No. 20-188

In The Supreme Court of the United States

ZHIHENG SHENG,

Petitioner,

vs.

DANIEL MICHAEL SNYDER as Executor of the Estate of James P. Snyder,

Respondent.

On Petition For A Writ Of Certiorari To The Court Of Appeals Of Georgia

BRIEF IN OPPOSITION

ALBERT CAPRONI III*
MARGARET A. HEAD
COHEN & CAPRONI, LLC
750 Hammond Drive
Building 7, Suite 200
Atlanta, Georgia 30328
Telephone: 404-252-8080
acaproni@cohenandcaproni.com
mhead@cohenandcaproni.com

LOUIS G. MCBRYAN
MCBRYAN, LLC
6849 Peachtree Dunwoody Road
Building B-3, Suite 100
Atlanta, Georgia 30328
Telephone: 678-733-9322
lmcbryan@mcbryanlaw.com

Counsel for Respondent

*Counsel of Record**

COCKLE LEGAL BRIEFS (800) 225-6964
WWW.COCKLELEGALBRIEFS.COM

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INTRODUCTION[1]

This case involves the state law property rights of individuals. It is a dispute over enforcement of a valid Georgia antenuptial agreement in which the Petitioner waived her rights to retain funds distributed to her in accordance with the Employee Retirement Income Security Act of 1974 ("ERISA") upon the death of her participant spouse. Petitioner Zhiheng Sheng ("Sheng") and James P. Snyder ("Decedent") entered into an antenuptial agreement in which Petitioner agreed that assets in Decedent's ERISA-protected retirement plan account were Decedent's separate property and she waived, released and relinquished any rights or claims she may have to it.

The Petitioner's question presented is formulated as a question of interpreting the spousal waiver provisions under 29 U.S.C. § 1055(c)(2) of ERISA; however, this is not an ERISA case and does not involve a spousal waiver under § 1055. This case is about a Georgia state law contract claim. Sheng and the Decedent chose to enter into a prenuptial agreement to protect their respective property interests (the "Antenuptial Agreement" or the "Agreement"), including Sheng's businesses and real estate located in China and the Decedent's retirement accounts governed by ERISA. Upon the Decedent's death, Sheng received funds from

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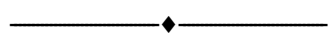
[1] This Brief is in Opposition to a Petition for a Writ of Certiorari to the Georgia Court of Appeals, not the United States Court of Appeals for the Eleventh Circuit. The decision to which the Petition relates is that of the Georgia Court of Appeals decision adverse to the Petitioner.

the Decedent's ERISA qualified plan. Thereafter, the Estate of the Decedent (the "Estate") sought to enforce the terms of the Antenuptial Agreement.

Sheng erroneously focuses on whether the Antenuptial Agreement contains a valid ERISA waiver; this focus misses the point of this case. The funds were disbursed in accordance with ERISA and the plan documents. Therefore, the Georgia courts did not need to apply ERISA to determine the enforceability of the Antenuptial Agreement. Instead, the focus was and is the ordinary litigation of a state law breach of contract claim.

Therefore, the Writ should be denied.



ADDITIONAL FACTS TO CLARIFY THE PETITION AND COUNTER STATEMENT OF THE CASE

Sheng arrived in the United States in November or December of 2009. R: 558. The Decedent and Sheng entered into the Antenuptial Agreement on January 20, 2010. R: 26-30. Sheng and the Decedent were married on January 30, 2010. R: 7. It is not clear from the record when Sheng and the Decedent first discussed signing a premarital agreement. R: 559. Sheng has college degrees in business and English; she owned and operated a school in China, teaching English to its students. R: 551-552.

Sheng and Decedent discussed their respective assets with each other prior to signing the Antenuptial Agreement on January 20, 2010. R: 559. Sheng and Decedent each were represented by their own counsel when preparing and entering the Antenuptial Agreement. R: 26. Sheng was represented by Scott M. Kaye, and Decedent was represented by Randie Siegel. R: 26. Before their attorneys and a notary, all of whom signed the Agreement, Sheng and Decedent both attested to the following: that they entered the Antenuptial Agreement "freely and voluntarily"; that they "ascertained and weighed all the facts and circumstances likely to influence their judgment" when entering the Agreement; that their rights to the Separate Property had been "fully explained"; that the Agreement was "not the result of duress or undue influence"; that they each "read this agreement and have had its contents explained to them"; and "that they fully understand the terms, provisions, and legal consequences of this agreement." R: 26, 28.

Contrary to Sheng's assertion, the Decedent was not "the sole participant in a qualified profit-sharing plan." The Decedent was a participant in the Emory University Retirement Plan, which is a 403(b) employer sponsored plan held at Vanguard, identified on Exhibit B to the Antenuptial Agreement as Emory Pension Vanguard # 1326 (the "Vanguard Account"). R: 195.

Sheng asserts there is "no dispute that the Decedent failed to disclose his income to Sheng prior to executing the Antenuptial Agreement." While no dispute

appears in the record, this issue was not discussed at the trial level because it was not a material fact. Sheng testified that she and the Decedent discussed what they earned. R: 559. Later, though, Sheng signed an affidavit stating that the Decedent never disclosed his income to her. R: 338-339. Whether the Decedent disclosed his income to Sheng was not a material fact in deciding the motion for summary judgment; therefore the trial court did not address this issue.

The Antenuptial Agreement negotiated by Sheng and Decedent states that the Agreement "is to be construed, interpreted, and enforced in accordance with the laws of the State of Georgia. . . ." R: 27. The Agreement also includes a severability clause. R: 27.

While Sheng is factually correct that Decedent's attorney prepared the Antenuptial Agreement, it should also be pointed out that Section 12 of the Agreement reads: "No provision of this Agreement is to be interpreted for or against any party because that party or that party's legal representative drafted the provision." R: 26.

Section 18 of the Antenuptial Agreement, quoted in part by Sheng in the Statement part of her Petition, also includes the following language: "The provisions contained in this Agreement represent the entire understanding between prospective Husband and prospective Wife pertaining to their respective property and marital property rights." R: 27. Importantly, the Antenuptial Agreement between Sheng and Decedent became effective only "upon the solemnization of the

marriage between the parties." R: 28. This is the final clause of the Agreement, directly above the signature of Sheng and Decedent. R: 28.

Due to the express identification of Sheng as beneficiary on some of Decedent's accounts through written instruments, Sheng received approximately $1.4 million from Decedent after his death, as to which assets the Estate has made no claim or contest. R: 295-296.

Following Decedent's death, Sheng (1) claimed the assets held in the Vanguard Account, (2) did not execute a disclaimer or renunciation of the Vanguard Account, and (3) did not turn over the proceeds of the Vanguard Account to the Estate. R: 325-326, 386, 604-605.

Contrary to Sheng's promises in the Antenuptial Agreement, Sheng sought a declaratory judgment from the Superior Court of Fulton County, Georgia (the "Trial Court") that she was entitled to an intestate share of the Decedent's residuary estate and that she was the owner of the Vanguard Account. R: 82. Sheng's action for a declaratory judgment was a breach of the Antenuptial Agreement, wherein Sheng expressly waived any interest in the Decedent's estate under Section 11 of the Antenuptial Agreement. R: 26. The Trial Court granted the Respondent's motion for summary judgment on April 26, 2018. R: 392.

REASONS FOR DENYING THE PETITION

I. THERE IS NO CONFLICT AMONG THE LOWER COURTS WARRANTING THIS COURT'S REVIEW.

The Georgia Supreme Court and all of the Circuit Courts that have addressed this issue have held that ERISA does not preempt state law claims over money that is no longer held in an ERISA account. *See Appleton v. Alcorn*, 291 Ga. 107, 728 S.E.2d 549 (2012) (relying on *Kennedy v. Plan Administrator for DuPont Savings and Investment Plan*, 555 U.S. 285 (2009)).

- **First Circuit:** *Hoult v. Hoult*, 373 F.3d 47 (1st Cir. 2004) found that once ERISA benefits have already been distributed to the plan beneficiaries, a creditor's rights are enforceable against the beneficiary, not against the plan itself.

- **Second Circuit:** *Robbins v. DeBuono*, 218 F.3d 197 (2nd Cir. 2000), abrogated on other grounds by *Wojchowski v. Daines*, 498 F.3d 99, 110 (2nd Cir. 2007) found that Section 1056(d)'s requirement that pension plans contain a provision against assignment or alienation of benefits does not read comfortably as a prohibition against creditors reaching pension benefits once they have left the hands of the administrator.

- **Third Circuit:** *Estate of Kensinger v. URL Pharma, Inc.*, 674 F.3d 131, 136 (3rd Cir. 2012). The Third Circuit specifically permits claims against beneficiaries after benefits have been

paid as such claims do not implicate any concern of expeditious payment or undermine any core objective of ERISA.

- **Fourth Circuit:** *Andochick v. Byrd*, 709 F.3d 296, 299 (4th Cir. 2013) adopted the same view as every published appellate opinion when it ruled that ERISA does not preempt post-distribution suits against an ERISA beneficiary who had previously waived his rights to those benefits.

- **Sixth Circuit:** *Central States, Southeast & Southwest Areas Pension Fund v. Howell*, 227 F.3d 672 (6th Cir. 2000) found that the beneficiary designation controls to whom the plan administrator must pay the benefits. However, once the benefits have been released to the properly designated beneficiary, the district court has the discretion to impose a constructive trust upon those benefits in accordance with applicable state law if equity so requires. *DaimlerChrysler Corp. v. Cox*, 447 F.3d 967 (6th Cir. 2006) held that once a pension plan has sent benefit payments to a beneficiary and relinquished control of those payments, the attachment of those funds by a creditor does not constitute an alienation.

- **Seventh Circuit:** *Nat'l Labor Relations Bd. v. HH3 Trucking, Inc*., 755 F.3d 468 (7th Cir. 2014) rejected the proposition that money received from an ERISA plan is forever free of all legal claims by third parties.

- **Ninth Circuit:** *United States v. Novak*, 476 F.3d 1041 (9th Cir. 2000); *Wright v. Riveland*, 219 F.3d 905 (9th Cir. 2000).
- **Tenth Circuit:** *Guidry v. Sheet Metal Workers National Pension Fund*, 39 F.3d 1078 (10th Cir. 1994) found that ERISA protection does not extend to funds once the plan participant asserts dominion over them.
- **Eleventh Circuit:** *Metlife Life & Annuity Co. of Conn. v. Akpele*, 886 F.3d 998 (11th Cir. 2018) found that when there is a state law waiver, after the plan administrator distributes the funds to the ex-spouse, the estate may attempt to recover the funds by bringing a suit directly against the ex-spouse to enforce the waiver.

Thus, there is no conflict among the circuits[2] and no interpretation of Federal Law that is in conflict with Georgia law.

Sheng's reliance on *Boggs v. Boggs*, 520 U.S. 833 (1997) is misplaced. This Honorable Court in *Boggs* held that ERISA preempted a Louisiana community property law that would have allowed a plan participant's first wife to transfer by will her interest in the participant's undistributed retirement benefits. 520 U.S. at 833. *Boggs*, however, involved a very different situation from the instant case. Application of the community property law at issue in *Boggs* would have resulted in the redirection of undistributed plan benefits

[2] The Fifth Circuit and the Eighth Circuit have not specifically addressed this issue.

and without the consent of the plan participant. *See id.* at 852 (noting that, unless ERISA preempted the state statute, "retirees could find their retirement benefits reduced by substantial sums because they have been diverted to testamentary recipients"). Here, Sheng herself agreed to relinquish her interest in the retirement account.

In *Hoult*, the United States Court of Appeals for the First Circuit recited that the language in ERISA only applies to the plan itself and if Congress had intended to protect the benefits distributed from an ERISA plan indefinitely, "it could easily have employed the type of language found, for example, in the Veterans Benefits Act, 38 U.S.C. § 5301(a), which prohibits attachment of benefits 'either before or after receipt by the beneficiary.' That Congress chose not to do so is significant." *Hoult*, 373 F.3d at 54. *National Labor Relations Board v. HH3 Trucking, Inc.* made clear that if ERISA benefits were to be protected indefinitely, Congress would have explicitly addressed such benefit in the legislation:

> ERISA differs from statutes that *do* cover who can access funds after payment. For example, the Veterans Benefits Act, 38 U.S.C. § 5301(a), prohibits attachment of benefits 'either before or after receipt by the beneficiary.' And the Social Security Act, 42 U.S.C. § 407(a), provides that 'none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal

> process, or to the operation of any bankruptcy or insolvency law.

755 F.3d 468, 470-471 (7th Cir. 2014).

Since the general rules of anti-alienation and state law preemption do not apply once the plan funds have left the plan and been fully distributed to the beneficiary, there is no need for this Court to examine whether a spousal waiver in the Antenuptial Agreement meets ERISA's requirements. In this case and as in the cases cited herein relied upon by Respondent, litigation of an ordinary contract dispute after the plan beneficiary has been paid does not undermine ERISA's primary goal.

Sheng asserts that the Georgia Supreme Court rule set out in *Appleton v. Alcorn* (i.e. what ERISA gives, state law may take away) is distinguishable because "intent was made clearly in *Appleton* that the divorcing spouse wife waived her rights to her husband's 401k." While the *Appleton* record is not part of the record in this case, the Respondent brings the Court's attention to this factual inaccuracy. The waiver language in the *Appleton* agreement simply stated: "The parties agree to waive and release any rights or claims they may now have to any retirement pay, benefits or privileges earned by the other during or before the marriage. The Wife hereby waives all right to claim any interest or share in the Husband's individual Retirement Accounts, which shall become his sole property. In the same manner, the Husband hereby waives all rights to claim any interest or share in the Wife's

Individual Retirement Accounts, which shall become her sole property." See *Appleton*, 291 Ga. at 108. The language in the *Appleton* agreement is substantially similar to the language in the Antenuptial Agreement. See, for example, Section 6 and Section 11 of the Antenuptial Agreement.

Further, in both the instant case and in the *Appleton* case, the respective agreements were made in contemplation of divorce. *See Appleton*, 291 Ga. 107; R: 169. Sheng insinuates that the waiver in the *Appleton* case contained specialized language referencing ERISA, when in fact, the Appleton waiver contains the same general waivers as found in the instant case; however, the Antenuptial Agreement specifically identified the Decedent's accounts whereas the *Appleton* agreement did not.

II. THE ERISA STATUTORY SCHEME OF DISBURSEMENT IS NOT AND WAS NOT AT ISSUE.

Sheng delves deep into the thicket of ERISA and case law interpreting ERISA provisions. This trek is, and always has been, unnecessary for determination of the claims here in light of the fact that this case is a post-distribution case. In *Kennedy*, this Court held that the plan administrator for an ERISA plan was correct to distribute benefits to the beneficiary named in the plan, regardless of a qualified domestic relations order purporting to divest such beneficiary of her right to the benefits. 555 U.S. 285 (2009). *Kennedy*, however,

explicitly left open the question of whether the decedent's estate could sue the plan beneficiary *after* the funds were distributed. 555 U.S. at 299 n. 10 ("Nor do we express any view as to whether the Estate could have brought an action in state or federal court against [the plan beneficiary] to obtain the benefits after they were distributed.").

Allowing a post-distribution claim by Respondent against Sheng doesn't frustrate any of the objectives of ERISA outlined in *Kennedy,* wherein this Court identified three important ERISA objectives: (1) "simple administration," (2) "avoid[ing] double liability [for plan administrators]," and (3) "ensur[ing] that beneficiaries get what's coming quickly, without the folderol essential under less-certain rules." *Id.* at 301 (some alterations in original) (citing *Fox Valley & Vicinity Constr. Workers Pension Fund v. Brown*, 897 F.2d 275, 283 (7th Cir. 1990) (Easterbrook, J., dissenting)).

The absence of a § 1055(c)(2) spousal waiver filed with the Decedent's retirement account administrator during the course of his marriage does not relieve Sheng of her obligations under the Antenuptial Agreement. In *Kennedy*, the pension plan rules provided the ex-husband "an easy way" to change the beneficiary designation on his plan after the mutual execution of a divorce by which his ex-wife disclaimed her interest in the plan, but, in the words of the Court, "for whatever reason he did not." 555 U.S. at 301. While this failure kept the plan administrator from distributing plan assets to anyone other than his ex-wife, who remained the named beneficiary on the plan, this Court

did not rule that ERISA protected the ex-wife from a state court action after distribution of the plan assets. 555 U.S. at 304 n.10. Likewise, the fact that, for whatever reason, no § 1055(c)(2) spousal waiver was filed with the account administrator during the Decedent's marriage to Sheng has no effect on the right of Decedent's Estate to enforce the Antenuptial Agreement after Sheng improperly accepted and retained the plan assets and filed a claim against the Estate for an intestate share.

Sheng's argument, and the cases she relies upon, is centered on the mistaken proposition that the Antenuptial Agreement violated the statutory scheme for disbursement of ERISA plan assets. That is factually erroneous.

In this case, the Trial Court did not examine whether the Antenuptial Agreement met the requirements of § 1055(c)(2) as did the courts in the cases cited by Sheng. The Estate did not seek to enforce the spousal waiver, nor did the Trial Court find the spousal waiver enforceable, under the provisions of ERISA as the Vanguard Account had been in the control and custody of Sheng for over two (2) years at the time of the Trial Court's decision. R: 195, 392.

Sheng relies on a series of decisions which involved "pre-distribution" claims against the plan administrator, none of which involve "post-distribution" claims against the beneficiary. In *Ford Motor Company v. Ross*, 129 F.Supp.2d 1070 (E.D. Mich. 2001), the court found that the surviving spouse was entitled to the ERISA plan benefits even though she signed a

prenuptial agreement because the plan benefits were still in the hands of the plan administrator. The *Ford Motor Company* case did not address whether the estate could enforce the prenuptial agreement in a state law cause of action after the plan benefits were distributed. In the instant case, the Respondent agrees that the surviving spouse, even in light of the Antenuptial Agreement, was entitled to the Vanguard Account under the provisions of ERISA consistent with the ruling in *Ford Motor Company*; however, *Ford Motor Company* is silent about a state law breach of contract claim after the plan benefits were distributed to the surviving spouse. The Petitioner further cites *Hurwitz v. Sher*, 982 F.2d 778 (2nd Cir. 1992), analyzing the requirements set forth in Section 205 of ERISA, 29 U.S.C. § 1055, *Nellis v. Boeing Co.*, 15 Employee Benefits Cas. (BNA) 1651, 1992 WL 12273, analyzing the spousal waiver requirements under ERISA while the plan benefits are still held by the plan administrator, and *Howard v. Branham & Baker Coal Co*., 968 F.2d 1214 (6th Cir. 1992), a case against the plan administrator and predating the Sixth Circuit's opinion in *Central States, Southeast & Southwest Areas Pension Fund v. Howell*. These cases cited by Sheng are distinguishable from the instant case in that the Estate did not seek to divert funds from the plan administrator.

Sheng cites *Lasche v. George W. Lasche Basic Profit Sharing Plan*, 111 F.3d 863 (11th Cir. 1997), an Eleventh Circuit case (predating its opinion in *Metlife Life & Annuity Co. of Conn. v. Akpele*), and *Greenebaum Doll & McDonald PLLC v. Sandler*, 256 F.App'x 765

(6th Cir. 2007), which pre-dates *Estate of Kensinger* and, again, involved claims against plan administrators while the ERISA-protected funds were still held by the plan administrator. Sheng further relies on *Robins v. Geisel*, 666 F.Supp.2d 463, 467 (D.N.J. 2009), which applied the requirements of the spousal waiver provisions under ERISA to direct the plan administrator to distribute the plan funds to the surviving spouse; however, in *Robins* the Court recognized the possibility of contractual and equitable claims solely against the surviving spouse for accepting and retaining the retirement plan proceeds in violation of her waiver under her prenuptial agreement.

Sheng cites *Hagwood v. Newton*, 282 F.3d 285 (4th Cir. 2002), which analyzed the requirements of a spousal waiver under the provisions of ERISA but fails to cite a more recent Fourth Circuit opinion which found that ERISA does not preempt post-distribution suits against an ERISA beneficiary who had previously waived his rights to those benefits. Cf. *Andochick v. Byrd*, 709 F.3d 296, 299 (4th Cir. 2013).

III. THE ANTENUPTIAL AGREEMENT IS VALID, ENFORCEABLE, AND BINDING AS WRITTEN.

Georgia law recognizes antenuptial agreements as enforceable contracts. "Antenuptial agreements in which a spouse waives his or her rights in the other spouse's estate at death . . . have long been valid in Georgia." *Carr v. Kupfer*, 250 Ga. 106, 107 n. 1, 296

S.E.2d 560, 561 n. 1 (1982). See also *Scherer v. Scherer*, 249 Ga. 635, 292 S.E.2d 662 (1982) (distinguishing the historical validity of nuptial agreements that take effect upon the death of a spouse from those that take effect upon divorce). The Trial Court found that the Antenuptial Agreement was valid and that Sheng violated the terms of the contract. The Trial Court's decision was affirmed by the Georgia Court of Appeals and the Georgia Supreme Court denied Sheng's request for review. Sheng is now asking the Country's highest court to review a state court's determination of a non-material fact as applied to the enforceability of a state law contract claim. There is no basis for this Honorable Court to review Georgia law as there was no application of any waiver prior to or that interfered in any way with the ERISA statutory scheme of disbursement.

In this case, the Antenuptial Agreement is a binding contract between the parties. Sheng and Decedent executed the Antenuptial Agreement with the intent to be bound by it. R: 26, 28. The Antenuptial Agreement is supported by adequate consideration because the parties thereto made many mutual promises to act, forebear or modify their legal relationship as husband and wife in order to determine, settle and formalize their respective property and estate rights regarding separate and marital property, and all other claims, rights and obligations in the event of either party's death or dissolution of the marriage. R: 23-28.

The alleged failure of the Decedent to disclose his income does not affect or invalidate the relevant

portions of the Antenuptial Agreement. In *Hiers v. Estate of Hiers*, a widowed plaintiff challenged the validity of her antenuptial agreement with her late husband that stipulated she would only receive $5,000 from his estate in the event of a divorce or his death. 278 Ga. App. 242, 628 S.E.2d 653 (2006). Examining the widow's claim, the Georgia Court of Appeals discussed at length *Scherer v. Scherer*, the seminal 1982 case approving the conditional enforcement of prenuptial agreements in the case of divorce proceedings. Scherer propounded a three-part test to determine the enforceability of such agreements in the case of divorce: "(1) was the agreement obtained through fraud, duress or mistake, or through misrepresentation or nondisclosure of material facts? (2) is the agreement unconscionable? (3) [h]ave the facts and circumstances changed since the agreement was executed, so as to make its enforcement unfair and unreasonable?" 249 Ga. at 640. As the *Hiers* court recognized, though, it is unsettled whether the *Scherer* test applies to "analysis of a prenuptial agreement made in contemplation of death." *Hiers*, 278 Ga. App. at 245. See also *Laradji v. McCarthy Farms, Inc.*, No. CV 514-16, 2015 WL 4076953 (S.D. Ga., July 1, 2015) at *4-6 (electing to not apply the *Scherer* test where the "joint divorce/death agreement is enforced only upon the death of a spouse and will never be enforced pursuant to a divorce" and instead finding an antenuptial agreement to be presumptively valid).

The facts of this case are similar to those of *Hiers*: an antenuptial agreement with provisions addressing

both divorce and death was executed by the prospective husband and wife in advance of marriage; the couple married; the husband died during the marriage; a dispute arose between the wife and the estate of the husband as to the effect of the antenuptial agreement on assets the wife receives from her late husband; and the wife challenged the validity of the antenuptial agreement. But as in *Hiers* and *Laradji*, here there can be no enforcement of the divorce or alimony elements of the Agreement; there can only be enforcement of elements that address separate property and the release of inheritance rights.

Sheng claims that the Georgia Courts erred by finding that the alleged failure of the Decedent to disclose his income did not invalidate the entire Antenuptial Agreement. To bolster her argument, Sheng cites multiple divorce cases between husbands and wives in which the non-disclosure of income by one party to an antenuptial agreement was analyzed to assess whether the agreement was valid for the purpose of determining alimony, including *Corbett v. Corbett*, 280 Ga. 369, 628 S.E.2d 585 (Ga. 2006), and *Quarles v. Quarles*, 285 Ga. 762, 683 S.E.2d 583 (Ga. 2009). But all of these cases are the progeny of *Scherer*, which by its own terms applies only to enforcement of antenuptial agreements in divorce matters. These cases do not address whether a widow can use the decedent's non-disclosure of his income to invalidate the clear language of an antenuptial agreement as to the decedent's separate property and her release of rights of inheritance, as is the case here.

Even if the non-disclosure of Decedent's income renders the alimony provisions of the Antenuptial Agreement unenforceable, the Agreement's Severability Clause isolates any such "invalid or unenforceable" provisions and states that it shall not result in "the invalidity or unenforceability of the remainder of this Agreement." R. 27. *Laradji*, 2015 WL 4076953 at *6 ("To the extent the Nuptial Agreement is invalid as an agreement in contemplation of divorce, it will still stand valid and enforceable as an agreement in contemplation of death."); O.C.G.A. § 13-1-8(a) ("A contract may be either entire or severable. . . . In a severable contract, the failure of a distinct part does not void the remainder."). Thus, the alleged non-disclosure of the Decedent's income does not invalidate the Antenuptial Agreement in whole or relieve Sheng of her obligations thereunder.

CONCLUSION

Sheng's Petition for a Writ of Certiorari to this Honorable Court should be denied as there was no interference with the statutory scheme of ERISA since the funds were disbursed in accordance with the relevant provisions of ERISA. The Antenuptial Agreement was valid and binding, and Sheng simply breached the Agreement. ERISA was complied with and Georgia law correctly applied to the facts of the case.

For the reasons recited above, the Respondent respectfully urges this Honorable Court to deny the Petition for Writ for Certiorari.

Respectfully submitted,

ALBERT CAPRONI III*
MARGARET A. HEAD
COHEN & CAPRONI, LLC
750 Hammond Drive
Building 7, Suite 200
Atlanta, Georgia 30328
Telephone: 404-252-8080

LOUIS G. MCBRYAN
MCBRYAN, LLC
6849 Peachtree Dunwoody Road
Building B-3, Suite 100
Atlanta, Georgia 30328
Telephone: 678-733-9322

Counsel for Respondent

*Counsel of Record**