

**THE 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  
Appellate Case No.: 2019-000856

**RECEIVED**

DEC 17 2019  
SC Court of Appeals

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

Appellant,

v.

Aaron Collier

Respondent.

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

Pursuant to Rules 214 and 240 of the South Carolina Appellate Court Rules ("SCACR"), Respondent Progressive Northern Insurance Company ("Progressive") submits the following Return to Appellant's Motion to Consolidate the above-captioned appeal with Appellate Case Nos. 2018-001108 and 2018-001675 (collectively referred to as the "Allstate Appeals"). In the Allstate Appeals, Allstate Fire and Casualty Insurance Company ("Allstate") has filed an objection to the consolidation of the above-captioned appeal with the Allstate Appeals. Progressive joins in Allstate's objection and further responds that consolidation of this matter with the Allstate Appeals is not proper under Rule 214 SCACR.

Rule 214 SCACR states that where there is more than one appeal from the same order 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. Appellant claims that all of the appeals in question concern the legal issue of "whether South Carolina continues to recognize the mirror-image rule." (Motion to Consolidate, p. 2) However, the above-captioned appeal is a fact-intensive inquiry that concerns a mistake in the performance of a settlement agreement after a meeting of the minds and acceptance of a settlement demand has already taken place. The lower court's ruling is best summarized in the exchange below:

THE COURT: Well, you keep referring to a meeting of the minds, and I don't think you're right because you said 25, 25, pay me under a covenant and we'll accept it. And they said, "We'll pay you 25, 25 under a covenant and we'll pay it." But then it came down -- so there's the meeting of the minds.

Do you not agree?

MR. HODGE: Well, I would agree that they said ---

THE COURT: But the performance was a mistake.

[Transcript of Hearing on Motion to Reconsider, p. 7 lines 14-24] In this appeal, the lower court held that there was a meeting of the minds and mutual assent to the material terms of the settlement agreement. The lower court further held that the mistake with regard to the delivery of the second check constituted a good faith mistake insufficient to terminate or rescind the agreement. Neither of these issues are present in the Allstate Appeals.

Accordingly, Progressive respectfully requests that Appellant's motion be denied.

[signatures on following page]

Respectfully Submitted by:

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Mt. Pleasant, SC

December 16, 2019

Attorneys for Respondent

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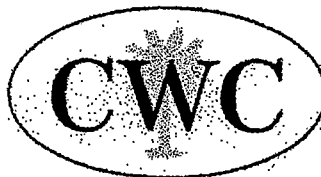
PROOF OF SERVICE

I certify that on December 16, 2019 I served the Respondent's Opposition to the Motion to Consolidate on Debra O'Connor, as Personal Representative of the Estate of Sandy Lynn Shook, by emailing a copy to her attorney of record, J. Camden Hodge with hard copies to follow to 32 Ann Street, Charleston, South Carolina 29403.



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December 16, 2019

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VIA FAX AND FIRST CLASS MAIL

The Honorable Jenny Abbott Kitchings  
Court of Appeals Clerk  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: Debra O'Connor, as Personal Representative of the Estate of Sandy Lynn Shook  
v. Aaron Collier  
Appellate Case No.: 2019-000856

Dear Ms. Kitchings:

Enclosed for filing please find the Respondent's Return to Appellant's Motion to Consolidate. Thank you for your help with this matter. Should you have any questions or require further information, please do not hesitate to contact me.

Very truly yours,

Clarkson, Walsh & Coulter, P.A.

MICHELLE N. ENDEMANN, ESQUIRE

MNE/ka

cc: J. Camden Hodge, Esq.