

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

J. Mark Hayes, II, Circuit Court Judge

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**APPELLATE CASE NO. 2019-000076**

Case No. 2017-CP-10-03110 (Court of Common Pleas)

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CAROL MANIGAULT,

Appellant,

v.

MORRIS ELLISON, AS PERSONAL  
REPRESENTATIVE FOR THE ESTATE  
OF ANDREW MANIGAULT,

Respondent.

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**SUPPLEMENTAL RECORD ON APPEAL RE:  
INCLUSION OF JANUARY 19, 2017 TRANSCRIPT**

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**INDEX**

**ADD:**

Transcripts

27. Transcript of Charleston County Probate Court Hearing held on January 19, 2017 re:  
Personal Representative's Motion for Summary Judgment under Case No. 2010-  
ES-10-0413..... 337

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
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23  
24  
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STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE PROBATE COURT

IN RE: THE ESTATE OF:  
ANDREW MANIGAULT  
CASE NO: 2010-ES-10-0413

TRANSCRIPT OF  
HEARING

Given at the Charleston County Probate Court,  
Charleston County Judicial Building, 100 Broad Street,  
Suite 469, Fourth Floor, Charleston, South Carolina, on  
Thursday, January 19th, 2017, commencing at 1:24 p.m.

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**A P P E A R A N C E S**

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2  
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4  
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FOR THE RESPONDENT: LAUREL R. S. BLAIR, ESQUIRE  
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MT. PLEASANT, SC 29464

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1           **COURT:** Ladies and gentlemen, this is case number  
2           2010-ES-10-00413 in reference to the Estate of  
3           Andrew Manigault. We have a motion for summary  
4           judgment. Creditors' claims of Carol Manigault  
5           and Shania Ann Andrews as personal  
6           representative of The Estates of Robert and John  
7           Manigault. We have attorney Laurel Blair and  
8           Philp who are representing the movant; personal  
9           representative, Morris Ellison. And we have  
10          attorney Capers Barr and --

11          **MRS. DEJONG:** Karen DeJong.

12          **COURT:** Okay.

13          **BALIFF:** And for the record, Your Honor, Capers  
14          Barr represents The Estate of John. You said  
15          Robert Manigault and John Manigault. And for  
16          the record, John Manigault is in Court.

17          **COURT:** Okay. But you're actually representing  
18          John and Robert. Am I correct?

19          **MR. BARR:** Ma'am?

20          **COURT:** You're representing both Robert and John?

21          **MR. BARR:** Yes, ma'am.

22          **COURT:** Okay.

23          **MR. BARR:** The Estate of Robert. Yes, ma'am.

24          **COURT:** Correct. And attorney DeJong, you're  
25          representing Carol Manigault?

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**MRS. DEJONG:** Yes, Your Honor.

**COURT:** Okay. And are we ready to proceed?

**MRS. BLAIR:** We are, Your Honor.

**COURT:** Thank you.

**MRS. BLAIR:** Thank you very much. Laurel Blair, along with Morris Ellison, personal representative, and Graeme Philp, who was counsel for the estate for assuming administration purposes, respectfully, Your Honor. We respectfully move The Court for summary judgment under Rule 56 and 62-3-806(a), 62-3-804-5, 62-3-804-2, 15-3-530, and South Carolina Rules of Civil Procedure 4, with respect of summary judgment and dismissal of prejudice of the creditors' claims and there are two, filed by the decedent's ex-wife, Carol Manigault.

And just for clarification, Your Honor, Carol Manigault was divorced a number of years before the decedent's death from the decedent. However, the decedent's estate plan still leaves a bequest to Carol Manigault. So this motion as to Carol Manigault's creditors' claim does not affect her separate rights as beneficiary or devisee. So that's completely separate and our motion also says that just for clarification.

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1           In addition, Your Honor, this estate is  
2 complicated. The decedent was fortunate to own  
3 a lot of land tracts. However, he died with not  
4 a lot of liquidity. And so due to the worldwide  
5 global recession, basically, it has taken  
6 several years for the land values to come back.  
7 It's been very challenging to administer this  
8 estate for the personal representative because  
9 of that.

10           And in addition and more especially, Your  
11 Honor, there have been a number of creditors'  
12 claims filed against this estate. And so every  
13 creditors' claim that is allowed or disallowed  
14 affects; what the heirs and devisees get to  
15 proceed as well as other creditors. But due to  
16 that, the personal representative is trying to  
17 be very careful. He's neutral as to all  
18 creditors' claims, Your Honor. He just wants to  
19 do the right thing and enforce the decedent's  
20 intent under his estate plan and also determine,  
21 if necessary, with the Court's help, which claims  
22 are legitimate and should be allowed versus  
23 disallowed.

24           So, having said that, Your Honor, that's  
25 kind of the backstory. We have scheduled today

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1 first, to address the claim filed by Mrs. Carol  
2 Manigault. And then after that, if there's time  
3 left, we'd like to address the claim filed by  
4 John Manigault because they are fairly large and  
5 also, will have some impact on other claims. And  
6 we'll come back before the Court if necessary on  
7 other claims.

8 The estate has been open for a little while  
9 and we are trying to move forward now in an  
10 orderly fashion and deal with all these claims  
11 and get the estate closed while minimizing to  
12 the extent possible, the expense for the heirs  
13 and legitimate creditors to pay out.

14 So having said that, Your Honor, basically,  
15 our motion is pretty clear. This is a nice and  
16 straight forward motion for summary judgment and  
17 we make that on the grounds that Carol  
18 Manigault's creditor claims are statutorily  
19 barred as a matter of law under South Carolina  
20 Code Annotated Section 62-3-806. That's Section  
21 1 and 62-3-804(5); for failure to serve her  
22 summons and petition for allowance of claim  
23 within the statutory 30-day time period and  
24 indeed for failure to commence the proceeding by  
25 virtue of the lack of effective service of

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1 process.

2 So, basically, Carol Manigault is the  
3 decedent's ex-wife. They were divorced in 2002.  
4 The decedent died in March 2010. She is  
5 entitled, as I said earlier, to receive separate  
6 funds under his estate plan. We don't deal with  
7 that at all today. This is just as to creditors'  
8 claims. She filed and served a statement of  
9 creditors' claims on September 15th, 2010  
10 claiming \$212,577 for the mortgage and refinance  
11 expenses in connection with her New Jersey  
12 Divorce Decree that was done in 2002.

13 She also, on November 17th, 2010, Carol  
14 Manigault filed and served a second statement of  
15 creditors' claim seeking an estimated \$875,000  
16 for South Carolina property and North Carolina  
17 property unknown. So, there's a lack of  
18 specificity, Your Honor, and due to the apparent  
19 failure to comply with the statute and also the  
20 lack of specificity in some of this, we are  
21 seeking The Court's guidance and ruling on this  
22 claim to determine whether it's legitimate and  
23 should be allowed.

24 Based on the information we have been given  
25 so far, Your Honor, the personal representative

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1 has disallowed this claim. We have conducted  
2 discovery. Mrs. Manigault's attorney has failed  
3 to respond to that discovery. And so, Your  
4 Honor, in order to minimize the expense to the  
5 estate, we have moved forward with this hearing  
6 because we felt like the issues are something  
7 that can be disposed of without spending a lot  
8 of money on extended discovery.

9 So, on January 19th, 2016, Your Honor, the  
10 personal representative filed and served two  
11 Form #372ES notices to this allowance of claim.  
12 Both claims were served on Carol Manigault's  
13 attorney, Karen DeJong, by Fed Ex and our motion  
14 says they were delivered on counsel on January  
15 25th, 2016. Excuse me. On Carol Manigault, on  
16 January 25th, 2016, and also on her counsel,  
17 Karen DeJong, on January 20th, 2016.

18 And they have a standard warning.  
19 Basically, the disallowed claim or just a portion  
20 will be forever disallowed and barred if not the  
21 summons and petition filing fee, etcetera, for  
22 allowance is not filed within 30 days after  
23 mailing or other service. So, the personal  
24 representative's proof of delivery, we filed all  
25 of that, Your Honor, contemporaneously and also

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1 those are exhibits to our motion that was filed.  
2 So, they're right behind the motion for your  
3 reference.

4 Carol Manigault's 30-day statutory deadline  
5 for filing the service of her summons and  
6 petition for allowance of the claim; that  
7 deadline ran on February 19, 2016. So we cite,  
8 Your Honor, 62-3-804-2, which says, basically,  
9 you've got to serve the personal representative.  
10 62-3-806(a) says, "Every claim which is  
11 disallowed is barred unless the claimant  
12 commences a proceeding for allowance of the claim  
13 not later than 30 days after mailing and other  
14 service and the notice of disallowance." 62-3-  
15 804-5 says "No proceeding for allowance of claim  
16 can be commenced more than 30 days after the  
17 personal representative's mailing and notice of  
18 disallowance."

19 So, in essence, Your Honor, Carol  
20 Manigault's petition for allowance of claim was  
21 filed in Probate Court on February 10th, 2016.  
22 Her summons associated with that petition was  
23 filed February 19th, 2016. We've attached copies  
24 of those pleadings as well for Your Honor. And  
25 basically, no proper service of process was made

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1 on the personal representative prior to the 30-  
2 day statutory deadline. Therefore, Carol  
3 Manigault's claims are time barred. As a matter  
4 of law, we are entitled to summary judgment under  
5 Rule 56.

6 Second ground, Your Honor, is basically for  
7 our motion in that Carol Manigault's creditor  
8 claims are barred as matter of law for lack of  
9 service of process. 62-3-1305 states that to  
10 each summons, a copy of petition must be attached  
11 and copies of summons and petition served on the  
12 personal representative.

13 In addition, Your Honor, to commence a  
14 proceeding, under Rule 4 of the South Carolina  
15 Rules of Civil Procedure, 4(d)(1) states you have  
16 to deliver a copy of the summons and complaint  
17 to the person personally or leave copies thereof  
18 at his dwelling house, or usual place of abode  
19 with some person of suitable age and discretion  
20 then residing, or by delivering a copy to an  
21 agent authorized by appointment or by law to  
22 receive the service of process.

23 To date, Your Honor, neither the personal  
24 representative, Mr. Ellison, nor his estate  
25 administration attorney, Graeme Philp, have been

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1 served with the summons and petition for  
2 allowance of claim. Nor has anyone authorized  
3 to accept service of process, been properly  
4 served under 4(d)(1) with Carol Manigault's  
5 summons and petition for allowance of claim.  
6 Physical delivery was never made to the PR or to  
7 Mr. Philp as his counsel.

8 What occurred, Your Honor, was the claimant  
9 apparently attempted service of the summons and  
10 petition for allowance of the claim on February  
11 19th. It was ineffective under 4(d)(1) in so  
12 far as two unposted, unaddressed, handwritten  
13 envelopes were left by an unidentified person to  
14 the office receptionist for these gentleman, who  
15 did not constitute an agent authorized by  
16 appointment or by law to accept service of  
17 process. Claimant's counsel didn't use an  
18 acceptable form, any other acceptable form of  
19 service of process during the 30-day time period  
20 or under the statutes. Neither the personal  
21 representative nor his counsel have accepted  
22 service of process. No credible proof of  
23 delivery or affidavit of process server has been  
24 provided to the personal representative.

25 Inquiries in our August 4, 2016

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1 interrogatories and request for production  
2 directed to Mrs. Carol Manigault's counsel went  
3 unanswered despite the fact that we granted an  
4 extension of time.

5 Basically, Your Honor, Carol Manigault  
6 failed to properly commence the proceeding. It  
7 would appear under Rule 4 of the South Carolina  
8 Rules of Civil Procedure and basically failed to  
9 commence it by lack of service and also failed  
10 to commence it within the 30-day time period as  
11 required by 62-3-806(a) and 62-3-804-5.

12 Therefore, we would submit, Your Honor,  
13 respectfully, that all the claims of Carol  
14 Manigault are barred as a matter of law.  
15 Personal representative is entitled to summary  
16 judgment as a matter of law. Carol Manigault's  
17 claims as a creditor but not as a beneficiary  
18 separately under the estate plan should be  
19 dismissed.

20 We also, Your Honor, note that basically,  
21 no proof of delivery was apparently filed in The  
22 Court regarding -- at least, we never received  
23 one --- regarding service of the summons and  
24 petition for allowance of claim. And Rule 4(d)  
25 in the Rules of Civil Procedure, does say proof

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1 of service shall be promptly filed to show  
2 service.

3 In addition, Your Honor, we have a  
4 contemporaneous email sent to my law firm by Ms.  
5 DeJong on or about the time of alleged service  
6 on Monday, February 22nd. May I approach, Your  
7 Honor?

8 **COURT:** Yes, you may.

9 **MRS. BLAIR:** Thank you, Your Honor. In this  
10 email, Mrs. DeJong appears to say that she has  
11 not served, in fact, the summons and petition  
12 for allowance of claim on PR or his counsel. She  
13 said she sent a courier and not a process server  
14 or sheriff to deliver a set of documents to leave  
15 at the front desk of their law office on the 19th  
16 of February and Mrs. DeJong also says in her  
17 email that she was told by Mr. Ellison's and Mr.  
18 Philp's staff that neither of them were even in  
19 the building and she was wanting to get their  
20 acceptance of service.

21 Your Honor, that would appear to constitute  
22 an admission or confirmation of ineffective  
23 service of process. Further, Your Honor, under  
24 South Carolina Code 15-3-530(1) of the claims  
25 bar, the amounts claimed by Carol Manigault

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1 pursuant to her 2002 New Jersey Divorce Decree  
2 with the decedent were due and payable more than  
3 three years before the decedent's death and were  
4 therefore time barred by South Carolina Code  
5 Annotated 15-3-530(1), which --

6 **COURT:** What section was that again?

7 **MRS. BLAIR:** 15-3-530(1). Which is the three-  
8 year statute of limitations for enforcing  
9 contractual claims not under seal or at the time  
10 of decedent's death. The 2002 divorce decree -  
11 - and keep in mind, Your Honor, the gentleman  
12 died in 2010. The 2002 divorce decree required  
13 Andrew Manigault to make mortgage payments. Mrs.  
14 Carol Manigault had contemporaneous knowledge  
15 that such payments were not being made under the  
16 divorce decree as evidenced in her creditors'  
17 claim allegation that mortgage payments were  
18 made on his behalf by her and she had to  
19 refinance. She knew, therefore, that the  
20 decedent was, during his life, failing to pay  
21 the mortgage in violation of the divorce decree,  
22 apparently. However, Carol Manigault still  
23 allowed eight years and the decedent's death to  
24 occur before pursuing her creditors' claim  
25 against this estate of South Carolina.

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1           Basically, Your Honor, we see no genuine  
2 issue of material fact. And we submit that Rule  
3 56 applies to grant summary judgment. No  
4 specific facts, no specific genuine issue of  
5 material fact has been alleged or raised by  
6 counsel for Mrs. Manigault. And that, basically,  
7 entitles us to summary judgment.

8           And, Your Honor, a few more things.  
9 Actually, would you like me to allow her to  
10 respond and then respond to her briefly? Or  
11 would you like me to finish our entire --

12 **COURT:** It's really up to you.

13 **MRS. BLAIR:** Okay.

14 **COURT:** How you want to --

15 **MRS. BLAIR:** I'll make it brief, then.  
16 Basically, Your Honor, it's undisputed that  
17 Carol Manigault's summons and petition for  
18 allowance of claim did not comply with the  
19 relevant statutes in law. And so any arguments  
20 she makes, Your Honor, in her opposition in reply  
21 brief regarding her purported efforts to file  
22 her 2002 divorce decree in Circuit Court are  
23 irrelevant and they don't govern; they don't  
24 control. The divorce decree was filed by Mrs.

25 Manigault's lawyer in Circuit Court under the

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1 Uniform Foreign Judgments Act and then it was  
2 later dismissed by order of the Circuit Court  
3 dated July 29th, 2011. We have noted that that  
4 order -- the initial filing was included in Mrs.  
5 Carol Manigault's brief, but not the order  
6 dismissing it. So we would hand that up,  
7 respectfully, for a complete record.

8 **COURT:** Okay.

9 **MRS. BLAIR:** No domestication of the 2002 divorce  
10 decree has ever occurred as far as it would  
11 appear, Your Honor. We do not see where the 2002  
12 divorce decree was ever properly domesticated or  
13 filed with the Probate Court. The divorce decree  
14 in itself, Your Honor, is not a judgment of the  
15 type governed by Uniform Foreign Judgments Act.  
16 It basically says that if additional property of  
17 the other person is discovered, then their ex-  
18 spouse can go back to Court and seek equitable  
19 distribution of any after-discovered assets. So  
20 if someone was hiding assets, they have the right  
21 to go back to Family Court in New Jersey and seek  
22 equitable distribution.

23 Apparently, Mrs. Carol Manigault never  
24 moved to protect her rights in New Jersey. And  
25 if what looks like the divorce decree -- which

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1 was filed with Carol Manigault's response brief  
2 to ours -- it only contemplates that she could  
3 go back, if she discovered that her husband  
4 perhaps was hiding an asset, back to that Court  
5 and get an order, then, perhaps, giving her a  
6 right, and vice versa to him, to equitable  
7 distribution on the asset. And so, that was  
8 never done.

9 So there's no order, basically, Your Honor,  
10 to enforce in South Carolina. It's not like  
11 there's a Court order in New Jersey that says  
12 Mrs. Manigault is entitled to XYZ money if things  
13 like after-discovered land, which I think in one  
14 of her claims says occurs. And so her failure  
15 to go back and get a final order makes it  
16 impossible for her to domesticate the 2002  
17 divorce decree which basically says if anything  
18 else is out there, we'll address it. It was  
19 never addressed.

20 So that lack of specificity and lack of  
21 domestication in any Court in South Carolina; it  
22 appeared to make that basis of any claim moot.  
23 And so we address that because it's addressed in  
24 her reply brief, Your Honor, to be brief. She may  
25 have also waived her rights, basically, by failing

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1 to enforce them timely and in the correct  
2 jurisdiction. The estate, of course, is not bound  
3 by that divorce order because Mr. Manigault was  
4 still living.

5 And the Uniform Enforcement of Foreign  
6 Judgments Act appears also to exempt or except  
7 certain Family Court orders under 15-35-910. That  
8 may be the kind of order at issue here.

9 And while they do in their brief, Your Honor,  
10 say that this is inappropriate and premature in  
11 our motion for summary judgment and that there are  
12 genuine issues of material fact, they specify no  
13 genuine issue. Under Rule 56 of the Rules of  
14 Civil Procedure, Your Honor, Rule 56 motions must  
15 be granted if no genuine issue of material fact  
16 is specified; not by speculation but it has to be  
17 showing that the moving parties are not entitled  
18 to judgment as a matter of law.

19 So claimant rests on their allegations. So,  
20 Your Honor, we submit that the estate be entitled  
21 to summary judgment as to the two claims filed by  
22 Carol Manigault against the estate, Your Honor.  
23 Thank you.

24 **COURT:** Thank you. Attorney DeJong?

25 **MRS. DEJONG:** Thank you, Your Honor. Just a

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1 second. Your Honor, Mr. Barr and myself have a  
2 procedural question for you before I begin my  
3 arguments and that is under Section 62-3-806. It  
4 says, "The personal representative must serve upon  
5 the claimant a notice whether he has disallowed  
6 the claim or not within 14 months after the  
7 decedent's death." So he filed the disallowance  
8 in 2016 but the decedent passed away in 2010. So  
9 that's six years.

10 **COURT:** I don't think that you can ask me from the  
11 bench to rule on a procedural question. You can  
12 make that an argument that you believe that that's  
13 why the disallowance shouldn't be allowed. You  
14 can make that an argument but I can't procedurally  
15 from the bench rule on that.

16 **MRS. DEJONG:** All right. Then I will make that  
17 an argument.

18 **COURT:** Okay.

19 **MRS. DEJONG:** Under that section that the personal  
20 representative is years out of time --

21 **COURT:** Okay. What was that again? Section what?

22 **MRS. DEJONG:** 62-3-806.

23 **COURT:** Okay. And what's your argument?

24 **MRS. DEJONG:** That the personal representative had  
25 14 months to file the disallowance of claim after

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1 the decedent's death. Decedent passed away March  
2 5th, 2010 and the disallowance was filed on  
3 January 19th, 2016.

4 **COURT:** Okay.

5 **MRS. DEJONG:** With regards to Carol Manigault, she  
6 has never been deposed so anything that the  
7 personal representative's attorney has stated is  
8 pure speculation. I received the disallowance of  
9 claim. In it is stated that I have 30 days after  
10 the mailing to file a petition and I did. I  
11 received it on January 19th and I filed the  
12 summons and petition on February 19th, 2016. So  
13 it was timely.

14 **COURT:** Okay. And you filed the summons and  
15 petition when?

16 **MRS. DEJONG:** On February 19th, 2016. So I don't  
17 know why that became an issue. As far as service,  
18 as you can tell from the email, I was in a car  
19 accident and when I spoke to Faith Simmons of the  
20 personal representative's law firm, she stated  
21 that he was out of the building with Graeme Philp.  
22 So I did have the process server leave the  
23 petition and the summons with her. But for the  
24 past six years, that's how I've always submitted  
25 pleadings to the personal representative by

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1 leaving it with his receptionist at his law firm.  
2 So this is the first time this has been raised as  
3 an issue. Nonetheless, it was one day, I think,  
4 after the 30-day deadline. But the personal  
5 representative hasn't been far. He filed an  
6 answer shortly thereafter.

7 **COURT:** So you're saying it was filed one day  
8 after the 30 days?

9 **MRS. DEJONG:** I have right here -- well, I take  
10 that back. I did serve it on February 19th at  
11 2:30 p.m. I'm sorry. That was within the 30  
12 days. And then in regard to the statute of  
13 limitation for contracts, I don't believe that  
14 applies in this case. This is a foreign judgment.  
15 It's an order of The Court. And there's no statute  
16 of limitations on that. This was a Court order  
17 from the state of New Jersey, which, according to  
18 the Uniform Foreign Judgment Act should be honored  
19 here in the state. With regards to why she didn't  
20 seek enforcement during the six years before he  
21 passed, whatever the timeframe was, she didn't  
22 know where he was. And she didn't really -- if  
23 she knew where he was, she didn't have the means  
24 to enforce it. There's no statute of limitations  
25 on enforcing a judgment has as far as I know. You

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1 have 10 years. And this was within the 10 years.  
2 **COURT:** So you're saying there was a judgment?  
3 **MRS. DEJONG:** It is a judgment.  
4 **COURT:** Okay.  
5 **MRS. DEJONG:** It was attached to my pleading.  
6 Yeah. It should be here. With regards to this  
7 foreign judgment, it was dismissed by a Circuit  
8 Court here because there was an estate matter  
9 opened already in the Probate Court. So it was  
10 dismissed and transferred to the Probate Court.  
11 No objection has ever been raised as far as the  
12 validity of this foreign judgment being enforced  
13 in South Carolina. I ask the motion for summary  
14 judgment be denied.  
15 **COURT:** Okay. Attorney Barr, you're not arguing  
16 anything related --  
17 **MR. BARR:** No, ma'am. I'm just sitting up here  
18 waiting for the next motion but I can concur with  
19 the first round but I'll get to that when I stand  
20 up.  
21 **COURT:** Okay. Thank you. Attorney Blair?  
22 **MRS. BLAIR:** Just briefly. The order that I handed  
23 up, dismissing from the Circuit Court, the foreign  
24 judgment filing; it fully dismisses the filing.  
25 It does not refer it or transfer it over to the  
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1 Probate Court. So as far as we can tell, it was  
2 never filed, no Uniform Foreign Judgment  
3 Enforcement Act was ever made before the Probate  
4 Court. In addition, Your Honor, respectfully --  
5 **COURT:** You're saying it was never what? I'm  
6 having a hard time hearing.

7 **MRS. BLAIR:** Sorry. It's our impression, Your  
8 Honor, that this order only dismissed and did not  
9 transfer or refer the matter. So it would have  
10 had to have been properly filed before this Court  
11 and we believe that that was never done. We never  
12 received notice of any Uniform Foreign Judgment  
13 Enforcement Act filing here nor do we have any  
14 notice that the 2002 New Jersey Divorce Order was  
15 ever filed before this Court.

16 In addition, Your Honor, this estate has been  
17 open. The decedent died in 2010. It has been  
18 open for quite some time. It has a lot of  
19 complicated issues and creditors, particularly.

20 A prior version, Your Honor, of the Code  
21 Section 62-3-806, was in effect when the notice  
22 of disallowance of claims was filed and served by  
23 the personal representative. And the personal  
24 representative did comply with that prior version  
25 of the statute, Your Honor. So it is our position,

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1 respectfully, that the PR is in full compliance  
2 with the Code in that respect. Thank you.

3 **COURT:** Thank you.

4 **MR. PHILP:** If I may, Your Honor. One moment.

5 **COURT:** Yes. He just wanted a second and then I  
6 will let her finish and then let you.

7 **MRS. BLAIR:** Your Honor, respectfully, I will move  
8 to strike what appears to be testimony offered by  
9 Mrs. DeJong. Her client's not here. That's  
10 hearsay. Whether Mrs. Carol Manigault knew  
11 anything about anyone or where her husband was,  
12 we do respectfully move to strike. It's not  
13 admissible argument.

14 **COURT:** Response to that?

15 **MRS. DEJONG:** I'm her attorney. I can obviously  
16 relay to The Court what her thoughts are or what  
17 she said. I don't see how that's hearsay.

18 **MRS. BLAIR:** Your Honor, it's ineffective and  
19 should not be considered by The Court.

20 **COURT:** I'll strike it.

21 **MRS. BLAIR:** Thank you, Your Honor.

22 **COURT:** Okay. Any additional arguments?

23 **MRS. DEJONG:** Yes. I went through the file at the  
24 office and I did find where there was a file copy  
25 stamped in Probate Court transferring -- it is on

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1 file in Probate Court -- that foreign judgment.

2 **COURT:** Okay. So do you have a copy of that?

3 **MRS. DEJONG:** No, I don't. It's at the office.

4 **MRS. BLAIR:** I've not ever seen a copy, Your Honor.

5 **MRS. DEJONG:** I can send one.

6 **COURT:** And where would that have been transferred  
7 from?

8 **MRS. DEJONG:** From Circuit Court. Charleston  
9 County Circuit Court. It was transferred into  
10 Probate Court on or about August 1st, 2011.

11 **COURT:** Okay. Anything further in regards to this  
12 argument?

13 **MRS. DEJONG:** No, ma'am.

14 **MRS. BLAIR:** Obviously, we have opposed that. We  
15 have never seen documentation. We have asserted  
16 that's not properly before The Court, Your Honor.  
17 And if The Court's not aware of it, that also  
18 makes us believe that that perhaps was not brought  
19 before The Court.

20 **COURT:** Well, the only thing I can say, there are  
21 three files. And if they were filed in 2011, I  
22 can't tell you that I know that it was or was not  
23 because --

24 **MRS. BLAIR:** Understood. If it was filed, Your  
25 Honor, it should have been --

1 STATE OF SOUTH CAROLINA

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C-E-R-T-I-F-I-C-A-T-E

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COUNTY OF RICHLAND

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I, Annie Holbrook, Court Reporter and Notary Public, certify that I did appear at 1:00 p.m. on Thursday, January 19th, 2017 at the Charleston County Probate Court, Charleston County Judicial Building, 100 Broad Street, Suite 469, Fourth Floor, Charleston, South Carolina; that the forgoing pages constitute a true and accurate transcript of the Preliminary Hearing given at that time and place.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 24th day of January, 2017.

*Annie Holbrook*

Notary Public for South Carolina

My Commission Expires: January 21<sup>st</sup>, 2024

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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

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Hon. J. Mark Hayes, II, Circuit Court Judge

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**APPELLATE CASE NO. 2019-000076**

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Case No. 2017-CP-10-03110 (Court of Common Pleas)

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Carol Manigault,

Appellant,

vs.

Morris Ellison, Esq. as Personal Representative of  
The Estate of Andrew Manigault,

Respondent.

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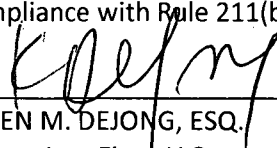
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**CERTIFICATE OF COUNSEL**

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Pursuant to Rule 210(g) of the SCACR, I certify that the Amended Index for the Record on Appeal and Supplemental Record on Appeal contain all material proposed to be included by the parties and not any other material. Pursuant to Rule 267(b) of the SCACR, I certify that I have read these documents and, to the best of my knowledge, information and belief, there is a good ground to support them, and that they are not interposed for delay. I certify that Appellant's Final Brief is in compliance with Rule 211(b) of the SCACR.

Dated: 11/11/2019

  
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