

STATE OF RHODE ISLAND
WASHINGTON, S.C.

SUPERIOR COURT

LINDA SMITH CHAFFEE, MAUREEN
BJORKLAND, JOHN B. CODURI, EDWARD A.
FAZIO, BETTY-JO CUGINI GREENE,
STEPHEN M. GREENE, ELLEN L. MADISON,
SUSAN S. BROCATO, JACQUELINE BRENNAN,
And ANTHONY G. SMITH, in their capacities as
Trustees under the Will of Orlando R. Smith,
dated January 26, 1932

VS.

C.A. NO.:

PETER NERONHA, in his capacity as
Attorney General of the State of Rhode
Island & Providence Plantations

PETITION FOR AMENDMENT AND RESTATEMENT
OF THE TRUST UNDER THE WILL OF
ORLANDO R. SMITH

1. The Plaintiffs are all residents of the Town of Westerly, State of Rhode Island.
2. Defendant, Peter Neronha is the Attorney General of the State of Rhode Island & Providence Plantations.
3. This is an action for the Amendment and Restatement of the Trust under the Will of Orlando R. Smith, dated January 26, 1932.
4. This Court has jurisdiction over this equitable matter pursuant to the provisions of Section § 8-2-13 of the General Laws of the State of Rhode Island.
5. Orlando R. Smith, late of Westerly, Rhode Island, died on November 20, 1932, leaving a Last Will and Testament dated January 26, 1932 (attached hereto as ***Exhibit A***), which said Will was allowed and approved by the Probate Court of the Town of Westerly on December 20, 1932.
6. The Trust created under the Orlando R. Smith Will, (the "Trust"), is a charitable one and has a primary purpose of owning and maintaining the "Babcock-Smith House Museum," a landmark in the Town of Westerly; see attached history of the Museum attached hereto as ***Exhibit B***.

7. The Trust was amended and revised by the Court in C.A. No. 71-205, a copy of said Judgment is attached hereto as **Exhibit C**.
8. In that case and in subsequent Petitions or Motions to the Court, the Court has accepted the resignations of Trustees, appointed new Trustees, and increased the number of Trustees.
9. Petitioners, Linda Smith Chaffee, Maureen Bjorkland, John B. Coduri, Edward A. Fazio, Betty-Jo Cugini Greene, Stephen M. Greene, Ellen L. Madison, Susan S. Brocato, Jacqueline Brennan, and Anthony G. Smith, being all of the current Trustees, wish to amend and restate the Trust.
10. The reasons for this request (a) reducing costs when Trustees resign and Trustees are added by avoiding the need to engage an attorney to make any such changes by and through this Court; (b) appropriate provisions that address the Internal Revenue Service and the Rhode Island Division of Taxation requirements to qualify the Trust as a public charitable status ; and, (c) to make other additions so that the Board of Trustees may administer and manage the Trust, and the Trust Assets in an effective and efficient manner.
11. The proposed Amendment and Restatement of the Trust under the Will of Orlando R. Smith, dated January 26, 1932 is attached hereto as **Exhibit D** (with proposed By-Laws for the ongoing operation of the “Babcock-Smith House Museum”).
12. Given the nature of the gift of Orlando R. Smith and how the Court has viewed this Trust over the years, the Petitioners wish to underscore that the “Babcock-Smith House Museum” cannot be conveyed or otherwise transferred without the acquiescence of the Rhode Island Attorney General’s Office and this Court (see first paragraph of Article VIII of **Exhibit D** attached hereto).

Wherefore, the Petitioners pray that:

1. this Honorable Court, acting pursuant to the provisions of Section § 18-2-1 of the General Laws of Rhode Island, amends and restates the Trust under the Will of Orlando R. Smith, dated January 26, 1932, as drafted in the attached **Exhibit D**; and,
2. Petitioners be granted such other relief that this Court deems just and proper under the circumstances.

Respectfully Submitted,
Plaintiffs/Petitioners,
BY THEIR ATTORNEY

/s/ George A. Comolli, Esq.
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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of June, 2019:

I filed the within Petition through the electronic filing system and served a copy of said Petition on the following party: **David R. Marzilli, Esq., Special Assistant Attorney General, Charitable Trust Administrator**, via Email: dmorzilli@riag.ri.gov. The Petition electronically filed is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ George A. Comolli, Esq.