THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY

The Honorable Charles J. McCutchen, Circuit Court Judge

Appellate Case No. 2026-001285

Lower Court Case No. 2025-CP-18-01727

Originating Probate Case No. 2021-ES-18-00197

Stephanie T. Hameed, Appellant,

v.

Estate of Kevin A. Thurston, Respondent.

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SC Court of Appeals

APPELLANT'S CORRECTED INITIAL REPLY BRIEF

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PRELIMINARY STATEMENT

Respondent reduces this appeal to two dates: Kevin A. Thurston died on March 13, 2020, and Appellant's Statement of Creditor's Claim was filed on September 9, 2021. (Resp't Br. pp. 7-8.) Appellant does not dispute those dates, deny that section 62-3-803 is a strict nonclaim statute, or request an ordinary equitable extension of that statute. The question is whether those two dates resolve every preserved issue without classifying the separate obligations created by the 2007 Final Judgment of Divorce, addressing the specifically identified Mississippi residence, examining the notice record, or determining the effect of post-death fiduciary and compliance matters.

Respondent's chronology omits facts central to classification and procedure. Appellant retained Elizabeth J. Stringer, Esquire, approximately ten days after Mr. Thurston's death and provided the divorce judgment and insurance information. Counsel sought enforcement through a 2020 Family Court filing and correspondence. The Family Court matter was dismissed without prejudice. Appellant maintained below that Stringer and Respondent's counsel communicated repeatedly; that counsel represented he would address the matter and that the available estate consisted of approximately $25,000 and an older vehicle; and that Stringer relied on those representations and later advised Appellant that an eight-month creditor period applied. (Appellant's Initial Br. pp. 3, 5; Mar. 23, 2026 Tr. pp. 7, 9, 13, 15, 25-27.)

Appellant relies on the administration chronology presented below, including the March 19, 2021 letters of appointment. The date proceedings began must be distinguished from the date a personal representative was appointed. Section 62-3-104 generally prohibits filing or commencing enforcement of an estate claim before appointment, subject to its express exception in section 62-3-804(1)(b), while section 62-3-803(a)(1) generally supplies a one-year outside

period for a pre-death claim. Appellant does not contend that delayed administration itself extends that deadline. Section 62-3-801(d) also excuses creditor notice if no personal representative is appointed during the year following death. The relevant inquiry therefore concerns the actual appointment and notice record, the nature of the 2020 enforcement effort, and the classification of each asserted right. The September 9, 2021 claim date does not itself establish that every separate issue was adjudicated.

At the August 10, 2022 hearing, Aiesha testified that she received approximately $250,000 in life-insurance proceeds and approximately $62,000 in retirement-related benefits. (Aug. 10, 2022 Tr. pp. 16-22.) She also testified that accident-settlement proceeds were deposited and partly spent, including toward a home purchased after Mr. Thurston's death. (Id. pp. 29-33.) The Probate Court ordered, within twenty days, a non-probate inventory, the order and settlement documents from the accident case, an amended inventory and accounting, and receipts for estate-account expenditures; it held the allowance petition in abeyance pending production and directed the parties toward mediation. (Id. pp. 33-36, 51-52.)

At the March 22, 2023 hearing, Appellant's counsel reported that the inventory remained incorrect; required insurance-payment documentation, vehicle titles, accident-settlement records, and receipts remained missing; and mediation had neither occurred nor been scheduled. (Mar. 22, 2023 Tr. pp. 6-7, 10-13.) The Probate Court expressed concern about noncompliance with its prior order and announced that it would issue a further compliance and scheduling order. (Id. pp. 10-13, 18.) These events do not extend the nonclaim deadline. They matter because they identify issues and requested relief that were not necessarily adjudicated by dismissal of the creditor claim.

Appellant seeks a limited ruling. She asks that the challenged orders be reversed or vacated because, as Appellant contends, the dispositive motion was not properly served and because the orders treated the nonclaim ruling more broadly than the claim actually decided. Alternatively, if the creditor-claim dismissal is affirmed, the disposition should make clear that it does not adjudicate independent title, accounting, fiduciary, compliance, or other post-death matters that were not decided in the order under review.

ARGUMENT I

RESPONDENT'S TWO-DATE ANALYSIS DOES NOT RESOLVE THE PRESERVED CLASSIFICATION AND NOTICE ISSUES

Respondent relies on section 62-3-803 and argues that the formal claim arose at death and was filed more than one year later. (Resp't Br. pp. 4-7.) Phillips v. Quick and In re Estate of Gurnham confirm that a nonclaim statute is not enlarged by ordinary equitable-tolling principles. Phillips, 399 S.C. at 230, 731 S.E.2d at 329; Gurnham, 407 S.C. 194, 754 S.E.2d 875 (2014). Appellant's Initial Brief acknowledged that rule. (Appellant's Initial Br. pp. 9-11.) Diligence alone therefore does not make an otherwise untimely creditor claim timely.

The reply is that the lower courts were required to identify what was being barred. Respondent's broad formulation does not decide whether every requested form of relief was a pre-death demand payable from estate assets; whether a dispute concerning specifically identified property was an ownership or security-interest matter; whether any obligation accrued later; or whether post-death fiduciary conduct presented a different issue. Respondent's own designation includes the divorce judgment and the creditor-notice materials, confirming that those materials are relevant to the timeliness and classification questions.

Appellant's prompt retention of counsel, the 2020 Family Court filing that ended without prejudice, the attorney communications, the representation concerning limited assets, the administration chronology, counsel's advice concerning an eight-month period, and the later disclosures were presented below. They do not create an attorney-reliance exception to section 62-3-803. They do, however, bear on notice and prejudice and help identify which requests were part of the creditor claim and which matters remained separate.

ARGUMENT II

THE DIVORCE JUDGMENT CREATED DISTINCT OBLIGATIONS INVOLVING DIFFERENT RIGHTS, HOLDERS, PROPERTY, AND REMEDIES

Respondent characterizes Appellant's position as an attempt to relabel one untimely claim. (Resp't Br. pp. 7-8.) The 2007 Final Judgment of Divorce, however, imposed separate obligations: maintaining $100,000 in life insurance for the daughters, contributing one-half of qualifying higher-education expenses, and relinquishing Mr. Thurston's interest in 104 Parkway Cove. Those provisions concern different rights-holders, property, performance, accrual questions, and potential remedies.

Both daughters were minors when Mr. Thurston died on March 13, 2020. Kyla turned eighteen on April 30, 2020, and Nya turned eighteen on May 10, 2023. (Mar. 23, 2026 Tr. pp. 8-9; Aug. 10, 2022 Tr. pp. 41-42.) Appellant does not contend that minority tolls section 62-3-803. The ages are relevant because they confirm that the insurance provision protected the daughters and that Appellant initially proceeded as natural guardian while Nya remained a minor.

The Brandon residence was awarded to Appellant under the divorce judgment. At the August 10, 2022 hearing, the Probate Court read the decree's provision requiring Mr. Thurston to relinquish and quitclaim his interest in 104 Parkway Cove; counsel then confirmed that the leasehold reflected joint tenancy with a right of survivorship, and Respondent's counsel agreed the residence should be removed from the inventory. (Aug. 10, 2022 Tr. pp. 4-10, 27-29.) A title dispute concerning property that is not an estate asset is not the same as a general demand for payment from estate assets. Appellant asks only that dismissal of the monetary creditor claim not be treated as an adjudication of the distinct title issue that the order did not decide.

The insurance provision also imposed an obligation separate from beneficiary designation. South Carolina interprets marital agreements under contract principles and enforces clear, unambiguous terms according to their language. State Mutual Insurance Co. v. Ard, 399 S.C. 232, 237, 730 S.E.2d 912, 914 (Ct. App. 2012). In Gaffney v. Gaffney, the Court of Appeals reversed a family-court interpretation that departed from the unambiguous terms of the parties' marital agreement. 401 S.C. 216, 221-24, 736 S.E.2d 683, 686-88 (Ct. App. 2012). Those principles support treating each decree provision according to its text; they do not displace section 62-3-803. Appellant does not contend that federal non-probate proceeds automatically became probate assets or that the daughters automatically owned part of a particular federal payment. Her narrower point is that the dismissal order should reach only the creditor claim actually before the Circuit Court and should not purport to adjudicate unaddressed rights or remedies arising from the decree. Respondent states that the Circuit Court was not required to adjudicate every conceivable right arising from the divorce judgment. (Resp't Br. p. 7.) Appellant agrees. For that same reason, the dismissal of the creditor claim should not be read to extinguish issues that were not decided. If this Court affirms the nonclaim ruling, it should limit affirmance to that ruling.

ARGUMENT III

THE ESTATE-ADMINISTRATION RECORD DOES NOT REVIVE THE CREDITOR CLAIM, BUT IT IDENTIFIES MATTERS NOT ADJUDICATED BY THAT RULING

Respondent argues that inventory, accounting, disclosure, mediation, and removal issues do not revive an untimely claim. (Resp't Br. pp. 7-8.) Appellant does not offer those matters as a free-standing extension of section 62-3-803. She relies on them because they bear on what information was supplied, what relief remained unresolved, the reliability of the record on which dismissal rested, and whether post-death conduct was improperly collapsed into a pre-death creditor claim.

The Probate Court ordered Aiesha, as Personal Representative, to correct the inventory and accounting and to produce documentation concerning non-probate benefits, vehicles, settlement proceeds, and estate expenditures. On August 10, 2022, the court explained that accepting appointment imposed a fiduciary duty and stated that the failure to respond had cost the Estate, the court, and Appellant time and money. (Aug. 10, 2022 Tr. pp. 21-22.) The court then ordered specific production within twenty days and held the allowance petition in abeyance pending that documentation. (Id. pp. 33-36, 51-52.)

By March 22, 2023, counsel reported that mediation had not occurred or been scheduled, the inventory remained incorrect, and required insurance, vehicle, settlement, and receipt documentation was still absent. (Mar. 22, 2023 Tr. pp. 6-7, 10-13.) The court recognized serious failures to comply and stated that it would issue a further order identifying what remained undone, naming a mediator, and establishing a schedule. (Id. pp. 10-13, 18.) The court thereafter entered the April 10, 2023 compliance order. This is record-supported administrative history, not an attempt to create a free-standing extension of the nonclaim statute.

On June 23, 2023, the Probate Court removed Aiesha J. Thurston as Personal Representative and appointed John M. Campbell as Special Administrator. That removal is legally significant to the separate administration issues. Section 62-3-611(b) identifies intentional material misrepresentation in securing appointment, disregard of a court order, mismanagement, and failure to perform a fiduciary duty as grounds for removal. Respondent identifies no later finding in the challenged orders that all previously ordered materials were produced or that mediation was completed. This history does not make the September 2021 creditor claim timely, and Appellant does not ask this Court to make a finding of perjury. It confirms instead that the probate proceedings involved unresolved administration matters beyond the timeliness of that claim.

Appellant retained counsel promptly, pursued enforcement, and continued seeking disclosures and compliance while the available assets were represented as limited. The later record disclosed materially greater non-probate benefits and other proceeds. Appellant does not contend that those facts alter section 62-3-803. She relies on them to show prejudice from inadequate notice and to prevent the creditor-claim dismissal from being read as a merits adjudication of separate matters. Respondent also states that separate post-death conduct could support independent fiduciary, accounting, surcharge, or other relief, while arguing that such matters do not establish error in the creditor-claim ruling. (Resp't Br. p. 8.) That acknowledgment supports Appellant's alternative request: any affirmance should be expressly limited to the creditor claim and should not adjudicate independent post-death matters that were not decided in the order under review.

Appellant also raised a request below for the expenses caused by the prolonged estate administration and repeated failures to comply with the Probate Court's directives. At the August 10, 2022 hearing, counsel requested attorney's fees and Appellant's travel expenses. (Aug. 10,

2022 Tr. p. 11.) At the March 22, 2023 hearing, counsel again requested attorney's fees, costs, and Appellant's expenses for traveling from Mississippi, and Appellant explained that she is disabled, cannot travel long distances alone, and had to incur expenses for transportation, an accompanying driver, and lodging. (Mar. 22, 2023 Tr. pp. 6, 14, 17.) These requests were raised in probate. Appellant seeks review only to the extent the expense issue was also properly preserved in the proceedings under review.

S.C. Code Ann. section 62-1-111 authorizes the Probate Court, in a formal proceeding and as justice and equity may require, to award costs and expenses, including reasonable attorney's fees, to be paid by another party or from the estate. Appellant therefore requests that any remand preserve consideration of her properly documented and legally recoverable expenses, including attorney's fees incurred for representation by Elizabeth J. Stringer and Virginia S. Spencer to the extent attributable to the formal proceeding; airfare; rental-car and other necessary ground-transportation expenses; lodging; reasonable disability-related travel-assistance expenses; transcripts; filing and delivery charges; printing; copying; and other necessary litigation expenses.

Appellant does not ask this Court to determine the amount of those expenses in the first instance or to presume that every expenditure is recoverable. She asks that the issue be preserved for a record-based determination on remand, including findings concerning reasonableness, necessity, causation, statutory authorization, and the party or fund, if any, properly responsible for payment.

ARGUMENT IV

APPEARANCE AT THE HEARING DOES NOT BY ITSELF RESOLVE DISPUTED SERVICE AND PREJUDICE

Respondent argues that Appellant's pro se appearance at the March 23, 2026 hearing and later request for Rule 59(e) relief cured the due-process issue. (Resp't Br. pp. 8-9.) Appearance, however, does not prove proper service of the dispositive motion, advance notice of every ground asserted, or adequate time to prepare a written and evidentiary response. Rule 5, SCRCP, requires service of written motions and papers, and due process requires notice and a meaningful opportunity to be heard. See Kurschner v. City of Camden Planning Commission, 376 S.C. 165, 171, 656 S.E.2d 346, 350 (2008); Clear Channel Outdoor v. City of Myrtle Beach, 372 S.C. 230, 235, 642 S.E.2d 565, 567 (2007). In Tobias v. Rice, the Supreme Court reversed and remanded after a pro se party received no notice of the hearing that produced the judgment against her. 386 S.C. 306, 310-11, 688 S.E.2d 552, 554 (2010). Tobias involved absence of hearing notice. Appellant cites it for the requirement of meaningful notice, while recognizing that this case concerns disputed service of the underlying motion despite later hearing notice.

The prejudice was specific. Appellant maintained that the dispositive papers were sent to her daughters rather than served on her. She therefore lacked adequate time to prepare a written response addressing section 62-3-803, the Estate's administration chronology, her prompt retention of counsel, the 2020 enforcement filing, the prior asset representations, the later disclosures, and unresolved Probate Court matters. (Mar. 23, 2026 Tr. pp. 7, 19-21, 23-27; Rule 59(e) Motion pp. 1-3.) Respondent identifies no finding resolving the disputed manner, address, or timing of service.

Appellant contends that the postjudgment proceedings did not remedy the asserted lack of a meaningful opportunity to respond before dismissal. The order's general statement that the court reviewed the record did not resolve the preserved dispute over service and prejudice. Appellant requests a determination of proper service and resulting prejudice; appearance alone does not establish that the asserted defect was cured.

CONCLUSION AND PRAYER FOR RELIEF

Appellant respectfully requests that this Court vacate the April 22, 2026 Order Dismissing Appeal and the order denying Rule 59(e) relief and remand for reconsideration after proper service and a meaningful opportunity to respond. On remand, the Circuit Court should determine the scope of the creditor claim, resolve Appellant's service objection and resulting prejudice, and avoid adjudicating distinct matters outside the appealed Probate Court ruling.

Alternatively, if this Court affirms the section 62-3-803 ruling, Appellant requests that affirmance be limited to the creditor claim and expressly leave undecided independent title, accounting, fiduciary, compliance, or post-death matters not adjudicated below. Appellant also requests consideration on remand of her properly preserved, documented, reasonable attorney's fees and necessary litigation expenses under S.C. Code Ann. section 62-1-111, as detailed in Argument III; recoverable appellate costs under Rule 222, SCACR; and such other relief as the Court deems just and proper.

Respectfully submitted,

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October 1, 2026

THE STATE OF SOUTH CAROLINA

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APPEAL FROM DORCHESTER COUNTY

The Honorable Charles J. McCutchen, Circuit Court Judge

Stephanie T. Hameed v. Estate of Kevin A. Thurston

Appellate Case No. 2026-001285

CERTIFICATE OF SERVICE

I certify that on October 1, 2026, I served a true and correct copy of the Corrected Initial Reply Brief and accompanying cover letter by depositing copies in the United States Mail, first-class postage prepaid, addressed to:

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CERTIFICATE OF DELIVERY OF COURTESY COPY

I certify that on October 1, 2026, I provided a true and correct courtesy copy of my Corrected Initial Reply Brief and accompanying cover letter to John M. Campbell, Esquire, Special Administrator of the Estate of Kevin A. Thurston, by the method marked below:

____ Email to: _____

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