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**Oct 17 2023**

**SC Court of Appeals**

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

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**APPEAL FROM CHARLESTON COUNTY  
In the Court of Common Pleas for the Ninth Judicial Circuit**

**The Honorable Deadra L. Jefferson  
Circuit Court Judge**

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**Appellate Case No. 2023-000718  
Circuit Court Case No. 2019-CP-10-00061**

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**Darleen Rash, Individually and as Personal Representative  
for the Estate of Bronson Harley Rash.....Appellant/Respondent,**

**v.**

**Dominion Energy (formerly South Carolina Electric & Gas Company),  
Anthony M. Akbar; and Paul Quattlebaum.....Respondents/Appellants.**

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**RESPONDENT/APPELLANT QUATTLEBAUM’S RETURN TO  
APPELLANT/RESPONDENT’S MOTION TO LIFT THE AUTOMATIC STAY TO  
FACILITATE WRONGFUL DEATH SETTLEMENT**

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Respondent/Appellant Paul Quattlebaum (“Quattlebaum”) submits this Return to Appellant/Respondent’s (“Plaintiff”) Motion for Order Under Rule 241 Lifting Automatic Stay as to Respondent/Appellant Paul Quattlebaum, requesting that the Court remand jurisdiction to the trial court for the limited purpose of considering the settlement agreement reached between Plaintiff and Quattlebaum *only*.

Although restoring jurisdiction to the trial court to approve Plaintiff’s and Quattlebaum’s settlement is the ultimate relief Plaintiff seeks through her Motion to Lift the Stay, Quattlebaum asserts that S.C. Code Ann. § 15-51-42(C) establishes the proper basis to remand jurisdiction to the trial court to consider a wrongful death settlement reached during the pendency of an appeal.

For that reason, Quattlebaum joins in Plaintiff's request to remand jurisdiction to the trial court for consideration of the settlement reached with Quattlebaum, but Quattlebaum requests that this Court grant this relief based on the statutory authority set forth herein that is intended for this scenario, rather than doing so pursuant to Rule 241, SCACR, as Plaintiff suggests.

### **BACKGROUND**

Following a lengthy trial, the jury in this action returned a verdict in favor of all Defendants, including Quattlebaum. Following this outcome, Plaintiff filed her notice of appeal. Thereafter, Quattlebaum filed notice of his cross-appeal to address certain alleged errors in the event Plaintiff's appeal was successful.

After initiating their respective appeals, Plaintiff and Quattlebaum reached a settlement agreement that, if approved, will fully resolve all matters in controversy between them (and only them).<sup>1</sup> Because the underlying lawsuit involved wrongful death and survival actions, the settlement reached between Plaintiff and Quattlebaum requires judicial approval in accordance with S.C. Code Ann. § 15-51-42. Plaintiff moved before the trial court for approval of the settlement and presented testimony in support thereof, but the trial court determined it lacked jurisdiction to enter an order approving the settlement due to the pendency of this appeal. To address this concern, Plaintiff moved this Court pursuant Rule 241, SCACR, to lift the automatic stay, *as between Plaintiff and Quattlebaum only*, to facilitate the approval of their settlement.

Based on the statutory authority set forth herein, Quattlebaum submits this Return for the purpose of joining in the ultimate relief requested by Plaintiff to the extent she seeks a limited remand of jurisdiction to the trial court for the purpose of considering Plaintiff's and Quattlebaum's

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<sup>1</sup> Plaintiff's settlement with Quattlebaum has no effect on the matters pending in this appeal by and between Plaintiff and the remaining Respondents/Appellants Akbar and Dominion.

settlement. Only Plaintiff and Quattlebaum have reached a settlement, and neither Plaintiff's Motion nor this Return is intended to have any effect on the matters pending appeal between and among Plaintiff and Respondents/Appellants Akbar and Dominion. For this reason, Quattlebaum further requests that this Court hold this appeal in abeyance *as between Plaintiff and Quattlebaum only* pending the trial court's decision on whether to approve their settlement agreement.

**LAW/ANALYSIS**  
**(Statutory Basis to Remand for Approval of Wrongful Death Settlement)**

S.C. Code Ann. § 15-51-42 sets forth the proper procedure to follow when, as here, parties to a wrongful death and survival action reach a settlement during the pendency of an appeal. Specifically, Section 15-51-42(C), instructs:

If a wrongful death or survival action has been filed in state court and:

...

**(3) the settlement agreement is reached after notice of appeal is filed, the personal representative shall petition the appellate court before which the matter is pending to remand the case to the circuit court for consideration of the settlement agreement in accordance with the procedure outlined in (2) above.<sup>2</sup>**

S.C. Code Ann. § 15-51-42(C)(3) (emphasis added).

Ultimately, Plaintiff's Motion to Lift the Automatic Stay seeks to restore jurisdiction to the trial court to determine whether to approve Plaintiff's and Quattlebaum's settlement agreement notwithstanding the pendency of this appeal. The legislature enacted Section 15-51-42(C)(3) for

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<sup>2</sup> Section 15-51-42(C)(2) simply explains the procedure for seeking approval of the settlement once the matter is remanded to the trial court.

precisely this purpose,<sup>3</sup> and it establishes the proper procedure through which this Court may remand the matter to the trial court for that limited purpose.

WHEREFORE, Quattlebaum requests that this Court consider the matters and authorities set forth herein and enter an Order on Plaintiff's Motion as follows:

1. Remanding jurisdiction to the trial court for the express limited purpose of considering Plaintiff's and Quattlebaum's wrongful death settlement in accordance with S.C. Code Ann. § 15-51-42(C)(3).
2. Holding this appeal in abeyance *as between Plaintiff and Quattlebaum only* pending the trial court's decision on whether to approve their settlement.
3. Instructing that the remand of jurisdiction for consideration of Plaintiff's and Quattlebaum's settlement agreement does not affect any issue in this appeal, including, but not limited to, the appeals pending between Plaintiff and Respondents/Appellants Akbar and Dominion.

Respectfully submitted,

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<sup>3</sup> Giving weight to its substance rather than its form, it is appropriate for this Court to treat Plaintiff's Motion to Lift the Stay as a motion for limited remand made pursuant to S.C. Code Ann § 15-51-42(C)(3), because it seeks the same ultimate relief as this statute provides. *See Richland County v. Kaiser*, 351 S.C. 89, 94, 567 S.E.2d 260, 262 (Ct. App. 2002) ("It is the substance of the requested relief that matters 'regardless of the form in which the request for relief was framed.'" (quoting *Standard Fed. Sav. & Loan Ass'n v. Mungo*, 306 S.C. 22, 26, 410 S.E.2d 18, 20 (Ct. App. 1991)).

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October 17, 2023  
Charleston, South Carolina

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**PROOF OF SERVICE**

The undersigned certifies that he served a copy of **Respondent/Appellant Paul Quattlebaum’s Return to Appellant/Respondent’s Motion Lifting The Automatic Stay To Facilitate Settlement** to all parties of record on October 17, 2023, by e-mailing a copy of the same, as follows:

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