THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

PERRY H. GRAVELY, CIRCUIT COURT JUDGE

CASE NO.: 2016-000536

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.

APPELLANT'S FINAL BRIEF

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B. The Greenville County Circuit Court wrongfully reversed the decision of the Probate Court of Greenville County when it erred in finding the Probate Court did not properly apply the applicable law in this case.

C. The Greenville County Circuit Court wrongly reversed the Probate Court of Greenville County because, absent South Carolina precedent, it failed to expressly utilize persuasive authority such as: (a) South Carolina law pertaining to damages in a wrongful death claim; (b) extra-jurisdictional law specific to the issue at bar; and (c) analogous South Carolina and United States law pertaining to paternal consent in adoption cases.

STATEMENT OF THE CASE

This matter is a dispute between Appellant Lauren Murphy and Respondent Mark Collins regarding the distribution of funds derived from the settlement of the wrongful death lawsuit regarding their daughter, Tynslee Elizabeth Fields. (ROA p. 356-360). Although the references to these parties in the record of the case varies and alternates throughout the record of the case, with each party at some point being referred to as Appellant, Respondent, Petitioner, or Movant, for purposes of clarity, this document consistently refers to Lauren Murphy as "Appellant" and Mark Collins as "Respondent." Brackets herein indicate when a party's identifying term is altered from the record.

On June 12, 2012, Appellant gave birth to Tynslee Fields [hereinafter "Tynslee" or "Decedent"]. (ROA p. 17, Item 12). Tynslee's neck was broken by the OBGYN during delivery. (ROA p. 18, Item 16). She died the same day. (ROA p. 17, Item 12). This action began with Tynslee's death.

On July 15, 2014, the Greenville County Probate Court Order appointed Appellant the Personal Representative of Tynslee's Estate. (ROA p. 406). On or about August 2, 2013, Appellant commenced 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 [hereinafter "Case No. 2013-CP-23-04186"], in the Greenville County Court of Common Pleas. (ROA p. 45). Litigation ensued against the defendants named therein and a partial settlement was reached as to Defendants Mercy Obstetrics & Gynecology, P.A. and Ragesh Pandya, M.D. (ROA pp. 45-46).

On or about February 24, 2014, the Order approving the settlement as to Defendants Mercy Obstetrics & Gynecology, P.A. and Ragesh Pandya, M.D. was entered

by the Greenville County Court of Common Pleas. (ROA pp. 45-46). The Circuit Court approved the sum of Five Thousand dollars ($5,000.00) being allocated to the survival action, as well as the payment of the sum of Five Hundred Eighty-Three Thousand, Five Hundred Seventy-Seven Dollars and Fifty-Two Cents ($583,577.52) (hereinafter referred to as "wrongful death proceeds") to the statutory beneficiaries. (ROA pp. 45-46). Both amounts were placed in trust with the firm handling the medical malpractice claim, the Hughey Law Firm, LLC.

On July 2, 2014, Appellant filed a Petition with the Greenville County Probate Court seeking to deny Respondent any proceeds derived or to be derived from the wrongful death action. (ROA pp. 392-395).

The Greenville County Probate Court declined to adjudicate Appellant's Petition on July 15, 2014, directing her to address the issue with the Greenville County Court of Common Pleas as the case was still active therein. (ROA p. 522).

On or about August 6, 2014, Respondent filed a Motion to Compel Distribution in the Greenville County Court of Common Pleas. (ROA pp. 371-388). Appellant filed a Return on August 15, 2014, along with a Motion to Deny Respondent any proceeds from the wrongful death litigation. (ROA pp. 354-370).

The Circuit Court heard Respondent's Motion to Compel and Appellant's Motion to Deny Respondent proceeds on September 30, 2014. (ROA pp. 32-39).

After reviewing the file but before hearing the merits of the case, the Circuit Court found conflict between the two statutes applicable to the parties' respective motions. (ROA p. 37). One statute, Section 62-1-302(b), conferred concurrent jurisdiction upon both the Probate and Circuit Court regarding matters of allocation;

however, the other, Section 15-51-40, expressly stated that actions brought to deny proceeds to a statutory beneficiary may only be brought in the Probate Court. Based upon the language of Section 15-51-440, the Circuit Court ordered the parties to take the matter up in Probate Court. (ROA p. 38).

The Circuit Court further ordered that: the settlement proceeds being held by the Hughey Law Firm, LLC be disbursed to the Attorney for Tynslee's Estate, Ruth Hindman DiPasquale; Attorney DiPasquale administrate that account pursuant to the Court's Order; and the funds be placed into an interest-bearing account which could only be drawn upon at the direction of a final Court Order stating how the proceeds should be distributed. (ROA pp. 38-39).

Subsequent to the Circuit Court's Order, The Hughey Law Firm, LLC released the settlement funds to Attorney DiPasquale, and Attorney DiPasquale deposited the settlement proceeds into an interest-earning account with BNC Banking.

Appellant filed a Motion to Deny Respondent all proceeds with Greenville County Probate Court on November 18, 2014, (ROA pp. 272-294) and Respondent timely filed a Return to Appellant's Motion (ROA pp. 221-271).

The Greenville County Probate Court convened a hearing on January 9, 2015 wherein the Court received documented evidence from the parties, took in testimony in the form of Affidavits, and heard oral arguments of counsel. (ROA pp. 12-31).

Appellant sought to exclude Respondent from benefitting from Tynslee's death because Respondent did nothing to grasp the opportunity to assert himself as Tynslee's father. (ROA p. 30, Item 4). By his own admission, he provided no support for Appellant during her pregnancy, provided nothing for the child during the course of her life,

provided nothing towards the expenses of Tynslee's funeral or burial, and did not pursue a relationship with the minor child. (ROA pp. 28, 29). Further, evidence was shown suggesting that Respondent did not suffer from Tynslee's death, whether it was pecuniary loss, mental shock and suffering, wounded feelings, grief, sorrow, or loss of companionship. (ROA p. 18, Item 15).

Appellant additionally argued that, had Tynslee survived, Appellant could have placed her for adoption absent Respondent's relinquishment or consent because the evidence was clear that Respondent neglected Appellant and Tynslee to the extent such that adoption case law would support finding Respondent waived his Constitutional Right to have a relationship with his biological daughter. (ROA pp. 285-287). Appellant maintained that if Respondent's failures cleared the threshold divesting him of a well-established Constitutional Right, he should not have a right to money from Tynslee's wrongful death claim. (ROA pp. 286-287).

Respondent countered with the argument that S.C. Code Sections 15-51-40 and 53-5-20 did not apply because Tynslee lived for such a short period of time and, as such, Respondent did not have the opportunity to provide support for her. Respondent averred the controlling statute in the case was Section 62-2-103(2) of the South Carolina Intestacy Statute. (ROA p. 224). Therefore, Respondent argued, Appellant and Respondent should divide the proceeds of Tynslee's wrongful death settlement equally. (ROA p. 224).

The Probate Court took the matter under advisement and invited the parties to submit case law from other jurisdictions on the issues regarding their respective positions. (ROA pp. 518-519). Appellant submitted extra-jurisdictional case law for the

consideration of the Court on January 23, 2015. (ROA pp. 168-220). Respondent submitted a statement to the Court on January 27, 2015 that no applicable extra-jurisdictional case law could be located. (ROA pp. 165-167).

On April 29, 2015, the Probate Court issued an Order finding Appellant had shown, by a preponderance of the evidence, that Respondent, an able-bodied man who is and was working full time, failed to provide reasonable support as set forth in S.C. Code of Laws Section 15-51-40 (1976 as amended) and Section 63-5-20(A) (1976 as amended), such that: (a) his right to receive any portion of the proceeds received in Civil Action: 2013-CP-23-04186 was denied and (b) the was divested of any proceeds received from any future settlement or verdict in any matter wherein his claim is based upon his relationship with Decedent. (ROA pp. 12-31).

Respondent appealed the Probate Court's decision to the Circuit Court, and Circuit Court considered the briefs of the parties and heard oral argument on the issues at a hearing on September 10, 2015. (ROA pp. 407-437).

Subsequent to the Circuit Court hearing but prior to issuing its ruling, the Circuit Court approved the final settlement of Civil Action: 2013-CP-23-04186 for twenty thousand and no/100 dollars ($20,000.00) against the last remaining Defendant in the case. As such, Civil Action: 2013-CP-23-04186 was dismissed, with prejudice, on October 15, 2015. This final settlement amount, combined with the release of funds from the initial settlement being held by the Hughley Law Firm, LLC for continuing litigation, plus the funds already existing in trust created the sum total of all proceeds to be gained from the underlying claim in this matter, Six Hundred Thirty-Five Thousand, Three Hundred Four and 51/100 dollars ($635,304.51).

Regarding the issue of the distribution of proceeds, the Circuit Court issued an Order on December 28, 2015 reversing the decision of the Probate Court, stating, in part, "Due to Tynslee's short life and the circumstances surrounding her death..., [Respondent] being unaware that he was Tynslee's father, was unable to provide the more usual means of attention and support to his minor child during her brief life. There is no evidence which reasonably supports the application of the statute in this regard." (ROA pp. 5-11).

Appellant filed a Motion to Reconsider with the Circuit Court on December 28, 2015 requesting the Court review its findings of fact in light of the applicable standard of review. (ROA pp. 80-84). The Circuit Court denied Appellant's Motion on February 4, 2016. (ROA pp.3-4).

Appellant filed her Notice of Appeal to the South Carolina Court of Appeals on March 11, 2016. (ROA p. 50).

ARGUMENT

I. Standard of Review.

"The standard of review applicable to cases originating in the probate court depends upon whether the underlying cause of action is at law or in equity. An issue regarding statutory interpretation is a question of law." University of Southern Cal. v. Moran, 617 S.E.2d 135, 365 S.C. 270 (SC, 2005) (emphasis added) citing In re Estate of Hyman, 362 S.C. 20, 25, 606 S.E.2d 205, 207 (Ct. App. 2004); In re Thames, 344 S.C. 564, 568, 544 S.E.2d 854, 856 (Ct. App. 2001) and Wimberly v. Barr, 359 S.C. 414, 597 S.E.2d 853 (Ct. App. 2004).

"If the proceeding in the probate court is in the nature of an action at law, the circuit court and the appellate court may not disturb the probate court's findings of fact

unless a review of the record discloses there is no evidence to support them." In re Estate of Pallister, 363 S.C. 437, 611 S.E.2d 250 (SC, 2005) (emphasis added) citing Matter of Howard, 315 S.C. 356, 361, 434 S.E.2d 254, 257 (1993); Townes Assocs., Ltd. v. City of Greenville, 266 S.C. 81, 221 S.E.2d 773 (1976); In re Estate of Weeks, 329 S.C. 251, 262, 495 S.E.2d 454, 460 (Ct. App. 1997).

"The standard of review at law is the same whether the facts are found by a jury or the judge sitting without a jury." In The Matter of Howard, 434 S.E.2d 254, 315 S.C. 356 (S.C., 1993).

II. Arguments.

A. The Greenville County Circuit Court wrongly reversed the decision of the Probate Court of Greenville County because the reversal was based upon the Court's erroneous application of the standard of review in this case which altered and omitted relevant evidence from the record, thereby eroding the factual findings relied upon by the Probate Court in reaching its decision to divest Respondent of the proceeds from the settlement of Civil Action: 2013-CP-23-04186.

The standard of review applicable to cases originating in Probate Court is stated above.

The Circuit Court, however, cites language from the 1993 South Carolina Supreme Court decision of *The Matter of Howard*, that is found not under the heading, "STANDARD OF REVIEW" but under the heading "CLAIMS FOR MONEY" that states, "The proceeding in this case involves claims for money due. Ordinarily, such claims are triable at law with an attendant right to trial by jury. (ROA p. 8) Therefore, if there is any evidence in this case that **reasonably supports** the factual findings of the probate judge, his order must be affirmed." The Matter of Howard, 434 S.E.2d 254, 315 S.C. 356 (S.C., 1993). (internal citations omitted) (emphasis added).

Regardless of which standard is applied, it is clear the Circuit Court abused its discretion by altering and/or overlooking significant findings of fact made by the Probate Court.

The variance between the factual findings of Probate Court and the Circuit Court are evident where the Circuit Court found, "The parties were never married, but continued their relationship for several more months during which time they attended the medical appointment for the ultrasound to determine the child's sex." (ROA pp. 6-7). The Probate Court, however, found that, "Soon after the pregnancy announcement, the relationship between [Respondent] and [Appellant] deteriorated." (ROA p. 16, Item 4). "In December, 2011, despite alleging he was prohibited from attending any doctor's appointments with [Appellant], it is undisputed that [Respondent] attended the first-trimester ultrasound with [Appellant] for the purpose of determining the sex of the child." (ROA p. 17, Item 7).

Of significant concern to Appellant is that the Circuit Court's ruling reversing the Order of the Probate Court expressly states, "Due to Tynslee's short life and the circumstances surrounding her death, **[Respondent] being unaware that he was Tynslee's father, was unable to provide the more usual means of attention and support to his minor child during her brief life**." (ROA p. 10) (emphasis added).

Given that the Circuit Court relied on Respondent not knowing he was Tynslee's father in its decision to reverse the Probate Court, the import of the difference in these findings is substantial. The Circuit Court appears to draw the conclusion that after the ultrasound appointment of December 2011, Respondent no longer felt responsible for the child. Contrarily, because the parties' relationship deteriorated before Respondent

attended the ultrasound, it is clear Respondent's motive for going was not to be with Appellant but because he knew the child was his.

Further, the following findings of fact by the Probate Court relevant to the above discussion left unconsidered by the Circuit Court are as follows:

a. "After sharing the news [of their pregnancy] with [Respondent], [Appellant] shared the news that she and [Respondent] were expecting a baby with her family and her friends. [Respondent's] sister was also aware of the news as well as Angela King, mother of [Respondent's] other 2 children." (ROA p. 16, Item 2).

b. "In an Affidavit submitted to the Probate Court, [Respondent] alleged that he promised [Appellant] to always be an active father in [their] child's life." (ROA p. 16, Item 2).

c. "In the same Affidavit, [Respondent] states he told [Appellant] that even though the parties' relationship had ended, but he would not turn his back on her or their child." (ROA p. 16, Item 4).

d. "[Appellant] intensified her relationship with [her previous boyfriend] and tells [Respondent] she believes [her previous boyfriend] is the baby's father. [Respondent] claims [Appellant] prohibited him from going to any doctor's appointments and blocked his telephone calls. This was in November, 2011." (ROA p. 16, Item 5).

e. "On November 28, 2011, [Appellant] had her first pre-natal visit. At the visit, she listed [her previous boyfriend] as the child's father. She alleges that she did this since [Respondent] was out of the picture, and she felt her future was with [her previous boyfriend]." (ROA p. 16, Item 6).

f. "In December, 2011, despite alleging he was prohibited from attending any doctor's appointments with [Appellant], it is undisputed that [Respondent] attended the first-trimester ultrasound with [Appellant] for the purpose of determining the sex of the child. Later [Respondent] gave [Appellant] a necklace with the word *Mom* for Christmas in December, 2011." (ROA p. 17, Item 7).

g. "In February, 2012, [Respondent] promised to purchase a comforter for the baby which he never did." (ROA p. 17, Item 9).

h. "[Appellant] had seventeen (17) prenatal appointments with the last one being on June 5. [Respondent] did not attend or inquire about any of these appointments." (ROA p. 17, Item 9).

i. "[Respondent] became engaged to [another woman] and suggested several times that [his fiancée] did not trust him. As such, he became indifferent to [Appellant] and the pregnancy." (ROA p. 17, Item 9).

j. "On June 12, Angela King called [Respondent] expressing her sorrow over [Tynslee's] death. This was the first time [Respondent] knew of the baby's death. Ms. King learned of it via *Facebook.* [Respondent] became concerned and called [ ] his fiancée, to discuss whether he should go to the hospital. He decided not to go to the hospital." (ROA p. 17, Item 11).

k. **"On June 16, [Respondent] did not attend [Tynslee's] funeral. He went to the lake with his family**." (ROA p. 18, Item 15) (emphasis added).

l. "At some point after the baby's death, the Coroner informed [Appellant] that [Tynslee's] neck had been broken during delivery." (ROA p. 18, Item 16).

m. "With this knowledge, Murphy visited [Respondent's] sister, gave her pictures of the baby, and apologized for lying to [Respondent] about [her previous boyfriend] being [Tynslee's] father." (ROA p. 18, Item 17).

n. "[Appellant] arranged a meeting with [Respondent] in July, 2012. At some point after discussing the possibility of recovering against the medical providers, [Respondent] agreed to have a DNA test. He paid for one half of the test." (ROA p. 18, Item 18).

o. "The DNA test conclusively established [Respondent] as Tynslee's father. At a meeting arranged by Appellant, [Appellant] presented the test results to [Respondent]. He did not offer any denial or challenge the results. After seeing the results, [Respondent] asked if he could have some photographs of Tynslee. Then [Respondent's] fiancée, drove up and [Respondent] left immediately without further discussion." (ROA p. 18, Item 19).

p. "[Appellant] made a box of photographs and other memorabilia for [Respondent]. [Appellant] still has the box, although she says has made it available to [Respondent]. [Respondent] has not alleged that he desired photographs of Tynslee." (ROA p. 19, Item 20).

q. "In September, 2012, [Appellant] sent a text to [Respondent] inviting him to a Memorial Walk for Tynslee set for October 21, 2012. After the text, [Respondent] called [Appellant], put her on *speaker phone* and told her he was never going to speak to her again. [Respondent's fiancée] was present with [Respondent] listening to the conversation." (ROA p. 19, Items 21 & 22) (emphasis in original).

r. "The next meeting between [Appellant] and [Respondent] was on December 3, 2012, at the Probate Court hearing on the appointment of a Personal Representative for Tynslee." (ROA p. 19, Item 23).

s. "After Tynslee's death, [Appellant] was diagnosed with Acute Stress Disorder, a Parent-Child Relational Problem, and later a Generalized Anxiety Disorder. In January, 2014, she was diagnosed by the clinician with Post Traumatic Stress Disorder." (ROA p. 19, Item 23).

t. "[Appellant], alone, undertook to vindicate Tynslee's death by initiating an action to become Personal Representative, by engaging counsel to file suit against the individuals and entities responsible for her death. After reaching a settlement with some of the Defendants, she appeared in Circuit Court with her attorneys. She has filed a complaint with the Medical Board against the doctor, contacted state lawmakers to advocate for laws to protect other newborns, worked with March of Dimes, organized a memorial event to honor Tynslee's 2nd birthday, and collected baby blankets to donate in Tynslee's honor to the GHS NICU. She is also inquiring into the establishment of a park in memory of Tynslee. The record does not show that [Respondent] participated in or initiated any event to memorialize Tynslee." (ROA p. 19, Item 25).

In its response to Appellant's Motion to Reconsider the Court's December 28, 2015 Order reversing the Probate Court, the Circuit Court rationalized the above inconsistencies as follows, "The December 28, 2015 Order of this Court found that there was **no 'evidence... that reasonably supports the factual findings of the probate judge...**" (ROA p. 4) (emphasis added).

Here, the Circuit Court interjects a reasonableness standard into the Standard of Review. Appellant contends this is an abuse of discretion as the Standard of Review states that while the Order of the Probate Court must be upheld "if there is any evidence in this case that reasonably supports the factual findings of the probate judge, the appellate court may not disturb the probate court's findings of fact unless a review of the record discloses there is **no** evidence to support them." The Matter of Howard, 434

S.E.2d 254, 315 S.C. 356 (S.C., 1993). (internal citations omitted); In re Estate of Pallister, 363 S.C. 437, 611 S.E.2d 250 (SC, 2005) (emphasis added)

In the instant case, there is substantial evidence to reasonably support the findings of fact by the Probate Court. The evidence comes from varied sources, including disinterested parties. In fact, certain very relevant findings of the Probate Court listed above are supported by the Respondent's own sworn testimony.

As such, Appellant requests this Court vacate the Circuit Court's Order reversing the Order of the Probate Court on the grounds that the Circuit Court abused its discretion by, contrary to the standard of review, altering and/or omitting significant findings of fact the Probate Court utilized to formulate its decision to divest Respondent of the proceeds from the settlement of Civil Action: 2013-CP-23-04186 and reinstate the Order of the Probate Court.

B. The Greenville County Circuit Court wrongfully reversed the decision of the Probate Court of Greenville County when it incorrectly found the Probate Court did not properly apply the applicable law in this case.

On April 29, 2014, the Probate Court of Greenville County completely divested Respondent of any and all proceeds from the partial settlement of wrongful death case Civil Action: 2013-CP-23-04186 by way of its authority pursuant to S.C. Code of Laws Section 15-51-40 (1976 as amended). (ROA p. 12-31). On December 28, 2015, the Circuit Court reversed the Probate Court's Decision because, "Due to Tynslee 's short life and the circumstances surrounding her death, [Respondent] being unaware that he was Tynslee's father, was unable to provide the more usual means of attention and support to his minor child during her brief life. There is no evidence which reasonably supports the application of the statute in this regard." (ROA p. 10). The Circuit court

further explained in its Order on Appellant's Motion for Reconsideration, that, "The December 28, 2015 Order of this Court found that there was no 'evidence... that reasonably supports the factual findings of the probate judge' and that the probate judge did not properly apply the applicable law." (ROA p. 4).

The Circuit Court, however, based its reversal of the Probate Order on a misinterpretation of the plain language of South Carolina Code Sections 15-51-40 and 63-5-20(A).

South Carolina statutory law states the Probate Court has discretion to decide how to proportionately divide settlement proceeds to individual statutory beneficiaries from the settlement of wrongful death and survival actions. This is a result of a substantial change to the law in 1996 after the South Carolina Supreme Court's interpretation of the previous statute in the 1995 decision of *Ballard v. Ballard*, 443 S.E.2d 802, 314 S.C. 40 (S.C. 1994). In *Ballard*, the father of a child injured as a minor "failed to visit [the child] or contribute to [the child's] support." Id. Even though the father provided no support, the Court held on April 25, 1994 that, "the distribution of . . . damages among statutory beneficiaries . . . is controlled strictly by the share each would take as an heir in intestacy regardless of the proportion of damages suffered by each." Id.

Twenty-one (21) months after *Ballard* was published, the South Carolina Senate introduced S.1164, a Bill to amend Section 15-51-40 to permit the Probate Court to deny or limit either or both parent's entitlement to a share of the proceeds if the court determines by a preponderance of the evidence that the parent or parents failed to reasonably support the decedent and did not provide for the needs of the decedent during

his or her minority. S.1164, 111th Gen. Assemb., (S.C. 1996). S.1164 was ratified by the legislature and signed by the Governor in less than 100 days. Id.

Currently, S.C. Code of Laws, Section 15-51-40, in total, reads as follows:

> In every such action the jury may give damages, including exemplary damages when the wrongful act, neglect, or default was the result of recklessness, wilfulness, or malice, as they may think proportioned to the injury resulting from the death to the parties respectively for whom and for whose benefit such action shall be brought. The amount so recovered shall be divided among the before-mentioned parties in those shares as they would have been entitled to if the deceased had died intestate and the amount recovered had been personal assets of his or her estate. **However, upon motion by either parent or any other party of potential interest based upon the decedent having died intestate, the probate court may deny or limit either or both parent's entitlement for a share of the proceeds if the court determines, by a preponderance of the evidence, that the parent or parents failed to reasonably provide support for the decedent as defined in Section 63-5-20 and did not otherwise provide for the needs of the decedent during his or her minority.**

S.C. Code § 15-51-40 (1976 as amended) (emphasis added).

Referenced in Section 15-51-40 is S.C. Code Section 63-5-20(A) which defines "reasonable support" as follows:

> Any able-bodied person capable of earning a livelihood who shall, without just cause or excuse, abandon or fail to provide reasonable support ... to his or her minor unmarried legitimate or illegitimate child dependent upon him or her shall be deemed guilty of a misdemeanor... As used in this section "reasonable support" means an amount of financial assistance which, when combined with the support the member is reasonably capable of providing for himself or herself, will provide a living standard for the member substantially equal to that of the person owing the duty to support. It includes both usual and unusual necessities.

S.C. Code § 63-5-20 S.C. Code of Laws (1976 as amended).

"The cardinal rule of statutory construction is to ascertain and effectuate the intent of the Legislature." Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). "Once the legislature has made [a] choice, there is no room for the courts to impose a

different judgment based upon their own notions of public policy." South Carolina Farm Bureau Mut. Ins. Co. v. Mumford, 299 S.C. 14, 19, 382 S.E.2d 11, 14 (Ct.App.1989). "All rules of statutory construction are subservient to the one that the legislative intent must prevail if it can be reasonably discovered in the language used, and **that language must be construed in light of the intended purpose of the statute**." Broadhurst v. City of Myrtle Beach Election Comm'n, 342 S.C. 373, 380, 537 S.E.2d 543, 546 (2000) (emphasis added). In ascertaining legislative intent, "a court should not focus on any single section or provision but should consider the language of the statute as a whole." Mid–State Auto Auction of Lexington, Inc. v. Altman, 324 S.C. 65, 69, 476 S.E.2d 690, 692 (1996). "Where the statute's language is plain, unambiguous, and conveys a clear, definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning." Gay v. Ariail, 381 S.C. 341, 345, 673 S.E.2d 418, 420 (2009). "A statute as a whole must receive practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of lawmakers." Sloan v. S.C. Bd. of Physical Therapy Exam'rs, 370 S.C. 452, 468, 636 S.E.2d 598, 606–07 (2006). In interpreting a statute, the language of the statute must be read in a sense that harmonizes with its subject matter and accords with its general purpose. Hitachi Data Sys. Corp. v. Leatherman, 309 S.C. 174, 178, 420 S.E.2d 843, 846 (1992).

In its Order of December 28, 2015, the Circuit Court stated,

> The Probate Court found that the burial, funeral, memorial and legal expenses and time spent in pursuit of the wrongful death action constituted "unusual necessities" under S.C. Code § 63-5-20(a) which, if not provided by the statutory beneficiary, would justify the divestment of proceeds. This Court finds that none of these were incurred within the statutorily-defined relevant time period under S.C. Code§ 15-51-40. Therefore, evidence of the failure to pay these expenses is not evidence which reasonably supports the findings by the Probate Court.

(ROA p. 10).

This finding by the Circuit Court incorrectly intermingles Section 15-51-40 and Section 63-5-20(A).

The relevant language of Section 15-51-40 contains two prongs. Effectively, the Probate Court may deny or limit entitlement to proceeds if the Court determines, by a preponderance of the evidence, that:

(a) the parent or parents failed to reasonably provide support for the decedent as defined in Section 63-5-20; and

(b) did not otherwise provide for the needs of the decedent during his or her minority. S.C. Code of Laws 15-51-40 (1976 as amended).

Examining the two prongs in reverse order, it is uncontroverted that Respondent failed to provide Tynslee anything during her minority. As the language in Section 15-51-40 does not provide for a parent to be excused from this requirement due to just cause, there is no interpretation to be had. It would simply be an absurd result to state the Respondent met the test of the second prong.

Regarding the first prong, Section 63-5-20(A) expressly omits any reference to S.C. Code of Laws Sections 63-17-470 (*Child Support Proceedings and Awards*) and 43-5-580(b) (*Enforcement of Support Obligations of Absent Parents*), both of which have long been recognized in our State as the "Child Support" Code Sections. By expressly omitting these two Code Sections, the Legislature substantially broadens the definition of support. As such, Appellant would have had to provide Decedent support that accords only with the language of this statute "both usual and unusual necessities substantially

equal to the standard of living enjoyed by Appellant." S.C. Code § 63-5-20 S.C. Code of Laws (1976 as amended).

Another omission from Section 63-5-20's definition of "reasonable support" is the time-restrictive phrase "during the child's minority" that is found in Section 15-51-40. With the time restriction removed, the definition of "reasonable support" becomes more expansive and can include pre-natal and post-mortem expenses. As such, the Circuit Court was incorrect in ruling that the burial, funeral, memorial and legal expenses, and time spent in pursuit of the wrongful death action could not constitute "unusual necessities" under S.C. Code § 63-5-20(a) on the grounds that none of these expenses were incurred within the statutorily-defined relevant time period under S.C. Code§ 15-51-40. Usual and unusual necessities are considered by Section 63-5-20(A), which does not have the time restriction of Section 15-51-40.

Also unlike Section 15-51-40, Section 63-5-20(A) contains language that states an able-bodied person capable of earning a livelihood may be excused from violating the statute if he or she has just cause or excuse. While there is no specific mention in the Circuit Court's Order pertaining to this language in Section 63-5-20(A), the Circuit Court justifies its reversal of the Probate Court Order by stating, "Due to Tynslee 's short life and the circumstances surrounding her death, [Respondent] being unaware that he was Tynslee's father, was unable to provide the more usual means of attention and support to his minor child during her brief life. There is no evidence which reasonably supports the application of the statute in this regard." (ROA p. 10).

Effectively, the Circuit Court excuses Respondent from his failure to provide "reasonable support" for Tynslee because she only lived for a short time. There is,

however, no language in Section 15-51-40 or Section 63-5-20 that requires a child to live a minimum period of time before the statutes become applicable. Respondent simply has no excuse for providing nothing to Tynslee whether that be while Appellant was pregnant, while Tynslee was alive, or upon Tynslee's passing.

The intent of the Legislature in adding the language that a parent could be divested of his or her interest in a minor wrongful death settlement was to ensure parents who did not contribute anything to a child did not receive any benefit from the death of that child. **Courts must construe the language of Sections 15-51-40 and 63-5-20(A) to be consistent with this purpose.**

The Circuit Court's reversal of the Probate Court's decision is contrary to the intent of the Legislature. It effectively finds the language added to Section 15-51-40 moot.

The Circuit Court would not be required to resort to subtle or forced construction in these statutes' application to uphold the Order of the Probate Court; it simply needed to straightforwardly apply the plain language contained therein. The plain language of the statutes, when read together, call for a father as disengaged as Respondent to lose his interest in a minor wrongful death settlement. To interpret these statutes any differently produces the absurd result of applying a statute in a way the Legislature did not intend.

As such, Appellant requests this Court vacate the Circuit Court's Order reversing the Order of the Probate Court on the grounds that the Circuit Court misinterpreted the controlling statutory law in this case by applying it in a way that is contrary to the legislative intent of the statute and reinstate the Order of the Greenville Probate Court

divesting Respondent of the proceeds from the settlement of Civil Action: 2013-CP-23-04186.

C. The Greenville County Circuit Court wrongly reversed the Probate Court of Greenville County because, absent South Carolina precedent, it failed to expressly utilize persuasive authority such as: (1) South Carolina law pertaining to damages in a wrongful death claim; (2) extra-jurisdictional law specific to the issue at bar; and (3) analogous South Carolina and United States law pertaining to paternal consent in adoption cases.

"Where the statute's language is plain, unambiguous, and conveys a clear, definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning." Gay v. Ariail, 381 S.C. 341, 345, 673 S.E.2d 418, 420 (2009). "If the statute is ambiguous, however, courts must construe the terms of the statute." Lester v. S.C. Workers' Comp. Comm'n, 334 S.C. 557, 561, 514 S.E.2d 751, 752 (1999). "In interpreting a statute, the language of the statute must be read in a sense that harmonizes with its subject matter and accords with its general purpose." Hitachi Data Sys. Corp. v. Leatherman, 309 S.C. 174, 178, 420 S.E.2d 843, 846 (1992).

"Any ambiguity in a statute should be resolved in favor of a just, equitable, and beneficial operation of the law." Bennett v. Sullivan's Island Bd. of Adjustment, 313 S.C. 455, 458, 438 S.E.2d 273, 274 (Ct.App.1993). "We will reject a statutory interpretation when to accept it would lead to a result so plainly absurd that it could not have been intended by the legislature or would defeat the plain legislative intention." Unisun Ins. Co. v. Schmidt, 339 S.C. 362, 529 S.E.2d 280 (2000).

"If the language of an act gives rise to doubt or uncertainty as to legislative intent, the construing court may search for that intent beyond the borders of the act itself." The Lite House, Inc. v. J.C. Roy Co., Inc., 419 S.E.2d 817, 309 S.C. 50 (S.C. App., 1992)

citing Bradley v. Doe, 649 S.E.2d 153, 374 S.C. 622 (S.C. App., 2007) citing State v. Morgan, 352 S.C. 359, 367, 574 S.E.2d 203, 207 (Ct.App.2002).

"When there is no case on point in South Carolina, our courts may look to other states to determine if the issue has been decided and if the decision is persuasive authority." Bass v. Isochem, 617 S.E.2d 369, 365 S.C. 454 (2005) citing Williams v. Morris, 320 S.C. 196, 464 S.E.2d 97 (1995); Silva v. Silva, 333 S.C. 387, 509 S.E.2d 483 (Ct.App.1998); Golini v. Bolton, 326 S.C. 333, 482 S.E.2d 784 (Ct.App.1997).

When no case is "directly on point in South Carolina or other jurisdictions", the Court may look to "cases in analogous contexts." Doe v. S.C. Dep't of Soc. Servs. (In re Doe), 407 S.C. 623, 757 S.E.2d 711 (S.C., 2014).

Because this is a matter of first impression for this Court, there are three areas of law the Court may use for guidance in rendering a decision that comports with long-standing South Carolina law and public policy: 1. South Carolina Law as it pertains to damages associated with a wrongful death lawsuit; 2. Extra-jurisdictional case law from other states with similar statutes; and 3. Paternal rights of an absent father in consent and relinquishment adoption cases.

1. South Carolina law states a wrongful death claim is only actionable by one who is a designated beneficiary at the time of a child's death; and evidence of the closeness of a relationship is required before a statutory beneficiary is entitled to receive wrongful death benefits.

In the South Carolina Court of Appeals 2000 decision of *Scott Ex Rel. Scott v. Porter*, the Court, citing Hubbard & R.L. Felix, *The South Carolina Law of Torts*, stated, "Damages recoverable in a wrongful death action include: (1) Pecuniary loss, (2) mental shock and suffering, (3) wounded feelings, (4) grief and sorrow, (5) loss of

companionship, and (6) deprivation of the use and comfort of the intestate's society, the loss of his experience, knowledge, and judgment in managing the affairs of himself and of his beneficiaries...." Scott Ex Rel. Scott v. Porter, 340 S.C. 158, 530 S.E.2d 389 (S.C. App., 2000) (citing F.P. Hubbard & R.L. Felix, The South Carolina Law of Torts 610 (2d ed.1997) (citing Mishoe v. Atlantic Coast Line R.R., 186 S.C. 402, 197 S.E. 97 (1938)).

"Moreover, South Carolina law provides that parents [ ] are entitled to a presumption of nonpecuniary damages." Mock v. Atlantic Coast Line R.R. Co., 227 S.C. 245, 259, 87 S.E.2d 830, 836 (1955). In *Scott*, the Court again cites Hubbard & Felix, *The South Carolina Law of Torts* parenthetically stating that, "It may often be assumed that grief and sorrow will be experienced at the loss of a loved one; however, the strength of such presumption is a function of the closeness of the relationship, and in some cases evidence may be necessary to support claims of loss." Scott Ex Rel. Scott v. Porter, 340 S.C. 158, 530 S.E.2d 389 (S.C. App., 2000).

Our Supreme Court drew a bright line rule in 1948 stating, "There can be no recovery under [the South Carolina Wrongful Death Statute] unless **at the time of the decedent's death** there are one or more of the designated beneficiaries in existence." Smith v. Atl. Coast Line R. Co, 47 S.E.2d 725 (1948) (emphasis added).

In the matter presently before the Court, Respondent had no relationship with Tynslee whatsoever. In fact, **Respondent was not legally Tynslee's father at the time of her death**.

Because Respondent's paternity had not been established at the time of Tynslee's death there is no parental relationship on which a claim of loss may be supported. Further, given the complete absence of any connection or relationship between Tynslee

and Respondent, previous South Carolina decisions regarding damages in wrongful death actions support the assertion that Respondent is not entitled to any damages or proceeds from the settlement of Civil Action: 2013-CP-23-04186. The application of this rule to the language of Section 15-51-40 would set forth a bright line for Probate Courts to follow in future determinations of settlement proceed entitlement, and, much like South Carolina's Responsible Father Registry, encourage unwed fathers to assertively pursue legal paternity and take responsibility for their children. S.C. Code Section 63-9-820 (S.C. Code of Laws, 1976 as amended)

2. Extra-jurisdictional case law from other states with similar statutes supports the conclusion that an unwed father who is absent during the mother's pregnancy loses his right to wrongful death settlement funds.

There are numerous examples of how other jurisdictions address irresponsible fathers seeking a windfall from the wrongful death of their children.

Even the U.S. Supreme Court's adoption decision of *Lehr v. Robertson* (discussed more fully in the next section) has been relied upon to divest a father from his claim to wrongful death benefits. In the case of the *Estate of Scheller v. Pessetto*, the father argued his Constitutional Rights were violated by not being given part of his child's wrongful death estate, but the Court, citing *Lehr*, disagreed because, "If one parent has an established custodial relationship with the child and the other parent has either abandoned or never established a relationship, the Equal Protection Clause does not prevent a state from according the two parents different legal rights." Estate of Scheller v. Pessetto, 783 P.2d 70 (Utah App., 1989) citing Lehr v. Robertson, 463 U.S. 248, 103 S.Ct. 2985, 77 L.Ed.2d 614 (1983).

The two cases below originate from Mississippi. The Mississippi statute that most closely comports with S.C. Law is Miss. Code Ann. § 91-1-15(3) (1972). It provides in pertinent part:

> (3) [T]he natural father of an illegitimate and his kindred shall inherit from and through the illegitimate according to the statutes of descent and distribution if:
>
> (a) The natural parents participated in a marriage ceremony before the birth of the child...
>
> (b) There has been an adjudication of paternity or legitimacy before the death of the intestate; or
>
> (c) There has been an adjudication of paternity after the death of the intestate, based upon clear and convincing evidence, in an heirship proceeding under sections 91-1-27 and 91-1-29.
>
> (d) The natural father of an illegitimate and his kindred shall not inherit:
>
> (i) From or through the child unless the father has openly treated the child as his, and has not refused or neglected to support the child.

Miss. Code Ann. § 91-1-15(3) (1972) (*emphasis added*).

The Mississippi statute includes the adjudication of paternity requirement found in *Smith v. Atl. Coast Line R. Co*, 47 S.E.2d 725 (1948), the relationship component found in South Carolina wrongful death and adoption law, and the support requirement of S.C. Code Sections 15-51-40 and 63-5-20(A).

In applying this statute on July 1, 2004, the Mississippi Supreme Court divested the father of wrongful death benefits owed for **a child who was killed *in utero*** because, even though the mother told him he was the child's father, he refused to have contact with her or acknowledge that he was the father of the child. The father argued in vain that it would be virtually impossible to comply with the requirements of the statute where the

decedent is a fetus and that he was discouraged from visiting mother by threat from her family members. Williams v. Farmer, 876 So.2d 300 (Miss., 2004).

Three years' prior, the Court ruled in *The Estate of Patterson v. Patterson* that the natural father of three-year-old J.P. was not entitled to his portion of J.P.'s death benefit. The father argued he should not be divested of the benefit because he not know J.P. was his child until four days before the J.P. died. The court stated, "**This case is a classic example of conduct the statutes and case law seek to prevent. A father should not be allowed to receive a windfall simply because he impregnated the child's mother**. The Estate of Patterson v. Patterson, 798 So.2d 347 (Miss., 2001)(emphasis added).

In dealing with a case involving an older child, the Wisconsin Supreme Court wrote the following statement that is not specific to a child of any given age. The Court said, "The inflexible 50% Division contended for by [the father] could force an unfair loss on one parent while granting a windfall to the other parent. The differing ages of parents, their marital status, and their relationship with the child must realistically be recognized as bearing upon society and companionship loss." Keithley v. Keithley, 95 Wis.2d 136, 289 N.W.2d 368 (Wis. App., 1980)

The instant case presents a perfect example of conduct our Legislature sought to prevent by adding language to S.C. Code Section 12-51-40 in 1996. Respondent should not be allowed to receive a windfall simply because he impregnated Appellant. Respondent's lack of a relationship with the child must realistically be recognized as bearing upon society and companionship loss. Therefore, Appellant prays that this Court vacate the decision of the Circuit Court overruling the Greenville County Probate Court's

Order and divest Respondent of any and all proceeds derived from the settlement of Civil Action: 2013-CP-23-04186.

3. In consent and relinquishment adoption cases, the South Carolina and United States Supreme Courts have consistently held that an unwed father who is absent during the mother's pregnancy loses his Constitutional Right to have a relationship with his child.

There is no better placed to find examples of analogous fact patterns very similar to the case at bar where Courts have divested a father of his Constitutional Right to a relationship with his child due to his failure to support the child during the mother-to-be's pregnancy.

The United States Supreme Court in the adoption case of *Lehr v. Robertson*, where the Court divested an unwed father of, **not just money, but his Constitutional Right** to have a relationship with his two-year-old child due to his failures in supporting and developing a relationship with his child. While the child in *Lehr* was two-years-old, the Court made the following statement that applies to a child of ***any*** age:

> **"[M]others and fathers of illegitimate children are not similarly situated. The identity of the mother of an illegitimate child is rarely in doubt. In contrast, the father's identity is frequently unknown... In addition, the mother, because she physically bears the child, automatically is responsible for the child at least to the extent of deciding its immediate future. Further, she bears the physical, emotional and psychological ramifications of pregnancy and must decide whether to abort the child, raise the child alone or give the child up for adoption. If she decides to raise the child, she endures further financial, emotional and psychological responsibilities. The putative father who does not support the child or openly treat the child as his own assumes none of these responsibilities."**

Lehr v. Robertson, 463 U.S. 248, 103 S.Ct. 2985, 77 L.Ed.2d 614 (1983)(emphasis added).

In 2011, the South Carolina Supreme Court found that an unwed father was divested of his Constitutional Right to have a relationship with his child due to his actions **while the child's mother was pregnant** in the decision of *Roe v. Reeves*, stating, "The relationship between an unwed father and his child is deserving of constitutional protection because the father possess an 'opportunity no other male possesses to develop a relationship with his offspring' when the child is born... However, this opportunity interest is constitutionally protected only to the extent that the biological father who claims protection wants to make the commitments and perform the responsibilities that give rise to a developed relationship, because it is only the combination of biology and custodial responsibility that the Constitution ultimately protects." Roe v. Reeves, 392 S.C. 143, 708 SE2d 778 (2011). "Put differently, **it is only if he grasps that opportunity and accepts some measure of responsibility for the child's future may he enjoy the blessings of the parent-child relationship** and make uniquely valuable contributions to the child's development." Roe v. Reeves, 392 S.C. 143, 708 S.E.2d 778 (S.C., 2011) (emphasis added) citing Lehr v. Robertson, 463 U.S. 248, 103 S.Ct. 2985, 77 L.Ed.2d 614 (1983).

In *Roe v. Reeves*, "[The father] paid no medical expenses for Mother because she was on Medicaid, and did not pay any living expenses because Mother lived with her mother and received food stamps... Simply because she was receiving some government benefits to cover her basic needs does not relieve Father of his obligation to provide for Mother **during her pregnancy**." Roe v. Reeves, 392 S.C. 143, 708 S.E.2d 778 (S.C., 2011) (emphasis added).

The Court continued, "Even in the most acrimonious of situations, a father-to-be can fund a bank account in the mother-to-be's name. He can have property or money delivered to the mother-to-be by a neutral third party. He can – and must – be as creative as necessary in providing material assistance to the mother-to-be during the pregnancy and, the law thus assumes, to the child once it is born. He must not be deterred by the mother-to-be's lack of romantic interest in him, even by her outright hostility. If she justifiably or unjustifiably wants him to stay away, he must respect her wishes but be sure that his support does not remain equally distant." Roe v. Reeves, 392 S.C. 143, 708 S.E.2d 778 (S.C., 2011) citing In re Adoption of M.D.K., 30 Kan.App.2d 1176, 58 P.3d 745, 750-51 (2002).

The application of the reasoning in these analogous consent and adoption cases above to cases such as the instant matter would provide more than a modicum of consistency to South Carolina law. In other words, if South Carolina will not allow an unwed father who did not provide support to the pregnant mother of his child to avail himself of his Constitutional Right to establish a relationship with his child, it should not allow an unwed father who did not provide support to the pregnant mother of his child to avail himself of funds derived from a wrongful death settlement.

The facts of this case as established by the Probate Court show Appellant provided Respondent opportunities to contribute to and participate in her pregnancy, Tynslee's life, and the grieving for Tynslee's death. (ROA pp. 15-20). Appellant provided Respondent opportunities to develop a relationship with his daughter Tynslee. Even so, Respondent:

a. Failed to attend doctor's appointments with Appellant during her pregnancy save one ultrasound;

b. Failed to accurately portray the nature of his on-going romantic relationship with his ex-girlfriend while knowing Appellant was pregnant with his child;

c. Failed to participate in any of Appellant's family holidays during her pregnancy;

d. Failed, in fact, to have ever met Appellant's father;

e. Failed to purchase a comforter set for Tynslee's nursery as promised;

f. Failed to provide any monetary support throughout the birth, life and death of his daughter;

g. Failed to initiate communication with Appellant throughout the pregnancy;

h. Failed to attend the birth of his daughter;

i. Failed to be present when his daughter died;

j. Failed to attend his daughter's funeral, opting instead to vacation at the lake;

k. Failed to provide any support or assistance with the underlying wrongful death case;

l. Failed to obtain any memorabilia related to his daughter although he superficially requested same;

m. Failed to attend a Memorial Walk in honor of Tynslee's memory;

n. Failed to assist in advocacy efforts performed by Appellant on his daughter's behalf; and

o. Failed to publicly express any grief stemming from the death of his daughter when openly expressing same for his deceased father. (Id.)

(ROA pp. 15-20).

Even overlooking all of the details of Respondent's failures, two simple facts are irrefutable:

a. Respondent provided no support for Tynslee before she was born, no support during her short life, and no support after her death.

b. Further, Respondent had no relationship with this child.

(ROA. pp 12-31).

Had Tynslee survived and Appellant placed her for adoption, well-established South Carolina law supports the conclusion that Respondent would not be in a position to contest the adoption because he squandered away his Constitutional Right to have a relationship with Tynslee. For the law to contrarily say that he should still retain a right to funds from Tynslee's wrongful death settlement would be absurd.

Therefore, Appellant prays that this Court vacate the Circuit Court's decision overruling the Greenville County Probate Court's Order, reinstate the Order of the Probate Court, and divest Respondent of all proceeds derived from the settlement of Civil Action: 2013-CP-23-04186.

CONCLUSION

For the reasons set forth hereinabove, Appellant prays this Court vacate the December 28, 2015 decision of the Circuit Court and reinstate the Greenville County Probate Court's April 29, 2015 Order, entered in the matter of Lauren Murphy as Statutory Beneficiary vs. Mark Collins and The Estate of Tynslee Elizabeth Fields, Deceased, Civil Action: 2012-ES-23-01718, and deny Respondent any of the settlement proceeds, past, present, and future that are or may be realized 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., Civil Action: 2013-CP-23-04186.

Respectfully Submitted,

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ATTORNEY FOR APPELLANT

Greenville, South Carolina
August 29, 2016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

PERRY H. GRAVELY, CIRCUIT COURT JUDGE

RECEIVED
SEP 12 2016
SC Court of Appeals

CASE NO.: 2016-000536

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.

CERTIFICATE OF COUNSEL

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

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Greenville, South Carolina
September 9, 2016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

PERRY H. GRAVELY, CIRCUIT COURT JUDGE

RECEIVED
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v.

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Of Whom Mark Collins is the Respondent.

PROOF OF SERVICE

I certify that I have served the Appellant's Final Brief on Respondent Mark Collins by mailing a copy of it via first class mail on August 29, 2016, addressed to his attorneys of record, Jessica Salvini and John M. Read, IV, at their respective offices at 101 W. Park Ave. Greenville, SC 29601.

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August 29, 2016

VIA FIRST CLASS MAIL

South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: 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. Appellate Case No. 2016-000536

Dear Sir or Madam:

Please find enclosed for filing the original plus fifteen (15) copies of the Appellant's Final Brief in the above-captioned case. By copy of this letter, opposing counsel have been served a copy of the Final Brief.

Thank you in advance for your consideration. Should you have any questions, please feel free to contact me directly at 864-552-1606.

Sincerely,

MARCHBANKS LAW FIRM, LLC

Charles W. Marchbanks, Jr.

Enclosures

cc: Paul B. Wickensimer (without enclosures)
Jessica Salvini, Esq. (with enclosures)
Jack Read, Esq. (with enclosures)