

THE STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON)

IN THE COURT OF COMMON PLEAS
FOR THE 4TH JUDICIAL CIRCUIT

Samantha Joanne Carwile, individually and
as the Personal Representative of the Estate
of Marlayna Joan Carwile,

C/A No. 2020-CP-16-00299

Plaintiff,

v.

Chris Anderson and Danielle Anderson,

Defendants.

AMENDED
ORDER OF DEFAULT JUDGMENT

RECEIVED

Nov 13 2023

SC Court of Appeals

HEARING DATE: April 13, 2023
SPECIAL REFEREE: Patrick J. McLaughlin, Esq.
PLAINTIFFS' ATTORNEYS: Ryan C. Andrews
David B. Yarborough, Jr.
DEFENDANT'S ATTORNEY: Andrew MacLeod
COURT REPORTER: Q & A Reporting Services

This matter came before the undersigned on Plaintiff Samantha Joanne Carwile's Motion for Damages Hearing and Default Judgment against Chris Anderson and Danielle Anderson pursuant to Rule 55(b)(2), SCRPC. After proper notice to Defendant, the matter was heard on April 13, 2023.

At the hearing, Plaintiff withdrew her claims for survival, negligent infliction of emotional distress, and punitive damages. Plaintiff limited her request for default judgment to the claim of wrongful death on behalf of Marlayna Carwile's statutory beneficiaries, Samantha Joanne Carwile and Justin Baxter, who are Marlayna's parents.

Based on the findings of fact and conclusions of law set forth below, and upon findings and rulings made in the Order addressing Defendants' June 2, 2023 motions which is being filed contemporaneously with this Amended Order of Default Judgment, I GRANT the Plaintiff's motion and enter judgment against Chris Anderson and Danielle Anderson for Wrongful Death as follows in the amount of **Thirty Million and 00/100 (\$30,000,000) Dollars** (equally split between the statutory beneficiaries/parents Samantha Carwile and Justin Baxter in the amount of Fifteen Million and 00/100 (\$15,000,000) Dollars).

PROCEDURAL HISTORY

This is a negligence action arising out of an automobile-pedestrian collision that occurred December 6, 2017, in Darlington County. The collision resulted in the death of Marlayna Carwile, the three-year-old daughter of Plaintiff Samantha Carwile and Justin Baxter.

The procedural history of this matter is rather complicated, involving an initial entry of default that was set aside, only to have the Defendant found in default a second time after their answer was struck as a Rule 37 sanction for failing to comply with an Order to compel.¹ The matter was referred to the undersigned as Special Referee. That Order of Reference authorized the undersigned to conduct a damages hearing, enter judgment and entertain any motion related to the entry of default judgment.

A damages hearing was held on April 13, 2023.

On May 23, 2023, the undersigned issued orders denying Defendants' motion to set aside the second default and entering judgment against the Defendants in the amount of Thirty Million and 00/100 (\$30,000,000) Dollars.

¹ For a more detailed procedural history of this matter, see the Order Addressing Defendants' June 2, 2023 motions filed contemporaneously with this Amended Order.

On June 2, 2023, the Defendants filed motions seeking relief from both May 23, 2023 Orders. A hearing was held on September 15, 2023 on those motions.

Via Order filed contemporaneously with this Amended Order of Default Judgment, the Defendants' motion challenging default and the authority of the Special Referee to hear this matter has been denied and the Defendants' motion concerning the Order of Default Judgment has been granted in part and denied in part. This Amended Order of Default Judgment follows.

DAMAGES

The Plaintiff plead that the beneficiaries under the Wrongful Death Act “have experienced pecuniary loss, mental shock and suffering, wounded feelings, grief and sorrow, loss of companionship, and deprivation of the use and comfort of” Marlayna’s society. Complaint, ¶56.

The Defendants are in default. Allegations made in a complaint, other than those as to *the amount of damage*, that are not denied are deemed admitted. Rule 8(d) SCRCF, emphasis added.

A party in default admits liability but not the amount of that liability. Howard v. Holiday Inns, Inc., 271 S.C. 238, 242 (1978) (“In essence, the defaulting defendant has conceded liability. However, a defaulting defendant does not the amount of liability.”). The amount of damages in a default action must be proved by a preponderance of evidence. Howard at 203.

South Carolina courts have long held that preponderance of the evidence means “just what it says,” *i.e.*, the greater weight of the evidence. McCutcheon v. Pacific Mut. Life Ins. Co., 153 S.C. 401 (1929). Or as more recently explained by the South Carolina Supreme Court, “evidence which, when fairly considered, is more convincing as to its truth than the evidence in opposition.” S.C. Dept. of Social Servs. v. Pringle, 405 S.C. 608, 615 (2013).

South Carolina law provides that “parents are entitled to a presumption of nonpecuniary damages.” Hurd v. United States, 134 F.Supp.2d 745, 774 (D.S.C. March 8, 2021), citing to Mock

v. Atlantic Coast Line R.R. Co., 227 S.C. 245 (1995) and Self v. Goodrich, 300 S.C. 349 (Ct. App. 1989); F.P. Hubbard & R.L. Felix, The South Carolina Law of Torts 615 (2d ed. 1997) (“It may often be assumed that grief and sorrow will be experienced at the loss of a loved one; however, the strength of such presumption is a function of the closeness of the relationship...”).

Damages recoverable in a wrongful death action are the damages sustained by the statutory beneficiaries resulting from the death of the decedent, including (1) pecuniary loss; (2) mental shock and suffering; (3) wounded feelings; (4) grief and sorrow; (5) loss of society and companionship. Lucht v. Youngblood, 266 S.C. 127, 137 (1976); Ballard v. Ballard, 314 S.C. 40, 41-42 (1994); and Welch v. Epstein, 342 S.C. 279, 304 (Ct. App. 2000).

“There are intangibles, the value of which cannot be determined by a fixed yardstick.” Lucht v. Youngblood, 266 S.C. 127, 137 (1976). “There is no mathematical formula which can easily establish the value of this kind of loss [of a child], and it is not this court’s place to do so.” Scott v. Porter, 340 S.C. 158, 170 (Ct. App. 2000). *See also* TXO Prod. Corp. v. Alliance Resources Corp., 509 U.S. 443, 467 (1993) (Kennedy, J., concurring) (“the size of the award...is not the sole, or even necessarily the most important sign” of “bias, passion, or prejudice”).

Evidence of Damages in the Record

At the damages hearing, the Plaintiff presented the testimony of Suzanne Carwile and Justin Baxter, the parents and statutory beneficiaries of Marlayna Carwile. Twenty-four (24) photographs of Marlayna Carwile and her family were admitted into evidence as exhibits in support of that testimony. The *de bene esse* deposition of Vanessa Lobo, a licensed professional counselor and an expert in the field of trauma counseling was submitted as an exhibit. All opinions of Ms. Lobo were given to a reasonable degree of certainty. There was no objection to any of the

testimony or exhibits. The Defense had the opportunity to cross-examine both parents, only asking Ms. Carwile approximately six (6) questions.

Marlayna was “everything good in the world” to Ms. Carwile: “She was my sunshine.” (T. p.11, l.22-23). Ms. Carwile’s 7-year-old son, Rylan, was Marlayna’s “best friend” and “favorite person.” Marlayna would wait at home all day for Rylan to get home from school and then as soon as he got home, the two would “wild out” playing with each other. That sibling relationship was very important to Ms. Carwile because she “grew up too quick and I wanted to make sure my kids didn’t do that. And the two of them together, it was like they got to be kids and not worry about anything. I was very proud of that.” (T.p.17, l.24 – p.19, l.1). Ms. Carwile’s desire to have Marlayna experience a better childhood than she had was supported through numerous photographs showing the travelling they had done during Marlayna’s life. “We traveled a lot. She had been to Michigan, North Carolina, New York, Florida...I wanted her to see things and do things and meet family, family all over the place.” (T.p.12, l.25 – p.13, l.5).

While the ability to give her own daughter the childhood she never had greatly expanded the joy Ms. Carwile already experienced as a parent, Marlayna opened a completely new life for Mr. Baxter. Mr. Baxter shared how nervous he was as a first-time father: “I knew that I loved her. I just didn’t know all the right things to do. So I learned a lot from Samantha. She taught me how to be a – a parent...And once she became around one years old, I felt that I was ready to take her home and – with me and have her overnight.” (T. p.46, l.13-21).

Ms. Carwile explained the special bond Marlayna had with her father, and the maturity Marlayna brought out of him: “I never expected the relationship that I seen between the two of them. I never seen anything quite like that. When she was born, he was at the hospital and when he met her for the first time, it was like – I don’t know, it was like you could physically see it. Like

the connection the two of them had. So it was – it was beautiful...I seen a change in him from the start...It was like he went from like this kid that wanted to just play video games and wanted to live the bachelor life to somebody who wanted to make sure his daughter had everything he didn't. And she just worshiped him.” (T. p.21, l.3 – p.22, l.8).

While it may have been atypical from traditional norms, there is substantial and credible evidence in the record that Ms. Carwile and Mr. Baxter had built a relationship that exhibited all the characteristics of a loving family, with Marlayna serving as the focal point and glue that brought and held them together.

The Incident

Both parents testified to the horrors they experienced On December 6, 2017. Ms. Carwile, a registered nurse (RN) having worked in both emergency and labor and delivery departments, was awoken from her post-shift nap by Ms. Baxter screaming for her to “call 911.” As she walked outside making that call, she thought Mr. Baxter was overreacting until she saw her brother holding Marlayna across the street. She sprinted over, to find “blood everywhere at her face. It was coming out of her ears. It was coming out of her eyes. And her eyes...I knew when I seen her she wasn't there anymore.” Ms. Carwile “knew the steps of what I needed to do, but I couldn't – I was just – I was just frozen,” and had to ask Mr. Baxter to check their daughter for a pulse because “I just couldn't – couldn't do it, not on my daughter.” When she saw the E.M.S. crew, upon arrival, have the same professional, clinical reaction she had experienced – that Marlayna was gone – she began screaming at them “you've got a shock cart; please just shock her.” (T.p.24, l.10 – p.26, l.9).

Mr. Baxter had done the dishes and went to the door to look for the kids because it was time for them to come home, when he “saw the worst thing that I had ever seen in my life.” He remembers seeing “she came out of her shoes,” and “I remember the blood.” He “felt I had felt a

pulse, so I tried to give her C.P.R.” and then just “getting the kids inside to get them away from that environment ‘cause that’s not they need – they didn’t need to see anymore of that.” He then remembers just sitting in the yard “with ants crawling all over me, biting me, not caring. Just crying.” (T.p.49, l.6 -p.50, l.7).

Ms. Lobo, a licensed and board-certified counselor, whose practice focuses on the field of trauma counseling, provided expert testimony explaining that the grief a parent experiences when they lose a child is more complicated than the normal stages of grief (denial, bargaining, anger, depression, and then eventually acceptance). The grief a parent who has lost a child experiences, is itself more like a trauma response. Just the loss of a child is enough trigger flashbacks: seeing the child, hearing the child, imagining the child will come back in. (DT p.11, l.15 - 25).

Ms. Lobo explained that the grief of a parent who witnesses their child’s death is even more complicated. In a situation where the traumatic experience of the parent involves seeing the body, the blood and the gore, it is similar to PTSD. It complicates treatment and healing because you want the parent to be able to talk about his/her experiences, but you have to be thoughtful that they are going through flashbacks with the disturbing details they witnessed. Ms. Lobo described it “grief and loss but with severe trauma experience.” (DT p.14, l.1 – p.15, l.2).

Justin Baxter

That night, Mr. Baxter (who was an armed security officer at the Robinson Nuclear Power Plant at the time), called his Captain “and I asked him to come and take all of my firearms from me because I didn’t want to shoot myself.” (T.p.51, l.5-8). Ms. Carwile told him that night he could not leave because she was “very scared that he was going to kill himself.” She testified that “his whole world was gone...he didn’t have any reason to live anymore. There was nothing holding him here. And I was very scared.” (T.p.32, l.4-21).

Mr. Baxter spent almost three months following Marlayna's death, moving from the living room to the bedroom. He "wasn't very good" at helping Ms. Carwile during this time, and was just trying "to survive, just exist." It took almost three years before he "was able to try to get back out in the world and be a productive member of society." (T.p.50, l.17- p.51, l.17).

As to the long-term impact of Marlayna's death and the intensity with which it still impacts him, Mr. Baxter has been in and out of counseling ever since Marlayna's death, having been diagnosed with PTSD, severe anxiety, depression and intermittent explosive disorder. He currently receives counseling bi-weekly and is on medication to treat those diagnoses. (T. p.54, l.1 – p.55, l.3).

Even with the benefit of that medical treatment, Mr. Baxter testified "about once every three months, I either have to go sit in an emergency room parking lot or I have to call the paramedics to come to my house and just tell me that I'm not having a heart attack, I'm not drowning, I'm not dying, just to – it's – it's ongoing." (T. p.59, l.15-20).

In describing his on-going grief and sorrow, Mr. Baxter explained how he himself had not had "the greatest upbringing," and that he had never been a fan of or looked forward to the holidays. But Marlayna had changed that. He finally understood "why people spend tons of money and travel thousands of miles" to get together: it was to be with family. "I finally got to see that and experience that for the first time." After Marlayna's death (which occurred between Thanksgiving and Christmas), the holidays became a time "of jealousy, envy, rage, sadness. I just hated them. I didn't want to hear people talk about them. I didn't want to see people's Facebook photos of them." (T. p.57, l.1-22).

Mr. Baxter never went back to work at Robinson Nuclear Power Plant, which was a "career" job he held for seven (7) years and intended to work the rest of his life. (T.p.53, l.16-18).

He has moved at least fifteen (15) times since Marlayna's death. He now lives in Elkton, Virginia, where he grew up. He currently works as "security/special services" at a resort in Massanutten, Virginia, a job he describes as quite different (essentially delivering keys to guests who are locked out of their rooms) from the "highly trained" armed security position he held at the Nuclear Power Plant. He now makes less than half of what he made working at the Nuclear Plant. (T.p.44, l.11 – p.45, l.21).

Samantha Carwile

Ms. Lobo testified that the day after Marlayna's death, Ms. Carwile was "zombie-like," in a state of "extreme, profound despair," experiencing that "grief and loss but with severe trauma" of a parent who witnesses the traumatic death of their child. (DT p.12, l.17 – p.14, l.4).

Ms. Carwile described the period after Marlayna's death as "it was just like I couldn't breathe. I would shake so bad...I would get angry at people for no reason." (T. p.35, l.14-16).

Ms. Carwile testified she was out of work for eleven (11) months. To all her co-workers, Marlayna was "the little glass dolls that had blond hair -- the precious moments baby. That's what everybody at work called her. But I couldn't hang out with them anymore." (T. p.36, l.20 – p.37, l.13. Ms. Carwile wears a necklace containing some of her daughter's ashes, because "I wanted to take her with me. I didn't want her to be in the ground." (T. p.27, l.21-25).

Ms. Carwile had the added burden of trying to manage her own grief and sorrow while worrying about Rylan, who at seven years old, watched his sister die. Ms. Lobo explained Ms. Carwile's concerns about her "ability to parent her son, Rylan." How Ms. Carwile felt "guilty that her son had to have different mom but not having anything else to give him at that time" and that "it was almost like she couldn't find necessarily the joyful connection with her son" due to her own despair over Marlayna's death. (DT p. 17, l.6 – p.18, l.4). Added to the understandable guilt

Ms. Carwile felt from not being there for her son due to her own grief and sorrow, were concerns over how Marlayna's death was impacting Rylan.

Ms. Lobo explained that Rylan suffered depression and was struggling with his own grief and what was acceptable while his mom was grieving. How they worked on allowing Rylan "to be a kid, enjoying himself" because the entire family "felt guilty about smiling, laughing, having fun." (DT p.25, l.6 – p.26, l.19).

Especially hard was having to go through Christmas after Marlayna's death. There was nothing to be happy about or celebrate, but "I had to do something for my son." She had been out of work and had no money, but others helped her purchase items so that she could give Rylan a Christmas. (Tp.28, l.7-20).

As to the long-term impact of Marlayna's death and the intensity with which it still impacts her, Ms. Carwile treated with Ms. Lobo until she moved from South Carolina. She has been diagnosed with PTSD, severe anxiety and depression. Those diagnosed conditions have manifested themselves through headaches, stomach aches, panic attacks, and loss of appetite. (T. p.34, l.15 – p.36, l.9; DT p.15, l.6-12).

As to the ongoing grief and sorrow she still feels, Ms. Carwile left South Carolina and moved to Florida because she "couldn't live here anymore. I wanted to remember the good times. And being here reminds me of the bad – of what happened. Like coming back here is almost triggering in itself." She continued to buy Marlayna presents for Easter, Christmas and her birthday, keeping a shelf with "her favorite things." "But it's different now. She would be turning eight this year. And she would have been into different things. But I'll never know what – what she would have been into, how it would have changed, how she would have changed...what she would have been like now...I will never get to see her go to prom, see her with her first boyfriend,

you know, never see her get married, never see my grandkids. It's – it's all over now.” (T. p.30, l.18 – p.31, l.24).

The Family

In the immediate wake of this tragedy, the benefit of having someone to share such an immense loss with was vital to Ms. Carwile and Mr. Baxter's survival, with Mr. Baxter moving with Ms. Carwile and Rylan to Florida. (T.p.55, l.21-23). Ms. Carwile explained that at first, Marlayna's death “made us closer because we were the only person that understood what we were going through.” (T.p.33, l.1-3). Mr. Baxter echoed that “one of the things that...helped us to survive this was just being with somebody that understood...” (T. p.55, l.14-17).

Unfortunately, the intense grief and suffering they suffered following Marlayna's death ultimately ended their relationship. Ms. Carwile explained that eventually “I was like I couldn't really talk about her because if one was in a decent mood and was able to talk about her without crying and the other one probably wasn't, we didn't want to put each other into that – into that mood and into that state. And it just became – it became hard because we couldn't – we couldn't really talk to each other anymore. We couldn't – the connection that we did have through our daughter wasn't there. And it broke us.” (T.p.33, l.4-14).

Mr. Baxter described it as “whenever you have two people that are both broken, you know, it's – when it's one is having a good day and one might be having a bad day and some days you want to talk and remember the good times and then the other person may not be able to – to handle it. And it just in the end led to us not being able to communicate...” (T.p.56, l.7-13).

In short, Ms. Carwile and Mr. Baxter are left without the benefit of each other's immediate support in their ongoing grief and sorrow over Marlayna's death. Nor do they enjoy the benefit of shared memories and recollections of their daughter.

“Time heals all wounds,” is the saying. Unfortunately, that is just a saying. It is not medical, scientific or legal fact. Ms. Lobo explained that the feelings of depression, anxiety and shame will continue to come with transitions in life. And that the flashbacks and nightmares from such an intense traumatic experience can be chronic. (DT p.22, l.1-7).

The damages hearing on this matter took place 1,954 days after Marlayna’s death. Over five years after her passing, it was visibly obvious that neither Ms. Carwile nor Mr. Baxter were healed and that they still suffer extreme grief and sorrow. Given the extremely credible and authentic testimony they provided, the Court finds it is more likely than not these two parents’ wounds from the unnatural loss of their daughter will never heal and that it is more likely than not they will continue to struggle with their loss for the remainder of their lives.

FINDINGS OF FACT

Based on the record before the Court, including all testimony, exhibits, filed pleadings and arguments of all parties, I FIND:

1. The procedural history above, and that of the contemporaneously filed Order addressing the Defendants’ June 2, 2023 motions, are incorporated herein as part of the Court’s findings of fact.
2. That all of these findings are based upon and supported by ample, credible evidence within the record, which exceeds the preponderance of evidence standard the Plaintiff is required to meet.
3. Plaintiff’s decedent, Marlayna Carwile, was three years old at the time of her death and had a life-expectancy of 77.93 years pursuant to S.C. Code §19-1-150.
4. Plaintiff and statutory beneficiary Samantha Joanne Carwile is thirty-two years old and has life-expectancy of 49.63 years pursuant to S.C. Code §19-1-150.

5. Statutory beneficiary Justin Baxter is thirty-three years old and has a life-expectancy of 44.95 years pursuant to S.C. Code §19-1-150.
6. Before Marlayna's passing, Ms. Carwile was employed as a registered nurse, while Mr. Baxter was employed as an armed nuclear security officer at Robinson Nuclear Power Plant.
7. Before Marlayna's passing, both Ms. Carwile and Mr. Baxter lived with and raised Marlayna together as a family in Darlington County, South Carolina.
8. Ms. Carwile and Mr. Baxter each had a special, loving and extremely close relationship with their daughter; each considering Marlayna to be their best friend. Ms. Carwile traveled with Marlayna throughout the United States to visit family and friends. Mr. Baxter spent the majority of his time off work with his daughter. Ms. Carwile and Mr. Baxter both spent considerable time with and maintained close personal relationships with their daughter.
9. Marlayna looked up to, loved playing with and had an extremely close relationship with her older brother, Rylan Carwile, who is Ms. Carwile's son. Rylan was seven years old when Marlayna died.
10. Marlayna was a happy child who was full of joy and was the driving force who brought Mr. Baxter, Ms. Carwile and Rylan all together, under one roof, where they became a close, loving family.
11. Both Ms. Carwile and Mr. Baxter responded to the scene right outside the family home and witnessed the condition of their daughter immediately after she was struck by an automobile. The injuries were horrific and impacted all those who witnessed the injuries. Ms. Carwile was so shocked, she was unable to exercise her training as a registered nurse for her own daughter; having to ask Mr. Baxter to check their daughter for a pulse. The

two held and were with Marlayna while she passed away and/or in its immediate aftermath.

Ms. Carwile's son, Rylan witnessed his sister being struck by the automobile.

12. The sight of Marlayna's injuries caused immediate mental shock and suffering, to both Ms. Carwile and Mr. Baxter, which continued well after the date of the incident. Both parents still live with the memories of those injuries and those memories are part of the grief and sorrow both still suffer today.
13. After Marlayna's death, Ms. Carwile experienced and continues to experience severe depression, anxiety, sleepless nights, panic attacks, loss of appetite, feelings of loneliness, headaches, hopelessness, and a loss of companionship as a result of her daughter's death. She has been diagnosed as suffering from post-traumatic stress disorder, severe anxiety, and depression as a result of her daughter's death. All of this has negatively affected her relationships with her family and friends, and it led Ms. Carwile to move from South Carolina to Florida in the months following her daughter's death. She does not socialize with the friends and co-workers she had before her daughter's death because doing so causes her to relive the day her daughter was killed.
14. Ms. Carwile was unable to return to work for approximately eleven months after her daughter's death.
15. Rylan was greatly affected by witnessing and experiencing his sister's death. Rylan suffered depression and required his own counseling following Marlayna's death. While Rylan is not a statutory beneficiary, the Court finds that the effects of his sister's death on him directly affect Ms. Carwile and compound her own mental shock and anguish, wounded feelings, grief and sorrow, loss of companionship, and society of her daughter.

In short, Ms. Carwile's ability to fully heal herself is impacted by her son's ability to fully heal.

16. After Marlayna's death, Mr. Baxter experienced and continues to experience severe depression, anxiety, sleepless nights, panic attacks, loss of appetite, feelings of loneliness, physical chest pain, numbness, and a loss of companionship after his daughter's death. He has been diagnosed as suffering from post-traumatic stress disorder, severe anxiety, and depression as a result of his daughter's death. All of this has negatively affected his relationships with his family and friends, and it led Mr. Baxter to move to and from different states approximately fifteen times since his daughter's death. Mr. Baxter tries to avoid socializing and building relationships with others since his daughter's death because he is scared those new relationships could be gone in an instant like his relationship with his young daughter.
17. Mr. Baxter had planned to continue his career at Robinson Nuclear Power Plant all the way through retirement. However, his extreme grief and sorrow following his daughter's death, caused him to lose that career. Since Marlayna's death, Mr. Baxter has had trouble maintaining any consistent employment and is currently employed making approximately less than half the salary he was making prior to his daughter's death.
18. Both Ms. Carwile and Mr. Baxter have sought, and required, counseling since this tragedy and would benefit from future counseling as a result of their daughter's death.
19. Ms. Carwile sought, and required, counseling for Rylan since this tragedy and that Rylan would benefit from future counseling as a result of his sister's death. While Rylan is not a statutory beneficiary, the Court finds that the effects of his sister's death on him directly affect Ms. Carwile and compound her own mental shock and anguish, wounded feelings,

grief and sorrow, loss of companionship and society of her daughter. In short, Ms. Carwile's ability to fully heal herself is impacted by her son's ability to fully heal.

20. Marlayna was the driving force that brought Ms. Carwile, Rylan and Mr. Baxter under one roof and the glue that held them together as a family. The grief and sorrow that followed Marlayna's death unraveled the family they had built. The destruction of Ms. Carwile and Mr. Baxter's relationship is not only evidence of the intensity of the grief and sorrow these two parents have gone through, it is evidence supporting how difficult it will continue to be for them to deal with their ongoing grief and sorrow. They no longer have each other for support. They no longer get to share memories and recollections of their daughter. In short, the deterioration of their own relationship has made fully healing from this tragedy that much harder on both parents.
21. Based on the ample and credible evidence in the record, I find that the statutory beneficiaries sustained the following damages as a direct and proximate result of their daughter's death:
- a. Mental Shock and Anguish;
 - b. Wounded Feelings;
 - c. Grief and Sorrow;
 - d. Loss of Companionship and the Use and Comfort of Their Daughter's Society;
 - e. Lost Wages; and
 - f. Diminished Earning Capacity.

While statutory beneficiaries to a wrongful death are entitled to "pecuniary loss," the case law on what "pecuniary loss" encompasses is not fully developed. The above finding that these two parents suffered lost wages and diminished earning capacity is merely

recognition by the Court that there has been some pecuniary loss suffered by these two parents because of the extreme non-pecuniary damages proximately caused by their daughter's death. As such, the Court has not included in its damages award any specific amount for those types of pecuniary damages, instead finding they were incurred as evidence of the duration and intensity of the extreme non-pecuniary damages the statutory beneficiaries have suffered.

22. Based on the ample and credible evidence in the record, I find Ms. Carwile and Mr. Baxter will, more likely than not, experience the "grief and loss but with severe trauma experience" from their daughter's death for the rest of their lives.
23. Based on the ample and credible evidence in the record, I find Ms. Carwile and Mr. Baxter have proved by a preponderance of the evidence that they are entitled to recover all of the damages set forth above as a proximate result of the admitted negligence of Defendants.

CONCLUSIONS OF LAW

24. The procedural history above, and that of the contemporaneously filed Order addressing the Defendants' June 2, 2023 motions, are incorporated herein as part of the Court's conclusions of law.
25. That all of these findings are based upon and supported by ample, credible evidence within the record, which exceeds the preponderance of evidence standard the Plaintiff is required to meet.
26. The Court has jurisdiction over the subject matter and all of the parties, and venue is proper.
27. This damages hearing was properly noticed and served in compliance with Rule 5(a), SCRCP, and Rule 55(b)(2), SCRCP, and Defendants did not contend otherwise.

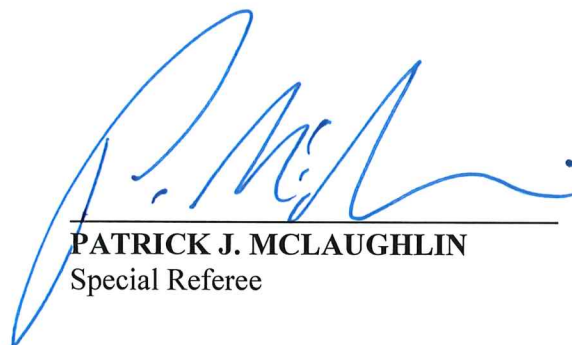
28. “[B]y suffering a default, the defaulting party is deemed to have admitted the truth of the plaintiff’s allegations and have conceded liability.” Austin v. Specialty Transp. Servs., Inc., 358 S.C. 298, 319 (Ct. App. 2004) (quoting Roche v. Young Bros., 332 S.C. 75, 81 (1998)). Because Defendants have been held in default, all of Plaintiff’s allegations in the Complaint relating to Defendants’ liability must be taken as true.
29. Plaintiff has proven that the Defendants’ admitted breach of duty proximately caused the injuries and damages to the statutory beneficiaries set forth above.
30. Under S.C. Code Ann. § 15-51-20 (Supp. 1993), a personal representative may bring a wrongful death action for the benefit of statutory beneficiaries, including the parents of the deceased.... Damages recoverable for wrongful death are the damages sustained by the statutory beneficiaries resulting from the death of the decedent, including pecuniary loss, mental shock and suffering, wounded feelings, grief, sorry, and loss of society and companionship. Ballard v. Ballard, 314 S.C. 40, 41-42 (1994).
31. Ms. Carwile and Mr. Baxter proved by a preponderance of the evidence, that they sustained severe mental shock and anguish, wounded feelings, grief and sorrow, loss of companionship, deprivation of the use and comfort of their daughter’s society, lost wages, and diminished earning capacity.
32. Ms. Carwile and Mr. Baxter proved by a preponderance of evidence that their damages are the direct and proximate result of Defendants’ admitted negligence.
33. “The purpose of actual or compensatory damages is to compensate a party for injuries suffered or losses sustained. The goal is to restore the injured party, as nearly as possible through the payment of money, to the same position her or she was in before the wrongful injury occurred.” Clark v. Cantrell, 339 S.C. 369, 378 (2000).

34. The Court concludes that the amount reasonably required to fairly and justly compensate Ms. Carwile and Mr. Baxter for each of their individual, incredible losses, is Fifteen Million Dollars (\$15,000,000.00) to each of them. While the intense mental shock and suffering, wounded feelings, grief and sorrow, loss of companionship and society they experienced, and continue to experience, from Marlayna's death differs in how it affected their individual lives and/or manifested itself to them personally, the ultimate impact to both statutory beneficiaries has been the equal. Over five years after their daughter's death, appearing before the Court and testifying about their loss, both parents authentically and credibly presented as two parents still grieving, suffering and lost.

IT IS ORDERED, ADJUDGED, and DECREED that Plaintiff Joanne Carwile, as Personal Representative of the Estate of Marlayna Carwile, should be and hereby is awarded judgement against Defendants Chris Anderson and Danielle Anderson, jointly and severally, in the amount of **Thirty Million and 00/100 (\$30,000,000.00) Dollars**. The Clerk of Court shall enter the judgment against Defendants Chris Anderson and Danielle Anderson in the Judgment Rolls of Darlington County, South Carolina.

IT IS SO ORDERED.

November 1, 2023
Florence, South Carolina



PATRICK J. MCLAUGHLIN
Special Referee