

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas as Appellate Court of the Probate Court

The Honorable William H. Seals, Jr., Circuit Court Judge  
2019-CP-10-3889

**RECEIVED**

JUL 26 2019

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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**RESPONDENTS' RETURN TO APPELLANTS'  
MOTION TO REINSTATE APPEAL**

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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

Other counsel of Record:

M. Richardson Hyman, Jr., Esquire  
PO Box 127  
Charleston, SC 29402  
Attorney for Appellant James North

Peter G. McGrath, Esquire  
802 Johnny Dodds Boulevard  
Mt. Pleasant, SC 29464  
Attorney for Linda North

### **HISTORY OF THIS APPEAL**

Appellants appealed the April 25, 2019, Order of the Court of Common Pleas which on appeal, reversed the July 27, 2018, Order of the Probate Court, and **remanded** the proceeding back to the Charleston County Probate Court to Informally Probate the 2008 Will of decedent Hazel North. (emphasis added).

By order filed June 28, 2019, this Court dismissed the above captioned appeal, as "... the order on appeal is not a final order, *See* S.C. Code Ann § 62-1-308 (2009) (providing probate appeals must be from final orders)."

Appellants filed a Motion to Reinstate the Appeal, dated July 10, 2019, which was received by undersigned counsel for Respondents on July 15, 2019.

### **RESPONDENTS' RETURN TO MOTION TO REINSTATE APPEAL**

Respondents submit that this Honorable Court was absolutely correct in dismissing this appeal. Further, Rule 260, SCACR, provides, "A case shall not be reinstated except by leave of Court, upon good cause shown, ..."

On appeal the Circuit Court reversed the order of the Probate Court and remanded, or sent the case back to the Charleston County Probate Court to take the further action of informally probating decedent's 2008 Will. The order sought to be appealed by Appellants, is therefore not a final order.

In addition, Appellants cannot show good cause for reinstating the appeal. Appellants' final order arguments as to potential prospective effects of the Circuit Court's order to reverse and remand are contrary and in direct conflict with Appellants' strategies to not commence a formal proceeding to contest the informal probate of the 2008 Will, and further elections to not present these issues for determination by the Probate Court, nor by the Circuit Court on Appeal.

Respectfully, issues raised by Appellants in their Motion to Reinstate the Appeal as to contesting the informal probate of the 2008 Will, can only be raised, heard and determined by the Probate Court. That Appellants, in their Motion to Reinstate, now concede that they are time barred from contesting the informal probate of the 2008 Will, does not extend the appellate jurisdiction of this Court.

Respondents therefore request that this Court deny Appellants' Motion to Reinstate the Appeal.

Respectfully submitted,



Michael W. Sautter, Esquire  
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(843) 795-9500  
Attorney for Respondents

July 23, 2019

Charleston, South Carolina

STATE OF SOUTH CAROLINA

In The Court of Common Pleas

APPEAL FROM CHARLESTON COUNTY

Probate Court

The Honorable Tamara C. Curry, Associate Probate Court Judge

Case Number: 2016-ES-10-544

(Appellate Case Number: 2018-CP-10-3889)

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SC Court of Appeals

IN RE: THE ESTATE OF HAZEL NORTH

GRADY NORTH AND JEAN CORBETT.....APPELLANTS,

vs.

LINDA NORTH AND JAMES NORTH, Individually and as Personal Representative of the

Estate of Hazel North .....RESPONDENTS.

PROOF OF SERVICE

I hereby certify that I have served a copy of Respondents' Return to Appellants' Motion to Reinstate Appeal upon M. Richardson Hyman, Jr., attorney for Appellant James North and Peter G. McGrath, attorney for Linda North, by placing copies of same in the United States Mail addressed as follows:

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

M. Richardson Hyman, Jr., Esquire  
Post Office Box 127  
Charleston, SC 29402

  
Tracey O'Brien

Charleston, South Carolina  
July 23, 2019

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

July 23, 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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JUL 26 2019

SC Court of Appeals

Dear Ms. Kitchings:

Enclosed herewith for filing, please find an original and seven copies of Respondents' Return to Appellants' Motion to Reinstate Appeal regarding the referenced matter. Please file the original and return one 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.

You may contact our office with any questions, comments or concerns.

Thank you.

Sincerely,

Tracey O'Brien  
Assistant to Michael Sautter

Enclosures

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



Query-Sautter & Associates, LLC  
Attorneys at Law  
147 Wappoo Creek Drive, Suite 202  
Charleston, South Carolina 29412

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The Honorable Jenny Abbott Kitchings  
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