

**RECEIVED**

**Jan 06 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable R. Keith Kelly, Circuit Court Judge  
Case No. 2017-CP-10-01324

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APPELLATE CASE NO. 2023-000898

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Steven McLemore and Bonnie Jean Eagle as Natural Parents for the Estate of D. M.,  
Plaintiffs,

vs.

Charleston County Parks and Recreation Commission d/b/a James Island County Park;  
Yearround Pool Co., Inc.; SGA Architecture; South Carolina Department of Health and  
Environmental Control; and John Doe and/or John Doe Corporation,  
Defendants.

OF WHOM:

Bonnie Jean Eagle is ..... Appellant

and

Charleston County Parks and Recreation Commission  
d/b/a James Island County Park is ..... Respondent

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MOTION FOR ORAL ARGUMENT

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YOU WILL PLEASE TAKE NOTICE that the undersigned, as attorney for Appellant Bonnie  
Jean Eagle, moves this Court for an Order granting oral argument in this case. The basis of this matter  
is the significant public interest in this case.

Respectfully submitted,

KELAHER, CONNELL & CONNOR, P.C.



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Gene M. Connell, Jr. (S.C. Bar No. 1358)  
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1500 U. S. Highway 17 North  
Post Office Drawer 14547  
Surfside Beach, South Carolina 29587-4547  
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January 6, 2025

**Attorneys for Appellant Bonnie Jean Eagle**

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MEMORANDUM IN SUPPORT OF MOTION FOR ORAL ARGUMENT

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Appellant moves for oral argument in this case. Appellant received a letter January 2, 2025 indicating the Court would consider this matter on the record and the briefs during the January 2025 term without oral argument. Appellant submits that this is a case in which oral argument is important and necessary for the Court to have a full picture of the gravity of the situation. The decision by this Court in this case will affect future tort claims against governmental entities. Further, this case will

likely have significant effect on other pending cases in this state where there are two governmental entities sued.

Briefly stated, Appellant Bonnie Eagles' 3-year old son, D.M., died on May 14, 2016 while at the Charleston county Parks and Recreation Commission's James Island County Park. He drowned on a pond on Park property. Appellant's prior counsel decided to settle with one of the Defendants, South Carolina Department of Health and Environmental Control. Because it was a wrongful death settlement, a hearing was held before a circuit judge who approved the settlement and also approved the Release in which the parties specifically agreed to allow other claims to proceed against the other governmental defendant. At the wrongful death settlement hearing none of the other governmental defendants appeared and the Court approved the settlement. Thereafter, the case continued against the Charleston County Parks and Recreation Commission and they filed a motion for summary judgment which was heard by Judge Paul Burch. Judge Burch denied their motion for summary judgment based on S.C. Code § 15-78-70(d) which states in pertinent part: "A settlement or judgment in an action or a settlement of a claim under this chapter constitutes a complete bar to any further action by the claimant against any employee or governmental entity by reason of the same occurrence."

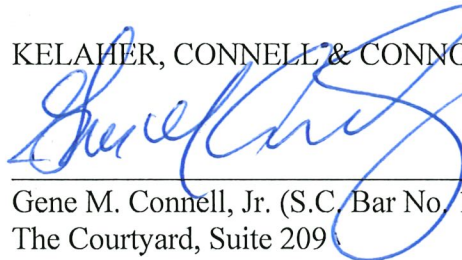
Thereafter, Charleston County Parks and Recreation Commission filed a second motion under SCRCP 12(b)(1) arguing there was no jurisdiction. This matter was heard before Judge Kelly who dismissed the complaint. Judge Kelly's order reasoned that Appellant could not proceed against Charleston County Parks and Recreation Commission despite the fact that Judge McCoy had previously approved a Release in an Order allowing the case to continue against Charleston County Parks and Recreation Commission.

The reason for oral argument is important in this case. There are many cases all over the state in which parties are waiting to see whether or not they can settle with one governmental entity and

continue against another governmental entity. This is an issue of statewide importance as it concerns S.C. Code § 15-78-70(d) and the issue of waiver and approval by a circuit judge of a settlement which allowed the case to continue against Charleston County Parks and Recreation Commission. Because there is a significant issue which could affect many pending cases with two defendants who are governmental entities this Court should grant oral argument in this manner.

Respectfully submitted,

KELAHER, CONNELL & CONNOR, P.C.



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January 6, 2025

**Attorneys for Appellant Bonnie Jean Eagle**

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Defendants.

OF WHOM:

Bonnie Jean Eagle is..... Appellant

and

Charleston County Parks and Recreation Commission  
d/b/a James Island County Park is .....

Respondent

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PROOF OF SERVICE

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PERSONALLY appeared before me, Shelia Y. McCumbee, who being duly sworn, deposes and says that she is an employee of Kelaher, Connell & Connor, P.C., and that she has served a copy of Appellant’s Motion for Oral Argument and Memorandum in Support on the 6<sup>th</sup> day of January 2025, by depositing a copy of same in the United States Mail, postage prepaid, to:

Jonathan J. Anderson, Esquire  
Jonathan L. Anderson, Esquire  
Anderson Law Group, LLC  
P. O. Box 87  
Charleston, SC 29402

Shelia Y. McCumbee  
Shelia Y. McCumbee

**SWORN AND SUBSCRIBED** before me,  
this 6th day of January, 2025.

Barbara L. Smith  
Notary Public for South Carolina  
My Commission Expires: 1-24-34

KELAHER, CONNELL & CONNOR, P.C.  
ATTORNEYS AT LAW  
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THE COURTYARD  
1500 U.S. HIGHWAY 17 NORTH  
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SURFSIDE BEACH, SOUTH CAROLINA 29587

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**SC Court of Appeals**

EDWARD T. KELAHER\*  
GENE M. CONNELL, JR.  
L. SIDNEY CONNOR, IV  
LISA POE DAVIS  
\*OF COUNSEL

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238-5648  
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January 6, 2025

[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

The Honorable Jenny Abbot Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: Appellate Case No. 2023-000898  
*Steven McLemore, Individually and as Personal Representative of the Estate of D.M. and Bonnie Jean Eagle, Individually and as natural parent of deceased minor, D.M. v. Charleston County Parks & Recreation Commission ("CCPRC") d/b/a James Island County Park; et al.*; Case No: 2017-CP-10-01324  
Our File No. 2020-0393C

Dear Ms. Kitchings:

Enclosed please find Appellant's Motion for Oral Argument, Memorandum in Support and Proof of Service in the above-captioned matter. Our check for the \$50.00 filing fee is being mailed this date.

By copy of this letter, we hereby serve Appellant's Motion on counsel of record.

Should you have any question or need anything further, please do not hesitate to contact me.

Sincerely yours,



Gene M. Connell, Jr.

GMC,Jr.:sm  
Enclosures  
cc w/enc.:

Jonathan J. Anderson, Esquire  
Jonathan L. Anderson, Esquire  
Michael H. Wells, Esquire