

**RULE 242(e). APPENDIX OF THE PETITIONER**

**In the Supreme Court of the State of South Carolina**

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**Petition for Writ of Certiorari  
to the South Carolina Court of Appeals  
on Case No. 2018-001067**

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Daniel D. Hawk, Petitioner  
3812 N County Line Rd  
Oneida, WI 54155

v.

Kenneth Kurowski, Respondent

**RECEIVED**  
SEP 08 2020  
S.C. SUPREME COURT

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RULE 242(e). APPENDIX OF THE PETITIONER

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM ABBEVILLE COUNTY  
Court of Common Pleas  
Honorable Frank R. Addy, Jr., Judge

---

Case No. 2018-001067

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Kenneth H. Kurowski,	Respondent,
	v.
Daniel D. Hawk,	Appellant.

---

RECORD ON APPEAL

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Daniel D. Hawk, Appellant, Pro Se  
3812 N County Line Rd.  
Oneida, WI 54155  
Cell: 920.664.5417

Hon. Curtis G. Clark, Esquire  
414 Monument St., Suite A  
Greenwood, SC 29646  
Attorney for the Respondent

Mr. Clarence Rauch Wise, Esquire  
305 Main St.  
Greenwood, SC 29646  
Attorney for the Respondent

APPELLANT INDEX OF RECORD ON APPEAL

Case No. 2018-001067

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Daniel D. Hawk, Plaintiff-Appellant,  
v.  
Kenneth H. Kurowski, Defendant-Appellee.

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STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF ABBEVILLE )  
 )  
 Daniel D. Hawk, )  
 (son) )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 Kenneth Howard Kurowski, )  
 (father, decedent, estate) )  
 )  
 Defendant. )

IN THE COURT OF COMMON PLEAS

**ORDER DISMISSING THE COMPLAINT OF PLAINTIFF**

Case No. 2018-CP-01-00069

2018 APR -1 11 10: 29  
 STATE OF SOUTH CAROLINA  
 CLERK OF COURT

Date of Hearing: May 8, 2018  
 Presiding Judge: Frank R. Addy, Jr.  
 Plaintiff's Attorney: None, plaintiff *pro se* and not present  
 Defendant's Attorney: Curtis G. Clark, Attorney for Norma Kurowski, personal representative of the Estate of Kenneth H. Kurowski  
 Court Reporter: Tara Scott

This matter came before me on motion of the attorney for Norma Kurowski, Personal Representative of the estate of Kenneth H. Kurowski, who answered on behalf of the named Defendant, who died in 2009 and whose estate has been and currently is being administered in the Abbeville County Probate Court, (hereinafter Defendant) seeking to dismiss the Complaint of the Plaintiff. Plaintiff, Daniel D. Hawk, filed a Complaint in the Court of Common Pleas for Abbeville County on March 5, 2018. Defendant timely filed an Answer, Affirmative Defenses, and Counterclaim on April 5, 2018, along with the Motion to Dismiss which is the subject of this hearing. Plaintiff filed a pleading entitled Motion to Reject Defendant's Motion to Dismiss on May 4, 2018, which the Court will recognize as a Return to Motion. The Motion to Reject Defendant's Motion to Dismiss, filed by Plaintiff, was also set for hearing at the same date and time as Defendant's Motion to Dismiss and was addressed as part of the

*2/11*

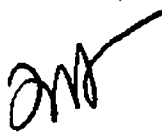
proceedings. Finally, an Affidavit of Default was filed by Mr. Clark on the morning of the hearing alleging that Plaintiff is in Default for lack of timely filing a Reply to the Counterclaim of Defendant.

Prior to the hearing the Plaintiff contacted the Abbeville Clerk of Court's office and requested that the Court allow him to participate in the hearing by telephone since he is a resident of Wisconsin. Plaintiff then contacted this judge's office with the same request. Both the Abbeville Clerk of Court and my (presiding judge's) administrative assistant informed Plaintiff that there is no telephone available in the Courtroom and therefore facilities to provide a speaker or recording capabilities are not available to the Court, and Plaintiff's request could not be accommodated. Mr. Hawk notified the Court that he would not be attending the scheduled Motion hearings.

Mr. Clark made a presentation as to why Defendant's Complaint, as well as Defendant's Motion to Reject Defendant's Motion to Dismiss, should not be dismissed. He noted:

A. Plaintiff is attempting to sue a deceased person. Kenneth Kurowski died a resident of Abbeville County, South Carolina, on August 22, 2009. Plaintiff Daniel Hawk was aware of the death of his father, Kenneth Kurowski and was named as a potential intestate heir in Norma J. Kurowski's Application for Informal Probate of decedent's Will (dated August 31, 2008)/Petition for Formal Appointment as Personal Representative of Kenneth Kurowski's estate that was filed in the Abbeville County Probate Court on November 5, 2009. Daniel Hawk's mother, Arletta Kurowski, also filed a Petition for Formal Appointment as personal representative of the estate.

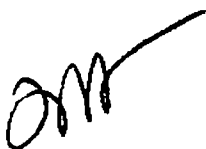
B. Kenneth Kurowski's estate was opened in, and was assigned Estate Case Number 2009 ES 01 00196 by the Abbeville County Probate Court. His Will was



admitted to Informal Probate on June 10, 2010, after a Hearing was held in the Probate Court on the competing Petitions seeking appointment as personal representative of Kenneth Kurowski's estate. Norma J. Kurowski was appointed as personal representative by Order of the Abbeville Probate Judge on June 25, 2012. A subsequent Amended Order dated October 25, 2012, corrected a scrivener's error, but confirmed her appointment. Neither Order was appealed, and Norma J. Kurowski still acts today as personal representative of the estate. She recently filed to close the estate and distribute the assets to herself as devisee, and as a partial reimbursement to herself for use of her personal funds to pay over \$80,000.00 on estate expenses and debts, per accountings filed in the estate, in an estate with assets worth only \$60,000.00 as shown on the estate Inventory.

C. Plaintiff complains that Norma Kurowski has filed a false death certificate for Kenneth Kurowski in that Norma Kurowski had herself listed as the "Surviving Spouse" on Kenneth Kurowski's South Carolina Death Certificate. Norma Kurowski would show that she has no authority to prepare or issue an official State of South Carolina death certificate, and did not participate in the preparation of the Death Certificate. Further, a review of the death certificate attached by Plaintiff to his complaint supports that the death certificate was prepared by Abbeville County Deputy Coroner Bobby Ray Fisher, based on information provided by the "Informant" listed on the death certificate; who is decedent's son, Brian L. Kurowski. Thus, this complaint lacks factual basis.

D. Daniel Hawk represents that his mother, Arletta Kurowski, was the legal wife of Kenneth Kurowski at his death because the two never were divorced prior to his later marriage to Norma Schoonober, now Norma Kurowski. Mr. Clark contends that Mr. Hawk seems to believe and promotes that Arletta Kurowski, being the surviving spouse



of decedent, is therefore also the sole heir of decedent's estate despite the fact that his deceased father left a Will dated October 30, 2008, that directed the transfer or distribution of the assets decedent owned at his death. Patricia A. Cornelius, a sister of Kenneth Kurowski who lives on the Oneida Indian tribal territory in Wisconsin, testified at the June 10, 2010, hearing that Kenneth Kurowski contacted her and another sister about preparing a will for him that left all of his estate to Norma Kurowski. Ms. Cornelius testified the sisters prepared a Will for decedent to that effect, and Kenneth's four sisters - who all are Oneida Indians and live on or near the tribal reservation in Wisconsin - brought that Will to South Carolina where Kenneth Kurowski reviewed it and signed it on October 30, 2008, before his four sisters as witnesses and before a Notary Public for South Carolina. Mr. Clark further points out that, even if decedent did not have a valid Will, the laws of intestacy for South Carolina would have not have left his entire estate to his wife since he has children. Finally, Daniel Hawk is filing to seek relief that even he alleges is due to his mother, Arletta Kurowski. Daniel Hawk therefore has no legal standing to sue for such relief.

E. Daniel Hawk appears to seek the "disqualification" or replacement of Abbeville County Probate Judge Mark Sumner as the presiding judge over the Estate of Kenneth Kurowski. Plaintiff cites as a reason for this relief that Judge Sumner stated he knew the decedent; but his request is most strongly based on Plaintiff's statement that the "foundation of this case rests in a fraudulent death certificate" for decedent, Kenneth Kurowski, that Plaintiff alleges was falsified by Norma Kurowski. Mr. Clark presented: (1) the Probate Court has no authority over the contents or issuance of death certificates; which are issued and/or are supervised by, and filed in the Division of Vital Records of the South Carolina Department of Health and Environmental Control;



(2) that the information on the death certificate has no influence or effect over the administration of an estate and/or the transfer of the probate assets in an estate which are governed by Will of the decedent and provisions of the South Carolina probate code; (3) that the "tribal and federal death benefits" Plaintiff alleges that Norma Kurowski has illegally obtained are non-probate assets, and therefore are (a) outside of the jurisdiction of the Probate Court, and (b) Norma Kurowski can show that she does not receive any tribal benefits, and the only federal benefit she receives are social security widow's benefits that Plaintiff's mother, Arletta Hawk or Arletta Kurowski, also is believed to receive; and (4) Plaintiff has never filed any pleadings requesting Judge Sumner to recuse himself from the Kenneth Kurowski estate or to transfer the administration of this estate to another county; and upon information and belief, in that Plaintiff has not provided a copy of this lawsuit to the Abbeville Probate Judge. Mr. Clark contended that, based at least in part on these representations, Plaintiff clearly seeks relief that should have been requested years ago and does not follow or comply with any applicable statutes, requirements, or legal directives for requesting such relief; and further that this court does not have the legal authority to grant the relief sought by Daniel Hawk.

Therefore, based upon the pleadings and the arguments of counsel, I make the following

#### RULING OF THE COURT

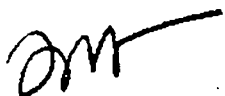
1. I find that the claims of the Plaintiff are time barred because the procedural requirements for filing for a change in venue or to move the administration of his father's estate to another county have not been met, and cannot be complied with at this date; and therefore, I find that this relief is not available to the Plaintiff. Further, I



find that Plaintiff failed to plead a factual basis for the relief requested; that much of the relief requested has nothing to do with estate law and/or procedure in this State; nor has anything to do with the administration of Kenneth Kurowski's estate administration.

2. Further, the Court would direct that should the Plaintiff seek to file a new Petition or Complaint, motion, or any other new pleading, whether as an individual or as agent for Arletta Kurowski or anyone else; that the Abbeville Clerk of Court is directed to forward that pleading, along with a copy of this Order, to the Civil Administrative Judge for the Eighth Judicial Circuit, who will then review and either approve or deny the filing of the document prior to the pleading actually being filed in the Clerk's office.

3. During this hearing the attorney for Kenneth Kurowski's personal representative requested that the two Lis Pendens be dismissed by this Court which had been previously filed by Daniel Hawk, as agent for Arletta Kurowski, in the Abbeville County Clerk of Court's Office in connection with two actions filed by Arletta Kurowski, and Daniel Hawk as her agent, in the Oneida Nation Trial Court in Wisconsin. Mr. Clark argued that the content of the two Lis Pendens, which are almost identical as to contents, state that Arletta Kurowski filed actions in the Oneida Indian Trial Courts in Wisconsin alleging that the decedent has injured Arletta Kurowski by his conduct. Both Lis Pendens state that the property owned by decedent at 201 Lake Secession Road, Abbeville, South Carolina, should belong to Arletta Kurowski as his legal wife. However, I find that the Lis Pendens are connected with pleadings filed in the Oneida Nation Trial Court, and not as part of the current case. At this date, I defer to the Oneida Trial Court to address the issue of the appropriateness of the Lis Pendens filed by Daniel Hawk as agent for Arletta Kurowski in the Office of the Abbeville County Clerk of Court. If the Oneida Trial Court does not address the Lis Pendens, Defendant may



file a later Motion with this court seeking to address or dismiss these Lis Pendens.


I also find that, should any new Lis Pendens be presented to the Office of the Abbeville Clerk of Court by Daniel Hawk, individually or as an agent for someone else, or Arletta Hawk, that these Lis Pendens also should be sent to the Civil Administrative Judge for review in the same manner as any additional pleadings that are attempted to be filed by the Plaintiff.

4. The Abbeville County Probate Court remains in charge of the administration of the Estate of Kenneth Kurowski, and may take such actions as the Abbeville Probate Judge deems necessary and/or appropriate to continue with the administration and ultimate closing of the estate of Kenneth Kurowski.

IT IS SO ORDERED.

May 29, 2018

Greenwood, South Carolina

  
FRANK R. ADDY, JR., JUDGE  
EIGHTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

IN THE MATTER OF

CASE NUMBER

KENNETH HOWARD KUROWSKI

2009 ES 01 00196

FILED PROBATE COURT  
STATE OF SOUTH CAROLINA  
COUNTY OF ABBEVILLE

2012 OCT 16 PM 3: 08

C. MARK SUMNER  
JUDGE OF PROBATE

**AMENDED ORDER**

WHEREAS, in order to correct a scrivener's error in paragraph 7 of the Order dated June 25, 2012 and filed the same day in the Probate Court for Abbeville County;

THEREFORE, this Amended Order is being issued to fix the above error.

Date of Hearing:  
Presiding Judge:  
Attorney for Norma J. Kurowski:  
Attorney for Arletta Kurowski:

**Certified To Be A True Copy  
Of The Records Of This Office**

*C. Mark Sumner*  
**Judge of Probate, Abbeville County**  
Date March 27, 2018

June 10, 2010  
C. Mark Sumner  
Curtis G. Clark  
Travis W. Moore

This matter is before me on the Applications for Formal Appointment of each of the purported "wives" of the decedent. Present at the hearing were Norma J. Kurowski and her attorney, and Arletta J. Kurowski and her attorney; as well as witnesses named below.

**FINDINGS OF FACT**

1. I find that all petitions have been properly filed and served and that the decedent was domiciled in Abbeville County, South Carolina. Therefore, jurisdiction and venue are proper in this Court.

2. Thomas E. Nelson, who notarized the decedent's purported Will, testified that he was present when the decedent signed the Will dated October 30, 2008, and submitted by Mrs. Norma J. Kurowski, hereinafter wife # two. Mr. Nelson stated that Kenneth Kurowski was personally known to him. He further stated that he was present when Mr. Kurowski signed the document before the Court and notarized his signature. He identified the original of the will as being the document signed by the decedent. I find his testimony to be credible and dispositive of the issue before the Court.

3. Patricia A. Cornelius, sister of the decedent, testified that she was present when Mr. Kurowski signed the document and acknowledged that her brother believed it to be his Last Will and Testament. I find that Mrs. Cornelius' testimony to be credible and dispositive of the issue before the Court.

4. Further, Arletta Kurowski, hereinafter wife # one, testified that she and decedent were married in Wisconsin on October 18, 1958, the children born to that marriage, and that there had been no divorce. Wife # two testified that she and decedent were married in Illinois on December 24, 1962, that they had two sons. She further testified that Mr. Kurowski and his family moved to South Carolina and purchased property in October, 1993.

5. Norma Kurowski also testified that the Will, executed by her husband was intended to be his Last Will and

Testament and that it was his intention that she be appointed as Personal Representative of his Estate.

6. Therefore, I find, based on all the above testimony, that Mr. Kurowski signed the document entitled "Last Will and Testament". No evidence was produced which would show that he had been coerced or was the subject of undue influence in the execution of the document; and as to his intention, he believed that this would serve as his Will.

7. S.C. Code Ann. section 62-2-601 states, "the intention of the Testator as expressed in his Will controls the legal effect of his dispositions". While this hearing concerned the appointment of a Personal Representative for the estate and not to determine the validity and provisions of the Will as to distributions; I do however find that Mr. Kurowski believed that it was his Will, and through this "Will" it appears that he appointed Mrs. Norma J. Kurowski to serve as the Personal Representative of his Estate. See also S. C. Code Ann section 62-3-203 which also grants Norma J. Kurowski the priority to serve.


8. Therefore, at this time I find that Norma J. Kurowski should be, and therefore is, appointed as Personal Representative of the Estate of Kenneth Howard Kurowski.

WHEREFORE,

1. Norma J. Kurowski is hereby appointed as Personal Representative for the Estate of Kenneth Howard Kurowski.
2. Any and all other issues before the Court shall be heard or addressed in the future.

AND IT IS SO ORDERED.

October 25, 2012  
Abbeville, South Carolina

  
C. MARK SUMNER, JUDGE  
FOR THE PROBATE COURT FOR  
ABBEVILLE COUNTY

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENWOOD )

**AFFIDAVIT OF STEVE A. JACKSON**

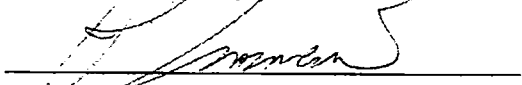
After first being duly sworn, STEVE A. JACKSON, would make and affirm the following statement:

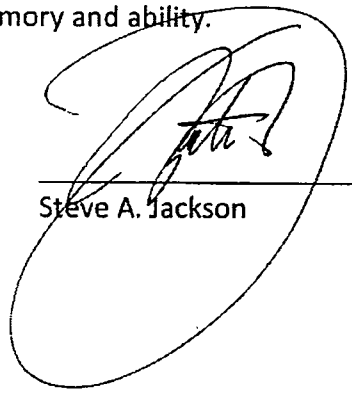
My name is Steve A. Jackson. I am the owner of the Chandler-Jackson Funeral Home and Cremation Services, located at 208 South Main Street, Abbeville, South Carolina 29620.

Chandler-Jackson Funeral Home and Cremation Services, were contacted to handle the services for Kenneth Howard Kurowski, whom died on August 22, 2009. The entire cost for our services was Five Thousand Four Hundred- Seven and No/100 (\$5,407.00) Dollars. I certify that the Oneida Tribe of Oneida, WI, mailed a check directly to Chandler-Jackson Funeral Home and Cremation Services, in the amount of Five Thousand and No/100 (\$5,000.00) Dollars which was applied directly to the Kenneth Kurowski's services on September 17, 2009, leaving a balance of Four Hundred-Seven and No/100 (\$407.00) Dollars; that was paid by Norma Kurowski from her personal funds, which paid the balance in full.

I state that I have reviewed the statements and contents of the above affidavit, and they are true and accurate to the best of my memory and ability.

STEVE A. JACKSON PERSONALLY  
APPEARED BEFORE ME AND SIGNED  
THE ABOVE AFFIDAVIT ON THIS 21st  
DAY OF MARCH 2018.

  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: 9-9-18

  
\_\_\_\_\_  
Steve A. Jackson

WARNING: IT IS A FELONY TO COPY OR REPRODUCE THIS CERTIFICATE. STATE STATUTE 66.27(1)

### State of Wisconsin Certificate of Marriage

Local Register Number

Filing Date

665

**GROOM**

Name Kenneth H. Kurowski  
(Please print)

Residence  Town R. 1 Oneida-T. Oneida  
 City

County Outagamie State Wisconsin

Date of Birth June 9, 1936 Age 22 Color White

Birthplace Green Bay Brown Wisconsin  
(Town/Village/City County State)

Marital status:  Single  Widowed  Divorced Number of previous marriages None

Relationship to Bride None

Occupation Concrete Silo Builder

Father's name Peter Kurowski

Mother's maiden name Grace Skenandore

Was a special dispensation issued? No

License No. 503 Issued October 18, 1958 by Mollie E. Pfeiffer County Clerk

**BRIDE**

Name Arletta J. Hawk  
(Please print)

Residence  Town R. 2 West DePere-T. Oneida  
 City

County Outagamie State Wis.

Date of Birth January 9, 1937 Age 21 Color White

Birthplace Milwaukee Milwaukee Wisconsin  
(Town/Village/City County State)

Marital status:  Single  Widowed  Divorced Number of previous marriages None

Relationship to Groom None

Occupation Meat Wrapper

Father's name Arthur Hawk

Mother's maiden name Priscilla Jordan

Bride's maiden name

**CERTIFICATE OF MARRIAGE**

I, G. Colyer Brittain  
(Please Print) hereby certify that on the 18th day of October, 1958, at the Church of the Holy Apostles (church, etc.) within the Oneida (Town, Village, City) of Oneida County of Outagamie State of Wisconsin the above named groom and bride were by me united in marriage as authorized by a Marriage License issued for that purpose by the Clerk of Outagamie County, State of Wisconsin, numbered 503 and dated the 18th day of October, 1958.

Official designation VICAR

My credentials are filed in the office of Clerk of Circuit Court Brown County.

Post Office Address: Oneida, Wisconsin

Signature: G. Colyer Brittain

Witnesses: We, the undersigned, were present at the marriage of the above named groom and bride, as set forth in the foregoing certificate, at their request, and heard their declarations that they took each other for husband and wife.

Teddy Hawk Signatures of Two Witnesses Priscilla Jordan

Mollie E. Pfeiffer Local Registrar

Filed with Local Registrar Oct. 21, 1958



*Sarah R. Van Camp*  
SARAH R. VAN CAMP  
OUTAGAMIE COUNTY REGISTER OF DEEDS

I certify that this document contains a true and correct reproduction of facts on file with the Wisconsin Vital Records Office.

14325069 Date issued:

FEB 26 2018

# MARRIAGE LICENSE

PEOPLE OF THE STATE OF ILLINOIS  
LAWRENCE COUNTY

To any Person legally authorized to solemnize Marriage

GRIFFITHING Co.  
MARRIAGE MAY BE CELEBRATED

6  
FEB 11 AM 9:05  
GRIFFITHING

Between Mr. Kenneth Kurowski of Fort Leonard Wood  
in the County of Dubuque and State of Missouri  
of the age of 26 years and Miss Norma Jean Schoonover  
of Bridgeport in the County of Lawrence and State of  
Illinois of the age of 19 years

Section 6a of "An Act to  
revise the law in relation  
to marriages," as amended,  
has been complied with.

Witness William F. Hensley, County Clerk  
and the seal of said County at his Office in Lawrenceville, in said County  
this 24th day of December A.D. 1962  
By [Signature] Deputy William F. Hensley County Clerk.

State of Illinois } ss.  
LAWRENCE COUNTY

I [Signature] a Justice of The Peace hereby  
certify that Mr. Kenneth Kurowski and  
Mrs. Norma Jean Schoonover were united in Marriage by me at  
Lawrenceville in the County of Lawrence,  
and State of Illinois on the 24th day of December A.D. 1962.

THIS LICENSE SHALL BE VOID UNLESS  
MARRIAGE IS SOLEMNIZED WITHIN  
30 DAYS OF THE DATE HEREOF

[Signature]  
Justice of the Peace

NOTE: MARRIAGE CEREMONY MUST BE SOLEMNIZED IN LAWRENCE COUNTY

12

## DEATH CERTIFICATION

STATE FILE NUMBER : 139-09-025072

DECEDENT'S NAME: \*KENNETH HOWARD KUROWSKI\*

SEX: MALE

AKA's: NA

SOCIAL SECURITY NUMBER: 396-38-1211

ARMED FORCES: YES

DATE OF BIRTH: JUNE 09, 1936

AGE: 73 YEARS

TYPE OF PLACE OF DEATH: DECEDENT'S HOME

COUNTY OF DEATH: ABBEVILLE

NAME AND ADDRESS OF PLACE OF DEATH: 201 LAKE SECESSION ROAD, ABBEVILLE, SC 29620

PLACE OF DISPOSITION: WITH FAMILY

DISPOSITION LOCATION: ABBEVILLE, SOUTH CAROLINA

METHOD OF DISPOSITION: CREMATION

DECEDENT'S RESIDENCE: 201 LAKE SECESSION ROAD, ABBEVILLE, ABBEVILLE COUNTY, SC, 29620

PLACE OF BIRTH: WISCONSIN

MARITAL STATUS: MARRIED

SURVIVING SPOUSE'S NAME: NORMA SCHOONOVER

FATHER'S NAME: PETER PAUL KUROWSKI

MOTHER'S NAME PRIOR TO FIRST MARRIAGE: GRACE MARGARET SKENANDORE

INFORMANT'S NAME: BRIAN E KUROWSKI

RELATIONSHIP: FAMILY MEMBER

MAILING ADDRESS: 670 LAKE SECESSION RD, ABBEVILLE, SC, 29620

FUNERAL HOME: CHANDLER-JACKSON FUNERAL HOME, 208 S MAIN ST, ABBEVILLE, SC, 29620

FUNERAL DIRECTOR: STEVEN A JACKSON

LICENSE NUMBER: 1513

EMBALMER'S NAME: NA

LICENSE NUMBER: NA

ACTUAL OR PRESUMED DATE OF DEATH : AUGUST 22, 2009

MANNER OF DEATH : NATURAL

ACTUAL OR PRESUMED TIME OF DEATH: 2220

CAUSE OF DEATH - PART I:  
MAL-NEO-LUNG

## OTHER SIGNIFICANT CONDITIONS - PART II:

NA

CORONER CONTACTED? YES

AUTOPSY PERFORMED? NO

AUTOPSY AVAILABLE? NA

DATE OF INJURY: NA

TIME OF INJURY: NA

INJURY AT WORK?: NA

PLACE OF INJURY: NA

LOCATION OF INJURY: NA

HOW THE INJURY OCCURRED?

NA

CERTIFIER NAME AND TITLE: DEP. CORONER BOBBY RAY FISHER

LICENSE NUMBER: NA

CERTIFIER'S ADDRESS: NA

DATE FILED: AUGUST 28, 2009

DATE OF ISSUANCE: FEBRUARY 09, 2018

SPECIAL INSTRUCTIONS:

NA

SC06629602

This is a true certification of the facts on file in the Division of Vital Records, SC Department of Health and Environmental Control.

*Catherine E. Heigel*  
Catherine E. Heigel  
Director and State Registrar

*Shae R. Sutton*  
Shae R. Sutton  
Assistant State Registrar

This is watermarked paper. Do not accept without noting watermark. Hold to light to verify watermark.

Revision Date: 07/31/2015

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF ABBEVILLE )  
 )  
Daniel D. Hawk (son) )  
 ) PLAINTIFF )  
3812 N County Line Rd )  
 ) STREET ADDRESS )  
Oneida, WI 54155 )  
 ) CITY, STATE ZIP )  
920.664.5417 )  
 ) TELEPHONE )  
 )  
 VS. )  
Kenneth H. Kurowski (father, decedant, estate) )  
 ) DEFENDANT(S) )  
201 Lake Secession Rd )  
 ) STREET ADDRESS )  
Abbeville, SC 29620 )  
 ) CITY, STATE ZIP )  
864.446.8554 )  
 ) TELEPHONE )

CIVIL CASE NUMBER  
 IN THE MAGISTRATE'S COURT

COMPLAINT

I, Daniel D. Hawk, the plaintiff in this civil action do make the following claims:

1. I believe the defendant, Kenneth H. Kurowski (decedant), is a resident of Abbeville County, and resides at 201 Lake Secession Rd upon death which is within Judge C. Mark Sumner's magisterial jurisdiction or this Complaint is properly filed in Abbeville County.

2. I make this complaint on the following:

**a. An Application for Settlement of probate has been made on behalf of the Defendant see County of Abbeville case no. 2009 ES 0100196 such that the Proposal for Distribution and the Accounting are flawed and illegal. For example, the foundation for this case rests in a fraudulent Death Certificate such that Norma Schoonober is certified as the surviving spouse and of course that death certificate statement is false see Kenneth Kurowski and Arletta J. Hawk marriage certificate. Both Kenneth and Arletta are Oneida Nation federally enrolled tribal citizens. Kenneth and Arletta were married on the Oneida Nation Indian Reservation in Wisconsin.**

**b. When Norma falsified the Death Certificate she did so knowing that she would receive tribal and federal death benefits that were not legally hers to accept inferring theft. The FBI has been notified.**

**c. When Norma falsified the Death Certificate the Death Certificate coroner-certifier was aware that Norma was not the legal spouse but unethically and illegally decided to allow Norma to remain on the Death Certificate as the legal surviving spouse depriving my mother, Arletta death and estate benefits because Norma was from South Carolina and my mother, Arletta is from Wisconsin. Further, there is evidence that the coroner went to see**

Judge Sumner stating that what he had done was wrong and that he was afraid he would get in trouble.

d. In probate court, the notary failed to witness the trust power document that was said to have been signed by Kenneth. This trust power document is invalid.

e. Related to validity of probate, Judge Sumner stated he knew Kenneth but yet, did not recuse himself especially when the Death Certificate was falsified.

f. Related to probate, many of the SC Title 62 laws were violated. For example, the Plaintiff has met with deceased father such that discussion of hunting, fishing, and military items were discussed yet, he had no assests upon death, not even a penny. This infers fraud. In other words section 62-7-809 states the trustee must control and protect trust property. Apparently, my father did not even have a watch. No judge would find this statement credible.

g. Norma has never provided full estate accounting inferring violations of 62-7-810 inter alia.

h. Norma has not been impartial violations of section 62-7-803 and the 14<sup>th</sup> Amendment Equal Protections such that estate is managed for her heirs and not all the heirs.

i. Norma has violated section 62-7-804 such that a prudent person would have impartially divested this simple estate within two years. Kenneth died on August 22, 2009. No judge would find this prudent and acceptable. The reason for the length of time can be reasoned by anyone with an equitable moral turpitude as a methodical illegal depletion of estate to prevent Kenneth's Wisconsin's family from receiving a single dime. For this reason Norma has violated section 62-7-805.

j. The Court must now have an understanding of severity of problems stemming from the flawed act of falsifying a Native American Death Certificate.

k. This SC Court should be concerned about a falsified federally enrolled Native American death certificate because of violations of the American Indian Religious Freedom Act 42 U.S.C. 1996. Furthermore, there are now concurrent legal proceeding being held in the Oneida Judiciary, Oneida Nation Reservation, Wisconsin see 18-TC-004 and 18-TC-005. And this Court ought to expect further tribal and federal proceedings regarding this estate case. For these reasons supra the Plaintiff respectfully asks this Court to transfer this case to another county probate court as described below.

(Attach supplement if necessary)

3. I believe, because of the above information, that I am entitled to and do request a judgment for \$\_\_\_\_\_ and/or other relief as below requested:

A. The first relief, pursuant to SC Code section 62-1-303(e) based on this complaint and the items listed supra that this Court disqualify Judge Sumner from the matters of case no. 2009 ES 0100196 that all pleadings i.e. Proposal for Distribution be held in abeyance.

B. The second relief, pursuant to SC Code section 62-1-303(c) based on this complaint that this case be transferred to another SC county (not Abbeville or Greenwood). The latter county probate jude was prior lawyer for Arletta. In other words, this Court ought to find in favor of the Plaintiff that in the interest of justice that this case should be located in another court of probate in SC, and Order the Transfer of the proceeding and files to the other SC probate Court as this Court deems fair and just.

**C. The third relief, because of Norma's fraudulent moral turpitude that Norma be removed as executor of estate 2009 ES 0100196 and that Daniel Hawk (son) be appointed executor until new proceedings commence as so Ordered and Tranferred by this Court.**

**D. The Plaintiff certifies an ADR exception under Rule 3(b)(1) extraordinary relief and (2) temporary relief.**

**E. The Plaintiff certifies this Complaint is being personally served upon the estate attorney Curtis G. Clark, 414 Monument St. Suite A, Greenwood, SC, 29646.**

**F. The Plaintiff certifies this Complaint is filed under the Court of Common Pleas Civil Action Coversheet and marked ADR exempt, and marked Special 699 as "Move Probate to Another County".**

**G. The Plaintiff certifies this Complaint is being filed with a Post Office Money Order in the Amount of \$150.00 USD.**

**H. Death Certificate of decendant (Kenneth Howard Kurowski) and Kenneth and Arletta J. Hawk marriage license attached.**

including any costs resulting in this action.

I state under penalty of perjury that the above is correct and truthful, except those based on my information and belief.

Dated: February 27, 2018

\_\_\_\_\_  
Signature of Plaintiff (or his attorney)

STATE OF SOUTH CAROLINA  
COUNTY OF ABBEVILLE

IN THE COURT OF COMMON PLEAS

DANIEL D. HAWK, )  
 )  
 PLAINTIFF, )  
 )  
 )  
 -VS- )  
 )  
 KENNETH H. KUROWSKI, )  
 )  
 DEFENDANT. )  
 \_\_\_\_\_ )

CASE NO.: 2018-CP-01-00069

TRANSCRIPT OF RECORD

MAY 8, 2018

ABBEVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

(NO APPEARANCE ON BEHALF OF PLAINTIFF)

ATTORNEY FOR DEFENDANT:

CURTIS CLARK, ESQUIRE

ALSO PRESENT:

MARK SUMNER, PROBATE JUDGE

TARA T. SCOTT, CVR  
CIRCUIT COURT REPORTER

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
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(NO EXHIBITS INTRODUCED DURING HEARING)

1 THE COURT: My secretary notified me this morning that  
2 Mr. Hawk has been in contact with my office and was not  
3 intending to appear today. She replied back, after speaking  
4 to me, that that the motion to dismiss would still be going  
5 forward. We didn't have logistical capability to telephone  
6 him in while the hearing was taking place. And, of course,  
7 it would still be going forward. He replied back this  
8 morning, and then also called my office while I was there  
9 this morning, again saying he was not able to attend. He  
10 was confident that I would make a right decision, and he  
11 would review the electronic docketing concerning any  
12 decision that the Court made. I understand that the  
13 Defendant/Estate in this case, that Mr. Kurowski passed  
14 away, I think, in 2009.

15 Mr. Clark, I'll be happy to hear your motion of  
16 dismissal at this point, sir.

17 MR. CLARK: Thank you, Your Honor. And, Your Honor,  
18 also if I may, just for clarity on the record, there are two  
19 motion hearings that are set in this matter, back to back.  
20 My first is my motion to dismiss, and then a motion to  
21 reject my motion to dismiss that was filed by Mr. Hawk, and  
22 I'm going to combine my presentation and address both of  
23 those together, if it pleases the Court.

24 THE COURT: Sure.

25 MR. CLARK: Your Honor, if I may approach. I'm going

1 to hand up a photocopy of the death certificate for Your  
2 Honor's benefit. This is basically the gist of Mr. Hawk's  
3 complaint in here. He has said that the foundation of his  
4 case rests on a fraudulent death certificate, that Ms. Norma  
5 Kurowski, who is seated to my left, certified or listed  
6 herself as the surviving spouse. Your Honor, the death  
7 certificate itself, if you look about halfway down the top  
8 section, shows that the informant for the information on the  
9 death certificate is Brian L. Kurowski, not Norma Kurowski.  
10 Brian is a son of the decedent in here. And so, we don't --  
11 Ms. Norma Kurowski did not provide this information, so  
12 therefore was not able to certify the information that was  
13 provided on this death certificate in here.

14 The second -- Mr. Hawk's position basically is based on  
15 three things. That there's this fraudulent death  
16 certificate that was issued. That his mother, Arletta  
17 Kurowski was Kenneth Kurowski's wife at the time of his  
18 death. Just to -- a little bit of a background. Mr.  
19 Kurowski was first married to Arletta Kurowski. He then  
20 subsequently, several years later, married Ms. Norma  
21 Kurowski when -- and that was in the state of Illinois on  
22 that marriage license, and we have provided that as part of  
23 the record for Probate Court, at least, if not to this  
24 record. He's listed this as his first marriage. Discovered  
25 later on that he was married to Arletta first and had a

1 child or two, possibly three, subject to that -- or from  
2 that first marriage. Mr. Kurowski had not obtained a  
3 divorce prior to meeting and marrying Ms. Norma Kurowski.  
4 We are told later on he did seek assistance of an attorney.  
5 Again, this was in the '60s, possibly early '70s. Paid an  
6 attorney to obtain a divorce. We're not sure exactly who  
7 the attorney is or where, but we cannot find a divorce on  
8 record for the first marriage in here. So Mr. Kurowski  
9 resided the remainder of his natural life with Norma  
10 Kurowski, but probably from a legal standpoint, he was  
11 married to Arletta Kurowski. That would be his official  
12 surviving spouse in here.

13 And then finally, the third point in here is that --  
14 excuse me, Your Honor. But as a caveat, Mr. Hawk is not  
15 happy that we will not -- that we refer to Norma Kurowski,  
16 as a wife and to Kenneth Kurowski as her husband, and he  
17 wants to have all that relationship and language stricken  
18 from any proceedings.

19 And then finally, that Kenneth and Arletta Kurowski are  
20 Native American Indians. They are a member of the Oneida  
21 trip of Wisconsin. And for some reason, Mr. Hawk feels like  
22 that gives them some heightened authority to be able to --  
23 or heightened protection in the law.

24 He finally takes the position that that Arletta  
25 Kurowski, as the surviving spouse or widow, is entitled to

1 Mr. Kenneth Kurowski's estate. That is in total disregard  
2 of the fact that Mr. Kurowski had a Will, although there's  
3 some question about the construction on the Will. But we  
4 had -- Judge Sumner had a hearing on the Will in July the  
5 10th of 2010. Mr. Kurowski had a sister or two who attended  
6 that hearing and testified. Basically, Your Honor, he  
7 called his sisters who are Oneida Indians and live in  
8 Wisconsin. He had a terminal illness. He knew he was going  
9 to pass away within months. Asked them to prepare a Will.  
10 They brought the Will down. All four of his sisters brought  
11 it down. He reviewed it. He executed it. They testified  
12 that they were the four witnesses, and he had a local  
13 gentleman as a notary to witness that Will. Based on that  
14 testimony, Judge Sumner admitted the Will to informal  
15 probate as requested by Norma Kurowski in her application on  
16 that date, July the -- excuse me, June 10, 2010.

17 Later on an order was issued to appoint Norma Kurowski  
18 as the personal representative. That part of the Will, I  
19 think, is fairly clear that he intended for her to be the  
20 personal representative of the estate. There was no appeals  
21 of those orders. Ms. Arletta Kurowski was represented by  
22 Attorney Travis Moore in that proceeding. And, of course,  
23 as Your Honor is aware, he is now the Probate Judge in  
24 Greenwood County. There were no other appeals. No other  
25 filings. No other pleadings that were filed by Arletta

1 Kurowski or Daniel Hawk, or anybody else from the Wisconsin  
2 family, as Mr. Hawk kind of informally refers to them, or  
3 his first family.

4 So, this estate has proceeded since that time on the  
5 basis that Ms. Kurowski was going to receive everything.  
6 Part of the problem was a practical problem, Your Honor.  
7 That Mr. Kenneth Kurowski's assets were encumbered, and were  
8 fairly highly encumbered at the time of his death. He had  
9 an estate that was worth only about \$60,000 according to  
10 inventory that was prepared and filed. He had a mortgage on  
11 his land. He had a mortgage on his mobile home, or lien on  
12 his mobile home. He had a lien on his car. Ms. Norma  
13 Kurowski, since the time of death, as advanced over \$80,000  
14 to pay on these liens in here. And in part recently, or  
15 early this year, filed to conclude his estate and receive  
16 all these assets, not only as being the recipient under his  
17 Will, but also having advanced the funds to fully pay off  
18 all the assets, and has really advanced more money than the  
19 assets were worth on the inventory.

20 When she filed that, Mr. Hawk has filed a number of  
21 lawsuits. He's filed this lawsuit here. He's filed three  
22 lawsuits in the Ananta Trial Court -- Ananta Tribal Trial  
23 Courts against the Kenneth Kurowski or his estate, or Norma  
24 Kurowski individually, alleging all kinds of various things  
25 that I won't get into for this purpose in here.

1 I understand from some of the documents he's filed or  
2 sent, he's even filed an action, or is attempting to file an  
3 action in Illinois to address or set aside their marriage or  
4 whatever. So Mr. Hawk -- and nobody other than Norma  
5 Kurowski has paid anything on any of the estate debts,  
6 including the balance due on the funeral bill, court costs,  
7 et cetera. If Norma Kurowski hadn't advanced the funds, we  
8 really wouldn't be here arguing about an estate, Your Honor,  
9 because there would be no estate. The creditors would have  
10 taken the assets of the estate in here.

11 Mr. Kurowski has sent a notice of intent to move  
12 probate to another county, to Judge Sumner. I don't believe  
13 he has served -- upon our information and belief, he has not  
14 served Judge Sumner with any kind of request to recuse,  
15 request to transfer this. But he's gone straight to this  
16 court and filed that action in here. If you'll look at  
17 paragraph three on page two of my motion to dismiss,  
18 basically we state in here that Mr. Hawk cites no specific  
19 reasons -- first of all, he seeks no monetary relief, but he  
20 seeks either the disqualification of Judge Sumner or the  
21 transfer of this estate to another county, and then the  
22 removal of Ms. Norma Kurowski and the appointment of him as  
23 personal representative to allow this estate to go forward  
24 after doing nothing for nine years in here. Almost nine  
25 years.

1           Along that line, I would just note that we understand  
2 Mr. Hawk is a convicted felon and probably couldn't serve as  
3 personal representative. But moving on to the main issues.  
4 He states that the foundation of this case rests in a  
5 fraudulent death certificate, as we've already pointed out.  
6 He tries to show that the Probate Court -- or, excuse me.  
7 In response we would show that the Probate Court has no  
8 authority over the issue of death certificates. We would  
9 show that the -- or call to the Court's attention that the  
10 information on the death certificate has no influence or  
11 affect over the administration of the estate of Kenneth  
12 Kurowski, or the transfer of the probate assets of the  
13 estate, that the tribal and federal death benefits that he  
14 states that Ms. Norma Kurowski had illegally -- seeks are  
15 non-probate assets. It wouldn't be under the jurisdiction  
16 of the probate court, and therefore are outside of the  
17 jurisdiction of the Probate Court. And secondly, we would  
18 deny that Ms. Norma Kurowski has received any benefits,  
19 particularly in tribal benefits in here. And the only  
20 federal benefits she's received are widow benefits, or  
21 spousal benefits, due to the time that they were married or  
22 together.

23           And finally, that Plaintiff, Mr. Hawk, had never  
24 requested Judge Sumner to either recuse himself or transfer  
25 this estate to another county prior to filing this action

1 with the Probate Court. So we believe that there is no  
2 basis for the Court to grant the authority, or grant the  
3 relief that Mr. Hawk requests in here.

4 I can go forward further, Your Honor, if you would like  
5 me to, but I believe in gist that pretty well states our  
6 case in this matter. We did file answer -- just to call the  
7 Court's attention. We did file an answer, affirmative  
8 defenses and counterclaims. This morning I filed an  
9 affidavit of default as well that he did not file a reply to  
10 the counterclaims in that answer.

11 THE COURT: All right.

12 MR. CLARK: I'm sorry, Your Honor. May I address one  
13 other issue?

14 THE COURT: Sure. Go right ahead.

15 MR. CLARK: Technically, in connection with two of the  
16 actions he filed in the Oneida Judiciary - or Oneida Trial  
17 Court, he has filed a lis pendens here in Abbeville County.  
18 Those are recorded in 18-LP-01-005, and I have copies if the  
19 Court would like to look at them. And also 2018-LP-01-008.  
20 Again, just to read very briefly from the lis pendens, he  
21 states that these are filed -- and these lis pendens are in  
22 the name of Arletta Kurowski, but signed by him as her agent  
23 on here. And those lis pendens state that they're being  
24 filed to readdress injuries suffered as a result of  
25 Respondents -- and Respondents is Kenneth Kurowski in both

1 of these, conduct. That Respondent has unlawfully taken  
2 title to Petitioner's property. He then states that  
3 Petitioner Arletta Kurowski is the legal wife of Respondent,  
4 and therefore is the owner of the property known as 201 Lake  
5 Secession Road in Abbeville. He lists the Abbeville Tax Map  
6 System number for the property, and containing approximately  
7 10.4 acres of land with a metal building.

8 We would ask the Court -- and I'm not quite sure if  
9 this comes under the jurisdiction of this Court or this  
10 case. But we would seek to have those lis pendens dissolved  
11 or removed as part of any action that relief is -- if the  
12 Court feels comfortable in granting that relief.

13 THE COURT: Can I see those real quick?

14 MR. CLARK: Yes, sir, Your Honor.

15 THE COURT: Mr. Clark, let me ask you one quick  
16 question. This is for my edification. The actions that  
17 were filed in the Tribal Court -- and understand my  
18 knowledge of tribal law is -- to say it's limited is an  
19 overstatement. It's probably non-existent. Are these  
20 actually pending up there somewhere, or have you been able  
21 to find out anything about those actions?

22 MR. CLARK: Your Honor, I'm actually now a proud member  
23 of the Oneida Judiciary Tribal Bar. They've allowed me to  
24 participate by phone in these proceedings after I was --  
25 applied and was admitted pro hac vice to participate in

1 these proceedings. In Monday of a week ago, whatever date  
2 that was, Your Honor, the Court held jurisdictional hearings  
3 on the three cases that were filed by Ms. -- officially by  
4 Ms. Arletta Kurowski. The jurisdictional issues under the  
5 Tribal Code of Laws -- The Oneida Tribal Code of Laws, are  
6 subject matter jurisdiction, territorial jurisdiction, and  
7 personal jurisdiction. Basically they limit themselves to  
8 anything that occurs within the reservation, I'm using that  
9 term loosely as far as territory is concerned, or somebody  
10 that directly does business with the reservation. Subject  
11 matter deals with Oneida Code of Laws, or the Oneida Tribal  
12 Constitution, and you can file for directed -- declaratory  
13 judgment in that.

14 Basically, we presented to that Court that we don't  
15 feel like those Courts have any of those three jurisdictions  
16 concerning this estate and Ms. Normal Kurowski. We are  
17 awaiting a ruling from the Court on them. So they are -- at  
18 this time they are open and ongoing, but they are -- that's  
19 where they stand.

20 THE COURT: Okay. But the suits that underlie the  
21 basis for the lis pendens, are you getting the feel that  
22 they may be going away themselves and that'll take care of  
23 the lis pendens?

24 MR. CLARK: I would hope so, Your Honor, because those  
25 are directly the number -- the case numbers reflected on

1     there --

2             THE COURT:   Right.

3             MR. CLARK:   -- are 18-TC numbers and those are the  
4     Trial Court case numbers for two of the cases.  I think four  
5     and five is also up there, and seven that is involved.  So  
6     I'm hoping -- we've asked the Court there to -- if the Court  
7     dismisses it for lack of territory, or give the other  
8     jurisdictions to also dismiss -- or address the lis pendens.  
9     But I'm trying the "belt and suspenders" approach and bring  
10    it to this Court's attention since this Court does have  
11    general jurisdiction, of course, in Abbeville County, and  
12    the Abbeville Clerk's Office is where these lis pendens were  
13    filed.

14            THE COURT:   Okay.  Well, to the extent that the  
15    Plaintiff is asserting claims that should have been asserted  
16    a long time ago for elective share or some share of the  
17    estate, or what have you, clearly those are time barred.  
18    Just so the record is clear, I am going to make the email  
19    chain between Mr. Hawk and my office and Mr. Clark, I'll add  
20    that to the file so that those communications are a part of  
21    the record.  It's clear in this case that Mr. Kurowski  
22    passed away testate.  That's water under the bridge.  As  
23    well as been probated.  All assets have gone to your client,  
24    Mr. Clark, in this particular case.  And as you correctly  
25    point out, she has invested more in the estate than, in all

1 likelihood, the assets were worth. So for the reasons  
2 stated in your motion to dismiss, in addition to the reasons  
3 I just put on the record, the Court will grant your motion.

4 Is this the first time -- what I would like to avoid is  
5 -- in my experience sometimes, and this looks a lot like the  
6 situation that sometimes occurs when people become overly  
7 litigious when they don't get what they want. Is this the  
8 first time that this kind of action has been brought against  
9 your client or this estate, or has this been an ongoing  
10 issue, or does the Court need to undertake any sort of  
11 special directive to the Clerk of Court that if Mr. Hawk, or  
12 someone purporting to act on his behalf, if they were to  
13 file some other action with this Court that the Chief Admin  
14 Judge should review it before it goes any further, or has  
15 this been kind of a one time thing where somebody got a burr  
16 in their saddle?

17 MR. CLARK: Your Honor, this is the first set of  
18 pleadings that -- first pleadings that either Ms. Arletta  
19 Kurowski or Daniel Hawk has filed. I will say that in some  
20 of the filings, I think in connection with the proceedings  
21 today, Mr. Hawk has stated that -- if I can kind of look  
22 through my notes real quickly in here. And it may have been  
23 as part of his complaint even. Under K of his complaint,  
24 number -- number two, subparagraph K, he states, "The South  
25 Carolina Court should be concerned about a falsified Native

1 American death certificate. Also, their concurrent legal  
2 proceedings held within the Oneida judiciary." He even  
3 says, "This Court ought to expect further Tribal and Federal  
4 proceedings regarding this estate case." And then for those  
5 reasons he asks the Court to transfer the case to another  
6 county in here. So, he pretty clearly states, Your Honor,  
7 that I don't think this is -- unfortunately, this is going  
8 to be probably the end of this matter.

9 THE COURT: All right. That was kind of my concern  
10 reading between the lines. Mr. Clark, if you would, at your  
11 leisure, just prepare me a very brief order. I'll issue a  
12 Form 4 granting your motion to dismiss today, and I'll also  
13 include in my Form 4 order, and I'll ask you to include in  
14 your order, a request to the Clerk of Court's Office that  
15 should Mr. Hawk bring another action in this Court that  
16 prior to that action being received and officially filed,  
17 the Chief Admin Judge for Civil purposes, whoever that must  
18 be -- whoever that may be, must review it and make a  
19 decision on whether that particular cause of action should,  
20 in fact, be received by the Court. I'd much prefer to avoid  
21 frivolous filings and, candidly, this action seems to be  
22 precisely that.

23 As it relates to the two lis pendens, is your client in  
24 the position -- is she needing to sell this property at this  
25 particular point in time or anything?

1 MR. CLARK: No, sir. She's residing in the property,  
2 but we are concerned about future title searches, and in the  
3 case she needs to borrow money to make repairs or some  
4 circumstance would arise in which she may need to use these  
5 assets as collateral for a loan.

6 THE COURT: Okay.

7 MR. CLARK: And, excuse me, Judge. I'm sorry.

8 THE COURT: Sure.

9 MR. CLARK: While I kind of have the floor. May I also  
10 put in not only the actions brought by Mr. Hawk, but by  
11 either Arletta Kurowski or other parties in which Daniel  
12 Hawk is acting as agent, because most of the -- if not all  
13 of the proceedings particularly in Oneida Tribal Courts are  
14 done in Arletta's name, but the pleadings are signed by  
15 Daniel Hawk as agent for her.

16 THE COURT: That's a good point. That'll be perfectly  
17 fine. So even if Arletta were to file -- or Mr. Hawk were  
18 to file in a representative capacity for Arletta, then those  
19 pleadings would also need to be reviewed by the Circuit  
20 Court.

21 MR. CLARK: Thank you, Your Honor.

22 THE COURT: Out of deference to the Oneida Tribal  
23 Court, Mr. Clark, at this point in time I don't know that I  
24 am necessarily going to be able to dismiss the lis pendens.  
25 Any future lis pendens though would be subject to the same

1 rule as it relates to Mr. Hawk or Mr. Hawk acting in some  
2 capacity on behalf of Arletta. So the Clerk will need to  
3 refrain from filing any future lis pendens. From what  
4 you're telling me, now that you're a member of the Oneida  
5 Tribal Bar, I'm confident this matter will be resolved  
6 favorably for your client. I am unfamiliar with laws of the  
7 Nation of the Oneida people, but I'm confident that they  
8 will acknowledge that probate needs to take place in  
9 Abbeville County at the very least. So let's leave it at  
10 that. If you have a problem getting these dismissed at a  
11 later point in time you can repetition the Court and we'll  
12 take it from there. Okay?

13 MR. CLARK: Thank you, Your Honor.

14 THE COURT: Very good.

15 THE CLARK: Your Honor, if I could --

16 THE COURT: Sure.

17 THE CLARK: -- just to complete the record. Judge  
18 Sumner is here at our request in case there's something he  
19 needs to provide the Court from the estate. Currently  
20 pending is a demand for a hearing pursuant to Ms. Norma  
21 Kurowski's petition for settling the estate. Unfortunately,  
22 Mr. Hawk was quick to file his demand, but has not filed his  
23 filing fee -- or paid his filing fee despite requests. So  
24 that's kind of being held in limbo on the shoulders of our  
25 wise Probate Judge to determine what the next step may be on

1 that. So all I'm saying is I anticipate possibly some other  
2 fallout depending on the outcome of addressing Mr. Hawk's  
3 demand for a hearing.

4 THE COURT: All right. I trust that Judge Sumner will  
5 take care of his end of things in a fair and reasonable way.  
6 I have no doubt about that. Good enough. Thanks.

7 MR. CLARK: Thank you, Your Honor.

8 - - - END OF REQUESTED TRANSCRIPT OF RECORD - - -

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Certificate of Reporter

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I, the undersigned, Tara T. Scott, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Court of Common Pleas Circuit Court for Abbeville County, South Carolina, on the 8th day of May, 2018.

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

Tara T. Scott  
Tara T. Scott, CVR  
Circuit Court Reporter  
August 17, 2018

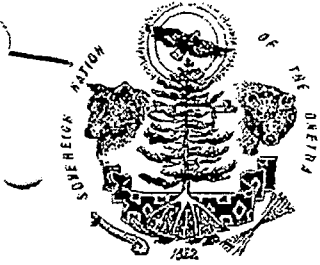
*Oneida Tribe of Indians of Wisconsin*

**ENROLLMENT DEPARTMENT**

P.O. BOX 365, ONEIDA, WI 54155-0365

PHONE: (920)869-6200 \* 1-800-571-9902 FAX: (920)869-2995

<http://enrollment.oneidanation.org>



SEPTEMBER 11, 2009

CHANDLER-JACKSON FUNERAL HOME  
& CREMATION SERVICES  
PO BOX 1158  
ABEYVILLE SC 29620-1158

Enclosed is a check for the funeral expenses for KENNETH KUROWSKI.

Check Amount: \$5,000.00

Check Number: 1513689

Check Date: 9/10/2009

Thank you for assisting our tribal members in their time of need, it is greatly appreciated.  
If you have any questions, please call me at (920) 869-6200.

Sincerely,

Jodie Skenandore  
Burial Fund Coordinator

Enclosure



# Chandler - Jackson

FUNERAL HOME AND CREMATION SERVICES

Invoice Date: 9/17/2009  
 Estate of: Kenneth Howard Kurowski  
 Date of Death: August 22, 2009


<u>Professional Services</u>		3,810.00
Use of all facilities, Motor Equipment		
Cremation & container, Memorial Service		
<u>Cemetery Equipment</u>		275.00
Tents, Grass carpet, chairs		
<u>Cash Advance Items</u>		
10 Certified Death Certificates	\$	39.00
Obituaries Notices	\$	202.00
Index-Journal	\$	152.00
Bridgeport III Leader	\$	-
Press & Banner	\$	50.00
Lawrenceville, III Daily Rec	\$	-
	\$	-
Memorial Flowers		N/A
Hair Dresser		-
*Clothing		-
Other Video	\$	150.00
*Rental Casket	\$	525.00
*Urn	\$	275.00
Honorarium Rev. Bruce Moore	\$	75.00

\* SC Sales Tax (7%) \$56.00

Total \$5,407.00

Payment Received	Insurance Payment 9/17/09	\$	5,000.00
Payment Received	Payment 9/17/09	\$	407.00
	Total Payments Received	\$	5,407.00

Current Balance Due

 **PAID** *CWS*  
 \$0.00

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ABBEVILLE COUNTY  
Court of Common Pleas  
Honorable Frank R. Addy, Jr. Judge

Case No. 2018-001067

Kenneth H. Kurowski

Respondent

Daniel D. Hawk

Appellant

BRIEF OF THE APPELLANT

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THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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On Appeal from the Court of Common Pleas  
For Abbeville County  
Honorable Frank R. Addy, Jr., Judge  
Case No. 2018-CP-01-00069

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CASE NO. 2018-001067

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KENNETH H. KUROWSKI,  
Respondent,

v.

DANIEL D. HAWK,  
Appellant.

---

**Opening Brief of Plaintiff-Appellant**

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## INTRODUCTION

**This Brief is tenet to Kenneth H. Kurowski's *de novo* probate.** There are several flaws in the law and judiciary logic that ought to demand this Court Order probate *de novo* and are discussed *infra*.

## STATEMENT OF THE ISSUES ON APPEAL

1. The Transcript Record<sup>1</sup> (Transcript) indicates no exhibits were introduced on p. 3 yet the Transcript clearing indicates documents were provided to the judge. For example, the Death Certificate on p.4, line 25, & p.5, line 1, *inter alia*.
2. The Defendant, on p.6, lines 10-12 admit Kenneth H. Kurowski's official [and legally] surviving spouse is Arletta Kurowski yet, on p.5 the Defendant, Norma (Schoonober) Kurowski conspired to deprive (Plaintiff) with her son Brian Kurowski by ensuring the death certificate showed Norma Schoonober (Brian's mother) as the legal surviving spouse, when in fact they both knew Arletta Kurowski was the legal surviving spouse see 42 U.S.C. 1985. In other words, did the coconspirators (Brian Kurowski and his mother) knowingly falsified a vital record; Kenneth H. Kurowski's Death Certificate see p.5, lines 8-10?

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<sup>1</sup> Transcript Record of 2018-CP-01-00069 dated May 8, 2018.

3. The Defendant admits that Kenneth H. Kurowski was married to Arletta Kurowski four years prior to the unlawful Illinois marriage (p.5, lines 18-19), and, there were children involved, “possibly three” see p.6, line 1. Did the Defendant Norma Schoonober make any attempts to correct the false marriage vital record? Did the Defendant Norma Schoonober ensure that legal child support was paid to Arletta Kurowski’s children?
4. The Defendant, Norma Schoonober admits there was no divorce between Kenneth H. Kurowski and Arletta Kurowski see p.6, lines 7-8. Did the Defendant Norma Schoonober ensure that Kenneth H. Kurowski obtained a legally divorced from Arletta, his legal spouse?
5. Even though the Defendant knew Kenneth H. Kurowski was married to Arletta Kurowski and they had children together, the Defendant, at [her] own peril, contrived to live-out the bigamist Illinois-sham-marriage with Kenneth H. Kurowski concomitant depriving the lawful wife (Arletta) and [her] three children of marital and child support see p.6, lines 8-9. What is the degree of the Defendants’ moral turpitude that would allow [her] to continue a sham-marriage while knowingly harming the children of the lawful marriage?
6. There are questions regarding the construction of the purported will see p.7, line 3. For example, Kenneth H. Kurowski’s, four Oneida Indian

sisters, conspired and created [Kenneths'] will on the Oneida Indian Reservation in Wisconsin see p.7, lines 7-8. These are the same four sisters that conspired to harbor their brother [Kenneth], when [he] was wanted by law enforcement in the State of Wisconsin for failing to pay child support for [his] three children, *supra* at 5. It is noted in the transcript, that Oneida Indians and the Oneida Indian Reservation with its own set of laws, has been implicated, notwithstanding, deliberate constitutional deprivations under 42 U.S.C. 1985. What might be the questions, differences, degradation, and implications of a will prepared by a bunch of Indians, on the Oneida Nation Indian Reservation, in a different state, and transported to, and purportedly executed in the State of South Carolina? What could go wrong? See, p.7, lines 10-11.

7. There are also questions of purported will execution. The four Oneida sisters conspired on the Oneida Indian Reservation to coerce their brother [Kenneth] to sign the will when in South Carolina or in the alternative [Kenneth] did not sign the will at all. Considering, the four Oneida sisters conspired and harbored their brother [Kenneth] to keep him from paying legally-obligated child support is it probable that these same four Oneida sisters continue to conspire to deprive the Plaintiff of estate property?

8. Similarly, the South Carolina notary only signed his name to the document because the notary did not witness Kenneths' signature. In other words, the notary deliberately failed to affix and affirm the required notary ink stamp, seal, identification by satisfactory evidence, commission, and date of expiration, or in the alternative the notary's official title as required by South Carolina Law see S.C. Code of Laws, 26-1-60. What are the implications of the notarys' failure to legally affix his hand to the purported will?
9. The Defendant admits, and the Plaintiff agrees that Kenneth H. Kurowski was terminal, [he] was very weak and vulnerable and thus [his] incapacitated disabled state is conceded by both the Plaintiff and the Defendant. Plaintiff asserts Kenneth H. Kurowski was not capable of understanding the implications of any will and specifically regarding the financial implications of being a bigamist. What was Kenneths' capacity to review and understand and execute any legal document? See p.7, line 11.
10. What disability protections are provided for a person who is terminally ill? To reframe this question, the Social Security Administration recognizes those who are terminally ill as being disabled i.e. disability benefits are provided to the terminally ill. Plaintiff asserts, under South Carolina Code,

62-5-101 that Kenneth was incapacitated and not sufficiently capable of making complicated decisions such as executing a will. In other words, at the minimum his Oneida sisters coerced him to sign the will, and if in fact he did sign the will, Kenneth did so in an incapacitated condition. What protections are provided to the terminally ill in the State of South Carolina regarding the legal execution of a document? See p.7, line 11.

11. The Defendant, Norma Schoonober had known [she] was not lawfully married to Kenneth H. Kurowski and Norma Schoonober also conspired with Brian Kurowski (her son) to falsify the South Carolina Death Certificate vital record to show [she] was the legal surviving spouse when in fact [she] was not, yet made an oath, affirmation, and testified in court hearing that the vital record and statements of marriage were true<sup>2</sup>. How is it that the Defendant can assume to proceed with the estate “on the basis that Ms. Kurowski was going to receive everything” when proof, findings, and testimony are known not to be true? See 62-3-303(a)(2) and transcript p.8, lines 4-5.

12. The Defendant attempts to explain why the estate is problematic suggesting the small estate was highly encumbered when there is not proof

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<sup>2</sup> Kenneth Howard Kurowski, 2009 ES 01 00196 Amended Order recorded on October 25, 2012, Journal #12 Page 84 scanned October 25, 2012.

of that given or provided. Further, the Defendant, Kenneth H. Kurowski received an inheritance for his parents' farm on the Oneida Indian Reservation of more than \$100,000 yet, the Defendant states the estate assets were "highly encumbered"? Considering the inheritance, how can this purportedly small estate be so highly encumbered? See p.8, line 8.

13. The Defendant states the estate is "worth only about \$60,000". How can the Defendants' estate only be worth \$60,000 when Kenneth H. Kurowski received more than \$100,000 for the sale of his parents' farm? See p.8, line 9.

14. The Defendant states that Norma Schoonober Kurowski, since the time of Kenneths' death had "advance over \$80,000 to pay on [liens]". Considering, Kenneth H. Kurowski, had not even a penny to his name i.e. no watch, no wallet, no bank account, no pants, and not even a shirt when he died, where did the purported \$80,000 advance come from? Is it probable the \$80,000 advance arises from the \$100,000 from Kenneths' parents' farm?

15. There is no proof of the value of the estate or any advancement. How is it possible or how prudent is it to "conclude" any net worth when the estate assets and liabilities are not true and accurate? See p.8, line 15. This Court ought to conclude there is probable cause to believe that the Defendant

misrepresented material facts in the [probate] proceedings, see 62-3-611(b).

16. The Defendant states the Plaintiff has been “alleging all kinds of various things” see p.8, line 24. What kinds of things? As it turns out, the Defendant, Norma Schoonober Kurowski stated she had nothing to do with the Oneida Nation, yet [she] unlawfully obtained Kenneths’ \$5,000 Oneida Nation burial benefit reserved for the legal Oneida Nation surviving spouse Arletta Kurowski. Defendant admits Kenneth owed child support and thus child support arrearages are being litigated. Indian religious freedoms are being litigated, in Illinois where the unlawful and continuing sham-marriage vital record between Norma Schoonober and Kenneth H. Kurowski is in the process of being invalidated because it is unlawful, at least in Wisconsin and Illinois to be married to two people, see p.9, lines 2-3. Why did the Defendant pass on elucidating the Trial Court on the most current set of litigation arising from the unlawful bigamist marriage concomitant falsified South Carolina vital record Death Certificate? What could go wrong? Does not South Carolina have a law against falsifying a death certificate? Does not South Carolina have a law against bigamy? Does not South Carolina have a law against people who knowingly lie in a court hearing? What is wrong with the lower courts’ thinking?

17. At 13 *supra*, consider, the words on p.9, line 6 that says, “balance due on the funeral bill”. What the Defendant means is that after the application of the unlawfully obtained \$5,000 Oneida Nation tribal death benefit there was only \$407 remaining as the balance. Why should this Court believe the real costs and the real advancement is what the Defendant says it is? The Defendant would have this Court believe that if [she] had not advanced the \$80,000 of the \$100,000 of Kenneths’ money the “creditors would have taken [all] the assets of the estate” see p.9, lines 9-10.
18. The Defendants admit the estate lingered on for nine years on what the Defendant says is a \$60,000 estate see p.9, lines 24-25. Is it not the duty of the personal representative to be prudent in attempting to close the estate because it is in the best interest of the estate? See 62-3-611(c).
19. Similarly, the Defendant suggests a specific reason is necessary to ask the Trial Court to move the probate court to another county, see p.9, lines 18-19. In other words, the Defendant suggests, just because Norma Schoonober testified as a legal wife when [she] knowingly was not, is not a specific enough reason, nor is the fact that Norma Schoonober is listed on Kenneths’ falsified Death Certificate, after all [she] did not give the information to the coroner, [her] son, Brian did. Are these not misrepresentations of material fact? Is lying in probate court, stating

“Kenneth is her husband<sup>3</sup>”, a misrepresentation of material fact? Is the representation of the unlawful bigamist marriage in the best interest of the estate? Are the constitutional deprivations of the Plaintiff in the best interest of the estate? See 62-3-611(a).

20. It is interesting that the Defendant chooses to cite convictions when bigamy is felony crime, see p.10, lines 1-3. Indeed, in South Carolina, 16-15-10 is an Offense Against Morality and Decency. Who would have thought that? Most certainly not the Defendant.

21. Following morality, the Defendant argues that the Probate Court has no authority over Kenneth H. Kurowski's fraudulent Death Certificate, see p.10, lines 7-8. Is not the legal surviving spouse, Norma Schoonober listed on the Death Certificate (a South Carolina vital record) that is used in the probate process as a material fact even though it is fraudulent and misrepresented? See 62-3-611(b). Does this Court really believe that Kenneths' fraudulent Death Certificate has no influence in Kenneths' estate? See p.10, line 10.

22. Does this Court really believe a probate court has to accept a knowingly false vital record simply because the Defendant states that South Carolina

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<sup>3</sup> Kenneth Howard Kurowski, 2009 ES 01 00196 Amended Order recorded on October 25, 2012, Journal #12 Page 84 scanned October 25, 2012.

probate courts have no jurisdiction over South Carolina vital records? This line of thinking is insane see p.10, lines 15-17.

23. The Defendant stops short of discussing other allegations, *supra* at 13, yet on p.10, lines 17-19 the Defendant straight out lies to the Tribal Court by, “denying that Ms. Norma Kurowski has received any benefits, particularly in tribal benefits”. What a web of lies, consider, 1) on September 11, 2009 the Oneida Nation addressed a letter and enclosed a check for \$5,000 to Chandler-Jackson Funeral Home and Cremation Services, P.O. Box 1158, Abbeville, SC 29620, “for the funeral expenses for KENNETH KUROWSKI, check no. 1513689 dated 9/10/2009, signed Jodie Skenandore, Burial Fund Coordinator, 2) Affidavit of Steve A. Jackson, State of South Carolina, County of Greenwood, dated September 9, 2018 affirms that the “Oneida Tribe of Oneida, WI, mailed a check directly to Chandler-Jackson Funeral Home and Cremation Services, in the amount of \$5,000 which was applied directly to Kenneth Kurowski’s services on September 17, 2009, leaving a balance of \$407; that was paid by Norma Kurowski from her personal funds, which paid the balance in full”, 3) Chandler-Jackson invoice of Kenneth H. Kurowski dated September 17, 2009 shows payment received of \$5,000 with balance due of \$407, 4) on undated, Chandler-Jackson letterhead the Defendant asked Chandler-

Jackson to write a statement that states, “This is to certify that the Oneida Tribe of Oneida, WI paid direct check to Chandler-Jackson Funeral Home in the amount of \$5,000 for burial invoice of Ken Kurowski whom died on August 22, 2009”, *inter alia*.

Did Norma Schoonober Kurowski benefit from the \$5,000 Oneida Nation death benefit? If Norma Schoonober Kurowski only had to pay \$407 of the \$5,407 funeral expenses did [she] benefit from the \$5,000 payment, regardless of where the payment came from? This Court ought to agree that Norma Schoonober Kurowski cannot deny receiving any benefits and especially Oneida Nation tribal benefits, *supra* and therefore, p.10, lines 17-19 are patently false.

24. The Defendant states, “the only federal benefits [Norma Schoonober] received are widow benefits, or spousal benefits, due to the time they were married”, see p.10, lines 19-20. Plaintiff asserts those federal benefits are obtained unlawfully, and is defrauding the United States, and taxpayers because the Illinois marriage was void in *ab initio* and is a deliberate constitutional deprivation of Arletta Kurowski the legal surviving spouse, see 42 U.S.C. 1983. At the Defendants’ own peril, will this Court recognize the federal fraud in this Case?

25. The Defendant states there is no basis for this-or-that Court to grant authority to move the probate to another county *de novo*, see p.11, lines 1-3. However, the petition to Trial Court was timely and show-of-cause can be at any time. See 62-3-611(a). Since, proper filings and notices, “the personal representative shall not act except to account, to correct maladministration, or preserve the estate”, *id*, at (a). If this Court finds some material misrepresentation of fact in the proceedings, will this Court Order the probate moved to another county<sup>4</sup> *de novo*?

26. The Defendant states an affidavit of default was filed the morning of the hearing, see p.11, lines 8-9. Plaintiff asserts all answers have been filed when required. Nonetheless, Plaintiff has the right to contest any affidavit of default, see *Melton v. Tippecanoe Cty.*, 838 F.3d 814, 818 (7th Cir. 2016). How is it possible for the nonmoving party to contest anything filed on the morning of? On the face, it is unethical.

27. The Defendant and the Trial Court make fun of the Oneida Nations’ judiciary abilities and mocks Full Faith and Credit of Indians in general by requesting the Trial Court dissolve lis pendens of the Oneida Nation, see p.12, lines 10-11. Subsequently, the Trial Court suggests the Oneida

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<sup>4</sup> Moved to another county except Greenwood because Travis Moore had previously represented Arletta Kurowski and is now the probate judge in Greenwood County, see p.7, lines 21-24.

Nation laws are so limited that their laws are “probably non-existent”, see p.12, lines 18-19. Indeed, Defendant believes the Oneida Nation has no jurisdiction at all in this matter or regarding Norma Schoonober, see p.12, lines 14-16. The Defendant is using the “belt and suspenders” inferring the Trial Court has jurisdiction where the lis pendens are filed i.e. Abbeville County and therefore can arbitrarily void Oneida Judiciary lis pendens contrary to Full Faith and Credit, p.12, lines 8-13, see also, U.S. Constitution, Article 1, Section 1

28. The Trial Court erred in its calculation of time because misrepresentation of material fact can be challenged at any time, see 62-3-611(a). Further notices and the proper filings have been timely, for otherwise, this Case would not be, before the Appellate Court today. Why did the Court of Common Pleas err when failing to provide the times when Plaintiffs’ action was supposedly barred, p.12, line 17?

29. The Court erred by stating “it is clear in this Case that Mr. Kurowski passed away testate”. Why is this so? Because as pointed out in *In re Estate of Bozenna Michalak v. Robert and Jolanta Kaleta*, App. Cir. Ct. Cook County, 2010. The idea of testate is circular, inferring the misrepresentation of material facts are the evidence used to validate the will, such that the “will” must be valid and is exactly the question at issue.

If the misrepresentation of material fact invalidates the will, did Kenneth H. Kurowski pass away intestate?

30. Similarly, as 29 *supra*, the finality of been probated is not a given or a known, known, because that is at issue, and the reason for the Appeal, see *id* at 29. If there is a material misrepresentation of fact(s), what is the likelihood that probate is null?
31. The Trial Court erred when stating, “as you correctly point out, she has invested more in the estate than, in all likelihood, the assets were worth” because there is no evidence to make this statement true, see p14, lines 24-25 and p.15, line 1. How can this Court determine something to be true from Trial Court conclusory statements without facts as supporting evidence in support of the truth? In doing so the Court of Common Pleas shows bias and loses credibility.
32. Because of the reasons above the Court of Common Pleas erred in dismissing Plaintiff request to have probate moved to another county and begin anew; *de novo*. See p. 15, line 3. Because of the plethora of falsification’s, and misrepresentations of fact in this Case, is it unreasonable to ask for probate *de novo*?
33. Shockingly, the Trial Court goes out of its way to harm the Plaintiff, Indians in general, and specifically, the Oneida Nation Judiciary by

devising a “special directive” to prevent Plaintiff from equal protections of the law such that the “Chief Admin Judge... review [further actions], see p.15, lines 13-14, also U.S. Constitution 14<sup>th</sup> Amendment. Subsequently, the Trial Court includes with their Order, “that should Mr. Hawk bring another action in this Court (Trial Court) that prior to that action being received and officially filed, the Chief Admin Judge for Civil purposes, whoever that must be – whoever that may be, must review it and make a decision on whether that particular cause of action should in fact, be received by the Court”, p.16, lines 14-20. It is suggested by the Trial Court that questioning the unlawful bigamist marriage contracts in the State of South Carolina is frivolous. If bigamy is unlawful, at least in the State of Illinois and Wisconsin bigamy is unlawful, how is possible that any filing, any question of contracts under the guise of bigamy, be frivolous? In short, the Court of Common Pleas knew that Norma Kurowski is not the legal surviving spouse, yet, ignored the bigamist, unlawful implications upon the estate. In other words, the Court of Common Pleas *sua sponte*, arbitrarily decided to protect the unlawful practices of the South Carolina family concomitant harming the Plaintiff by depriving [him] of equal protections of the law i.e. 14<sup>th</sup> Amendment. For example, “So the Clerk

will need to refrain from filing any future lis pendens”, inter alia, p.18, lines 2-3.

34. And if, things are not satisfactory to the liking of the Defendant, the Court of Common Pleas suggests that the Defendant “repetition the Court and we’ll take it from there”, p.18, 11-12.

35. Even more shockingly, the probate judge was in the Court of Common Pleas hearing. See p.18, lines 17-19. A blatant equal protections violation? Based on this judicial calamity alone, the Appellate Court should immediately move Kenneth H. Kurowski’s Case out of Abbeville County and probate should start anew, *de novo*.

#### STATEMENT OF THE CASE

This is Case is timely, it is properly before the Appellate Court. The Defendant made an application for Settlement, and Proposal for Distribution and Notice of Right to Demand Hearing for which the Trial Court appropriately arises per the Captioned heading and appears to be dated, January 22, 2018 with commencement of action filed within 30 days. None of the enclosed items listed *supra* were valid, they are mismanaged, and failures of duties are omnipotent, therefore, a request to move probate, to another county *de novo*, is proper and justified see 62-3-611(a) and 62-3-611(b).

The Trial Court held this matter on May 8, 2018 for which the Trial Court, Court of Common Pleas erred in Dismissing this request to move probate and begin anew as questioned in the Statement of Issues and Arguments *infra*. No other elucidations or changes are made in the parties or otherwise. And the Plaintiff, agrees that any matters stated or alleged in Appellants' statements are binding.

#### STANDARD OF REVIEW

The Plaintiff states the standard of review is that the pro se Plaintiff requests, statements, assertions, and facts are to be liberally construed as true, see *Anderson v. Hardman*, 241 F.3d 544, 545 (7th Cir. 2001) see also, *Benders v. Bellows & Bellows*, 515 F.3d 757 (7th Cir. 2008), *Smart v. Local 702 Int'l Broth. of Elec. Workers*, 562 F.3d 798 (7th Cir. 2009). Further, this Appellate Case does not have to be technically correct, albeit the Plaintiff asserts, as *pro se* to be as technically correct as possible see *Burrell v. Armijo*, 456 F.3d 1159 (10th Cir. 2006), thus, *Anderson* and *Burrell* set the applicable standard of review; for the Appellate Court to liberally construe the Plaintiffs' facts and arguments as true and correct while understanding this brief is not perfectly, technically correct.

#### SUMMARY OF THE ARGUMENT

The Defendant has intentionally made misrepresentations of material fact as listed and outlined in the Statement of Issues and in the Arguments *infra* while

seeking personal appointment, in representing, and managing the estate of Kenneth H. Kurowski, Plaintiff's father. The maladministration, the falsification and use of false documents and vital records, and false testimony in the court of law, to deliberately harm and deprive the decedents, heirs, and Plaintiff to protected constitutional property as provided under the 14<sup>th</sup> Amendment. Simply, the Defendants' bigamist marriage has provided a probate-estate foundation built on quicksand that is cause of a plethora of unlawful and immoral administration activities under the guise of the state as being lawful acts.

## ARGUMENT

### I. THE COURT OF COMMON PLEAS APPLIED ERRONEOUS STATE AND FEDERAL LEGAL STANDARDS THAT IS CAUSE FOR DISMISSING PLAINTIFFS' REQUEST

A. **The Legal Standard**, two people cannot be married to the same person, see 16-15-10 also, Morrill Anti-Bigamy Act of 1862, Pub.L. 37-126, 12 Stat. 501. Therefore, it is impossible for two wives to give testimony at the same time. There can be one, and only one wife of Kenneth H. Kurowski and the Court of Common Pleas ought to know this a fact of law. The Defendant admits, and concedes, in the Court of Common Pleas, as provided in the transcript and as outlined in the Statement of Issues, that "Mr. Kurowski was first married to Arletta Kurowski" and further admits, Defendant "cannot find a divorce on record" for Kenneth

and Arletta. Therefore, the testimony of Norma Schoonober in the Amended Order of October 25, 2012 must be invalidated.

- B. The Court of Common Pleas was provided Kenneths' Death Certificate showing that Norma Schoonober was the legal surviving spouse but erred in failing to ask why Norma was listed, and still listed as the legal surviving spouse on a South Carolina vital record used in the estate and probate processes. The Court of Common Pleas knows it is unlawful under 44-63-161 for a person to obtain and possess a falsified vital record that is used for deception, with the intent to commit fraud, to constitutionally deprive Plaintiff under color of South Carolina State Law see 44-63-161(4) and 42 U.S.C. 1983 respectively.
- C. Instead of making an Order for correcting the vital record to show that Arletta Kurowski is the legal surviving spouse the Court of Common Pleas ignored the law in the same way the bigamist laws were ignored.
- D. Why would the Court of Common Pleas ignore the state and federal laws and to go out of the Courts' way to deprive the Plaintiff, to deprive the lawful wife? The Plaintiff asserts no less than six causes here, 1) the Plaintiff is Indian, 2) the Defendant Norma is white, 3) Norma now lives in the South, 4) the Plaintiff lives in the North, 5) amazingly, the Probate Judge was in the court room during the May 8, 2018 hearing, and 6) the Court of Common Pleas does not believe the Oneida Nation Judiciary is credible under the Full Faith and Credit Clause see U.S. Constitution, Article 1, Section 1. In the latter, if the Oneida Nation Judiciary does not find in the Defendants' favor the Court

of Common Pleas will fix the woes of the Defendant. What kind of justice is this? Apparently, it does not matter what the South Carolina Appellate Court decides in this case, because, as-long-as probate is in Abbeville County... 'you just come on back here, and I'll make it all nicey-nice for you' see transcript p.18, lines 11-12.

- E. The Court of Common Pleas use conclusory judgements based on Defendants' unverifiable and feeble arguments that the estate was such a small amount being approximately \$60,000 but somehow the Defendant had paid what the estate was supposedly worth, and more by an additional \$20,000. This is highly suspect and infers estate maladministration 62-3-611. Indeed, Kenneth H. Kurowski was purported to have died without a penny to his name, yet, the Defendant has miraculously paid \$80,000 from [her] own pocket. Why did the Court of Common Pleas err in failing to request to see a full accounting as is required and necessary for the Application of Settlement and Proposal of Estate Disposal?
- F. Plaintiff asserts that without a full accounting the estate cannot be closed and, it is irresponsible to state a full accounting only exists within 2016 and 2017. The Court of Common Pleas erred when the Court failed to question why a full accounting was not completed. The Application for Settlement and Disposal requires Court approval and thus ought to have a full accounting and be free of fraud.
- G. The length of time as the Defendant claims, nine years (p.9, lines 24-25), infers mismanagement because the Defendant has failed

to perform the required basic estate accounting. With the red flag raised and waving, the Court of Common Pleas simply is not able to connect the mismanaged fiduciary dots. The Appellate Court should ask, “What did the Defendant do for nine years with a \$60,000 estate?” Where is the accounting of Kenneths’ accounts i.e. where did the \$100,000 tribal payment go? Where, is the accounting from the divestment period to Appointment and thereafter, to Application of Settlement and beyond?

- H. A full accounting of the record if requested by the Court of Common Pleas would have answered the question, of whether Norma Kurowski received any benefits, “particularly in tribal benefits”, see p.10, lines 17-19. A full accounting would have demonstrated to the Court that the Defendants’ denial of receiving \$5,000 in Oneida Nation death benefits was a clear misrepresentation of material fact to the Court of Common Pleas.
- I. The Probate Court has allowed the weaving of an amoral bigamist <sup>5</sup>web that has caught the Defendant in magnitudes of lies that requires more coverups and more lies to continue the degradation of what should have been a very simple estate administration. The Defendant is a self-proclaimed and is conceded, and is not disputed, a bigamist<sup>6</sup>, and is not capable of discharging [her] duties of the Appointment Office, albeit obtained unlawfully i.e. lying to court<sup>7</sup>, falsifying and holding Kenneths’ Death Certificate to be true when testimony<sup>8</sup> and the

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<sup>5</sup> South Carolina Code of Laws, 16-15-10.

<sup>6</sup> South Carolina Code of Laws, 16-15-10.

<sup>7</sup> Amended Order of October 25, 2012.

<sup>8</sup> Amended Order of October 25, 2012.

vital record is knowingly false see 44-63-161(4) see also, 62-3-611(b). The Court of Common Pleas erred when allowing illogical, immoral, and unlawful use under the color of South Carolina State Law to deprive the Plaintiff (and his mother) of 14<sup>th</sup> Amendment rights, see also, 42 U.S.C. 1983 and 42 U.S.C. 1985. A bigamist Appointed to administer an estate, using an invalid marriage and falsified Death Certificate? The Appellate Court should ask, "What could go wrong?"

II. THE COURT OF COMMON PLEAS HAD THE AUTHORITY TO GRANT PLAINTIFFS' RELIEF, I.E. MOVE PROBATE TO ANOTHER COUNTY *DE NOVO*.

A. Contrary to the Defendants' insistence that the Court of Common Pleas has no jurisdiction to move the probate to another county is false, see transcript p.11, lines 1-3. Indeed, 62-1-303(c), Venue, states, "If a Court (perhaps the Appellate Court) finds that, in the interest of justice, a proceeding or a file should be located in another court of probate in South Carolina, the Court making the finding may transfer the proceeding or file to the other Court."

B. Similarly, "the Court may restrain a personal representative from performing specified acts of administration, disbursement or distribution, or exercise of any powers or discharge of any duties of his office, or make any other order to secure proper performance of his duty, if it appears to the Court that the personal representative otherwise may take some action which would jeopardize unreasonably the interest the of the applicant or of some other interested person", See 62-3-607(a). With the

Court of Common Pleas help and support is inferring the Abbeville County probate court can “take care of his end of things in a fair and reasonable way”, see transcript p.19, line 5. In this direction from the Court of Common Pleas it shows the Defendant will “take some action which would jeopardize unreasonably the interest the of the applicant or of some other interested person”.

- C. Only one question arises in this section, *supra* II(A)&(B), “In the name of justice, what is in the best interest of Kenneth H. Kurowski’s estate?”. In the interest of justice, *supra* at A, the Appellate Court could Order probate anew, *de novo*, in another county as described throughout.

### III. IN THE INTEREST OF JUSTICE

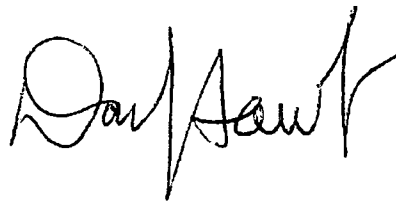
- A. The Court of Common Pleas’ analysis, even with evidence-in-hand, refuses to act in the best interest of justice and move this Case to a seemingly unbiased South Carolina county is severely flawed and biased and demonstrates flaws in both State of South Carolina and federal laws. Every person in the United States knows, because it is common knowledge, that a person cannot have two wives. The Court of Common Pleas knowing that two wives testified under oath to be the wife of Kenneth H. Kurowski immediately infers one of the two testifying had lied under oath and affirmation. Which wife? The one who admits to the Court of Common Pleas that Kenneth was first married to Arletta Kurowski. The Defendant, Norma Schoonober Kurowski lied in court, and through deception, fraud, and under the color of South Carolina State Law, the falsified Death Certificate vital record is

used to constitutionally deprive Plaintiff, his mother Arletta, and his sisters, Donna and Debra. The latter is necessary to put a “human” face to whom the fraud negatively impacts. And, of course bigamy as fraud is a complete mystery to the Court of Common Pleas but ought not to be a mystery to the Appellate Court.

## CONCLUSION

For the forgoing reasons, Plaintiff-Appellant respectfully requests the Appellate Court overturn the Court of Common Pleas’ flawed, arbitrary, and capricious decision to Dismiss this Case and change the probate venue of Kenneth H. Kurowski to a county of this Courts’ choosing with exception of Abbeville or Greenwood Counties, to being anew; *de novo*.

Dated; September 21, 2018

A handwritten signature in black ink, appearing to read "Dan Hawk". The signature is written in a cursive, somewhat stylized font.

Daniel D. Hawk, Pro Se.

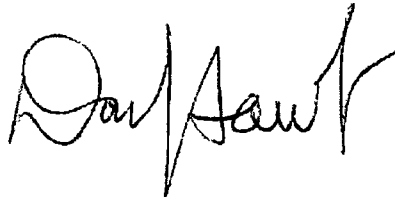
## STATEMENT OF RELATED CASES

To the best of Plaintiff-Appellants' knowledge the cases listed here and otherwise addressed in the transcript such as 18-LP-01-005, inter alia, case 18-TC-004, 005, 007, and corresponding Appellate Case Nos., and Illinois Case no. 2018MR47 notwithstanding, future and imminent 42 U.S.C. 1983 and 42 U.S.C. 1985 federal cases, most likely held in both Wisconsin and South Carolina. As the Court of Common Pleas points out, the Plaintiff, "may become overly litigious when they don't get what they want", see transcript p.15, lines 6-7, or in the alternative if it pleases this Court, when it is clear there are serious problems in law, the court system, the immorality of the Defendant and so on, infers litigation is absolutely necessary, and thus it is absolutely necessary, in this case.

CERTIFICATE OF COMPLIANCE

Plaintiff-Appellant that the Opening Brief has the proper content i.e. TOC, TOA, statement of issues, statement of the case, standard of review, argument, and short conclusion and is less than 50 pages being approximately 26 total and contains reference to the record with intelligible abbreviations and footnotes and as otherwise complies with Rule 267 captioning, etc.

Dated: September 21, 2018

A handwritten signature in black ink, appearing to read "Dan Hawk", written over a horizontal line.

Daniel D. Hawk, Pro Se.

C: South Carolina, Clerk of Appellate Court, 1220 Senate Street, Columbia, SC 29201

Also,

C: Attorney's for the Defendant, C. Rauch Wise, 305 Main Street, Greenwood, SC 29646 and, Curtis Clark, 414 Monument Street, Suite A, Greenwood, SC 29646.

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## Statement of Issues on Appeal

Question I: Did the lower court err in dismissing the Complaint when the Plaintiff failed to file to have the matter transferred to the Court of Common Pleas within 10 days after all pleadings were filed in the Probate Court as is required by S. C. Code § 62-1-302(d)?

Question II: Did the lower court err in dismissing the Complaint when the Plaintiff named Kenneth H. Kurowski as the Defendant when the Plaintiff knew Mr. Kurowski was deceased and that Norma Kurowski was the personal representative of the estate?

Question III: Did the lower court err in dismissing the Complaint when Daniel Hawk failed to allege any grounds upon which relief could be granted as to transferring the case to another county?

## STATEMENT OF THE CASE

On March 5, 2018, Daniel Hawk filed a pro se Complaint against Kenneth H. Kurowski in the Court of Common Pleas for Abbeville County. In the Complaint, Daniel Hawk seeks relief for three things. First, he wants Judge C. Mark Summer, the Probate judge for Abbeville County, to be disqualified. Second, he asks that the case be transferred to a county other than Abbeville or Greenwood, alleging, with no specific facts, except that the probate judge for Greenwood County had previously represented Arletta Kurowski, a former wife of Kenneth Kurowski. Third, that Norma Kurowski be removed as personal representative for estate No 2009-ES-01-0096 and Daniel Hawk be appointed as personal representative. The removal request was for alleged "fraudulent moral turpitude." Complaint at A, B, and C. He sought no monetary relief.

On April 5, 2018, Curtis G. Clark, on behalf of Norma J. Kurowski, as personal representative of the Estate of Kenneth H. Kurowski, filed an Answer, Affirmative Defense, and Counterclaim. The general denial noted that the Will of Kenneth H. Kurowski was admitted to probate as a result of a hearing held on June 10, 2010, and by an Amended Order filed in 2012. In the Affirmative Defense or Counterclaim, Mrs. Kurowski, as personal representative, noted she was appointed as personal representative in 2012. The Affirmative Defense further noted that Daniel Hawk, the Plaintiff, has been aware that the estate is still open and an active estate, but the Plaintiff has not named the estate as a party to this action. In a third defense, Ms. Kurowski asked for attorney fees and costs for the action brought by Mr. Hawk.

Also on April 5, 2018, Ms. Kurowski filed a Motion to Dismiss. In the Motion to Dismiss, Ms. Kurowski alleged that Mr. Daniel had attempted to sue a deceased person when

Mr. Daniel knew since 2010 that Ms. Kurowski had applied to be appointed as personal representative of the estate and no appeal had been taken from the formal order dated June 25, 2012 and amended on October 23, 2012. The Motion further contended that Mr. Hawk sought to disqualify Probate Judge C. Mark Summer from presiding over the estate. The Motion noted that the Complaint contained no grounds as a basis for disqualifying Judge Summer. The Motion further noted that the Complaint sought to allege violations of several South Carolina code sections as they relate to trust, but no trust were set up under the will of Kenneth H. Kurowski; and therefore, there is no basis for such relief. The Motion further noted that the Complaint alleged that Ms. Kurowski had never provided a full estate accounting. At the hearing, this was denied. Mr. Clark noted for the Court that Ms. Kurowski had in fact filed to conclude the estate and requested that she be paid for the funds she had advanced the estate. Rec. on App. At 24, 11 12–19. The Motion noted that Mr. Hawk had filed a Demand for Hearing with the Abbeville County Probate Court but that he had failed and refused to pay the required filing fee so no hearing on any issue has ever been held. The lower court, with Judge Summer present, accepted this representation by Mr. Clark. Rec. on App. at 34, 1 17 to 19, 1 3. Finally, the Motion noted that the Complaint seeks, in the action originally filed in the Court of Common Pleas, to have Ms. Kurowski removed as personal representative and seeks himself to be appointed. The Motion noted that no action had even been filed pursuant to S. C. Code § 62-1-302(d) to have the matter removed to the Court of Common Pleas from the Probate Court, thus the matter is within the exclusive jurisdiction of the Probate Court and, therefore, jurisdiction is not proper in the Court of Common Pleas for Abbeville County.

On May 1, 2018, Mr. Hawk mailed a “Motion to Reject Defendant’s Motion to Dismiss”

to Curtis Clark, the attorney for Ms. Kurowski. In the Motion, Mr. Hawk rejected the concept that he is suing his father, but the caption is just to show the relationship between the parties. In the response to the Motion Ms. Kurowski filed, Mr. Hawk raises an allegation of “Deprivation of Federal Rights” which has no bearing on the Motion to Dismiss. He does not respond to the argument of Ms. Kurowski that Mr. Daniel never filed an appeal from Probate Court nor did he ask for the matter to be transferred to the Court of Common Pleas.

A hearing was held on May 8, 2018, before the Honorable Frank R. Addy, Jr. At the time of the Motion, Mr. Clark also filed an Affidavit of Default as to his Counterclaim. Mr. Daniel acknowledged that he was aware of the hearing by contacting both the Clerk of Court for Abbeville County and Judge Addy. He requested to participate by a telephone conference, but the Court was unable to arrange such a conference. Rec. on App. at 20, ll 1-14. After the hearing, Judge Addy granted the Motion to Dismiss based upon the failure to allege any grounds for the removal of the Probate Judge for Abbeville County, the failure to timely file an action in Probate Court to transfer the matter to the Court of Common Pleas, and the failure to properly name the parties.

## Argument

### Question I

**Did the lower court err in dismissing the Complaint when the Plaintiff failed to file to have the matter transferred to the Court of Common Pleas within 10 days after all pleadings were filed in the Probate Court as is required by S. C. Code § 62-1-302(d)?**

While Daniel Hawk in his brief lists some 35 Issues on Appeal, the case is a simple question of whether the lower court erred in dismissing on several grounds the Complaint filed by Mr. Hawk. The South Carolina Probate Code gives exclusive jurisdiction over estate matters to the Probate Court. The code provides:

(a) To the full extent permitted by the Constitution, and except as otherwise specifically provided, the Probate Court has exclusive original jurisdiction over all subject matter related to: (1) estates of decedents, including the contest of wills, construction of wills, determination of property in which the estate of a decedent or a protected person has an interest, and determination of heirs and successors of decedents and estates of protected persons, except that the circuit court also has jurisdiction to determine heirs and successors as necessary to resolve real estate matters, including partition, quiet title, and other actions pending in the circuit court . . .” S.C. Code § 62-1-302(a).

The only exceptions are contained in paragraph (d) which says:

(d) Notwithstanding the exclusive jurisdiction of the Probate Court over the foregoing matters, any action or proceeding filed in the Probate Court and relating to the following subject matters, on motion of a party, or by the court on its own motion, made not later than ten days following the date on which all responsive pleadings must be filed, must be removed to the circuit court and in these cases the circuit court shall proceed upon the matter de novo:

- (1) formal proceedings for the probate of wills and for the appointment of general personal representatives;
- (2) construction of wills;
- (3) actions to try title concerning property in which the estate of a

decedent or protected person asserts an interest;  
(4) matters involving the internal or external affairs of trusts as provided in Section 62-7-201, excluding matters involving the establishment of a "special needs trust" as described in Article 7;  
(5) actions in which a party has a right to trial by jury and which involve an amount in controversy of at least five thousand dollars in value; and  
(6) actions concerning gifts made pursuant to the South Carolina Uniform Gifts to Minors Act, Article 5, Chapter 5, Title 63.  
S.C. Code § 62-1-302(d)

Of the exceptions set forth above, only subparagraph (1) has any application to this case. For actions involving the probate of wills and the appointment of a personal representative, Mr. Hawk would have had to have first brought an action in the Probate Court and then asked to have it removed to Common Pleas Court within 10 days of the filing of the last pleading. Here, Mr. Hawk did neither.

To the extent Mr. Hawk may be claiming a dispute over the assets of the estate, this issue is in the exclusive jurisdiction of the Probate Court. As this Court has said, "A dispute over conversion of estate property would be for the Probate Court to decide. See § 62-1-302(a)(1)." *Brown v. Brown*, 402 S.C. 202, 207, 740 S.E.2d 507, 510 (Ct. App. 2013).

Mr. Hawk has alleged a dispute over a trust, but has failed to allege a trust actually exists or where the trust is allegedly located. He does not name a trustee of the alleged trust. S. C. Code § 62-1-302(d) does permit the removal to the Circuit Court "matters involving the internal or external affairs of trusts as provided in Section 62-7-201." In this case, no such trust has been alleged nor has any action involving a trust been filed in the Probate Court that could be removed to the Circuit Court. The meaning of S. C. Code § 62-1-302(a) is to give the Probate Court exclusive original jurisdiction as to all probate matters. The only exception would be when,

after an action is filed in the Probate Court, certain matters may then be transferred to the Circuit Court. Mr. Hawk never filed an action in Probate Court that could have been transferred to the Circuit Court. The Court of Common Pleas does not have original jurisdiction for any of the matters alleged in the Complaint. They are all under the exclusive jurisdiction of the Probate Court as a matter of initial filing. The lower court was correct in dismissing his Complaint.

### **Question II**

**Did the lower court err in dismissing the Complaint when the Plaintiff named Kenneth H. Kurowski as the Defendant when the Plaintiff knew Mr. Kurowski was deceased and that Norma Kurowski was the personal representative of the estate?**

Rule 17 of the South Carolina Rules of Civil Procedure requires that an action by or against a deceased person be brought in the name of the estate of that person. Mr. Hawk did not bring this action against the personal representative of the estate. The personal representative is the real party in interest. The record below, including the pleadings filed by Mr. Hawk, establishes that Mr. Hawk knew that Norma Kurowski was the personal representative of his father's estate. This is an issue he makes in his Complaint. Complaint at 2a. Had Mr. Kurowski appeared at the hearing he could have requested the pleadings be amended to name the personal representative as the proper party. He did not appear nor did he request such relief.

The South Carolina Supreme Court has said:

Rule 17(a) provided *Fisher* an opportunity to cure her failure to meet the real party in interest requirement. If she had asked, the circuit court would have been required to allow time for 'ratification, joinder, or substitution' of the proper party under Rule 17(a) instead of immediately dismissing the action. However, Fisher did not ask for such time, and specifically, she never asked the circuit court to consider whether a special administrator should

be appointed under section 62-3-614, nor did she mention her pending motion in the probate action to appoint one. Under this circumstance, Rule 17(a) permitted the dismissal of the action.” *Fisher on behalf of estate of Shaw-Baker v. Huckabee*, 422 S.C. 234, 239, 811 S.E.2d 739, 741 (2018), reh'g denied (Apr. 17, 2018).

And in this case, the lower court was correct in dismissing the case as the real party in interest was not named and Mr. Hawk did not request the pleadings be amended to reflect the proper party.

### Question III

**Did the lower court err in dismissing the Complaint when Daniel Hawk failed to allege any grounds upon which relief could be granted as to transferring the case to another county?**

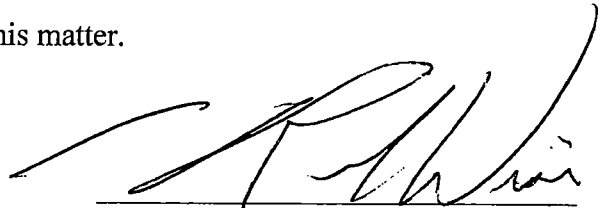
As to a motion to dismiss for the failure to state a ground upon which relief may be granted, the Supreme Court has said, “In considering such a motion, the trial court must base its ruling solely on allegations set forth in the Complaint. If the facts and inferences drawn from the facts alleged in the Complaint, viewed in the light most favorable to the Plaintiff, would entitle the Plaintiff to relief on any theory, then the grant of a motion to dismiss for failure to state a claim is improper.” *Spence v. Spence*, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006). In a reading of the Complaint, there is no theory or rule of interpretation that states as a cause of action as to why the removal of the probate of this estate to another county should be granted. Mr. Hawk has simply failed to allege any facts upon which such relief could be granted, and this is assuming the Circuit Court even has the jurisdiction to grant such relief in an action originally filed in the circuit court.

Mr. Hawk has not alleged any conflict by the probate judge. He has not alleged bias by the probate judge. The action of a probate judge in accepting a death certificate prepared by the State of South Carolina is hardly a basis for changing the venue of the estate. The only allegation about Judge Summer was that "Judge Summer stated he knew Kenneth yet, did not recuse himself especially when the Death Certificate was falsified [sic]." Complaint at e. Simply knowing a deceased is not a ground to change venue of a probate estate. As no facts were alleged to support removal of the probate judge, the lower court was correct in dismissing the Complaint.

### CONCLUSION

For the foregoing reasons, this Court should affirm the decision of the lower court dismissing the Complaint filed by Daniel Hawk in this matter.

December 3, 2018



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THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM ABBEVILLE COUNTY

---

Court of Common Pleas  
Frank R. Addy, Jr., Circuit Judge

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Appellate Case No. 2018-001067

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Kenneth H. Kurowski, ..... Respondent,

vs.

Daniel D. Hawk ..... Appellant.

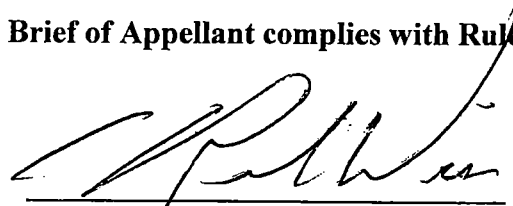
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CERTIFICATE OF COUNSEL

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The undersigned certifies that this Final Brief of Appellant complies with Rule 211(b), SCACR.

Dec 3, 2018



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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM ABBEVILLE COUNTY  
Court of Common Pleas  
Honorable Frank R. Addy, Jr., Judge

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Case No. 2018-001067

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Kenneth H. Kurowski,	Respondent,
	v.
Daniel D. Hawk,	Appellant.

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REPLY BRIEF OF THE APPELLANT

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THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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On Appeal from the Court of Common Pleas  
For Abbeville County  
Honorable Frank R. Addy, Jr., Judge  
Case No. 2018-CP-01-00069

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CASE NO. 2018-001067

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KENNETH H. KUROWSKI,

Respondent,

v.

DANIEL D. HAWK,

Appellant.

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**Reply Brief of Plaintiff-Appellant**

---

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## INTRODUCTION

**This Reply Brief is tenet to the Brief of the Respondent.** This Reply Brief follows Rule 208, in 10 days or less, proof of service on the parties with one copy filed with the clerk concomitant proof of service.

## STATEMENT OF THE ISSUES OF THE BRIEF OF THE RESPONDENT

1. The Defendant-Appellee argues in the first question S.C. Code § 62-1-302(d) but failed to address S.C. § 62-1-611(a). As the Opening Brief points out, there are several material misrepresentations of fact, thus this Court ought to Order the probate moved to another County because due process of law requires two things, 1) a Lower Court of competent jurisdiction, and 2) the proceedings must be fair. See respectively, *Burrell v. Armijo*, 456 F.3d 1159 (2006), and *Kremer v. Chem. Constr. Corp.* 456 U.S. 461. With all the misrepresentations of fact in this Case, will this Court find some amount of incompetency in the Lower Courts' decisions? Is this case fair?
2. The Defendant-Appellee is misleading this Court in who is the real party of interest. The Court *sua sponte* looks to see who the real party of interest is, see *Lewis v. Clarke*, 137 S.Ct. 1285 (2017). This argument or question is a *red herring* and is otherwise mute.
3. Regarding relief in the Defendant-Appellee' third question, that ought to be determined upon the outcome of probate *de novo*, this Court *sua sponte*, or in the alternative for the best interest of the Estate, see S.C. § 62-1-611(b). See also S.C. § 62-1-611(a). Is it not, in the best interest of this Estate to ensure the closing of it, when the misrepresentations of fact

have been disclosed and addressed? Is not, bigamy is a crime? Is not, using vital records to deceive and defraud a crime? Does due process of law require the proceedings to be fair?

4. As stated in 1 *supra*, S.C. § 62-1-611(a) was not addressed and for this reason the Defendant-Appellees somehow believe any time, does not really mean any time, but means a time and tolling method that meets their agenda to continue probate with a foundation laid with unlawful acts such as bigamy S.C. § 16-15-10, obtaining, possessing, and using invalid vital records as if they were true S.C. § 44-63-161(4).

#### STATEMENT ON THE RESPONDENTS BRIEF

The Defendant-Appellee suggest that Arletta Kurowski is the former wife of Kenneth H. Kurowski, but through smoke and mirrors fails to elucidate the fact that Arletta Kurowski is the only wife of Kenneth H. Kurowski, there can be no other. The fact there is no monetary relief suggests only fairness because the U.S. Constitution guarantees individuals the right to due process of law which this Court knows has two elements, 1) court competency, and 2) fairness. It is not unreasonable to have the probate transferred to another county *de novo* because it is a simple matter of fairness and is a requirement of constitutional due process of law.

#### SUMMARY OF THE ARGUMENT

The Defendant-Appellees rightfully argues, as this Court has said, “A dispute over conversion of estate property would be for Probate Court to decide.” See S.C. § 62-1-611(a) also, *Brown v. Brown*, 402 S.C. 202, (Ct. App. 2013). Further, the personal representative must be credible, *id* at 207. Unfortunately, the representative’ unlawful acts are the foundation for an appeal. Nothing good can

come from closing this Estate under a blanket of suspicion; unlawful acts such as bigamy, invalid Death Certificate, invalid Illinois marriage. As a matter of constitutional right, there must be fairness, such that unlawful acts must be addressed and thus is one of the underlying reasons for the request for probate *de novo* in another county.

## ARGUMENT

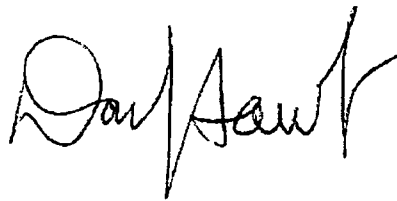
### I. EXCLUSIVE JURISDICTION OF PROBATE COURT CAN BE OBTAINED *DE NOVO* IN ANOTHER COUNTY

- A. We know from history that problems with outcomes are often questionable when the foundations of the outcomes are questionable. If this is so, questions and problems ought to arise, as this Case is evidence, from probate in this Case because of an unlawful, bigamist marriage, an invalid Death Certificate, and unlawful use of vital records. As stated in the Opening Brief, a prudent and reasonable person might ask, "What could go wrong?" This infers, this Court might ask the same question.
- B. Similarly, a reasonable and prudent person who recognizes the foundation has been built near a sinkhole will not build a house there. Thus inferring, to close probate without fixing the probate, by moving the house to an area without any sinkholes is best for the home owner and is best for the Estate generally.
- C. For this Court to continue down the probate path as the Defendant-Appellant wishes this Court to allow would be analogous to building a house on a sinkhole while knowing the house is destined to collapse.

CERTIFICATE OF COMPLIANCE

Plaintiff-Appellant that the Reply Brief has the proper content, and, as otherwise complies with Rule 267 captioning, etc.

Dated: October 30, 2018

A handwritten signature in black ink, appearing to read "Dan Hawk". The signature is written in a cursive, somewhat stylized font.

Daniel D. Hawk, Pro Se.

C: South Carolina, Clerk of Appellate Court, 1220 Senate Street, Columbia, SC 29201

Also,

C: Attorney's for the Defendant, C. Rauch Wise, 305 Main Street, Greenwood, SC 29646 and, Curtis Clark, 414 Monument Street, Suite A, Greenwood, SC 29646.

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

Kenneth H. Kurowski, Respondent,

v.

Daniel D. Hawk, Appellant.

Appellate Case No. 2018-001067

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Appeal From Abbeville County  
Frank R. Addy, Jr., Circuit Court Judge

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Unpublished Opinion No. 2020-UP-145  
Submitted April 1, 2020 – Filed May 20, 2020

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**AFFIRMED**

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Daniel D. Hawk, of Oneida, Wisconsin, pro se.

Curtis G. Clark and Clarence Rauch Wise, both of  
Greenwood, for Respondent.

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**PER CURIAM:** Daniel D. Hawk appeals the circuit court's order dismissing his complaint against Kenneth H. Kurowski. Hawk lists thirty-five issues on appeal. We find the circuit court did not have jurisdiction over Hawk's case because it related to the estate of a decedent, and thus should have been filed in probate court. We affirm the circuit court's order dismissing Hawk's appeal pursuant to Rule 220(b), SCACR, and the following authorities: Rule 220(c), SCACR ("The

appellate court may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal."); S.C. Code Ann. § 62-1-302(a)(1) (2009) ("To the full extent permitted by the Constitution, and except as otherwise specifically provided, the probate court has *exclusive* original jurisdiction over all subject matter related to: (1) estates of decedents, including the contest of wills, construction of wills, determination of property in which the estate of a decedent or a protected person has an interest, and determination of heirs and successors of decedents and estates of protected persons . . . ." (emphasis added)); *Anderson v. Anderson*, 299 S.C. 110, 115, 382 S.E.2d 897, 900 (1989) ("The jurisdiction over the subject matter of a proceeding is determined by the Constitution, the laws of the state, and is fundamental. Lack of subject matter jurisdiction may not be waived, even by consent of the parties, and should be taken notice of by [the appellate court].").<sup>1</sup>

**AFFIRMED.**<sup>2</sup>

**LOCKEMY, C.J., and GEATHERS and HEWITT, JJ., concur.**

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<sup>1</sup> To the extent Hawk asserts claims relating to "constitutional deprivations" and the Equal Protection Clause, these issues are not preserved for review. Hawk referred to the Equal Protection Clause and "constitutional deprivations" several times in his brief to this court; however, Hawk did not raise such violations to the circuit court. See *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the [circuit court] to be preserved for appellate review."). Additionally, Hawk alleged a violation of the American Indian Religious Freedom Act, 42 U.S.C. § 1996 (2018), in his complaint, but he did not file a Rule 59(e), SCRCF, motion when the circuit court did not address the claim in its order. See *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) ("A party must file [a Rule 59(e)] motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.").

<sup>2</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.

# The South Carolina Court of Appeals

Kenneth H. Kurowski, Respondent,

v.

Daniel D. Hawk, Appellant.

Appellate Case No. 2018-001067

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## ORDER

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After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

*James E. Locking*

C.J.

*John D. Beatty*

J.

*3L LJA*

J.

Columbia, South Carolina

cc:

Daniel D. Hawk

Curtis G. Clark, Esquire

Clarence Rauch Wise, Esquire

Emily Yeargin McMahan

**FILED**  
**Aug 06 2020**

SC Appellate 8/21/2020



1 any due process determination as constitutionally required, biases the Appellee because it  
2 supports an unreasonable property seizure and is flawed constitutionally. This Court essentially  
3 dismissed those “thirty-five” issues whilst not considering the Plaintiff-Appellant’s Fourth  
4 Amendment property due process rights. On the face, “thirty-five” issues should be raising, if  
5 nothing else, thirty-five red flags.  
6

7 APPLICABLE LAW  
8

9 The probate exception reserved to the State of South Carolina does not bar federal  
10 courts from adjudicating matters outside the confines of probate or annulment of a will and the  
11 administration of estate. Are all “thirty-five” issues on its face inherent to the probate exception?  
12 Albeit federal court adjudication is not what this South Carolina Appellate Court does, but, a  
13 Fourth Amendment question is a federal question, see 28 U.S.C. § 1331. How can this Court  
14 know how to adjudicate whether the “thirty-five” issues are in or out of the reserved probate  
15 exception if those “thirty-five” issues are not addressed?  
16

17 For example, how is it possible to have two wives testify, when everyone knows that  
18 is impossible? On the face, it is “not fair”. And if it is “not fair” as noted supra, it is a due  
19 process violation. To continue, adjudicating this “two-wife” issue is outside the narrowed scope  
20 of the probate exception, meaning the “fairness” is the real target at question and not the probate  
21 or annulment of a will and the administration of the estate, see *Marshall v. Marshall*, 547 U.S.  
22 293 (2006) at 296. In short, it is a Fourth Amendment due process issue because the “unfairness”  
23 of having “two wives” testify raises the question of an unreasonable seizure of property because  
24 due process requires a “full and fair opportunity to litigate,” see *Burrell*. Herein, this infers the  
25 probate court is also a “competent court” and is a required element of due process, i.e., no  
26 competent judge would allow “two-wives” to testify, yet this travesty of justice occurred. At  
27 least on the federal level, this injustice is an intentional-tortious act of interference with the  
28

1 inheritance due the legal wife.  
2

3 FACTS

4 Notwithstanding, the laws of the State of South Carolina, this Court acknowledges  
5 that the U.S. Constitution also applies and are fundamental<sup>2</sup>. Due process inherently requires that  
6 the “thirty-five” issues be adjudicated for otherwise due process has not been realized. This  
7 Court must do more than just count the issues, they need to address these issues because that is  
8 what a “full and fair opportunity to litigate” means, see *Burrell*. This Court seemingly takes the  
9 easy way out, and states the issues, regardless of whether they are in or out of the federal probate  
10 exception are moot because the “probate court has exclusive original jurisdiction<sup>3</sup>.”  
11 Unfortunately, as described in the one “two-wives” example, exclusive original jurisdiction does  
12 not automatically mean that U.S. constitutional due process is attained or for that matter  
13 sustained. Such that, intentional constitutional deprivation of due process or in the alternative  
14 Fourth Amendment due process deprivation directly leads to and is directly traceable to probate  
15 court of an unreasonable seizure of Fourth Amendment property. Fourth Amendment  
16 constitutional due process deprivation are irrefutable; they are a “non-binding operation”, see  
17 *Southern Pacific Railr’d v. United States*, 168 U.S. 1 (1897).  
18  
19  
20

21 ARGUMENT

22 This Court assumes all is well with the probate court and that they have no reason, or  
23 in the alternative no legal reason to adjudicate “thirty-five” issues. It is true, that sounds like a lot  
24 of work, after all someone had to take notice enough to count all the issues and add them up. It is  
25 wrong or in the alternative erroneous for this Court to assume all “thirty-five” issues are moot  
26 simply because the probate court has “exclusive original jurisdiction<sup>4</sup>.” For example, going back  
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<sup>2</sup> Affirmation of May 20, 2020.

<sup>3</sup> Affirmation of May 20, 2020.

<sup>4</sup> Affirmation of May 20, 2020.

1 to the “two-wives” example, the Morrill Bigamy Act presumably applies to the State of South  
2 Carolina<sup>5</sup> and if this is so, how is it possible for two wives to testify in probate court? Is this a  
3 federal question? Is it a due process question? Is it a fairness question? The point, which this  
4 Court has already stated in the Affirmation of May 20, 2020, is that the U.S. Constitution and  
5 presumably other federal laws applies to probate court, even though they have “exclusive  
6 original jurisdiction.” An Argument can be asserted that the probate court did not follow the U.S.  
7 Constitution and applicable federal laws, as such the Decisions of probate court are invalid,  
8 moot. Or, in the alternative subject to federal questions.

11 CONCLUSION AND REQUEST FOR RELIEF

12 It is unreasonable for this Court to assume all “thirty-five” issues are null. The  
13 Plaintiff-Appellant requests that this Court, sua sponte, re-hear this Case concomitant consider  
14 reviewing the “thirty-five” issues and decide as to their State fit in or out of the scope of federal  
15 probate exception. It is expected that some of the “thirty-five” issues will be outside the Probate  
16 Exception Rule. To ensure the Plaintiff-Appellant has Fourth Amendment due process rights, or  
17 in the alternative just due process, this Court should consider an Order or a Remand that probate  
18 be held *de novo* in a county other than Abbeville.  
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23

24 Dan Hawk, Plaintiff-Appellant, *pro se*  
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<sup>5</sup> We ought to assume that South Carolina has a state statute that bars marrying another when one is already married.  
PETITION FOR REHEARING/ 20200706

1  
2  
3 **IN THE SOUTH CAROLINA COURT OF APPEALS**

4  
5 **Kenneth Kurowski,**  
6 **Appellee,**

**PETITION FOR REHEARING**

7 v.

8 **Case No.: 2018-001067**

9 **Daniel Hawk**  
10 **Plaintiff-Appellant**

11 **CERTIFICATE OF MAILING**

12  
13 The undersigned certifies that on July 7, 2020, a copy of the foregoing Petition for  
14 Rehearing was served via first class certified mail, postage prepaid, with return receipt upon the  
15 Defendant's Attorney's Curtis Clark and Clarence Rauch Wise. As required Proof of Service will  
16 follow and be sent to the South Carolina Appellate Clerk of Court.  
17

18  
19 Dated this 7th day of July 2020.  
20  
21

22  
23  
24 **Dan Hawk**  
25 **Plaintiff-Appellant, pro se**  
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27  
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