

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal From Charleston County
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge
Case No. 2009-CP-10-2604

State Farm Insurance Companies,

Appellants,

v.

Marvin Lee Robertson, Daniel Parks, individually, and as Father and GAL for Joseph I. P., and Joseph I.P., individually, and by and through his GAL, Defendants, of whom,

Daniel Parks, individually, and as Father and GAL for Joseph I. P., and Joseph I.P., individually, and by and through his GAL, are,

Respondents.

RETURN TO MOTION TO STAY THE APPEAL UNTIL THE PETITION TO
THE SUPREME COURT IS RESOLVED

YOUNG CLEMENT RIVERS LLP
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*Attorneys for the Respondent Daniel Parks,
Individually and as Father and GAL for
Joseph I. P., and Joseph I. P., Individually,
by and through his GAL*

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MAR 17 2014

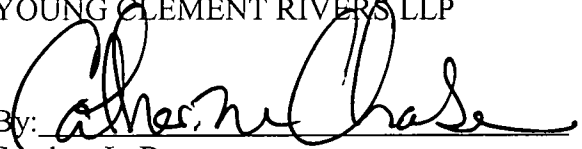
SC Court of Appeals

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT
OF APPEALS:

Come now, the Respondents, Daniel Parks, Individually and as Father and GAL for Joseph I. P., and Joseph I. P., Individually, by and through his GAL, and respectfully object to Appellant State Farm Insurance Companies' Motion to Stay for the reasons set forth in their opposition State Farm's Petition for Writ of Mandamus or in the Alternative Motion for Relief Pursuant to Rule 411 ("State Farm's Petition"), which is attached hereto as Exhibit A and incorporated herein by reference.

Respectfully submitted,

YOUNG CLEMENT RIVERS LLP

By: 

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*Attorneys for the Respondent Daniel Parks,
Individually and as Father and GAL for
Joseph I. P., and Joseph I. P., Individually,
by and through his GAL*

Charleston, South Carolina

Dated: March 14, 2014

**THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

Appeal From Charleston County
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge
Case No. 2009-CP-10-2604

State Farm Insurance Companies,

Petitioner,

v.

Marvin Lee Robertson, Daniel Parks, individually, and as Father and GAL for Joseph I. P., and Joseph I.P., individually, and by and through his GAL, Defendants, of whom,

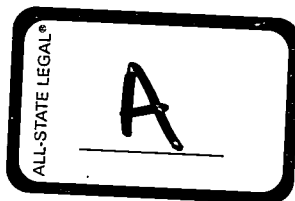
Daniel Parks, individually, and as Father and GAL for Joseph I. P., and Joseph I.P., individually, and by and through his GAL, are,

Respondents.

**RETURN TO PETITION FOR WRIT OF MANDAMUS OR IN THE
ALTERNATIVE MOTION FOR RELIEF PURSUANT TO RULE 411**

YOUNG CLEMENT RIVERS LLP
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*Attorneys for the RespondentS Daniel Parks,
Individually and as Father and GAL for
Joseph I. P., and Joseph I. P., Individually,
by and through his GAL*



TO: THE HONORABLE JUSTICES OF THE SOUTH CAROLINA SUPREME COURT:

Come now, the Respondents, Daniel Parks, Individually and as Father and GAL for Joseph I. P., and Joseph I. P., Individually, by and through his GAL (“the Parks Family”), and respectfully request that State Farm Insurance Companies’ Petition for Writ of Mandamus or in the Alternative Motion for Relief Pursuant to Rule 411 be denied for the following reasons. The order on appeal, which is currently before the Court of Appeals, is from declaratory judgment action brought by State Farm Insurance Companies (“State Farm”) against the Parks Family’s former attorney (Marvin Lee Robertson, Jr.) and the Parks Family seeking a declaration that State Farm had meet its obligations under the claim even though it paid \$75,000.00 to Mr. Robertson¹ without following the procedures for the settlement of claims in favor or against minors or incapacitated person, S.C. Code Ann. § 62-5-433.

1. Any money which the Parks Family received from the Lawyers’ Fund for Client Protection (“Lawyers’ Fund”) is irrelevant to the current issue on appeal. State Farm obtained some information about the Parks Family’s application to the Lawyers’ Fund in discovery when the declaratory judgment was pending, but it did not seek the information which is now sought in this Petition. Only issues which were presented to the trial court are appropriate for the appeal. Wilder Corp. v. Wilke, 330 S.C. 71, 497 S.E.2d 731 (1998).
2. State Farm seeks an advisory opinion as to the application of Rule 411(d)(3), SCACR, to see if a Court would interpret this rule to mean that the Lawyers’

¹ Mr. Robertson did not turn over his former client’s portions of the funds and was subsequently disbarred. In the Matter of Robertson, Op. No. 26670 (S.C. Sup. Ct. filed June 15, 2009) (Shearouse Adv. Sh. No. 26 at 45).

Fund is subrogated on a claim that has not been brought, that is, a claim that the Parks Family may have against State Farm's insured (the party who owned the dog who bit Respondent Joseph I. P. when he was a toddler). See Booth v. Grissom, 265 S.C. 190, 192, 217 S.E.2d 223, 224 (1975) ("It is elementary that the courts of this State have no jurisdiction to issue advisory opinions."); In re Chance, 277 S.C. 161, 161, 284 S.E.2d 231, 231 (1981) (nothing that this Court has consistently refrained from rendering advisory opinions).

3. This is merely another attempt by State Farm to avert attention from the simple fact that State Farm failed to follow the clear procedures for the settlement of claims in favor or against minors or incapacitated person, S.C. Code Ann. § 62-5-433.

As such, the Respondents respectfully oppose the Petition and request that the same be denied.

Respectfully submitted,

YOUNG CLEMENT RIVERS LLP

By 

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*Attorneys for the Respondent Daniel Parks,
Individually and as Father and GAL for
Joseph I. P., and Joseph I. P., Individually,
by and through his GAL*

Charleston, South Carolina

Dated: March 14, 2014

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal From Charleston County
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J.C. Nicholson, Jr., Circuit Court Judge
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State Farm Insurance Companies,

Appellants,

v.

Marvin Lee Robertson, Daniel Parks, individually, and as Father and GAL for Joseph I. P., and Joseph I.P., individually, and by and through his GAL, Defendants, of whom,

Daniel Parks, individually, and as Father and GAL for Joseph I. P., and Joseph I.P., individually, and by and through his GAL, are,

Respondents.

PROOF OF SERVICE

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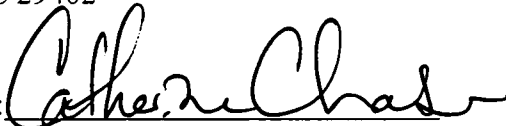
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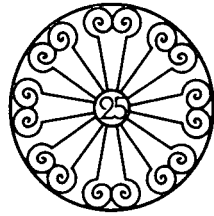
I, Catherine H. Chase, do hereby certify that a copy of the *Return to Motion to Stay the Appeal Until the Petition to the Supreme Court is Resolved* submitted by the Respondent was sent to counsel for the Petitioner on March 14, 2014 via United States Mail, postage pre-paid and addressed as follows:

Corrigan & Chandler
Eugene P. Corrigan, III
PO Box 547
Charleston, SC 29402

By: 
Catherine H. Chase

Charleston, South Carolina

Dated: March 14, 2014



YCR LAW
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March 14, 2014

Ms. Jenny Abbott Kitchings
Clerk of Court for South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: State Farm Insurance Companies v. Marvin Lee Robertson, Jr., Daniel Parks,
Individually and as Father and GAL for Joseph Parks and Joseph Parks,
individually, by and through his GAL, In the Matter of Joseph Parks
Appellate Case No. 2013-002518
Case No.: 2009-CP-10-2604
YCR File: 14213-20091070

Dear Ms. Kitchings:

Enclosed for filing please find the original and seven copies of a Return to Motion to Stay the Appeal Until the Petition to the Supreme Court is Resolved and the original and seven copies of the Proof of Service in connection with the above referenced matter. Please provide me with a date stamped copy of each in the self-addressed envelope provided herein.

Thank you for your assistance and please do not hesitate to contact me if you have any questions.

With best wishes and kindest regards, I am

Sincerely,

YOUNG CLEMENT RIVERS, LLP

Catherine H. Chase

CHC/ajs
Enclosure(s)
cc w/encl.: Eugene P. Corrigan, III, Esquire

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SC Court of Appeals

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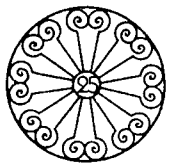
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CHC/20091070

Ms. Jenny Abbott Kitchings
Clerk of Court for South Carolina Court of
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