

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County
Court of Common Pleas
Brooks P. Goldsmith, Circuit Court Judge

In the Matter of the Estate of Reba P.
Hinson, Probate # 2008-ES-12-297,
Circuit Court # 2010-CP-12-201,

Mell Woods Appellant,

v.

Robert H. Breakfield, as Personal Representative
of the Estate of Reba P. Hinson, Respondent.

Reply Brief of Appellant
Rule 208(a)(3) SCACR

Court Of Appeals Internal Tracking Number: 2011-201066

Mell Woods
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Tobias v. Rice, 386 S.C. 306, 688 S.E.2d 552 (2010) . . Pg. 3

South Carolina Statutes:

§62-3-204 pg. 2

§62-3-403 pg. 2

1. In the pleadings, in appellant's brief, and in the record itself, it is plainly set out that because appellant was not accorded his statutory right to be notified of the probate hearing in which the will in question was admitted to probate -- the entire proceeding heretofore is defective, (R. p. 45, R. p. 591).

2. Appellant has the statutory right to be notified of, and be present at any hearing admitting the will in question to probate because appellant had served the probate court with notice of appellant's interest in the estate, prior to the time the will hearing was held, this in and of itself gives appellant enough "standing" to contest an order which admitted a revoked will to probate. South Carolina Statute §62-3-403, requires notice of all formal proceedings, once a formal notice of interest is filed under §62-3-204, (R. pp. 150-156).

3. When the hearing was held, it was secret, and appellant found out about it later by reading the newspaper. This is contrary to the assertions made on page 12 of the respondent brief, (R. p. 370, R. pp. 103-109).

4. In Tobias v. Rice, 386 S.C. 306, 688 S.E.2d 552 (2010),

it was held:

“Accordingly, absent notice of the proceedings, Rice is entitled to relief from judgment. (procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses).”

5. So, it can be readily seen that due process, and the right to examine witnesses, and have process issue for the production of witnesses, is such a basic right that any ruling by a judge serving to defeat due process is grounds enough for a new trial, (R. p. 329 lines 7-13, R. p. 354 lines 6-11).

6. Paragraphs 1-3 will be directly tied to the Record when the Record is finally assembled.

Respectfully submitted,

~~This ___ day of May, 2012.~~

This 02 day of July, 2012.



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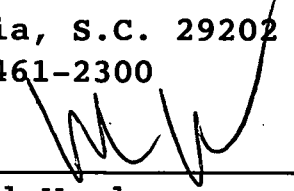
CERTIFICATE OF SERVICE

Court Of Appeals Internal Tracking Number: 2011-201066

I hereby certify that I have served the Respondent with
a true copy of Appellant's Reply brief, by placing the copy
in the U.S. Mail, postage prepaid and addressed to:

Moses Koon & Brackett, PC
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This 02 day of July, 2012.


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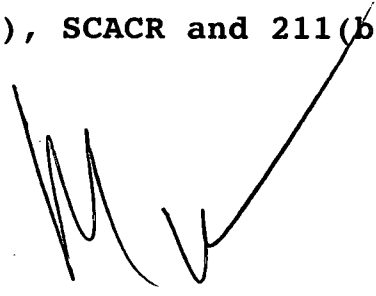
Certificate of Counsel as to compliance with Rule 211, SCACR

Court Of Appeals Internal Tracking Number: 2011-201066

Appellant Mell Woods certifies that Appellant's Final
Reply Brief Complies with Rule 211(a), SCACR and 211(b) SCACR.

Respectfully submitted,

this 02 day of October, 2012.



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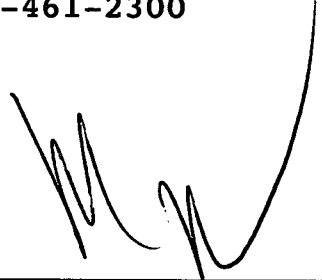
Certificate of Service Follows:

Woods, Mell v. Breakfield, Robert
Certificate of Service:
Tracking Number 2011-201066

I hereby certify that I have served the within and foregoing Certificate of Counsel as to Compliance with Rule 211, SCACR upon the following firm and person by placing the document in the U.S. Mail with sufficient first class postage and addressed as follows:

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