

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SALUDA COUNTY
Court of Common Pleas

The Honorable Donald B. Hocker, Circuit Court Judge
Case No. 2024-CP-41-00087

Appellate Case No. 2026-000356

Truetta Cyrus, Individually and as
Duly Appointed Personal Representative and
Administrator of the Estate of Timothy S. Cyrus Appellant,

v.

Progressive Northern Insurance Company Respondent.

**MOTION FOR LEAVE TO SERVE AND FILE
A CORRECTED INITIAL BRIEF OF APPELLANT**

Appellant Truetta Cyrus, pursuant to Rule 240, SCACR, moves for leave to serve and file a corrected Initial Brief of Appellant adding the Standard of Review section required by Rule 208(b)(1)(D), SCACR. The corrected brief would be identical in all respects to the Initial Brief of Appellant served June 29, 2026, except for the addition of that section and a conforming revision to the Table of Contents. The proposed section is attached as Exhibit A. Counsel for Appellant has consulted with counsel for Respondent and he has no objection to the filing of this Motion.

MEMORANDUM

Rule 208(b)(1)(D), SCACR, provides that where all of the issues presented are governed by the same standard of appellate review, the brief shall contain a section headed "Standard of

Review” concisely setting forth the applicable standard with citations to relevant case law establishing it. Appellant’s Initial Brief, served and filed June 29, 2026, inadvertently omitted that section. Counsel discovered the omission upon review of the brief. The omission was an oversight, not a considered decision, and Appellant seeks to correct it at the earliest opportunity.

The correction cannot be accomplished in Appellant’s final brief. Rule 211(b), SCACR, requires the final brief to be identical to the brief previously served under Rule 208 except for the changes the rule enumerates, which do not include the addition of a required section. Final briefs under Rule 211 are not yet due in this appeal. Leave of this Court is therefore the only means available to bring the Initial Brief into compliance with Rule 208(b)(1)(D).

Granting the motion would not prejudice Respondent. The Initial Brief of Respondent contains no Standard of Review section and states no position on the applicable standard of review. Rule 208(b)(2), SCACR, does not require a respondent to state a standard of review unless the respondent is dissatisfied with the appellant’s statement, and no statement had been made. The proposed section therefore does not respond to, and does not require any adjustment to, Respondent’s brief as served. Should the Court grant leave, Appellant does not oppose affording Respondent a reasonable opportunity to state its own position on the standard of review.

Nor would the correction expand the appeal. The proposed section adds no issue, alters no issue as stated, and advances no argument on the merits. A single standard of appellate review governs each of the issues presented, and the section is stated once, as Rule 208(b)(1)(D) permits in that circumstance. The section runs less than one page and does not approach the limitation in Rule 208(b)(5), SCACR.

Finally, the standard of appellate review is not a formality in this appeal. The order under review states the summary judgment standard by reference to Rule 56(c) of the Federal Rules of

Civil Procedure. The governing rule in the Court of Common Pleas is Rule 56(c), SCRCP.

Appellant respectfully submits that an accurate statement of the standard this Court applies will assist the Court, and that the requirement of Rule 208(b)(1)(D) is best served by permitting the correction rather than by leaving the record without any statement of the standard from either party.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court grant leave to serve and file a corrected Initial Brief of Appellant adding the Standard of Review section attached as Exhibit A, and that the Court set such time for service and filing as it deems appropriate.

Respectfully submitted,



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Attorneys for Appellant

Columbia, South Carolina
September 1, 2026

EXHIBIT A

PROPOSED STANDARD OF REVIEW SECTION

STANDARD OF REVIEW

The parties submitted the coverage question to the circuit court on a written stipulation of facts and the operative policy language, and no fact material to the ruling is in dispute. (R. ____.)

The issues presented are questions of law: the construction of Progressive's policy and the construction of S.C. Code Ann. sections 38-77-140, 38-77-142, and 38-77-30(3) in relation to the South Carolina Wrongful Death Act, S.C. Code Ann. section 15-51-10.

Where a motion for summary judgment presents a question concerning the construction of a written contract, the question is one of law if the language employed by the contract is plain and unambiguous. *Moss v. Porter Bros., Inc.*, 292 S.C. 444, 357 S.E.2d 25, 27 (1987). Insurance policies are subject to the general rules of contract construction. *Nationwide Mut. Ins. Co. v. Commercial Bank*, 325 S.C. 357, 479 S.E.2d 524 (1996). In reviewing the grant of summary judgment, this Court applies the same standard that governed the circuit court under Rule 56(c), SCRCR. *Woodson v. DLI Properties*, 406 S.C. 517, 753 S.E.2d 428 (2014). On questions of law, this Court owes no deference to the circuit court's conclusions. *Crossman Communities of North Carolina, Inc. v. Harleysville Mut. Ins. Co.*, 395 S.C. 40, 717 S.E.2d 589 (2011).

Because a single standard of appellate review governs each issue presented, this section is stated once. Rule 208(b)(1)(D), SCACR.

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v.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date indicated below, she served counsel for the Respondent with a copy of *Appellant's Motion for Leave to Serve and File a Corrected Initial Brief* by email only to the following:

A. Johnston Cox, Esq.
Gallivan White & Boyd, P.A.
jcox@gwblawfirm.com

September 1, 2026
Columbia, South Carolina



Kalen Reed
Paralegal to John S. Nichols and Allison P. Sullivan

September 1, 2026

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Sep 01 2026

SC Court of Appeals

VIA EMAIL - ctappfilings@sccourts.org

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

RE: Truetta Cyrus v. Progressive Northern Ins. Co.
Case No.: 2026-000356

Dear Ms. Kitchings:

Enclosed please find Appellant's Motion for Leave to Serve and File a Corrected Initial Brief to be filed in the above matter. I have also enclosed a proof of service on counsel of record and a check in the amount of \$50.00 for the motion filing fee.

If you have any further questions or need any additional information, please do not hesitate to contact me.

Yours truly,



Allison P. Sullivan

APS/knr
Enclosures

cc: A. Johnston Cox, Esq. (via email)
South Carolina Court Administration (via email)
John S. Nichols, Esq. (via email)
Carlisle Kennedy, Esq. (via email)

Kalen Reed

From: Kalen Reed
Sent: Tuesday, September 1, 2026 12:39 PM
To: 'Johnston Cox'
Cc: Allison Sullivan; John Nichols; Meredith Brown; carlislekennedy kennedylawsc.com
Subject: 2026-000356 Truetta Cyrus v. Progressive Northern Ins. Co.
Attachments: Motion for Leave to Serve and File a Corrected Initial Brief of Appellant.pdf

Categories: Smokeball

Mr. Cox,

Attached please find and served upon you Appellant's Motion for Leave to Serve and File a Corrected Initial Brief in the above-referenced case.

Thank you,



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Sep 01 2026
SC Court of Appeals

KALEN REED PARALEGAL

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