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STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APR 04 2017

SC Court of Appeals

Appeal from Richland County  
Probate Court

The Honorable Amy W. McCulloch, Probate Judge

Appellate Case No. 2016-001960

Georganna Paradeses, as Personal Representative of the Estate of William D.  
Paradeses,..... Petitioner,

v.

Georganna Paradeses, Eleanor Glisson (Faye) (a.k.a. Faye Greeson, Pam Paradeses,  
Stephanie Starr, Robin Pace, Mary Paradeses and Jim Paradeses,.....Respondents.

OF WHOM

Georganna Paradeses, individually, Pam Paradeses, Stephanie Star, Robin Pace,  
Mary Paradeses and Jim Paradeses are.....Appellants,

AND

Eleanor Glisson (Faye) (a.k.a. Faye Greeson) is.....Respondent.

REPLY BRIEF OF APPELLANTS

Adam T. Silvernail (Bar No. 80219)  
Law Office of Adam T. Silvernail, LLC  
1905 Marion Street (29201)  
Post Office Box 7995  
Columbia, South Carolina 29202-7995  
(803) 779-1770  
adam@silvernailfirm.com

*Counsel for Appellants*

## Table of Contents

Table of Authorities	iii
Argument	1
Conclusion	2

## Table of Authorities

### Cases

<i>Franklin v. McLean</i> , 192 Va. 684, 66 S.E.2d 504 (Va. 1951)	1
<i>In re Estate of Pallister</i> , 363 S.C. 437, 611 S.E.2d 250 (2005)	1
<i>Palmer v. Harpole</i> , 359 So.2d 752 (Miss. 1978)	2

### **Argument in Reply**

Appellants argue in their brief-in-chief that a rebuttable presumption should operate in favor of the writings upon the original Last Will and Testament of William D. Paradeses being made by Mr. Paradeses himself, where the original Last Will and Testament was discovered among his belongings after his death, with the markings made thereon. Respondent criticizes Appellants' argument for not being reflective of South Carolina law, despite her simultaneous observation that there is no binding precedent on point.

Respondent is correct that Appellants rely on persuasive precedent from other States in arguing that this Court should recognize such a presumption. Indeed, South Carolina Courts have long recognized a presumption, rebuttable by clear and convincing evidence, that a will which cannot be located after the testator's death has been destroyed by the testator *animo revocandi*. See, e.g. *In re Estate of Pallister*, 363 S.C. 437, 611 S.E.2d 250 (2005).

Although our courts have not been called upon to decide whether such a presumption operates where testator had possession of the will until his death and where the original will is discovered among his possessions with certain provisions stricken, such a presumption flows logically from *Pallister* and its predecessor cases in South Carolina.

In addition to the Virginia case cited in Appellants' brief, other cases from Virginia and elsewhere have confirmed those States' recognition of a rebuttable presumption on these facts. For example, *Franklin v. McLean*, 192 Va. 684, 66 S.E.2d 504 (Va. 1951) included clear findings that such a presumption operated where the

testator's will was discovered entirely stricken through with pencil, and where no evidence was presented regarding who made the strike-outs, how or when.

Likewise, the Supreme Court of Mississippi has also found the existence of rebuttable presumption that a will discovered among the testator's possessions with partial cancelations was intended by the testator to be revoked *pro tanto*:

Relative to this proof of intent to revoke and of the fact that it was done by the Testator, we find a presumption that the lower court apparently did not consider applicable here which is stated in 79 Am.Jur.2d, Wills, Section 607, as follows:

It is generally agreed that if the Will produced for probate which is shown to have been in the custody of the Testator after its execution was found among the Testator's effects after his death in such a state of mutilation, obliteration, or cancellation as represents a sufficient act of revocation within the meaning of the applicable statute, it will be presumed in the absence of evidence to the contrary that such act was performed by the Testator with the intention of revoking the instrument.  
*Palmer v. Harpole*, 359 So.2d 752, 754 (Miss. 1978)

Appellants would thus submit that the presumption recognized by other States' courts should be confirmed by this Court, as it is in harmony with South Carolina's standing presumption of revocation where a will cannot be found after the testator's death.

### **Conclusion**

Respectfully, Appellants submit that the Probate Court's finding that revocation of the devise to Faye could not be accomplished without the formalities of a codicil was in error and must be reversed. They therefore ask that this Court reverse the August 23, 2016 and September 12, 2016 Orders of the Probate Court and find that the devise was effectively revoked.

Respectfully submitted,



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Adam T. Silvernail (Bar No. 80219)  
Law Office of Adam T. Silvernail, LLC  
1905 Marion Street (29201)  
Post Office Box 7995  
Columbia, South Carolina 29202-7995  
(803) 779-1770  
adam@silvernaillawfirm.com

*Counsel for Appellants*

March 27, 2017

Other Counsel of Record:

Sarah T. Cassidy, Esquire  
Moore Taylor Law Firm  
Post Office Box 5709  
West Columbia, South Carolina 29171

*Counsel for Petitioner*

James S. Murray, Esquire  
Warlick, Stebbins, Murray & Chew, LLP  
P.O. Box 1495  
Augusta, GA 30903

*Counsel for Respondent Eleanor Glisson (Faye)  
(a.k.a. Faye Greeson)*

**CERTIFICATE OF COUNSEL**

The undersigned counsel for the Appellants hereby certifies that the foregoing brief complies with Rule 211(b).



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Adam T. Silvernail

STATE OF SOUTH CAROLINA  
In the Supreme Court

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Case No. 2016-ES-40-0215

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Georganna Paradeses, as Personal Representative of the Estate of William D.  
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v.

Georganna Paradeses, Eleanor Glisson (Faye) (a.k.a. Faye Greeson, Pam Paradeses,  
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Mary Paradeses and Jim Paradeses are..... Appellants,

AND

Eleanor Glisson (Faye) (a.k.a. Faye Greeson) is..... Respondent.

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**Certificate of Counsel**

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The undersigned counsel for Appellants hereby certifies that the final Brief  
and Reply Brief filed herewith comply with Rule 211(b).



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Adam T. Silvernail (Bar No. 80219)  
Law Office of Adam T. Silvernail, LLC  
1905 Marion Street (29201)  
Post Office Box 7995  
Columbia, South Carolina 29202-7995  
(803) 779-1770  
adam@silvernaillawfirm.com

*Counsel for Appellants*

April 4, 2017

STATE OF SOUTH CAROLINA  
In the Supreme Court

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**PROOF OF SERVICE**

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The undersigned counsel for Appellants hereby certifies that he has served three copies of the Initial Brief and Reply Brief of Appellants herein on all counsel who have filed a brief by depositing a copy of same in the United States Mail, First-class postage prepaid, on April 4, 2017, addressed as follows:

James S. Murray, Esquire  
Warlick, Stebbins, Murray & Chew, LLP  
P.O. Box 1495  
Augusta, GA 30903  
*Counsel for Respondent Eleanor Glisson (Faye)*  
*(a.k.a. Faye Greeson)*



---

Adam T. Silvernail (Bar No. 80219)  
Law Office of Adam T. Silvernail, LLC  
1905 Marion Street (29201)  
Post Office Box 7995  
Columbia, South Carolina 29202-7995  
(803) 779-1770  
adam@silvernaillawfirm.com

*Counsel for Appellants*

April 4, 2017

Law Office of  
**ADAM T. SILVERNAIL**  
LLC

April 4, 2017

*By U.S. Mail:*

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

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APR 04 2017

**SC Court of Appeals**

Re: *Paradeses v. Paradeses, et al*  
Appellate Case No. 2016-001960

Dear Ms. Kitchings:

In connection with the above-referenced appeal, I enclose the following:

1. Original and fifteen (15) copies of the final Brief of Appellants;
2. Original and fifteen (15) copies of the final Reply Brief of Appellants;
3. Fifteen copies of the Record on Appeal;
4. Original and one copy of the Proof of Service for the briefs; and
5. Original and one copy of the Certificate of Counsel.

The Record was previously served pursuant to Rule 210(a), and the Proof of Service is on file with this Court.

I would appreciate your filing the originals and returning a file-stamped copy of each (other than the Record) to me.

Kind thanks for your assistance with this matter.

Sincerely,



Adam T. Silvernail

Enclosures

Cc:

James S. Murray, Esquire  
Warlick, Stebbins, Murray & Chew, LLP  
P.O. Box 1495  
Augusta, GA 30903