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

Appeal from Anderson County
Court of Common Pleas
R. Lawton McIntosh, Circuit Court Judge

Case No.: 2018-CP-04-02003
Appeal No.: 2019-000856

RECEIVED
DEC 06 2019
SC Court of Appeals

Debra O'Connor, as Personal
Representative of the Estate of Sandy Lynn
Shook.....Appellant

v.

Aaron
Collier.....Respondent.

MOTION TO CONSOLIDATE

Appellant Debra O'Connor, as Personal Representative of the Estate of Sandy Lynn Shook ("Appellant"), files this Motion pursuant to South Carolina Appellate Rules 240 and 214 respectfully seeking an Order from this Honorable Court consolidating the above-captioned matter with Appellate Case No.: 2018-001675 captioned *Allstate Property and Casualty Insurance Company v. Natoshia Hamilton and Kenneth Coogler* (the "Hamilton Case") and Appellate Case No.: 2018-001108 captioned *Allstate Fire and Casualty Insurance Company v. Pamela Goodwin* (the "Goodwin Case"). In support of this Motion, Appellant states:

1. On or about October 23, 2019, Allstate Fire and Casualty Insurance Company (“Allstate”) filed a Motion to Consolidate in Appellate Case No.: 2018-001108 (the Goodwin Case), asking that it be consolidated with Appellate Case No.: 2018-001675 (the Hamilton Case). (Attached as Exhibit 1).
2. Pamela Goodwin thereafter filed a return to Allstate’s Motion to Consolidate on or about October 31, 2019. (Attached as Exhibit 2). In her return, Pamela Goodwin stated that she does not oppose Allstate’s Motion to Consolidate; however, she did ask that if this Honorable Court grant Allstate’s Motion to Consolidate, that it also consolidate the above-captioned case with the Goodwin Case and the Hamilton Case.
3. Allstate filed a Return to Appellant’s Response to Respondent’s Motion to Consolidate on or about November 15, 2019. (Attached as Exhibit 3).
4. Out of an abundance of caution, and in an effort to ensure that counsel in the above-captioned matter has an opportunity to respond to Pamela Goodwin’s Return to Allstate’s Motion to Consolidate filed in the Goodwin Case, Appellant herein files this Motion to Consolidate.
5. Specifically, Appellant asserts that the above-captioned matter, the Goodwin Case, and the Hamilton Case be consolidated for the following reasons:
 - a. Appellant asserts that the above-captioned matter, the Goodwin Case, and the Hamilton case share the common question that is characterized as follows: “whether South Carolina continues to recognize the mirror-image rule.”

WHEREFORE, for the reasons stated herein and upon good cause shown, Appellant would ask that the above-captioned action, the Hamilton Case, and the Goodwin case be consolidated.

BY: Camden Hodge

J. Camden Hodge (SC #100638)
Eric M. Poulin (SC #100209)
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**Attorneys for the Appellant Debra O'Connor, as
Personal Representative of the Estate of Sandy
Lynn Shook**

Dated: This 3rd day of December, 2019

Charleston, SC

EXHIBIT 1

91239

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

**APPEAL FROM DARLINGTON COUNTY
Court Of Common Pleas**

**The Honorable Paul M. Burch, Judicial Circuit Court Judge
Trial Court Case No.: 2015CP1600815**

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SC Court of Appeals**

Appellate Case No. 2018-001108

Allstate Fire and Casualty Insurance Company Respondent,

v.

Pamela Goodwin Appellant.

MOTION TO CONSOLIDATE

Respondent Allstate Fire and Casualty Insurance Company (“Allstate”) files this motion pursuant to South Carolina Appellate Court Rules 214 and 240 seeking an order from this Honorable Court consolidating this matter with Appellate Case No. 2018-001675 captioned *Allstate Property and Casualty Insurance Company v. Natoshia Hamilton and Kenneth Collins Coogler*. In support of this motion, Allstate states as follows:

1. Rule 214, SCACR provides that “[w]here there is more than one appeal from the same order, judgment, decision or decree, or where the same question is involved in two or more appeals in different cases, the appellate court may, in its discretion, order the appeal to be consolidated.”

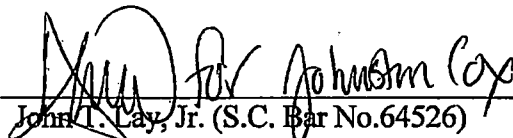
2. Both Appellate Case No. 2018-001108 and Appellate Case No. 2018-001675 involve the same question, whether Allstate's acceptance of the material terms of the settlement demands through performance of the material terms created a valid and enforceable settlement agreement.

3. Because both of these cases involve the same question, it is proper that they be consolidated, and the Court's rules permits such consolidation.

WHEREFORE, for the reasons stated here and upon good cause shown, Allstate respectfully requests that this matter be consolidated with Appellate Case No. 2018-001675

October __, 2019

By:



John T. Lay, Jr. (S.C. Bar No. 64526)

A. Johnston Cox (S.C. Bar No. 09081)

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ATTORNEYS FOR RESPONDENT

ALLSTATE FIRE & CASUALTY INSURANCE

COMPANY

EXHIBIT 2

**STATE OF SOUTH CAROLINA
In the Court of Appeals**

Appeal from Darlington County
Court of Common Pleas
Paul M. Burch, Circuit Court Judge

Case No. 2015-CP-16-00815
Appeal No. 2018-001108

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NOV 04 2019
Respondent,
SC Court of Appeals

Allstate Property and Casualty Insurance Company.....

v.

Pamela Goodwin.....Appellant.

APPELLANT'S RESPONSE TO RESPONDENT'S MOTION TO CONSOLIDATE

Appellant Pamela Goodwin ("Goodwin"), by and through the undersigned counsel, hereby responds to Appellant Allstate Fire and Casualty Insurance Company's ("Allstate") Motion to Consolidate as follows:

1. Appellant Goodwin does not oppose Allstate's Motion to Consolidate the present action with Appellate Case No. 2018-001675, captioned Allstate Property and Casualty Insurance Company v. Natoshia Hamilton and Kenneth Collins Coogler (the "Hamilton Action").
2. However, while Appellant Goodwin agrees that the present action and the Hamilton Action share common issues which necessitate consolidation, Appellant Goodwin does not agree with Respondent's characterization that the sole question is "whether Allstate's acceptance

of the material terms of the settlement demands through performance of the material terms created a valid and enforceable settlement agreement.”

3. Instead, Appellant Goodwin asserts that the common question is characterized as follows: “whether South Carolina continues to recognize the mirror-image rule.”
4. Accordingly, Appellant asks that if this Honorable Court consolidates the present matter and the Hamilton Action, that this court also consolidate those matters with Appellate Case No. 2019-000856, captioned Debra O’Connor, as Personal Representative of the Estate of Sandy Lynn Shook v. Aaron Collier (the “Shook Action”).
5. In support of Appellant Goodwin’s request, she asserts that the present action, the Hamilton Action, and the Shook Action share the same common question.

WHEREFORE, for the reasons stated herein and upon good cause shown, Appellant Goodwin would ask that the present action, and Hamilton Action, and the Shook Action be consolidated.

[Signature Block on Following Page]

Respectfully Submitted,

ANASTOPOULO LAW FIRM, LLC

Palupolje (w/express permission from Eric M. Poulin)
Eric M. Poulin

S.C. Bar No.: 100209

Roy T. Willey, IV

S.C. Bar No.: 101010

Lane D. Jefferies, Esquire

SC Bar Number: 101764

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Tele: (843) 614-8888

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Attorneys for Appellant

10/31, 2019

Charleston, SC

EXHIBIT 3

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DARLINGTON COUNTY
Court Of Common Pleas

The Honorable Paul M. Burch, Judicial Circuit Court Judge
Trial Court Case No.: 2015CP1600815

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NOV 15 2019
SC Court of Appeals

Appellate Case No. 2018-001108

Allstate Fire and Casualty Insurance Company..... Respondent,

v.

Pamela Goodwin.....Appellant.

RETURN TO APPELLANT'S RESPONSE TO RESPONDENT'S MOTION TO
CONSOLIDATE

Pursuant to South Carolina Appellate Court Rules 214 and 240, Respondent Allstate Fire and Casualty Insurance Company ("Allstate") submits this Return to Appellant's Response to Respondent's Motion to Consolidate.¹ Allstate objects to Appellant's request to consolidate Appellate Case Nos. 2018-001108 ("*Goodwin* matter") and 2018-001675 ("*Hamilton* matter").

Contrary to Appellant's contention that the common question in the *Goodwin* matter and the *Hamilton* matter involve "whether South Carolina continues to recognize the mirror-image rule," the complaints filed in the two lawsuits seek the following

¹ Because Appellant is seeking different relief than that set forth in Allstate's Motion to Consolidate, Allstate is treating Appellant's Response as a separate Motion to Consolidate pursuant to Rule 214, SCACR and therefore submits this Return.

declarations:

- a. The acceptance of the settlement demand, as demonstrated by Allstate's performance thereunder, on behalf of its insureds, is valid and enforceable;
- b. Allstate fulfilled its obligations under the policy when it settled [Goodwin's/Hamilton's] claim for the limits of the policy issued to the named insured(s); and
- c. Because the settlement agreement is valid and enforceable, Allstate and its insureds have no additional obligation to [Goodwin/Hamilton] with regard to the claim.

Specifically, in both the *Goodwin* matter and the *Hamilton* matter, Appellants contend that it rejected Allstate's acceptance of the settlement by its performance of the material terms because Allstate did not issue a certified or cashier's check. See Final Brief of Appellant Natoshia Hamilton; Final Brief of Appellant Pamela Goodwin. That is not the same issue in *Debra O'Connor, as Personal Representative of the Estate of Sandy Lynn Shook v. Aaron Collier*, Appellate Case No. 2019-000856 ("*O'Connor* matter").

The procedural posture of the *O'Connor* matter is different. In that case, Respondent Aaron Collier ("*Collier*") filed a Motion to Enforce Settlement arguing that the insurance carrier accepted Appellant's settlement offer in the amount of \$50,000, which represented the \$25,000 bodily injury limits and \$25,000 property damage limits of the policy.² In opposition to this motion, Appellant argued that her "offer, by its clear terms, required acceptance not later than October 12, 2018, required the payment of all applicable policy limits actually be received by Plaintiff's counsel, and that the check(s)

² Unlike the settlement demands sent to Allstate at issue in the *Goodwin* and *Hamilton* matters, the settlement demand at issue in the *O'Connor* matter specifically stated that "[a]ccordingly, Mr. Collier's exposure to punitive damages is very high. In light of these facts, our offer to Progressive requires payment from all applicable policies, **inclusive of both bodily injury and property damage.**" See Affidavit of Jeff Vicary, Exhibit D.

be delivered to 32 Ann Street, Charleston, SC 29403.” See Plaintiff’s Response in Opposition to Defendant’s Motion to Enforce Settlement, p. 5. This is a very different issue than the issue presented in the *Goodwin* and *Hamilton* matters where Allstate issued checks for the full amount of the settlement demand and Appellants Goodwin and Hamilton rejected the same because they requested Allstate issue the settlement funds in a form that it could not issue. Therefore, there is no common question and the *O’Connor* matter should not be consolidated.

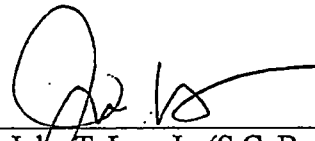
In addition, the notices of appeal were filed in the *Goodwin* matter and the *Hamilton* matter in June 2018 and October 2018, respectively, and the parties have completed the final briefing in both matters. It appears that the parties in the *O’Connor* matter have just completed initial briefing. To the extent that consolidating the *Goodwin* and *Hamilton* matters with the *O’Connor* matter would delay the Court’s consideration of the *Goodwin* and *Hamilton* matters, consolidation would be inappropriate. And, there is no indication that counsel has consulted with counsel for the Respondent in the *O’Connor* matter regarding consolidating these matters, and there has been no motion filed in that case to which counsel could respond or to provide notice of the request.

Therefore, for the reasons stated here Allstate respectfully requests that this Court deny Appellant’s request to consolidate the *Goodwin* and *Hamilton* matters with the *O’Connor* matter.

{Signature on next page}

November 15, 2019

By:



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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County
Court of Common Pleas
R. Lawton McIntosh, Circuit Court Judge

Case No.: 2018-CP-04-02003
Appeal No.: 2019-000856

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Debra O'Connor, as Personal
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Shook.....Appellant

v.

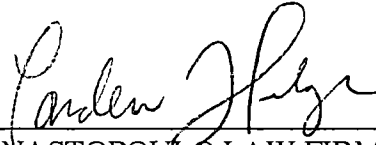
Aaron
Collier.....Respondent.

PROOF OF SERVICE

I certify that I have served the enclosed Appellant's Motion to Consolidate by depositing a copy of it in the United States Mail, postage prepaid addressed to Respondent's attorney of record, as well as the attorneys of record in the cases titled *Allstate Property and Casualty Insurance Company v. Natoshia Hamilton and Kenneth Coogler*, Appellate Case No.: 2018-001675; and *Allstate Fire and Casualty Insurance Company v. Pamela Goodwin*, Appellate Case No: 2018-001108.

[Signature Block on Following Page]

Dated: December 3, 2019



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Others served:

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HERB F. GLASS (SC)
J. CAMDEN HODGE (SC)
LANE D. JEFFERIES (SC)
THOMAS D. KANDLER, II (NC)
BYRON V. LEARY, II (SC)
BENJAMIN W. LEE (SC)
ALEXIS W. MCCUMBER (SC)
MATTHEW L. NALL (SC)(KY)
SAMANTHA SUTTON (SC)(NC)
CASEY VAN VALKENBURGH (SC)(IL)(MO)
P. HEATH WARD (SC)
DANNY LEE WILLARD, JR. (SC)
L. CRAYTON WILLIAMS (SC)

*OF COUNSEL

December 3, 2019

Via USPS


The Honorable Jenny Abbott Kitchings
Clerk of Court for the South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

Re: Debra O'Connor as Personal Representative of the Estate of Sandy Lynn Shook v.
Aaron Collier
C/A No.: 2018-CP-04-02003
Appellate Case No.: 2019-000856

Dear Ms. Kitchings:

Enclosed for filing please find the original and seven (7) copies of the Appellant's Motion to Consolidate in the above-referenced matter, along with a Proof of Service. I would appreciate you filing these documents and returning the extra copy to me in the enclosed, self-addressed and pre-stamped envelope. Thank you for your assistance in this matter.

Sincerely,


J. Camden Hodge

cc: Johnston Cox
Michael T. Coulter
Michelle N. Endemann

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