

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas Acting as Appellate Court to the Probate Court

The Honorable William H. Seals, Jr., Circuit Court Judge

**RECEIVED**

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Circuit Court Case Number: 2018-CP-10-3889

JUN 03 2019

Charleston County Probate Court No. 2016-ES-10-544

**SC Court of Appeals**

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IN RE: THE ESTATE OF HAZEL NORTH

Grady North and Jean Corbett, .....Respondents,

vs.

Linda North and James North  
Individually and as Personal Representative of the  
Estate of Hazel North .....Appellants.

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**MEMORANDUM OF RESPONDENTS AS TO APPEALABILITY**

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Respondents share the South Carolina Court of Appeal’s concern as to the appealability of the subject Order of the Appellate Court of Common Pleas, Reversal and Remand to Charleston County Probate Court to Informally Probate decedent’s 2008 Will. The Circuit Court’s Order

vacated and made void *ab initio* the March 30, 2016, Orders of the Charleston County Probate Court.<sup>1</sup>

To challenge the informal probate of the 2008 Will, it was incumbent upon Appellants to commence a formal proceeding pursuant to the mandates of S.C. Code §§ 62-3-401, 62-3-402, 62-3-108 and 62-3-203(b) within 1 year. In their Brief on Appealability, Appellants admit that "... he (James North) is past the one year challenge time to file a formal testacy proceeding."

Appellants failure to timely commence a formal action to set aside the informal probate of the 2008 Will, also deprived Respondents of their fundamental rights to due process as guaranteed by Art. 1 § 3 of the South Carolina Constitution and the 14<sup>th</sup> Amendment to the United States Constitution.<sup>2</sup>

Appellants did not request that the trial court reconsider the Order they now appeal.

### **CONCLUSION**

The underlying March 30, 2016, Orders are void *ab initio*. The Appellate Circuit Court remanded the case to the Charleston County Probate Court to informally probate the 2008 Will. Via this appeal to the South Carolina Court of Appeals, Appellants are seeking relief in a manner that is contrary to their arguments and legal filings since their filing of the informal application of March 30, 2016.

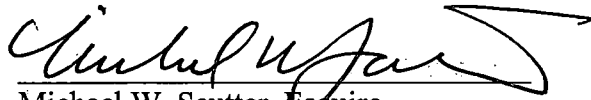
Respondents therefore request that the Court dismiss the Appeal.

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<sup>1</sup> Order, Finding 2, p.5

<sup>2</sup> Order, Finding 6, p.7

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael W. Sautter", with a stylized flourish at the end.

Michael W. Sautter, Esquire

SC Bar # 4944

Query Sautter & Associates, LLC

147 Wappoo Creek Drive, Suite 202

Charleston, SC 29412

(843) 795-9500

Attorney for Respondents

May 29, 2019

Charleston, South Carolina

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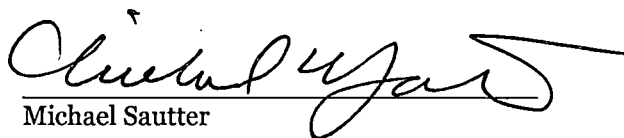
Linda North and James North  
Individually and as Personal Representative of the  
Estate of Hazel North .....Appellants.

PROOF OF SERVICE

I the undersigned hereby certify that I served the Memorandum of Respondents as to Appealability upon Mr. Melvin Richardson Hyman, Jr. and Mr. Peter Gerard McGrath by placing a copy of same in the United States Mail with sufficient postage attached thereto and addressed as follows:

Peter G. McGrath, Esquire  
802 Johnnie Dodds Boulevard  
Mt. Pleasant, SC 29464

M. Richardson Hyman, Jr., Esquire  
Attorney at Law  
Post Office Box 127  
Charleston, SC 29402  
May 29, 2019

  
Michael Sautter

O. Grady Query

Certified Circuit Court  
Arbitrator & Mediator

Certified National Trial  
Advocacy Civil Trial Specialist



Query Sautter & Associates  
Attorneys and Counselors at Law

Michael W. Sautter  
Managing Partner

Michael Ellis  
Attorney

May 29, 2019

The Honorable Jenny Abbott Kitchings  
SC Court of Appeals  
PO Box 11629  
Columbia, SC 29211

RE: In Re: The Estate of Hazel North  
Case No.: 2019-000758

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JUN 03 2019  
SC Court of Appeals

Dear Ms. Kitchings:

Enclosed herewith for filing, please find an original and one copy of the Memorandum of Respondents as to Appealability. Please file the original and return the clocked copy to me in the enclosed envelope. By copy of this letter with enclosure I am serving Peter G. McGrath and M. Richardson Hyman, Jr.

If you should have any questions, please feel free to contact our office.

Thank you.

Sincerely,

Michael Sautter

Enclosures

cc: Peter G. McGrath, Esquire  
M. Richardson Hyman, Jr., Esquire

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