

**CONCLUSION**

The death of the minor S.G. was caused by the independent act of her biological father abandoning her in a park unattended vehicle and hyperthermia. Although she died in a vehicle, no evidence has been presented that the operation and use of the vehicle caused her death. The evidence is in fact to the contrary. The vehicle was neither being used nor operated at the time of her untimely death. The vehicle was parked and left unattended, thereby rendering it incapable of use for transportation.

Application of the analysis from foreign jurisdictions offered by Appellants would require the court to depart from the analysis set out by the South Carolina Supreme Court in *Aytes*. Inasmuch as the claims of the Appellants do not rise out of the use and operation of the vehicle under the three-part *Aytes* test, the Respondent respectfully requests this Court affirm the circuit court order declaring that Respondent has no duty to defend or indemnify any party as a result of the loss. Should the court find coverage exists under the policies, Respondent submits that sufficient evidence was submitted to sustain the trial court's decision that the minor was a resident relative of only the mother's household.

The undersigned certifies that this Final Brief complies with Rule 211 (b), SCACR.

Respectfully Submitted,

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