THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

The Honorable Marvin H. Dukes, III
Beaufort County
Trial Court Case No. 2011-CP-07-128 and 2011-CP-07-129

Case No. 2015-002156

First Citizens Bank and Trust Company, Inc., Respondent/Appellant,

v.

Blue Ox, LLC and J. Chris Lindgren, Defendants,

Of whom J. Chris Lindgren is the Appellant/Respondent.

REPLY BRIEF OF APPELLANT/RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

Did the lower court err in finding regular, annual contributions to individual retirement accounts to be fraudulent transfers and therefore not exempt from creditors' claims where there was no evidence of actual intent of the judgment debtor to hinder, delay or defraud his creditors?

ARGUMENT

DID THE LOWER COURT ERR IN FINDING REGULAR, ANNUAL CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ACCOUNTS TO BE FRAUDULENT TRANSFERS AND THEREFORE NOT EXEMPT FROM CREDITORS' CLAIMS WHERE THERE WAS NO EVIDENCE OF ACTUAL INTENT OF THE JUDGMENT DEBTOR TO HINDER, DELAY OR DEFRAUD HIS CREDITORS?

Make no mistake about it. At stake is whether some South Carolinians, those who have had the misfortune to have a judgment entered against them, may continue to save for retirement. The Bank argues that the homestead exemption statute simply "does not protect post-judgment contributions to an IRA." [Resp. Br. of Resp/App. p. 11] Whether a debtor does or does not have other assets available for execution does not matter. In the Bank's view, if the debtor is unable to pay the judgment due to lack of assets the creditor need not prove fraudulent intent. On the other hand, if the debtor has assets but has not satisfied the judgment, his failure to pay establishes his fraudulent intent. If this were the law it would mean in practical terms that a debtor must first pay all his creditors before making any provision for his and his family's retirement security. The Bank cites not a single case reaching such a conclusion.

The Bank attempts to justify the extreme result it seeks in this case by an attack on the debtor. He is described as a "former practicing attorney with an LLM in tax law" whose business endeavors have "generally performed well" enabling him and his family to "buy luxury vehicles and a mountain

home" but who has "chosen not to pay" the Bank's judgments. [Resp. Br. of Resp/App. pp. 6, 15] This court should not be diverted from the legal issues at stake by these *ad hominem* arguments. The Bank asks the court to affirm the result below not because of those supposed "facts" but "BECAUSE S.C. CODE §15-41-30(A)(13) ONLY EXEMPTS PRE-JUDGMENT CONTRIBUTIONS TO AN IRA." [Resp. Br. of Resp/App. p. 8, emphasis in original] The Bank's reading of the statute leaves no room for consideration of the debtor's profession, his level of education attainment, his business success or lack thereof, the car he drives, other elements of his lifestyle or his state of mind. One could reasonably ask: Why does the Bank characterize Lindgren as it does in view of its legal argument that under the homestead exemption statute any IRA contribution made by anyone in any circumstance is subject to execution if made after entry of a judgment that remains unsatisfied at the time the contribution is made?

THE IRA EXEMPTION UNDER S.C. CODE § 15-41-30(A)(13)
IS NOT LIMITED TO PRE-JUDGMENT CONTRIBUTIONS

The Bank concedes, as it must, that the homestead exemption statute, S.C. Code §15-41-30(A)(13), by its reference to 11 U.S.C § 522(d), explicitly exempts from execution retirement funds that are "in" an IRA. That should end the matter. The money at issue in this appeal was already "in" the IRA accounts when the Bank filed its petitions for supplemental proceedings and when the lower court issued the order under appeal. The Bank cites authorities establishing that the bankruptcy estate and the exemptions applicable thereto are fixed upon the filing of the petition in bankruptcy and argues that IRA contributions made by a bankrupt after filing for bankruptcy are not exempt under federal bankruptcy law. Further, or so the argument runs, because the debtor may claim exemptions only as to funds that are already "in" an IRA when the petition in bankruptcy is

filed, this somehow leads to a conclusion that the state homestead exemption statute for IRAs only applies to money that is already "in" the IRA at the time a judgment is entered against the owner of the IRA. Consideration of the differences between a bankruptcy filing and entry of a state court money judgment shows that the conclusion the Bank seeks does not follow from the premise it posits.

There are reasons why exemptions are fixed upon the date of filing the petition in bankruptcy, reasons that readily distinguish a bankruptcy filing from entry of a state court judgment. "At the time the debtor files a Chapter 7 petition, a bankruptcy estate is created which is comprised of all of the debtor's legal and equitable interests in property." *In re Peterson*, 897 F.2d 935, 936 (8th Cir. 1990)(citations omitted). Debtors are permitted "to exempt from the bankruptcy estate any property that is exempt under federal, state, or local law applicable on the date of filing the petition." *Id.* Debtors claim their exemptions "by filing a list of exempt property at the time the petition is filed." *Id.* At that time control of the non-exempt property in the estate passes from the debtor to the bankruptcy court. *White v. Stump*, 266 U.S. 310, 313 (1924). Thus, under the relevant statutes and as a matter of practical necessity the bankruptcy court and trustee can identify property in the estate and exempt property excluded from the estate and thereby determine the property available to satisfy the claims of creditors.

In this case, there has been no bankruptcy petition filed nor has a bankruptcy estate been established. And when the Bank filed its judgments its doing so did not fix or establish any "estate" of the debtor available for creditors. Entry of a judgment serves to automatically attach a lien to real property owned by the debtor in a county in which the judgment is enrolled. S.C. Code §15-35-810. But otherwise the creditor, unlike the trustee in bankruptcy, acquires no interest in or control over

the debtor's property. The Bank is correct that a debtor in bankruptcy would be unable to use money in the bankruptcy estate to make an IRA contribution. But that is not because the law prohibits him from claiming exemptions after filing his petition, rather it is due to the fact that the trustee has control and technical ownership of the property in the estate. Because the Bank in this case acquired no interest in or control over Lindgren's money in consequence of filing its judgments, Lindgren, unlike a debtor in bankruptcy, was free to do as he wished with his money, subject only to fraudulent conveyance considerations.

Perhaps there are circumstances in which a filing date could become relevant. One could hypothesize a situation in which a creditor files and a debtor is served with supplemental proceedings, and the debtor then contributes to his IRA in response. In such a case the timing of the debtor's act could constitute extrinsic evidence of fraudulent intent leading to a finding that the IRA contribution was a fraudulent transfer excepted from the protection of the homestead exemption statute. *See Ford v. Poston*, 773 F.2d 52 (4th Cir. 1985) (recording deed one day after entry of judgment was extrinsic fact sufficient to warrant a finding of intent to defraud on the part of the debtor). But the Bank's approach obviates any need for a case-by-case evaluation of the debtor's intent because, again, any post-judgment IRA contribution would be fraudulent *per se*. And if this is so, what purpose is served by the language in the homestead exemption statute explicitly excepting "the amount of a fraudulent conveyance into the individual retirement account"? *CFRE, LLC v. Greenville Cnty. Assessor*, 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011) (statute must be read so that no word, clause, sentence, provision or part is rendered surplusage, or superfluous). As a matter of statutory interpretation, the court should reject the Bank's argument that S.C. Code § 15-41-30(A)(13) protects only pre-judgment IRA contributions.

THE BANK HAS NOT ESTABLISHED ELEMENTS OF ITS CLAIM FOR RELIEF UNDER THE STATUTE OF ELIZABETH

The Bank next argues that the applicability of the fraudulent conveyance exception in the exemption statute is to be determined by reference to S .C. Code § 27-23-10, hereinafter the "Statute of Elizabeth," and that the IRA contributions made by Lindgren were fraudulent as a matter of fact under the Statute of Elizabeth. Lindgren has argued that the potentially fraudulent nature of an IRA contribution should be evaluated under federal standards rather than the Statute of Elizabeth. [App. Br. of App/Resp. pp. 15 - 17] Lindgren does not abandon these arguments but will not repeat them here, and will proceed to an examination of the Bank's claims for relief under the Statute of Elizabeth.

There is an established framework for analyzing fraudulent conveyances with respect to existing creditors under the Statute of Elizabeth depending upon the presence or absence of valuable consideration:

> First, where the challenged transfer was made for a valuable consideration, it will be set aside if the plaintiff establishes that (1) the transfer was made by the grantor with the actual intent of defrauding his creditors; (2) the grantor was indebted at the time of the transfer; and (3) the grantor's intent is imputable to the grantee. Second, where the transfer was not made on a valuable consideration, no actual intent to hinder or delay creditors must be proven. Instead, as a matter of equity, the transfer will be set aside if the plaintiff shows that (1) the grantor was indebted to him at the time of the transfer; (2) the conveyance was voluntary; and (3) the grantor failed to retain sufficient property to pay the indebtedness to the plaintiff in full--not merely at the time of the transfer, but in the final analysis when the creditor seeks to collect his debt.

Mathis v. Burton, 319 S.C. 261, 264, 460 S.E.2d 406, 408 (Ct. App. 1995) (quoting *Durham v.*

Blackard, 313 S.C. 432, 437, 438 S.E.2d 259, 262 (Ct. App.1993)).

In both the with-consideration and the without-consideration scenarios described in *Mathis v. Burton* the plaintiff must prove three elements. If a transfer is accompanied by consideration one of the elements a plaintiff must establish is actual intent to defraud on the part of the debtor. Where a transfer lacks consideration one of the elements a plaintiff must show is that the debtor failed to retain assets sufficient to satisfy the debt. Thus, in order to prevail on a Statute of Elizabeth claim under *Mathis v. Burton,* a creditor must establish by competent evidence either that the debtor intended to defraud one or more creditors or that the debtor failed to retain sufficient assets to pay his debts. The parties dispute whether an IRA contribution involves consideration. Resolution of the consideration issue is not necessary in this case because the Bank can establish neither of the two alternative elements of its claim. Lindgren in fact continues to own assets available for execution by the Bank and Lindgren's IRA contributions were not made with any intent to defraud the Bank or any other creditor.

THE BANK HAS NOT SHOWN THAT LINDGREN FAILED
TO RETAIN SUFFICIENT PROPERTY TO PAY HIS DEBTS

At the supplemental proceedings hearing, Lindgren described his ownership interests in companies owning: half a trailer park in Ridgeland, South Carolina; an office building on Hilton Head Island; an undeveloped parcel in Bluffton, South Carolina; a 35 acre mobile home park in Bluffton; and, a developed commercial parcel, also in Bluffton. [R. p. 130, line 23 - p. 131, line 2; p. 139, lines 14 - 25; p. 142, lines 1 - 15; p. 143, line 7 - p. 144, line 14; p. 145, lines 12 - 22] Collectively these properties are of sufficient value that they generate over a $1 million in annual rents as reflected on Lindgren's personal tax returns. [R. p. 173, lines 20 -24] Lindgren also testified

to his ownership personally of 3 parcels of real estate: his personal residence, owned jointly with his wife; a golf cottage at Belfair Plantation in Bluffton; and, a vacation condominium unit in Vail, Colorado. [R. p. 196, lines 13 - 17; p. 195, lines 1 - 2; p. 150, line 20 - p. 151, line 5] Lindgren also testified that he is the sole shareholder of Rockmoor, Inc., a company formed to manage the operations of the various other entities in which Lindgren is involved. That company owns 10,000 shares of stock in Coastal States Bank. [R. p. 122, lines 4 - 17]

The Bank ignores these assets and instead remarks upon the jar of coins Lindgren keeps at his home and the fact that he drives a car owned by his wife. [Resp. Br. of Resp/App. p. 17] As to the substantial rental receipts reflected on Lindgren's tax returns the Bank notes that much of this was paid to LLCs not party to this action and that Lindgren actually experienced a net loss after accounting for expenses. [Resp. Br. of Resp/App. p. 15] What the Bank overlooks is that the significance of the rental receipts is not limited to their possible inclusion among the assets and property retained by the debtor under *Mathis v. Burton*. Rather, the rental receipts are evidence that the underlying real estate has substantial value, that the entities owning the real estate therefore have value and that Lindgren's membership interests in those entities likewise have value. Lindgren's membership interests in LLCs are assets potentially subject to execution by the Bank. *See Kriti Ripley, LLC v. Emerald Invs., LLC*, 404 S.C. 367, 746 S.E.2d 26 (2013) (addressing remedy of a judgment creditor seeking to satisfy a judgment through the debtor's interest in an LLC); S.C. Code §15-39-410 (court may order any property of the judgment debtor, not exempt from execution, to be applied toward the satisfaction of the judgment). The Bank has taken no steps against these assets or against Lindgren's other real and personal property.

In its discussion of this element of its claim under *Mathis v. Burton* - that the debtor failed

to retain sufficient funds to satisfy his debts - three times the Bank asserts that either Lindgren is unable to pay for lack of property or he has "chosen not to pay." [Resp. Br. of Resp/App. p. 15] The fact that the judgments have not been paid is not disputed. But that fact alone does not lead to a finding that Lindgren has "chosen" not to pay. To "choose" means "pick out or select (someone or something) as being the best or most appropriate of two or more alternatives and "chosen" means "having been selected as the best or most appropriate." The Oxford College Dictionary, Second Ed. (2007). There is no evidence in the record of alternatives, much less that Lindgren selected among them. Of course, he "chose" to contribute to his IRA, just as he chose to buy groceries, pay for his daughter's college education and no doubt to incur myriad other expenses incident to a normal life, all of which, it is respectfully submitted, he had every legal right to do. As noted above at page 4, the Bank, unlike a trustee in bankruptcy, acquired no interest in Lindgren's personal property in consequence of filing its judgments.

Even granting the Bank's argument that Lindgren has, for whatever reason, simply chosen not to pay the Bank's judgments, that should not be a substitute for the third element of without-consideration claim established in *Mathis v. Burton*. What the Bank suggests is that it matters not whether the debtor retained sufficient property because any time a judgment has not been satisfied it will be because the debtor "chose" not to pay it. Of course, fraudulent transfer cases only come before a court when a debt has not been paid. If the mere failure to pay is somehow transmuted into a choice not to pay that meets the *Mathis v. Burton* requirements, then there is simply no requirement that the creditor establish the debtor's failure to retain sufficient assets. And if this were the law then any gratuitous transfer of property would be voidable by an unpaid creditor regardless of the existence of other assets from which the creditor could secure payment.

Since the Bank has failed to show that the debtor failed to retain assets or property to satisfy its judgments, it must meet the alternative with-consideration scenario under *Mathis v. Burton* and prove fraudulent intent on Lindgren's part. This the Bank cannot do.

LINDGREN'S IRA CONTRIBUTIONS WERE NOT MADE WITH FRAUDULENT INTENT

The Bank argues that Lindgren's IRA contributions met a number of "badges of fraud" that are "recognized indicia of fraud" described in *Coleman v. Daniel*, 261 S.C. 198, 199 S.E.2d 74 (1973). [Resp. Br. of Resp/App. pp. 16-17] Before turning to the specifics it is worth noting that other than the existence of the judgments, Lindgren's knowledge thereof and the fact that IRA contributions were made, the Bank offered no evidence extrinsic to the transfers themselves tending to shed light on Lindgren's state of mind. No alleged badges of fraud were presented to the lower court or relied upon in its order. That the lower court erred in its finding of fraudulent intent is fully addressed in Lindgren's Appellant's Brief. That analysis will not be repeated here.

In its brief the Bank lists 6 factors that it sees as supporting a finding of fraudulent intent on Lindgren's part. [Resp. Br. of Resp/App. p. 17] Referring to the Bank's numbering of the factors, Lindgren: (2) transferred the funds to himself; (5) reserved the benefit of the funds to himself; and, (6) retained possession of the funds. Each of these "badges" is simply saying the same thing in different words and all are inherent in the nature of an IRA contribution. [1] Of course, Lindgren is the

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[1] That this is so highlights the difficulty of evaluating whether IRA contributions are transfers and whether they involve consideration, effectively trying to put the square peg of an IRA contribution into the round hole of the Statute of Elizabeth. As set forth in Appellant's Brief, Lindgren submits that IRA contributions in actuality involve conversion of a non-exempt asset into an exempt asset and as such are uniformly approved by courts in the absence of extrinsic evidence

owner of his IRAs and when he contributed to his IRAs he retained the benefit and control, if not possession, of the funds in the account. All of these features necessarily resulted from the single act of making the IRA contribution. The court's task is not simply to tote up factors - it is to determine whether a transferor actually intended to defraud. But if one is required to keep count, then the Bank should get "credit" for only 1 "badge" not 3. And even that is suspect. After all the issue is whether the IRA contribution was fraudulently made. To say that the fact that the contribution was made is, by itself, evidence of why it was made, makes no sense. [2] These supposed "badges" should be disregarded.

The Bank suggests as its factor (3) that the IRA contributions were made while litigation was pending. This is not accurate. The Bank filed its confessions of judgment in 2011. Three and a half years later the Bank filed its petitions for supplemental proceedings. Only then was there an action pending, in the sense of active litigation. All of the IRA contributions were made in the interim. Even if an action is regarded as having been pending in some sense other than an active, ongoing lawsuit, there is no evidence that the IRA contributions were made in response to or in an effort to avoid the results of any litigation. This factor does not support a finding of fraudulent intent.

As its factor (4) the Bank argues that Lindgren failed to voluntarily disclose the contributions. The court in *Coleman v. Daniel* refers to this factor as "secrecy or concealment," and makes no reference to any duty of voluntary disclosure. Here there is no evidence that Lindgren sought to hide

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of actual intent to hinder, delay or defraud creditors. [App. Br. of App/Resp. pp. 15 - 17]

[2] Courts uniformly require extrinsic evidence of fraud, something beyond the mere fact of the transfers themselves, before finding a fraudulent conveyance in these circumstances. [App. Br. of App/Resp. pp. 9 - 14]

anything. It is true that he did not seek advance permission from the Bank to save for retirement. But he was under no duty to do so. When asked questions by the Bank at the supplemental proceedings hearing he answered them forthrightly and honestly. In fact, he voluntarily provided his tax returns and a personal financial statement long before he was served with the rule to show cause in this case and after the hearing he provided additional records requested by the Bank. This factor weighs in Lindgren's favor.

The remaining factor addressed by the bank as factor (1) is that Lindgren was indebted to the Bank at the time the IRA contributions were made. This is not in dispute. But the existence of the debt sought to be collected is not among the indicia of fraud listed in *Coleman v Daniel*. Of course, Lindgren was indebted to the bank, otherwise this case would not be before the court. The fact that the parties are here and Lindgren is claiming a lawful exemption should not be held against Lindgren as evidence of fraudulent intent on his part.

The Bank does not address *Coleman v. Daniel* factors militating in Lindgren's favor. Among them are the debtor's insolvency and transfer of the debtor's entire estate. There was ample evidence to establish Lindgren's ownership of assets as of the date of the hearing but none concerning the extent of any liabilities. At the evidentiary hearing the Bank had evidence of Lindgren's net worth - in the form of his personal financial statement - but chose not to put it in evidence, presumably because it did not support the Bank's position. The record does not support a finding that the debtor was insolvent or that he had transferred his entire estate. These factors weigh in Lindgren's favor.

Finally, the court in *Coleman v. Daniel* referred to departure from the usual method of business. This is the factor that in the circumstances of this case should be dispositive as most directly bearing upon the question of fraudulent intent. When an event occurs and is followed by an

act that softens the blow occasioned by the event, one can reasonably conclude that the act was intended to mitigate the consequences of the event. Likewise, when an event is anticipated but is preceded by an act that mitigates the harm foreseen as attendant to the event, again one concludes that the act was intended to avoid the consequences of the event. These ideas of cause and effect are so fundamental that they perhaps do not require recitation. But they are nevertheless important here as they demonstrate the lack of causal connection between the entry of judgments and Lindgren's retirement contributions. There is no evidence in this case that Lindgren made any sudden or otherwise inexplicable IRA contributions in anticipation of becoming indebted to the Bank. Nor is there any evidence that after the judgments were entered Lindgren made any new or different IRA contributions. The evidence is undisputed that Lindgren's behavior did not change in any way; except for one year of depressed income Lindgren consistently contributed to his IRAs in the maximum tax-deductible amount permitted by law. The Bank can say what it will as to whether Lindgren, as a judgment debtor, should be permitted to do this as a matter of law. But there is no basis in this record for the Bank to claim as a matter of fact that Lindgren's IRA contributions were causally connected in any way to the Bank's entry of judgments, much less that by making those contributions Lindgren intended to defraud the Bank.

Since the Bank has failed to show that Lindgren intended to defraud the Bank when he made his IRA contributions the Bank has failed to prove all elements of the with-consideration Statute of Elizabeth claim under *Mathis v. Burton*.

THE BANK'S INTERPRETATION OF THE EXEMPTION STATUTE WOULD VIOLATE PUBLIC POLICY

In the final section of its brief the Bank argues that an interpretation of the exemption statute

to protect only pre-judgment IRA contributions is consistent with public policy underlying the exemption statute. The Bank acknowledges that the public policy of the State of South Carolina is to "protect from creditors a certain portion of the debtor's property," citing *Scholtec v. Estate of Reeves*, 327 S.C. 551 , 560, 490 S.E.2d 603, 607 (1997), but the Bank nevertheless complains about the "inherent unfairness" of allowing Lindgren to set aside $25,000 for retirement. [Resp. Br. of Resp/App. pp. 20, 22] The favorable income tax treatment and exemptions from creditors' claims granted to retirement savings under both federal and state law make explicit the strong public policy encouraging and preserving such savings. The question becomes, what "portion" of a debtor's property that is held in the form of IRAs is it the public policy of this State to protect? As noted in Lindgren's Appellant's Brief at pages 7 - 8, IRA account balances up to $1,245,475.00 are currently exempt from creditors' claims. The IRA contributions at issue in this case represent only two percent of the amount set aside for protection by the General Assembly. The Bank has no basis for complaint on public policy grounds.

In the final analysis the issue presented in these appeals is indeed one of public policy. To illustrate, assume a client meets with his lawyer and says: "For many years I've participated in my 401(k) plan at work and I've also put the maximum permissible amount into my IRA. Last year a judgment was entered against me. My accountant says I need to check with a lawyer to see if I can still put money in my 401(k) and my IRA. Well, can I?" What is the lawyer's answer to be?

The Bank wants the answer to be "no." According to the Bank, the lawyer must tell the client: "No, you can't put money aside for retirement while you have an unsatisfied judgment against you. Well, actually you can, but if you do, and if the judgment holder finds out, he can get a court order seizing any money you put in your retirement plans after the judgment was entered." Next question

from the client: "Would they find out about it?" Then the lawyer explains supplemental proceedings, that the judgment remains effective for 10 years, that the creditor could force the client into court at any time during that period and that the client would be obligated to disclose the information. The client responds: "That means that if I can't pay the judgment I can't put any money aside for retirement for the next 10 years." The lawyer tells him that unfortunately there is a case in South Carolina right on point that holds exactly that.

Is this to be the law in South Carolina? Is this to be the case cited by our hypothetical lawyer? Lindgren posits different responses by the lawyer to same question. Concerning the 401(k), the lawyer would advise the client that, "yes, you can continue to participate in your 401(k); those funds are absolutely exempt from creditor claims in South Carolina." As to the IRA, the answer would be: "It, depends." The lawyer would tell the client that if he hasn't had an IRA in the past the lawyer couldn't advise him to open one now as that could be a problem. He would also tell the client that he shouldn't put money into his IRA in excess of the tax-deductible amounts permitted on an annual basis as that too could be a problem. Finally, the lawyer would tell the client that the exemption only applies to IRA account balances up to a certain amount, that under current law is a million dollars plus. The client responds: "Well, I don't have a million dollars in my IRA. All I want to do is continue to make the same IRA contributions that I've been making every year for a long time. Can I do that?" Lindgren submits that the opinion in this case should allow the lawyer to answer with an unequivocal "yes."

There are a number of legal issues presented in this case. But at the end of the day, the manner in which our hypothetical lawyer is to respond to his client is a public policy decision. Lindgren submits that the General Assembly has already established the public policy answer in the

exemption statutes: the exemption for 401(k) plans is absolute and unlimited; and, the exemption for IRAs does not apply to balances in excess of the limit established by law or to amounts contributed with the actual intent or purpose to hinder, delay or defraud creditors.

CONCLUSION

Lindgren respectfully submits that this court should reverse the order of the lower court and hold that judgment debtors in South Carolina may, in the absence of fraudulent intent on their part, continue to make normal, customary contributions to an established IRA and benefit from protection from the claims of creditors under the exemption statute notwithstanding the existence of an unsatisfied judgment against them. Further, this court should find based on its review of the evidence that Lingren's IRA contributions were not fraudulent transfers excepted from the exemption statute.

Respectfully submitted

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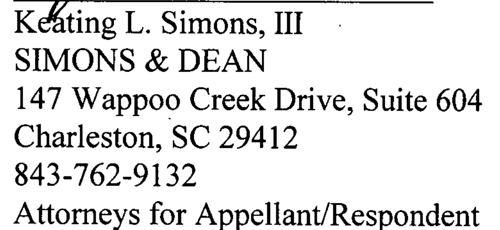
CERTIFICATE OF COUNSEL

The undersigned certifies that the Reply Brief of Appellant/Respondent complies with Rule 211(b), SCACR.



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PROOF OF SERVICE

I, Debra Y. Coffey, a paralegal with the Law Offices of Simons & Dean, do hereby certify that I have served counsel in this action with a copy of the foregoing Reply Brief of Appellant/Respondent upon the below named by mailing a copy of same via U.S. Mail, postage prepaid, and properly addressed as follows:

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This 19th day of April, 2016.

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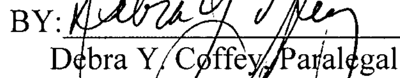
BY: 
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