

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Benjamin H. Culbertson, Circuit Court Judge

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SC Court of Appeals

Case No. 2019-001722

Bridgett Fowler,.....Appellant,

v.

FedEx Ground Package System, Inc. and
James K. Ard d/b/a JMK Logistics
Corporation,.....Respondents.

INITIAL BRIEF OF RESPONDENTS

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Rule 56, SCRCP 2

I. STATEMENT OF ISSUE ON APPEAL

The issue on appeal is whether the Circuit Court correctly held that a plaintiff in a civil action may not recover damages for emotional distress, mental anguish, or anxiety stemming from the death of a pet.

II. STATEMENT OF THE CASE

The Appellant filed her Second Amended Complaint on March 4, 2018, naming FedEx Ground Package System, Inc. (“FXG”) and James K. Ard d/b/a JMK Logistics Corporation (“JMK”) as defendants to this action, seeking damages against the defendants for loss of the Appellant’s pet, mental anguish, emotional distress, and anxiety, among other actual and consequential damages. Second Amend. Compl. at ¶ 27.

The nature of this action stems from the death of Appellant’s pet dog. *See* Second Amend. Compl. On March 22, 2018, a JMK driver and independent contractor was delivering packages via truck to homes in Horry County for FXG. Second Amend. Compl. at ¶¶ 9 and 14. As his truck proceeded down Appellant’s driveway, the dog ran towards the approaching truck. *See* Second Amend. Compl. at ¶ 16. Appellant claims that she witnessed the truck strike the dog in the driveway. Second Amend. Compl. at ¶ 17. The dog did not survive.

Respondents filed a Motion for Summary Judgment on August 1, 2019, seeking judgment as a matter of law as to Appellant’s demand for damages for mental anguish, emotional distress, and anxiety stemming from the death of her dog. Defendants’ Motion for Summary Judgment. Respondents argued to the Circuit Court that pet dogs are considered personal property in South Carolina, and therefore, Appellant’s damages were limited to the pet’s market value. Memorandum in Support of Motion for Summary Judgment at p.3. The Appellant filed a

memorandum in opposition to Respondents' motion on August 29, 2019. Plaintiff's Memorandum in Opposition to Motion for Summary Judgment.

The Circuit Court held a hearing on Respondents' Motion for Summary Judgment on September 11, 2019. *See* Transcript of Hearing on Defendants' Motion for Summary Judgment. After hearing oral argument from both sides, the Circuit Court granted Respondents' Motion for Summary Judgment, holding that, as a matter of law, pets are considered personal property and a plaintiff may not recover non-economic damages for injury to property. Transcript of Hearing on Defendants' Motion for Summary Judgment at 14:19-25. The Circuit Court entered an Order on September 23, 2019 outlining its conclusions of law and Granting Respondents' Motion for Summary Judgment as to Appellant's claims for damages related to mental anguish, emotional distress, and anxiety. Order Granting Defendants' Motion for Summary Judgment. Appellant filed a Notice of Appeal of the Circuit Court's Order on October 11, 2019. Notice of Appeal.

III. STANDARD OF REVIEW

"The purpose of summary judgment is to expedite the disposition of cases not requiring the services of a fact finder." *George v. Fabri*, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001) (citing *Bankers Trust of South Carolina v. Benson*, 267 S.C. 152, 155, 226 S.E.2d 703, 704 (1976)). When the appellate court "review[s] the grant of summary judgment, this court applies the same standard that governs the trial court under Rule 56(c), SCRPC; summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." *Watson v. Underwood*, 407 S.C. 443, 453, 756 S.E.2d 155, 160-61 (Ct. App. 2014); Rule 56, SCRPC. This Court must "review[] all ambiguities, conclusions, and inferences arising in and from the evidence in a light most favorable to the non-moving party." *Roland v. Heritage Litchfield, Inc.*, 372 S.C. 161, 165, 641 S.E.2d 465, 467 (Ct. App. 2007).

However, “[o]nce the moving party meets the initial burden of showing an absence of evidentiary support for the opponent’s case, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial and cannot simply rest on mere allegations or denials contained in the pleadings.” *Id.* (citing *Miller v. Blumenthal Mills, Inc.*, 365 S.C. 204, 220, 616 S.E.2d 722, 730 (Ct. App. 2005)).

IV. LEGAL ARGUMENT

A. The Circuit Court Correctly Held That A Pet Is Considered Personal Property, And Damages For Mental Anguish, Emotional Distress, And Anxiety Are Not Recoverable For Damage To Personal Property In South Carolina.

The Supreme Court of South Carolina long-ago recognized the now well-settled principle that pets are considered personal property in this state. This concept originally arose in *Smith v. Langford*, where the Supreme Court considered whether pet dogs could be the subject of larceny. *Smith v. Langford*, 55, S.C. 322, 324, 33 S.E. 370, 371 (1899). As explained in *Langford*, in the old common law, “larceny could not be committed of a dog” because a tame dog was considered to have “no intrinsic value.” *Id.* As such, by the old standard, an individual could not commit a larceny by “the taking and carrying away of a dog” of another. *Id.*

Langford explicitly rejected this archaic notion, explaining that dogs are bought and sold as other property and are taxed as personal property, and therefore, should be regarded by the law as personal property. *See id.* Although the Appellant attacks *Langford’s* application to this matter because that case was considering a criminal statute (larceny), if there was any doubt remaining as to whether a dog is considered personal property in the civil context, that doubt was quickly alleviated only five days later. *Richardson v. Florida Cent. & Peninsula R.R. Co.*, 55 S.C. 334, 33 S.E. 466 (1899). In *Richardson*, a railroad company was sued after its mail and passenger train killed the plaintiff’s female Llewellyn setter dog while the dog was on the

plaintiff's property. *Id.* at 334, 33 S.E. at 466. In considering the appeal, the Supreme Court specifically recognized that “[t]here is no longer any room to doubt that a dog is personal property in this State.” *Id.* at 335, 33 S.E. at 466. Ultimately, the appellate court upheld the Circuit Court’s finding that the plaintiff had failed to establish any negligence which could render the railroad defendant liable in damages to the plaintiff. *Id.* at 336, 33 S.E. at 466. In essence, the Supreme Court has definitively established, in all contexts—civil and criminal—that pet dogs are considered personal property in South Carolina. This binding precedent has remained the law in this State for over a century.

The law in South Carolina is very clear that the calculus for determining the amount of recovery for damage to personal property is based exclusively on the property’s fair market value. “There are two kinds of property which may be destroyed or injured, personal and real” *Hall v. Seaboard A.L.R. Co.*, 126 S.C. 330, 333, 119 S.E. 910, 912 (1923). “When the thing destroyed is personal property, . . . , the measure of damages is the market value at the time and place of its destruction.” *Id.* at 334, 119 S.E. at 912. South Carolina courts have consistently applied these principles for decades. *See Coleman v. Levkoff*, 128 S.C. 487, 490, 122 S.E. 875, 876 (1924) (“The general rule is that the owner of personal property, injured by the negligence of another, is entitled to recover the difference between the market value of the property immediately before the injury and its market value immediately after the injury.”); *see also Duke Power Co. v. Thornton*, 303 S.C. 454, 401 S.E.2d 195, 196 (Ct. App. 1991) (“As a general rule, the measure of damages for injury to personal property is the difference between the market value of the property immediately before and its value immediately after the injury.”). Damages to compensate a plaintiff for their emotional attachment to personal property are simply not recoverable.

To summarize, the analysis of this issue is straightforward and simple. The Supreme Court has made very clear that pet dogs are considered personal property in the State of South Carolina. The measure of damages for injury to personal property is “the market value” of the property. *Hall*, 126 S.C. at 333, 119 S.E. at 912. Damages for mental anguish, emotional distress, and anxiety are simply not recoverable for injury to personal property, and never have been in this State. These longstanding principles alone should end this Court’s inquiry.

B. The Circuit Court’s Consideration of *Bales v. Judelson* As Persuasive Authority To The Issue In This Case Was Not Improper.

This Court has considered this very issue on appeal before, and has come to the same conclusion in a prior, unpublished opinion. In *Bales v. Judelson*, this Court considered whether emotional damages stemming from a dog fight which left the plaintiffs’ dog injured were proper considerations for a jury. *Bales v. Judelson*, No. 2005-UP-509, 2005 S.C. App. Unpub. LEXIS 527, at *1 (Ct. App. Aug. 30, 2005). In that case, the plaintiffs’ dog was involved in a fight with the defendants’ dog, and suffered various injuries that required \$1,258.10 in veterinary care. *Id.* The trial court submitted issues of emotional damages and lost wages to the jury, and the jury returned a verdict in favor of the plaintiffs in the amount of \$5,000, well above the veterinary expenses of \$1,258.10. *Id.* On appeal, the defendants’ argument mirrored the argument presented to this Court, that emotional damages are not recoverable due to injuries to a dog. *Id.* at *2. The court began its analysis by initially noting that it “ha[d] not found any jurisprudence in South Carolina that addresses damages resulting from an injury to a pet.” *Id.* However, the court went on to clearly recognize that “[t]ypically, the courts have limited the award of damages to the dog’s market value in view of the general recognition of dogs as personal property.” *Id.* (citing 4 Am. Jur. 2d Animals §§ 6 and 165 (1995)). After considering the various views other courts have taken, the court held “that South Carolina law does not support a cause of action for

emotional distress for injury to one's pet.” *Id.* at *3. The plaintiffs’ damages in *Bales* were, therefore, specifically limited to damages “only for reimbursement of veterinary expenses in the amount of \$1,258.10.” *Id.*

Although not binding on this Court or the Circuit Court below, the *Bales* opinion is directly on point, and unquestionably applied the correct law of this State to the same issue presented in this appeal. Indeed, in *Bales*, the plaintiffs sought to recover emotional damages stemming from the injury of their pet dog. The issue in *Bales* clearly parallels the issue in this matter, and the explicit holding of *Bales* is precisely the same holding the Circuit Court came to after consideration of the issue in this case. Appellant provides no expansion whatsoever as to her broad stroke contention that *Bales* “is not determinative of the present issue,” App. Brief at 3.¹ Regardless, there is no question that the issue in *Bales* perfectly mirrors the issue that was before the Circuit Court in this case.

Beyond that, Appellant does not take issue with *Bales*’ underlying reasoning, but rather, only argues it should not have been considered by the Circuit Court because of (1) its unpublished status, (2) its failure to “fully address the current nationwide trend,” and (3) its failure to “account for more recent changes in South Carolina statutory law.” *See* App. Brief at 4-6.

As to the first issue, contrary to the Appellant’s unsupported assertion, the transcript from the hearing on this issue, as well as the Circuit Court’s order, each make crystal clear that the lower court did *not* rely on the *Bales* opinion in making its ruling. *See* Transcript of Hearing on Motion for Summary Judgment at 14:19-20 (Circuit Court stating “I agree *B[a]les v. Judelson* [] doesn’t have any precedential value . . .”); *see also* Order Granting Defendants’ Motion for

¹ To the extent Appellant is arguing that *Bales* is not determinative of the present issue because it is unpublished and cannot be considered as precedential, that argument is addressed below.

Partial Summary Judgment (stating “[t]he Court recognizes that this unpublished decision [*Bales*] does not have precedential value.”). Of course, recognizing that the *Bales* opinion was directly on point to the issue in the present matter, the Circuit Court properly considered the reasoning of *Bales* as persuasive authority. There is no question that it was well within its authority to do so, and Appellant provides nothing to the contrary. The Circuit Court explicitly recognized that the *Bales* opinion was not precedential, and therefore, there was no error in considering its reasoning as persuasive in light of its direct resemblance to the issue of this case.

Secondly, Appellant is averse to the Circuit Court’s consideration of *Bales*’ reasoning because *Bales* did not explicitly identify that there is a “current nationwide trend recogniz[ing] a pet owner’s ability to recover emotional damages in connection with the loss of a pet.” App. Brief at 4-5. This argument is wholly misplaced. Not only do Appellant’s cited cases fail to show such claimed “*current* nationwide trend,”² but what is strikingly more apparent is that she has conveniently avoided the obvious: the *vast majority* of jurisdictions in this country who have considered this very issue have *expressly* declined to expand the law to allow pet owners to recover non-economic damages arising from the death of a pet. See Victor E. Schwartz & Emily J. Laird, *Non-Economic Damages in Pet Litigation: The Serious Need to Preserve a Rational Rule*, 33 Pepp. L. Rev. 227, 236-37 (2006) (listing states and providing citations of cases that have reinforced the notion that pet owners cannot recover for emotional distress based upon an alleged negligent or malicious destruction of a dog to include Arizona, California, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Michigan, Minnesota,

² The Appellant’s Brief cites a single opinion of the past decade supporting her position that there is a “current nationwide trend,” and that opinion was itself considering federal common law of damages in § 1983 actions, and expressly distinguished its reasoning as unrelated to state common law negligence actions. See App. Brief at 4 (citing *Moreno v. Hughes*, 157 F. Supp. 3d 687 (E.D. Mich. 2016)). The remaining cases Appellant cites in support of this claimed “current nationwide trend” range from 14 to 56 years old.

Nebraska, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Texas, Virginia, Washington, West Virginia, and Wisconsin); *see also McDougall v. Lamm*, 48 A.3d 312, 321-22 (N.J. 2012) (stating that “[t]he majority of jurisdictions that have considered whether pet owners should be permitted to recover for emotional distress arising from the death of the pet have declined to authorize the cause of action”) (citing cases); *Kaufman v. Langhofer*, 222 P.3d 272, 274 (Ariz. Ct. App. 2009) (“The majority of states also limit recovery for negligent injury to or death of a pet to the animal’s fair market value and bar a plaintiff pet owner from recovering emotional distress damages”); *and* 4 Am. Jur. 2d Animals § 115 (2019) (“Most jurisdictions deny recovery of damages for emotional distress arising from injury or death of animals caused by ordinary negligence”). The Appellant’s claimed “current nationwide trend” of jurisdictions allowing for recovery of emotional damages for injury to a pet is wholly unsupported, either in the Appellant’s Brief or in the case law, and in direct contradiction to the weight of authority considering this issue. Accordingly, Appellant’s argument that the Circuit Court should not have considered *Bales*’ reasoning as persuasive on this account is without any merit.

Third, Appellant takes issue with the Circuit Court’s consideration of *Bales* because, according to Appellant, that case is not consistent with “South Carolina legislation supporting a pet owner’s recovery of emotional damages resulting from the loss of a pet[.]” App. Brief at 6. To be sure, there is *no statutory authority* in South Carolina that “support[s] a pet owner’s recovery of emotional damages resulting from the loss of a pet.” *Id.* Essentially, Appellant argues that recent amendments to the South Carolina Code of Laws acknowledging that some “emotional support animal[s],” S.C. Code Ann. § 47-3-920(6), provide companionship and reassurance to their owners necessarily makes the Circuit Court’s consideration of *Bales* improper. App. Brief at 6.

At the outset, it is important to recognize that the statutory provisions invoked by Appellant—Layla’s Law (S.C. Code Ann. §§ 47-3-910 to -990)—are criminal statutes designed to protect guide dogs and service animals from criminal acts causing injury, disability, or death to the guide dog or service animal. S.C. Code Ann. §§ 47-3-930 through -970. Of course, there is nothing in the record indicating that Appellant’s dog was a guide dog or service animal.³ Indeed, Appellant readily admits her dog was, in fact, a pet. *See* App. Brief at 1 (Statement of Issue on Appeal “can a *pet owner* recover damages”) (emphasis added). Beyond that, these are *criminal* statutes outlining *crimes* related to guide dogs or service animals. Appellant makes no attempt to show how these provisions have any bearing on the issues of damages available to a plaintiff in a civil case.⁴ Finally, even if the above arguments were not convincing, the statute goes on to make this issue overtly simple by helpfully telling us that “[t]his article does *not* affect civil remedies available for conduct punishable under this article.” S.C. Code Ann. § 47-3-970(c) (emphasis added). On their face, these statutory provisions have absolutely no applicability to the issue before this Court, and Appellant’s reference to them is a blatant red herring.

Nevertheless, even if this Court is inclined to consider these criminal statutes as having some bearing on this appeal, Appellant’s passing mention of a hand-picked, definitional provision of these statutes completely misses the mark. If anything, these provisions reveal the South Carolina General Assembly’s intention to *not allow* ordinary pet owners to recover non-

³ As defined, a “guide dog” means “a dog that is trained for the purpose of guiding blind persons or a dog trained for the purpose of assisting hearing impaired persons,” and a “service animal” means “an animal that is trained . . . to work or perform tasks for an individual with a disability. A service animal is not a pet” S.C. Code Ann. § 47-3-920(1) and -920(4).

⁴ Appellant’s attempts to transmute this criminal statute to have some bearing on this matter has no bounds, for contrary to Appellant’s notion that “Layla’s Law, . . . , focuses primarily on [g]uide dogs and [s]ervice [a]nimals,” (*see* App. Brief at 6), these provisions in fact *exclusively* apply to *only* guide dogs and service animals. *See* S.C. Code Ann. §§ 47-3-930 through -970.

economic damages for the injury or death of their pet. Indeed, looking to the provisions allowing for criminal restitution for the criminal injury or killing of a guide dog or service animal, we find that a victim may be entitled to

- (1) the value of the replacement of an incapacitated or deceased guide dog or service animal, the training of a replacement guide dog or service animal, or retraining of the affected guide dog or service animal and related veterinary and care expenses; and
- (2) medical expenses of the guide dog or service animal user, training of the guide dog or service animal user, and compensation for wages or earned income lost by the guide dog or service animal user.

S.C. Code Ann. § 47-3-970(B)(1) and (2). Even for criminal acts injuring or killing guide dogs or service animals, the South Carolina General Assembly has *explicitly* declined to allow for a victim to recover any non-economic damages from the offender in restitution. Quite simply, the Appellant has not provided any analysis of the substance of these provisions, and only references a conveniently singled-out definitional provision in passing. If these statutes have any correlation to the matter before this Court, such correlation evidences the General Assembly's determination to *not allow* recovery for non-economic damages for the injury or death of valued animals.

All of the foregoing clearly demonstrates why the Circuit Court's consideration of *Bales* as persuasive authority to this case was unquestionably appropriate. Indeed, the legal issue presented in *Bales* precisely mirrors the issue presented in this appeal. Moreover, all of Appellant's proffered aversions to the *Bales* opinion are simply unavailing.

C. Public Policy Strongly Favors The Current Law Limiting A Plaintiff's Available Damages From Witnessing The Death Of A Pet To The Fair Market Value Of The Pet.

Interestingly, the Appellant cites absolutely no South Carolina case or statute outlining to this Court how the public policy of this State supports her position, nor has she even attempted to

address what the standard is for this Court to consider public policy arguments at all. Instead, Appellant has grandiosely proclaimed that this Court should simply “find that public policy supports allowing a pet owner to recover emotional damages for the loss of a pet” App. Brief at 7. Irrespective of Appellant’s conjured public policy arguments, there is little doubt that, if this Court is inclined to consider public policy here, such public policy strongly favors the current law in limiting the damages a pet owner may recover for injury or death of their pet to its fair market value.

To begin with, the Supreme Court has consistently “emphasized its preference for exercising restraint when undertaking the amorphous inquiry of what constitutes public policy based upon [its] understanding that the *General Assembly* is the principal source of public policy declarations.” *Donze v. GM, LLC*, 420 S.C. 8, 23, 800 S.E.2d 479, 487 (2017) (internal quotation marks omitted) (emphasis added). Indeed, “[d]eterminations of public policy . . . are chiefly within the province of the legislature” *Fullbright v. Spinnaker Resorts, Inc.*, 420 S.C. 265, 271, 802 S.E.2d 794, 797 (2017). Because the South Carolina General Assembly has not passed any statutory law addressing the precise damages a plaintiff may recover from the death of a pet, this Court should simply apply the current law as outlined above,⁵ and decline to insert its own perspective on what the public policy of this State is as to this issue. Indeed, without any guidance from the legislature, this Court is instructed by the Supreme Court to exercise restraint and dismiss consideration of public policy in this appeal.

Nevertheless, even if this Court is inclined to consider public policy here, there is no doubt that such public policy strongly favors the current law in limiting the damages a pet owner may recover for the loss of their pet to the fair market value of the pet. Other courts across the

⁵ See *supra* Part IV.A.

country have consistently found that the public policy of their states support disallowing a plaintiff to recover non-economic damages for the injury or death of their pet. The same considerations outlined in those cases also largely apply here.

The Supreme Court of New Jersey considered this exact issue in *McDougall v. Lamm*, 48 A.3d 312 (N.J. 2012). In that case, the Supreme Court of the state was “asked to consider whether a pet owner should be permitted to recover for emotional distress caused by observing the traumatic death of that pet.” *Id.* at 314. Upon review of other states’ public policy considerations, the court recognized that there are “concerns that our enormous capacity to form bonds with dogs, cats, birds and an infinite number of other beings that are non-human would make it impossible to define the boundaries of the cause of action.” *Id.* at 322. Additionally, the court explained that other states had also identified the potential effects of allowing emotional distress claims in favor of pet owners including

- (1) opening the door to claims for non-economic damages for the loss of other types of personal property and thus burdening the courts with increased caseloads;
- (2) the difficulties of determining who would be entitled to recover, the category of companion animals for which recovery would be available, and evaluating damages that are so subjective that they are beyond the capacity of the legal process; and (3) the impact on the practice of veterinary medicine.

Id. at 326. In concluding that non-economic damages would not be recoverable to a pet owner who witnesses the death of their pet, the court outlined five reasons of its own, concluding: First, allowing a plaintiff to recover for observing the death of a pet would be nonsensical because the law of the state would not permit recovery for observing the death of most humans; Second, expanding the law to permit recovery of emotional distress based upon the death of a pet would be inconsistent with the state’s existing statutes; Third, the state’s precedent established that pets are property, and the measure of recovery for the loss of a pet was clearly established to be the replacement cost of the pet; Fourth, there was no way to easily identify which pet owners would

be entitled to such non-economic damages, and which would not; and Fifth, by allowing recovery of non-economic damages for the death of a pet, there became the potential that the door would be opened to consider claims that attachments to inanimate forms of property should likewise be honored. *See id.* at 326-27.

All of these public policy reasons thoughtfully laid out by the Supreme Court of New Jersey equally apply in the State of South Carolina. Indeed, to begin with, just like New Jersey, our state does not recognize a cause of action by an individual to recover for emotional distress alone for witnessing the death of a human. It seems *contraire* to allow an individual to recover emotional damages from witnessing the death of a pet, while at the same time precluding recovery of these same damages for witnessing the death of a person—even a person with whom they may have a strong, close connection. Secondly, it would be inconsistent to allow a plaintiff to recover non-economic damages from witnessing the death of their *pet* when South Carolina's current statutes protecting *guide dogs and service animals* do not allow recovery for such damages. *See* S.C. Code Ann. § 47-3-970; *see also supra* Part IV.B. Third, because this State has explicitly characterized dogs as personal property for over a century, it would go directly against established precedent to now allow for recovery of non-economic damages for witnessing injury to personal property. Fourth, if South Carolina courts were to allow pet owners to recover non-economic damages for witnessing injury to their pet, there would be no feasible way to qualify or quantify which pet owners would be entitled to damages, and how much damages such owners would be entitled to—nor, in a practical sense, would any defendant be able to fairly defend against these issues. Finally, by allowing pet owners to recover non-economic damages for injury to their personal property in South Carolina, the door would swing wide-open as to claims that individual's attachments to other, inanimate forms of property should

likewise be honored. Indeed, there are countless circumstances where individuals in this State have strong personal and emotional attachments to inanimate forms of personal property, such as family heirlooms or other sentimental items. Allowing recovery for non-economic damages for damage to personal property in this case would open the door to a whole host of claims that are, in principle, on similar footing.

In sum, the Supreme Court directs that the determination of the public policy of this State is properly left to the legislature, *see Fullbright*, 420 S.C. at 271, 802 S.E.2d at 797, and this Court should simply decline to consider these issues at all in this appeal. However, if the Court is inclined to consider public policy here, all of these reasons clearly demonstrate that public policy favors the current law in South Carolina, which limits a plaintiff's available damages from witnessing the death of a pet to the fair market value of the pet.

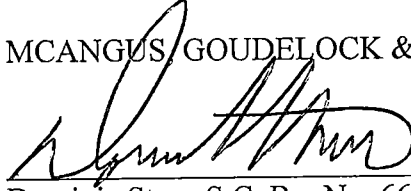
V. CONCLUSION

The Circuit Court correctly held that a plaintiff in a civil action may not recover damages for emotional distress, mental anguish, or anxiety stemming from the death of a pet. The law is clear that pets have been categorically classified as personal property in this State for over a century. The damages a plaintiff may recover for injury to her personal property is, and has always been, the market value at the time and place of the injury. For all of the foregoing reasons, Respondents respectfully request this Court to affirm the Order of the Circuit Court.

(Signature on following page)

Respectfully submitted,

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM HORRY COUNTY
Court of Common Pleas

FEB 26 2020

SC Court of Appeals

The Honorable Benjamin H. Culbertson, Circuit Court Judge

Case No. 2019-001722

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v.

FedEx Ground Package System, Inc. and
James K. Ard d/b/a JMK Logistics
Corporation,.....Respondents.

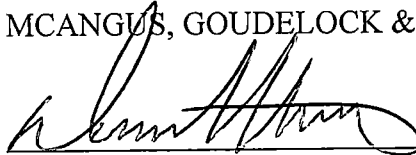
PROOF OF SERVICE

I certify that I have served the **Respondents' Initial Brief** and **Designation of Matter to be Included in the Record on Appeal** on Bridgett Fowler, by depositing a copy of it in the United States Mail, postage prepaid, on February 25, 2020 addressed to her attorney of record:

Tyler Turner, Esquire
Mary Allison Caudell, Esquire
914 Richland Street, Suite A-101
Columbia, SC 29201

Attorneys for Appellant

MCANGUS, GOUDELOCK & COURIE, LLC

A handwritten signature in black ink, appearing to read "Dominic Starr", is written over a horizontal line.

Dominic Starr, S.C. Bar No. 66231

Abby Edwards Saunders S.C. Bar No. 17234

2411 North Oak Street, Suite 401

Myrtle Beach, South Carolina 29578

dominic.starr@mgclaw.com

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Telephone: (843) 848-6000

Facsimile: (843) 449-2306

Attorneys for Respondents

mgc

Reply To

DOMINIC STARR

Direct Dial: (843) 848-6001

Dominic.starr@mgclaw.com

February 25, 2020

RECEIVED
FEB 26 2020
SC Court of Appeals

Via U.S. Mail

The Honorable Jenny Abbott Kitchings

South Carolina Court of Appeals

P.O. Box 11629

Columbia, SC 29211

RE: Bridgett Fowler v. FedEx Ground Package System, Inc. and James K. Ard
 d/b/a JMK Logistics
 Appellate Case No. 2019-001722

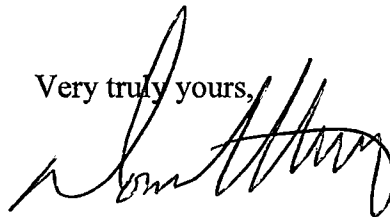
Dear Ms. Kitchings:

Enclosed for filing please find the following documents:

1. the original and one copy of the Initial Brief of Respondents FedEx Ground Package System, Inc. and James K. Ard d/b/a JMK Logistics;
2. the original and one copy of Respondents' Designation of Matter to be Included in the Record on Appeal; and
3. the original and one copy of Respondents' Proof of Service concerning items one and two.

Please file these documents and return the clocked-in copies in the enclosed, self-addressed stamped envelope.

Very truly yours,

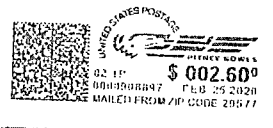


Dominic A. Starr

Enclosures

cc: Tyler R. Turner, Esquire

 Mary Allison Caudell, Esquire



22021.18052 DAS/DAS

mgc

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FEB 20 2020
SC Court of Appeals

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

