

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

PERRY H. GRAVELY, CIRCUIT COURT JUDGE

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CASE NO.: 2016-000536

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In the Matter of Tynslee Elizabeth Fields, Deceased,

Lauren Murphy as Statutory Beneficiary, Appellant,

v.

Mark Collins, and The Estate of Tynslee Elizabeth Fields, Defendants,

Of Whom Mark Collins is the Respondent.

---

RECORD ON APPEAL  
VOLUME II

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INDEX

Court of Appeals Order granting Appellant permission to order the transcript of the September 10, 2015 Circuit Court Appeal Hearing outside of the filing deadline filed April 14, 2016.....1

Greenville County Court Order on Lauren Murphy’s Motion for Reconsideration filed February 9, 2016.....3

Greenville County Circuit Court Order filed December 28, 2015 in the matter of Mark Collins Appellant v. Lauren Murphy Respondent, Case Number 2015-CP-23-02860. ....5

Greenville County Probate Court Order filed April 29, 2015 in the matter of the Estate of Tynslee Elizabeth Fields, Case No. 2012-ES-23-01718.....12

Greenville County Court of Common Pleas filed November 5, 2014 Order on Movant Mark Collins' Motion to Compel Disbursement and Personal Representative Lauren Murphy's Motion to Deny Proceeds entered in the matter of Lauren Murphy, individually, and as Personal Representative of the Estate of Tynslee Fields vs. Bon Secours Health System, Inc., et. al., Case No. 2013-CP-23-04186. ....32

Return to Respondents’ Motion to Stay Disbursement of Estate Assets/Funds & to Extend Deadline filed on June 27, 2014 in the Greenville County Probate Court in the matter of the Estate of Tynslee Elizabeth Fields, Case No. 2012-ES-23-01718 .....40

Greenville County Court of Common Pleas filed February 24, 2014 Order for Approval of Settlement as to Defendant Mercy Obstetrics & Gynecology, P.A., Ragesh Pandya, M.D. Only, and the Petition for Approval of Settlement as to Defendants Mercy Obstetrics & Gynecology, P.A., Ragesh Pandya, M.D entered in the matter of Lauren Murphy, individually, and as Personal Representative of the Estate of Tynslee Fields vs. Bon Secours Health System, Inc., et. al., Case No. 2013-CP-23-04186.....45

Appellant Lauren Murphy’s Motion to the Court of Appeals to Order the Transcript of the September 10, Circuit Court Appeal hearing outside of the time limit to request the transcript filed April 12, 2016.....47

Appellant Lauren Murphy’s Notice of Appeal filed with the Court of Appeals on March 11, 2016.....50

Motion for Reconsideration filed with the Circuit Court on January 6, 2016 by Lauren Murphy as Statutory Beneficiary.....80

Respondent Lauren Murphy’s Brief filed with the Court of Appeals on August 12, 2015.....92

Appellant Mark Collins' Appellate Brief filed with the Circuit Court on July 13, 2015.....120

Notice of Intent to Appeal to Circuit Court filed by Mark Collins on May 1, 2015. ....141

Respondent's Submission of Applicable Case Law from Other Jurisdictions filed on January 27, 2015 in the Greenville County Probate Court on in the matter of the Estate of Tynslee Elizabeth Fields, Case No. 2012-ES-23-01718.....165

Plaintiff's Submission to the Court of Case Law from Jurisdictions Other than South Carolina filed on January 23, 2015 in the Greenville County Probate Court on in the matter of the Estate of Tynslee Elizabeth Fields, Case No. 2012-ES-23-01718. ....168

Return in Opposition to Motion to Deny Mark Collins Wrongful Death And Survival Settlement Proceeds filed in the Greenville County Probate Court on November 24, 2014 in the matter of the Estate of Tynslee Elizabeth Fields, Case No. 2012-ES-23-01718. ....221

Motion to Deny Mark Collins Wrongful Death and Survival Settlement Proceeds filed in the Greenville County Probate Court on November 18, 2014 in the matter of the Estate of Tynslee Elizabeth Fields, Case No. 2012-ES-23-01718.....272

Plaintiff's Memorandum in Support of Motion to Deny Mark Collins Any and All Proceeds Derived from Settlement of Survival and Wrongful Death Actions filed September 27, 2014 in the Greenville County Court of Common Pleas in the matter of Lauren Murphy, individually, and as Personal Representative of the Estate of Tynslee Fields vs. Bon Secours Health System, Inc., et. al., Case No. 2013-CP-23-04186.....276

Interested Party Mark Collins' Memorandum in Support of Motion to Compel Disbursement and Response to Motion to Deny Proceeds filed September 26, 2014 in the Greenville County Court of Common Pleas in the matter of Lauren Murphy, individually, and as Personal Representative of the Estate of Tynslee Fields vs. Bon Secours Health System, Inc., et. al., Case No. 2013-CP-23-04186. ....327

Return to Mark Collins' Motion to Compel and Motion to Deny Mark Collins Any and All Proceeds Derived from Settlement of Survival and Wrongful Death Actions filed August 15, 2014 in the Greenville County Court of Common Pleas in the matter of Lauren Murphy, individually, and as Personal Representative of the Estate of Tynslee Fields vs. Bon Secours Health System, Inc., et. al., Case No. 2013-CP-23-04186. ....354

Motion to Compel filed August 6, 2014 in the Greenville County Court of Common Pleas in the matter of Lauren Murphy, individually, and as Personal Representative of the Estate of Tynslee Fields vs. Bon Secours Health System, Inc., et. al., Case No. 2013-CP-23-04186.....371

Notice of Motion and Motion to Stay Disbursement of Proceeds filed on July 23, 2014 in the Greenville County Probate Court in the matter of the Estate of Tynslee Elizabeth

Fields, Case No. 2012-ES-23-01718 .....	389
Summons and Petition to Deny Respondent Wrongful Death Proceeds filed on July 2, 2014 in the Greenville County Probate Court in the matter of the Estate of Tynslee Elizabeth Fields, Case No. 2012-ES-23-01718. ....	392
Notice of Motion and Motion to Stay Disbursement of Estate Assets/Funds & to Extend Deadline for Parties to Either Waive or Post Bond filed on June 24, 2014 in the Greenville County Probate Court in the matter of the Estate of Tynslee Elizabeth Fields, Case No. 2012-ES-23-01718 .....	396
Summons and Form 300 PC filed October 4, 2012 by Lauren Murphy in the Greenville County Probate Court. ....	399
Greenville County Probate Court Certificate of Appointment of Lauren Murphy as the Personal Representative for the Estate of Tynslee Elizabeth Fields filed July 15, 2014.....	406
Transcript of the September 10, 2015 appellate hearing before the Circuit Court in the matter of Mark Collins Appellant v. Tynslee Elizabeth Fields, Deceased and Lauren Murphy Respondent.....	407
Transcript of the January 9, 2015 Hearing in the Greenville County Probate Court in the matter of the Estate of Tynslee Elizabeth Fields, Case No. 2012-ES-23-01718.....	438
Correspondence dated July 15, 2014 from the Greenville County Probate Court regarding the Summons and Petition to Deny Respondent Wrongful Death Proceeds filed on July 2, 2014 in the Greenville County Probate Court in the matter of the Estate of Tynslee Elizabeth Fields, Case No. 2012-ES-23-01718. ....	522
Death Certificate for Tynslee Elizabeth Fields issued August 2, 2012. ....	523
Certificate of Appellant .....	524

1 STATE OF SOUTH CAROLINA )  
2 ) IN THE PROBATE COURT  
3 COUNTY OF GREENVILLE ) ORIGINAL

4 IN THE MATTER OF:

5 Tynslee Elizabeth Fields, Deceased

6 CASE NUMBER:

7 2012ES2301718.

8 LAUREN MURPHY,

9 Petitioner.

10 MARK COLLINS and THE ESTATE OF TYNLEE ELIZABETH  
11 FIELDS,

12 Respondents.

13 - - - - -

14 Probate hearing taken in the aforementioned  
15 matter was heard before the Honorable Judge  
16 Debora A. Faulkner, taken before Donna B.  
17 Friddle, Court Reporter and Notary Public, at  
18 Probate Court, Greenville County Square, 301  
19 University Ridge, Greenville, South Carolina,  
20 on the 9th day of January, 2015, commencing  
21 at the hour of 10:18 o'clock, a.m.

22 - - - - -

23

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21 - - - - -

22 INDEX OF EXAMINATION

23 PAGE

24 COLLOQUY BETWEEN THE COURT AND

25 COUNSEL.

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INDEX OF EXHIBITS

PAGE

THERE WERE NO EXHIBITS INTRODUCED.

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(In the following transcript, a dash [--] is used to indicate an unintentional or purposeful interruption in a sentence, or to indicate halting speech or an unfinished sentence in dialogue.)

- - - - -

1 THE COURT:

2 This is in the matter of the Estate of  
3 Tynslee Elizabeth Fields. The file  
4 number is 12-1718. We're here today on  
5 a Notice of Motion and Motion to Stay  
6 Disbursement of Proceeds. The  
7 Petitioner in this matter is Lauren  
8 Murphy, who is also the Personal  
9 Representative in this matter. This  
10 case concerns the distribution of not  
11 only survival proceeds, but also  
12 wrongful death proceeds. Representing  
13 the Petitioner Ms. Murphy is Charles  
14 Marchbanks, who is present. The  
15 Respondent is Mark Collins, who is  
16 present, and Ms. Jessica Salvini and  
17 John Read represent him. And we have  
18 met in chambers to discuss the process  
19 for today, and what we're going to do is  
20 we're going to proceed with legal  
21 argument unless there is a need to take  
22 testimony. We are also going to note  
23 for the record that all of the documents  
24 provided to This Court from the Circuit  
25 Court are entered for the record not as

1 an exhibit but because it has become a  
2 part of our official record that it will  
3 be relevant to today's argument and will  
4 be adopted as it was submitted in the  
5 Circuit Court. Okay. Unless there's  
6 anything else I'm ready for, Mr.  
7 Marchbanks, for you to argue your  
8 Motion.

9 MR. MARCHBANKS:

10 Thank you, Your Honor. May it please  
11 The Court, the Motion before The Court  
12 today pertains to either limiting or  
13 denying Mark Collins' take of a  
14 settlement, a wrongful death settlement,  
15 involving the death of infant Tynslee  
16 Elizabeth Fields. My client, Lauren  
17 Murphy, is the biological mother of  
18 Tynslee. Mark Collins is the biological  
19 father. As the evidence in the record  
20 that The Court has now adopted shows  
21 there is some dispute amongst the facts  
22 of some of the details of the case that  
23 we may need to get into on a factual  
24 basis, but for the purposes of the  
25 argument that we have we submit to The

1 Court that Ms. Murphy became pregnant in  
2 September of 2011. She notified Mr.  
3 Collins of her pregnancy, and Mr.  
4 Collins, with the exception of attending  
5 one gender-reveal ultrasound  
6 appointment, did not interact with Ms.  
7 Murphy during the course of the  
8 pregnancy. He did not interact with Ms.  
9 Murphy during the course of the birth.  
10 He did contact Ms. Murphy upon learning  
11 of the death of the child. He did not  
12 attend the funeral of the child. Did  
13 not attend a memory walk set for the  
14 child. During that time period Mr.  
15 Collins additionally did not provide any  
16 financial support to Ms. Murphy  
17 throughout the course of the pregnancy,  
18 nor did he provide any support for the  
19 unborn child in regards to funeral  
20 expenses, nursery, those types of  
21 things. I think what is in the record  
22 in Affidavits and statements and the  
23 pleadings certainly covers that in much  
24 greater detail, but for the purposes of  
25 the legal argument I will limit the

1 facts to that for now. We are moving  
2 This Court to deny or reduce Mr.  
3 Collins' take of a wrongful death  
4 lawsuit that Ms. Murphy filed, that Ms.  
5 Murphy involved herself in, contracted  
6 with attorneys and worked for a  
7 considerable length of time to reach a  
8 settlement. The settlement that was  
9 reached was a partial settlement against  
10 certain defendants, but not against all  
11 of the defendants in the case. And I  
12 think it's important that the record  
13 show that there is still an outstanding  
14 defendant. Ms. Murphy settled the claim  
15 against Mercy OB-GYN, Dr. Ragesh Pandya  
16 of Upstate OB-GYN. There is still a  
17 pending claim at this point in time  
18 against Bon Secours Health System and  
19 Bon Secours St. Francis Health System  
20 doing business as St. Francis Eastside.  
21 The settlement amount -- the initial  
22 settlement amount was \$975,000. Ms.  
23 Murphy petitioned for approval of that  
24 settlement in the Circuit Court, and  
25 that settlement was approved by the

1 Circuit Court on -- let's see, February  
2 24th, 2014. At that point in time Ms.  
3 Murphy sought to divest Mr. Collins of  
4 any interest in the settlement amount by  
5 filing a Motion with the Probate Court  
6 here in Greenville County. The Probate  
7 Court seeing the size of the settlement  
8 directed the determination be done by  
9 Circuit Court. Circuit Court -- we went  
10 and had a hearing in Circuit Court a few  
11 months ago, and Circuit Court asked that  
12 Probate Court -- they believed Probate  
13 Court has original jurisdiction over  
14 this specific issue and asked for a  
15 determination to be made here. So that  
16 is why we are here. And the basis of  
17 our argument is, as I stated, found in  
18 the Wrongful Death Act, South Carolina  
19 Code 15-51-40. And in part, the  
20 relevant part of what code section  
21 states is, "On Motion by either parent  
22 or any other party of potential interest  
23 based on the decedent having died  
24 intestate" -- which this being a minor  
25 child obviously did -- "the Probate

1 Court may limit or deny either or both  
2 parents entitlement for a share of the  
3 proceeds if The Court determines by a  
4 preponderance of the evidence that the  
5 parent or parents failed to reasonably  
6 provide support for the decedent as  
7 defined in 63-5-20 and did not otherwise  
8 provide support for the needs of the  
9 decedent during his or her minority."  
10 Now, the Code Section  
11 63-5-20, as The Court knows,  
12 specifically goes to the Children's Code  
13 in the State of South Carolina, and that  
14 references and requires a parent to  
15 provide financial assistance for a  
16 member of the family substantially equal  
17 to that of the person owing the duty to  
18 support. And it further states that  
19 this includes both usual and unusual  
20 necessities. Now, there is in our  
21 opinion, and our position is that these  
22 two Code Sections, both 15-51-40 and 63-  
23 5-20 include child support as would be  
24 ordered by Family Court for a minor  
25 child. It is also very clear that the

1 language that is contained within these  
2 statutes is quite vague. And whereas  
3 this specific law prior to 1996 was  
4 actually very strictly construed, and it  
5 was very clear and evident what a court  
6 had to do with this sort of a situation,  
7 in 1996 a bill was introduced into the  
8 South Carolina State Senate that added  
9 the language in this statute that truly  
10 I think muddied the water. It added the  
11 language that a person must provide  
12 reasonable support and otherwise provide  
13 for the need of the decedent during his  
14 or her minority. And effectively that  
15 change clearly demonstrates that the  
16 legislative intent of that amendment was  
17 to open the door for a factual  
18 determination in a situation -- in a  
19 wrongful death situation that involves a  
20 minor, and that particular amendment  
21 spanned Workers' Comp, it spanned  
22 wrongful death, it spanned the intestacy  
23 statute in Probate Court. Where certain  
24 language was added to that clear-cut  
25 50/50 split or each statutory

1 beneficiary takes an equal amount, it  
2 clearly muddied the water. It muddied  
3 the water such that it effectually makes  
4 it a situation to where it becomes a  
5 factual issue. And in this particular  
6 case what we have is the factual issue  
7 of a mother who has been through an  
8 utter nightmare with the gestation,  
9 birth, death of an infant at the hands  
10 of a negligent ob-gyn. And I'm certain  
11 that The Court is aware of the facts of  
12 what The Court needs to be aware of as  
13 far as the facts of the baby's death,  
14 but baby was effectively -- there's no  
15 other way to say it. The ob-gyn  
16 basically took the baby's life. And she  
17 suffered through the death of the child,  
18 sitting with the child in NICU while it  
19 survived for the brief period of time  
20 that the child survived, burying her  
21 daughter, and throughout all of this  
22 time had no contact from the biological  
23 father. In fact, the biological father  
24 in this case, Mark Collins, only took a  
25 test, a DNA test, to determine whether

1 or not he was the actual biological  
2 father of this child until after he  
3 learned of the negligence of the ob-gyn.  
4 And so after ignoring this child, after  
5 ignoring Ms. Murphy for that entire  
6 period of time, he stands here today  
7 asking for one-half of the proceeds of a  
8 settlement, gross settlement amount of  
9 \$975,000. We submit that would create  
10 an unfair windfall; he would be unjustly  
11 enriched; it would be an absurd result.  
12 The unfortunate aspect of this  
13 particular law and this particular  
14 amendment, and the statute was amended  
15 in 1996, is there has been no case law  
16 proceeding or after 1996 to guide a  
17 court in how to make a determination in  
18 a situation like this.

19 THE COURT:

20 Do you have any legislative history of  
21 why it was amended?

22 MR. MARCHBANKS:

23 Well, Your Honor, I do not have -- I  
24 looked into the legislative history.  
25 However, the -- it's not specifically

1           stated in the legislative history as to  
2           exactly why or what the intent of the  
3           legislature is or was at that time. I  
4           will state that in 1995 there was a  
5           Supreme Court decision by the name of  
6           Ballard versus Ballard. The cite on  
7           that case is 443 S.E. 2nd 802. And in  
8           Ballard, that -- in that particular case  
9           the father was negligent towards the  
10          child, did not support the child at all.  
11          Now this was an older child. But he  
12          failed to support the child. There was  
13          a significant settlement in that case.  
14          The mother of the child petitioned for  
15          the father not to take any of the  
16          benefits subsequent to the child's  
17          death, and in Ballard versus Ballard  
18          based on the old law, The Court said,  
19          well, you know, there's nothing we can  
20          do. They split it 50/50. Now 21 months  
21          after the Ballard decision was published  
22          was when the Senate introduced this  
23          bill. And that's Senate bill 11-64.  
24          And that is the -- that is the bill that  
25          eventually led to the amendment of 15-

1 51-40, which was subsequent to the  
2 Ballard decision. And effectively what  
3 we're saying, Your Honor, is that  
4 amendment opened the door to  
5 interpretation. That amendment allows  
6 for This Court specifically, because it  
7 says on Motion to the Probate Court. It  
8 allows for the Probate Court to make a  
9 determination as to whether or not each  
10 beneficiary should take an equal amount  
11 or if any beneficiary should be denied  
12 any particular amount. Now, given that  
13 there are no -- I've been unable to  
14 locate any specific case law that would  
15 be prejudicial or that would give The  
16 Court guidance in -- in figuring out how  
17 to approach a situation like this, I  
18 began to explore court decisions that  
19 dealt with fathers who never had a  
20 chance to pay child support, unwed  
21 fathers who never had a chance to pay  
22 child support and a court's  
23 determination as to whether or not they  
24 could benefit from a relationship with  
25 the child. And in doing that, and I

1 present it to The Court in a number of  
2 places in the submissions that I made to  
3 The Court, a couple of cases that deal  
4 with oddly enough adoption. And those  
5 cases would be Rowe versus Reeves, Rowe  
6 versus Reeves being 392 South Carolina  
7 143. And that's a South Carolina Court  
8 of Appeals opinion. No, that's a  
9 Supreme Court of South Carolina opinion.  
10 And then Lehr versus Robertson.

11 THE COURT:

12 Could you spell Lehr for me?

13 MR. MARCHBANKS:

14 L-e-h-r.

15 THE COURT:

16 Okay.

17 MR. MARCHBANKS:

18 And Lehr versus Robertson, Your Honor,  
19 is a United States Supreme Court case  
20 463 U.S. 248.

21 THE COURT:

22 Now, these are both concerning adoption  
23 cases?

24 MR. MARCHBANKS:

25 Yes, Your Honor, and I know that that's

1           -- that there's nothing precedential  
2           there, but I believe that they're  
3           instructive. The basis for my argument  
4           as to why they are instructive is  
5           because these cases follow a line of  
6           decisions where the United States  
7           Supreme Court has determined that an  
8           unwed father has a constitutional right  
9           to have a relationship with their child.  
10          However, that constitutional right if he  
11          neglects the mother and neglects the  
12          child during the pregnancy then the  
13          child can be put up for adoption without  
14          his consent. So effectively in this  
15          particular case what we have, and one of  
16          the reasons that I so firmly believe  
17          that this would create an absurd result,  
18          is because -- and this a hypothetical  
19          situation, but in the event Ms. Murphy  
20          was not in a position in the event  
21          Tynslee survived, and in the event Ms.  
22          Murphy was not in a position to raise  
23          Tynslee, the facts of this case -- these  
24          cases support the fact that she could  
25          have put Tynslee up for adoption and not

1 had to get his consent to do that at  
2 all. He divested himself of the benefit  
3 that stems from fatherhood by his  
4 failure to act. And how is it that if  
5 he divest himself by his failure to act  
6 of a constitutional right how is it that  
7 he can stand here today and say, "But  
8 I'm still entitled to" -- I think a net  
9 of - "\$250,000." The -- the other, even  
10 though this is not specifically -- this  
11 does not specifically deal with the  
12 statute, the Wrongful Death Statute, as  
13 -- when it comes to beneficiaries there  
14 is -- there is instruction as to how  
15 wrongful death damages should be  
16 distributed, and for that I'm looking to  
17 South Carolina Court of Appeals case  
18 Scott versus Porter, which is 340 South  
19 Carolina 158. And one of the things  
20 that Scott versus Porter does a very  
21 good job in doing is outlining what  
22 damages are recoverable in a wrongful  
23 death action. And it specifically  
24 states pecuniary loss, mental shock and  
25 suffering, wounded feelings, grief and

1 sorrow, loss of companionship,  
2 deprivation of the use and comfort of  
3 the intestate society, the loss of his  
4 experience, knowledge and judgment in  
5 managing the affairs of himself and his  
6 beneficiaries. Now, Scott goes on and  
7 states that South Carolina law provides  
8 that parents are entitled to a  
9 presumption of nonpecuniary damages.  
10 And that seems to fix it. However, The  
11 Court goes on and says that it may often  
12 be assumed that grief and sorrow will be  
13 expected at the loss of a loved one.  
14 However, the strength of such  
15 presumption is the function of the  
16 closeness of the relationship, and in  
17 some cases evidence may be necessary to  
18 support the claim of loss.

19 THE COURT:

20 What year was that case?

21 MR. MARCHBANKS:

22 This case, 2000.

23 THE COURT:

24 Was that an adoption case, too?

25 MR. MARCHBANKS:

1           No, Your Honor, this is a case that  
2           simply dealt with wrongful death  
3           damages.

4           THE COURT:

5           Okay.

6           MR. MARCHBANKS:

7           Specific to the loss of a minor child.  
8           And so overall what we have is a law  
9           that says in some cases in a wrongful  
10          death for somebody to benefit from that  
11          they're really going to have show that  
12          they suffered loss. We have cases that  
13          have facts very similar to the case at  
14          bar where fathers were divested of a  
15          constitutional right based on very, very  
16          similar facts. And we have the  
17          controlling law in this situation, the  
18          one law that does control, states  
19          reasonable support and other support as  
20          may be provided. But again I'm not  
21          quoting it word for word, but it doesn't  
22          specifically state, you know, pursuant  
23          to the Child Support Statute. It's very  
24          vague. It's very ambiguous. And it is  
25          our belief and our position that based

1 on the vagueness of the controlling law  
2 and by following the instruction of the  
3 interpretation of the Wrongful Death  
4 Statute, and applying analogous logic  
5 and structure from how a father divest  
6 himself of a constitutional right, the  
7 conclusion that This Court we ask to  
8 reach is if he's done enough to divest  
9 himself of the constitutional right he's  
10 done enough to divest himself of a  
11 little bit of money. And that's all I  
12 have at this particular time, Your  
13 Honor, unless you have questions from  
14 the bench.

15 THE COURT:

16 I don't think I have any at this time.

17 MR. MARCHBANKS:

18 All right. Thank you.

19 THE COURT:

20 Ms. Salvini.

21 MS. SALVINI:

22 Thank you, Your Honor. May it please  
23 The Court. What happened in this case  
24 was horrible. No parents should suffer  
25 the death of a child ever, but The Court

1 has to look at the law before it. And  
2 it is not vague and ambiguous. We do  
3 not stipulate to the facts that Mr.  
4 Marchbanks announced to The Court  
5 regarding what he said and she said  
6 because they both have a different story  
7 to tell The Court, which was set forth  
8 in the Affidavits that were presented to  
9 Circuit Court. And as The Court is  
10 aware these parties dated over the  
11 course of approximately three and a half  
12 to four months. Ms. Murphy became  
13 pregnant during that time. While they  
14 were together they were excited about  
15 the pregnancy. They talked about baby  
16 names. Ms. Murphy was staying over at  
17 Mr. Collins' house five out of seven  
18 days of the week. She knew that he was  
19 a good father. He has two other  
20 children, one of which lives with him on  
21 a full-time basis, and he is actively  
22 involved on a daily basis with his other  
23 child. As things sometimes do and  
24 relationship don't work out they broke  
25 up, and I think The Court saw in the

1 Affidavits that she was seeing somebody  
2 else, he saw somebody else, and then  
3 they had a disagreement about what  
4 happened during the course of her  
5 pregnancy. Thereafter -- because  
6 remember he was present at the  
7 ultrasound that determined the sex of  
8 the baby. Where the Affidavits before  
9 The Court show is that she then told him  
10 that he wasn't the father, and they had  
11 a back and forth about whether he was  
12 and whether he wasn't. She told him to  
13 stay away, and to give her her privacy,  
14 and to allow who she was staying with,  
15 the new father, which she knew he  
16 wasn't, to be there with her. What The  
17 Court's not hearing about is the fact  
18 that Mr. Collins was denied the right to  
19 go to the hospital and hold and touch  
20 his daughter before she was cremated;  
21 about the fact that he had learn about  
22 her death from the mother of his other  
23 child who happened to see it posted on  
24 Facebook. He had to hear from his  
25 sister and receive from his sister

1 pictures of his dead daughter from Ms.  
2 Murphy because she showed up at the  
3 house to say, "I am so sorry that I  
4 excluded Mark and I lied to him, and we  
5 need to grieve together." He was denied  
6 the right to go to the funeral, but all  
7 of that is irrelevant. This Court is  
8 not charged with taking a yardstick and  
9 measuring how many tears each one of  
10 them have cried. It's not charged with  
11 trying to determine what Mr. Collins  
12 should have done during the course of  
13 the next six months or five months after  
14 they broke up whether, or not he gave  
15 her money or demanded to come to the  
16 house to see what the nursery looked  
17 like, or whether or not he had to file  
18 something in court to be able to name  
19 his child, because as The Court is aware  
20 she put another man's name on his child,  
21 on Mr. Collins' child, and then admitted  
22 later that she lied about it. So what  
23 type of grief does that place on Mr.  
24 Collins who has never been able to have  
25 closure? It doesn't matter. It's

1           irrelevant. What matters is the law.  
2           And what's before The Court is that  
3           these statutory beneficiaries they  
4           agreed she's the mother, he's the  
5           father. He agreed that she could serve  
6           as the Personal Representative and  
7           represent his interest. If you look at  
8           the Circuit Court Order what it says is  
9           that she has considered the settlement,  
10          and she finds it to be in the best  
11          interest of both the statutory  
12          beneficiaries. It wasn't until  
13          thereafter that she decided that she was  
14          not going to agree that it was in Mr.  
15          Collins' best interest. Instead what  
16          she's directing The Court to do is to  
17          say, "Court take a look at 15-51-40, and  
18          it's vague," but it's not. It's very  
19          clear. Mr. Marchbanks cited for The  
20          Court the Ballard case. If you take a  
21          look at that case what got the  
22          legislature and The Court upset about  
23          what occurred and the fact that The  
24          Court's hands were tied was the fact  
25          that it was an elementary school age

1 child. That's not what we have here.  
2 We have a child who lived approximately  
3 an hour after she was born. And this is  
4 not a situation where she lived for that  
5 hour and Ms. Murphy was holding her and  
6 they were bonding. This is a situation  
7 where the ob-gyn effectively hurt this  
8 child so badly that nurses and doctors  
9 were working around the clock hoping to  
10 save her. Neither parent would have  
11 been entitled to touch that child  
12 because the doctors were trying  
13 desperately to do something. And he was  
14 precluded from being there just to be  
15 able to be a part of whatever life she  
16 had. If you look at 15-51-40 and the  
17 amendment that was made to the statute,  
18 and you read it in its entirety, you're  
19 going to see that it is very clear on  
20 its face. Under certain circumstances,  
21 and I want to read it specifically  
22 because the construction is there, "Upon  
23 Motion by either parent or any other  
24 party of potential interest based on the  
25 decedent having died intestate the

1 Probate Court may deny or limit either  
2 or both parents' entitlement for a share  
3 of the proceeds if The Court determines  
4 by a preponderance of the evidence," and  
5 this is where it's specific, "that the  
6 parent or parents failed to reasonably  
7 provide support for the decedent as  
8 defined in Section 63-5-20 and" --  
9 there's an "and" there -- "and did not  
10 otherwise provide for the needs of the  
11 decedent during his or her minority."  
12 It's very specific. It says "decedent."  
13 And I'm pointing that out because in Mr.  
14 Marchbanks' Motion he specifically said,  
15 "Ms. Murphy seeks to exclude Collins  
16 from benefiting from Tynslee's death  
17 because Collins provided no support."  
18 Not for the decedent, but for Ms. Murphy  
19 during her pregnancy. That's not what  
20 the statute provides. The statute  
21 provides that it has to be for the  
22 decedent. It was a legal impossibility  
23 for him to do so. What Mr. Marchbanks  
24 and Ms. Murphy is asking The Court to do  
25 is to find some ambiguity in a statute

1           that is very clear. We have a case here  
2           that is horrible. This is an infant  
3           child that did not live. There is no  
4           way possible that Mr. Collins could have  
5           supported this child. We don't need to  
6           go any further and look at 63-5-20,  
7           although I am going to address it, but  
8           specifically because there was no  
9           possible way for him to support his  
10          child. She lived for a year -- I mean  
11          for an hour, and during that hour she  
12          was in the care of doctors. What Ms.  
13          Murphy is asking The Court to do is to  
14          find that in cases in which a couple is  
15          not married, whether that be same sex  
16          now or otherwise, the father is required  
17          to support the mother during the  
18          pregnancy. That's what she's asking  
19          This Court to find. And to what extent?  
20          Is The Court going to issue an Order  
21          that says, yes, she's correct, that then  
22          requires every father who is not married  
23          to a woman, but who wants to be involved  
24          in the child's life, to go down to  
25          Family Court to have a hearing about

1           what type of support he is going to  
2           provide for his unborn child? No. And  
3           that's not what those adoption cases  
4           even provide, and they concede that they  
5           don't have any precedence. Fathers of  
6           illegitimate children are not required  
7           to do that. That would require the  
8           Family Court, if we go down this  
9           slippery slope, to issue rulings to  
10          decide what type of care is to be  
11          provided and whether or not mothers who  
12          are pregnant have the right to smoke or  
13          drink or take Xanax, any prescription  
14          medication, whether or not fathers of  
15          unborn children are allowed to show up  
16          at doctor's appointments and tell the  
17          mother that she can or cannot do this or  
18          that. That's not the case. The only  
19          other alternative is for them asking The  
20          Court to decide minority because the  
21          statute is very clear "and did not  
22          otherwise provide for the needs of the  
23          decedent during his or her minority." I  
24          mean Ms. Murphy is asking This Court to  
25          essentially decide the question that has

1           been the subject of many disputes and  
2           still today. When did this child become  
3           a minor? She is saying it's in utero.  
4           So does that mean that upon conception  
5           when a woman has a right to choose  
6           whether or not to have the child or to  
7           abort the child that then -- then that  
8           period of time is excluded because at  
9           the current precedent that we have in  
10          our law a woman has a right to abort  
11          that child? I mean we're going back to  
12          that argument. Does it mean that the  
13          morning after pill is now something that  
14          has to be addressed between two  
15          individuals who become sexually intimate  
16          with each other? I mean that is where  
17          we are headed with what Ms. Murphy is  
18          asking The Court to do. In this case  
19          Mr. Collins agreed that Ms. Murphy would  
20          serve as his representative, and she had  
21          a fiduciary duty to do so. During the  
22          course of this litigation no one asked  
23          to take Mr. Collins' deposition about  
24          how he was feeling or dealing with the  
25          grief of losing a child. Do you want to

1 know why? She was representing his best  
2 interest. She was deposed. She agreed  
3 that she would do so. That's why he  
4 indicated that he would agree that she  
5 could serve as the Personal  
6 Representative. It is not correct that  
7 what happened was that upon her death he  
8 suddenly was involved to say, "I need to  
9 be a part of a lawsuit." That's not  
10 what happened. She came to his sister's  
11 house and said, "We need to grieve  
12 together." And, yes, a lawsuit had  
13 started several months later I believe.  
14 And they agreed because she gave his  
15 daughter someone else's name that there  
16 would have to be a DNA test because we  
17 had to open an estate. And they agreed  
18 to take it. And he agreed to pay for  
19 half. Everyone knew this was his child  
20 when they saw those pictures. That's  
21 what's set forth in the Affidavit. She  
22 represented his interest in this lawsuit  
23 on the wrongful death action. If you  
24 take a look at the case that was cited  
25 by Mr. Marchbanks there was the Scott

1           versus Porter case. What we have here  
2           it's clear-cut in this wrongful death  
3           action that these individuals during the  
4           course of the birth of this child harmed  
5           irreparably her in such a way that she  
6           couldn't survive. This case in Scott  
7           versus Porter talks about the fact  
8           specifically that our Supreme Court --  
9           and it's cited Lucht versus Youngblood,  
10          266 South Carolina 127, and it's 1976  
11          case but it has been essentially our  
12          precedent, "losses to parents from the  
13          untimely death of a child are  
14          intangibles, the value of which cannot  
15          be determined by any fixed yardstick."  
16          She agreed to represent him in this  
17          lawsuit. She said she would do so, and  
18          he trusted her to do so. And when she  
19          entered into the settlement agreement  
20          she indicated that she thought it was  
21          not only best for her, but best for him.  
22          That's what that Court Order from the  
23          Circuit Court says. They paid out the  
24          maximum in that settlement that they  
25          could under the policy because of what

1           happened to that child during the course  
2           of the birth. She represented his  
3           interest in that lawsuit. He was never  
4           asked otherwise. I also want to point  
5           out to The Court that essentially what  
6           is happening in this instance is not a  
7           windfall to Mr. Collins. The statute is  
8           clear, the legislature considered it. I  
9           mean we're not talking about a child who  
10          was any age whatsoever. If you take a  
11          look at the Affidavits that were  
12          presented what Ms. Murphy is asking The  
13          Court to do is come up with some type of  
14          tests when a child dies at birth, and  
15          it's a legal impossibility for the other  
16          parent to support or even become a part  
17          of that child's life, because they  
18          didn't live, so then develop some type  
19          of factors that would then warrant  
20          whether or not the other parent received  
21          a half, one-half as the statute  
22          provides, of the proceeds. And if you  
23          look at what she's pointed out whether  
24          or not the parents spent Christmas with  
25          the other parent's family, whether or

1 not the parent purchased a comforter or  
2 a crib, whether or not the other parent  
3 had a relationship with the in-laws, my  
4 point is specifically from her  
5 Affidavits that she put and what her  
6 statements are in her Motion before The  
7 Court the tears that were cried and how  
8 many days of mourning were experienced  
9 by each, the Court cannot measure those  
10 things. I mean if This Court issues a  
11 ruling that either substantially  
12 decreases the portion that Mr. Collins  
13 receives or denies him wholly any of the  
14 proceeds, essentially The Courts is  
15 saying when this type of circumstance  
16 happens unless the father demonstrates  
17 that he has tried every possible way to  
18 spend time with her or her family or  
19 give her money or buy something, he's  
20 not entitled to anything, that his  
21 feelings don't matter whatsoever, but  
22 that those feelings have to be  
23 considered and we're going to figure out  
24 how to measure them. I submit to The  
25 Court that the reason you don't see that

1 in this statute is because The Court is  
2 not going to do that test. There is no  
3 way to do it. It's impossible. It's  
4 impossible. It would be requiring  
5 fathers to come before The Court to say,  
6 "I just want it on record that's my  
7 baby, and I want to be a part of its  
8 life, help me. Make her do something.  
9 Make her let me do what? Go to every  
10 doctor's appointment. I get a say in  
11 the name. I need a Court Order that  
12 says I get to decide what this baby's  
13 first name is, and I want to make sure  
14 what the surname is." That's not the  
15 law in this state or in any state that  
16 I'm aware of. When this child is born,  
17 yes, it becomes incumbent upon a father  
18 to step up, and if he doesn't or if the  
19 mother precludes it, then they go down  
20 to Family Court and fight about it. But  
21 this child did not survive. And even if  
22 we -- if The Court decides to take the  
23 next step and take a look at 63-5-20  
24 that talks about support, that statute  
25 still directs The Court to consider

1 facts as to whether or not the father  
2 was precluded from supporting or was  
3 somehow denied the right to be a part of  
4 that child's life. And I submit those  
5 facts are here, but we don't even need  
6 to get there because the statute is  
7 clear on its face. I'm just going to  
8 ask Mr. Read to address one additional  
9 point regarding that statute.

10 THE COURT:

11 Okay. Can I ask you a couple of  
12 questions before you do that?

13 MS. SALVINI:

14 Yes, ma'am.

15 THE COURT:

16 And this may be something that Mr.  
17 Marchbanks might need to answer for me.  
18 The medical bills for this child's  
19 delivery and the one hour that the child  
20 lived, were there no bills because of  
21 the negligence of the doctor so there  
22 was never like a payment made, or do  
23 you?

24 MR. MARCHBANKS:

25 I'll address that.

1 THE COURT:

2 Okay.

3 MR. MARCHBANKS:

4 The child was on Medicaid.

5 THE COURT:

6 Medicaid.

7 MS. SALVINI:

8 Uh-huh.

9 MR. MARCHBANKS:

10 Yeah, which is specifically addressed in  
11 some of the case law that I presented.

12 THE COURT:

13 So is it -- so then I can assume that  
14 Mr. Collins never made any payment to  
15 the hospital of any type for the one  
16 hour after he learned he was the father?  
17 Is there money owed? Is there something  
18 -- there was nothing like that?

19 MS. SALVINI:

20 Medicaid covered all the bills. I  
21 believe that we actually submitted a  
22 portion of Ms. Murphy's deposition  
23 testimony for The Court to attach to our  
24 filing in which she confirmed under oath  
25 that Medicaid paid for those bills and

1           even I believe during the course of her  
2           pregnancy.

3           THE COURT:

4           Was Mr. Collins working at the time?  
5           Did he have an income?

6           MS. SALVINI:

7           He was working. Uh-huh. In fact,  
8           that's how they met was at work.

9           THE COURT:

10          And had he done anything in terms of --  
11          have the Medicaid people asked him for  
12          reimbursement or anything like that  
13          since he's been listed as the father, or  
14          there's not been anything like that?

15          MS. SALVINI:

16          They have not done so, Your Honor.

17          THE COURT:

18          And he hasn't volunteered to say, "Hey,  
19          I had a job. You know let me," or  
20          anything like that?

21          MS. SALVINI:

22          Under the advice of counsel because he  
23          came to us pretty quickly --

24          THE COURT:

25          Okay.

1 MS. SALVINI:

2 -- after we had the DNA test, and there  
3 had to be a decision about who was going  
4 to serve as the Personal Representative,  
5 we did not advise him to do that all. I  
6 told him to just see how this lawsuit  
7 goes.

8 THE COURT:

9 Okay.

10 MS. SALVINI:

11 Because we assumed, which I do believe  
12 that there was a mention in the  
13 settlement about some -- there was a  
14 small portion of medical bills that were  
15 paid after the settlement. I'd have to  
16 double check and take a look at that.  
17 And we had agreed to that.

18 THE COURT:

19 I would assume with the facts as they  
20 played out that the hospital would not  
21 be seeking, but, you know, I didn't  
22 know. The other question I had for you,  
23 Ms. Salvini, is in the 15-51-40, it does  
24 say -- let's see. "The Probate Court  
25 may deny or limit." So it says the

1 Probate Court can deny or limit, and I'm  
2 focusing on the word "limit." It  
3 doesn't give any factors that would  
4 allow me or the Probate Court to say  
5 maybe this shouldn't be 50/50, maybe it  
6 should be 60/40, maybe it should be  
7 70/30. There are no factors given  
8 there, it just says the Probate Court  
9 may limit. Is there any case law or  
10 argument that you would like to make in  
11 terms of what does that essentially  
12 mean? Does that mean it's  
13 discretionary? Does it mean that I have  
14 to look at some objective factors? What  
15 does that word mean in your estimation?

16 MS. SALVINI:

17 And I respectfully disagree with The  
18 Court's initial reading --

19 THE COURT:

20 Okay.

21 MS. SALVINI:

22 -- of the statute. And I don't know of  
23 any case law that I could cite to the  
24 Court --

25 THE COURT:

1           Okay.

2           MS. SALVINI:

3           -- at this time. But it does -- it does  
4           say The Court may deny or limit, and  
5           there are no specifics about the  
6           limitations.

7           THE COURT:

8           Correct.

9           MS. SALVINI:

10          However, in order for The Court to even  
11          get there it gives The Court guidance  
12          and the specific factor, the primary  
13          factor that The Court has to find, and  
14          that is whether or not the parent or  
15          parents failed to reasonably provide  
16          support for the decedent as defined in  
17          the Family Court statute and did not  
18          otherwise provide for the needs of the  
19          decedent during his or her minority,  
20          which that specific factor is the  
21          primary factor. The Court can't even  
22          get to whether or not there should be a  
23          limit and what to consider as a limit  
24          until The Court gets to the first factor.  
25          which is whether or not --

1 THE COURT:

2 Sure.

3 MS. SALVINI:

4 -- a parent reasonably failed to provide  
5 support, and the statute by its very  
6 nature, by -- it's an "and" and  
7 indicates minority. And in order for  
8 The Court to get there The Court has to  
9 find that the child actually lived.

10 THE COURT:

11 So to take a little reading of the  
12 statute, that's what you're arguing, I  
13 never get to that point?

14 MS. SALVINI:

15 Yes.

16 THE COURT:

17 If you read the statute, the plain  
18 language, I don't get to that point  
19 because of the other factors in the  
20 statute that talk about support and the  
21 inability -- or the ability -- or the  
22 failure to provide support?

23 MS. SALVINI:

24 I mean The Court has to find  
25 specifically by a preponderance of the

1 evidence that the parent failed to --

2 THE COURT:

3 Correct.

4 MS. SALVINI:

5 -- reasonably provide support and --

6 THE COURT:

7 Correct.

8 MS. SALVINI:

9 -- did not otherwise provide support  
10 during the minority before The Court  
11 could go on to the next question as to  
12 whether or not there should be a  
13 limitation or a denial.

14 THE COURT:

15 Okay. So if you look just at that --  
16 that clause the minority that this child  
17 had was one hour.

18 MS. SALVINI:

19 Yes, ma'am.

20 THE COURT:

21 I mean technically.

22 MS. SALVINI:

23 Technically.

24 THE COURT:

25 And for that one hour -- and your client

1 eventually learned he was the father at  
2 some point. I think it was after -- I  
3 don't know how soon after the birth that  
4 he realized he was the biological  
5 father. I don't remember from the  
6 Affidavit.

7 MS. SALVINI:

8 He was told before, and that's -- they  
9 were together, and then after they broke  
10 up she maintained he was the father, and  
11 that's why he went to the ultrasound.  
12 It was after that that then it became a  
13 dispute, I guess, between the parties as  
14 to whether or not he was the father  
15 because she was claiming that Mr. Fields  
16 was the father.

17 THE COURT:

18 So after the child was born when did he  
19 know he was the father, your client?

20 MS. SALVINI:

21 He already knew that he was the father  
22 before.

23 THE COURT:

24 They did a DNA before the baby was --

25 MS. SALVINI:

1           They did not do a DNA before. He  
2           believed that he was the father.

3           THE COURT:

4           Okay.

5           MS. SALVINI:

6           Because of what she represented to him.

7           THE COURT:

8           Okay. But at some point after it was  
9           confirmed with a DNA test?

10          MS. SALVINI:

11          We had to, yes, Your Honor.

12          THE COURT:

13          Okay.

14          MS. SALVINI:

15          Because of the opening of the estate.

16          THE COURT:

17          And how long after the birth did that  
18          -- was that done?

19          MS. SALVINI:

20          I believe that it was done shortly  
21          thereafter, maybe several weeks. I want  
22          to say maybe three.

23          THE COURT:

24          Okay.

25          MS. SALVINI:

1 I'd have to double check, but --

2 THE COURT:

3 All right.

4 MS. SALVINI:

5 But it was done after. It was done  
6 after the child had died they did a DNA  
7 because she had given the child someone  
8 else's surname.

9 THE COURT:

10 So if we're looking literally at the  
11 plain language of this statute the  
12 minority of this child was one hour?

13 MS. SALVINI:

14 Yes, ma'am.

15 THE COURT:

16 During that one hour did your client  
17 provide any support for that child  
18 either -- during that one hour we know  
19 he didn't, and he know the reasons why,  
20 you know, he was prohibited from coming.

21 MS. SALVINI:

22 Right.

23 THE COURT:

24 After he learned or confirmed or he  
25 knew, did he do anything to pay any

1 money, do anything that would have  
2 amounted to support for that short  
3 minority?

4 MS. SALVINI:

5 Okay. So I'm going to -- I'm going to  
6 answer in two parts.

7 THE COURT:

8 Okay.

9 MS. SALVINI:

10 The first -- the first position that I'm  
11 taking in respect to that, Your Honor,  
12 is it was a legal impossibility for him  
13 to pay anything. Medicaid covered the  
14 hospital bills. As far as whether or  
15 not The Court is asking me if he paid  
16 for the funeral or if he made donations  
17 or anything to that --

18 THE COURT:

19 No, no, no, no, no, no.

20 MS. SALVINI:

21 -- I mean, no. I mean he did not give  
22 her any money nor did he offer to give  
23 her any money.

24 THE COURT:

25 Well, let me just ask you this: When

1           you say it's a legal impossibility, are  
2           you telling me that I'm a parent of a  
3           child that the bills are being paid by  
4           Medicaid, I can't call the Medicaid  
5           office and say, "I have a job. The  
6           state doesn't need to pay my child's  
7           healthcare. I want to pay the bills"?  
8           I mean is there -- are you saying they  
9           would have prohibited him from -- from  
10          paying any support legally to "No, sir,  
11          I know you're working. You're making  
12          money. Medicaid is for indigent people,  
13          but we aren't going to take your money"?

14        MS. SALVINI:

15                No, but I think the facts that are  
16                before The Court don't warrant that, and  
17                let me tell The Court why.

18        THE COURT:

19                Uh-huh.

20        MS. SALVINI:

21                She, on the Birth Certificate, named  
22                someone else, and told him that he was  
23                not to come to the funeral and that he  
24                needed to respect her privacy, and that  
25                she was -- she was hurting enough and

1           did not want to have to essentially deal  
2           with him. Before there was a DNA test  
3           Jeremy Fields was named as the father  
4           and was involved in everything. He  
5           respectfully precluded. So at the time  
6           that he retained my office, and our  
7           position was that until we come into  
8           Probate Court -- because she had opened  
9           an estate. I mean we did the DNA test  
10          if my recollection is correct -- and it  
11          has been a couple of years now -- but  
12          after the estate was already opened and  
13          we were contesting the fact that even on  
14          the initial filing of the Probate papers  
15          she had named Mr. Fields. So there was  
16          no ability for him, and nor would I have  
17          advised him, to go down to the Medicaid  
18          office and say, "She's wrong. I'm the  
19          dad. This child has passed away, but  
20          you've got to do something about this so  
21          that I can pay this bill, because I'm  
22          responsible and I'm working."

23          THE COURT:

24                  Right.

25          MS. SALVINI:

1 I just wouldn't advise him to do that.  
2 I don't want him to be blamed for the  
3 course of action that I or my law  
4 partner took in this case.

5 THE COURT:

6 I'm just asking this because if we're  
7 taking literal meanings and the plain  
8 meanings of the statute --

9 MS. SALVINI:

10 Yes, ma'am.

11 THE COURT:

12 -- and this statute talks about the  
13 denying or limiting a parent's right to  
14 inherit if they did not do certain  
15 things during the child's minority.

16 MS. SALVINI:

17 Uh-huh.

18 THE COURT:

19 Okay. So this child had an hour before  
20 she died tragically. So I'm looking  
21 then the statute says, "Okay. Did he  
22 support, do anything?" And, of course,  
23 he wasn't there, but he later learned or  
24 confirmed by DNA testing that he was the  
25 father.

1 MS. SALVINI:

2 Yes, ma'am.

3 THE COURT:

4 So for that one hour of time his  
5 daughter was incurring medical bills  
6 that were -- that were submitted to the  
7 state to be paid because the child was  
8 determined to be an indigent patient.  
9 And he learns about it, and he's got a  
10 job. And had they been married or maybe  
11 had he stepped up maybe the child  
12 wouldn't qualify as an indigent child.  
13 I don't know. I don't know what he  
14 makes. I don't know anything about  
15 that. He's got other children. I  
16 assume they're not on Medicaid. So if  
17 I'm looking literally at the statute  
18 without going down any slippery slopes,  
19 here's the minority. Was support paid?

20 MS. SALVINI:

21 And let me ask some more questions.

22 (Conferring with client.)

23 THE COURT:

24 Okay.

25 MS. SALVINI:

1           So both of his current children are on  
2           Medicaid because he doesn't earn enough  
3           and neither does his child's mother, so  
4           that may alleviate some concerns that  
5           This Court may have. His two other  
6           minor children, which are with the same  
7           woman, are on Medicaid. But -- and I  
8           see where The Court is headed in terms  
9           of that one hour, but however, whatever  
10          was incurred -- and I don't know what  
11          was billed to Medicaid, was addressed in  
12          the wrongful death suit, which would  
13          then reimburse Medicaid anything that  
14          would have occurred during the course --  
15          at least that's I would assume. I don't  
16          have that before me.

17        THE COURT:

18            Right.

19        MS. SALVINI:

20            But if The Court's decision is that  
21            there was an hour of life, and he should  
22            have taken the steps to do that, The  
23            Court would essentially be punishing him  
24            for the advice that his counsel gave him  
25            because we did not advise him to do

1           that. You know he did not have those  
2           funds. He works at Walmart. He doesn't  
3           have a high school education. He has  
4           two other children who are on Medicaid.  
5           Yes, he earned a living, and he -- he is  
6           providing for his family, and he has his  
7           own home. I just don't -- I know where  
8           The Court is headed with that, but I  
9           don't know how The Court at that point  
10          is using that one hour of, "Okay. What  
11          should he have done within that one  
12          hour?"

13        THE COURT:

14          Well, what I'm doing is I'm -- I'm just  
15          engaging in some argument to try to  
16          figure out how we apply these statutes  
17          in this very, very unique set of facts.  
18          If we open the statute up to  
19          interpretation, you know, he wants it  
20          opened up to did he help her during the  
21          pregnancy and did he help pay the  
22          funeral bill? He didn't come to the  
23          funeral. All of these things he wants  
24          me to open it up maybe and look at that.  
25          You're saying I don't need to do that.

1 I've got a statute that clearly says  
2 that parents inherit unless I find by  
3 the preponderance of the evidence that a  
4 parent didn't provide support, and in  
5 this case this child didn't live. There  
6 was no opportunity for him to provide  
7 support. He was faced with a woman who  
8 had another man involved, had another  
9 man on the Birth Certificate. So if I  
10 open it up for him I'm opening it for  
11 you to, you know, make all of those  
12 arguments which are sound and good. If  
13 I don't open it up either way, and I  
14 just look at this statute, then it tells  
15 me, "Okay. I've got two parents. I  
16 have a decedent whose minority was one  
17 hour. I know the mother went through  
18 hell, so we don't have to worry about  
19 it." I'm looking at this father. What  
20 did he do for that hour of that child's  
21 life to enhance that child's life,  
22 support the child, pay the child's  
23 medical bills, buy -- -- you know, buy a  
24 coffin? What did he do when he found  
25 out for sure he was that child's

1 biological father? What did he do in  
2 the nature of support retroactively? He  
3 doesn't have to show up. What did he do  
4 in terms of support under this  
5 definition or it talks about "reasonably  
6 provides support and did not otherwise  
7 provide for the needs of the decedent  
8 during his or her minority." This  
9 minority was a tiny spot in time, and it  
10 may be arguably unreasonable for him to  
11 have done that, but we know that the  
12 child lived for an hour. We know at  
13 some point he got a DNA test, and he  
14 knew he was the dad. We know the child  
15 had a Medicaid bill. That's the only  
16 type of financial support that could  
17 reasonably be paid because there's no  
18 child support. The child incurred a  
19 medical bill directly for --  
20 unfortunately. And I'm surprised they  
21 even turned in a bill to Medicaid  
22 frankly for what happened, but. So I'm  
23 trying to focus on if we're not going to  
24 open this statute up for him to talk  
25 about prior to the birth and all that

1           because it's not relevant, then I'm  
2           going to have to -- and you don't want  
3           me to open it up because you -- you  
4           know, your client was not listed on the  
5           Birth Certificate. He was prevented  
6           from coming in, you know. So I just  
7           look at the words, look at the words,  
8           and what they mean, "Did the parent  
9           support the child or the decedent during  
10          his or her minority." That's what it's  
11          asking me. Did they provide reasonable  
12          support, by the preponderance of the  
13          evidence, for the minority of the child?  
14          And so that's why I'm asking because  
15          we're going to have to when I decide  
16          this case either go down that road where  
17          it's just the plain words, these facts,  
18          apply the facts, this is the result. Or  
19          because the facts are so unusual do we  
20          need to open it up and say, well,  
21          reasonably provide for the needs because  
22          of this particular situation where this  
23          child only lives an hour do we say that  
24          involves making sure the child had  
25          proper medical care? Does that mean the

1 child -- you know, should he have done  
2 that? And like you said it would  
3 require fathers to go down and say, "I  
4 need to do this while the child is in  
5 utero," which is, you know, an absurd  
6 result. So that's why I'm asking you  
7 because if I don't go down a road where  
8 we can open it up a little bit for  
9 interpretation, pull in some of these  
10 cases where it talks about a father's  
11 constitutional right, and what their  
12 obligations are once they know they have  
13 a child, if I just limit it narrowly to  
14 this statute and don't look anywhere  
15 else, then I'm confronted with support  
16 during the child's minority. So I mean  
17 I'm just -- I'm going to let you argue  
18 it or -- I'm going to let Mr. Marchbanks  
19 address it, but I'm just sort of  
20 thinking out loud so that you-all can  
21 kind of tell me what you think the law  
22 should be on that.

23 MS. SALVINI:

24 I have some thoughts, but I'm going to  
25 let Mr. Read --

1 THE COURT:

2 Okay.

3 MS. SALVINI:

4 -- address it because he has --

5 THE COURT:

6 Okay. Thank you, Mr. Read.

7 MR. READ:

8 Yes, ma'am, thank you for hearing. With  
9 regard to the question about that hour,  
10 and the question about when he knew for  
11 sure that he was the father, he was  
12 joined as a statutory beneficiary in  
13 this lawsuit, and as part of the  
14 wrongful death action those with  
15 Medicaid proceeds or what Medicaid paid  
16 is included and considered in part of  
17 that. So that would have been his  
18 participation within that lawsuit would  
19 have been that thing that closes the  
20 door, and that's the only thing he  
21 possibly could have done to have a role  
22 such that it fulfilled that statute, and  
23 I think it fulfills it. I think that  
24 connects the dots, Your Honor, because  
25 that's what it is. And --

1 THE COURT:

2 And so what you're saying is those bills  
3 that came a part of the list of damages  
4 and --

5 MR. READ:

6 That's correct.

7 THE COURT:

8 -- because they became a part of that,  
9 then the amount of the settlement took  
10 all of that into consideration?

11 MR. READ:

12 It would have to, Your Honor.

13 THE COURT:

14 And -- okay. All right.

15 MR. READ:

16 And the next -- the next point I would  
17 like to raise, Your Honor, is that as  
18 we're going through the statute I want  
19 to retread a little bit of ground if I  
20 can.

21 THE COURT:

22 Sure.

23 MR. READ:

24 When we're talking about the question  
25 about whether the standard that The

1 Court is applying under 15-51-40, and  
2 we're saying that -- I will restate it,  
3 "If The Court determines by a  
4 preponderance of the evidence that  
5 parent or parents fails to reasonably  
6 provide support for the decedent as  
7 defined in 63-5-20," -- which I'm going  
8 to get down to in just a second, and I  
9 know that's been hit on for just -- for  
10 a moment, but "and did not otherwise  
11 provide for the needs of the decedent  
12 during his or her minority." The point  
13 here is that if that first is a legal  
14 impossibility you don't even get to the  
15 question about whether the minority --  
16 what "minority" actually is because you  
17 have to be able to satisfy that first  
18 part. The effort should show that they  
19 failed to reasonably provide support as  
20 defined in 63-5-20 in order -- if that's  
21 an impossibility it would be an  
22 impossibility for them to do both, and  
23 both is what's required in the statute.  
24 Do you see what I'm saying, Your Honor?

25 THE COURT:

1 Uh-huh.

2 MR. READ:

3 So you don't get to the ambiguity that  
4 it's talking about.

5 THE COURT:

6 So what you're saying is -- and you can  
7 construe this -- they have to meet both  
8 of those rather than an "or"?

9 MR. READ:

10 Most assuredly.

11 THE COURT:

12 So you're just saying that they have to  
13 have met both of those exceptions in  
14 this statute, one being the Family Court  
15 statute and the other being "did not  
16 otherwise provide for"?

17 MR. READ:

18 That's correct.

19 THE COURT:

20 Okay.

21 MR. READ:

22 During the minority, and that's the  
23 ambiguity that they've seized on to say  
24 that This Court has to jump into that  
25 hole. But This Court doesn't have to

1           jump into that hole because we've got  
2           clear law on the one side connected by  
3           an "and" to this alleged ambiguity about  
4           what a "minority" is. And, Your Honor,  
5           past that if we actually -- and I know  
6           we've -- we have trod around the actual  
7           63-5-20 that it says to apply. First  
8           off, in subsection (a), it states that  
9           any able-bodied person capable of  
10          earning a livelihood who shall without  
11          just cause -- and we've talked about  
12          that here for a while. So that's  
13          another -- I believe the just cause  
14          situation is being excluded, number one,  
15          from the -- from the process. Being  
16          told that you're not the father, the  
17          systematic exclusion from the inclusion  
18          in the child's development I guess is  
19          what you would say in utero, would be  
20          just cause. Exclusion from the birth.  
21          We have in their own Affidavit -- it's  
22          not an Affidavit, but it is a brief, I  
23          guess, written that Ms. Murphy has  
24          verified. This is a reading from  
25          Plaintiff's Memorandum in Support of the

1 Motion to deny Mr. Collins proceeds.  
2 And if I look at page three of 12 it  
3 states that Ms. Murphy did not  
4 personally notified Mr. Collins as he  
5 had shown no material interest in the  
6 pregnancy. And what she's talking about  
7 is her due date and entering the  
8 hospital and being induced. So she  
9 actually prevented him from being there  
10 and participating in that day. That's  
11 "just cause" if we're talking about that  
12 hour again, which we've also talked  
13 about being satisfied by his inclusion  
14 in the lawsuit.

15 THE COURT:

16 Does that Affidavit at that point does  
17 she believe he's the father, or does she  
18 believe the other guy is the father?

19 MR. READ:

20 What she believed and what she says, I  
21 think, are very different things in this  
22 case, Your Honor.

23 THE COURT:

24 Okay.

25 MR. READ:

1 She says -- well, she was driven to the  
2 hospital by Mr. Fields, who was her  
3 live-in boyfriend at the time. So  
4 whatever she believed, Mr. Fields was  
5 present throughout this process instead  
6 of Mr. Collins. So the exclusion is  
7 therefore complete. Now -- and we can  
8 get into the just cause question, but I  
9 just wanted to draw The Court's  
10 attention to the "and" question to the  
11 point that he was involved in the  
12 lawsuit she did have a fiduciary  
13 responsibility. She was representing  
14 his interests; his damages were part of  
15 the lawsuit as well, and that the  
16 Medicaid question would have been folded  
17 into that. And then if The Court takes  
18 it down to the just cause question,  
19 which we've been speaking about  
20 directly, we thought -- or briefly now  
21 it's directly I guess, Your Honor, that  
22 that also would justify The Court's  
23 decision in favor of the Respondent Mr.  
24 Collins.

25 THE COURT:

1 Thank you. All right.

2 MS. SALVINI:

3 I just want to point out one other thing  
4 before Mr. Marchbanks address, but if  
5 The Court is going to even go down the  
6 path of looking at that one hour then  
7 The Court is charged with looking at 63-  
8 5-20 (a) despite the argument about the  
9 "and." And essentially what The Court  
10 has to find if you take a look at that  
11 statute is the definition of what  
12 "reasonable support" would be during the  
13 course of that hour. And, again, I'm  
14 going to assert the argument of a legal  
15 impossibility because in reading that it  
16 says, "reasonable support means amount  
17 of financial assistance, which when  
18 combined with the support of the member  
19 is reasonably capable of providing for  
20 himself or herself," and this is where I  
21 want The Court to focus in on, "will  
22 provide a living standard for the member  
23 substantially equal to that of the  
24 person owing the duty to support it."  
25 There's no living standard here, Your

1 Honor. It was one hour of being -- and  
2 I -- I do not want to hurt the parents  
3 by going through this, but of being  
4 essentially tubes forced in anything to  
5 keep her from dying. There is no living  
6 standard for The Court to get to, and if  
7 The Court is looking at Medicaid, well;  
8 his own children are on Medicaid. I  
9 mean if The Court is looking to whether  
10 or not he offered to go down to the  
11 office and say, "I'll help reimburse,"  
12 well, a lawsuit was started, and he was  
13 joined in that lawsuit that would  
14 address that. But there is no living  
15 standard here even if you get down to  
16 that definition, and that is where The  
17 Court would have to go.

18 THE COURT:

19 Right. And I'm -- I'm doing that  
20 because I know that there's been some  
21 argument that I don't need to go out and  
22 look at all these extraneous factors, I  
23 just need to stick to the words of the  
24 statute. So if I get to that question  
25 despite the "and," it does talk about

1 providing for the needs of the decedent  
2 during his or her minority. It doesn't  
3 say at the same time. You know so  
4 that's why I'm looking at this period of  
5 time and what he did, if anything, to  
6 pay for the treatment that the doctors  
7 were trying to do to save her life. You  
8 know did he, "This is my daughter.  
9 These people were trying to help her  
10 live. I have a job. Let me see, as  
11 this child's father, what I can do, even  
12 if it's not but a 100 bucks," you know.  
13 Or does he say, "It's Medicaid. I don't  
14 have to. You know my other two children  
15 are on Medicaid. I'm not going to -- I  
16 don't have to do that." You know I'm  
17 looking at the only type of support that  
18 could have been paid and that is paying  
19 for the medical care. You know there's  
20 no standard of living, you're right.  
21 It's like providing health insurance for  
22 a child, it is also a part of child  
23 support, you know. It's something that  
24 factors in to the amount, the amount you  
25 have to pay, all of that. So that's the

1           only need this little girl had, so if  
2           I'm sticking strictly to this, and this  
3           is only if we get to that because of the  
4           "and," that's why I'm looking at it.  
5           And I understand that would be an  
6           unusual thing if someone did that and  
7           said, "Well, okay, I'm going to go down  
8           to the Medicaid office and do what I can  
9           do to help defray some of the costs that  
10          the state paid for my daughter." And so  
11          I have to ask the question because it is  
12          pertinent, I believe, to what my job is,  
13          which is to determine what level of  
14          support, if any, was paid.

15        MS. SALVINI:

16           Yes, ma'am, and I think that our -- that  
17           our position is that this lawsuit  
18           commenced. That's where -- that's where  
19           we're headed. It's not a matter of --  
20           there was not -- there was not a  
21           conscious thought by Mr. Collins that  
22           "My other kids are on Medicaid, and I  
23           don't need to pay anything."

24        THE COURT:

25           Right.

1 MS. SALVINI:

2 I think it was -- it was more of the  
3 position of a lawsuit was going to  
4 commence that was going to address the  
5 hospital if there is any hospital bills  
6 and what occurred as a result of the  
7 death of this -- the child.

8 THE COURT:

9 Right. Okay.

10 MS. SALVINI:

11 And I think that we're focused in  
12 primarily on The Court maintaining the  
13 integrity of the statute itself is  
14 because it specifically talks about the  
15 support for the decedent. And  
16 everything that Mr. Marchbanks has  
17 raised is support for a mother who was  
18 pregnant.

19 THE COURT:

20 Okay. Thank you. Mr. Marchbanks.

21 MR. MARCHBANKS:

22 Well, first of all, Your Honor, I want  
23 to kind of go back, and I made some  
24 notes throughout the course of their  
25 argument, and just touch on a couple of

1 things. I think initially Ms. Salvini's  
2 recitation of the facts does at least  
3 give me pause and make me wonder if this  
4 isn't a case because the facts even  
5 though there are some -- there are some  
6 points that we agree on, there is a  
7 skeletal version of things that we agree  
8 on, which I tried to touch on, there is  
9 obviously, based on what Ms. Salvini  
10 discussed as far as the facts, there's a  
11 lot of disagreement in some of the  
12 things that she brought up. And she  
13 said that she didn't agree with what I  
14 did, so clearly there's -- there's a  
15 factual issue involved. The -- now, the  
16 other thing that she touched on that I  
17 want to mention is, you know, she stated  
18 that nobody asked Mr. Collins to be  
19 deposed during the process of the civil  
20 lawsuit, nobody sought him out, nobody  
21 did whatever. Well, I would just like  
22 to point out that, you know, while my  
23 client didn't, she was being represented  
24 by an attorney in Charleston who never  
25 felt it reasonably important to depose

1 Mr. Collins. No defense lawyer in the  
2 case, as you may imagine, with the  
3 number of defendants and the type of  
4 defendants that are involved here, you  
5 know, there's a slew of defense  
6 attorneys, in looking at the facts of  
7 the case nobody determined that his  
8 input was necessary or even required.

9 THE COURT:

10 Well, was his damages included in the  
11 settlement?

12 MR. MARCHBANKS:

13 Well, and when it comes to that, you  
14 know, the lawsuit -- his damages -- the  
15 lawsuit, the Plaintiff in the lawsuit is  
16 Lauren Murphy, individually, and the  
17 estate of Tynslee, of which she is  
18 Personal Representative. Okay?

19 THE COURT:

20 Uh-huh.

21 MR. MARCHBANKS:

22 And that circles back to Ms. Salvini's  
23 statement that she, being the Personal  
24 Representative, signed a Petition  
25 stating that this settlement is in the

1 best interest of all the statutory  
2 beneficiaries, which is fine because in  
3 essence what they're hinting at there,  
4 although they don't want to get  
5 completely into it, I don't think, is a  
6 collateral estoppel argument. What  
7 they're hinting at is that since Ms.  
8 Murphy made the determination that this  
9 settlement of this lawsuit was in the  
10 best interest of all statutory  
11 beneficiaries she's already concluded  
12 and The Court should, you know, hold her  
13 to it that she meant him, too. Okay.  
14 But the issue is all the statutory  
15 beneficiaries that is something that  
16 obviously has to be done in the  
17 settlement of that suit, which involves  
18 a different set of facts, it involves  
19 different law altogether than what we're  
20 doing here today. It's a whole  
21 different issue. So effectively -- and  
22 then as a matter of fact the very last  
23 line of the Order, Judge Verdin states,  
24 you know, and the remainder of the  
25 proceeds after all of the debts and

1           legal fees and everything are taken out,  
2           she instructs that the remainder of the  
3           proceeds are to be distributed in  
4           accordance with law. Well, that's what  
5           we're here for today is to determine how  
6           the law should help us and instruct us  
7           in determining where these proceeds  
8           should go. So I don't know that that  
9           really comes into play here. I think  
10          we're going through -- Ms. Murphy has  
11          been going through the proper channels  
12          and the proper procedures to have this  
13          addressed in an upfront and aboveboard  
14          manner. Now, that said, the other thing  
15          that is interesting to me is how all of  
16          a sudden we are reading 15-51-40 in its  
17          entirety, and now we're engaged in the  
18          discussion of the "and" and the "did not  
19          otherwise provide for the needs of the  
20          decedent during his or her minority." I  
21          find it's interesting that we're  
22          discussing that today, yet that was left  
23          out of every brief that they submitted  
24          to The Court.

25         THE COURT:

1           It's probably because I asked about it.  
2           It's my little insertion into this  
3           debate.

4           MR. MARCHBANKS:

5           And I appreciate The Court asking about  
6           that, because I believe that phrase, as  
7           I stated before, is critically  
8           important. I do believe that that is  
9           what muddies the water in 15-51-40, and  
10          I additionally believe that not only  
11          does that get us over at least to the  
12          Child Support Statute -- or I say Child  
13          Support Statute, it's not a Child  
14          Support Statute, it's 63-5-20, the  
15          obligation to support statute. You know  
16          one way or the other both of these  
17          statutes are statutes that can be  
18          interpreted 20 different ways. The  
19          obligation to support statute may be the  
20          basis upon which a child support  
21          calculation is made, but nowhere in this  
22          statute does it specifically delineate  
23          exactly how a person needs to support  
24          the child. It just says they have to.  
25          And it says that if they don't they

1           could suffer consequences for that. You  
2           know here you have a situation where,  
3           you know, The Court has asked a few  
4           times, you know, regarding after he  
5           found out he was the father what did he  
6           do? He had done nothing. And the whole  
7           idea of, you know -- the whole idea of  
8           -- you know, putting him in a situation  
9           where he was advised by his attorneys  
10          not to do anything, you know, that falls  
11          short with me because well before he --  
12          any Probate document was filed, well  
13          before he sought out legal counsel this  
14          child had passed. This child had been  
15          buried. And during that time and before  
16          he was told, which may have been  
17          correctly told, you know, "Wait. Wait.  
18          You don't need to do anything. Let's  
19          figure out this thing shakes out before  
20          you do anything," well before he was  
21          told, to me if it's a legal  
22          impossibility, for what? He's this  
23          child's father. He has an obligation.  
24          He has an obligation to support this  
25          child whether that be emotionally,

1           financially, in any way shape or form  
2           that he possibly could, he has an  
3           obligation. These statutes are written  
4           because he has an obligation as the  
5           child's father, and he did nothing.  
6           Now, my concern, and, again, now -- and  
7           they've broadened this out in, you know,  
8           are we going to take back in utero. You  
9           know that's an interesting argument.  
10          Well, let me ask you this: One of the  
11          things that I'm curious about, if we're  
12          going to broaden it out like that, is  
13          this society needs fathers to step up.  
14          Our overarching -- one of our biggest  
15          overarching problems in our country and  
16          in our state and our community is  
17          fathers who do not support, who do not  
18          participate, and are not involved in the  
19          lives of their children and in the lives  
20          of their children's mothers.

21          THE COURT:

22                 So you're doing a public policy argument  
23                 now?

24          MR. MARCHBANKS:

25                 Amen.

1 THE COURT:

2 Okay.

3 MR. MARCHBANKS:

4 Because if this case awards him 250,000  
5 some odd dollars that's going to send a  
6 message to any unwed father out there  
7 that, "Hey, if something happens, if my  
8 child suffers, I don't have to do  
9 anything. If my child passes away I  
10 don't have to do anything, and I can  
11 still make a lot of money."

12 THE COURT:

13 But, Mr. Marchbanks, this is a very  
14 unusual fact pattern. The typical case  
15 that comes in here under this statute is  
16 one in which a child had lived and was  
17 injured in a car accident or killed in a  
18 car accident and they never paid child  
19 support.

20 MR. MARCHBANKS:

21 Uh-huh.

22 THE COURT:

23 And they come in here, and they'll say,  
24 "Yeah, I never paid child support, but,"  
25 and otherwise -- and did not otherwise,

1           they'll say, I never paid child support,  
2           but that child lived with me or lived  
3           with my family or I visited that child  
4           and brought, you know, tangible items,  
5           clothes, diapers. I didn't pay child  
6           support the way we've already -- you  
7           know, looked at this statute is, okay.  
8           They didn't pay child support, and they  
9           didn't visit. They didn't pay -- bring  
10          toys at Christmas. They didn't -- they  
11          didn't do either one. So that has been  
12          the common or routine interpretation of  
13          this when we're trying to determine  
14          whether to limit or deny an inheritance  
15          is did they pay child support and if  
16          they didn't, do they have a sufficient  
17          evidence to say, "I didn't, but I did X,  
18          Y, Z. I bought her a car when she was  
19          17. I did this. I did this. I did  
20          this." So that's how that has been at  
21          least applied in situations where a  
22          child lives. In this one, as we've been  
23          talking about, we have a tiny little bit  
24          of time, and the child support analogy  
25          here I don't think can come into play

1 unless you consider child support, and I  
2 haven't looked at the definition, to  
3 also include providing, you know,  
4 healthcare or, you know, medical care,  
5 or -- you know, I don't know. I'm just  
6 trying to reach -- I'm trying to look at  
7 it in the way the legislature intended,  
8 and I'm trying to figure that out in  
9 this very unusual set of circumstances.  
10 And I apologize for interrupting you,  
11 but I just.

12 MR. MARCHBANKS:

13 I think that's a very good point. And I  
14 think -- and a lot of times, you know,  
15 it seems like you see -- even if child  
16 support wasn't paid there is the  
17 potential for a recovery to some degree  
18 because the parent did do some things.  
19 You know in this particular case we are  
20 dealing with a very limited amount of  
21 time that the child was alive. And just  
22 to -- you know, just to keep it as  
23 absolutely narrow as possible in the  
24 very limited amount of time that the  
25 child died or lived Mr. Collins did

1 nothing. You know there's -- there's no  
2 and, there's no this, that or that or  
3 and this. It's zero. He contributed  
4 nothing. Now, the -- now he had plenty  
5 -- he had plenty of opportunity. He had  
6 plenty of time to step up in between the  
7 time throughout this whole thing. And  
8 in regards to Medicaid -- and I'm going  
9 to go back to an analogous case, and I  
10 point that out. I certainly don't want  
11 to mislead anybody, but in the analogous  
12 case of Rowe versus Reeves on page 784 -  
13 - or on page South Carolina -- it's 392  
14 South Carolina 154 is the exact cite of  
15 this particular phrase. The very last  
16 sentence, I believe, of that page says  
17 that the father paid no medical expenses  
18 because she was on Medicaid and did not  
19 pay any living expenses because the  
20 mother lived with her mother and  
21 received food stamps. "However, this  
22 does not excuse father from contributing  
23 more than \$11 towards the mother's  
24 pregnancy." Now, again, that's an  
25 analogous case, but the reason those

1 cases intrigue me is because the facts  
2 are so similar. And the analysis that  
3 the courts go through in those cases  
4 overlay this perfect. So, again, we're  
5 in a situation where a father, if he has  
6 divested his constitutional right to  
7 have a relationship with his child, how  
8 in the world does he have a right to  
9 benefit from the child's death?

10 THE COURT:

11 Ms. Salvini or Mr. Read, do you want to  
12 just address anything before we wrap it  
13 up?

14 MS. SALVINI:

15 Your Honor, I just want to point The  
16 Court back to Ms. Murphy's Petition that  
17 she filed, and specifically she set  
18 forth in there asking The Court to  
19 consider denying Mr. Collins any of the  
20 proceeds or substantially limiting that,  
21 not because of what happened during that  
22 hour because she didn't point out what  
23 she thought he should have done, but  
24 because she's asserting that he should  
25 have financially supported her and

1           that's contrary to the law. I mean Mr.  
2           Marchbanks wants The Court to take a  
3           leap and adopt, which you can see does  
4           not -- has no precedential value, the  
5           adoption case law and statutes that just  
6           don't apply here. They just don't. And  
7           if The Court goes down that path to say  
8           that somehow in the reading of a statute  
9           that's plain in its language that he  
10          should have been providing support for  
11          the mother the law doesn't support that  
12          at all. We're talking about the  
13          decedent. This is a he said/she said.  
14          I mean of course there are the facts.  
15          Everybody is going to say, you know,  
16          that they're wrong. They're going to  
17          argue about what happened after that, I  
18          think they were together like I said  
19          four or maybe five months, what happened  
20          in the last portion of her pregnancy.  
21          But the law simply just does not -- does  
22          not support that finding by The Court  
23          whatsoever.

24          THE COURT:

25          Okay. I'm going to take this of course

1 under advisement, and in the next -- I  
2 think we said ten days if you would look  
3 to see if you can find some cases  
4 anywhere that have similar facts,  
5 similar statutes that have been  
6 construed that would be most helpful.  
7 And if you need more than ten days I  
8 don't -- that's not a problem with me,  
9 if you want to make it 15 that will be  
10 fine. Do you want to do that?

11 MR. MARCHBANKS:

12 Fifteen is fine, Your Honor.

13 THE COURT:

14 Okay.

15 MS. SALVINI:

16 Let's do 15.

17 THE COURT:

18 Let's do 15.

19 MS. SALVINI:

20 Just in case.

21 THE COURT:

22 Okay. All right.

23 MR. MARCHBANKS:

24 Thank you.

25 THE COURT:

1 Thank you. All three of you did a very  
2 good job on a very difficult situation.

3 (HEARING ADJOURNED)

4

5

6

7

1 STATE OF SOUTH CAROLINA )

2 ) CERTIFICATE

3 COUNTY OF GREENVILLE )

4 I, DONNA B. FRIDDLE, a Notary Public, duly  
5 commissioned and qualified in and for the  
6 State of South Carolina, do hereby certify  
7 that the Probate Court hearing was taken  
8 before me on January 9, 2015 at 10:18 A.M. ;  
9 that said hearing was transcribed under my  
10 direction; and that this transcript is a true  
11 record of said proceedings. I further  
12 certify that I am not of kin or counsel to  
13 the parties in this case, am not in the  
14 regular employ of counsel for any of said  
15 parties, nor am I interested in the results  
16 of this case.

17 IN WITNESS WHEREOF, I have hereunto set my  
18 hand and affixed my official seal this  
19 \_\_\_\_\_ day of \_\_\_\_\_, 2015.

20 \_\_\_\_\_  
21 Notary Public for South Carolina  
22 My Commission Expires: 01/30/16



Office of the Probate Court

**Debora A. Faulkner**  
Probate Judge for Greenville County  
Greenville, South Carolina

[www.greenvillecounty.org/probate](http://www.greenvillecounty.org/probate)

July 15, 2014

Mr. Charles W. Marchbanks, Jr.  
Attorney at Law  
1225 South Church Street  
Greenville, SC 29605

RE: Estate of Tynslee Elizabeth Fields, Deceased  
Probate Court File No. 2012ES2301718

Dear Mr. Marchbanks:

We are returning the Petition to Deny Respondent Wrongful Death Proceeds. Upon review, Judge Sauvain advises it appears a Motion would be filed in the Court which is hearing the Wrongful Death action.

If you have any questions, please call.

Sincerely yours,

Judicial Assistant  
Estate Division  
(864) 467-7179

Enclosure

---

Estate Division • 301 University Ridge, Suite 1200, • Greenville, SC 29601 • (864) 467-7170  
Protective Proceedings Division • 301 University Ridge, Suite 5600, • Greenville, SC 29601 • (864) 467-7404  
Mental Health Division • 301 University Ridge, Suite 5600, • Greenville, SC 29601 • (864) 467-7085  
Marriage License Division • 301 University Ridge, Suite 5600, • Greenville, SC 29601 • (864) 467-7171

**CASE NO.: 2016-000536 | RECORD ON APPEAL | PAGE 522 OF 524**

DEATH CERTIFICATION

STATE FILE NUMBER: 139-12-018635 AMENDED

DECEDENT'S NAME: \*TYNSLEE ELIZABETH FIELDS\*

AKA'S: NA

ARMED FORCES: NO

DATE OF BIRTH: JUNE 12, 2012

TYPE OF PLACE OF DEATH: HOSPITAL- INPATIENT

NAME AND ADDRESS OF PLACE OF DEATH: ST. FRANCIS EASTSIDE, GREENVILLE, SC 29615

PLACE OF DISPOSITION: THOMAS MCAFFEE CREMATION CENTER

DISPOSITION LOCATION: GREENVILLE, SOUTH CAROLINA

METHOD OF DISPOSITION: CREMATION

DECEDENT'S RESIDENCE: 350 FAIRFOREST WAY APT:8302, GREENVILLE, GREENVILLE COUNTY, SC, 29607

PLACE OF BIRTH: SOUTH CAROLINA

SURVIVING SPOUSE'S NAME: NA

FATHER'S NAME: JEREMY PAUL FIELDS

MOTHER'S NAME PRIOR TO FIRST MARRIAGE: LAUREN ELIZABETH MURPHY

INFORMANT'S NAME: JEREMY PAUL FIELDS

MAILING ADDRESS: 350 FAIRFOREST WAY APT:8302, GREENVILLE, SC, 29607

FUNERAL HOME: THOMAS MCAFFEE FUNERAL HOME, 639 N. MAIN ST/PO BOX 527, GREENVILLE, SC, 29601

FUNERAL DIRECTOR: TIME COX

EMBALMER'S NAME: ANDREW KUKLINSKI

ACTUAL OR PRESUMED DATE OF DEATH: JUNE 12, 2012

ACTUAL OR PRESUMED TIME OF DEATH: 1756

CAUSE OF DEATH - PART I

DISRUPTION OF CERVICAL VERTEBRAE C5-C6

BIRTH TRAUMA

SEX: FEMALE

SOCIAL SECURITY NUMBER: NA

AGE: 2 HOURS

COUNTY OF DEATH: GREENVILLE

MARITAL STATUS: NEVER MARRIED

RELATIONSHIP: FATHER

LICENSE NUMBER: 1543

LICENSE NUMBER: 3432

MANNER OF DEATH: ACCIDENT

OTHER SIGNIFICANT CONDITIONS -PART II:

NA

CORONER CONTACTED? YES

AUTOPSY PERFORMED? YES

AUTOPSY AVAILABLE? YES

DATE OF INJURY: JUNE 12, 2012

TIME OF INJURY: 0510

INJURY AT WORK? NO

PLACE OF INJURY: HOSPITAL

LOCATION OF INJURY: 701 GROVE ROAD, GREENVILLE, GREENVILLE COUNTY, SC, 29605

HOW THE INJURY OCCURRED?

SHOULDER DYSTOCIA WITH BIRTH TRAUMA

CERTIFIER NAME AND TITLE: CHIEF MED. EXAM MICHAEL E. WARD, LICENSE NUMBER: NA

MD

CERTIFIER'S ADDRESS: 890 W. FARIS ROAD, SUITE 110, GREENVILLE, SC, 29605

DATE FILED: JUNE 19, 2012

DATE OF ISSUANCE: AUGUST 02, 2012

SPECIAL INSTRUCTIONS:

CAUSE OF DEATH AMENDED BY: DHEC 627 PER MICHAEL WARD, ME 7/24/12. INJURY INFO AMENDED BY: DHEC 627 PER

MICHAEL WARD, ME 7/24/12. MANNER OF DEATH AMENDED BY: DHEC 627 PER MICHAEL WARD, ME 7/24/12.

SC02351871

This is a true certification of the facts on file in the Division of Vital Records, SC Department of Health and Environmental Control.

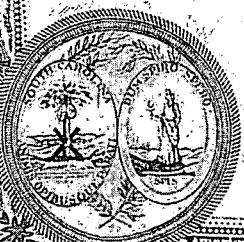
*Catherine Templeton*  
Catherine Templeton  
Director and State Registrar

*Guang Zhao*  
Guang Zhao  
Assistant State Registrar

This copy is not valid unless prepared on an engraved border displaying the state seal and issuing agency logo.

CASE NO.: 2016-000536 | RECORD ON APPEAL | PAGE 523 OF 524

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

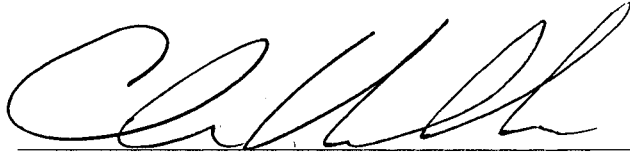


Certificate of Counsel

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The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

August 9, 2016



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Charles W. Marchbanks, Jr.  
S.C. Bar No.: 76935  
Attorney for the Appellant  
1225 South Church Street  
Greenville, SC 29605  
864-552-1606 Telephone  
864-552-1607 Facsimile  
Charles.Marchbanks@MarchbanksLawFirm.com

**RECEIVED**  
AUG 12 2016  
SC Court of Appeals