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September 27, 2024

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Sep 30 2024

SC Court of Appeals

VIA ELECTRONIC FILING: ctappfilings@sccourts.org

The Honorable Jenny Abbott Kitchings
Clerk of Court
Court of Appeals of South Carolina
1220 Senate Street
Columbia, SC 29201

RE: Lena Sue Yarborough v. Joel F. Yarborough, III,
Appellate Case No. 2023-001143
Related Appellate Case No. 2024-000162
RGSL File No. 7987/1500

Dear Ms. Kitchings:

Pursuant to Rule 208(b)(7), SCACR, Appellant Lena Sue Yarborough, by and through the undersigned counsel, respectfully submits this notice of supplemental authority to the Court as a supplemental citation to her Final Brief of Appellant and Final Reply Brief of Appellant.

On September 18, 2024, the Supreme Court of South Carolina issued a published opinion in *Vanessa Williams v. Bradford Q. Jeffcoat, Jr.*, Op. No. 28236 (S.C. Sup. Ct. filed Sept. 18, 2024) (Howard Adv. Sh. No. 36 at 18). In *Williams*, the Supreme Court considered a partition by sale of real property, and, as relevant to the above-captioned appeal, whether section 27-7-40 of the South Carolina Code allows a joint tenancy with a right of survivorship to be unilaterally severed by conveyance of one cotenant's interest to a third party. *Id.* (Howard Adv. Sh. No. 36 at 21). Ultimately, the Supreme Court determined it did not need to decide that issue because section 27-7-40 did not apply to the deed in *Williams* because the deed creating the joint tenancy was executed over one month before the General Assembly enacted section 27-7-40. *Id.* (Howard Adv. Sh. No. 36 at 28). Section 27-7-40, the Court held, does not apply retroactively, and thus, the Court had to look to common law, which permitted the joint tenancy to be severed by a unilateral conveyance by one cotenant to a third party. *Id.* (Howard Adv. Sh. No. 36 at 28–29).

So too here. Section 27-7-40 does not apply retroactively, and prior to its enactment, there were many forms of granting clauses used to create a joint



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tenancy with a right of survivorship. To that end, Appellant would rely on the Supreme Court's opinion in *Williams* to further support her arguments on pages 8-9 and 14 of the Final Brief of Appellant and pages 1-2 of the Final Reply Brief of Appellant.

We appreciate the Court's time and consideration of this matter that came to the undersigned's attention this week.

Very truly yours,

Beth Burke Richardson

BBR:SCF

Enclosure

cc: Charles Verner, Esquire - Via Email
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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

Charles M. Watson, Jr., Special Referee

Appellate Case No.: 2023-001143

Related Appellate Case No.: 2024-000162

Lower Court Case No.: 2022-CP-36-00326

Lena Sue YarboroughAppellant,

v.

Joel F. Yarborough, III.....Respondent,

PROOF OF SERVICE

Pursuant to Rule 262(c)(3), SCACR, I certify that I have caused the **Appellant’s Notice of Supplemental Authority** to be served on the following counsel of record by AIS email at the following addresses:

Charles V. Verner, Esquire
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Newberry, South Carolina 29108
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Counsel for Respondent

s/Beth B. Richardson
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Post Office Box 11449
Columbia, South Carolina 29211
Counsel for Appellant Lena Sue Yarborough

Columbia, South Carolina
September 27, 2024

From: [Cynthia D. Nygord](#)
To: lawyer@sc.rr.com; [Charles Verner](mailto:Charles.Verner@8thcircuitpublicdefender.org); cverner@8thcircuitpublicdefender.org
Cc: [Beth B. Richardson](#); [Sarah Frierson](#); [Victoria Cordoni](#); [Dara Carmichael](#); [Cynthia D. Nygord](#)
Subject: 2023-001143 - Appellant's Notice of Supplemental Authority
Date: Friday, September 27, 2024 11:11:04 AM
Attachments: [image001.png](#)
[2024-09-27 - Letter to Court of Appeals sending Supplemental Authority.pdf](#)
[2024-09-27 - Proof of Service - Appellant's Notice of Supplemental Authority.pdf](#)

Dear Counsel:

Pursuant to Rule 262(c)(3), SCACR, attached for service upon you via email is Appellant's Notice of Supplemental Authority, as well as a Proof of Service, being filed in the Court of Appeals of South Carolina this morning.

A copy of this email will be filed with the Proof of Service.

Should you have any questions or concerns, please don't hesitate to contact us.

With kindest regards,
Cyndi Nygord



CYNDI NYGORD PARALEGAL

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[VCARD](#)

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