

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

RECEIVED

SFP 18 2019

Robert E. Hood, Circuit Court Judge

SC Court of Appeals

Appellate Case No.: 2019-000624

Dottie R. Bell.....Appellant,

v.

John C. BentleyRespondent.

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

I. WAS JUDGE BENJAMIN CORRECT IN HER ORIGINAL RULING PROVIDING APPELLANT LEAVE TO SERVE THE SPECIAL ADMINISTRATOR WITH THE SUMMONS AND COMPLAINT AND SUBSEQUENTLY, SHOULD BRYAN CASKEY BE SUBSTITUTED AS PERSONAL REPRESENTATIVE OR REAL PARTY IN INTEREST?

a. Should Judge Hood have considered Respondent's additional argument of "reasonableness" of time at the February 13, 2019 hearing when the only outstanding issue from the October 15, 2018 hearing was service of the Summons and Complaint upon the Special Administrator, for which leave was provided at the October 15, 2018 hearing to accomplish, and no other issues were before the Court at the February 13, 2019 hearing?

b. Notwithstanding the fact that the new defense raised by Respondent at the October 15, 2018 hearing should have been precluded, did Judge Hood err in finding under S.C.R.C.P. Rule 25(a)(1) that the time it took Appellant to properly substitute Bryan Caskey as real party in interest was not in fact "reasonable"?

c. Even if this Court is to agree with Paragraphs 11 and 12 of Judge Hood's Order Denying Appellant's Motion to Substitute based upon a "reasonable" standard, did Appellant not, in fact, file their Motion to Substitute within 90 days of finally officially confirming Respondent's death through a Statement of Death from DHEC?

STATEMENT OF THE CASE

Appellant filed their original action on December 13, 2016 in which Appellant alleges she suffered serious injuries as a result of the negligence of Respondent. Being unable to locate Respondent, Appellant served Respondent by publication on February 17, 2017, and an affidavit of publication was filed with the Court on April 21, 2017. (Affidavit of Publication). Respondent filed an Answer dated April 18, 2019. In January of 2018, Appellant learned through Respondent's counsel that she had heard that Respondent had died. With no other information to confirm Respondent's death and without the ability to move to have a Special Administrator appointed, Appellant began an extensive search to confirm that Respondent was in fact deceased and to obtain the necessary documents to seek the appointment of a Special Administrator from the Probate Court. After numerous calls, letters, and follow-ups with various funeral homes, DHEC, and other parties and agencies throughout the state, Appellant was able to officially confirm that Respondent was in fact deceased when DHEC sent Appellant a Statement of Death on June 12, 2018. Pursuant to Rule S.C.R.C.P. Rule 17, Appellant filed a Motion to Substitute Bryan D. Caskey, Esquire as Personal Representative or Real Party in Interest for Defendant ("Motion to Substitute") on September 10, 2018. That Motion was heard before Judge Benjamin of the Circuit Court on October 15, 2018. At that time, the Special Administrator had not been served the Summons and Complaint in this matter. Judge Benjamin made the determination, based upon the fact that service of the Summons and Complaint had not been served upon the Special Administrator, that Appellant should be granted leave to serve Mr. Caskey. Then, Mr. Caskey could be properly substituted as a party per Rule 17. (October 15, 2018 Transcript p. 4 lines 10-22). No other arguments outside of the absence of service were raised by Respondent on October 15, 2018.

On October 19, 2018, Appellant properly served Special Administrator Bryan Caskey and he signed Acceptance of Service. (Acceptance of Service). Appellant refiled their Motion to Substitute, and the Motion was heard in front of a different Circuit Court Judge, Judge Robert Hood, on February 13, 2019. Judge Hood subsequently denied Appellant's Motion to Substitute. Appellant filed a Motion to Reconsider, which Judge Hood also denied. This Appeal follows.

STATEMENT OF FACTS

On January 25, 2018, Appellant was informed in an email by counsel for Respondent that she had heard Respondent was deceased (Email dated January 25, 2018 Time Stamped 3:26 PM). An hour and a half later, Appellant's counsel informed Respondent's counsel that he planned to file a Motion to Amend the Pleadings to name the Estate or have a Personal Representative named. (Email dated January 25, 2018 Time Stamped 5:03 PM).

Appellant's Counsel sought additional information from Respondent's attorney in an effort to locate the necessary records required to have a Special Administrator appointed by the Probate Court. Respondent's counsel had no information about the county where Respondent died. (Email dated January 26, 2018 Time Stamped 1:44 PM). She also was uncertain about the specific date of death. (Emails dated January 26, 2018 Time Stamped 10:48 AM and 12:36 PM). Counsel for Respondent also stated there was no next of kin so there was no estate to probate. (Email dated January 26, 2018 Time Stamped 12:36 PM).

Thus, Appellant began an extensive search to track down information regarding the death of Appellant in order to have a Personal Representative appointed: i.e. a death certificate, funeral information, obituary, etc. After much due diligence and investigation including, but not limited to, checking with Kershaw County to see if an estate had been opened (January 29, 2018

Correspondence to Kershaw County), making a list of all funeral homes in and around the area and contacting each funeral home (February 1-8, 2018 List and corresponding letters), sending multiple letters to DHEC requesting a Statement of Death (January 31, 2018 and April 17, 2018 Letters to DHEC), sending an unanswered request for discovery to Defense counsel requesting specific information regarding the death of Respondent (February 19, 2018 Discovery Request), and sending FOIA requests to Lee County (although Respondent was a residence of Fairfield County) regarding information about Mr. Bentley's death (April 17, 2018 FOIA Request), Lee County's Coroner finally confirmed by telephone call that Mr. Bentley was in fact deceased (email dated April 17, 2018).

Appellant then sent a letter again requesting Respondent answer interrogatories sent on February 19, 2018 (Letter to Respondent dated April 25, 2018). Respondent finally responded to Appellant's interrogatories on May 10, 2018, denying being in possession of any specific information related to Respondent's death outside of what information they heard on January 25, 2018. (May 10, 2018 Correspondence from Respondent). Appellant's counsel made one more attempt to get a Statement of Death from DHEC on May 16, 2018 (Letter to DHEC dated May 16, 2018). DHEC finally responded and on June 12, 2018 and provided a Statement of Death thereby giving Appellant the necessary documents to request that a Special Administrator be appointed. (Letter DHEC dated June 12, 2018 and Statement of Death from DHEC).

It was around this time that Appellant contacted the proposed Special Administrator of Respondent's estate about his interest in acting in such capacity. After confirmation, Appellant's counsel sent a proposed Order to Judge Branham on July 20, 2018, naming Bryan Caskey Special Administrator of Respondent's estate (July 20, 2018 Proposed Order). By Order of the Court,

Bryan Caskey was named Special Administrator on August 14, 2018, for the sole purpose of being the Personal Representative in the pending lawsuit (Judge Branham's August 14, 2018 Order). Appellant promptly provided the requisite documents and Order to Mr. Caskey on August 16, 2018.

Pursuant to Rule S.C.R.C.P. Rule 17, Appellant filed their Motion to Substitute on September 10, 2018 (Motion to Substitute). Judge Benjamin heard that Motion on October 15, 2018. At that time, although Bryan Caskey had already been named Special Administrator by the Order on August 14, 2018, he had not been served the Summons and Complaint for the pending suit. Judge Benjamin made the determination, based upon the fact that Mr. Caskey had not been served the Summons and Complaint, Appellants should be granted leave to serve Mr. Caskey so that could be properly substituted as a party per Rule 17. (Transcript of October 15, 2018, p. 4 lines 10-22). No other arguments outside of the absence of service were raised by Respondent on October 15, 2018 as to why Mr. Caskey should not be substituted as the real party in interest. (See Transcript of October 15, 2018).

On October 19, 2018, Appellant properly served Special Administrator Bryan Caskey and he signed Acceptance of Service. (Acceptance of Service October 19, 2018). Appellant refiled their Motion to Substitute on December 5, 2018, and the Motion was heard in front of a different Circuit Court Judge, Judge Hood, on February 13, 2019. At that hearing, Respondent cited to S.C.R.C.P. Rule 25 as an entirely new basis of defense of the Motion to Substitute which was not presented to the Court at the October 15, 2018 hearing in which Judge Benjamin granted Appellant leave to properly serve the real party in interest. Respondent argued that Substitution of Bryan Caskey as real party in interest was not made within a reasonable time. (Transcript February 13,

2019). Judge Hood subsequently denied Appellant's Motion to Substitute.

STANDARD OF REVIEW

In this Court's review of the Trial Court's interpretation of S.C.R.C.P Rule 25(a)(1), "Statutory interpretation is a question of law subject to de novo review." Transp. Ins. Co. v. S.C. Second Injury Fund, 389 S.C. 422, 427, 699 S.E.2d 287, 689 (2010). "De novo review permits appellate court fact-finding, notwithstanding the presence of evidence supporting the trial court's findings." Lewis v. Lewis, 392 S.C. 381, 390, 709 S.E.2d 650, at 654-55 (2011) (emphasis omitted). As there exists a question of the Trial Court's interpretation of S.C.R.C.P. Rule 25(a)(1), the denial of Appellant's Motion to Substitute should be reviewed de novo.

ARGUMENT

I. WAS JUDGE BENJAMIN CORRECT IN HER ORIGINAL RULING PROVIDING APPELLANT LEAVE TO SERVE THE SPECIAL ADMINISTRATOR WITH THE SUMMONS AND COMPLAINT AND SUBSEQUENTLY, SHOULD BRYAN CASKEY BE SUBSTITUTED AS PERSONAL REPRESENTATIVE OR REAL PARTY IN INTEREST?

A. Judge Benjamin found the only outstanding issue was service of the Summons and Complaint upon the Special Administrator and no other issues were before the Court at the February 13, 2019 hearing and therefore, any new defense to this issue should have been precluded at the February 13, 2019 hearing.

At the October 15, 2018 hearing on the previously filed Motion, after hearing all the evidence, Judge Benjamin granted leave for Appellant to serve Mr. Caskey. Her original Order went unappealed and remains the law of the case. Judge Benjamin stated, "I will grant you leave to serve the PR—the administrator of the estate. Then you will have to come back and substitute him as a party. But you have to serve him first." (Transcript October 15, 2018 p. 4 lines 19-22). This ruling is clear, and although it could be viewed as a minor slip of the tongue, in calling Mr. Caskey the personal representative (PR) before correcting herself, it is obvious that Judge

Benjamin herself had already decided Mr. Caskey is the proper personal representative but for the lack of service of the Summons and Complaint. Otherwise, Judge Benjamin would have just denied the Motion, and not gone through the lengths of specifying she was granting leave to Appellant for the sole purpose of properly serving Mr. Caskey.

Furthermore, at the October 15, 2018 hearing, Judge Benjamin specifically asks Defense counsel if she has *any* objection to Bryan Caskey being substituted as a party. (see Transcript October 15, 2018). Defense counsel only raises *one* objection, which is, service cannot be effectuated on a deceased person by publication, therefore service needed to be carried out upon Mr. Caskey. She raises no other defenses or objections. Respondent's counsel stated very concisely, "...so your Honor, we are going to object to now, over two years after the fact, coming in and trying to substitute a real party in interest whenever they have not properly served him." (Id. at p. 3 lines 3-6). Defense counsel goes on to state, "So the whole point is, is you can't serve someone via publication that is already dead. You have to serve an estate or someone acting on their behalf." (Id. at p. 3 lines 21-15). This is the only argument made by Defense counsel and the Appellant cured the lack of service during the leave granted by Judge Benjamin to do just that. Judge Benjamin made her ruling from the bench stating, "You have to serve [Brian Caskey] first, then substitute him as a party." (Id. at p. 4 lines 11-12). She goes on to state "I will grant you [Appellant] leave, then you will have to come back in and substitute [Brian Caskey] as a party." (Id. at p. 4 lines 19 -22). Judge Benjamin heard the arguments on their merits, and her determination was very clear. No clarification was needed, and her Form 4 Order was not vague. Her Order specifically denied the Motion to Substitute for lack of service, allowing Appellant's leave to cure this lack of service. The Order states, in its entirety, "Plaintiff, Dottie Bell's Motion

to Substitute Parties is denied, with leave granted to serve the Administrator of Defendant's Estate." (Judge Benjamin's Order). It is clear that was the only issue outstanding upon the Motion's rehearing.

Respondent's counsel acknowledges this at the February 13, 2019 hearing. Counsel acknowledges that Judge Benjamin herself would have been the appropriate Judge to hear the second Motion, as she was most familiar with the posture and the one who originally denied the Motion solely to give Appellant time to serve the Administrator. Respondent's counsel argues, "If the [Respondent] wanted to argue that the motion to substitute parties being denied should have been heard or that should have been extended or some leave granted, that should be before Judge Benjamin not before Judge Hood, Your Honor." (February 13, 2019 Transcript, pg. 4 line 25-page 5 lines 1-4). Respondent acknowledges Judge Benjamin's intent was to allow leave to serve the Administrator.

As this was the only issue and only argument raised by Respondent at the October 15, 2018 hearing, Appellant's counsel was completely blindsided by the new issue of "reasonable time" raised by Respondent at the February 13, 2018 hearing, as the only issue before the Court was the issue of service upon a deceased individual. To allow Respondent to raise a completely new theory of defense of Appellant's motion would be to give them two bites at the apple and should be barred on principles of equity, judicial estoppel, and issue preclusion. Essentially, Judge Benjamin heard Respondent's only argument previously and made her ruling that leave was the appropriate remedy for Appellant. Judge Benjamin granted that leave so Mr. Caskey could subsequently be named Personal Representative or Party in interest by proper service. Appellant remediated the lack of service immediately as directed by the court, thus curing the service issue. In light of this,

Appellant's Motion to Substitute should have been granted at the February 13, 2019 hearing. Therefore, Appellant prays this Court either reverse the Trial Judge's denial of the Motion to Substitute or, in accordance with Rule 25(e), substitute on its own Bryan Caskey as the real party in interest.

b. Notwithstanding the fact that the new defense raised by Respondent at the October 15, 2018 hearing should have been precluded, S.C.R.C.P. Rule 25(a)(1), allows a reasonable time to substitute a party and in light of the circumstances, the time it took Appellant to properly substitute Bryan Caskey as real party in interest was more than reasonable.

Rule 25(a)(1) contemplates the need to substitute a party when a party to an action may become deceased. The Rule itself states, "If substitution is not made within a reasonable time, the action *may* be dismissed as to the deceased party." (emphasis added). The plain language of the rule does not define "reasonable" and allows the Court discretion in whether or not to dismiss even if substitution is not made in a reasonable time. The rule was clearly drafted in contemplation that the time needed to identify that a party is in fact deceased and subsequently, finding a suitable party for substitution can vary greatly from case to case.

South Carolina Courts have tried to give some parameters for deciding what constitutes reasonableness. In discussing Rule 25 this Court has held, "The test of whether an amendment should be allowed is whether the amendment will prejudice or work an injustice to the adverse party." Shah v. Richland Memorial Hospital, 350 S.C. 139, 564 S.E.2d 681 (S.C. App. 2002) (quoting Forrester v. Smith & Steele Builders, Inc., 295 S.C. 504, 369 S.E.2d 156 (S.C. App. 1988)). The Shah Court continued in the absence a proper reason such as bad faith, undue delay, or prejudice, it is an abuse of discretion of the Court to deny leave to amend. The burden of showing a proper reason for the Court not to substitute a party is on the party opposing the motion.

Using the factors laid out in Shah, it is clear the substitution was made in a reasonable time and could not possibly have been prejudicial or worked an injustice on Respondent as Respondent had answered the case and had participated in discovery from the very beginning of the case. The timeline is as follows:

December 13, 2016: Summons and Complaint filed.

January 23, 2017: Appellant files Motion for Service by Publication and Judge Hasty enters Order granting Appellant's Motion for Service by Publication.

April 18, 2017: Respondent files Answer and Motion to Intervene with Court with no mention of death of Respondent.

April 21, 2017: Appellant files Affidavit of Publication with Court.

January 25, 2018: Opposing counsel informs Respondent they have heard from a third party that Respondent may be deceased.

January 29, 2018: Appellant emails the Probate Court and determines no estate has been established.

January 31, 2018: Appellant sends DHEC a request for a statement of death.

February 1-8, 2018: Appellant compiles list of all funeral homes in the area.

February 9, 2018: Appellant emails 9 funeral homes in Fairfield County requesting any information regarding Respondent. No funeral homes in Fairfield County have any information regarding Respondent.

February 19, 2018: Appellant sends discovery request to Defense counsel asking them to disclose specific information related to the death of Defendant. This request went unheeded.

March 7, 2018: Appellant sends FOIA Request to Lee County requesting any information regarding Mr. Bentley.

April 17, 2018: Appellant sends another FOIA Request to Lee County and request to DHEC requesting certificate of death.

April 17, 2018: Appellant receives email from Coroner of Lee County that Mr. Bentley was in fact deceased but provides no further information.

April 25, 2018: Appellant sends letter to Defense counsel requesting they answer Appellant's discovery request sent on February 19, 2018 requesting information related to the death of Respondent Bentley.

May 16, 2018: Appellant sends another follow-up correspondence to DHEC requesting a statement of death. **(Please note, the Probate Court will not consider any petition to appoint a Special Administrator without confirmation from DHEC.)**

June 12, 2018: Appellant receives a Statement of Death from DHEC confirming the death of Respondent.

July 20, 2018: Appellant sends a Proposed Order naming Bryan Caskey Special Administrator.

August 14, 2018: Judge Branham signs proposed Order naming Bryan Caskey Special Administrator.

August 16, 2018: Appellant sends correspondence informing Bryan Caskey of appointment.

September 10, 2018: Appellant files Motion to Substitute.

It is evident from the action taken by Appellant from the moment they heard from Respondent's counsel of the possibility of Respondent's death that Appellant has not acted in bad faith or delayed in any action to have the proper party substituted. No prejudice has been incurred by the Respondent, as they were the party that first heard rumblings that Respondent was in fact deceased and that Respondent filed a timely Answer and has participated in the case from the beginning. Furthermore, as referenced in the first email exchange between the parties on January 25, 2018, Appellant's counsel informed Respondent's counsel of the intention to file for a Personal Representative and to ultimately name that Representative as the proper party. None of the action rises to the level of unreasonable time delay contemplated by Rule 25.

The Rules do not define what constitutes a "reasonable" amount of time, in direct contradiction to Judge Hood's Order Paragraphs 11 and 12. (Judge Hood's Order). The footnote

of Rule 25(a)(1) which reads, “This Rule 25(a)(1) is substantially the same as Federal Rule 25(a)...The Rule *substitutes ‘a reasonable time’ after such knowledge is obtained.*” (emphasis added). The South Carolina rule, while substantially the same, makes a major change which was clearly considered by the South Carolina Legislature in the plain language of the Rule. South Carolina Courts have interpreted “reasonable time,” not as a bright line rule, but as a test contemplating the totality of circumstances (see *supra*). In light of the fact that the substitution was made in a reasonable time after knowledge of Respondent’s death was obtained, Appellant prays this Court either reverse the Trial Judge’s denial of their Motion to Substitute or, in accordance with Rule 25(e), substitute on its own Bryan Caskey as the real party in interest.

c. Even if this Court is to agree with Paragraphs 11 and 12 of Judge Hood’s Order Denying Appellant’s Motion to Substitute, Appellant filed their Motion to Substitute within 90 days of finally confirming Respondent’s death.

In Paragraph 11 of Judge Hood’s Order, his Honor concludes that as a matter of law, substitution must be made within 90 days. In coming to this conclusion, his Honor cited the footnote of Rule 25(a)(1) which reads, “This Rule 25(a)(1) is substantially the same as Federal Rule 25(a)...The Rule *substitutes ‘a reasonable time’ after such knowledge is obtained.*” (emphasis added). The rule, while substantially the same, makes a major change which was clearly considered by the South Carolina Legislature in the plain language of the Rule. South Carolina Courts have interpreted “reasonable time,” not as a bright line rule, but as a test contemplating the totality of circumstances (see *supra*). Any assertion that the Rule directly mirrors the Federal Rule is erroneous.

Judge Hood’s Order also cites two cases in support of the incorrect conclusion of law that a “reasonable time” ranges from 90 days to 120 days. Neither of the cases cited deals with Rule

25 and does not stand for the proposition which the Order is proffering.

Panhorst v. Panhorst, 390 S.E.2d 376 (Ct. App. 1990), which is cited in Paragraph 12 of Judge Hood's Order, is a family law case. In one minor issue in the case, the Appellant maintained that 90 days was not a reasonable time for her to vacate the marital property and find another residence. In finding 90 days was a reasonable amount of time to vacate the marital residence, the Court found that Appellant had actually obtained another residence before the end of 90 days. The Court stated that based upon the fact that she had found another residence within 90 days, that she was not entitled to remain in the marital residence for any amount of time, and she did not suffer any prejudice as a result of the Judge's Order that she vacate the premises within 90 days.

Panhorst has no bearing on this current situation and is not on point. They are not analogous in the slightest, as Panhorst is a family law case dealing with a completely different issue of law. *Even if* the Court is to give any credence to this bright line 90 day argument, Appellant finally got the necessary Statement of Death from DHEC on June 12, 2018 after three attempts of asking and after months of good faith efforts. It was only at that time that the Probate Court would even consider appointing a Special Administrator. On July 20, 2018, Appellant submitted a proposed Order of Special Administration to the Court, a time frame well within this arbitrary 90 day limitation Respondent is trying to put forth.

The final case the Order cites is the unpublished opinion of Pressley v. Blackwell, 2005 S.C. App. Unpub. Although this opinion has "No precedential value" and "should not be cited or relied on as precedent in any proceeding," the Order cites the case in an attempt to create a 120 day limitation as the absolute maximum the Court has ever allowed per Rule 25(a)(1). This is a false interpretation of this case.

In Pressley, the Court was considering Rule 3, SCRPC and the post 2004 Amendment to the Rule. Specifically, the Court was asked to consider the service provision allowing for 120 days after proper filing of a civil suit per the statute of limitations. The Court found that the legislative intent showed that ordinarily, a reasonable time would be within 120 days, even before the 120 day amendment. The Court found the Trial Judge had not abused his discretion by finding effectuating service after the 120 day limitation was not “reasonable” based upon a totality of the circumstances, including Appellant’s lack of “dilatoriness in commencing publication.”

These situations are not analogous. *Even if* this case was good precedent, and even if the subject matter of proper service within a clearly laid out 90 to 120 day limitation was in any way on point with the current situation of reasonable time for substitution, the circumstances show that proper substitution occurred within 90 to 120 days. Appellant got the statement of death from DHEC after months of dilatory effort on June 12, 2018. It was only at that time that the Probate Court would even consider appointing a Special Administrator. On July 20, 2018, Appellant submitted a proposed Order of Special Administration to the Court, a time frame well within this arbitrary 90 to 120 day limitation Respondent is attempting to assert. That Order was signed by Judge Branham on August 14, 2018, naming Bryan Caskey Special Administrator. Appellant informed Bryan Caskey on August 16, 2018 of his appointment. Appellant then filed their Motion to Substitute on September 10, 2018, within 90 days of receiving confirmation of Respondent’s death from DHEC. As a result, this court should find that Appellant acted diligently in trying to confirm the rumor that Respondent had died and upon confirming his death and acted diligently in moving to have a Special Administrator appointed. This Court should also find that since Respondent filed an Answer and has participated in the litigation of the case, no prejudice or

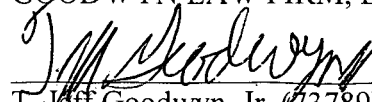
injustice will be worked upon Respondent by allowing the Special Administrator to be substituted for the Respondent. Because of the fact that even if this Court is to adopt a bright-line rule as suggested by the Trial Court's Order Appellant filed their Motion to Substitute within 90 days of obtaining actual knowledge of Respondent's death, Appellant prays this Court either reverse the Trial Judge's denial of the Motion to Substitute or, in accordance with Rule 25(e), substitute on its own the Special Administrator, Bryan Caskey, as the real party in interest.

CONCLUSION

Based upon the foregoing reasons, Appellant has taken all proper steps in the filing of their Motion to Substitute. The issues relevant to this matter were all raised and contemplated at the original hearing on October 15, 2018, in which Judge Benjamin granted Appellant leave to properly serve Mr. Caskey, which Appellant immediately did. Respondent should be precluded from raising any additional defenses that were not raised at that time.

Even should the new arguments be considered, Appellant has acted in good faith and had been more than diligent in substituting Mr. Caskey. No unreasonable delay as contemplated by the Rules of Civil Procedure has occurred. As this is not a bright-line rule, the Court is given discretion in determining the reasonableness given all the circumstances, which the Trial Judge abused. Even implementing a 90 day or 120 day limitation on Appellant, substitution was still performed properly. Therefore, Appellant prays this Court either reverse the Trial Judge's denial of the Motion to Substitute Bryan D. Caskey, Esquire as Personal Representative or real party in interest for Defendant or, in accordance with Rule 25(e), substitute on its own the Special Administrator, Bryan Caskey, as the real party in interest.

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September 18, 2019

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM KERSHAW COUNTY
CIRCUIT COURT

Robert E. Hood, Circuit Court Judge

Appellant Case No.: 2019-000624

RECEIVED

SEP 18 2019

SC Court of Appeals

Dottie R. Bell.....Appellant,

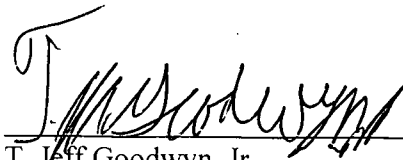
v.

John C. Bentley.....Respondent.

PROOF OF SERVICE

I certify that I have served a copy of the **Initial Brief of Appellant** on Carrie H. O'Brien, Esquire, Counsel for the Respondent, at the address below by depositing a copy of same in the United States Mail, postage prepaid, on September 18, 2019.

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September 18, 2019

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
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RE: Dottie R. Bell v. John C. Bentley
Appellate Case No.: 2019-000624
Our File No.: 8000-0260

RECEIVED
SEP 18 2019
SC Court of Appeals


Dear Ms. Kitchings:

Enclosed please find for filing, an original and two (2) copies of the Initial Brief of Appellant and Designation of Matter to Be Included in the Record on Appeal, along with the Proof of Service, in regard to the above-referenced matter. Please return a filed copy of same to my office with the courier.

By copy of this letter and as evidenced by the attached Proof of Service, I am serving a copy of the Initial Brief and Designation of Matter on Carrie H. O'Brien, Esquire, attorney for the Respondent.

Please accept my highest regards.

Sincerely,


T. Jeff Goodwyn, Jr.

TJG/msb
Enclosures

cc: Carrie Hailman O'Brien, Esquire