THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HAMPTON COUNTY
Court of Common Pleas

Judge Perry M. Buckner, III, Circuit Court Judge

Appellate Case No. 2016-000222

Angel Y. Gary as Personal Representative of the Estate of Blondell M. Gary,.....Respondent,

v.

Lowcountry Medical Transport, Inc. American Medical Response, Inc., d/b/a Access2care, and Eugene A. Kirkland, In re: Charles Gary, Purported Surviving Spouse, Defendants,
Of Whom Charles Gary, Purported Surviving Spouse, is.....Appellant.

RESPONDENT'S FINAL BRIEF

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II. Does Charles Gary have unclean hands that would bar the relief he seeks?

III. Is Angel Gary bound by erroneous statements in earlier pleadings that Charles Gary knew or should have known were incorrect?

COUNTER STATEMENT OF THE CASE

Factual Background

Charles Gary ("Charles") and Doretha Chisholm were married and not divorced until January 22, 2001. (R. pp. 119 - 122). Before their divorce was final, and while Charles was still married to Doretha Chisholm, Charles purportedly married Blondell Gary ("Blondell") on November 30, 1999. (R. p. 125).

On January 31, 2012, Defendant Lowcountry Medical Transport ("LMT"), a franchisee of Defendant American Medical Response, Inc., d/b/a Access2Care ("AMR"), was transporting Charles in a non-emergency ambulance to a medical appointment. Blondell was a passenger in the ambulance. LMT's ambulance ran off the shoulder of the road and struck a tree, injuring Charles and killing Blondell.

On Blondell's death certificate, the coroner identified Charles as the decedent's spouse. There is no evidence Respondent Angel Y. Gary ("Angel"), the daughter of Blondell, had any input on the coroner's act in doing so.[1]

On February 15, 2012, Probate Judge Francis M. Simon appointed Angel as Personal Representative for Blondell's Estate (the "Estate") (Certificate of Appointment as Personal Representative). Angel listed Charles as a beneficiary on the initial probate

[1] Appellant inaccurately states that "on the decedent's Death Certificate, Angel Y. Gary identified Charles Gary as the spouse of the decedent, Blondell M. Gary." (Br. of App., p. 2). Again, there is no evidence Respondent had anything to do with this.

documents because she and her counsel were unaware, at that time, of any defect in the alleged marriage between Charles and Blondell.

On March 17, 2015, Charles filed a Petition for Removal of Angel as Personal Representative of the Estate. In paragraph 1 of that Petition, he alleged he was Blondell's spouse. (R. p. 164, ¶ 1). In her Answer to Petition for Removal of Personal Representative, Angel stated she "is without sufficient information to either admit or deny the remaining allegations in Paragraph 1." (R. p. 169, ¶ a). Later, upon learning more about defects in the purported marriage, Angel amended her initial probate filings to remove Charles as a beneficiary. (R. pp. 174 - 175).

Procedural Background

There are several related lawsuits that provide the backdrop of the present appeal. Respondent briefly describes the relevant history of those actions below, in the order in which each was filed.

1. The Selective DJ Action.

On September 25, 2012, Selective Insurance Company of South Carolina ("Selective") filed an interpleader and declaratory judgment action against Charles and Angel in United States District Court regarding issues of bodily injury and underinsured motorists coverage under the insurance policy it issued to LMT (the "Selective DJ Action", Complaint). On November 27, 2012, Selective amended its Complaint in that action before Angel had filed a response. (Selective DJ Action, Amended Complaint).

On December 6, 2012, Angel filed her Answer to the Amended Complaint in the Selective DJ Action and admitted the following allegation by Selective:

> On or about January 31, 2012, an employee of Low Country Medical Transport, Inc. ("Low Country") was operating a vehicle owned by Low Country

> transporting Charles Gary and his wife, Blondell [sic] Gary, deceased, to and from their home in Yemassee, South Carolina on Old Sheldon Road in Beaufort County, South Carolina.

(Selective DJ Action, Amended Complaint, ¶ 6, and Answer of Angel Gary, ¶ 4).

On July 28, 2014, the United States District Judge held a hearing on Selective's Motion for Summary Judgment. (Selective DJ Action, Order denying S.J.). At that time, Angel's counsel asked Charles' counsel about information they had received suggesting there may be a defect in Charles' and Blondell's marriage but Charles' counsel assured them there was not a problem with the marriage. (R. p. 155, line 1 – p. 157, line 13).

By consent, Angel was dismissed from the Selective DJ Action in light of the settlement discussed hereinafter. (Selective DJ Action, Stipulation of Partial Dismissal).

2. Charles' Tort Action.

On October 16, 2012, Charles filed a negligence action against LMT and AMR alleging damages for his personal injuries and loss of consortium as a result of the subject collision ("Charles' Tort Action"). Charles' Tort Action is still pending and remains unresolved.

3. The Wrongful Death Action.

On November 9, 2012, Angel filed this action (the "Wrongful Death Action") alleging wrongful death and survival causes of action as a result of Blondell's death in the subject collision. Angel claimed that LMT was negligent and was acting as an

agent of AMR at the time of the collision. Angel later obtained an entry of default against AMR but no default judgment was ever entered.[2]

In her Complaint, Angel alleged: "Blondell Gary (hereinafter "Blondell"), on behalf of her husband, Charles Gary, contracted with American Medical Response to provide non-emergency medical transport on the day in question." (R. p. 76, ¶ 5).[3]

On December 29, 2015, after becoming aware of a defect in the alleged marriage between Charles and Blondell, Angel filed a Motion to Amend her Complaint. (R. pp. 106 – 112). This motion was not heard before Charles filed the present appeal.

4. Charles' DJ Action.

Charles filed a separate declaratory judgment action against Angel ("Charles' DJ Action") on October 20, 2014. (R. pp. 88 – 96). In that action, he sought a declaration regarding the damages recoverable in the Wrongful Death Action and Charles' Tort Action.

The Complaint in Charles' DJ Action alleged that Charles was a beneficiary of the Estate and, in describing the collision, that Blondell was a passenger in the LMT ambulance and his wife. (R. p. 92, ¶¶ 1 and 4). Angel answered this action on January 2, 2015. In her Answer, she admitted both of these factual allegations. (R. p. 97, ¶¶ 2 and 4). She also raised affirmative defenses directed at perceived procedural defects in Charles' DJ Action. (R. p. 98, ¶¶ 12-17).

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[2] Appellant inaccurately states in his brief that the Estate obtained a "Judgment by Default" against AMR.

[3] When Angel originally filed the Complaint in the Wrongful Death Action, neither she nor counsel for the Estate were aware of any defect in the alleged marriage between Charles and Blondell. At that point in the litigation, whether Charles was married to Blondell was not material to the wrongful death or survival claims.

On December 29, 2015, after becoming aware of a defect in the alleged marriage between Charles and Blondell, Angel filed a Motion to Amend her Answer to Charles' DJ Action. (R. pp. 114 - 117). In that motion, she sought to file an Amended Answer that denies the above factual allegations. That motion has not been heard.

5. The Settlement at Issue.

The Wrongful Death Action was set for a jury trial on September 1, 2015 but settled the day of trial. An Order approving the settlement was signed by the trial judge on September 14, 2015. (R. pp. 10 - 12). The Wrongful Death Action was dismissed via an Order of Dismissal on November 13, 2015. (R. pp. 4 - 9).

6. The Petition, Hearing, and Ruling that Led to this Appeal.

On December 14, 2015, Angel filed a Petition to Determine Heirship challenging Charles' alleged status as an heir and spouse of the decedent. The trial court held a hearing on this Petition on January 13, 2016.

At the hearing, Angel introduced without objection the Final Divorce Order and Decree showing that Charles and Doretha Chisholm were not divorced until January 22, 2001. (R. pp. 119 - 124). She also introduced the marriage certificate between Charles and Blondell which shows the date of their purported marriage as November 30, 1999. (R. p. 125).

Charles offered no evidence to refute these documents, nor did he challenge their authenticity.[4] Furthermore, he made no claim and introduced no evidence that he

[4] Charles objected to the Probate Court's attestation of the marriage certificate but the trial judge overruled his objection. (R. p. 137, line 7 – p. 140, line 10). He did not appeal from this ruling.

and Blondell had a common law marriage. Charles' sole argument in opposition to the Petition was that Angel should be estopped to deny Blondell's marriage to Charles.

The trial court subsequently entered an Order finding that Charles was not Blondell's husband at the time of her death and, consequently, not an heir or beneficiary of the Estate. (R. pp. 1 - 3).

Charles did not file a Rule 59(e), SCRCP, Motion to Alter or Amend the Order. He instead filed this appeal.

ARGUMENT

A VOID MARRIAGE CANNOT BE MADE VALID THROUGH ESTOPPEL.

Charles' sole basis for challenging the trial court's ruling is that "the Estate should be estopped from taking a position contradictory of and/or inconsistent with its pleadings in the Wrongful Death Case that Mr. Gary is the surviving spouse and an heir of the Estate." (Br. of App., p. 2). Charles offers no evidence he formally married Blondell after his divorce from Ms. Chisholm, nor does he offer any evidence of a common law marriage with Blondell.

In fact, the only evidence in this case conclusively demonstrates that a marriage did not and could not have existed between Charles and Blondell at the time of Blondell's death. The hallmark of the marriage relationship is the mutual consent of two parties who have the capacity to marry, not unlike what is required to establish a contract.

> The law views marriage as being merely a civil contract, not differing from any other contract, except that it is not revocable or dissoluble at the will of the parties. The essence of the contract of marriage is the consent of the parties, as in the case of any other contract; and, whenever there is a present, perfect consent to be husband and wife, the contract of marriage is completed. The authorities are practically unanimous to this effect. Marriage is a civil contract

> *jure gentium*, the validity of which the consent of parties able to contract is all that is required by natural or public law.

Campbell v. Moore, 189 S.C. 497, 501, 1 S.E.2d 784, 786 (1939), *quoting Hulett v. Carey,* 66 Minn. 327, 69 N.W. 31 (1896).

To have the capacity to consent to wed, a party must not be already married. All marriages contracted while either of the parties remains married to a living spouse are void. *Johns v. Johns*, 309 S.C. 199, 201, 420 S.E.2d 856, 858 (Ct. App. 1992); *citing* S.C. Code Ann. § 20-1-80 (1976, as amended) ("All marriages contracted while either of the parties has a former wife or husband living shall be void.").

The exhibits submitted at the hearing irrefutably demonstrate that Charles was still married to Ms. Chisholm when he purportedly married Blondell. As a result, his purported marriage to Blondell was void from its inception.

No South Carolina court has ever created a marriage between two people who were not legally married based upon the claim that the conduct of a third party gives rise to an estoppel to deny the marriage. This only makes sense given that marriage is an agreement between the persons to be wed. Such a result is even more absurd when the third party's conduct upon which the estoppel claim is based consists of statements based on information that the third party at the time did not know was false but the party asserting estoppel did.

The closest our appellate courts have come to addressing this argument was in *Johns*, where the Court of Appeals rejected a purported wife's argument that the court should preclude her alleged husband from denying their marriage based on theories of estoppel or *res judicata* because he (not a third party) entered into a consent order that stated they were married.

As to estoppel, the *Johns* court reasoned the alleged husband's conduct could not have misled the purported wife because she knew he was married to another woman when they entered into their relationship. *Johns,* 309 S.C. at 203-04, 420 S.E.2d at 859. In response to the *res judicata* argument, it held:

> [T]he public policy expressed in S.C. Code Ann. § 20-1-80 (1985) overrides the public policy of *res judicata*. Although the parties' consent order is not void, the marriage it affirms is void. In balancing the relevant public policies (i.e. the public policy of finality of judgments versus the public policy of not recognizing bigamous marriages) the consent order should not be given *res judicata* effect.

Id. at 203, 420 S.E.2d at 859.

The same result should occur here. Angel is not even a party to the alleged marriage, so any mistaken statements by her should not be considered as a basis for estoppel. Even if they were, they could not have misled Charles, who had full knowledge of his marriage to Ms. Chisholm at the time he allegedly wed Blondell. Finally, the court should not override this State's strong public policy against bigamous marriages based on mistaken comments by Angel that she has since recanted and attempted to correct.

Courts from other jurisdictions have also refused to impose a marriage by estoppel where one of the parties was already married to another.

> When one of the parties to the purported marriage seeks to invoke the doctrine of marriage by estoppel in a case against the other party to the marriage, this Court has refused to apply the doctrine when the parties entered into a bigamous marriage, regardless of either party's knowledge of the impediment.

Guzman v. Alvares, 205 S.W.3d 375, 380 (Tenn. 2006).

Charles argues that the present case is distinguishable from the *Johns* case. He bases his argument on the fact that Mr. Johns was married during the entire duration of the relationship at issue. (Br. of App., p. 9). Therefore, Charles reasons, no public

policy conflict exists in the present case because he and Blondell were together for more than a decade after his divorce from Ms. Chisholm in 2001.

The public policy considerations applied in the *Johns* case apply equally in the present case. Simply stated, when a person attempts to marry an individual while still married to another individual, our courts do not recognize a valid marriage. This is precisely what happened in the present case. This is undisputed by Charles and he has offered no evidence of a subsequent common law marriage.

This Court has clearly stated that such a marriage is void from its inception and that *res judicata* will not be applied so rigidly as to defeat the sound ends of justice. *Johns*, 309 S.C. at 203, 420 S.E.2d at 859, *citing Beverly Beach Properties, Inc. v. Nelson*, 68 So.2d 604 (Fla. 1953). A void, bigamous marriage does not "mature" into a valid marriage, particularly based upon erroneous statements by a third party. To find that Charles was married to Blondell, only via estoppel, would violate the well-recognized policy of this State against bigamous marriages.

Charles makes several factual arguments in an effort to suggest Angel somehow misled him during the course of the various actions. However, none of his arguments withstands closer scrutiny. While Charles attempts to make an issue of when his attorney became aware of the defect in the marriage, claiming he did not become aware of the issue until December 11, 2015, he presented no evidence at the hearing regarding this topic. Of course, the real issue is when Charles was aware of the defect. The only real evidence introduced at the hearing on this topic is the fact that Charles was married to Ms. Chisholm when he attempted to marry Blondell; knowledge of his existing marriage is imputed to him.

At the hearing, the attorneys did discuss this issue with the trial judge. While arguments of counsel are not typically considered evidence, to the extent this Court deems it appropriate to consider those arguments as evidence on this topic, they clearly show any delay in Angel's efforts to correct her statements about Charles' and Blondell's relationship were the product of Charles' own conduct.

First, Charles claimed he was Blondell's husband, leading Angel to make her initial factual statements about the marriage in probate filings and in other pleadings.

Second, when Angel became aware of the issue with the purported marriage, her attorneys discussed it with Charles' attorney Joseph Dawson at the July 28, 2014 hearing in the Selective DJ Action, at which time "Mr. Dawson told them it was not an issue. And so [Angel's attorneys] didn't, at that time, pursue it any further. So even though [Angel's attorneys] were on notice of a possible issue back then, [they] were told that it was not an issue and that it would not be a problem, and therefore, [they] didn't pursue it until [they] obtained later information that showed it was an issue." (R. p. 155 – p. 157, line 10).

In other words, while Angel's attorneys learned of a potential beneficiary issue, they did not pursue it earlier because they were informed by Charles' attorney it was not a problem. Additionally, at earlier stages in the litigation, the significance of determining the correct beneficiaries was not as important as pursuing the underlying case against the tortfeasors. This issue did not become significant until the conclusion of the litigation at which time Angel confirmed the defect in the marriage and placed the issue before the trial court to make a determination on heirship.

Charles also bases his argument on the fact that, at the time of the settlement approval, Angel's probate filings identified him as the decedent's surviving spouse. (Br. of App., p. 4). While this is true, upon learning more information about the marriage defects, Angel subsequently amended the probate filings to remove Charles as a beneficiary. (R. pp. 174 - 195).

Charles also makes the assertion that Angel did not seek to amend her Complaint during the course of the litigation in the Wrongful Death Case because that would have afforded AMR the opportunity to file an Answer, thereby relieving it from default. This assertion is false and misleading. AMR's liability in this case was never contingent upon whether Charles was Blondell's spouse. Furthermore, amending the Complaint to strike the reference to Charles being the decedent's spouse would not have altered the status of AMR being in default.

II. CHARLES SHOULD NOT BE PERMITTED TO INVOKE THE EQUITABLE PRINCIPLE OF ESTOPPEL BECAUSE OF HIS UNCLEAN HANDS.

"Under the well settled maxims of equity jurisprudence, a party will not be permitted to invoke the equitable principle of estoppel where she does not come into court with clean hands and seeks to benefit by her own wrong." *Ex parte Nimmer*, 212 S.C. 311, 317, 47 S.E.2d 716, 722 (1948).

Charles comes into this Court with unclean hands. Specifically, he is trying to benefit from his own wrong – attempting to marry Blondell while still married to another woman. No valid reason exists for relieving Charles from his transgression and allowing him to enjoy the fruits of a marriage which is most certainly invalid.

The facts of the present case are analogous to *Ex parte Nimmer*. There, Doris Nimmer, the purported widow of the deceased, attempted to claim the spouse's share of

the decedent's estate. The court found she was still married to her previous husband when she attempted to wed the decedent. She attempted to obtain a divorce in the State of Georgia despite the fact that neither she nor her husband at the time had ever resided there; but the Supreme Court found the Georgia court was without jurisdiction to entertain the proceeding and the divorce was invalid. As a result, her subsequent purported marriage to the decedent was void.

Moreover, the Court found she could not assert the defense of estoppel, reasoning:

> To prevent an adjudication that she is not the lawful widow of decedent, appellant invokes the equitable principle of estoppel. Under the well settled maxims of equity jurisprudence, she will not be permitted to do so because she does not come into court with clean hands and seeks to benefit by her own wrong. It is appellant who is asserting a right which could only arise from a valid marriage to decedent. To sustain its validity necessitates recognizing a void Georgia divorce and thereby extending to appellant an immunity from her culpable conduct. No good reason appears why she should be relieved of her transgression and allowed to enjoy the fruits of a marriage which is obviously invalid.

Id. at 321-22, 47 S.E.2d at 721.

Charles' conduct and unclean hands in the present case are even more egregious than in the *Nimmer* case. He knew that he was still married to Doretha Chisholm when he attempted to marry Blondell. There is no evidence that Blondell had any knowledge he was still married when he attempted to marry her. When Angel's counsel first became aware of a potential defect in the marriage between Charles and Blondell, he asked counsel for Charles if this was an issue and was informed it was not. (R. p. 155, lines 3 - 15).

Ironically, Charles is the party claiming estoppel but he was the only person who in fact had the means to know the truth as to the facts in question. Charles never

volunteered this information and, upon being confronted with evidence that he was in a bigamous marriage with Blondell, he offered no evidence to rebut it. Instead, he asks this Court to find that he was married to Blondell only because the personal representative of her estate alleged they were married.

III. ANGEL IS NOT BOUND BY ERRONEOUS STATEMENTS IN PLEADINGS.

Charles relies upon the rule discussed in *Elrod v. All*, 243 S.C. 425, 134 S.E.2d 410 (1964), *Postal v. Mann*, 308 S.C. 385, 418 S.E.2d 322 (Ct. App. 1992) and *Johnson v. Alexander*, 413 S.C. 196, 775 S.E.2d 697 (2015) to argue Angel is prohibited from taking a position contrary to statements (now known to be factually incorrect) in her earlier pleadings in the Selective DJ Action, the Wrongful Death Action, and Charles' DJ Action.[5] In *Elrod*, the Supreme Court stated:

> We consider the pleadings in this case in the light of the general rule, that the parties to an action are judicially concluded and bound by such unless withdrawn, altered or stricken by amendment or otherwise. The allegations, statement or admissions contained in a pleading are conclusive as against the pleader. It follows that a party cannot subsequently take a position contradictory of, or inconsistent with, his pleadings and the facts which are admitted by the pleadings are to be taken as true against the pleader for the purpose of the action. Evidence contradicting such pleadings is inadmissible.

Elrod v. All, 243 S.C. at 436, 134 S.E.2d at 140.

Each of the cases cited by Charles involved situations where a party sought to bind an adverse party to statements in a pleading that was directed to the party asserting the statements' binding effect. Moreover, each case limited the binding effect of the statement to the action in which it was made. *See, e.g., id.* ("the facts which are

[5] Charles' argument is not based upon judicial estoppel, which is a separate doctrine, the elements of which Charles has not satisfied. *See, e.g., Cothran v. Brown*, 357 S.C. 210, 215-16, 592 S.E.2d 629, 632 (2004).

admitted by the pleadings are to be taken as true against the pleader *for the purpose of the action*") (emphasis added).

In other words, the rule relied upon by Charles requires that the both the party making the statement (in this case, Angel) and the party asserting the binding effect of the statement (in this case, Charles) be adverse in an action, that the party make the statement in a pleading directed to the party asserting its binding effect, and that the statement be made in the action in which she is sought to be bound (here, the Wrongful Death Action).

The Selective DJ Action did not involve a situation where Charles sued Angel or Angel sued Charles. The statement argued by Charles in that action was made by Angel in response to Selective's Complaint, not in response to a pleading by Charles. As a practical matter, Selective's allegation about Charles' and Blondell's alleged marriage was superfluous to the issues in that case and had no bearing on its potential outcome in any event. Charles is not seeking to bind Angel to that statement in the Selective DJ Action. Therefore, the "judicially bound" rule asserted by Charles simply does not apply to Angel's statement in the Selective DJ Action.

Similarly, while Charles and Angel were adverse in Charles' DJ Action, Charles cannot rely upon Angel's pleadings in that case to bind Angel in the present action. Also, in light of becoming aware of the true facts about the purported marriage between Charles and Blondell, Angel moved to withdraw the statements argued by Charles, which is another basis to remove those statements from operation of the judicially bound rule.

Finally, Charles should not be able to bind Angel to her statements in pleadings addressed to other parties (LMT, AMR, and LMT's driver) in the Wrongful Death Action, an action to which Charles was not a party.[6] In addition, once again, Angel has moved to withdraw those erroneous statements, which should resolve any argument about application of the judicially bound rule.

As a bottom line, this is not a situation where Charles and Angel were adverse to each other in an action where a contested issue was the validity of Charles' and Blondell's purported marriage. Angel admitted in response to Charles' pleadings that the marriage was valid, Angel did not seek to withdraw the admission upon learning it was incorrect, Charles lacked knowledge about the truth of the statement, and Charles relied upon Angel's admission in litigating the action. Therefore, the reasons for applying the judicially bound rule simply do not exist here.

Lastly, Charles cites *Laughon v. Q'Braitis*, 360 S.C. 520, 602 S.E.2d 108 (Ct. App. 2004) in support of his contention that the Order of Dismissal that followed the settlement of the Wrongful Death Action binds Angel to the allegation that Blondell Gary, on behalf of her husband, Charles Gary, contracted with American Medical Response to provide non-emergency medical transport on the day in question." (R. p. 76, ¶ 5).

Relying upon *Nunnery v. Brantley Constr. Co.*, 289 S.C. 205, 345 S.E.2d 740 (Ct. App. 1986), Charles initially argues that an Order of Dismissal gives him the right to assert *res judicata*. However, Charles is not a party to the Order nor is he a privy of any of the parties who could arguably seek to bind Angel to matters allegedly

[6] Charles' involvement in the Petition that gave rise to the present appeal is by virtue of his claiming an heirship interest in the Estate, not because he is a party to the action.

adjudicated by it, the threshold requirement for the rule set forth in *Nunnery*. *Id.* at 209, 345 S.E.2d at 744.

In addition, the allegation relied upon by Charles was immaterial to the outcome of the Wrongful Death Action, even if that action had been fully litigated. Specifically, the phrase "her husband" could have been deleted from paragraph 5 of the Wrongful Death Complaint and the remaining allegations would have had equal force against LMT, AMR, and LMT's driver, the Defendants in this action. Charles claims this allegation was a "material fact" (Br. of App., p. 11) but that simply is not true in the context of Angel's claims against those Defendants.

Charles' argument overlooks the full holding of the *Laughon* case, in which this Court stated: "Under the doctrine of issue preclusion, if an issue of fact or law was actually litigated and determined *and necessary to a valid and final judgment*, the determination is conclusive in a subsequent action on that claim or a different claim." *Laughon*, 360 S.C. at 526, 602 S.E.2d at 114 (emphasis added). The words "her husband" were not necessary to any final judgment in the Wrongful Death Action and therefore cannot form the basis for *res judicata* in light of the Order of Dismissal.

CONCLUSION

For the foregoing reasons, Respondent Angel Y. Gary, as Personal Representative of the Estate of Blondell M. Gary, respectfully requests that this Court affirm the Order of the Circuit Court.

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July 20, 2016

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THE STATE OF SOUTH CAROLINA
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PROOF OF SERVICE

This is to certify that I, Annette B. Griswold, with the law office of Peters, Murdaugh, Parker, Eltzroth and Detrick, PA, Attorney for the Respondent, have this date mailed via the U.S. Postal Service with first class postage prepaid, a true and correct copy of the within **Final Brief of Respondent** to:

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July 20, 2016

BY: Annette B. Griswold

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