

9

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

Doyet A. Early, Circuit Court Judge

Case No. 2017-002344

**RECEIVED**  
JUN 07 2018  
SC Court of Appeals

Donna M. Rosier,

Appellant,

v.

Angelique Michelle Smith,  
Alexandria R. Downs,  
individually and as personal  
representative for the Estate of  
Barry E. Rosier, and Savannah  
Rosier,

Respondents.

RECORD ON APPEAL

Clarke W. McCants, III  
Amy Patterson Shumpert  
Nance, McCants & Massey  
Post Office Box 2881  
Aiken, S.C. 29802  
(803) 649-6200, Extension 3

Arthur W. Rich  
Arthur W. Rich, P.C.  
Post Office Drawer 1690  
Aiken, S.C. 29802  
(803) 649-3923

Attorneys for Respondents

LAWYERLISA, LLC  
Lisa M. Hostetler (SC Bar #76138)  
David Ziegler (SC Bar #102415)  
534 St. Andrews Road, Suite B  
Columbia, SC 29210  
P: (803) 563-5163  
F: (888) 958-7850  
Lisa@LawyerLisa.com  
David@LawyerLisa.com  
ATTORNEYS FOR APPELLANT

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STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN

IN THE DISTRICT COURT OF THE  
FIRST JUDICIAL DISTRICT

JOHN J. KOSINSKI  
vs.  
MARGARET WHALLEY

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN  
The Court, Clerk of Court of Common Pleas and General  
Sessions for Aiken County, South Carolina, do hereby certify  
that the foregoing Complaint, Affidavit and Certificate of the  
original documents which have been filed in my office, this

SEP 28 2015

ET DE 11 1143

JOHN J. KOSINSKI  
vs.  
MARGARET WHALLEY

*L. Hodard*  
CCCP & GS, Aiken County, S.C.  
*Margaret Whalley*  
Deputy Clerk

This is a domestic action in which the Plaintiff Wife seeks  
custody of and support for the minor child of the parties, attorney's fees and  
her attorney's fee and costs, and a restraining order.

A Rule 17 hearing was held before me on July 6, 1987. Both parties  
attended. The Wife was accompanied by a witness and represented by counsel, *John  
J. Kosinski*. The Husband was not represented.

From the pleadings, Affidavits, and Confidential Declarations of record  
and having heard the argument of counsel and the testimony of the Husband, the  
Court makes the following Findings of Fact:

1. The parties are residents of Aiken County, South Carolina, are  
husband and wife living apart, and are the parents of one minor child. The  
Husband was duly served with process and appeared at the hearing.
2. The minor child has been in the custody of the Wife since the  
separation of the parties; the Wife is a fit and proper person to have custody;  
the Husband does not object to an order granting temporary custody to the Wife.
3. The Wife is unemployed; her only income at present consists of  
\$160 monthly support for two children by a prior marriage; she was enrolled in  
school at the time of the marriage of the parties with her expenses paid by a  
grant but the Husband insisted that she discontinue her studies; she has applied  
for and been approved for a grant that will enable her to prepare herself to

*7-8*  
*87*  
*Margaret Whalley*  
*10/1/87*

1. The husband is obligated to provide for the support and maintenance of his wife and minor child.

2. The husband is obligated to provide for the support and maintenance of his wife and minor child. It is in the best interest of the wife and minor child that the husband be required to pay for the support and maintenance of the wife and minor child. The husband is obligated to provide for the support and maintenance of his wife and minor child. It is in the best interest of the wife and minor child that the husband be required to pay for the support and maintenance of the wife and minor child.

3. In her petition the wife requested that the husband be required to pay for the support and maintenance of the wife and minor child. This is in the best interest of the wife and minor child.

4. The wife has requested that the husband be required to pay for the support and maintenance of the wife and minor child. This is in the best interest of the wife and minor child. The husband made no objection to the wife's request for immediate possession of these items.

5. The wife has requested that visitation by the husband be supervised by the husband's mother. The wife has alleged abuse of her children by the husband. It is in the best interest of the minor child that visitation by the husband be supervised as requested by the wife at this time.

6. The wife was required to bring this action to obtain support for herself and the minor child; she has neither income nor assets sufficient to pay an attorney's fees. Two hundred dollars plus costs of fifty-five dollars is a reasonable temporary attorney's fee.

7. It is in the best interest of the wife that the husband be restrained and enjoined from harming, harassing and interfering with the wife and from interfering in any way with Donna M. Robey's custody of the minor child.

8. From these findings of fact the Court concludes that it has jurisdiction of the subject matter and the parties; temporary custody of the minor child should be awarded to the wife; the husband should be required to pay temporary

... (50.00) weekly for the support of the wife and child. The husband should pay fifty dollars (\$50.00) weekly for the support of the wife and child. The husband should be required to keep the wife and child covered by medical insurance available to him through his employment. The husband and the child should be supervised and the husband should be required to pay or provide for the wife's attorney's fee and costs in conducting this action.

It is therefore ORDERED:

1. Temporary custody of the minor child of the parties is awarded to Donna M. Rosier.
2. Barry E. Rosier shall pay temporary support for Donna Lucille Rosier in the amount of fifty dollars (\$50.00) weekly commencing July 16, 1947 and continuing on each Friday thereafter until further order of this Court.
3. Barry E. Rosier shall pay temporary alimony to Donna M. Rosier in the amount of fifty dollars (\$50.00) weekly commencing July 16, 1947 and continuing on each Friday thereafter until further order of this Court.
4. Support and alimony payments shall be mailed to Donna M. Rosier, c/o Miss J. Wiesen-Kozinski, Attorney at Law, P. O. Box 1407, Aiken, S. C. 29801.
5. Barry E. Rosier shall keep Donna M. Rosier and Heidi Lucille Rosier covered by the medical insurance available to him through his employment.
6. Barry E. Rosier shall have reasonable visitation with the minor child Sunday from 2:00 P. M. until 5:00 P. M., provided that visitation be in the presence of and supervised by Respondent's mother. Petitioner shall provide all transportation for the visitation.
7. Barry E. Rosier shall allow Donna M. Rosier to remove from the marital home her clothing and personal effects, the child's clothing, and the furniture and furnishings owned by Donna M. Rosier prior to her marriage to Barry E. Rosier.

The Sheriff of Aiken County and his deputies are authorized to accompany Donna M. Rosier to the marital home to obtain these items.

8. Barry L. Rozier shall pay a temporary alimony for the month of Dollars \$100.00 plus costs of fifty-five Dollars (\$55.00) a month for the next fifty-five Dollars (\$55.00), as Plaintiff's temporary alimony for the month of October-November, Attorney at Law, P. O. Box 1127, Aiken, S. C. 29801, within thirty (30) days of the date of this Order.

9. Barry L. Rozier is restrained and enjoined from harassing, intimidating and interfering with Donna H. Rozier and from interfering in any way with Donna H. Rozier's custody of the minor child.

Dated at Aiken, South Carolina, this 27 day of July, 1987.

[Signature]  
JUDGE, THE FAMILY COURT OF THE  
SECOND JUDICIAL CIRCUIT

This Order expires on (th) 27 day of July.

[Signature]  
Judge



The Court has reviewed the evidence and the testimony of the parties and finds that the agreement is fair and equitable. The Court also finds that the parties entered into the agreement voluntarily and without duress or coercion. The Court therefore concludes that the agreement should be approved and made an order of this Court. It is therefore

ordered that the parties be bound by the terms of the agreement. The Court also orders that the parties pay the costs of this proceeding. It is so ordered.

From the file, the representation of counsel, and the testimony of the parties, the Court makes these findings of fact:

1. The parties have reached an agreement.
2. The agreement of the parties is fair and equitable.
3. Both parties acknowledged that their agreement is fair and equitable. Both parties understand the agreement and entered into it freely and voluntarily without threat, duress or coercion.

From these findings of fact the Court concludes that the agreement of the parties should be approved and made an order of this Court. It is therefore

Copy of file  
9-16  
1987

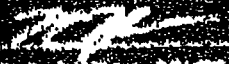
*ORDER*

1. The Wife shall have custody of the minor child.
  2. The husband shall have visitation with the minor child every Sunday from 7:00 P.M. until 5:00 P.M. provided that visitation be in the presence of and supervised by the husband's mother.
  3. The Husband shall pay support in the amount of Fifty Dollars weekly commencing September 15, 1987.
  4. The Husband shall pay delinquent support in the amount of Five Hundred Dollars (\$500.00) within ninety days of the date of this Order.
  5. The Husband shall pay the delinquent alimony required by the July 4, 1987 Order, a sum of Five Hundred Dollars (\$500.00) within ninety days of the date of this Order.
  6. The Wife waives all claim to future alimony.
  7. The Husband shall turn over to the Wife immediately the following items of her separate property:
    - dresser
    - antique pine end table
    - coffee maker
    - wall ornaments:
      - country scene
      - oak tree
      - wicker flower holder
    - ceramic wind chime.
- The Sheriff of Aiken County and his deputies are authorized to accompany the Wife to the marital home to obtain these items.
9. The Husband shall pay an attorney's fee of Three Hundred Fifty Dollars (\$350.00) to Marg J. Wiesen-Kosinski, P. O. Box 1407, Aiken, South Carolina, 29802, within ninety days of the date of this Order.

10. The aforementioned Order contained in the July 3, 1997 Order of this Court is hereby affirmed in full force and effect.

DONE at Aiken, South Carolina, this 18 day of August

1997

  
\_\_\_\_\_  
JUDGE, THE FAMILY COURT OF THE  
SECOND JUDICIAL CIRCUIT

This Order complies with Rule 27.1(c).

  
\_\_\_\_\_

State of South Carolina, this 17 day of August, 1987

*[Signature]*  
\_\_\_\_\_  
Attorney for Defendant(s)

This judgment was entered on the 16 day of August, 1987, and a copy will be filed with the 16 day of August, 1987 to the Clerk of Court for the County of \_\_\_\_\_ and the County of \_\_\_\_\_ of the State of South Carolina.

*[Signature]* AG 11/87  
\_\_\_\_\_  
Attorney for Plaintiff(s)

*[Signature]*  
\_\_\_\_\_  
Attorney for Defendant(s)

Attorney (s) for Plaintiff (s)

Attorney (s) for Defendant (s)

SCCF Form 4  
Rev. 5/86

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE MATTER OF  
BARRY E. ROSIER

Donna M. Rosier

Petitioner,

vs.

Angelique Michelle Smith, Alexandria R.  
Downs, individually and as Personal  
Representative of the Estate of Barry E. Rosier,  
and Savannah Rosier,

Respondents.

IN THE PROBATE COURT

Case No.: 2015-ES02-0860.2

**ORDER**

This matter comes before the Court and was heard on January 23, 2017. Petitioner, Donna Rosier, filed an action in this Court seeking to be determined the legal lawful wife of Decedent, Barry E. Rosier. At the hearing were Petitioner and her attorneys, Lisa Hostetler and David Zeigler. Respondents, Alexandria R. Downs, Savannah Rosier, and Angelique M. Smith, were present at the hearing. Arthur W. Rich, an attorney in Aiken, South Carolina, was present in his capacity as attorney for Alexandria R. Downs in her capacity as Personal Representative of Estate of Barry E. Rosier.

**FINDINGS OF FACTS**

1. Decedent, Barry E. Rosier, died intestate on August 16, 2015. A Small Administration of this estate was commenced by his daughter, Savannah Rosier and all funds in the estate were expended by the Personal Representative for estate expenses with no funds remaining for heirs. The Petition for Small Administration indicated that Decedent was unmarried at the time of his death and that he was survived by his three daughters, Savannah Rosier, Angelique Michelle Smith, and Alexandria R. Downs.

2. Alexandria R. Downs petitioned this Court to re-open the estate by Petition dated September 8, 2016. The grounds for reopening the estate were that Decedent's estate was to receive the

*Page #1  
3 to page  
after*

inheritance from the father of Decedent, Roy Rosier, and that there were possible funds to be received by the estate or the heirs from Decedent's former employment with the Boilermaker-Blacksmith National Pension Trust. The estate was reopened by Order of this Court and Alexandria R. Downs is currently serving as Personal Representative of the Estate.

3. Petitioner, Donna M. Rosier, filed a Petition with this Court seeking to have the Court determine that she was the legal married wife of Decedent at the time of his death and, therefore, was entitled to an intestate share of the estate and, further, that she may be entitled to benefits from the Boilermaker-Blacksmith National Pension Trust. The Personal Representative filed her Answer with this Court denying the Petition.

4. Petitioner has a long history of marriages. According to her testimony, her first marriage was to Doyle Wayne Smith, Jr. in the late 1970's. Petitioner further testified that she and Mr. Smith divorced around the year 1981 in the town of Gainesville, Georgia in Hall County. Petitioner presented no evidence of a Divorce Decree from this marriage.

5. Petitioner's second marriage was to Rusty Elliott McKenzie in Aiken County, South Carolina in the early 1980's. Her testimony was that she later divorced Mr. McKenzie on or about the year 1984.

6. Petitioner subsequently married Decedent on August 1, 1985. The parties lived together in Aiken County, South Carolina until on or about May 15, 1987. They had one child together, Respondent Savannah Rosier. Petitioner filed an Application with the Family Court in Aiken County, South Carolina for support on June 8, 1987. There was an Order by the Family Court for Decedent to pay alimony and support to Petitioner, dated July 8, 1987. The Consent Order dated September 16, 1987 was also entered in the Family Court regarding payments of support and alimony. There are no records in Aiken County, South Carolina indicating that there was ever a Final Decree of Divorce between the parties. The parties separated in 1987 and never reconciled.

*Page #2  
of 6 pages  
RR*

7. Petitioner later married Paul Joseph Holling, III in about the year of 1992. She stated that she was subsequently divorced from Mr. Holling, but no evidence of such divorce was filed with the Court.

8. Petitioner subsequently filed an Application for License and Certificate of Marriage to marry James Michael Morris in Rowan County, North Carolina. The Application for License and Certificate of Marriage is filed as Exhibit "A" with the pleadings. Petitioner's signature on the Marriage Application was made under oath and states that this was to be her fourth marriage. It also states that her last marriage ended by divorce. The Marriage Application in Rowan County was later returned to the Registrar's Office on November 20, 2014, signed by the Officiate indicating that the marriage between Petitioner and James Michael Morris had occurred on November 5, 2014. Petitioner stated at the hearing that she was still with Mr. Morris, although she denies that her marriage to Mr. Morris is valid, due to her never having been divorced from Decedent.

9. Respondents Alexandria R. Downs and Angelique Michelle Smith are the children of Decedent from his prior marriage to Alice Waites Rosier. Decedent and Alice Waites Rosier were divorced on August 21, 1979.

10. Savannah Rosier testified that Petitioner, her mother, abandoned her when she was approximately eleven years old and that she was raised by foster parents from the age of eleven until adulthood. She has had little or no contact with her mother since she was age eleven.

11. The estate of Decedent will be receiving approximately \$40,000.00 from the estate of the father of Decedent Roy Rosier, which estate is recently filed in Aiken County South Carolina and is now closed. There is also a pension due from Boilermaker-Blacksmith National Pension Trust. The pension will be payable to the spouse of Decedent if there is a valid spouse. If there is no valid spouse, the pension will be payable to the three daughters of Decedent, specifically, Respondents herein. The pension will not be paid to the spouse *and* the children, and if Petitioner is declared as the legal wife of Respondent, the entire pension will be paid to her to the exclusion of the three daughters.

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of 6 pages  
JRM

**FINDINGS OF LAW**

1. A marriage between parties while one of the parties has an existing marriage is void as a matter of public policy in the State of South Carolina. *Johns v. Johns*, 309 S.C. 199, 420 S.E.2d, 856.
2. Chapter 15 of the South Carolina Code of Laws addresses offenses against morality and decency. Section 16-15-10 states that, "A person who is married, who shall marry another, is guilty of bigamy and upon conviction is subject to punishment in penitentiary for not more than five years nor less than six months or by imprisonment in the jail for six months and by a fine of not less than \$500.00." Bigamy is an offense against the public policy in the State of South Carolina.
3. In the case of *Hayne Federal Credit Union v. Bailey*, 327 S.C. 328, 489 S.E.2d, 472, the Supreme Court acknowledged the doctrine of judicial estoppel. "Judicial estoppel precludes a party from adopting a position in conflict with one earlier taken in the same or related litigation. The purpose or function of the doctrine is to protect the integrity of the judicial process or the integrity of the Courts, rather than to protect litigants from allegedly improper or deceitful conduct by their adversaries. In order for the judicial process to function properly, litigants must approach it in a truthful manner. The doctrine thus punishes others who take the truth-seeking function of the system lightly. When a party has formerly asserted a certain version of the facts in litigation, he cannot later change those facts when the initial version no longer suits him."

**CONCLUSIONS OF LAW**

1. In a civil matter, such as the current case, the burden of proof is upon Petitioner to show by the preponderance of the evidence that predisposition should prevail. In this case, the Court finds that Petitioner has failed to prove her existing marriage to Decedent by the preponderance of the evidence.
2. Over a period of many years, Petitioner has entered into five marriages. She presents no evidence of divorce from husbands' number one or two. Her marriage to Decedent ended in a legal separation in 1987 after having been married less than two years. Although there is no evidence that Petitioner and Decedent were divorced in the State of South Carolina, the Court takes notice that there are

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of 6 pages  
John

forty-nine other states in the country where a divorce may have been obtained. There are also other countries which may recognize in which Petitioner and Decedent may have been divorced and this Court has no way of making such determination whether a divorce may have occurred between the parties in another state or another country.

3. Petitioner further presents no evidence of her divorce from husband number four. On the other hand, Petitioner signed an Affidavit under oath on November 5, 2014 in Rowan County, North Carolina on her Certificate of Marriage to James Michael Morris that she was, in fact, divorced. This signature was done under oath. Further, that application indicates that this would be her fourth marriage, while her testimony is, in fact, this would be her fifth marriage. Petitioner is still with Mr. Morris and they are living together in the capacity of husband and wife.

4. By her testimony, Petitioner admits to violation of the Public Policy of South Carolina and further admits to violation of the Criminal Statutes of South Carolina, in that she is committing bigamy with Mr. Morris. By her own testimony, Petitioner states that she has entered into a marriage with not only one individual, but with two individuals, while she was still married to Decedent. Under the doctrine of judicial estoppel, the Court finds that Petitioner is judicially estopped from asserting that she was divorced at the time of her marriage of James Michael Morris. The Affidavit on the Application for Marriage was done under oath in the Probate Court of Rowan County, North Carolina. As the *Hayne Court* noted for the judicial process to properly function, litigants must approach it in a truthful manner and when a party has formerly asserted a certain version of the facts as in this case, they are no longer able to change the facts to suit their purposes.

5. Finally, the Court finds it difficult to be sympathetic to the position of Petitioner. Petitioner has entered into five marriages over a period of number of years. Petitioner and Respondent lived together as husband and wife less than two years. Their relationship dissolved more than thirty years ago. Petitioner has had no relationship with Decedent or with any of his three children, including her own child for over thirty years. Now upon the death of Decedent over thirty years later, she comes

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of 6 pages  
- JSM

into Court asking to be declared as his legal wife and to receive one-half of the intestate estate and one-hundred percent of his pension.

THEREFORE, IT IS HEREBY ORDERED, that:

The Court finds that Petitioner was not the lawful wife of Decedent at his death and her Petition is denied.

Tonya L. Marchant  
The Honorable Tonya L. Marchant  
Probate Judge, Aiken County

Aiken, South Carolina  
Dated: February 22, 2017

*Page # 6  
of 6 pages*

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND  
CORRECT COPY OF THE ORIGINAL ON FILE IN THIS COURT  
WITNESS MY HAND AND SEAL OF THE COURT THIS 22<sup>ND</sup>  
DAY OF February, A.D. 2017

Tonya L. Marchant  
JUDGE OR PROBATE FOR AIKEN COUNTY, S.C.

BY Sheddy CLERK



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN )  
 )  
IN THE MATTER OF )  
BARRY E. ROSIER )  
 )  
Donna M. Rosier, )  
 )  
Petitioner, )  
 )  
vs. )  
 )  
Angelique Michelle Smith, Alexandria R. )  
Downs, individually and as Personal )  
Representative of the Estate of Barry E. )  
Rosier, and Savannah Rosier, )  
 )  
Respondents. )  
 )  
\_\_\_\_\_ )

IN THE PROBATE COURT  
Case No.: 2017-CP02-00593

**ORDER**

This matter was before the Aiken County Probate Court upon the passing of Decedent Barry E. Rosier (“Decedent”) in Case Number 2015-ES02-0860.2. Appellant Donna Rosier (“Appellant”) brought a Declaratory Judgment (“DJ”) action requesting an Order to 1) declare Appellant to be Decedent’s surviving spouse, and 2) amend Decedent’s Death Certificate to reflect Decedent’s correct marital status.

Service to Respondents Angelique Michelle Smith and Savannah Rosier was unsuccessful, to which a Motion for Service by Publication was granted. Respondents Angelique Michelle Smith and Savannah Rosier were subsequently found in default. Service upon Respondent Alexandria R. Downs (“Respondent”) was accepted by and through counsel. Respondent requested by Answer for a judgment to 1) dismiss the DJ, and 2) find that Appellant and Decedent were not married at the time of Decedent’s death.

After Appellant provided a Reply Brief, a hearing was set for January 23, 2017. Upon close of the hearing, the Probate Court provided an Order dated February 22, 2017, finding Appellant was not the lawful wife of Decedent at the time of Decedent's death. Upon receipt of the Order, Appellant timely filed a Motion to Alter or Amend the Probate Court's Order, pursuant to Rule 59(e) SCRPC. Appellant's Motion was subsequently denied. Appellant then timely filed a Notice of Intent to Appeal to the Circuit Court, along with a Statement of the Issues on Appeal, pursuant to S.C. CODE ANN. § 62-1-308 (2014) and Rule 59(f) SCRPC.

This matter was heard before me on Wednesday, October 11, 2017. At that time, the Court heard oral arguments from both parties and reviewed the briefs of parties and the entire record.

Actions for Declaratory Judgment are neither legal nor equitable, but are determined by the nature of the underlying issue. *Felts v. Richland County*, 303 S.C. 354, 357, 400 S.E.2d 781, 782 (1991). The nature of the underlying issue in this case concerns the validity of a marriage contract. Actions concerning contracts are actions at law. *Hofer v. St. Clair*, 298 S.C. 503, 508, 381 S.E.2d 736, 739 (1989). An Appellate Circuit Court may not disturb the Probate Court's finding of fact for proceedings concerning an action at law, unless review of the record discloses no evidence to support them. *Matter of Howard*, 315 S.C. 356 at 361.

After a close review of the record, I find that the record discloses evidence to support the finding of the Probate Court, that Appellant and Decedent were not married at the time of the death of Decedent. Therefore, the decision in the Probate Court is affirmed.

SIGNATURE PAGE TO FOLLOW



Aiken Common Pleas

**Case Caption:** Donna M Rosier VS Angelique Michelle Smith , defendant, et al

**Case Number:** 2017CP0200593

**Type:** Order/Other

So Ordered

s/D.A. Early III 2136

Electronically signed on 2017-12-05 12:02:42 page 3 of 3

STATE OF SOUTH CAROLINA

INDEMNITY NUMBER 2\*

IN THE PROBATE COURT FEB 28 2018

COUNTY OF: AIKEN

**AFFIDAVIT FOR COLLECTION OF PERSONAL PROPERTY  
PURSUANT TO SMALL ESTATE PROCEEDING**

IN THE MATTER OF:  
**BARRY EUGENE ROSIER**  
(Decedent)

CASE NUMBER: 2015-ES02-0860

The undersigned states as follows:

1. Decedent's Information:

Full Legal Name  
(include all known names): BARRY E. ROSIER

Date of Birth: 12/19/1948

Date of Death: 08/16/2015

Age at date of Death: 66

2.  Decedent was domiciled in this county at date of death:

Address: 6312 NORTH SILVERTON STREET, JACKSON County AIKEN State: South Carolina

Decedent was not domiciled in South Carolina, but probate property of Decedent was located in this county at date of death at:

Address: \_\_\_\_\_ County \_\_\_\_\_ State: South Carolina

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 the facility:

3. More than thirty (30) days have passed since the Decedent's death.

4. No Application or Petition for the appointment of a Personal Representative is pending or has been granted in any jurisdiction.

5. This affidavit is pursuant to SCPC 62-3-1201. The successor(s) named herein is/are entitled to the payment of any sums of money due and owing to the Decedent, and to the delivery of all probate tangible personal property belonging to the Decedent and in the possession of another, and to the delivery of all instruments evidencing a debt, obligation, stock, or chose in action belonging to the Decedent in the following proportions. Names and addresses of the Decedent's successors (Example: heirs or devisees) are:

Name of Successor*	Year of Birth	Address	Relationship	Percentage Interest/ Amount
<u>Savannah Rosier</u>	<u>Adult</u>	<u>277 Fairfax St., Martinez, GA 30907</u>	<u>Daughter</u>	
<u>Alexandria Downs</u>	<u>Adult</u>	<u>1450 Old Mitchell Road, Gibson, GA</u>	<u>Daughter</u>	
<u>Angelique M. Smith</u>	<u>Adult</u>	<u>2331 Milledgeville Rd. Lot 11, Augusta, GA</u>	<u>Daughter</u>	
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

See attached sheets for additional successors (check if applicable)

(\*For this purpose, successors include any person(s) who has/have paid reasonable funeral expenses; attach proof of payment.)

ELECTRONICALLY FILED - 2017 May 11 2:12 PM - AIKEN - COMMON PLEAS - CASE#2017CP0200593

FILED ELECTRONICALLY FILED - 2017 May 11 2:12 PM - ALLEN - COMMON PLEAS - CASE#2017CP0200593

6. The value of the entire probate estate wherever located, less liens and encumbrances, does not exceed Twenty-Five Thousand Dollars (\$25,000.00) and does not include any interest in real property as indicated below:

Bank account	\$	Bank Name:	Type of Account:	
Stock	\$	Company Name:	# of shares:	
Unclaimed Property	\$	From:		
Motor Vehicle:	\$	VIN:	YR/MAKE:	MODEL:
Boat/Motor/Trailer:	\$	VIN:	YR/MAKE:	MODEL:
Mobile Home:	\$	VIN: 57-2076-10	YR/MAKE: 1964	MODEL: Valiant
Life Insurance to estate:	\$	Company Name:		
Other Property (specify):	\$			

LIENS/ENCUMBRANCES against above assets (attach proof of encumbrance): \$ \_\_\_\_\_

See attached sheet for additional assets/ encumbrances (check if applicable)

**VERIFICATION**

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

SWORN to before me this 24th day of February, 2016

[Signature]  
Notary Public for South Carolina  
My Commission Expires: 7/19/2021

Signature: [Signature]  
Print Name: Savannah Rosier  
Address: 277 Fairfax Street  
Martinez, GA 30907  
Telephone (Work): \_\_\_\_\_  
(Home): \_\_\_\_\_  
(Cell): (706) 699-8685  
E-mail: \_\_\_\_\_  
Relationship to Decedent/Estate: Daughter

**ORDER FOR PAYMENT OR DELIVERY**

It appears from the foregoing affidavit, the original of which is on file with the Probate Court of this county, that payment or delivery of the property described herein should be made as follows: It is hereby ORDERED that Thomas Ziegler has been reimbursed \$8,717.85 in funeral expenses and remaining assets are to be disbursed to Savannah Rosier for reimbursement of funeral \$6,235.00 and \$45.00 in court costs.

Name of Successor(s)	Address	Relationship	Percentage Interest/ Amount
<u>Savannah Rosier</u>	<u>277 Fairfax Street, Martinez, GA 30907</u>	<u>Daughter</u>	<u>100%</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Upon issuance of this Order, this matter is hereby closed. IT IS SO ORDERED this 24 day of February, 2016

[Signature], Associate Judge  
Alben County, Probate Court Judge

Note: No person who may act in reliance on this affidavit shall incur any liability to the estate of the Decedent.

ELECTRONICALLY FILED - 2017 May 11 2:12 PM - AIKEN - COMMON PLEAS - CASE#2017CP0200593

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN  
IN THE MATTER OF THE ESTATE OF  
BARRY E. ROSIER

IN THE PROBATE COURT  
CASE NO: 2016-ES-02- 0860.2

Donna M. Rosier,  
  
Petitioner,

**SUMMONS**

vs.

Angelique Michelle Smith, Alexandria R.  
Downs, individually and as Personal  
Representative of the Estate of Barry E. Rosier,  
and Savannah Rosier,

Respondents.

TO: THE ABOVE NAMED RESPONDENTS:

**YOU ARE HEREBY SUMMONED** and required to answer the Petition for Declaratory Judgment in the above entitled action, a copy of which is herewith served upon you, the original of which has been filed in the Aiken County Probate Court, and to serve a copy of your Answer to the said Attorneys for the Petitioner, LawyerLisa, LLC, at their office at the address below, within thirty (30) days after the service hereof, exclusive of the day of such service.

**YOU ARE HEREBY GIVEN NOTICE FURTHER** that if you fail to appear and defend and fail to answer the Petition as required by this Summons within thirty (30) days after the service hereof, exclusive of the day of service, judgment by default will be entered against you for the relief demanded in the Petition.

**STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN**

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND  
CORRECT COPY OF THE ORIGINAL ON FILE IN THE COURT  
WITNESS MY HAND AND SEAL OF THE COURT THIS 11th  
DAY OF October, A.D. 2016  
Sue H. Roe  
JUDGE OF PROBATE FOR AIKEN COUNTY, S.C.  
[Signature]  
CLERK

[Signature]  
LAWYERLISA, LLC

Lisa M. Hostetler (SC Bar #76138)  
David Ziegler (SC Bar #102415)  
Renee Ballew (SC Bar #102184)  
534 St. Andrews Road, Suite B  
Columbia, South Carolina 29210  
P: (803) 563-5163  
F: (888) 958-7850  
David@LawyerLisa.com  
Renee@LawyerLisa.com  
Attorneys for Petitioner

Columbia, South Carolina  
October 6, 2016

Filed: 10-11-2016  
Sue H. Roe  
Judge of Probate

By: [Signature]

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN  
IN THE MATTER OF THE ESTATE OF  
BARRY E. ROSIER

Donna M. Rosier,  
Petitioner,

vs.

Angelique Michelle Smith, Alexandria R.  
Downs, individually and as Personal  
Representative of the Estate of Barry E. Rosier,  
and Savannah Rosier,

Respondents.

IN THE PROBATE COURT

CASE NO: 2016-ES-02- 0860. 2

PETITION FOR DECLARATORY JUDGMENT

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND  
CORRECT COPY OF THE ORIGINAL ON FILE IN THIS COURT  
WITNESS MY HAND AND SEAL OF THE COURT THIS THE

11th Day of October AD 2016  
Sue H. Roe  
JUDGE OF PROBATE FOR AIKEN COUNTY, S.C.  
D. Cuffin  
CLERK

The Petitioner, Donna M. Rosier, respectfully shows unto the Court:

1. Decedent, Barry E. Rosier, lived in Aiken County, South Carolina from August 1, 1985 until his date of death.
2. Decedent was taken by ambulance across state lines to the nearest hospital and died in Richmond County, Georgia on August 16, 2015.
3. Decedent's estate was administered in the Aiken County Probate Court.
4. Petitioner is a citizen and resident of Richfield, North Carolina, Stanly County.
5. Respondent Angelique Michelle Smith is the daughter of Decedent and a citizen and resident of Augusta, Georgia, Richmond County.
6. Respondent Alexandria R. Downs is the daughter of Decedent and is a citizen and resident of Gibson, Georgia, Glascock County.
7. Respondent Savannah Rosier is the daughter of Decedent and is a citizen and resident of Jackson, Aiken County, South Carolina.

Filed: 10-11-2016  
Sue H. Roe  
Judge of Probate

By: D. Cuffin

8. Decedent's Death Certificate, issued by the Georgia Department of Health and Environmental Control's ("GA DHEC") Vital Records Office, which is already on file with the Court, lists Decedent's marital status at death as "divorced."
9. Decedent and Petitioner were married on August 1, 1985 as shown on the Marriage License attached hereto as "Exhibit A."
10. A thorough search of the South Carolina Department of Health and Environmental Control's ("SC DHEC") Vital Records reveals no record of any divorce between Decedent and Petitioner from August 1, 1985 through August 16, 2015 as shown by the SC DHEC letter attached hereto as "Exhibit B."
11. Therefore, Decedent and Petitioner were never legally divorced and were still married at the time of Decedent's death.
12. The GA DHEC Vital Records office requires a Court Order to amend a Death Certificate.
13. Petitioner is informed and believes that she is entitled to a declaration from the Court that she is the Decedent's surviving spouse, and, as such, Decedent's death certificate should be amended to correctly reflect Decedent's true marital status.

WHEREFORE, having set forth her Petition, the Petitioner would request that the Court issue an Order as follows:

- A. Declaring Petitioner to be Decedent's surviving spouse;
- B. Ordering Decedent's death certificate be amended to reflect Decedent's correct marital status;
- C. Such other relief that the Court finds is necessary.

LAWYERLISA, LLC

By: 

Lisa M. Hostetler (SC Bar #76138)

David Ziegler (SC Bar #102415)

Renee Ballew (SC Bar #102184)

534 St. Andrews Road, Suite B

Columbia, South Carolina 29210

(803) 563-5163

David@LawyerLisa.com

Renee@LawyerLisa.com

ATTORNEYS FOR PETITIONER

October 6, 2016



Exhibit B



DATE: 9/28/2016

TO WHOM IT MAY CONCERN:

RE: BARRY EUGENE ROSIER  
FILE: 80-20160928-086665

A thorough search of the statewide indexes for a divorce record has been conducted for the years 1985 through 2015 and no record was located for the above-named individual on the basis of the information provided.

We suggest that you contact the Office of the Clerk of Court in the county where the divorce would have been granted for a search of his/her records.

Very truly yours,

Shae R. Sutton, PhD  
Assistant State Registrar  
South Carolina Department of Health and  
Environmental Control

ELECTRONICALLY FILED - 2017 May 11 2:12 PM - AIKEN - COMMON PLEAS - CASE#2017CP0200593

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF AIKEN )  
 )  
 ALEXANDRIA R. DOWNS, as Personal )  
 Representative of the Estate of Barry E. )  
 Rosier, Decedent, )  
 Petitioner. )  
 )  
 ALEXANDRIA R. DOWNS, individually, )  
 SAVANNAH ROSIER, and ANGELIQUE )  
 M. SMITH, )  
 Respondents. )

IN THE PROBATE COURT  
SECOND JUDICIAL CIRCUIT

Case No.: 2015-ES02-0860

**ANSWER**

COMES NOW, the Respondent, Alexandria R. Downs, in her capacity as Personal Representative of the Estate of Barry E. Rosier, and hereby answers the Petition as follows:

**FOR A FIRST DEFENSE**

1. That each and every allegation of the Petition, except as hereinafter admitted, modified, denied, or explained, is hereby denied.
2. That Paragraphs 1 and 2 of the Petition are hereby admitted.
3. That as to Paragraph 3, that Decedent's estate is currently under administration in Probate Court of Aiken County, South Carolina, Case No.: 2015-ES02-0860, and that Respondent has been appointed and is currently acting as Personal Representative of the estate.
4. That as to Paragraph 4, Respondent denies the allegations for lack of information upon which to form a belief.
5. That Paragraphs 5, 6, 7, 8, and 9 are hereby admitted.
6. That as to Paragraph 10, the allegations are hereby denied for lack of information upon which to form a belief and Respondent craves reference to any appropriate and admissible documents.
7. That Paragraph 11 is hereby denied.

Filed: 11/17/2016  
 Sue H. Roe  
 Judge of Probate  
 By: W. D. Bell & P.

8. That the allegations contained in Paragraph 12 are hereby denied for lack of information upon for which to form a belief.

9. That as to Paragraph 13, the allegations are hereby denied.

**FOR A SECOND DEFENSE**

10. That Respondent alleges that Petitioner legally divorced Decedent prior to his death.

11. That Petitioner obtained a marriage license in Rowan County, North Carolina which was issued on November 5, 2014 in order to marry James Michael Morris, and is attached hereto as Exhibit "A". That the application for said marriage license was signed by Petitioner, and that Paragraph 19 thereof indicates that Petitioner swears under oath that she was divorced from her most recent marriage.

12. That said marriage license was returned to the Register of Deeds in Rowan County, North Carolina on November 20, 2014, and was signed by the officiant of the marriage, indicating that Petitioner was indeed married to James Michael Morris on November 5, 2014.

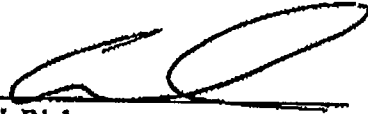
WHEREFORE, Respondent prays judgment as follows:

1. For dismissal of Petition.
2. For finding of this Court that Petitioner and Decedent were not married at the time of the death of Decedent.
3. For such other and further relief that the Court may deem just and proper.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

Filed: 11/17/2016  
Sue H. Roe  
Judge of Probate  
By: W. Bullock

ARTHUR W. RICH, P.C.



Arthur W. Rich  
Attorney for Petitioner  
P. O. Drawer 1690  
Aiken, SC 29802  
803-649-3923 Phone  
803-649-1701 Fax  
[brich@buzzrich.com](mailto:brich@buzzrich.com)  
S.C. Bar #4712

Aiken, South Carolina

Dated: 11-16-16

ELECTRONICALLY FILED - 2017 May 11 2:12 PM - AIKEN - COMMON PLEAS - CASE#2017CP0200593

EXHIBIT "A"

Doc ID: 012265020001 Type: MAR  
Filed 2014-00000699  
Book 34 Page 1153

APPLICATION, LICENSE AND CERTIFICATE OF MARRIAGE

STATE OF NORTH CAROLINA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES - NO. VITAL RECORDS

2014-00000699  
LICENSE NUMBER

Rowan  
COUNTY

13 NAME FIRST: JAMES MIDDLE: MICHAEL LAST: MORRIS		14 SEX: M	
17a RESIDENCE-STATE: NORTH CAROLINA		17b COUNTY: ROWAN	
18 STREET AND NUMBER: 190 WILDLIFE ACCESS RD		19 CITY, TOWN, OR LOCATION: RICHFIELD	
20 PARCEL'S NAME AT PARENT'S BIRTH: BENNIE JAMES MORRIS		21 STATE OF BIRTH: OKLAHOMA	
22 PARENT'S NAME AT PARENT'S BIRTH: MARGRET ELIZABETH LAWSON		23 STATE OF BIRTH: NEW JERSEY	
24 RACE (Full name): WHITE		25 NUMBER OF THIS MARRIAGE (FIRST, SECOND, ETC. (None)): THIRD	
26 LAST MARRIAGE (Date, State, or Finalized (Divorce))		27 EDUCATION (Specify Highest Grade Completed)	
28 DATE: 6/1986		29 ELEMENTARY: YES	
30 HIGH SCHOOL: YES		31 COLLEGE: YES	
32 STATE OF BIRTH: NORTH CAROLINA		33 CITY, TOWN, OR LOCATION: RICHFIELD	
34 STREET AND NUMBER: 190 WILDLIFE ACCESS RD		35 PARCEL'S NAME AT PARENT'S BIRTH: VERDELL HARDY LAWSON	
36 STATE OF BIRTH: GEORGIA		37 STATE OF BIRTH: GEORGIA	
38 RACE (Full name): WHITE		39 NUMBER OF THIS MARRIAGE (FIRST, SECOND, ETC. (None)): FOURTH	
40 LAST MARRIAGE (Date, State, or Finalized (Divorce))		41 EDUCATION (Specify Highest Grade Completed)	
42 DATE: 7/1986		43 ELEMENTARY: YES	
44 HIGH SCHOOL: YES		45 COLLEGE: YES	

WE HEREBY MAKE APPLICATION TO THE REGISTER OF DEEDS FOR A MARRIAGE LICENSE AND SOLEMNLY SWEAR THAT ALL OF THE STATEMENTS CONTAINED IN THE ABOVE APPLICATION ARE TRUE. WE FURTHER MAKE OATH THAT THERE IS NO LEGAL IMPEDIMENT TO SUCH MARRIAGE.

SIGNATURE OF APPLICANT: *James Michael Morris*  
SIGNATURE OF APPLICANT: *Marie Rosier*

Doc ID - 012265020001

SWORN TO AND SUBSCRIBED BEFORE ME THIS  
November 05, 2014

Harry L. Welch Jr.  
REGISTER OF DEEDS

*Deirdre Johnson*  
DEPUTY / ASSISTANT

16 I CERTIFY THAT THE ABOVE NAMED PERSONS WERE MARRIED ON		17a PLACE OF MARRIAGE - COUNTY: Rowan
18 SIGNATURE OF OFFICIANT: <i>James H. Brown</i>		19 TITLE: Minister
20 NAME OF OFFICIANT (PRINT TYPE): James H. Brown		21 ADDRESS: 110 N. Liberty St. Salisbury, NC
22 SIGNATURE OF WITNESS: <i>James Harris</i>		23 RESIDENCE OF WITNESS: 2770 Danville Rd. Salisbury, NC
24 NAME OF WITNESS (PRINT TYPE): James Harris		25 ADDRESS OF WITNESS: 2770 Danville Rd. Salisbury, NC

DATE RETURNED TO REGISTER OF DEEDS: 11.20.2014  
OHS 2123  
N.C. VITAL RECORDS (Revised 1/22/14)

REGISTER OF DEEDS COPY

ELECTRONICALLY FILED - 2017 May 11 2:12 PM - AIKEN - COMMON PLEAS - CASE#2017CP0200593

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN )  
 )  
IN THE MATTER OF: )  
BARRY EUGENE ROSIER )  
Deceased )  
 )  
 )  
Summons and Petition For )  
Declaratory Judgement filed )  
By Donna Rosier )  
 )

IN THE PROBATE COURT  
Case Number: 2015-ES02-0860.2  
TRANSCRIPT OF HEARING

**HEARING:**

January 23, 2017

**BEFORE:**

The Honorable Tonya L. Marchant  
Judge of Probate  
Aiken County, South Carolina

**APPEARANCES:**

Donna Rosier  
Alexandria Downs  
Angelique Smith  
Joseph Smith  
Savannah Ziegler  
M. Hambrick

**APPEARANCE OF COUNSEL:**

Lisa M. Hostetler, Esquire:  
David Ziegler, Esquire:

Attorney for Donna Rosier  
Attorney for Donna Rosier

Arthur W. Rich, Esquire:

Attorney for Alexandria Downs

Honorable Tonya L. Marchant:

This hearing is being held in the Probate Court for Aiken County, South Carolina on the 23<sup>rd</sup> day of January 2017. The matter before the Court today is a Summons and Petition For Declaratory Judgement filed by Donna Rosier who is the Personal Representative of this estate. I am sorry she is not the Personal Representative. Ms. Hostetler you represent Ms. Rosier?

L. Hostetler, Esquire:

Correct Your Honor.

Honorable Tonya L. Marchant:

And Ms. Rosier is present in the Courtroom today?

L. Hostetler, Esquire:

Yes Your Honor.

Honorable Tonya L. Marchant:

There is also an Answer that has been filed in this matter by Ms. Alexandria Downs, and is that you ma'am?

A. Downs:

Yes ma'am.

Honorable Tonya L. Marchant:

And you are represented by Mr. Rich?

A. Downs:

Yes ma'am.

Honorable Tonya L. Marchant:

Mr. Arthur Rich? Mr. Arthur Rich is also present in the Courtroom?

A. Downs:

Yes ma'am.

Honorable Tonya L. Marchant:

There is also a reply to the Answer that was filed December 21, 2016 by Ms. Rosier and that is a matter of the record. The Court's record should also reflect that an Affidavit of Publication has been handed to the Court reflecting that this matter was scheduled and was published in the Augusta Chronicle on December 13, December 20 and December 27, 2016. I think the Affidavit of Publication, Ms. Hostetler, says 2017 but is actually December 13, 20 and 27 of 2016.

L. Hostetler, Esquire

Yes Your Honor and I am sorry about that.

Honorable Tonya L. Marchant:

That would not be your error that is the newspaper's error. There are also other parties present in the Courtroom and sir if you would just stand and state your name for the record and your capacity of being here today.

D. Ziegler:

My name is David Ziegler and I am Ms. Hostetler's associate.

Honorable Tonya L. Marchant:

Thank you. Ma'am in blue?

A. Smith:

My name is Angelique Smith and I am Barry Rosier's Daughter.

Honorable Tonya L. Marchant:

Thank you.

Donna M. Rosier - Direct Examination by  
Lisa M. Hostetler

S. Ziegler: Savannah Ziegler and I am Barry Rosier's daughter.

Honorable Tonya L. Marchant: Thank you.

Gentleman: (Inaudible)

Honorable Tonya L. Marchant: Thank you.

M. Hambrick: (Inaudible)

Honorable Tonya L. Marchant: I am sorry I did not get your name.

M. Hambrick: Hambrick

J. Smith: And I am Joseph Smith Angelique's husband.

Honorable Tonya L. Marchant: Thank you sir. Good to have you all here today. And you said Savannah your last name?

S. Zeigler: Ziegler.

L. Hostetler, Esquire: No relation Your Honor.

D. Ziegler: As far as I know.

Honorable Tonya L. Marchant: As far as you know? We just had it down as Rosier so I wanted to make sure. So it is Savannah Rosier Ziegler. Okay. I just want to make sure I have it right. The Court would be happy to hear you on your Summons and Petition at this time.

L. Hostetler, Esquire: Thank you Your Honor. Your Honor I would like to call Donna Rosier to be sworn in.

Honorable Tonya L. Marchant: Left hand on the bible and raise your right hand. The testimony you are about to give in this matter shall be the truth, the whole truth and nothing but the truth so help you God.

D. Rosier: I do.

Honorable Tonya L. Marchant: State your name.

D. Rosier: Donna Rosier.

L. Hostetler, Esquire: Ms. Rosier, can you please state your full name for the Court.

D. Rosier: Donna Marie Rosier.

L. Hostetler, Esquire: And what is your address?

D. Rosier: 190 Wildlife Road Richfield, North Carolina 28127.

L. Hostetler, Esquire: And about how long have you been living at that address?

Page 2

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**D. Rosier:** I have been there for six years.

**L. Hostetler, Esquire:** And have you ever lived in South Carolina before?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** And do you know the approximate time frame that you lived in South Carolina?

**D. Rosier:** I lived in South Carolina until I was about twenty-seven and then I moved to Augusta, Georgia back and forth because my Mom lives in South Carolina. I was in Arizona for two years.

**L. Hostetler, Esquire:** When you were going back and forth, you mean going back and forth between Georgia and South Carolina.

**D. Rosier:** Going to see my Mom just visiting from Georgia to Jackson, South Carolina.

**L. Hostetler, Esquire:** And how did you know Mr. Rosier? When did you meet Mr. Rosier?

**D. Rosier:** I met Mr. Rosier in 1985. I have known Barry since I was, excuse me Mr. Rosier, I knew him since I was about ten years old. My family and his family was very close friends. Going to church and eating dinner with each other, after church dinners and going to prayer meeting. They were all really close friends and I met him again when I was twenty-five and we kind of hooked up and got married real quick like. One weekend we went on vacation to Savannah and we came home and got married.

**L. Hostetler, Esquire:** So you said you were twenty-five? When you got married?

**D. Rosier:** I think it was.

**L. Hostetler, Esquire:** About how old was he at that time?

**D. Rosier:** He was thirty or thirty something.

**L. Hostetler, Esquire:** Can you take a look at this. Is that your signature on there?

**D. Rosier:** Yes ma'am.

**L. Hostetler, Esquire:** And is that Barry's signature on there?

**D. Rosier:** Yes ma'am.

**L. Hostetler, Esquire:** What date is that?

**D. Rosier:** August 1.

**L. Hostetler, Esquire:** What year?  
Page 3

**D. Rosier:** 1985.

**L. Hostetler, Esquire:** So you guys were legally married in 1985 in Aiken, South Carolina?

**D. Rosier:** Yes ma'am.

**L. Hostetler, Esquire:** And that is what this document says?

**D. Rosier:** Yes ma'am.

**L. Hostetler, Esquire:** Your Honor I would like to admit this.

**Honorable Tonya L. Marchant:** Thank you. License and certificate of marriage a copy of is marked as Petitioner's exhibit number one.

**L. Hostetler, Esquire:** So this marriage license dated August 1, 1985 is when you got married. Did you ever then get separated from Mr. Rosier?

**D. Rosier:** We were separated about two years later. I can't exactly remember that day I left. It was right after school was out. I went through a shelter for abused women.

**L. Hostetler, Esquire:** You went to a shelter?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** And that is why you left?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** And you never went back to him after that?

**D. Rosier:** No.

**L. Hostetler, Esquire:** I am showing you a document that says in the Family Court of the Second Judicial Circuit State of South Carolina County of Aiken Donna M. Rosier Petitioner versus Barry E. Rosier Respondent. It has an Order but it is a little hard to read but it looks like 87DR02-845. Have you ever seen this document before?

**D. Rosier:** Yes ma'am.

**L. Hostetler, Esquire:** So there was a hearing held on July 6, 1987?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** So that would be about two years after you were married?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** So both of you appeared is that correct?

**D. Rosier:** That is right.

**L. Hostetler, Esquire:** It says that the parties are residents of Aiken County South Carolina. They are husband and wife living apart and are the parents of one minor child. Who was the child that both of you had together?

**D. Rosier:** Savannah.

**L. Hostetler, Esquire:** And that is who is here today?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** It says the minor child has been in the custody of the wife since the separation of the parties. The wife is a fit and proper person to have custody. The husband does not object to an Order granting temporary custody to the wife. Did you maintain custody of Savannah?

**D. Rosier:** Up to 14 and then she went to live with her sister. She went to live with Alexis.

**L. Hostetler, Esquire:** How old was she roughly when this was signed back in 1987?

**D. Rosier:** She was born in August so she was almost a year old.

**L. Hostetler, Esquire:** So a baby?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** It says you were unemployed and your only income was 160.00 monthly support for two children by a prior marriage. You were enrolled in school at the time of the marriage which the expenses were paid for by a grant but the husband insisted that you discontinue your studies. She had applied for and been approved for a grant that would help support the parties child. Was that your goal at the time?

**D. Rosier:** Yes it was.

**L. Hostetler, Esquire:** It says the husband is unemployed but draws unemployment compensation benefits. Was that true at the time?

**D. Rosier:** Yes ma'am.

**L. Hostetler, Esquire:** There is no evidence that he is not able bodied. He last worked approximately six weeks ago as a bottlemaker. Is that what he generally did for a trade?

**D. Rosier:** Yes ma'am.

**L. Hostetler, Esquire:** He belongs to the boilermaker's union. He expects employment soon and he makes \$16.60 an hour when he is employed as a boilermaker. He is able to pay alimony and support in the amount of \$50.00 weekly. It was your understanding that he was to pay \$50.00 weekly?

**D. Rosier:** Yes ma'am.

**L. Hostetler, Esquire:** And did he ever pay any money in child support or alimony?

**D. Rosier:** He paid \$100.00 the first week after this and I never received another cent after that.

**L. Hostetler, Esquire:** So he paid the first week after this Order when your child was almost one year old, a baby? He never paid anything after that?

**D. Rosier:** Nothing. No doctor bills, nothing.

**L. Hostetler, Esquire:** In your Petition it says under number five that the husband be required to keep her and the minor child covered by medical insurance through his employment this is in the best interest of the wife and the minor child. Did he maintain medical insurance?

**D. Rosier:** He had insurance but he never paid anything. He never did send the card and he never paid any of the bills.

**L. Hostetler, Esquire:** Number seven the wife requests that the visitation with the minor child by the husband be supervised by the husband's mother. The wife has alleged abuse of her children by the husband. It is in the best interest of the minor child that visitation by the husband be supervised as requested by the wife at this time. So during this time period after this when Savannah was about one years old was he receiving visitation when she was young?

**D. Rosier:** He saw her one time. He was to call Ms. Kosinsky and tell her when he was in town when he wanted to see Savannah and I would take Savannah up to his Mom and Dads and they would supervise while she was there and she would stay for two to four hours I have forgotten exactly how many hours and he did it one time and I never received, I called Ms. Kosinsky every weekend, one for the visitation to see if he was going to see her and two to see if, because he was to pay my child support or alimony whatever to her and not to me. It was to be paid to Ms. Kosinsky, so I would call her to find out if he wanted to see Savannah and if he had paid anything as far as child support.

**L. Hostetler, Esquire:** And that is under number nine. It says the husband shall be required to pay temporary support of \$50.00 weekly for the minor child. The wife is entitled to alimony. The husband shall pay \$50.00 weekly as temporary alimony. You are saying he only paid a total of \$100.00 towards that?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** The rest of that is just the Order. Your Honor, I would like to admit this as our second Exhibit.

**Honorable Tonya L. Marchant:** Any objection Mr. Rich.

**A. Rich, Esquire:** No objection.

**Honorable Tonya L. Marchant:** Order in the Family Court of the Second Judicial Circuit will be marked as Petitioner's exhibit number two. You may continue.

**L. Hostetler, Esquire:** I am handing you another Order subsequent to the one I just handed to you. This one is dated the 16<sup>th</sup> day of September 1987. It says, the gist of this is, the parties have reached an agreement and the Court is ordering, the wife shall have custody of the minor child. You did maintain custody after that last Order?

**D. Rosier:** Yes ma'am.

**L. Hostetler, Esquire:** The husband shall have visitation with the minor child every Sunday from 2 to 5 p.m. provided that visitation will be in the presence and supervised by the husband's mother. You said after this Order he did that?

**D. Rosier:** He saw her one time and never called or asked to see her again.

**L. Hostetler, Esquire:** It says he will pay support of \$50.00 he shall pay delinquent support in the amount of \$400.00, delinquent alimony in the amount of \$500.00. It says wife waives all claims of future alimony and then a few other items. Your Honor I would like to admit this.

**Honorable Tonya L. Marchant:** Family Court Order dated September 16, 1987 will be marked as Petitioner's Exhibit Number 3. Without objection Mr. Rich?

**A. Rich, Esquire:** No objection.

**Honorable Tonya L. Marchant:** You may continue.

**L. Hostetler, Esquire:** After those two Orders for the support, alimony, dealing with some personal property are you aware of any other Court Orders regarding your relationship with Mr. Rosier?

**D. Rosier:** No.

**L. Hostetler, Esquire:** Did, to your knowledge did Mr. Rosier ever file a divorce action against you?

**D. Rosier:** No.

**L. Hostetler, Esquire:** Did you file an action against Mr. Rosier for divorce?

**D. Rosier:** No.

**L. Hostetler, Esquire:** You said you lived in South Carolina, Georgia, Arizona and North Carolina. Were you ever served with any pleadings for a divorce in any of those states by Mr. Rosier?

**D. Rosier:** No.

**L. Hostetler, Esquire:** While you were living in any of those states did you ever serve Mr. Rosier with any pleadings for divorce?

**D. Rosier:** No.

**L. Hostetler, Esquire:** Once you separated from Mr. Rosier it sounds like he didn't have much interaction with you?

**D. Rosier:** No.

**L. Hostetler, Esquire:** It also sounds like he didn't have much interaction with Savannah during this time.

**D. Rosier:** No.

**L. Hostetler, Esquire:** You said he didn't start having interaction with Savannah until she was about how old?

**D. Rosier:** He saw her one time when she was ten. Me and Alexis, Savannah the kids went over to his house and we had a cookout in his backyard. I think we spoke maybe ten words to each other. He looked at Savannah and that was it. He didn't say anything to her, play with her or anything else. After that when she went to live with Alexis he started seeing her then.

**L. Hostetler, Esquire:** Around 1996 or so you were in a relationship, or were you in a relationship with someone by the name of Carl Holling?

**D. Rosier:** Yes ma'am.

**L. Hostetler, Esquire:** What kind of relationship was that?

**D. Rosier:** It was a very abusive, mentally, physically, a very bad relationship.

**L. Hostetler, Esquire:** Did Mr. Holling and you discuss the status of your relationship?

**D. Rosier:** He knew I was married.

**L. Hostetler, Esquire:** He knew you were still married to Mr. Rosier?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** Did you guys discuss that you would get divorced from Mr. Rosier?

**D. Rosier:** No.

**L. Hostetler, Esquire:** Did Mr. Holling and you go to, attempt to get a new marriage license?

**D. Rosier:** Mr. Holling threatened me that if I didn't marry him that he would take Savannah and Ashley and I would never see them again. I truly truly believed he would have.

**L. Hostetler, Esquire:** And at that time were you able to support yourself?

**D. Rosier:** No.

**L. Hostetler, Esquire:** And was he helping to support you?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** Was he in charge of any of your assets or the things that you owned?

**D. Rosier:** He took all the, I had, I was and he just took everything and it was his. I didn't have nothing it was in his name. I was scared. I had three kids and felt trapped.

**L. Hostetler, Esquire:** And while all this was going on were you thinking about or was Mr. Rosier in the picture at all?

**D. Rosier:** He wasn't in the picture?

**L. Hostetler, Esquire:** Were you concerned about how this, were you worried about how this would impact anything to do with Mr. Rosier?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** What were you concerned about?

**D. Rosier:** I was scared I would go to jail because of this.

L. Hostetter, Esquire: And how long were you with Mr. Holling?

D. Rosier: Ten years.

L. Hostetter, Esquire: And why did you, how did you finally get away from him?

D. Rosier: With the help of DSS.

L. Hostetter, Esquire: What?

D. Rosier: With the help of DSS.

L. Hostetter, Esquire: With the help of DSS? Can you explain that, what that is.

D. Rosier: He sexually molested Savannah and DSS came in and took the kids and he would not go away, he kept coming back and finally DSS went to Court and he can't come back in Carolina or he goes to jail. They did put him in jail for three months. That is how I got away from him. I started working and (Inaudible)

L. Hostetter, Esquire: I know this is hard and I am sorry. After your relationship with Mr. Holling ended where did you move to or where were you living after that?

D. Rosier: I was working at a sewing factory and living in Edgefield.

L. Hostetter, Esquire: What kind of a factory were you working in?

D. Rosier: A sewing factory.

L. Hostetter, Esquire: A sewing factory and what did you do there?

D. Rosier: We sewed great big filters. I just know they went to Brazil. We had one called big Bertha and it was about as big as this room and we just sewed them together and I worked there for about two years.

L. Hostetter, Esquire: And at some point, when did you meet Jim Morris?

D. Rosier: I was up in Greenwood, South Carolina and Savannah was living with Alexis at this time and Ashley was back in DSS because of running away and jumping out of the windows at two o'clock in the morning. I couldn't control her.

L. Hostetter, Esquire: I am sorry to interrupt but who was that?

D. Rosier: Ashley. Ashley is the youngest one, the baby. So, she went back into DSS and I went to Edgefield and I went up to Greenwood and I was going to Piedmont Tech up in Greenwood and then I moved up to North Carolina.

**L. Hostetler, Esquire:** And why were you going to Piedmont Tech?

**D. Rosier:** I was trying to take medical nursing again and it just wasn't going to good.

**L. Hostetler, Esquire:** Have you ever gotten a college degree?

**D. Rosier:** No ma'am.

**L. Hostetler, Esquire:** Do you have a high school diploma?

**D. Rosier:** I have a GED.

**L. Hostetler, Esquire:** You have a GED from high school? What high school?

**D. Rosier:** I was going to Southgate Baptist Church and school. Got married when I was sixteen so I went back and got my GED.

**L. Hostetler, Esquire:** In 2014 you went to apply for another marriage license?

**D. Rosier:** Yes ma'am.

**L. Hostetler, Esquire:** In what state?

**D. Rosier:** North Carolina.

**L. Hostetler, Esquire:** And this is with Jim Morris?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** Were you thinking about Mr. Rosier at that time?

**D. Rosier:** I didn't know if he had gone and got a publicized divorce or something, I mean twenty something years he is bound to have done something. He was always financially able to do a lot better than I was.

**L. Hostetler, Esquire:** So you didn't know what he had done?

**D. Rosier:** No.

**L. Hostetler, Esquire:** Were you very concerned about it?

**D. Rosier:** No.

**L. Hostetler, Esquire:** Did you call him at that point?

**D. Rosier:** I have never had his phone number.

**L. Hostetler, Esquire:** Did you write him a letter at that point to ask him?

**D. Rosier:** No.

**L. Hostetler, Esquire:** You guys were living separate lives at that point?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** Is it fair to say that you were not concerned with what he was doing in his life at that point or who he was with?

**D. Rosier:** Fair to say.

**Honorable Tonya L. Marchant:** Would you repeat that for the record.

**D. Rosier:** Yes ma'am. Yes.

**L. Hostetler, Esquire:** This next document, this is a document that my office requested, it is a letter from DHEC, South Carolina Department of Health and Environmental Control dated September 28, 2016. Mr. Rosier had passed away by now hadn't he?

**D. Rosier:** Yes ma'am.

**L. Hostetler, Esquire:** This letter says a thorough search of state-wide indexes for divorce records has been conducted for the years 1985 through 2015 and no record was located for the above-named individual on the basis of the information provided. We suggest that you contact the office of the Clerk of Court in the County where the divorce would have been granted for a search of his or her records. So, you understand this letter was us searching to see if he ever filed for a divorce?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** And is this consistent with what your understanding is?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** So you never knew of any divorce and you were never served with any divorce?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** And this letter again confirms what you thought?

**D. Rosier:** Yes.

**L. Hostetler, Esquire:** Your Honor, I would like to admit this as a fourth exhibit.

**Honorable Tonya L. Marchant:** DHEC letter dated September 28, 2016 will be marked as Petitioner's exhibit number four. You may continue.

**L. Hostetler, Esquire:** That is all I have Your Honor.

Donna M. Rosier - Cross Examination by  
Arthur W. Rich

Honorable Tonya L. Marchant: Ms. Rosier please answer any questions that Mr. Rich may have of you at this time.

A. Rich, Esquire: Your paperwork says that your name is Rosier. Ms. Hosteller has been calling you Rosier. You have been using the last name of Morris for the last ten or twelve years have you not?

D. Rosier: Not ten or twelve years no.

A. Rich, Esquire: How long have you been using the name Morris?

D. Rosier: Two.

A. Rich, Esquire: Two years. I don't want to insult you by calling you the wrong name. Do you want me to call you Morris or Rosier?

D. Rosier: Rosier.

A. Rich, Esquire: The certificate of marriage that has been introduced into evidence with Mr. Barry Rosier indicates that your name is Donna Marie McKeazie? Was that your maiden name?

D. Rosier: No.

A. Rich, Esquire: What was your maiden name?

D. Rosier: Lawson.

A. Rich, Esquire: Who was your first husband?

D. Rosier: Wayne Smith.

A. Rich, Esquire: Brian Smith?

D. Rosier: Wayne Smith.

A. Rich, Esquire: When did you marry Mr. Smith?

D. Rosier: 1978.

A. Rich, Esquire: Did you get a marriage license to marry Mr. Smith?

D. Rosier: Yes.

A. Rich, Esquire: Where was that?

D. Rosier: Aiken County.

A. Rich, Esquire: And did you subsequently divorce Mr. Smith?

D. Rosier: Yes.

A. Rich, Esquire: Where was that?  
D. Rosier: Hall County.  
A. Rich, Esquire: I am sorry what?  
D. Rosier: Hall. That is in Gainesville, Georgia.  
A. Rich, Esquire: When was that?  
D. Rosier: I do not know. About eight one.  
A. Rich, Esquire: You got a divorce decree?  
D. Rosier: Yes.  
A. Rich, Esquire: In Georgia?  
D. Rosier: Yes.  
A. Rich, Esquire: And then who was your second husband?  
D. Rosier: Rusty McKenzie.  
A. Rich, Esquire: And when did you marry Mr. McKenzie?  
D. Rosier: Eighty-two but I can't tell you the month.  
A. Rich, Esquire: Where was that?  
D. Rosier: Aiken County.  
A. Rich, Esquire: Did you get a license to marry Mr. McKenzie?  
D. Rosier: Yes.  
A. Rich, Esquire: And did you later divorce Mr. McKenzie?  
D. Rosier: Yes.  
A. Rich, Esquire: Where did you get the divorce?  
D. Rosier: Aiken County.  
A. Rich, Esquire: What year was that?  
D. Rosier: Eighty-four. Eighty-three or Eighty-four I am not sure on that one.  
A. Rich, Esquire: Was that in Aiken County?  
D. Rosier: Yes.  
A. Rich, Esquire: And you went through a divorce?

D. Rosier: Yes.

A. Rich, Esquire: Then you married Mr. Rosier in 1985?

D. Rosier: Yes.

A. Rich, Esquire: And that was August 1<sup>st</sup> 1985 correct?

D. Rosier: Correct.

A. Rich, Esquire: The separation papers were in the spring, I believe of 1987?

D. Rosier: Yes.

A. Rich, Esquire: You were separated from him by the early spring of 1987?

D. Rosier: It wasn't early spring.

A. Rich, Esquire: Let's see when these documents were dated. July 8, 1987 was I believe the first one.

D. Rosier: July.

A. Rich, Esquire: So how long before these papers were filed that you were separated from him?

D. Rosier: I don't know. I did it right after I went into the shelter because they always help you do things like that. So I would say maybe a week.

A. Rich, Esquire: So anyway you were with Mr. Rosier as husband and wife for less than two years?

D. Rosier: I guess.

A. Rich, Esquire: You didn't get back together with him after these Orders were signed did you?

D. Rosier: No.

A. Rich, Esquire: Then I believe your testimony was that a Mr. Carl Joseph Holling, where did you meet him?

D. Rosier: Augusta.

A. Rich, Esquire: Augusta okay. Then you moved to Arizona with him?

D. Rosier: Yes.

A. Rich, Esquire: Did you go through a marriage ceremony with him?

D. Rosier: Yes.

A. Rich, Esquire: Did you get a marriage license to marry Mr. Holling?

- D. Rosier: Yes.
- A. Rich, Esquire: You did even though you know, as you are testifying now, that you were not divorced from Mr. Rosier?
- Honorable Tonya L. Marchant: Please answer that.
- D. Rosier: Yes. I am so sorry.
- Honorable Tonya L. Marchant: That is okay.
- A. Rich, Esquire: Do you recall when you got the marriage license with Mr. Holling whether you were asked if you were legally able to enter into a marriage or legally divorced.
- D. Rosier: I don't understand what?
- A. Rich, Esquire: In some states the marriage license such as the one you got in North Carolina asked you if you are able to legally enter into a marriage or whether you are single, divorced or whatever. When you married Mr. Holling did you have a license that said one way or the other whether you were legally able to marry him?
- D. Rosier: I really don't remember.
- A. Rich, Esquire: But you admit you went through a marriage ceremony with Mr. Holling?
- D. Rosier: Yes.
- A. Rich, Esquire: And that was in the early nineties?
- D. Rosier: Yes.
- A. Rich, Esquire: Did you live with Mr. Holling for some period of time after that?
- D. Rosier: Not long.
- A. Rich, Esquire: How long?
- D. Rosier: About two or three months.
- A. Rich, Esquire: Two or three months. Did you use the name Holling during that time?
- D. Rosier: No.
- A. Rich, Esquire: Did you later get a divorce from Mr. Holling?
- D. Rosier: No. He is dead. He is deceased.
- A. Rich, Esquire: He died while you were married?
- D. Rosier: Not while we were together.

A. Rich, Esquire: When did he die?

D. Rosier: Four or five years ago.

A. Rich, Esquire: Okay. And then you got a marriage license to marry Mr. Morris?

D. Rosier: I plead the fifth on this one.

A. Rich, Esquire: I'm sorry?

D. Rosier: I plead the fifth on that one.

A. Rich, Esquire: I still didn't hear you I am sorry.

D. Rosier: I plead the fifth on that one.

A. Rich, Esquire: You plead the fifth. Let me show you this document and see if you can identify it.

D. Rosier: That is a marriage license.

A. Rich, Esquire: Can you identify that document?

D. Rosier: It is a marriage license.

A. Rich, Esquire: What is it?

D. Rosier: A marriage license.

A. Rich, Esquire: For yourself and Mr. Morris?

D. Rosier: Yes.

A. Rich, Esquire: We would like to introduce this as an Exhibit. I have some questions to ask you about this so I am going to give you a copy of it.

Honorable Tonya L. Marchant: Mr. Rich, one second, Ms. Hostetler is there any objection to the application, license and certificate of marriage being introduced?

L. Hostetler, Esquire: No objection Your Honor.

Honorable Tonya L. Marchant: License Number 2014-00000699 marked as Respondent' exhibit number one.

A. Rich, Esquire: Ms. Rosier, this indicates that you and Mr. James Michael Morris applied for a marriage license on November 5, 2014, does it not?

D. Rosier: Yes.

A. Rich, Esquire: Okay. Is that your signature on that document?

D. Rosier: Yes

A. Rich, Esquire: Is it Mr. Morris's signature on it?

D. Rosler: Yes.

A. Rich, Esquire: It indicates at that time that you were living in the state of North Carolina in Rowan County, is that right?

D. Rosler: Yes.

A. Rich, Esquire: And you both signed the license and is that date correct?

D. Rosler: Yes.

A. Rich, Esquire: November 5<sup>th</sup> 2014?

D. Rosler: Yes.

A. Rich, Esquire: And I would point out to you about two thirds of the way down the page it says sworn to and subscribed before me this November 5<sup>th</sup>, 2014 signed by Harry L. Wilkes, Jr. Register of Deeds and Deldra Graham, it looks like Deputy Assistant would you agree with that?

D. Rosler: Yes.

A. Rich, Esquire: Would you also agree that you were under oath when you signed this document? It says sworn to before me.

D. Rosler: Yes.

A. Rich, Esquire: I would also point out to you on about the fifth line from the top, about the middle of the page under your name it indicates that your previous address was in Jackson, South Carolina, I'm sorry that was your Mother's address. I don't want to mistake this. You were age fifty-two at that time. It indicates under number eighteen that this was your fourth marriage. And it indicates that, do you see where number nineteen where it says last marriage ended by, it says divorce?

D. Rosler: Yes.

A. Rich, Esquire: So you admit signing this document?

D. Rosler: Yes.

A. Rich, Esquire: Where you were under oath and you stated that you were divorced at that time correct?

D. Rosler: Yes.

A. Rich, Esquire: So you and Mr. Morris entered into a marriage ceremony correct?

D. Rosler: Yes.

A. Rich, Esquire: This document also indicates at the bottom at the very bottom date returned to register of deeds November 20, 2014. So the license was returned then to Register's office by the person who married you?

D. Rosler: Yes.

A. Rich, Esquire: Are you still with Mr. Morris?

D. Rosler: Yes.

A. Rich, Esquire: You have been using his last name for at least the past two years?

D. Rosler: Yes.

A. Rich, Esquire: But you are now saying that you are not legally married to Mr. Morris?

D. Rosler: No I am not legally married to Mr. Morris because I am still married to Barry Rosler.

A. Rich, Esquire: Mr. Holling you went through a marriage ceremony with him? But you are not legally married to him either?

D. Rosler: No because he is deceased.

A. Rich, Esquire: Now you and Mr. Rosler separated in 1987 and I believe it was your testimony that you have had extremely limited contact with him since that correct?

D. Rosler: Correct.

A. Rich, Esquire: That was thirty years ago.

D. Rosler: Right.

A. Rich, Esquire: When did you find out he had died?

D. Rosler: I found out that he had cancer and had three months to live about three months before he died and then Savannah called me the day he died and told me that he had died.

A. Rich, Esquire: So you had limited or no contact with him for almost thirty years?

D. Rosler: Yes.

A. Rich, Esquire: So now he has died and you have decided you want to see if there is any money in it for yourself?

D. Rosler: No.

A. Rich, Esquire: No? Then why are you claiming to be married to him if you are not trying to get some money from his estate?

D. Rosier: I am trying to clear this up so I can get my name straight.

A. Rich, Esquire: What?

D. Rosier: Myself straight.

A. Rich, Esquire: Get yourself straight, what does that mean?

D. Rosier: Okay if I am still married to Barry I want to get all this straight.

A. Rich, Esquire: What do you mean when you say you want to get it straight?

D. Rosier: I want to know if I was still married too. If I was legally married to Barry.

A. Rich, Esquire: So you don't care whether you get any money from this estate or not?

D. Rosier: Yes.

A. Rich, Esquire: He worked for a Boilermaker and Blacksmith is that correct?

D. Rosier: Yes.

A. Rich, Esquire: And after he died were you in touch with this organization about any benefits that might come to a spouse?

D. Rosier: Yes.

A. Rich, Esquire: What were you told?

D. Rosier: I don't remember. I don't remember.

A. Rich, Esquire: But there are, is it your understanding that there is some sort of benefits that may be paid to a surviving spouse? Is that your understanding?

D. Rosier: Yes.

A. Rich, Esquire: And isn't that why you filed this action to see if you could collect on those?

D. Rosier: Yes.

A. Rich, Esquire: So you are in it for the money?

D. Rosier: Yes.

A. Rich, Esquire: After being separated from him for thirty years?

D. Rosier: Yes.

A. Rich, Esquire: He has three daughters that are in the Courtroom today correct?

D. Rosier: Yes.

A. Rich, Esquire: Is it also your understanding that under the Boilermaker's pension plan that either you get it or they get it, is that your understanding?

D. Rosier: I didn't hear about that they get it I heard that it was the surviving wife's pension is what I heard.

A. Rich, Esquire: So if you don't get it was it your understanding that they got it or you don't know?

D. Rosier: I don't know.

A. Rich, Esquire: You originally filed for a divorce using Mary Kosinsky a divorce attorney from Aiken is that correct?

D. Rosier: I didn't file for a divorce no.

A. Rich, Esquire: Can you identify this document?

D. Rosier: She might have divorce down here but we never filed for the divorce. Those separation papers are the only papers Ms. Kosinsky drew up for me.

Honorable Tonya L. Marchant: Any objection?

L. Hostetler, Esquire: No.

Honorable Tonya L. Marchant: Letter from Mary Kosinsky dated actually no date but the first entry is June 1, 1987 it will be marked as Respondent's exhibit number two. You may continue.

A. Rich, Esquire: Ms. Rosier, do you know the term bigamy?

D. Rosier: Yes.

A. Rich, Esquire: Do you know what it means?

D. Rosier: Yes.

A. Rich, Esquire: What does it mean?

D. Rosier: Being married to more than one person at a time.

A. Rich, Esquire: I am asking the Court to take judicial notice of section 16-15-10 of the South Carolina Code of Laws.

Honorable Tonya L. Marchant: Thank you Mr. Rich.

**A. Rich, Esquire:** Ms. Rosier, section 16-15-10 defines bigamy as a person who shall marry another person shall, unless his or her husband or wife has remained continually for seven years beyond the sea or continually absented himself or herself from such person for the space of seven years together, such person not knowing his or her wife or husband to be living within that time; Your husband didn't disappear did he, Mr. Rosier you knew where he was?

**D. Rosier:** Right.

**A. Rich, Esquire:** You were over the age of eighteen?

**D. Rosier:** Yes.

**A. Rich, Esquire:** He wasn't in jail was he?

**D. Rosier:** No.

**A. Rich, Esquire:** His or her marriage had been annulled or divorced? So you are now saying that your marriage was not annulled or divorced?

**D. Rosier:** No.

**A. Rich, Esquire:** It goes on to say that upon conviction, be punished by imprisonment in the Penitentiary for not more than five years nor less than six months or by imprisonment in the jail for six months and by a fine of not less than five hundred dollars.

**L. Hosteller, Esquire:** I have an objection Your Honor. He is trying to intimidate her with criminal charges and this is a civil matter now.

**A. Rich, Esquire:** I am quoting the statute. If I understand her testimony correctly she is under oath and she is testifying that she married another husband and lived together as husband and wife and it is in direct conflict with the bigamy laws which are against the statute of South Carolina and against public policy I might add. I am not threatening her with anything I am just pointing this out.

**Honorable Tonya L. Marchant:** Do you want to question her on that Mr. Rich.

**A. Rich, Esquire:** I want to make certain that she understands what she is testifying to. You are under oath Mr. Rosier and you are testifying that you are a bigamist that you committed bigamy is that your testimony?

**D. Rosier:** I plead the fifth. I plead the fifth. No comment.

**A. Rich, Esquire:** This document submitted from DHEC, the second line on it says that we suggest that you contact the office of the Clerk of Court in the county where the divorce would have been granted for search of his or her records. Does that indicate to you that perhaps the state does not have accurate records from every county in this state?

D. Rosier: I don't know.

A. Rich, Esquire: There are fifty states in the United States are there not?

D. Rosier: Yes there is.

A. Rich, Esquire: Each state as you may know has different requirements for divorces based on residency and what have you. So you testified that you lived in four states. South Carolina, North Carolina, Georgia and Arizona.

D. Rosier: Right.

A. Rich, Esquire: So there are another forty-six states?

D. Rosier: Right.

A. Rich, Esquire: There is no way for us to know in which states or where you might have been divorced.

L. Hostetter, Esquire: Objection Your Honor.

A. Rich, Esquire: Other than your testimony. No further questions Your Honor.

Honorable Tonya L. Marchant: Please answer any question that Ms. Hostetter may have.

L. Hostetter, Esquire: Ms. Rosier we have made notes of the husbands that you had prior to Mr. Rosier. Wayne Smith you said you got a legal divorce from him?

D. Rosier: Yes.

L. Hostetter, Esquire: Legal marriage and a legal divorce?

D. Rosier: Yes.

L. Hostetter, Esquire: Rusty McKenzie you said you had a legal marriage and a legal divorce.

D. Rosier: Yes.

L. Hostetter, Esquire: So is it fair to say that you understood how to get a divorce?

D. Rosier: Yes.

L. Hostetter, Esquire: And is it fair to say that you knew you had to be divorced for a new marriage to be legal.

D. Rosier: Yes.

L. Hostetter, Esquire: Did you ever get a legal divorce from Mr. Rosier?

D. Rosier: No.

Alexandria R. Downs - Direct Examination by  
Arthur W. Rich

- L. Hostetler, Esquire: No further questions Your Honor.
- A. Rich, Esquire: Nothing further Your Honor.
- Honorable Tonya L. Marchant: Ms. Rosier let me understand your testimony before you step down. You had knowledge that you had not been divorced from Mr. Rosier when you entered into marriage with the other two gentlemen is that correct?
- D. Rosier: I didn't know, I wasn't for sure. Barry could have gotten one he had the means, he had the money, he was sneaky like that. He would let somebody else to sign my name for a divorce I mean I didn't know.
- Honorable Tonya L. Marchant: Do you know, of your own knowledge not hearsay but from your own knowledge can you tell me the different states that you know that he had resided in? That Mr. Rosier resided in?
- D. Rosier: The only place that I know he resided in is right there in Jackson, South Carolina.
- Honorable Tonya L. Marchant: Any objection to the Court's questions Ms. Hostetler?
- L. Hostetler, Esquire: No Your Honor.
- Honorable Tonya L. Marchant: Mr. Rich?
- A. Rich, Esquire: No Your Honor.
- Honorable Tonya L. Marchant: You may step down.
- D. Rosier: Thank you.
- L. Hostetler, Esquire: No other witnesses Your Honor.
- Honorable Tonya L. Marchant: Mr. Rich?
- A. Rich, Esquire: Alexis Downs.
- Honorable Tonya L. Marchant: Place your left hand on the bible and raise your right hand. The testimony you are about to give in this matter shall be the truth, the whole truth and nothing but the truth so help you God.
- A. Downs: Yes Your Honor.
- Honorable Tonya L. Marchant: You may have a seat and state your name.
- A. Downs: My name is Alexandria Rosier Downs.
- A. Rich, Esquire: I understand that you are the daughter of Barry Rosier?
- A. Downs: Correct.
- A. Rich, Esquire: Who is your Mother?

A. Downs: My Mother is Alice Wait Williford is her legal name now.

A. Rich, Esquire: Do you know when they got married? Mr. Rosior and your Mother?

A. Downs: I don't remember the year however I remember the year of their divorce was 1979.

A. Rich, Esquire: Okay and his second wife was?

A. Downs: Donna Marie McKenzie.

A. Rich, Esquire: Were you living at home when they were married?

A. Downs: Yes sir.

A. Rich, Esquire: The testimony that was given was that they were together about a year and a half or so do you recall if that is about right?

A. Downs: If that yes sir.

A. Rich, Esquire: Do you have any personal knowledge as to whether they were legally divorced?

A. Downs: No sir I do not.

A. Rich, Esquire: After, strike that. When he died was an estate opened up?

A. Downs: Yes sir.

A. Rich, Esquire: And who opened that estate?

A. Downs: Savannah.

A. Rich, Esquire: She is your half-sister?

A. Downs: Correct.

A. Rich, Esquire: Her Mother is in the Courtroom?

A. Downs: Yes sir.

A. Rich, Esquire: And then that estate was later closed?

A. Downs: Correct.

A. Rich, Esquire: And did you later come to me asking to reopen the estate?

A. Downs: Yes sir.

A. Rich, Esquire: And why did you do that?

**A. Downs:** Because I was notified that from the Boilermaker's pension and Blacksmith Foundation that Donna Morris was requesting my Father Barry Rosier's pension.

**A. Rich, Esquire:** And did you object to that?

**A. Downs:** Yes sir.

**A. Rich, Esquire:** Is there also an inheritance that has come into the estate from his Father?

**A. Downs:** Yes sir. He passed three months prior to my Father.

**A. Rich, Esquire:** It was Roy Rosier? Your Grandfather?

**A. Downs:** Yes sir.

**A. Rich, Esquire:** It is about \$40,000 that came into the estate or maybe a little less?

**A. Downs:** A little less correct.

**A. Rich, Esquire:** So are the assets of the estate whatever comes from the Boilermakers and this \$40,000? Are there any other assets that you know about?

**A. Downs:** No sir.

**A. Rich, Esquire:** Did you contact Boilermakers and have correspondence with them?

**A. Downs:** Yes sir.

**A. Rich, Esquire:** Can you identify this document?

**A. Downs:** This is a document from Boilermakers Blacksmith National Pension Trust mailed to me on September 9, 2015.

**A. Rich, Esquire:** I would like to place this into evidence if Ms. Hostetler doesn't object.

**L. Hostetler, Esquire:** No objection Your Honor.

**Honorable Tonya L. Marchant:** Boilermaker Blacksmith National Pension Trust document dated September 9, 2015 marked as Respondent's exhibit number three.

**A. Rich, Esquire:** It indicates does it not that you would be entitled to sixty monthly payments of 1456.35?

**A. Downs:** That is correct Mr. Rich.

**A. Rich, Esquire:** Is it your understanding that it would come to you or to your siblings or how would that be divided or do you know?

- A. Downs:** This was per sibling, per child of Barry E. Rosier's and it would be directly to each one of us.
- A. Rich, Esquire:** Is it to your understanding that it is either paid to the children or to his wife but not both?
- A. Downs:** Correct.
- A. Rich, Esquire:** I also show you the front page of this document a letter from Boilermakers dated October 21<sup>st</sup>. Can you identify that?
- A. Downs:** This is a document dated October 21, 2015 also from the Boilermaker Blacksmith National Pension Trust.
- A. Rich, Esquire:** In the second paragraph it indicates that the beneficiaries must establish order of precedence one is to pay the surviving spouse and two is paid to the children correct?
- A. Downs:** Yes sir.
- A. Rich, Esquire:** So does that indicate that to you that it is either going to be paid to Ms. Rosier or to you and your sisters but not both?
- A. Downs:** Yes sir. May I add something Mr. Rich?
- A. Rich, Esquire:** Of course.
- A. Downs:** Prior to this letter I would like to refer back to the September 9<sup>th</sup> 2015 letter where I was under the impression the money and the way this letter is written was awarded to my daddy, Barry Rosier's children. It wasn't until after this letter when Donna Morris notified them that they took this back. Do you understand what I am saying? In other words they said that this was what I was awarded and then when Donna Morris found out then they sent another letter.
- A. Rich, Esquire:** Have they done anything at this point to your knowledge?
- A. Downs:** No sir.
- A. Rich, Esquire:** Are they waiting on the result of this Court hearing?
- A. Downs:** Yes sir.
- A. Rich, Esquire:** Is that your understanding?
- A. Downs:** Yes sir.
- A. Rich, Esquire:** This was, how long did he work with them or do you know?
- A. Downs:** From my understanding when he left the service early twenties so it was in his early twenties.
- A. Rich, Esquire:** How long did he work with them?

Alexandria K. Downs - Cross Examination by  
Lisa M. Hostetler

- A. Downs: Until the time of death.
- A. Rich, Esquire: So a number of years?
- A. Downs: Absolutely.
- A. Rich, Esquire: And this is a pension fund that he never received during his lifetime?
- A. Downs: Correct.
- A. Rich, Esquire: So what Boilermakers is saying is that it will either be paid to his three daughters or to a spouse if there is one to whom he was married for less than two years?
- A. Downs: Yes sir.
- A. Rich, Esquire: Do you know if your Father had any contact with Ms. Morris or Ms. Rosier after they separated?
- A. Downs: Daddy and I spoke about it on several occasions and we had not, in fact I witnessed not even being a part of my sister's life due to the fact that Donna would not let us know of her whereabouts.
- A. Rich, Esquire: You know that of your own knowledge?
- A. Downs: Absolutely.
- A. Rich, Esquire: You were living with your Father during those years?
- A. Downs: Yes. I was there and witnessed the day that she left my Father.
- A. Rich, Esquire: No further questions.
- Honorable Tonya L. Marchant: Please answer any questions that Ms. Hostetler may have.
- A. Downs: Yes Your Honor.
- L. Hostetler, Esquire: Your last name is Downs?
- A. Downs: Downs, that is correct.
- L. Hostetler, Esquire: Ms. Downs, I noticed on the death certificate is this information that they received from you or one of your siblings?
- A. Downs: May I ask who you are referring and what document.
- L. Hostetler, Esquire: Well there is a Georgia death certificate. Did he ever live in Georgia to your knowledge?
- A. Downs: Negative.

**L. Hostetler, Esquire:** Do you know why he was taken to Georgia and the death certificate is from Georgia?

**A. Downs:** The hospital is located in Augusta, Georgia.

**L. Hostetler, Esquire:** The information that is on the death certificate would be information that they would generally have to get from a family member, like asking information about his birthplace or residence or any of that information. Did you provide any of that information?

**A. Downs:** No ma'am I did not.

**L. Hostetler, Esquire:** Do you know who provided that information that said the marital status was divorced?

**A. Downs:** No ma'am I do not.

**L. Hostetler, Esquire:** When you received the letter from Boilermaker and you referenced the September 9<sup>th</sup> letter, the first one, when you first received this and it said you were going to receive sixty monthly payments, did you read this entire letter?

**A. Downs:** Absolutely.

**L. Hostetler, Esquire:** Did you notice the part where it said if he was married a copy of the marriage certificate was required?

**A. Downs:** Yes I did.

**L. Hostetler, Esquire:** And did you notice the part where it says if he was divorced a copy of the divorce decree was required?

**A. Downs:** Yes ma'am.

**L. Hostetler, Esquire:** Did you provide either of those the Boilermaker?

**A. Downs:** A marriage certificate I did.

**L. Hostetler, Esquire:** Which marriage certificate?

**A. Downs:** No I take that back that was submitted by someone else. I provided no information to the Boilermakers Pension Trust because I did not have any of that information.

**L. Hostetler, Esquire:** So you knew that he had been married to Ms. Rosier back in 1985?

**A. Downs:** You are referring to Ms. Donna Rosier in 1985?

**L. Hostetler, Esquire:** Yes.

**A. Downs:** That is what I was told yes ma'am.

- L. Hostetler, Esquire:** And to your knowledge was there ever a divorce did you ever see a divorce decree? Was there ever any paperwork or anything that you saw at the house you lived in with him about a divorce?
- A. Downs:** Just the paperwork that you presented today. I might add that I was age eleven.
- L. Hostetler, Esquire:** You don't have any personal knowledge of a divorce?
- A. Downs:** Correct.
- L. Hostetler, Esquire:** So when you saw this information and you saw that you were going to receive money but that if he was married you would need to provide a marriage certificate you didn't get that information or tell them that he might still be married?
- A. Downs:** I wasn't aware of that. I know that a divorce was filed for and knew that Donna Morris had paid for one but as far as the legality and knowing if all the Court proceedings took place and it was signed I had no knowledge of that.
- L. Hostetler, Esquire:** So you said the divorce was filed for? You have knowledge that a divorce was filed?
- A. Downs:** Petition for divorce.
- L. Hostetler, Esquire:** Did you bring a copy of that with you today?
- A. Downs:** Is that not the paperwork that was presented as your exhibits?
- L. Hostetler, Esquire:** This was for alimony and child support.
- A. Downs:** Okay.
- L. Hostetler, Esquire:** Is that the paperwork you are talking about?
- A. Downs:** Exactly.
- L. Hostetler, Esquire:** Okay. Did you ever tell Boilermakers about Donna?
- A. Downs:** I was never asked.
- L. Hostetler, Esquire:** They told you on September 9<sup>th</sup> 2015.
- A. Downs:** That if they were married correct that they needed a copy of that marriage certificate or if they were divorced they needed a copy of that correct?
- L. Hostetler, Esquire:** So you did know that he was either married or divorced to Donna correct?
- A. Downs:** Well, all of us know that he was either married or divorced. I don't know which he was.

Alexandria R. Downs - Examination by the Court

- L. Hostetler, Esquire: So you knew they needed some information from you still?
- A. Downs: Correct.
- L. Hostetler, Esquire: And what did you do to get that information to Boilermakers?
- A. Downs: I was not able to provide any of that information to Boilermakers.
- L. Hostetler, Esquire: Did you tell them that there was a marriage or a marriage and a divorce and that you didn't have any information?
- A. Downs: They already knew of the marriage through his work. My Dad has been with them since he was early twenties so I mean of course they knew and the alimony and stuff stayed at my Dad's job so of course I am sure they knew he was married.
- L. Hostetler, Esquire: Do you have any other information then what Donna testified to earlier that your Father didn't pay the child support for Savannah?
- A. Downs: I do have knowledge just from my personal experience that Savannah, excuse me that Donna Morris took off with my baby sister Savannah and we never saw her again until, we saw her once at age one. I saw Savannah again at age nine. At age thirteen of Savannah I received a phone call to take her into my custody. But other than that no contact.
- L. Hostetler, Esquire: And during that time were you aware of your Father providing support for Savannah?
- A. Downs: Negative from my understanding much of that time I am not sure that Savannah was with Ms. Morris. I heard she was in and out of foster care which is why in turn Savannah came to live with me and my husband.
- L. Hostetler, Esquire: I have no further questions Your Honor.
- Honorable Tonya L. Marchant: Mr. Rich, anything on follow up?
- A. Rich, Esquire: No Your Honor.
- Honorable Tonya L. Marchant: Ms. Downs, do you know of your Father living in any other state other than the state of South Carolina at any time?
- A. Downs: No Your Honor.
- Honorable Tonya L. Marchant: Thank you and you may step down. Any other witnesses Mr. Rich?
- A. Rich, Esquire: Yes.
- Honorable Tonya L. Marchant: Place your left hand on the bible and raise your right hand. The testimony you are about to give in this matter shall be the truth, the whole truth and nothing but the truth so help you God.

S. Ziegler: Yes Your Honor.

Honorable Tonya L. Marchant: Have a seat and state your name.

S. Ziegler: Savannah Ziegler,

A. Rich, Esquire: Ms. Ziegler where do you live?

S. Ziegler: El Paso, Texas.

A. Rich, Esquire: My hearing is not good can you speak up.

S. Ziegler: El Paso, Texas.

A. Rich, Esquire: That is where you live now?

S. Ziegler: Yes sir.

A. Rich, Esquire: Are you married?

S. Ziegler: Yes sir.

A. Rich, Esquire: Do you have children?

S. Ziegler: No sir.

A. Rich, Esquire: Who was your Father?

S. Ziegler: Barry E. Rosier.

A. Rich, Esquire: Who is your Mother?

S. Ziegler: Donna Morris.

A. Rich, Esquire: Who is in the Courtroom today?

S. Ziegler: Yes sir.

A. Rich, Esquire: What year were you born?

S. Ziegler: 1986.

A. Rich, Esquire: And I believe the testimony was that they were married in 1985 and separated in 1987?

S. Ziegler: Yes sir.

A. Rich, Esquire: After they separated did you live with your Father or Mother?

S. Ziegler: My Mother.

A. Rich, Esquire: And where did you live?

- S. Ziegler:** We were unstable. We lived in Jackson, we lived in Charleston in Summerville, Arizona we were not stable in one area.
- A. Rich, Esquire:** When you say unstable, I know you were young but do you recall any other places that you may have lived.
- S. Ziegler:** Phoenix Arizona, Charleston, South Carolina, Summerville, South Carolina, Monks Corner, South Carolina, Jackson, South Carolina, Augusta.
- A. Rich, Esquire:** Why were you moving so much?
- S. Ziegler:** I don't know. She was unstable.
- A. Rich, Esquire:** Who was unstable?
- S. Ziegler:** My Mother. She was going back and forth with Carl Holling when I was younger.
- A. Rich, Esquire:** Now let's talk about Mr. Holling for a minute. There was testimony about a marriage ceremony in Arizona. Do you know anything about that?
- S. Ziegler:** Yes sir I was a witness there with my little sister Ashley Holling. I remember being in the Courtroom when they got married. I was upset because I didn't want them to get married.
- A. Rich, Esquire:** And that was in Arizona?
- S. Ziegler:** Yes sir.
- A. Rich, Esquire:** And how old were you then?
- S. Ziegler:** About seven or eight.
- A. Rich, Esquire:** How long did you live in Arizona?
- S. Ziegler:** We were back and forth so maybe about two years.
- A. Rich, Esquire:** Back and forth to where?
- S. Ziegler:** Arizona and Georgia.
- A. Rich, Esquire:** So she married Mr. Holling?
- S. Ziegler:** Yes sir.
- A. Rich, Esquire:** And you were at that wedding?
- S. Ziegler:** Yes sir.
- A. Rich, Esquire:** Do you know if she ever divorced him?
- S. Ziegler:** No sir.

A. Rich, Esquire: You don't know?

S. Ziegler: I don't know.

A. Rich, Esquire: How long did you live with your Mother?

S. Ziegler: Until I was eleven.

A. Rich, Esquire: Eleven?

S. Ziegler: Yes sir.

A. Rich, Esquire: And where did you go then?

S. Ziegler: Foster care.

A. Rich, Esquire: I'm sorry?

S. Ziegler: Foster care.

A. Rich, Esquire: Foster care. How did that happen? Do you call how that came about?

S. Ziegler: Donna left us abandoned in the apartment with no food and the cops came into the apartment and saw that we had no food in the apartment while she was at her boyfriend's house.

A. Rich, Esquire: What boyfriend?

S. Ziegler: I can't recall the boyfriend.

A. Rich, Esquire: But you were eleven years old then?

S. Ziegler: Yes sir.

A. Rich, Esquire: That was after her and Mr. Holling had separated?

S. Ziegler: Yes sir. We ended up in foster care. They found out what Carl had done to me and so I wasn't allowed around Carl anymore but she still insisted on going back to Carl.

A. Rich, Esquire: How long did you stay in foster care?

S. Ziegler: For almost two years.

A. Rich, Esquire: Two years? So until you were thirteen.

S. Ziegler: Yes sir.

A. Rich, Esquire: And then where did you go then?

S. Ziegler: I lived with Alexis.

A. Rich, Esquire: With who?

S. Ziegler: Alexis Downs my half-sister.

A. Rich, Esquire: So did she basically raise you from that point forward?

S. Ziegler: Yes sir.

A. Rich, Esquire: Have you been in regular contact with your Mother over the last few years?

S. Ziegler: No sir.

A. Rich, Esquire: When was the last time you talked to her?

S. Ziegler: Right as my Dad had passed. I called thinking I would get support from her but I couldn't get any support from her.

A. Rich, Esquire: And how about before then?

S. Ziegler: No contact.

A. Rich, Esquire: Since you went into foster care.

S. Ziegler: No sir.

A. Rich, Esquire: So from age eleven until your Father's death you had no contact with her.

S. Ziegler: No sir.

A. Rich, Esquire: Did she try to contact you at all or did you try to contact her?

S. Ziegler: No.

A. Rich, Esquire: Did she provide any support to you during those years?

S. Ziegler: No sir.

A. Rich, Esquire: So other than today and your Father's funeral you have had no contact with her since you were eleven years old?

S. Ziegler: No sir.

A. Rich, Esquire: Do you know anything about these, other than Mr. Holling or the one to Mr. Morris do you have firsthand knowledge about anything other than what has been discussed here today?

S. Ziegler: I know she has been with Jim Morris for more than ten years.

A. Rich, Esquire: How do you know that?

S. Ziegler: Because they were together when I was a senior in high school and that was 2005.

A. Rich, Esquire: So you had some contact with her then?

- S. Ziegler: When I was a senior in high school yes sir.
- A. Rich, Esquire: She was with Mr. Morris then?
- S. Ziegler: Yes sir.
- A. Rich, Esquire: What year would that have been?
- S. Ziegler: 2005.
- A. Rich, Esquire: 2005?
- S. Ziegler: Yes sir.
- A. Rich, Esquire: So she was with Mr. Morris in 2005?
- S. Ziegler: Yes sir.
- A. Rich, Esquire: And then apparently went through a marriage ceremony with him in 2014?
- S. Ziegler: Yes sir.
- A. Rich, Esquire: Is she still with him as far as you know?
- S. Ziegler: As far as I know yes sir.
- A. Rich, Esquire: Is he here today?
- S. Ziegler: Yes sir.
- A. Rich, Esquire: Did you see him today outside the Courtroom?
- S. Ziegler: Yes sir.
- A. Rich, Esquire: No further questions Your Honor.
- Honorable Tonya L. Marchant: Please answer any further questions that Ms. Hostetler may have.
- L. Hostetler, Esquire: I just have a few questions. I asked your sister about the Georgia death certificate. Do you have any idea where they got the personal information about your Father for that death certificate?
- S. Ziegler: No ma'am.
- L. Hostetler, Esquire: Did you also receive letter like this one from Boilermakers?
- S. Ziegler: Yes ma'am.
- L. Hostetler, Esquire: And when you received that did you mention anything about your Mother and Barry and maybe you needed to provide a divorce decree or anything like that?

**S. Ziegler:** Donna told me that my Dad Barry Rosler had filed for a divorce but she wouldn't tell me where they got divorced from but I know that her and Jim Morris got married so I looked for their marriage license and I submitted their marriage license because I couldn't get a divorce decree.

**L. Hostetler, Esquire:** When did she have this conversation with you?

**S. Ziegler:** It wasn't long after my Dad had passed.

**L. Hostetler, Esquire:** So you did have contact with her after your Dad's funeral?

**S. Ziegler:** Just a couple of days yes.

**L. Hostetler, Esquire:** So you had contact with her when you were eleven, when you were a senior in high school and then again a couple of days after his funeral and then again today? That is the extent of your relationship?

**S. Ziegler:** Yes ma'am.

**L. Hostetler, Esquire:** How long have you been married?

**S. Ziegler:** July of last year.

**L. Hostetler, Esquire:** Was she involved in your wedding?

**S. Ziegler:** No ma'am.

**L. Hostetler, Esquire:** Did she purchase anything for your wedding?

**S. Ziegler:** No ma'am.

**L. Hostetler, Esquire:** Did she purchase wedding portraits or pictures for your wedding?

**S. Ziegler:** No ma'am.

**L. Hostetler, Esquire:** For any wedding?

**S. Ziegler:** She did for my first marriage yes but she came and then she left. She came for a couple of days and left me without saying anything.

**L. Hostetler, Esquire:** And that was in, what year was that?

**S. Ziegler:** 2012 I think it was.

**L. Hostetler, Esquire:** So there are some instances when you have had contact with her?

**S. Ziegler:** Not constant.

**L. Hostetler, Esquire:** Do you have any knowledge of her and your Father having legally divorce?

**S. Ziegler:** No.

**L. Hostetter, Esquire:** Do you have any knowledge of any other place that your Father lived?

**S. Ziegler:** Just Jackson, South Carolina.

**L. Hostetter, Esquire:** Jackson, South Carolina?

**S. Ziegler:** Yes ma'am.

**L. Hostetter, Esquire:** Have you ever heard of any other places before?

**S. Ziegler:** No ma'am.

**L. Hostetter, Esquire:** When you started living with your sister when you were fourteen did you start having regular contact with him?

**S. Ziegler:** Yes ma'am.

**L. Hostetter, Esquire:** Did he ever show you any paperwork about a divorce?

**S. Ziegler:** No ma'am.

**L. Hostetter, Esquire:** When he passed away did you go to his home?

**S. Ziegler:** Yes ma'am.

**L. Hostetter, Esquire:** Did he have any important paperwork in his home?

**S. Ziegler:** Just the paperwork that was provided with the divorce receipt.

**L. Hostetter, Esquire:** Where was all his important paperwork kept?

**S. Ziegler:** In that same file that I got that receipt out of.

**L. Hostetter:** In a desk?

**S. Ziegler:** In a file cabinet.

**L. Hostetter, Esquire:** A file cabinet. You checked all his important paperwork?

**S. Ziegler:** Yes ma'am.

**L. Hostetter, Esquire:** You didn't see any other legal paperwork beside the receipt that was dated about the same time as the documents?

**S. Ziegler:** The Petition paperwork that you had provided.

**L. Hostetter, Esquire:** You didn't find any other paperwork?

**S. Ziegler:** No ma'am.

**L. Hostetter, Esquire:** I have no further questions.

Savannah K. Ziegler - Examination by  
the Court

- Honorable Tonya L. Marchant: Mr. Rich anything further?
- A. Rich, Esquire: Nothing further.
- Honorable Tonya L. Marchant: Ms. Ziegler I want you to look at the Georgia death and I need you to clarify what your answer was as far as the informant.
- S. Ziegler: Savannah Rosier.
- Honorable Tonya L. Marchant: Did you provide the information that is on the Georgia death certificate for your Father?
- S. Ziegler: Not all of it no ma'am.
- Honorable Tonya L. Marchant: Did you provide some of it?
- S. Ziegler: Yes ma'am.
- Honorable Tonya L. Marchant: Can you tell me what portions you provided?
- S. Ziegler: All three of his daughters were giving the information.
- Honorable Tonya L. Marchant: All three of you were giving the information at the same time?
- S. Ziegler: Not all of it. We didn't know nothing about the divorce. We didn't give that. We were in a room together giving what we could. That we knew about.
- Honorable Tonya L. Marchant: After your Father's marriage with, after your Father and Ms. Rosier separated was your Father ever married to anyone else.
- S. Ziegler: Not that I know of but I didn't have contact with my Father until I was a freshman in high school.
- Honorable Tonya L. Marchant: And at that time did you know of any other marriages that he had?
- S. Ziegler: No ma'am.
- Honorable Tonya L. Marchant: Any objection to the Court's questions?
- L. Hostettler, Esquire: No Your Honor.
- Honorable Tonya L. Marchant: Mr. Rich any objection to the Court's questions?
- A. Rich, Esquire: No but I am not sure if I heard it correctly. I think her testimony was that she knew about the marriage to Mr. Holling.
- Honorable Tonya L. Marchant: The question was did she know of any other marriages that her Father had?
- A. Rich, Esquire: I am sorry, her Father.
- Honorable Tonya L. Marchant: After he and Ms. Rosier separated,

# Closing Argument - Lisa M. Hostetler

A. Rich, Esquire:

And she said none.

Honorable Tonya L. Marchant:

She said none. The other answer and I don't know if you heard that. We will try to talk loud for you.

A. Rich, Esquire:

Thank you.

Honorable Tonya L. Marchant:

I asked her and her name is on the death certificate as the informant and I asked her what portion she provided. She said that all of three sisters were in the room giving the information to whomever she gave it to. The divorce issue wasn't given. You may step down. Any further witnesses? Closing remarks Ms. Hostetler?

L. Hostetler, Esquire:

Yes Your Honor. I think that this is one where I think that we kind of agree on most of the facts. I don't think there is a lot of dispute about what actually happened or what anybody has been doing during this whole period of time. Unfortunately this is kind of one of those cases where sometimes the facts force, can force law and I think to, unfortunately to rule in favor of the children in this case would be to create new law in South Carolina. Right now in order to get a divorce in the State of South Carolina you have to get a legal divorce. We do have common law marriage but we do not have common law divorce. As much as it might be something that some people would like to have but we do not have that. To rule that after somebody has been separated for a period of time or has a separation order that they have fully complied with a legal divorce would be completely creating new common law in the state of South Carolina. I think the law is pretty set. I have cases here for the Court's review if that would help with the decision. The cases seem very clear that any marriage between subsequent parties would be void from its inception not merely void but therefore could not be ratified or confirmed and thereby (inaudible) this is Johns vs. Johns is one case. The law is pretty established in this case as far as our law in our state is pretty established as far as what it takes to get a divorce. As we presented into evidence we did a thorough search and no one here has presented, on either side any evidence that there ever was a divorce. We all agree that there was a separation and to provide anything other than that they were just separated at the time of his passing would be to start fresh and start new law in our state.

Honorable Tonya L. Marchant: Thank you. Mr. Rich closing remarks.

# Closing Argument - Arthur W. Rich

A. Rich, Esquire:

Your Honor Mr. Rosier was this lady's third husband. She apparently was married and divorced twice although I have seen no evidence of any earlier divorce decrees. She has admitted to being married twice she has presented no evidence that she was legally divorced from either one of the first two husbands which could have been granted in any jurisdiction. She was married for less than two years to Mr. Rosier. For thirty years she had limited to no contact with him or his family. Apparently abandoned her daughter when she was eleven years old. She had limited contact with her since then. She has admitted under oath that she is in this for the money. Thirty years later now he has died and there is some money and she wants her share even though they have been at least separated if not divorced for thirty years. Then she has gone through two more marriage ceremonies since then which she admits. She is now with Mr. Morris and apparently living together as husband and wife although she is taking the position today that she is not married to him either. Her marriage license and unfortunately I don't have the other marriage license but I do have this one to Mr. Morris which is in evidence. She stated under oath that she was divorced. We have a sworn statement. There are fifty states in this country and she could have been divorced in any of them there are very jurisdiction requirements and residency in every state. She has testified that she lived in four states, whether she has gone to another state or perhaps another country, only she knows whether she was married or divorced or not. She is saying that she has gone through at least four divorces, divorce number one, number two and number four. She knows the difference between a divorce and a separation. So it is beyond our knowledge or the Court's knowledge as to whether she divorced Mr. Rosier or not. Only she could say that and she has already been shown that she is not prone to tell the truth. She admitted that when she signed this marriage license that she knew that she wasn't married. That was her testimony. She is admitting under oath that she has violated the laws of the State of South Carolina. She has committed bigamy. She knows it and she has admitted that she has. It is against the statute of South Carolina and against public policy in South Carolina. Finally Your Honor I would point out the case in South Carolina, it is the case of the Payne Federal Credit Union vs. Linda Hutchins Bailey. This case establishes the doctrine in South Carolina of judicial estoppel on page 251 if you would look at the page numbers at the top of the case. This was a case that was actually a foreclosure where a man took the position contrary to what he had testified to in an earlier case. Up until this time there was no, I am not talking about equitable estoppel I am talking about judicial estoppel. It states that judicial estoppel precludes a party from adopting a position in conflict with one taking an earlier or related litigation. The purpose or function of the doctrine is to protect the integrity of the judicial process or the integrity of the courts rather than to protect the litigants from allegedly and improper or deceitful conduct by their adversaries. At the bottom of that page we now explicitly adopt the doctrine of judicial estoppel as it relates to a matter of fact. In order for the judicial process to function properly litigants must approach it in a truthful manner. The doctrine punishes those who take the truth

seeking function of the system lightly. The parties formerly asserting of certain version of facts of litigation you cannot later change those facts from the initial version when it no longer suites them. It is our position Your Honor that Ms. Morris or Rosier when she signed that affidavit that was in a court setting. That was in the Probate Court in Rowen County North Carolina. She took a position in that document under oath that she was not married. I would ask this Court to recognize the doctrine of judicial estoppel and rule that she is unable to take a contrary position at this time.

Honorable Tonya L. Marchant: Thank you Mr. Rich. Any other case law that you attorneys would like to present at this time?

L. Hostetler, Esquire: Yes Your Honor and just to counterpoint that the judicial estoppel was not raised in their pleadings and it also applies to litigation that is actually what the doctrine actually applies to. Same or related litigation and the quote is actually where a party assumes a certain position in a legal proceeding and succeeds in maintaining that position and (inaudible) because his interest has changed assumes a contrary position. I understand what his point is but that is not the same thing as judicial estoppel in litigation. The cases that I have are Johns vs. Johns and it is a 1992 case. Howell vs. Littlefield opinion number 16025. Toller vs. Oakwood a 1939 case and a Davey vs. Day 1950 case. Just to reply to what he had stated they are asking for us to say that no divorce happened anywhere in the entire world and there are residency requirements for divorces in all the states. I haven't looked up every single state but I have had people who have wanted to get quickie divorces before some elderly clients and you have to have some sort of tie to the state in order to get a divorce. You still have to serve pleadings on the other party. There would still be some documentation even if Ms. Rosier had tried to get a divorce in Arizona or North Carolina or Georgia Mr. Rosier would have still been provided notice of it. It would not have been a divorce where no one was aware of it.

**Honorable Tonya L. Marchant:** So would you like to pass this up? The Court has listened very diligently to all of the witnesses that have testified in today's hearing. There has been case law presented that the Court needs to take time to review. The Court is going to take this matter under advisement and make sure the ruling is the proper ruling. I assure you that will happen. The Court is not going to rule at this time. I want to make absolutely sure that I have read every law that is pertaining to this for the best interest of all involved. I will say that the situations as far as the children especially Ms. Savannah Ziegler I am sorry that those things happened to you. It looks like you have turned out to be a wonderful young lady so don't let your past prevent your future. I say that regardless of how the Court rules. I will take the matter under advisement and I will contact the attorneys as soon as the decision is made and ask one of you to prepare an Order for signature. Thank you.

**---THIS HEARING IS HEREBY CONCLUDED---**

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Record Page 75

**C E R T I F I C A T E**

**This is to certify that the foregoing 43 pages were transcribed by me or under my supervision; that I am neither employed by nor related to any of the parties to this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.**

**This is the 3rd day of May, 2017**

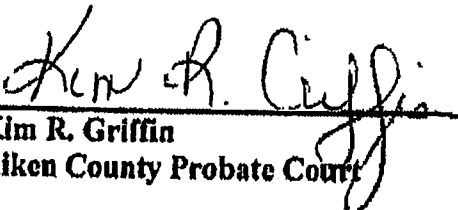
  
**Kim R. Griffin**  
**Aiken County Probate Court**



Exhibit B



DATE: 9/28/2016

TO WHOM IT MAY CONCERN:

RE: BARRY EUGENE ROSIER  
FILE: 80-20160928-086665

A thorough search of the statewide indexes for a divorce record has been conducted for the years 1985 through 2015 and no record was located for the above-named individual on the basis of the information provided.

We suggest that you contact the Office of the Clerk of Court in the county where the divorce would have been granted for a search of his/her records.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Shae R. Sutton', is written over a light blue horizontal line.

Shae R. Sutton, PhD  
Assistant State Registrar  
South Carolina Department of Health and  
Environmental Control

ELECTRONICALLY FILED - 2017 May 11 2:12 PM - AIKEN - COMMON PLEAS - CASE#2017CP0200593

EXHIBIT "A"

Doc ID: 012285020001 Type: MAR  
File# 2014-00000899  
Book 34 Page 1153

APPLICATION, LICENSE AND CERTIFICATE OF MARRIAGE

STATE OF NORTH CAROLINA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES - N.C. VITAL RECORDS

2014-00000899  
LICENSE NUMBER

Rowan  
COUNTY

1. NAME FIRST: JAMES MIDDLE: MICHAEL LAST: MORRIS		13. LAST NAME AT BIRTH (if different)		14. GENDER (M/F)	
2. RESIDENCE STATE NORTH CAROLINA		3. COUNTY ROWAN		4. CITY, TOWN, OR LOCATION RICHFIELD	
5. STREET AND NUMBER 190 WILDLIFE ACCESS RD		6. ZIP/POSTAL CODE MIDDLESEX, NJ		7. DATE OF BIRTH (Month, Day, Year) 4/13/1959	
8. PARENT'S NAME AT PARENT'S BIRTH BENNIE JAMES MORRIS		9. STATE OF BIRTH OKLAHOMA		10. ADDRESS (if same as applicant) OLD ROCK BRIDGE RD PLACERVILLE, CA	
11. PARENT'S NAME AT PARENT'S BIRTH MARGRET ELIZABETH LAWSON		12. STATE OF BIRTH NEW JERSEY		13. ADDRESS (if same as applicant) OLD ROCK BRIDGE RD PLACERVILLE, CA	
15. RACE (Specify) WHITE		16. NUMBER OF THIS MARRIAGE - FIRST, SECOND, ETC. (Specify) THIRD		17. IF PREVIOUSLY MARRIED 18. LAST MARRIAGE ENDED BY (Specify, divorce, or annulment (Specify)) DIVORCE	
19. DATE (Month, Day, Year) 11/05/2014		20. EDUCATION - SPECIFY HIGHEST GRADE COMPLETED ELEMENTARY (K-12, A, OR N) HIGH SCHOOL (K-12, A, OR N) COLLEGE (K-12, A, OR N)		21. DATE (Month, Day, Year) 6/1988	
22. NAME FIRST: DONNA MIDDLE: MARIE LAST: ROSIER		23. LAST NAME AT BIRTH (if different) LAWSON		24. GENDER (M/F) F	
25. RESIDENCE STATE NORTH CAROLINA		26. COUNTY ROWAN		27. CITY, TOWN, OR LOCATION RICHFIELD	
28. STREET AND NUMBER 190 WILDLIFE ACCESS RD.		29. ZIP/POSTAL CODE RICHMOND, GEORGIA		30. DATE OF BIRTH (Month, Day, Year) 1/3/1962	
31. PARENT'S NAME AT PARENT'S BIRTH VERDELL HARDY LAWSON		32. STATE OF BIRTH GEORGIA		33. ADDRESS (if same as applicant) UNKNOWN	
34. PARENT'S NAME AT PARENT'S BIRTH ANNIE BELL LAWSON		35. STATE OF BIRTH GEORGIA		36. ADDRESS (if same as applicant) JACKSON, SOUTH CAROLINA	
37. RACE (Specify) WHITE		38. NUMBER OF THIS MARRIAGE - FIRST, SECOND, ETC. (Specify) FOURTH		39. IF PREVIOUSLY MARRIED 40. LAST MARRIAGE ENDED BY (Specify, divorce, or annulment (Specify)) DIVORCE	
41. DATE (Month, Day, Year) 11/05/2014		42. EDUCATION - SPECIFY HIGHEST GRADE COMPLETED ELEMENTARY (K-12, A, OR N) HIGH SCHOOL (K-12, A, OR N) COLLEGE (K-12, A, OR N)		43. DATE (Month, Day, Year) 11/1988	

WE HEREBY MAKE APPLICATION TO THE REGISTER OF DEEDS FOR A MARRIAGE LICENSE AND SOLEMNLY SWEAR THAT ALL OF THE STATEMENTS CONTAINED IN THE ABOVE APPLICATION ARE TRUE. WE FURTHER MAKE OATH THAT THERE IS NO LEGAL IMPEDIMENT TO SUCH MARRIAGE.

*James Michael Morris*  
SIGNATURE OF APPLICANT  
*Donna Marie Rosier*  
SIGNATURE OF APPLICANT

Doc ID - 012285020001

To any ordained minister of any religious denomination, minister authorized by a church, federally or state recognized Indian tribe, magistrate, or any other person authorized to solemnize a marriage under the laws of this State, you are hereby authorized, at any time within 90 days from the date hereof, to solemnize the proposed marriage at any place within this State. The minister or other person solemnizing this marriage is required within 10 days to report this license to the Register of Deeds who issued the license. Failure to do so subjects person solemnizing marriage to a forfeiture of \$1000.00 to anyone who uses for the same.

SWORN TO AND SUBSCRIBED BEFORE ME THIS  
November 05, 2014

Harry L. Welch Jr.  
REGISTER OF DEEDS

*Debra J. Hohen*  
DEPUTY REGISTER

1. I CERTIFY THAT THE ABOVE NAMED PERSONS WERE MARRIED ON MONTH: 11 DAY: 05 YEAR: 2014		2. PLACE OF MARRIAGE - COUNTY Rowan	
3. SIGNATURE OF OFFICIANT <i>James Michael Morris</i>		4. TITLE Ministrate	
5. NAME OF OFFICIANT (PRINTED) James Michael Morris		6. ADDRESS 110 N. Salisbury St. Salisbury, NC	
7. SIGNATURE OF WITNESS <i>Donna Marie Rosier</i>		8. SIGNATURE OF WITNESS <i>James Morris</i>	
9. NAME OF WITNESS (PRINTED) Donna Marie Rosier		10. NAME OF WITNESS (PRINTED) James Morris	
11. ADDRESS OF WITNESS 2070 Dunwoody Ave. Raleigh, NC		12. ADDRESS OF WITNESS 4612 ...	

DATE RETURNED TO REGISTER OF DEEDS  
09/15 2:12  
N.C. VITAL RECORDS (Revised 10/2014)

11/05/2014

RECEIVED BY

*James Morris*

REGISTER OF DEEDS COPY

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by either of the parties and not any other material.

LAWYERLISA, LLC



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Lisa M. Hostetler (SC Bar #76138)

David Ziegler (SC Bar #102415)

LawyerLisa, LLC

534 St. Andrews Road, Suite B

Columbia, SC 29210

P: (803) 563-5163

F: (888) 958-7850

Lisa@LawyerLisa.com

David@LawyerLisa.com

ATTORNEYS FOR APPELLANT

May 18, 2018

**RECEIVED**  
JUN 07 2018  
SC Court of Appeals