

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

\_\_\_\_\_  
Case No. 2019-CP-04-00337  
\_\_\_\_\_

**RECEIVED**  
JUN 29 2020  
SC Court of Appeals

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary K. Taylor, Respondents.

v.

Florence Keese, Marcy Keese, Margo Keese and  
Marshall Keese, pro se, Appellants.

\_\_\_\_\_  
DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL  
\_\_\_\_\_

Respondents propose the following be included in the Record on Appeal:

1. Order of July 1, 2019;
2. Motion to Set Aside Default Judgment;
3. Respondents' Return to the Motion to Set Aside Default Judgment;
4. Appellants' Affidavit of Richard Margolis provided at hearing of December 12, 2019 on Motion to Set Aside Default Judgment;
5. Appellants' Affidavit of Marshall Keese provided at hearing of December 12, 2019 on Motion to Set Aside Default Judgment;
6. Appellants' Affidavit of Florence Keese provided at hearing of December 12, 2019 on Motion to Set Aside Default Judgment;
7. Transcript of the Proceedings at the Hearing held on Motion to Set Aside Default Judgment on December 12, 2019;

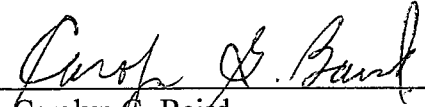
8. Order of January 22, 2020.

I certify that this designation contains no matter which is irrelevant to this appeal.

June 26, 2020

Respectfully submitted,

By: \_\_\_\_\_



Carolyn G. Baird

PO Box 987

Anderson, SC 29622

(864) 224-3474

Attorney for Respondents

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ANDERSON )

IN THE COURT OF COMMON PLEAS  
Docket No. 2019-CP-04-00337

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary  
K. Taylor,

Plaintiffs,

vs.

Florence Keese, Marcy Keese, Margo Keese  
and Marshall Keese,

Defendants.

**ORDER OF DEFAULT AND JUDGMENT**

On Motion for Judgment and by sworn Affidavit, Carolyn G. Baird, being duly sworn and deposed, states that she is the attorney for the Plaintiffs in the above action; that the Summons and Complaint were duly served on the Defendants as shown by the Affidavits of Service filed in the Court record; that she is familiar with the provisions of 50 App. Section 520, Civil Relief Act of 1940, as amended, and that at the time of the commencement of this action, upon information and belief based, none of the above named Defendants are in the Military Service of the United States as defined in Article 1 of the "Soldiers and Sailors" Civil Relief Act and therefore, none of the Defendants are entitled to the protection of said Act; that more than thirty (30) days have elapsed since the service of said Summons and Complaint and that none of the Defendants have served an Answer, Notice of Appearance, Motion or other pleadings in this matter and that the matter is now in default and the Plaintiffs are entitled to Judgment as set forth in the prayer for relief.

NOW, THEREFORE, pursuant to Rule 55 (b)(1) of the South Carolina Rules of Civil Procedure, and upon motion of the Attorney for the Plaintiffs, the Defendants herein are hereby declared to be in default.

UPON FURTHER MOTION of Plaintiffs' attorney, it is hereby adjudged that the Plaintiffs herein are entitled to judgment as follows:

1. That the transfer to Marshall Keese under the Deed of September 22, 1992 is hereby null and void;
2. That said property is hereby quieted in the names of the Plaintiffs.
3. That each of the Plaintiffs is confirmed in their title to an undivided one-fifth (1/5) interest in the subject property.

AND IT IS SO ORDERED

\_\_\_\_\_  
JUDGE, TENTH JUDICIAL CIRCUIT

Anderson, South Carolina  
\_\_\_\_\_, 2019



Anderson Common Pleas

**Case Caption:** Frances K Chestnut , plaintiff, et al VS Florence Keese , defendant, et al  
**Case Number:** 2019CP0400337  
**Type:** Order/Judgment by Default and Form 4

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ANDERSON	)	C. A. No. 2019-CP-04-00337
	)	
Frances K. Chestnut, Elizabeth Diane Keese,	)	
Sylvester Keese, Arthur B. Keese and Mary	)	
K. Taylor,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	<b>MOTION TO SET ASIDE DEFAULT</b>
	)	<b>JUDGMENT</b>
	)	
Florence Keese, Marcy Keese, Margo Keese	)	
and Marshall Keese,	)	
	)	
Defendants.	)	

**TO: CAROLYN G. BAIRD, ESQ., ATTORNEY FOR PLAINTIFFS**

YOU WILL HEREBY TAKE NOTICE that Defendants, by and through their undersigned counsel, will move before the presiding judge of the Court of Common Pleas of Anderson County, as soon as this matter may be heard, for an Order setting aside the default judgment entered in the above-referenced action.

This motion is made pursuant to S.C.R.C.P. 60(b) and is supported by the South Carolina Rules of Civil Procedure and such legal memoranda and arguments as Defendants' counsel may present to the Court at or prior to the hearing on this motion.

Respectfully submitted this 2<sup>nd</sup> day of August, 2019.

HOLDER, PADGETT, LITTLEJOHN + PRICKETT, LLC

s/ M. Stokely Holder  
M. Stokely Holder (SC Bar #73892)  
Anna L. Bullington (SC Bar # 102503)  
P.O. Box 1804  
Greenville, SC 29602  
(864) 335-8808  
[sholder@hplplaw.com](mailto:sholder@hplplaw.com)  
[abullington@hplplaw.com](mailto:abullington@hplplaw.com)  
Attorneys for Defendants Florence Keese, Marcy Keese,  
Margo Keese and Marshall Keese

STATE OF SOUTH CAROLINA )  
COUNTY OF ANDERSON )

IN THE COURT OF COMMON PLEAS  
Docket No. 2019-CP-04-00337

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary  
K. Taylor,

Plaintiffs,

vs.

Florence Keese, Marcy Keese, Margo Keese  
and Marshall Keese,

Defendants.

**RETURN TO DEFENDANTS' MOTION**

The Plaintiffs brought this quiet title action asking the Court to rule that the conveyance made in the Deed on September 21, 1992 from Minnie Keese to Frances K. Chestnut, James Keese, Jr., Sylvester Keese, Marshall B. Keese (deceased), Arthur B. Keese and Mary K. Taylor is invalid or a nullity with respect to the conveyance to Marshall Keese who as the Deed shows on its face was deceased at the time this Deed was executed.

Indisputably, the Grantee must be a person in being that is either a natural living person or a legal entity in existence at the time of the conveyance. As stated, this Deed shows on its face and it is correct that Marshall Keese was deceased at the time of this conveyance. As stated in Singer v. First Nat. Bank and Trust Co., 195 Ga. 269, 24 S.E.2d 47, 50-51(1943), "it has long been recognized that a deed to an immediate estate in land, made directly to a person not in esse, is absolutely void." As the Mississippi Court states in Parson v. Marshall, 243 Miss. 719, 139 So. 2d 833, 837 (Miss. 1962) "... where an instrument purporting to be a deed and which has no grantee named therein, in esse, a person in being, or corporation is void."

The Plaintiffs anticipate that the Defendants will point to the words of inheritance which are contained in the Deed. If they so argue, then the Defendants misunderstand the purpose of this language in the context of the Deed. These are not words of conveyance, but rather are the words of inheritance by which the Grantor conveyed her entire interest of fee simple title to the living Grantees. However, since the conveyance to Marshall Keese is void because he was not living, he had no devisable or inheritable interest at his death. It is inarguable that no interest could pass to his heirs through this Deed by the words of inheritance. The family of Marshall Keese cannot stand in better relation or position to this conveyance than he did himself.

We simply argue that the grant to Marshall Keese (deceased) is void because he was not alive at the time of the grant and therefore had not the capacity to take as a grantee, which means there is no meritorious defense to this action. This is a matter of law on which the Court has nothing more to learn from the perpetuation of this lawsuit through vacating the entry of the default to allow the Defendants to respond.

To vacate the entry of the default in this matter the Defendants must show good cause. The Plaintiffs know of no good cause, since the suit was served on each Defendant respectively and the default was entered over eleven days from the final default. That delay was intentional to give every opportunity for response from out of state Defendants.

The Court must consider the justice of vacating the entry of default and there can be none. The suit is based on a simple matter of law, and the continuation of this lawsuit will cost the Plaintiffs time, and legal fees only to reach the same conclusion as the entry of the default at a later date. Not to mention that any argument to uphold a conveyance to a deceased person absolutely upends well established law with chaotic, if not unimaginable consequences in the area of real estate conveyances.

Therefore, the Plaintiffs ask that the Defendants' Motion to Vacate the Default be denied and the Order previously submitted to the Court by the Plaintiffs be entered.

s/Carolyn G. Baird  
CAROLYN G. BAIRD, SC Bar #480  
JONES LAW FIRM, PA  
PO Box 987  
Anderson, SC 29622  
(864) 224-3474  
[Carolyn@jonesfirm.com](mailto:Carolyn@jonesfirm.com)

Anderson, SC  
September 23, 2019

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary  
K. Taylor,

Plaintiffs,

v.

Florence Keese, Marcy Keese, Margo Keese  
and Marshall Keese,

Defendants.

) IN THE COURT OF COMMON PLEAS

) C. A. No. 2019-CP-04-00337

) **AFFIDAVIT OF RICHARD MARGOLIS**

PERSONALLY APPEARED before me, an officer duly authorized by law to administer oaths, Richard Margolis, who after first being duly sworn, states:

1. My name is Richard Margolis and I am competent in all aspects to testify regarding the matters set forth herein.

2. I am an attorney licensed to practice law in Pennsylvania.

3. I was contacted by Marshall Keese in March 2019 regarding a quiet title action filed against him, Florence, Marcy, and Margo Keese in Anderson, South Carolina.

4. I informed him that while I was not licensed to practice law in South Carolina I would contact the attorney for the Plaintiff.


5. I emailed Ms. Baird, the attorney for the Plaintiff, and told her that I had been contacted by the Keese family about the action. Ms. Baird told me she could not speak to me about the matter unless I filed a notice of appearance with the court in South Carolina

6. After she told me this, I again advised Mr. Keese that I was not licensed in South Carolina and could not file an answer on his and his family's behalf, but I would try to help him find an attorney in South Carolina.

7. Mr. Keese must have misunderstood my communications with him and there may have been some miscommunication between us about the time of service and deadline for filing an answer.

8. Thereafter, I did not receive any notice that the Plaintiff was attempting to have a default entered against the Keeses for failing to answer the complaint.

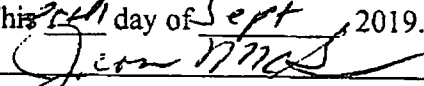
**FURTHER THE AFFIANT SAYETH NAUGHT.**



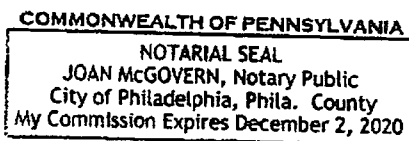
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Richard Margolis

Sworn to and subscribed before me  
This 27th day of Sept, 2019.

  
Notary Public, State of Pennsylvania

My commission expires: \_\_\_\_\_



STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF ANDERSON

) C. A. No. 2019-CP-04-00337

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary  
K. Taylor,

Plaintiffs,

) **AFFIDAVIT OF MARSHALL KEESE**

v.

Florence Keese, Marcy Keese, Margo Keese  
and Marshall Keese,

Defendants.

PERSONALLY APPEARED before me, an officer duly authorized by law to administer oaths, Marshall Keese, who after first being duly sworn, states:

1. My name is Marshall Keese and I am competent in all aspects to testify regarding the matters set forth herein.

2. My family and I received a letter from the Plaintiffs' attorney, Ms. Crystal Baird, in March 2018 telling us that some of our family members wanted to divide property in Anderson County, South Carolina that our grandmother had deeded to all of us.

3. We told the Plaintiffs and Ms. Baird that we would not agree to sign any quitclaim deeds or give our consent to divide the property.

4. I contacted Richard Margolis, an attorney in Pennsylvania who was handling another matter for me, about the letter, and he contacted Ms. Baird to discuss the case.

5. I called Mr. Margolis right after I was served with a Summons and Complaint on April 10, 2019 to let him know that I had been served.

6. Mr. Margolis told me he was not licensed in South Carolina, but he said he would try to help me find an attorney in South Carolina.

7. I did not receive a copy of any notices, motions, or pleadings filed in this case after I was served with the Summons and Complaint.

8. I followed up with Mr. Margolis again, and he told me he was still trying to find an attorney in South Carolina.

9. When I called Mr. Margolis again in July, he told me he had been unable to find an attorney in South Carolina to handle the case and recommended that I try to find one myself.

10. I retained Mr. Holder's firm to represent my mother, my sisters, and me at the end of July 2019.

11. I did not know the Plaintiffs were trying to have a default entered against me until my new attorney, Mr. Holder, told me a default judgment had been filed on July 1, 2019.

12. I did not receive notice of any motion or hearing related to the case whatsoever.

13. If I had been aware of any motions or hearings, I would have immediately contacted my attorney in Pennsylvania to advise me on what to do.

**FURTHER THE AFFIANT SAYETH NAUGHT.**



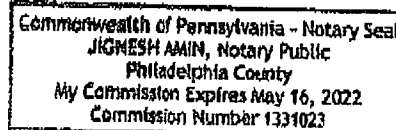
Marshall Keese

Sworn to and subscribed before me.

This 9<sup>th</sup> day of December, 2019.

  
Notary Public, State of Pennsylvania

My commission expires: 05-16-19





7. I understood that Mr. Margolis was helping us find an attorney in South Carolina to handle the case.

8. When we learned that Mr. Margolis could not find us an attorney, we retained Mr. Holder's firm to represent us at the end of July 2019.

9. I did not know the Plaintiffs were trying to have a default entered against me until our new attorney, Mr. Holder, told me a default judgment had been filed on July 1, 2019.

10. I did not receive notice of any motion or hearing related to the case whatsoever.

**FURTHER THE AFFLIANT SAYETH NAUGHT.**

*Florence Keese*  
\_\_\_\_\_  
Florence Keese

Sworn to and subscribed before me  
This 30 day of Sept, 2019.  
*Jodie L. Rosenthal-Young*  
Notary Public, State of Pennsylvania  
My commission expires: 01/10/2020

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
JODIE L. ROSENTHAL-YOUNG, Notary Public  
East Goshen Twp., Chester County  
My Commission Expires January 10, 2020

1 State of South Carolina  
2 County of Anderson

In the Court of Common Pleas

4 Frances K. Chestnut, )  
Elizabeth Diane Keese, )  
5 Sylvester Keese, )  
Arthur B. Keese and )  
6 Mary K. Taylor, )

7 Plaintiffs, )

2019-CP-04-00337

8 -vs- )

December 12, 2019

9 Florence Keese, )  
10 Marcy Keese, Marshall )  
Keese and Margo Keese, )

11 Defendants. )

Transcript of Record

14 B E F O R E:

15 The Honorable R. Scott Sprouse, Judge

17 A P P E A R A N C E S:

18 Carolyn G. Baird, Esquire  
19 James S. Eakes, Esquire  
Attorneys for Plaintiffs

20 Anna L. Bullington, Esquire  
21 Attorney for Defendants

22  
23

24

Diane L. Marcengill, RPR, CRR, CRC  
Circuit Court Reporter

25

1 (WHEREUPON, court convened with all parties  
2 present and the following proceedings were had  
3 commencing at 11:26 a.m.)

4 THE CLERK: Frances K. Chestnut versus Florence  
5 Keese, defendant, et al.

6 THE COURT: Okay. This appears to be a motion --  
7 is this a motion to set aside default?

8 THE COURT: All right.

9 Ms. Bullington.

10 MS. BULLINGTON: Good morning, your Honor. This  
11 is a motion to set aside. This is -- the order was  
12 actually entered on July 1st. This was a quiet title  
13 action that was filed concerning a family property here  
14 in Anderson, and we represent the defendants in the  
15 quiet title action, Florence, Margot, Marcy, and  
16 Marshall Keese.

17 Your Honor, my clients are out of town. They're  
18 in Pennsylvania. And my understanding -- and we have  
19 filed affidavits to this effect -- is that Ms. Baird  
20 contacted my clients in March of last year regarding  
21 dividing the property, and my clients didn't have any  
22 interest in that and told her that. And she,  
23 ultimately, filed this quiet title action, I believe,  
24 let's see, in February of this year.

25 And my clients contacted an attorney in

1 Pennsylvania, who has also filed an affidavit about the  
2 grounds for Ms. Baird's action, the quiet title action,  
3 trying to extinguish my clients' interest in the  
4 property.

5         So at some point my clients basically told -- I  
6 mean, I'm sorry, the attorney in Philadelphia, I  
7 believe, told my clients that he needed to help them  
8 find an attorney in South Carolina because he's not  
9 licensed in South Carolina. And this attorney says  
10 that there was some type of miscommunication between  
11 him and our clients about filing an answer to the quiet  
12 title action, so they did not know that any entry of  
13 default was made, they didn't know that they were  
14 seeking default, and so when they came to our office in  
15 July, that was the first they had heard about any kind  
16 of default being entered or anything along those lines.

17         So we are seeking to set aside the order of  
18 default based on good cause, and I think my clients  
19 need an opportunity to be able to at least argue the  
20 issue of extinguishing their interest in the property,  
21 and we request that you would allow them to do that.

22         THE COURT: Okay. Thank you, Ms. Bullington.  
23         Ms. Baird.

24         MS. BAIRD: If it please the Court, the default  
25 cannot be set aside without good cause. And I did have

1 communication, e-mail, I believe, from an attorney  
2 in -- out of state, and so these parties had consulted  
3 an attorney, had advice of an attorney, and certainly  
4 knew there was a specific period of time in which to  
5 answer.

6 I don't think good cause exists because, even if  
7 they could not find an attorney, another attorney in  
8 South Carolina, which is what the affidavits they have  
9 filed with the court basically say, they had trouble  
10 finding an attorney in South Carolina to represent  
11 them, then they could have answered. They were charged  
12 with answering in this case, your Honor. They allowed  
13 it to go into default. None of the time frames in the  
14 file indicate that I acted in a really preemptory way  
15 at all. I mean, time was allowed and no communications  
16 were received until, finally, Mr. Holder and  
17 Ms. Bullington's law firm filed this motion to set  
18 aside the default.

19 Moreover, your Honor, to set aside the default, I  
20 think they need to show a meritorious defense in this  
21 case. And this case is pretty simple. It's about a  
22 deed to a dead person, and the dead person was one of a  
23 sibling group, and the siblings who were alive at the  
24 time the deed was done are the ones that Mr. Eakes and  
25 I now represent. So a dead person is not a person, and

1 being it's not a valid deed, and I simply contacted  
2 them to see if they would sign a quitclaim deed, which  
3 they refused to do, and, hence, I filed the quiet title  
4 action just to take that stigma, I guess you'd say, off  
5 the record. But we very strenuously argue that the  
6 deed to Marshall Keese, which is to Marshall Keese,  
7 paren, deceased, closed paren, so it was known to all  
8 that he was dead at the time, is simply not a valid  
9 transfer to him, and that there's no reason therefore  
10 to set aside the default.

11 THE COURT: Looks like you filed your complaint in  
12 February; is that correct?

13 MS. BAIRD: Yes, your Honor.

14 THE COURT: And then it was served April the 24th?

15 MS. BAIRD: Yes.

16 THE COURT: Okay. And looks like I signed the  
17 order July the 1st?

18 MS. BAIRD: Correct, your Honor.

19 THE COURT: Ms. Bullington, did your clients  
20 actually retain this lawyer in Pennsylvania?

21 MS. BULLINGTON: This attorney, from my  
22 understanding, was assisting them in a separate matter  
23 in Pennsylvania, so, no, they did not actually retain  
24 him for this matter. And I believe there were  
25 conversations between him and my clients about trying

1 to get a South Carolina attorney. My clients  
2 understood that he was assisting with that, and there  
3 was apparently a miscommunication in that regard.

4 THE COURT: And this was -- okay. I see his  
5 affidavit in here. This is Mr. Richard Margolis.

6 MS. BULLINGTON: Yes, your Honor.

7 THE COURT: Okay. Let me look at his affidavit  
8 real quick.

9 (Pause in proceedings.)

10 THE COURT: Anything further for the record?

11 MS. BULLINGTON: No, your Honor.

12 THE COURT: Ms. Baird, anything further for the  
13 record?

14 MR. EAKES: I represent one of the people,  
15 Sylvester Keese. Carolyn, of course, is handling this  
16 quiet title action, but as she indicated, it arose out  
17 of a deed to Marshall B. Keese, who was deceased at the  
18 time. That's not controverted.

19 These are his wife and children who are named as  
20 defendants. There's no issue that they were properly  
21 served. They hired the attorney in their home state.  
22 There's no issue but that they passed the 30 days and  
23 have not answered. I have not heard anything that  
24 would indicate there was good cause for not answering.

25 I have one case, case of Williams vs. Van

1 Valkenburgh. It's where the failure to answer a  
2 complaint where the owners are chargeable -- the case,  
3 basically, indicated that the defendants were  
4 chargeable with their attorney's failure to answer the  
5 complaint, whether it was their fault or through his  
6 negligence, and I think that's similar to the case  
7 we're dealing with.

8 On the issue of meritorious defense, I've got a  
9 similar action in Pickens County, and I have some case  
10 law. I don't know if the Court is interested in  
11 looking at it, but it's basically a property is deeded  
12 to a person or an entity that's not in existence. It's  
13 void ab initio. So I requested whether they really  
14 would have a meritorious defense even if the Court let  
15 them out of the default.

16 THE COURT: Ms. Bullington, how do you respond to  
17 the meritorious defense argument?

18 MS. BULLINGTON: Well, your Honor, we obviously  
19 disagree with their assertion that -- and I think,  
20 basically, they're saying that -- that they're not  
21 words of conveyance in some sense. I'm not aware of  
22 any South Carolina case law that supports their  
23 assertion as far as this being an invalid transfer. I  
24 have not heard any. I have not seen any, so, you  
25 know --

1 THE COURT: As I understand their argument,  
2 they're saying that your two clients are asserting an  
3 interest based on a deed to their ancestor, who was  
4 deceased at the time the deed was issued, that they  
5 would have inherited from the person who was deceased  
6 at the time the deed was issued.

7 Is that wrong as far as the facts of the case go?

8 MS. BULLINGTON: As far as the facts of the case  
9 go, that is not incorrect, your Honor.

10 THE COURT: Okay. So tell me about can --  
11 Mr. Eakes and Ms. Baird have stated that South Carolina  
12 law, and I haven't delved into the cases. I'm just  
13 dealing from a surface-level understanding of the law.  
14 I do want to read the cases, but what is your argument  
15 that that deed is void ab initio? That's what they're  
16 saying.

17 MS. BULLINGTON: And that's something that we  
18 would like the opportunity to address more fully.

19 THE COURT: Well, I'm giving you that. I want you  
20 to tell me, is there case law that I need to look at on  
21 that. Meritorious defense is something the Court has  
22 to consider in this matter.

23 MS. BULLINGTON: We would respectfully request the  
24 opportunity to submit that case law in support.

25 THE COURT: Well, I'll do this. I'll take this

1 under advisement, and I'll give each side ten days to  
2 get me any case law that you would like me to review on  
3 it, and I'll have my law clerk e-mail you my decision.

4 MR. EAKES: May it please the Court. These cases  
5 that I have deal with trust, but it's the same  
6 proposition and the dicta applies, and I'm willing to  
7 give opposing counsel copies of the cases I'm fixing to  
8 pass up to the Court so, in her research, she can  
9 address whether I'm right in my contingent or not.

10 May I approach?

11 THE COURT: Yes, sir.

12 MR. EAKES: Like I said, this dealt with a trust,  
13 but it's the same proposition. You can't deed property  
14 to someone who's not in existence at the time or an  
15 entity that's not in existence.

16 THE COURT: Well, I will review these. Again, I  
17 want -- each side would have ten days.

18 Ms. Bullington, if you find something you want me  
19 to look at, you can e-mail it to me.

20 MS. BULLINGTON: Thank you, your Honor.

21 THE COURT: Close the record.

22 (WHEREUPON, proceedings concluded at 11:44 a.m.)

23 \*\*\*END OF REQUESTED TRANSCRIPT OF RECORD\*\*\*

24

25

1  
2  
3 Certificate of Reporter

4 I, Diane L. Marcengill, Official Court Reporter  
5 for the Tenth Judicial Circuit of the State of South  
6 Carolina, do hereby certify that the foregoing is a  
7 true, accurate, and complete transcript of record of a  
8 portion of the proceedings had and evidence introduced  
9 in the trial of the captioned case, relative to appeal,  
10 in the Circuit Court for Anderson County, South  
11 Carolina, on the 12th day of December 2019.

12 This transcript may contain quoted material. Such  
13 material is reproduced as read by the speaker.

14 I do further certify that I am neither of kin, counsel,  
15 nor interest to any party hereto.

16 April 5, 2020

17 *Diane L. Marcengill*

18 Diane L. Marcengill, RPR, CRR, CRC  
19 Circuit Court Reporter  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA )  
COUNTY OF ANDERSON )

IN THE COURT OF COMMON PLEAS  
Docket No. 2020-CP-04-00337

Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary  
K. Taylor,

Plaintiffs,

vs.

Florence Keese, Marcy Keese, Margo Keese  
and Marshall Keese,

Defendants.

**ORDER**

THIS MATTER IS BEFORE THE COURT on the Plaintiffs Summons and Complaint filed on February 20, 2019. The Summons and Complaint were served upon the Defendant Marshall Keese by personal service on April 10, 2019. The Defendants Florence Keese, Marcy Keese, Margo Keese and Marshall Keese (Jr.) were served by personal service on April 5, 2019. An Affidavit of Default as to the Defendants was filed in the Court record on May 17, 2019.

Plaintiffs brought this quiet title action asking the Court to rule that the conveyance made in the Deed of September 21, 1992 and recorded September 22, 1992, in the Office of the Register of Deeds for Anderson County, South Carolina, in Book 1465 at Page 38. TMS No.: 062-00-02-006 was null and void with regard to the conveyance to Marshall Keese (Sr.) who was deceased on the date of the conveyance. The Deed conveyed property from Minnie Keese to Frances K. Chestnut, James Keese, Jr., Sylvester Keese, Marshall B. Keese (Sr.)(deceased), Arthur B. Keese and Mary K. Taylor. The Order of Default Judgment was signed by the Court on July 1, 2019 granting the Plaintiffs prayer for relief thereby declaring the conveyance to the deceased Marshall Keese null and void, and quieting title in the subject property in the names of the Plaintiffs.

To set aside the entry of the default judgment, the Defendants, who are the widow and children (heirs at law) of Marshall Keese (Sr.) must show there is good cause to set aside the default, and if so, there is a meritorious defense to be raised to this Complaint.

The Court finds that the Defendants consulted Attorney Richard Margolis of Philadelphia, Pennsylvania. As shown in the Affidavit the Defendants filed in their behalf, although Mr. Margolis was not licensed in South Carolina, he informed the Defendants of the necessity of answering this matter. The Defendants did not answer and had no contact was made with the Plaintiffs' attorney other than an initial contact wherein no request was

made of her.. As stated in the case, Williams v. Vanvolkenburg, 440 SE 2d 408, 409 (S.C.APP 1994), the Defendants are accountable for the actions of their attorney, and his failure to act is not an excuse for their inaction. The Defendants understood or are chargeable with the knowledge that an answer was necessary to prevent a default in this action, and no attempt was made to answer or otherwise respond to the pleadings.

Further, the Court finds that even if the Default were to establish good cause, to set aside the entry of the Default there must be a showing that meritorious defense exists to the Plaintiffs' Complaint. The Court finds that there is no meritorious defense in this case. The Default Judgment found the conveyance to Marshall Keese (Sr.) to be null and void based on the undisputed fact that he was dead at the time of conveyance, and thus not a person in being at the time of the conveyance. The Grantee in a Deed must be a person in being that is either a natural living person or a legal entity in existence at the time of the conveyance. As stated in Gifford V. Linnell, 579 S.E.2d 440, 441 (N.C. App 2003)

“At the time the plaintiff executed the Deed the... Family Trust did not exist and, therefore, the grantee of said deed was not a legal entity and the deed, therefore, could not operate to convey title to the defendants either individually or as trustees.”

No argument exists that Marshall Keese (Sr.) deceased at the time was a person in being on the date of the conveyance.

This Court, based on the finding that there is neither good cause to set aside the Default Order nor a meritorious defense to the Complaint, concludes that the Order of Default shall remain the Order of this Court and thus the relief requested in the Complaint is granted..

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

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R. Scott Sprouse, Judge, Court of Common Pleas

Anderson, SC

\_\_\_\_\_, 2020



Anderson Common Pleas

**Case Caption:** Frances K Chestnut , plaintiff, et al VS Florence Keese , defendant, et al  
**Case Number:** 2019CP0400337  
**Type:** Order/Other

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

**RECEIVED**  
JUN 29 2020  
SC Court of Appeals

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Case No. 2019-CP-04-00337

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Frances K. Chestnut, Elizabeth Diane Keese,  
Sylvester Keese, Arthur B. Keese and Mary K. Taylor, Respondents.

v.

Florence Keese, Marcy Keese, Margo Keese and  
Marshall Keese, pro se, Appellants.

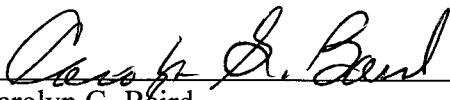
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PROOF OF SERVICE

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I certify that I have served the Initial Brief of Respondents and Designation of Matter to be Included in the Record on Appeal on Florence Keese, Marcy Keese, Margo Keese and Marshall Keese, pro se Appellants, by depositing a copy of same in the United States Mail, postage prepaid, on June 26, 2020, addressed to Florence Keese, 1035 Ridgehaven Road, West Chester, Pennsylvania 19382; Mary Keese, 1035 Ridgehaven Road, West Chester, Pennsylvania 19382; Margo Keese, 11608 Stewart Lane, Apt 302, Silver Spring, Maryland 20904 and Marshall Keese, 1035 Ridgehaven Road, West Chester, Pennsylvania 19382.

June 26, 2020

  
\_\_\_\_\_  
Carolyn G. Baird  
PO Box 987  
Anderson, SC 29622  
864-224-3474  
Attorney for Respondents

**JONES LAW FIRM, P.A.**  
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EDWARD A. SPITZ +  
CAROLYN G. BAIRD \*\*  
SAMUEL F. ALBERGOTTI  
STEPHEN G. POTTS  
J. CLARK ANDERSON

OREN O. JONES  
1925-2008  
WILLIAM H. MOORHEAD-RETIRED  
1984-2017

June 25, 2020

+ Certified Specialist in Education Law  
Also Admitted to Kentucky  
**RECEIVED**  
JUN 29 2020  
SC Court of Appeals

Jenny Abbott Kitchings  
Clerk  
The South Carolina Court of Appeals  
PO Box 11629  
Columbia, SC 29211


RE: Frances K. Chestnut v. Florence Keese  
Appellate Case No. 2020-000263

Dear Ms. Kitchings:

Enclosed please find the original and one copy of the Respondents' Initial Brief and Designation of Matter to be Included in the Record on Appeal along with my Proof of Service. Please file the original of these documents, stamp the file copies and return same to me in the envelope provided.

Should you have any questions, please let me know.

Sincerely yours,

  
Carolyn G. Baird

CGB/pcm

Enclosures

cc: Florence Keese  
Marcy Keese  
Margo Keese  
Marshall Keese

FedEx Express Package US Airbill

8160 5791 6195

Form 0215 Express Package Service Packages up to 150 lbs. For packages over 150 lbs, use the FedEx Express freight US Airbill.

1 From  
Date 10/31/20  
Sender's Name [Redacted]  
Company WONES OF MIDORHEAD & BALNE  
Address 315 N MAIN ST  
City ANDERSON State SC ZIP 29621-5614

2 Your Internal Billing Reference 1511001

3 To  
Recipient's Name [Redacted]  
Company The South Carolina Court of Appeals  
Address 1300 Senate Street  
City Columbia State SC ZIP 29301

4 Express Package Service  
Next Business Day  
FedEx First Overnight  
FedEx Priority Overnight  
FedEx Standard Overnight  
FedEx 2Day by AM  
FedEx 2Day  
FedEx Express Saver

5 Packaging  
FedEx Envelope  
FedEx Pak  
FedEx Box  
FedEx Tube  
Other

6 Special Handling and Delivery Signature Options  
Saturday Delivery  
No Signature Required  
Direct Signature  
Indirect Signature  
Does this shipment contain dangerous goods?  
No Yes  
Dry Ice  
Cargo Aircraft Only

7 Payment Bill to:  
Sender Recipient Third Party  
Total Packages Total Weight  
611



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