therefore, based on the clear wording of Rule 36, SCRCP, and relevant South Carolina caselaw, it was proper for the South Carolina Probate Court to deny Errick’s Motion to Withdraw and for the Circuit Court to affirm this denial.<sup>3</sup>

## **II. The Probate Court did not abuse its discretion by granting Doug’s Motion for Partial Summary Judgment.**

The Probate Court properly granted Doug’s Motion for Partial Summary Judgment pursuant to Rule 56, SCRCP.

### **A. The standard of review for the Probate Court’s appropriate granting of partial summary judgment in favor of Doug is stated in Rule 56, SCRP.**

When “reviewing the grant of a summary judgment motion,” South Carolina appellate courts “apply the same standard which governs the trial court under Rule

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<sup>3</sup> The Probate Court did in fact review *Baughman* (see R. p. 7), despite Errick’s assertion that the Probate Court did not analyze the case in full (see Initial Br. of App., pp. 14–15, 17–18).

56(c), S.C.R.P: summary judgment is proper when ‘there is no genuine issue as to any material fact and . . . the moving party is entitled to judgment as a matter of law.’ Rule 56(c), SCRCP; *Baughman*, 306 S.C. at 114–15, 410 S.E.2d at 545 (internal citation omitted). “Once the moving party carries its initial burden, [the] opposing party must, under Rule 56(e), ‘do more than simply show that there is some metaphysical doubt as to the material facts’ but ‘must come forward with “specific facts showing that there is a genuine issue for trial.”’” *Baughman*, 306 S.C. at 115, 410 S.E.2d at 545 (citing internal citation omitted) (emphasis in original). “Indeed, Rule 56(e) specifically prohibits the nonmoving party from resting upon the mere allegations or denials of its pleadings.” *Id.* (internal citations omitted).

**B. The Probate Court properly granted Doug’s Motion for Partial Summary Judgment in accordance with Rule 56, SCRCP.**

The Probate Court properly granted Doug’s Motion for Partial Summary Judgment on his fifth cause of action. In support of his Motion, Doug explained that Errick had admitted RFA No. 9 and was therefore “unable to show that Dale signed the Will, or instructed another individual to sign the Will in his name at his direction, and therefore the Will is invalid for failure of due execution.” (R. pp. 192-193). Errick also failed to offer any factual evidence in opposition to Doug’s Motion for Partial Summary Judgment. Errick merely filed a Motion to Withdraw. As such, Errick did not “come forward with ‘specific facts showing that there is a genuine issue for trial.”” *Baughman*, 306 S.C. at 115, 410 S.E.2d at 545 (internal citation omitted) (emphasis in original). The Probate Court properly granted Doug’s Motion for Partial Summary Judgment in accordance with Rule 56, SCRCP, ruling “Errick has not carried his



burden of establishing *prima facie* proof of due execution . . . . There is therefore no question of fact, partial summary judgment is appropriate on the issue of due execution, and the failure of execution invalidates the Will.” (R. p. 10).

### **CONCLUSION**

The Probate Court did not abuse its discretion in denying Errick’s Motion to Withdraw based on the clear wording of Rule 36(b), SCRCF, and precedential South Carolina caselaw. Errick failed to meet his burden of proving both elements of the Rule 36(b) test. Additionally, the Probate Court properly granted Doug’s Motion for Partial Summary Judgment, as Errick failed to respond to the Motion and to provide any facts in opposition thereto. Doug therefore respectfully requests that the Court affirm the Probate Court and Circuit Court’s denial of Errick’s Motion to Withdraw and granting of Doug’s Motion for Partial Summary Judgment.

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**  
**Apr 15 2025**  
**SC Court of Appeals**

APPEAL FROM YORK COUNTY  
Circuit Court of Common Pleas  
The Honorable Daniel D. Hall, Circuit Court Judge

Case No. 2024-CP-46-00110  
Appellate Case No. 2024-001466

Errick L. Williamson, individually  
and as Personal Representative of  
the Estate of John Dale  
Williamson.....Appellant,

v.

Doug  
Williamson.....Respondent.

PROOF OF SERVICE

The undersigned certifies that he served Respondent's Final Brief on Appellant Errick Williamson via his attorney, Edward B. Davis, via electronic mail to [ward.davis@belldavispitt.com](mailto:ward.davis@belldavispitt.com) and via United States Mail, postage prepaid, on April 3, 2025, addressed to Bell, Davis & Pitt, P.A., Attention: Edward B. Davis, Esq., 227 W. Trade Street, Suite 1800, Charlotte, NC 28202.

The undersigned also certifies that he served Respondent's Final Brief via United States Mail, postage prepaid, on April 3, 2025, to Derrick Williamson at 1154

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*s/ J. Nathaniel Pierce*

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**RECEIVED**

**Apr 15 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM YORK COUNTY

Circuit Court of Common Pleas

Daniel B. Hall, Circuit Court Judge

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Case No. 2024-CP-46-00110

Appellate Case No.: 2024-001466

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In re: Estate of John Dale Williamson

Doug Williamson, Respondent

v.

Errick L. Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below,

of whom Errick L. Williamson, individually, and Errick L. Williamson, as personal representative of the Estate of John Dale Williamson is the Appellant.

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**FINAL REPLY BRIEF OF APPELLANT**

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## ARGUMENTS

### **I. *Baughman* provides the applicable framework for how the Probate Court and Circuit Court should have applied Rule 36(b).**

*Baughman* provides the framework for how the two-part test in Rule 36(b), *South Carolina Rules of Civil Procedure*, should be interpreted, and Doug Williamson (“Doug”) misapplied this rule. *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991). In *Baughman*, South Carolina’s Supreme Court evaluated the trial court’s application of Rule 36(b) and held that the trial court made two independent—yet equally sufficient—errors of law, each justifying reversal. *Id.* at 109-10, 410 S.E.2d at 542. First, timely seeking a protective order meant the requests for admissions should not have been deemed admitted. *Id.*

Separately from seeking a protective order, and more importantly to this case, the plaintiffs’ “late response” to the requests for admission “should have been” accepted, and any deemed admission should have been withdrawn because both elements of Rule 36(b) were met. *Id.* at 109-10, 410 S.E.2d at 542. It was clear error for the trial court not to apply the Rule 36(b) test. *Id.* In practice, this means that, when the two-prong test is satisfied and the litigant provides answers to Requests for Admission before they are “ordered admitted,” then the responses should be allowed to be withdrawn or amended. *See id.*; *see also Bennett v. Carter*, No. 2015-UP-491, 2015 WL 5968253, at \*1 (S.C. Ct. App. Oct. 14, 2015) (unpublished), *aff’d as modified*, 421 S.C. 374, 807 S.E.2d 197 (2017). Doug missed this in his brief.

Doug tries to differentiate *Baughman* by arguing that the facts were not analogous. Respondent’s Brief p. 17. The facts of this matter may not be the same



as in *Baughman*, but the key fact in *Baughman* was that the party against whom admission was sought had submitted responses to Requests for Admissions before they were deemed admitted. *Baughman*, 306 S.C. at 109-10, 410 S.E.2d at 542. That fact is present here, as it is undisputed that Errick Williamson (“Errick”) served responses to the Requests just a few days late. (R. p. 3 and Respondent’s Brief p. 4). Because the responses were served before they were “ordered admitted,” it was mandatory for the court to analyze the two-part test in Rule 36(b) and, if satisfied, allow withdrawal.

Doug also notes that “Errick did not request any relief from the Court,” which the party against whom admission was sought did do in *Baughman*. Respondent’s Brief p. 18 (citing the Probate Order). But that fact—seeking a protective order—drove the *alternative* reason why the deemed admissions should have been set aside in *Baughman*. *Baughman*, 306 S.C. at 109, 410 S.E.2d at 542. But, as described above, it was not the only reason. Not only is Doug wrong about the significance of the lack of seeking a formal protective order, but the Probate Court was wrong, too, which justifies reversal. (R. pp. 7-8, ¶ 15).

## **II. Applying the two-part test in Rule 36(b).**

Now that the mandatory nature of the Rule 36(b) test in certain scenarios has been established, the next step is to apply the test. The two-part test for withdrawal is satisfied if: (1) the withdrawal or amendment of a deemed admission would further the presentation of the merits; and (2) “the party who obtained the admissions fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining

his action or defense on the merits.” Rule 36(b). Both prongs are satisfied here, so withdrawal should have been allowed in this case. To hold otherwise, as the Probate Court and Circuit Court did, was an abuse of discretion. *See Baughman*, 306 S.C. at 109, 410 S.E.2d at 542.

**A. Factor one – merits.**

Doug argues that “Errick clearly has failed to prove that the presentation of the merits in this case would be furthered if he were allowed to withdraw his admission.” Respondent’s Brief pp. 13-14. But based upon the Probate Order and Doug’s *own words*, that cannot possibly be true. First, the deemed admission to Request 9 was the controlling factor for the determination that the Will was not properly executed. (R. p. 10, ¶ 24).

Doug has confirmed the same. First, the entire premise of Doug’s lawsuit is to set aside the Will. (R. pp. 21-70). On Page 4 of his brief, Doug noted that it was “[i]mportant[]” that Request 9 was deemed admitted. Respondent’s Brief p. 4; *see also* p. 10. It was so important because, given that Request 9 was deemed admitted, the Will was held to be invalid, and summary judgment was required. Respondent’s Brief pp. 21-22. Thus, the admission of just Request 9 led directly to the summary judgment; without Request 9, there would have been no summary judgment. Further, when the party seeking admission itself emphasizes the importance of an admission (like Doug did), then the first part of the test in Rule 36(b) is necessarily satisfied. *Barber v. Hobbs*, 313 S.C. 319, 321, 437 S.E.2d 409, 410 (Ct. App. 1993) (“The first part of the test is necessarily satisfied because Barber's attorney called the

admission “a crucial issue in this case” (citing *Baughman*, 306 S.C. at 110, 410 S.E.2d at 542)).

**B. Factor two – prejudice.**

Because Doug is the party who obtained the admission, he has the burden to prove that amendment will prejudice him. Rule 36(b); *Barber v. Hobbs*, 313 S.C. 319, 321, 437 S.E.2d 409, 410 (Ct. App. 1993). In Respondent’s Brief, Doug has not shown this Court how amendment would prejudice him. And for good reason, too. As more fully addressed in Errick’s Appellant Brief, Doug has not been prejudiced in a manner that is legally significant to Rule 36(b). Appellant Brief pp. 18-19. The facts alleged by Doug in his brief simply do not show that his discovery rights will be trampled or that Errick failed to participate in discovery in good faith. *See* Respondent’s Brief pp. 15-16. The discovery issues were minor, and any issues that did exist were unrelated to Request 9. (*See* R. pp. 100-08, 140-144, 145-161, and 222-23 (all showing the discovery issues related to Errick’s employment records, confidential spousal communications, verification of discovery responses, and the existence of certain documents)). Moreover, Errick complied with additional requests to provide documents that exist and were required to be produced by law (two additional years of employment records and verification of the discovery responses). (*See* R. pp. 92 and 100-08).<sup>1</sup>

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<sup>1</sup> Doug also alleges that Errick failed to timely respond to the Petition. Respondent’s Brief p. 3 FN 1. In actuality, however, Errick was never actually served. (R. pp. 90-91). There was no second bite at the apple or handout from the Probate Court.

Discovery was and is in its infancy, so there was no detrimental reliance on deemed admissions. (R. pp. 83-84, 92, and 99). If there were other discovery issues, which Errick denies exist, then the Probate Court has other levers it can pull to address those alleged issues. In the simplest terms, there is nothing related specifically to the withdrawal of Request 9 that will legally prejudice Doug. Doug still has the full opportunity to prove his case.

### **III. The Probate Court abused its discretion by misapplying the law.**

#### **A. Abuse of discretion standard.**

Errick's argument is that the lower courts abused their discretion by failing to show a clear understanding of the applicable law and failing to properly apply that law. Appellant Brief p. 6 (citing *Morris v. BB & T Corp.*, 438 S.C. 582, 885 S.E.2d 394 (2023) and *City of Charleston Hous. Auth. v. Brown*, 437 S.C. 514, 878 S.E.2d 913 (Ct. App. 2022)). In Doug's brief, however, he did not address either *Morris* or *City of Charleston Housing Authority* or argue why those cases alone do not require reversal based upon the misapplication of *Baughman*, *Scott*, and other cases. Appellant Brief p. 6.

#### **B. How the Probate Court and Circuit Court got it wrong.**

As described above, the Probate Court misapplied *Baughman* by ignoring a key component of its holding, and Doug failed to adequately explain that misapplication. Instead, Doug repeats the Probate Court's analysis regarding a protective order,

which ignores the other part of *Baughman* where the Supreme Court required application of the two-part test in Rule 36(b) in certain contexts.<sup>2</sup>

Next, Doug misapprehends *Scott*. In Errick's brief, he set out how the first part of *Scott* concerns whether it is proper for Requests for Admission to go to the heart of the matter. *Scott v. Greenville Hous. Auth.*, 353 S.C. 639, 645-50, 579 S.E.2d 151, 154-57 (Ct. App. 2003). It is proper (*id.*), but that is not disputed by either party. Still, Doug seemingly argued that because Requests for Admission can go to the heart of the matter, which Request 9 does, then Errick has "clearly" failed to show that the merits of the case would be furthered by allowing withdrawal. Respondent's Brief p. 13. That is inaccurate, and the opposite is true.

Precisely because Request 9 goes directly to the merits of the case shows that the merits would be furthered by allowing withdrawal. Doug and the lower courts both got this wrong. Moreover, the second prong of Rule 36(b), prejudice, is "not simply that the party who obtained the admission will now have to convince the factfinder of its truth. Rather, it relates to the difficulty a party may face in proving its case, e.g., caused by the unavailability of key witnesses, because of the sudden need to obtain evidence." *Hadley v. United States*, 45 F.3d 1345, 1348 (9th Cir. 1995). Doug does not now have difficulties based upon withdrawing the response to Request

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<sup>2</sup> Doug also argued that Errick said the Probate Court should have "relied" on two unpublished opinions, *Phillips* and *Bennett*. Respondent's Brief p. 16 (citing Appellant's Brief p. 15). Errick relied upon *Baughman* and *Scott*. *Phillips* and *Bennett*, on the other hand, were: (1) exemplars of how *Baughman* and *Scott* are applied in practice (Appellant's Brief pp. 9-10); and (2) examples of legal errors made by the Probate Court justifying reversal. Appellant's Brief p. 15.

9. Put another way, all difficulties that Doug alleges he has would have been present even if Request 9 was denied from the beginning.

In his brief, Doug described some of the facts relevant in *Scott*. See Respondent's Brief p. 14. Conspicuously absent from Doug's brief, however, was the truly egregious conduct by the defendant in the *Scott* case, specifically causing problems at multiple trials, wholly failing to respond to discovery, preventing the plaintiff from obtaining key documents, and surprising the plaintiff with records *during* a trial. *Scott* at 353 S.C. at 652, 579 S.E.2d at 158; Appellant's Brief pp. 10-12. The problem with the Probate Court's Order—and what Doug missed in his brief—is that the Probate Court failed to properly analyze the prejudice (or lack thereof) that Doug would incur if the admissions were withdrawn. See Respondent's Brief pp. 15-16. The court simply said that, if the admissions were withdrawn, Doug's opportunity for "full and fair trial preparation is further prejudiced." (R. p. 10, ¶ 24). But, by relying only on this conclusory statement regarding prejudice and without articulating even a single specific impact on Doug's ability to prepare for trial, the court obliterated the need for *any* trial and decided the case. Essentially, because of an error of a few days, the Probate Court implemented one of the—if not *the*—harshest discovery sanctions imaginable, which simply did not have to be done and should not have been done.

#### **IV. Doug did not address the purpose of the modern Rules of Civil Procedure.**

Finally, the Probate Court's drastic remedy and refusal to allow withdrawal of the deemed admission to Request 9 wholly ignored the purpose of the modern Rules

of Civil Procedure, which is to decide matters on the merits. Doug also failed to address this in his brief. “It is too late in the day and entirely contrary to the spirit of the Federal Rules of Civil Procedure for decisions on the merits to be avoided on the basis of such mere technicalities.” *Foman v. Davis*, 371 U.S. 178, 181, 83 S. Ct. 227, 230 (1962). The same is true for the South Carolina Rules of Civil Procedure: “The spirit of the Rules is to settle controversies upon their merits rather than to dismiss actions on technical grounds, to permit amendments liberally, and to avoid, if possible, depriving a litigant of a chance to bring a case to trial.” *Patton v. Miller*, 420 S.C. 471, 493, 804 S.E.2d 252, 263 (2017) (citing 3 *Cyclopedia of Federal Procedure* § 8.2 (3d ed., rev. 2017) in the context of whether to allow amendment based upon Rule 15, SCRCP). The philosophy of wanting to decide cases on the merits was also addressed by a case that Doug cited in the Respondent’s Brief. *See Ex parte Trustgard Ins. Co.*, 442 S.C. 485, 511, 900 S.E.2d 448, 461 (Ct. App. 2023) (discussing preference of merits in the default judgment context).

This case has significant importance, as it will determine how the Will should be administered. Doug argues that Errick took advantage of a dying man to benefit himself. Respondent’s Brief pp. 1-3. But Errick believes the evidence will show that Errick was the one there to provide necessary care to John Dale before he died, and John Dale captured his wishes for Errick in the Will. (*See R.* pp. 71-79). These are important matters that can and should be decided on the merits, as opposed to being decided pursuant to a slight procedural mishap by a matter of a few days. This Court

should require that the Probate Court and Circuit Court allow the matter to be decided on its merits.

### **CONCLUSION**

This Court should enter an Order: (1) holding that the Probate Court and Circuit Court abused their discretion by not allowing the deemed admissions to the Requests to be withdrawn and amended; (2) requiring the Probate Court and Circuit Court to properly follow the law in *Baughman*, *Bennett*, and *Scott*; and (3) specifically requiring the Probate Court and Circuit Court to enter Orders allowing the deemed admissions to the Requests to be withdrawn and stating that Errick's responses from October 11, 2023, are accepted as the official responses to the Requests.

Respectfully submitted this the 2nd day of April 2025.

/s/ Edward B. Davis

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**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

In re: Estate of John Dale Williamson

Doug Williamson, Respondent,

v.

Erick L. Williamson, individually and as personal  
representative of the Estate of John Dale Williamson;  
Derrick Williamson; and Robin Beckler, Respondents  
below,

of whom Erick L. Williamson, individually, and Erick  
L. Williams, as personal representative of the Estate of  
John Dale Williamson is the Appellant.

Appellate Case No. 2024-001466

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Appeal From York County  
Daniel Dewitt Hall, Circuit Court Judge

---

Unpublished Opinion No. 2026-UP-067  
Submitted February 2, 2026 – Filed February 18, 2026

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**AFFIRMED**

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Edward Bilbro Davis, of Bell, Davis & Pitt, PA, of  
Charlotte, North Carolina, for Appellant.

James Nathaniel Pierce, of Johnston Allison & Hord, PA,  
of Charlotte, North Carolina, for Respondent.

---

**PER CURIAM:** Errick L. Williamson (Errick) appeals the circuit court's order affirming the probate court's order granting partial summary judgment in favor of Doug Williamson (Doug) and the denial of Errick's motion to withdraw or amend his admissions, or alternatively to extend discovery. On appeal, Errick contends the circuit court (1) erred in finding that Doug would be prejudiced by permitting withdrawal of his admission pursuant to Rule 36(b) of the South Carolina Rules of Civil Procedure and (2) abused its discretion by affirming the probate court's grant of partial summary judgment. We affirm pursuant to Rule 220(b), SCACR.

1. We hold the circuit court did not abuse its discretion in affirming the probate court's denial of Errick's request to amend or withdraw his admissions. *See Stokes-Craven Holding Corp. v. McKenzie*, 416 S.C. 517, 536, 787 S.E.2d 485, 495 (2016) ("A [circuit] court's rulings in matters related to discovery generally will not be disturbed on appeal in the absence of a clear abuse of discretion."); *id.* ("An abuse of discretion occurs when the [circuit] court's order is controlled by an error of law or when there is no evidentiary support for the [circuit] court's factual conclusions."). Although Errick's admission that John Dale Williamson did not sign the will in question would further the merits of the proceeding to determine the validity of the will's execution, we find Doug demonstrated he would be prejudiced by the amendment or withdrawal of Errick's admission. *See* Rule 36(a), SCRCPP ("A party may serve upon any other party a written request for the admission . . . of the truth of any matters within the scope of Rule 26(b) [of the South Carolina Rules of Civil Procedure] . . ."); *id.* ("The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow or as stipulated in writing by the parties . . . the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter . . ."); Rule 36(b), SCRCPP ("Any matter admitted under [Rule 36] is conclusively established unless the court on motion permits withdrawal or amendment of the admission."); *Scott v. Greenville Hous. Auth.*, 353 S.C. 639, 645, 579 S.E.2d 151, 154 (Ct. App. 2003) ("South Carolina has long had the discovery rule that failure to respond to requests for admissions renders any matter listed in the request conclusively admitted for trial."); *Nexstar Media Grp., Inc. v. Davis Roofing Grp.*, 431 S.C. 593, 603, 848 S.E.2d 597, 602 (Ct. App. 2020) ("However, South Carolina jurisprudence also establishes a [circuit] court may use its discretion in finding requests to admit are not deemed admitted when the circumstances indicate otherwise."); *Scott*, 353 S.C.

at 651, 579 S.E.2d at 157 ("[A circuit] court may allow a party to amend or withdraw its answers to a request to admit when: (1) the presentation of the merits is furthered by the amendment; and (2) the party who obtained the admission cannot demonstrate prejudice because of the amendment." (quoting *Com. Ctr. of Greenville, Inc. v. W. Powers McElveen & Assocs., Inc.*, 347 S.C. 545, 557, 556 S.E.2d 718, 724 (Ct. App. 2001))); *id.* at 652, 579 S.E.2d at 158 ("Discovery is the quintessence of preparation for trial and, when discovery rights are trampled, prejudice must be presumed.").

2. Viewing the evidence in the light most favorable to Errick, we hold the circuit court did not err in affirming the probate court's grant of partial summary judgment in favor of Doug because Errick did not raise a genuine issue of material fact as to whether the will was properly executed. *See USAA Prop. & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 653, 661 S.E.2d 791, 796 (2008) (stating an appellate court reviews the granting of a motion for summary judgment under "the same standard that governs the [circuit] court under Rule 56(c) [of the South Carolina Rules of Civil Procedure]"); Rule 56(c), SCRPC (providing that summary judgment is proper when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits . . . show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law"); *Singleton v. Sherer*, 377 S.C. 185, 197, 659 S.E.2d 196, 202 (Ct. App. 2008) ("On appeal from an order granting summary judgment, the appellate court will review all ambiguities, conclusions, and inferences arising in and from the evidence in a light most favorable to the non-moving party."). Errick's admission that "John Dale Williamson did not sign the Last Will and Testament" did not create a genuine issue of material fact regarding the validity of the will because a testator's signature is required for proper execution. *See Brooks v. Northwood Little League, Inc.*, 327 S.C. 400, 403, 489 S.E.2d 647, 648 (Ct. App. 1997) ("[W]hen the evidence is susceptible of only one reasonable interpretation, summary judgment may be granted."); *Murphy v. Tyndall*, 384 S.C. 50, 54, 681 S.E.2d 28, 30 (Ct. App. 2009) ("Because it is a drastic remedy, summary judgment should be cautiously invoked so no person will be improperly deprived of a trial of the disputed factual issues." (quoting *Carolina All. For Fair Emp. v. S.C. Dep't of Lab., Licensing, & Regul.*, 337 S.C. 476, 485, 523 S.E.2d 795, 799 (Ct. App. 1999))); S.C. Code Ann. § 62-2-502 (2022) (requiring that "every will shall be: (1) in writing; (2) signed by the testator or signed in the testator's name by some other individual in the testator's presence and by the testator's direction; and (3) signed by at least two individuals each of whom witnessed either the signing or the testator's acknowledgment of the signature or of the will").

**AFFIRMED.**<sup>1</sup>

**MCDONALD, HEWITT, AND TURNER, JJ., concur.**

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<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM YORK COUNTY

Circuit Court of Common Pleas

Daniel B. Hall, Circuit Court Judge

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Case No. 2024-CP-46-00110  
Appellate Case No.: 2024-001466

---

**RECEIVED**

**Mar 05 2026**

**SC Court of Appeals**

In re: Estate of John Dale Williamson

Doug Williamson, Respondent

v.

Errick L. Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below,  
of whom Errick L. Williamson, individually, and Errick L. Williamson, as personal representative of the Estate of John Dale Williamson is the Appellant.

---

**APPELLANT'S PETITION FOR REHEARING**

---

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Pursuant to Rules 221(a), 240, and 267, SCACR, Appellant Errick Williamson (“Errick”) respectfully petitions the Court to reconsider and rehear *In re: Estate of John Dale Williamson*, Unpublished Opinion No. 2026-UP-067 (Ct. App. Feb. 18, 2026) (the “Opinion”). The Court should grant a rehearing, withdraw the Opinion, and issue an Opinion holding that the Probate Court and Circuit Court abused their discretion by not allowing admissions to the Requests to be set aside and granting and affirming the Partial MSJ.

### **INTRODUCTION**

John Dale Williamson (“John Dale”) passed away in November 2022. (R. p. 23, ¶ 16). Errick, John Dale’s nephew, is a beneficiary of John Dale’s will, which bears John Dale’s signature and had two independent witnesses (the “Will”). (R. pp. 24, ¶ 22, and 66-70). Respondent Doug Williamson (“Doug”) is one of John Dale’s brothers, and he filed a Petition to Set Aside Will and for Appointment of Personal Representative in York County’s Probate Court in March 2023 (the “Petition”). (R. p. 21-22, ¶ 8). If the Will is set aside, then Doug will benefit as one of John Dale’s heirs and, on the flip side, Errick will be damaged significantly. (R. p. 25, ¶ 33, and p. 63, ¶ 7).

While litigating the Petition, Doug served Rule 36 Requests for Admission (the “Requests”) by mail on August 31, 2023. (R. pp. 123 and 258). One of the Requests, Request No. 9, stated: “Admit that John Dale Williamson did not sign the Last Will and Testament attached hereto as Exhibit B.” (R. p. 123). On October 10, 2023, through counsel, Errick requested an additional ten days to respond to the Requests.

(R. p. 164, ¶ 17). Doug’s counsel denied the minor extension, and Errick responded to the Requests on October 11, 2023. (R. p. 164-65, ¶¶ 18-19). In his responses, Errick denied Request 9. (R. p. 142).

In November 2023, Doug filed a Motion for Partial Summary Judgment and supporting brief (the “Partial MSJ”). In the Partial MSJ, Doug argued in court for the first time that the Requests are deemed admitted and, consequently, there was no valid Will. (R. pp. 27, ¶¶ 48-50, and 188-95). Shortly after Doug’s Partial MSJ, Errick filed a Motion to Withdraw/Amend Admissions, or Alternatively, for Additional Time to Serve Discovery Responses, and Motion to Strike Petitioner’s Motion to Compel and supporting brief (the “Motion to Withdraw or Amend”). (R. pp. 230-242).

The Partial MSJ and Motion to Withdraw or Amend were heard in the Probate Court in December 2023. (R. p. 80; Probate Court Transcript, p. 1). The Probate Court granted the Partial MSJ, invalidated the Will, and denied the Motion to Withdraw or Amend on January 5, 2024 (the “Probate Order”). (R. pp. 4-11). The Probate Court reasoned that, because Errick “admitted” that John Dale did not sign the Will, then Errick cannot meet his burden of presenting *prima facie* evidence that the Will was duly executed. (R. pp. 9-10, ¶¶ 21-24). This is true even though Errick served responses to the Requests months before the responses were deemed admitted via order. (R. pp. 4, 123, and 142). Moreover, discovery was in its infancy—no depositions had been taken, no experts were disclosed, no admissions had been relied

upon, there were still five to six months of discovery left—and trial was not set. (R. pp. 83-84, 92, and 99).

The Probate Order was appealed to the Circuit Court and affirmed by the Circuit Court on August 6, 2024 (the “Circuit Court Order”). (R. pp. 17 and 243). The Orders were appealed to this Court, and the Court entered the Opinion on February 18, 2026. This Petition for Rehearing follows.

### **STANDARD OF REVIEW**

Parties can petition the Court for rehearing pursuant to Rule 221(a), SCACR. In the petition, parties must “state with particularity the points supposed to have been overlooked or misapprehended by the court.” *Id.*; see *Arnold v. Carolina Power & Light Co.*, 168 S.C. 163, 167 S.E. 234, 238 (1933).

### **ARGUMENTS**

#### **I. The Court misapprehended whether allowing the deemed admissions to be withdrawn would prejudice Doug, specifically overlooking this case’s procedural posture and *Baughman*.**

In the Opinion, the Court found that “Doug demonstrated he would be prejudiced by the amendment or withdrawal of Errick’s admission.” Opinion p. 2. The prejudice is not explicitly identified, but it appears the Court believes that Doug’s discovery rights were “trampled.” Opinion p. 3 (citing *Scott v. Greenville Hous. Auth.*, 353 S.C. 639, 652, 579 S.E.2d 151, 158 (Ct. App. 2003)). Because of the alleged prejudice, the Court held that the lower courts did not abuse their discretion by denying “Errick’s request to amend or withdraw his admissions.” *Id.*



The facts in *Scott*, however, were egregious. The defendant failed to timely comply with multiple discovery requirements and produced documents just two days before the first scheduled trial. *Scott*, 353 S.C. at 642, 579 S.E.2d at 153. The trial was continued so that the defendant could comply with discovery. *Id.* at 643, 579 S.E.2d at 153. The defendant, however, still failed to timely produce documents and required additional court intervention. *Id.* at 644, 579 S.E.2d at 153. And, when the case was finally called for trial a second time, the defendant produced new records during trial that it previously claimed to specifically not have in an Affidavit. *Id.* at 644, 579 S.E.2d at 153-54. Only then—after the defendants repeatedly failed to comply with discovery obligations for long periods of time, caused the first trial to be reset, and conveniently found responsive documents during the middle of the second trial thereby necessitating a third trial—was there a trampling of discovery rights and, therefore, prejudice.

This case is drastically different in a legally significant way: It was too early in the case for there to be any trampling of discovery rights. The responses to the Requests were only a few days late. (R. p. 193). There were no depositions or expert disclosures, there was half a year of discovery left, and trial was not set. (R. pp. 83-84, 92, and 99). There were minor discovery issues, but none of the discovery issues were related to setting aside the admission to Request 9.<sup>1</sup> (See R. pp. 100-08, 140-144, 145-161, and 222-23 (showing that the discovery issues related to Errick's employment records, confidential spousal communications, verification of discovery

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<sup>1</sup> Doug also did not rely on these alleged discovery issues in his brief to obtain the Partial MSJ. (R. pp. 190-94).

responses, and the existence of certain documents)). This means that setting aside the admission to Request 9 would *not* prevent Doug from addressing the alleged discovery issues. He could still fully prove his case—albeit on the merits instead of via a slight procedural misstep—at a trial that still hadn’t even been scheduled. This shows that Doug’s rights were not “trampled.” Thus, no prejudice.

Further, the Supreme Court directly addressed this issue in a case that the Court did not cite in the Opinion. In *Baughman*, the Court addressed whether there is prejudice when deemed admissions are allowed to be withdrawn even though the actual responses were provided *before* the requests were deemed admitted via order. *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 109-10, 410 S.E.2d 537, 542 (1991). The Court held that, because the “Plaintiffs’ responses were filed even before the requests were ordered admitted, [the] defense could not possibly have been prejudiced.” *Id.* at 110, 410 S.E.2d at 542.<sup>2</sup> Thus, without equivocation, the Supreme Court specifically held that the “Plaintiffs *should have been permitted* to withdraw the deemed admissions.” *Id.* at 109, 410 S.E.2d at 542 (emphasis added). The Supreme Court’s holding directly confirms that what Errick did—provide responses before any Request was deemed admitted via order—“could not possibly have” prejudiced Doug. The Court, therefore, misapprehended precedent by concluding that Doug was prejudiced.<sup>3</sup>

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<sup>2</sup> There was also a second, entirely independent, reason to set aside the admissions in *Baughman*, the recipient timely sought a protective order. *Id.* at 109-10, 410 S.E.2d at 542.

<sup>3</sup> Of course there are factual differences between *Baughman* and this case, which Doug pointed out. But there was only one key fact that the Supreme Court cited when determining possible prejudice: the timing of actual answers to requests vis-à-vis the order deeming the requests admitted.

**II. Because the Court misapprehended the prejudice element, it didn't get to merits and improperly affirmed the lower courts.**

Other than briefly discussing alleged prejudice, the Court did not analyze—and thus overlooked—Errick's other arguments. The Court did not address whether the lower courts properly understood how they should apply their discretionary authority or properly applied that authority, whether allowing amendment or withdrawal would further the presentation of the merits of the matter, and the purposes of the modern rules of civil procedure. Instead, after misapprehending the prejudice prong and overlooking key precedent, the Court held that there was no genuine issue of material fact relevant to the Partial MSJ because of Errick's admission to Request 9. Opinion, p. 3. Once the Court reexamines the prejudice issue, it should also evaluate these other overlooked issues identified by Errick in his briefs, allow the deemed admissions to be withdrawn, and set aside the Probate Order, Circuit Court Order, and granting of the Partial MSJ.

**CONCLUSION**

The Court should grant a rehearing and fully consider the points made in Appellant's briefs, including binding precedent. Ultimately, the Court should set aside the Opinion and hold that the Probate Court and Circuit Court abused their discretion by not allowing the deemed admissions to the Requests to be withdrawn and amended. The Partial MSJ should not have been granted and should have been set aside.

Because of this purely procedural holding, the deceased has been deprived of the ability to control the disposition of his estate. That is an avoidable error that can be corrected by rehearing.

Respectfully submitted this the 5<sup>th</sup> day of March 2026.

/s/ Edward B. Davis

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THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM YORK COUNTY

Circuit Court of Common Pleas

Daniel B. Hall, Circuit Court Judge

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Case No. 2024-CP-46-00110  
Appellate Case No.: 2024-001466

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**RECEIVED**

**Mar 05 2026**

**SC Court of Appeals**

In re: Estate of John Dale Williamson

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v.

Errick L. Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below,  
of whom Errick L. Williamson, individually, and Errick L. Williamson, as personal representative of the Estate of John Dale Williamson is the Appellant.

---

**PROOF OF SERVICE**

---

I certify that I have served *Appellant's Petition for Rehearing* on Respondent Doug Williamson via his attorney, J. Nathaniel Pierce, by: (a) sending a .pdf to J. Nathaniel Pierce's e-mail address listed in the AIS ([npierce@jahlaw.com](mailto:npierce@jahlaw.com)); and (b) by depositing a copy of the same in the United States Mail, postage prepaid, on March 5, 2026, addressed to J. Nathaniel Pierce, Johnston, Allison & Hord, P.A., 1065 E. Morehead Street Charlotte, NC 28204.

I certify that I have served *Appellant's Petition for Rehearing* on Derrick Williamson by depositing a copy of the same in the United States Mail, postage prepaid on March 5, 2026, addressed to 1154 Dease Street, Rock Hill, SC 29732.

I certify that I have served *Appellant's Petition for Rehearing* on Robin Beckler by depositing a copy of the same in the United States Mail, postage prepaid on March 5, 2026, addressed to 300 Thomasboro Road SW, Calabash, NC 28467.

This the 5th day of March, 2026.

/s/ Edward B. Davis

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## The South Carolina Court of Appeals

In re: Estate of John Dale Williamson

Doug Williamson, Respondent,

v.

Errick L. Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below,

of whom Errick L. Williamson, individually, and Errick L. Williams, as personal representative of the Estate of John Dale Williamson is the Appellant.

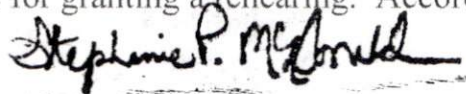
Appellate Case No. 2024-001466

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### ORDER

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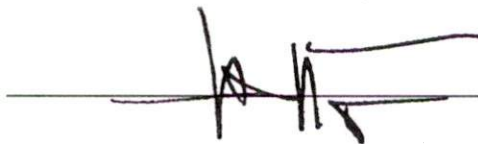
After careful consideration of the petition for rehearing, the court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



\_\_\_\_\_  
J.



\_\_\_\_\_  
J.



\_\_\_\_\_  
J.

**FILED**  
**Apr 13 2026**

Columbia, South Carolina

cc:

Edward Bilbro Davis, Esquire

James Nathaniel Pierce, Esquire

The Honorable Daniel Dewitt Hall



STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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APPEAL FROM YORK COUNTY

Circuit Court of Common Pleas

The Honorable Daniel D. Hall, Circuit Court Judge

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Unpublished Opinion No. 2026-UP-067 (S.C. Ct. App. filed Feb. 18, 2026)

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In re: Estate of John Dale Williamson

Doug Williamson, Respondent

v.

Erick Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below, of whom Errick L. Williamson, individually, and Errick L. Williamson, as personal representative of the Estate of John Dale Williamson is the Appellant.

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RESPONDENT'S RETURN TO PETITION FOR CERTIORARI

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Respectfully Submitted,

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**COUNTER-STATEMENT OF QUESTIONS PRESENTED FOR REVIEW**

- I. Do special and important reasons exist for issuance of a Writ of Certiorari?
- II. Did the Court of Appeals err in affirming the Probate Court’s denial of Errick’s Motion to Withdraw?
- III. Did the Court of Appeals err in affirming the Probate Court’s grant of Doug’s Motion for Partial Summary Judgment?

**COUNTER-STATEMENT OF THE CASE**

John Dale Williamson (“Decedent” or “Dale”) suffered from Parkinson’s disease. (R. p. 22). As early as May 20, 2022, Dale received in-home hospice care from Agape Care, Inc. (“Agape”). (R. pp. 22–23). From May to November 2022, Agape regularly visited Dale with home health aides, nurses, and social workers. (*Id.*).

In the final months leading up to his death, Dale’s condition worsened and he was not of sound mind, as his Parkinson’s disease progressed. (R. p. 22). Dale received a substantial amount of palliative medicine, as well as daily assistance with the most basic tasks. (R. p. 23). Particularly during the last six to eight weeks of Dale’s life, Dale needed around-the-clock care, as the advanced stages of his disease left him bedridden. (R. pp. 22–23). Dale passed away on November 29, 2022, from, *inter alia*, complications caused by the Parkinson’s disease. (R. p. 23).

Dale was unmarried and had no children but was survived by three siblings: Doug Williamson (“Doug”), the respondent in this appeal; Derrick Williamson (“Derrick”); and Robin Beckler (“Robin”). (R. p. 22). Derrick is the father of Errick L. Williamson (“Errick”), the appellant in this matter. (*Id.*).

During Dale's last few months, Errick and his wife Chantelle Williamson ("Chantelle") moved into Dale's house at 1153 Deas Street, Rock Hill, South Carolina, to allegedly care for Dale. (R. pp. 22–23). Errick and Chantelle also asserted control over Dale's medical, legal, and financial matters, even controlling which family members and friends could visit Dale. (R. pp. 22–23, 26).

After Dale's death, Doug and his wife, Crystal Williamson ("Crystal"), tried to speak with Errick about the disposition of Dale's estate to ensure Dale's final wishes were honored. (R. p. 23). On multiple occasions, Errick represented to Doug and Crystal that Dale did not have a will, and neither Doug nor Crystal had any indication that Dale may have executed a will. (R. p. 23). After representing that Dale died without a will, Errick filed the purported Last Will and Testament of John Dale Williamson (the "Will") with the York County, South Carolina Probate Court on January 3, 2023. (R. pp. 23, 62–70). Errick was simultaneously appointed as the personal representative of Dale's estate (the "Estate"). (R. p. 23). The first time Doug and Crystal learned of the purported Will was when they received an Information to Heirs filing from Errick. (R. p. 23).

It is crucial to note that Dale allegedly signed the Will on November 24, 2022, a mere five days before his death from advanced Parkinson's disease. (R. p. 24). At the time, Dale was receiving around-the-clock hospice care and near-constant palliative medication. (R. pp. 22–23). Dale was not of sound mind on November 24, 2022, and he could no longer understand or know the extent of his estate, the objects of his affection, or to whom he wished to give his property. (R. pp. 22–23, 26).

Under the Will, Errick would take eighty percent (80%) of Dale’s residual estate, which is defined as “real and personal property wherever situated including any life insurance policies....” (R. pp. 24, 63). Meanwhile, Derrick, Errick’s father, would take the remaining twenty percent (20%) of Dale’s residual estate. (*Id.*). Inexplicably, the Will explicitly excludes Crystal, who is not an intestate heir of Dale or his Estate. (R. pp. 24, 62). The Will also purports to devise non-probate assets, such as life insurance policies. (R. pp. 24, 63).

Since Errick’s appointment as personal representative, Errick has taken no meaningful steps to administer the Estate, has failed to pay property taxes that were due, and has failed to redeem a substantial Estate asset from tax sale. (R. p. 163).

On March 15, 2023, Doug filed a Petition to Set Aside Will and for Appointment of Personal Representative.<sup>1</sup> On August 30, 2023, Doug served Errick with Interrogatories and Requests for Production (“RFPs”) via United States Mail, in compliance with Rule 5(a), South Carolina Rules of Civil Procedure (“SCRCP”). (R. pp. 4–5, 12–13). According to Rules 6(e), 33, and 34 of the SCRCP, Errick’s responses to the Interrogatories and Requests for Production were due on or before October 4, 2023. (R. pp. 4, 12).

On August 31, 2023, Doug served Errick with nine (9) Requests for Admission (“RFAs”) pursuant to Rule 36 of the SCRCP. (R. pp. 5, 122–39). RFA No. 9 specifically stated, “Admit John Dale Williamson did not sign the Last Will and Testament

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<sup>1</sup> Errick failed to timely respond to the Petition, and Doug moved for entry of default. Ultimately, the Court set aside the Default and allowed Errick to file an Answer. (R. p. 163).



attached hereto as Exhibit B.”<sup>2</sup> (R. p. 123). Pursuant to Rules 6(e) and 36, SCRCP, Errick’s responses to the RFAs were due on or before October 5, 2023. (R. p. 5).

Errick failed to respond to the Interrogatories, RFPs, and/or RFAs during the time prescribed by the SCRCP. (R. p. 5). Further, Errick neglected or refused to seek an extension of time during the time prescribed by the SCRCP. (R. p. 5). As such, each of the RFAs was deemed to be admitted pursuant to Rule 36, SCRCP. (R. p. 7). Importantly, according to RFA No. 9, Errick admitted that “John Dale Williamson did not sign the [Will].” (R. pp. 7, 123).

On October 10, 2023, after Errick’s responses to the discovery requests were due, Errick’s counsel requested ten (10) additional days to respond. (R. p. 164). On October 11, 2023, Errick attempted to serve untimely responses to the RFAs. (R. p. 164). On October 12, 2023, Doug’s counsel notified Errick’s counsel that Errick’s October 10, 2023 extension request was denied and that a Motion to Compel responses to Doug’s Interrogatories and RFPs had been mailed to the Court for filing. (R. p. 165). However, Doug’s counsel indicated that Doug would not seek a hearing on the Motion to Compel before October 20, 2023, the date on which Errick represented he would respond to the Interrogatories and RFPs. (*Id.*). The Probate Court filed the Motion to Compel on October 19, 2023, which is the same date on which Errick served responses to Doug’s Interrogatories and RFPs. (R. pp. 13, 165).

Upon review of Errick’s responses, Doug’s counsel sent a deficiency letter to Errick’s counsel on October 24, 2023 (the “Deficiency Letter”). (R. p. 13). The

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<sup>2</sup> The Last Will and Testament that was attached as Exhibit B to Doug’s RFAs to Errick, and which is referenced specifically in RFA No. 9, is the same will referenced throughout this brief as “the Will.”

Deficiency Letter noted a myriad of problems with Errick's responses, including his responses to Interrogatories 3, 5, 8, 10, 12, 13, 15, and 18. (*Id.*). Errick had not signed and served a verification for the Interrogatories, as required by Rule 33, SCRCF. (*Id.*). Additionally, the Deficiency Letter also flagged issues with Errick's responses to RFPs 2, 6, 8, 12, and 13. (*Id.*).

On November 6, 2023, Doug filed a Motion for Partial Summary Judgment, pursuant to Rule 56, SCRCF, regarding his fifth cause of action related to the execution of the Will. (R. pp. 188–221). In particular, Doug's Motion for Partial Summary Judgment related to Errick's admission to RFA No. 9, indicating that "John Dale Williamson did not sign [the Will]." (R. pp. 123, 192–94).

On November 21, 2023, well over one month after Errick's RFAs were due, Errick filed a Motion to Withdraw/Amend Admissions, or Alternatively, for Additional Time to Serve Discovery Responses, and Motion to Strike Petitioner's Motion to Compel ("Motion to Withdraw"). (R. pp. 230–33). This was Errick's attempt to remedy his failure to timely respond to the RFAs. Errick simultaneously filed a brief in support of his Motion to Withdraw, which contained no exhibits or affidavits, and Errick failed to respond to Doug's Motion for Partial Summary Judgment. (R. pp. 234–42).

Further, Errick did not respond to the Deficiency Letter until November 22, 2023, at which point he supplemented certain discovery responses, without supplementing all of them. (R. p. 14). In particular, Errick flatly refused to supplement his responses to Interrogatories 3, 5, 10, and 13. (R. p. 14). Errick also

refused to supplement his responses to any of the outstanding RFPs. (R. pp. 14, 222–23).

On December 7, 2023, the Honorable Carolyn Woodruff, the presiding Judge for the York County Probate Court, heard Doug’s Motions to Compel and for Partial Summary Judgment, along with Errick’s Motion to Withdraw. (R. pp. 80–108). Pursuant to her written Orders filed on January 5, 2024, Judge Woodruff granted Doug’s Motions to Compel and for Partial Summary Judgment and denied Errick’s Motion to Withdraw (the “Probate Court Order”). (R. pp. 4–16).

On January 11, 2024, Errick appealed Judge Woodruff’s Order. (R. p. 243). On August 2, 2024, the York County Circuit Court of Common Pleas heard oral arguments from counsel for Doug and Errick. (R. pp. 109–10). Via a written Order filed on August 6, 2024, the Circuit Court affirmed the Probate Court’s ruling (the “Circuit Court Order”). (R. pp. 17–19).

Subsequently, on September 4, 2024, Errick appealed the Circuit Court’s Order, along with the Probate Court Order, by filing and serving a Notice of Appeal with the Court of Appeals. (R. pp. 300–11). In an Opinion filed February 18, 2026, the Court of Appeals affirmed the Circuit Court’s Order and denied Errick relief. Errick unsuccessfully filed a Petition for Rehearing on March 5, 2026, that was properly denied in an Order filed April 13, 2026. On May 13, 2026, Errick filed and served his Petition for a Writ of Certiorari.

## **ARGUMENT**

### **I. No special or important reasons exist for issuance of a Writ of Certiorari.**

“A writ of certiorari is not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons.” Rule 242, SCACR. “Special and important reasons” may exist (1) where there are novel questions of law; (2) where there is a dissent in the decision of the Court of Appeals; (3) where the decision of the Court of Appeals is in conflict with a prior decision of the Supreme Court; (4) where substantial constitutional issues are directly involved; or (5) where a federal question is included and the decision of the Court of Appeals conflicts with a decision of the United States Supreme Court. (*Id.*). Errick requests this Court to find that the routine discovery dispute at issue in this case constitutes a special and important reason for issuance of a Writ of Certiorari.

First, this case does not present a novel question of law, as it concerns a routine discovery dispute. Errick failed to respond to Doug’s routine RFA’s and waited more than six weeks to withdraw his admissions. (Br. p. 1–2, R. p. 164). Errick’s failure to comply with clearly established statutory discovery deadlines does not constitute a special and important reason this Court issue a Writ of Certiorari. South Carolina courts routinely address discovery disputes, and the trial court’s decisions on such disputes will not be disturbed absent a clear abuse of discretion. *Stokes-Craven Holding Corp. v. McKenzie*, 416 S.C. 517, 536, 787 S.E.2d 485, 495 (2016).

Second, the Court of Appeals unanimously affirmed the decision of the Circuit Court to (1) affirm the Probate Court’s denial of Errick’s request to amend or

withdraw his admissions and (2) affirm the Probate Court's grant of partial summary judgment because Errick failed to raise a genuine issue of material fact.

Third, no constitutional issue is directly involved, let alone a substantial constitutional issue, as the questions presented focus solely on a routine discovery dispute.

Fourth, and finally, no federal question that conflicts with the United States Supreme Court is present in this action. Therefore, no special and important reasons exist to issue a Writ of Certiorari.

**A. The Court of Appeals' decision does not conflict with Supreme Court precedent.**

Errick's brief does not clearly assert whether the Court of Appeals' opinion conflicts with Supreme Court precedent. However, Errick heavily relies on this Court's opinion in *Baughman*, despite the easily distinguishable facts. The Probate Court Order, affirmed by both the Circuit Court and the Court of Appeals, specifically reviewed *Baughman* and found it distinguishable from this case. (R. p. 7).

Courts *may* allow the withdrawal or amendment of admissions when (1) the merits of the action will be subserved and (2) if the party who obtained the admission will not suffer any prejudice. *See* Rule 36(b), SCRCP (emphasis added). The Court of Appeals correctly found that "Doug demonstrated he would be prejudiced by the amendment or withdrawal of Errick's admission." (Opinion p. 2).

Errick argues that *Baughman* directly addresses the question of whether a party suffers prejudice when deemed admissions are withdrawn when responses to the admissions were provided "before the requests were deemed admitted via order."

(Pet. Br. p. 4). This is not the question in this case. Here, the question is whether the Probate Court abused its discretion by not allowing Errick to amend or withdraw his admissions. Errick disregards the thirty (30) day statutory requirement set forth in Rule 36(a), SCRCP, and argues Errick's responses *could* have been due later *if* there was an order to that effect.

In *Baughman*, the defendants served requests for admission on the plaintiffs. *Baughman v. At&T*, 306 S.C. 101, 106, 410 S.E.2d 537, 540 (1991). "Within the time for responding," the plaintiffs filed a motion for protective order and objected to the requests. *Id.*, 410 S.E.2d 537, 540. At the hearing on plaintiffs' motion for a protective order, which occurred after plaintiffs' time to respond to the requests had expired, the defendants contended the requests should be deemed admitted for plaintiffs' failure to respond in a timely manner. *Baughman*, 306 S.C. at 105, 410 S.E.2d at 540. Eleven days later, plaintiffs served responses and moved that the responses be accepted, and the deemed admissions be withdrawn. *Id.*, 410 S.E.2d at 540. This Court found "[a] motion for protective order may be an appropriate response of a party upon whom a request for admissions is served." *Id.* at 109, 410 S.E.2d at 542 (citing 8 Wright & Miller, *Federal Practice and Procedure*, § 2259, p. 726 (1970)). This Court further noted that a good faith motion for a protective order "operates to prevent the matters from being deemed admitted." *Id.*, 410 S.E.2d at 542 (citing *Graham v. Three or More Members of Army Reserve Sel. Bd.*, 556 F. Supp. 669 (S. D. Tex. 1983); *In re City of Ridgeland*, 494 So. 2d 348 (Miss. 1986)). Here, in stark contrast, Errick took no action within the thirty (30) day period allowed by SCRCP Rule 36(a). (R. p. 164).

Errick made no motion for a protective order within his time to respond to the RFA's. In fact, Errick took *no* action to withdraw his admissions until November 27, 2023, nearly a week after Doug filed his motion for partial summary judgment, and nearly two months after his time to respond to the RFA's had expired.

The *Baughman* plaintiffs, in the alternative, contended that the trial court erred in denying their motion to withdraw the deemed admissions. *Id.*, 410 S.E.2d at 542. Because this Court already found the plaintiffs' timely motion for a protective order prevented the defendants' requests from being deemed admitted, this Court only briefly addressed the plaintiffs' alternative claim when it noted that the defendants were not prejudiced when the plaintiffs' responses were filed before the requests were ordered admitted. *Id.* at 110, 410 S.E.2d at 542.

The Supreme Court's decision in *Baughman* does not conflict with the Court of Appeals decision in this case, as the plaintiffs in *Baughman* were permitted to withdraw the deemed admissions because they had filed a motion for protective order and objected to the request within their thirty day time frame to respond. *Id.*, 410 S.E.2d 537, 540. Errick contends that *Baughman* outlines the "proper prejudice analysis." This is a misstatement of *Baughman*, which is not applicable to the facts of this case, as Errick never moved for a protective order and never responded within the applicable time frame. The Probate Court specifically noted the distinction of *Baughman* and the case at bar. (R. p. 7).

**i. Doug would be prejudiced by allowing Errick to disregard statutory deadlines.**

South Carolina courts have held that prejudice is apparent when a party's discovery rights are affected: "Discovery is the quintessence of preparation for trial and, when discovery rights are trampled, prejudice must be presumed." *Scott v. Greenville Hos. Auth.*, 353 S.C. 639, 652, 579 S.E.2d 151, 158 (Ct. App. 2003). In *Scott*, the plaintiff needed defendant's discovery responses "in order to prove his case." *Id.*, 579 S.E.2d at 158. Without the defendant's good faith cooperation during discovery, the plaintiff lacked key records and information which were in the defendant's sole custody. *Id.*, 579 S.E.2d at 158. Because the defendant failed to participate in discovery in good faith, the Court of Appeals determined that "[t]he trial court erred in failing to find that [the plaintiff] was prejudiced." *Id.*, 579 S.E.2d at 158.

During the Probate Court Hearing, counsel argued Errick's failure to participate in discovery in good faith, and the attendant prejudice to Doug, at length. (R. p. 86, line 2--p. 90, line 9; p. 94, line 5--p. 95, line 21; p. 97, line 19--p. 98, line 6). Doug's counsel argued that Errick had failed to participate in discovery in good faith. (R. p. 85, line 10--p.87, line 1; p.88, line 5--p.90, line 9). Doug also argued that key documents and information were solely in Errick's possession. (R. p. 88 line 19--p.90, line 9). In support, Doug argued that Errick was, before and after Dale's death (R. p. 88 line 19), living in Dale's house; Errick assumed control over Dale's finances and medical care (R. p. 88 line 20); Errick was receiving Dale's mail (R. p. 88 line 20--21); Errick was controlling who could come in and out of Dale's house (R. p. 88 line 21--22); Errick was dealing directly with Agape, Dale's in-home medical care provider (R.



p. 88 line 22–23); Errick is the personal representative of the Estate (R. p. 89 line 1); and Errick was in possession of the communications between himself and the witnesses to the Will. (R. p. 89, line 4). In addition to hearing arguments by counsel, the Probate Court evaluated the credibility of the arguments presented by reviewing and considering Doug’s initial discovery requests; Errick’s untimely and deficient discovery responses; Doug’s deficiency letter to Errick; and Errick’s response to the same. (R. p. 10).

After its thorough review of the facts, discovery and related responses, oral arguments, caselaw, and case file, the Probate Court properly concluded that:

Based on the facts at bar and the reasoning of the cases the Court has reviewed, and based in particular on *Scott*, the arguments of counsel, the Court’s review of the discovery exchanges in the record, and weighing the furtherance of a presentation on the merits against prejudice as a result of failure to engage in discovery in good faith, the Court concludes that . . . (b) [Errick] has failed to respond to discovery requests in a timely manner and in good faith, and if [Errick] is allowed to withdraw his admissions, [Doug’s] opportunity for full and fair trial preparation is further prejudiced.”

(*Id.*). The Circuit Court, after its own review, affirmed the Probate Court’s denial of Errick’s Motion to Withdraw as properly supported. The Court of Appeals also found that “Doug demonstrated he would be prejudiced by the amendment or withdrawal of Errick’s admission.” (Opinion p. 2).

**II. The Court of Appeals did not err in affirming the Probate Court's denial of Errick's Motion to Withdraw.**

Both the South Carolina Court of Appeals and the Circuit Court properly affirmed the Probate Court's ruling, finding that the Probate Court did not abuse its discretion denying Errick's Motion to Withdraw.

**A. The Circuit Court did not err in affirming the Probate Court's denial of Errick's Motion to Withdraw.**

"A trial court's ruling in matters related to discovery generally will not be disturbed on appeal in the absence of a clear abuse of discretion." *Stokes-Craven Holding Corp. v. McKenzie*, 416 S.C. at 536, 787 S.E.2d at 495 (citing *Dunn v. Dunn*, 298 S.C. 499, 502, 381 S.E.2d 734, 735 (1989)). "An abuse of discretion occurs when the trial court's order is controlled by an error of law or when there is no evidentiary support for the trial court's factual conclusion." *Id.*, 787 S.E.2d at 495 (citing *Sundown Operating Co. v. Intedger Indus., Inc.*, 383 S.C. 601, 607, 681 S.E.2d 885, 888 (2009)); *see also Wilson v. Dallas*, 403 S.C. 411, 425, 743 S.E.2d 746, 754 (2013).

South Carolina appellate courts largely defer to the decision-making of the trial court, as the judges who consider the evidence presented to them are in the best position to observe and rule on the credibility of the parties and/or witnesses. *Trustgard Ins. Co. v. Full Logistics, Inc.*, 442 S.C. 485, 505–06, 900 S.E.2d 448, 459 (Ct. App. 2023) ("Credibility determinations regarding testimony are a matter for the finder of fact, who has the opportunity to observe the witnesses, and those determinations are entitled to great deference on appeal. Because the appellate court lacks the opportunity for direct observation of the witnesses, it should accord great

deference to [circuit] court findings where matters of credibility are involved.”) (internal citations omitted); *see also South Carolina Dep’t of Social Services v. Forrester*, 282 S.C. 512, 515–16, 320 S.E.2d 39, 42 (Ct. App. 1984).

“The burden is upon the party appealing from the order to demonstrate the trial court abused its discretion.” *Dunn*, 298 S.C. at 502, 381 S.E.2d at 735 (internal citation omitted). The burden of proof for abuse of discretion is a high bar, as “the exercise of [a judge’s] discretion will not be disturbed on appeal absent a clear showing of an abuse of discretion, the commission of legal error in its exercise *and* prejudice to the rights of the appellant.” *Clark v. Ross*, 284 S.C. 543, 549, 328 S.E.2d 91, 97 (Ct. App. 1985) (emphasis added); *see also First Sav. Bank v. McLean*, 314 S.C. 361, 362, 444 S.E.2d 513, 514 (Ct. App. 1994) (“Mere allegations of error are not sufficient to demonstrate an abuse of discretion. On appeal, the burden of showing abuse of discretion is on the party challenging the trial court’s ruling.”) (internal citation omitted). Errick cannot meet his burden, and the Court of Appeals correctly found that the Circuit Court did not abuse its discretion in affirming the Probate Court Order.

**B. The Probate Court adhered to the clear terms of Rule 36, SCRPC, when it denied Errick’s Motion to Withdraw.**

Rule 36(a), SCRPC, in relevant part states,

A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rule 26(b) set forth in the request that relate to statements or opinions of facts or of the application of law to fact, including the genuineness of any documents described in the request....The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow

or as stipulated in writing by the parties pursuant to Rules 29 and 6(b), the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney....

R. 36(a), SCRCP (emphasis added). “Under Rule 36(a), SCRCP, all matters contained in a Request for Admission are admitted unless the party serves answers or objects within a certain time.” *Scott*, 353 S.C. at 647, 579 S.E.2d at 155.

Further, Rule 36(b), SCRCP, in relevant part, says,

Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Rule 16 governing amendment of a pre-trial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admissions fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits.

R. 36(b), SCRCP (emphasis added). The “failure to respond to requests for admissions deems matters contained therein admitted for trial, regardless of whether the admission concerns a matter responded to in a party’s pleadings.” *Scott*, 353 S.C. at 646, 579 S.E.2d at 154–55. Per the plain language of Rule 36, if a party fails to timely respond to requests for admission, those requests are conclusively deemed to be admitted for purposes of that litigation. Rule 36, SCRCP. Not only does the failure to respond mean that those requests for admission are considered true for purposes of the litigation, but “an admission [also] precludes the admitting party from arguing facts at trial contrary to its responses to a request to admit, absent an amendment to or revocation of the admission as allowed under the rules.” *Id.*, 353 S.C. at 648, 579 S.E.2d at 155–56.

Here, Errick indisputably and admittedly did not respond to the RFAs before the statutory deadline, nor did he seek an order of protection or an extension of time to answer. On August 31, 2023, Doug served Errick with the RFAs. Pursuant to Rules 6(e) and 36, SCRCP, Errick's responses to the RFAs were due on or before October 5, 2023. This included Errick's response to RFA No. 9, which asked Errick to admit that "John Dale Williamson did not sign [the Will]." Errick admittedly failed and refused to respond to the RFAs, including RFA No. 9, by the October 5, 2023, deadline. Errick's argument that his responses were provided "before the requests were deemed admitted via order" ignores the clear statutory guidelines of Rule 36. *See* Pet. Br. p. 4. Errick's argument that an admission must be "ordered" to be deemed admitted contradicts the plain language of Rule 36 and precedent like *Scott*.

**C. South Carolina courts are not required to allow the withdrawal of admissions.**

Rule 36(b), SCRCP, states, "Any matter admitted under this rule is conclusively established *unless* the court on motion permits withdrawal or amendment of the admission. . . [T]he court *may* permit withdrawal or amendment. . . ." R. 36(b), SCRCP (emphasis added). Rule 36 does not require or mandate South Carolina courts to permit withdrawal or amendment of admissions. Rule 36(b) merely enables South Carolina judges to evaluate whether they believe withdrawal may be appropriate given the circumstances. "South Carolina jurisprudence also establishes a trial court may use its discretion in finding requests to admit are not deemed admitted when the circumstances indicate otherwise." (R. pp. 8–9) (quoting *Nexstar Media Grp., Inc. v. Davis Roofing Grp., LLC*, 431 S.C. 593, 848 S.E.2d 597 (Ct. App.

2020)). The Probate Court noted its discretion in its order. *See also* (R. p. 9) (“When a party moves to withdraw or amend the admissions after the time for responding expires, the Court *may* engage in the analysis outlined in Rule 36(b) to determine whether the presentation on the merits would be subverted by the withdrawal of the admission and whether the party who obtained will be prejudiced if the court allows the withdrawal of the admission.”) (emphasis added).

**D. The Probate Court did not misapply *Scott*, nor did it misapply other important caselaw.**

The Probate Court did not misapply *Scott*. After analyzing arguments by counsel; Doug’s initial discovery requests; Errick’s untimely and deficient discovery responses; Doug’s deficiency letter to Errick; and Errick’s response to the same, the Court ruled that Errick had “failed to respond to discovery requests in a timely manner and in good faith . . . .” (R. p. 10). Errick takes exception with the factual distinctions that he believes the Probate Court should have drawn between *Scott* and the case at bar. *See* Initial Br. of Pet., pp. 6–7. However, that is not the question on an abuse of process review. Rather, the question is whether the Probate Court’s Order is controlled by an error of law, or if it has any factual support. *See Stokes-Craven Holding Corp.*, 416 S.C. at 536, 787 S.E.2d at 495. The Probate Court considered, as set forth in more detail herein, “the arguments of counsel” and “the discovery exchanges in the record.” (R. p. 10). As the trial court, the Probate Court was in the best position to evaluate the evidence presented, to determine the credibility of the arguments presented, and to draw factual conclusions in light of the same. *See generally Trustgard*, 442 S.C. at 505–06, 900 S.E.2d at 459. The Probate Court’s

application of *Scott* was not controlled by an error of law, and it was factually supported by the record.

Therefore, based on the clear wording of Rule 36, SCRCP, and relevant South Carolina caselaw, it was proper for the South Carolina Probate Court to deny Errick's Motion to Withdraw and for the Circuit Court and Court of Appeals to affirm this denial.

**III. The Court of Appeals did not err in affirming the Probate Court's grant of Doug's Motion for Partial Summary Judgment.**

The South Carolina Court of Appeals properly affirmed the Circuit Court's holding that the Probate Court properly granted Doug's Motion for Partial Summary Judgment pursuant to Rule 56, SCRCP.

**A. Summary Judgment is proper when there is no genuine issue as to any material fact.**

When "reviewing the grant of a summary judgment motion," South Carolina appellate courts "apply the same standard which governs the trial court under Rule 56(c), S.C.R.P: summary judgment is proper when 'there is no genuine issue as to any material fact and . . . the moving party is entitled to judgment as a matter of law.'" Rule 56(c), SCRCP, *Baughman*, 306 S.C. at 114–15, 410 S.E.2d at 545 (internal citation omitted). "Once the moving party carries its initial burden, [the] opposing party must, under Rule 56(e), 'do more than simply show that there is some metaphysical doubt as to the material facts' but 'must come forward with "specific facts showing that there is a genuine issue for trial.'" *Baughman*, 306 S.C. at 115, 410 S.E.2d at 545 (citing internal citation omitted) (emphasis in original). "Indeed,

Rule 56(e) specifically prohibits the nonmoving party from resting upon the mere allegations or denials of its pleadings.” *Id.* (internal citations omitted).

**B. The Probate Court properly granted Doug’s Motion for Partial Summary Judgment.**

The Probate Court properly granted Doug’s Motion for Partial Summary Judgment on his fifth cause of action. In support of his Motion, Doug explained that Errick had admitted RFA No. 9 and was therefore “unable to show that Dale signed the Will, or instructed another individual to sign the Will in his name at his direction, and therefore the Will is invalid for failure of due execution.” (R. pp. 192–93). Errick also failed to offer any factual evidence in opposition to Doug’s Motion for Partial Summary Judgment. Errick merely filed the Motion to Withdraw. As such, Errick did not “come forward with ‘specific facts showing that there is a genuine issue for trial.’” *Baughman*, 306 S.C. at 115, 410 S.E.2d at 545 (internal citation omitted) (emphasis in original). The Probate Court properly granted Doug’s Motion for Partial Summary Judgment, ruling “Errick has not carried his burden of establishing *prima facie* proof of due execution . . . . There is therefore no question of fact, partial summary judgment is appropriate on the issue of due execution, and the failure of execution invalidates the Will.” (R. p. 10). Applying the same standard, both the Circuit Court and the Court of Appeals properly affirmed the Probate Court.

**CONCLUSION**

While Errick cannot demonstrate that this discovery dispute is a special and important reason for issuance of a writ of certiorari, and his underlying arguments are without merit. The Probate Court did not abuse its discretion in denying Errick’s



Motion to Withdraw based on the clear wording of Rule 36(b), SCRCP, and precedential South Carolina caselaw. Errick failed to meet his burden of proving both elements of the Rule 36(b) test. Additionally, the Probate Court properly granted Doug's Motion for Partial Summary Judgment, as Errick failed to respond to the Motion and to provide any facts in opposition thereto. Doug therefore respectfully requests that the Court deny Errick's Petition for Writ of Certiorari.