

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

Appellate Case No. 2015-001752  
Unpublished Opinion No. 2018-UP-038

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APPEAL FROM THE CHARLESTON COUNTY  
COURT OF COMMON PLEAS

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J.C. Nicholson, Jr., Circuit Court Judge  
Stephanie P. McDonald, Circuit Court Judge at Trial  
Case No. 2012-CP-10-3421

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Mamie F. Nichols,

Appellant,

v.

ALBERT NAPOLEON THOMPSON, JR.,  
AL THADDEUS THOMPSON,  
TITUS SHEROD THOMPSON, and ASIA RACHAL THOMPSON,

Respondents.

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REPLY ON PETITION FOR REHEARING

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PRECIOUS FELDER, LLC  
Attorney for Plaintiff-Appellant (Pro Hac Vice)  
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Atlanta, GA 30309  
(404) 355-9400

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MAR 07 2018  
SC Court of Appeals

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Appellant, Mamie F. Nichols, respectfully submits this Reply on this Petition for Rehearing of this appeal, which was decided by opinion filed on January 31, 2018, and in support thereof respectfully shows:

**REPLY**

Respondent did not file a brief on the appeal. In accordance with SCACR 208(4), “Upon the failure of respondent to timely file a brief, the appellate court may take such action as it deems proper.” Such action may include reversal. *Turner v. Santee Cement Carriers, Inc.*, 277 S.C. 91, 96, 282 S.E.2d 858, 860 (1981); *Robinson v. Hassiotis*, 364 S.C. 92, 93 n.2, 610 S.E.2d 858, 859 n.2 (Ct. App. 2005); see also *Wierszewski v. Tokarick*, 308 S.C. 441, 444 n.2, 418 S.E.2d 557, 559 n.2 (Ct. App. 1992) (stating where respondent failed to file a brief, “it [was] proper to reverse on the points presented rather than to search the record for reasons to affirm.”). *Cf.* Fed.R.App.P. 31(c) (“appellee who fails to file a brief will not be heard at oral argument unless the court grants permission[.]”).

Certainly, at this stage, it is “proper” to ignore the response, which is based upon numerous factual errors. It is sufficient to show just a few:

Just to name a few in the order that they are presented:

(1) At “A,” para 4, counsel says that Russell Brown is just a notary. There is absolutely no support for this in the record. The testimony at trial and all the evidence in the record show that Russell Brown was the attorney. Mamie Nichols' affidavits show her desires.

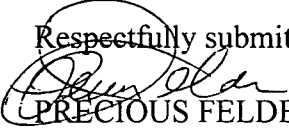
(2) At “A,” para 6, counsel states that Barbara Gilliard was Ms. Nichols daughter. He is new counsel and apparently failed to read the record of appeal. (The court's ruling mainly addressed the daughters as “Daughter 1” and “Daughter 2”).

(3) The entire argument at “B” is disjointed and shows a fundamental error as to what this case is about. For example, at the last paragraph it states there was “no evidence of confidential relationship existed to make the deed invalid.” There clearly was such evidence and the core issue was whether it was a pure question of fact or a question of law for the Court to resolve.

In accordance with *Loftis v. Eck*, 288 S.C. 154, 157, 341 S.E.2d 641, 642 (S.C. App. 1986), once a power of attorney is given “a fiduciary relationship exists under such a power of attorney as a matter of law.” (Citing S.C. Code Ann. § 32-13-10 recodified at S.C. Code Ann. § 62-5-501)

For the reasons stated, rehearing should be granted.

Dated: March 6, 2018

Respectfully submitted,  
  
PRECIOUS FELDER, LLC  
/s/ Precious Felder  
Attorney for Plaintiff-Appellant (Pro Hac Vice)

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Respondents.

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PROOF OF SERVICE

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I certify that I have served the Appellant's Reply on Petition for Rehearing to the attorney on record, Eduardo Kelvin Curry, Esquire at PO Box 42270, North Charleston, South Carolina 29423 by depositing a copy of it in the United States mail on March 6, 2018.

March 6, 2018



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THE LAW OFFICES OF  
PRECIOUS FELDER

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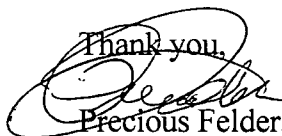
V. Claire Allen, Deputy Clerk  
Jenny Abbott Kitchings, Clerk  
The SC Court of Appeals  
1220 Senate Street, Suite 201  
Columbia, SC 29201

RE: Mamie F. Nichols vs. Albert Napoleon Thompson, Jr., et al.  
Appellate Case No. 2015-001752

Dear Ms. Allen and Ms. Kitchings:

Please find enclosed two originals with proof of service and seven copies of the Appellant's Reply on Petition for Rehearing sent by overnight U.S. mail to be filed upon receipt. The second stamped original is to be inserted within the enclosed, self-addressed and postage-paid envelope.

Thank you.

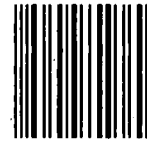
  
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