

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

RECEIVED

Feb 19 2021

The Honorable R. Keith Kelly, Circuit Court Judge

SC Court of Appeals

Appeal No.: 2020-001695

Mark Douglas Hill, III, by and through his
Duly appointed Guardian ad Litem, Helen
Kaci Hill, Plaintiff..... Respondent,

v.

Cranston Print Works Company d/b/a
Cranston Trucking Company, Ryder Truck
Rental, Inc., Optimum Staffing, Inc., d/b/a
Optimum Logistic Solutions, and Jason E.
Burdette, Defendants,

And

Gregory Jones, Sr., as the Father and Duly
Appointed Personal Representative of the
Estate of Jessica Dawn Jones, Deceased, Plaintiff, Respondent,

v.

Cranston Print Works Company d/b/a
Cranston Trucking Company, Ryder Truck
Rental, Inc., Optimum Staffing, Inc., d/b/a
Optimum Logistic Solutions, and Jason E.
Burdette, Defendants,

of whom Cranston Print Works Company d/b/a
Cranston Trucking Company, Optimum Staffing, Inc., d/b/a
Optimum Logistic Solutions, and Jason E. Burdette are the Appellants.

PETITION FOR REHEARING

Pursuant to Rules 221 and 240, SCACR, Appellant Cranston Print Works Company
d/b/a Cranston Trucking Company (“Cranston”) petitions this Court to rehear its Order granting
Respondents’ motion to dismiss this appeal. Because this Court’s Order has the effect of

dismissing the appeal, this Petition is proper pursuant to Rule 221(c), SCACR. Cranston received this Court's Order February 11, 2021.

In opposing Respondents' motion to dismiss, Cranston raised several matters which were overlooked or misapprehended by this Court in dismissing the appeal. This Court failed to consider Cranston's unique position in the case at bar, where it is aggrieved by orders directed to another party. As a result, neither of the options presented in *Ex parte Whetstone* are available to Cranston. Cranston cannot refuse to comply, be held in contempt, and then appeal the contempt order because the Orders at issue do not direct Cranston to do anything. It is impossible for Cranston to follow the procedure outlined in *Whetstone* because there is nothing contained in the Orders which Cranston can refuse. Moreover, Cranston has no ability to comply with the subject Orders. As a result, the *Whetstone* prerequisites to appeal a discovery order are not applicable to a party in Cranston's position, who are unable to be held in contempt for a failure to comply with the orders at issue.

That is not to suggest Cranston lacks standing to appeal these orders. Both the South Carolina Code and the South Carolina Appellate Court Rules allow for appeal to be taken by *any party aggrieved by an order, judgment, sentence, or decision*. See S.C. Code Ann. §18-1-30; see also Rule 201(b), SCACR. By the plain language of these provisions, the right to appeal is not limited merely to those parties to whom an order or decision is addressed, but extends to *any party aggrieved by the order*. A party is aggrieved by an order when the order "operates on his rights of property or bears directly upon his interest, the word aggrieved referring to a substantial grievance, a denial of some personal or property right or the imposition on a party of a burden or obligation." *Bivens v. Knight*, 254 S.C. 10, 13, 173 S.E.2d 150, 152 (1970). Accordingly, statutory law, procedural laws, and established precedent unanimously recognize

the right to appeal is premised not on the identity of the party to whom an order is directed, but rather on whose rights are adversely affected by the rulings contained therein. Moreover, appellate courts have stressed the appealability of an order is controlled by the effect of the order, not the label attached to it. *See Wetzel v. Woodside Dev. Ltd. P'ship*, 364 S.C. 589, 592, 615 S.E.2d 437, 438 (2005). As discussed in more detail herein, the effect of the trial court's orders allow for an immediate appeal pursuant to S.C. Code Ann. §14-3-330, as the intermediate orders involve the merits of the case and affect a substantial right of Cranston's by striking an answer or any part thereof. *See Mid-State Distrib., Inc. v. Century Importers, Inc.*, 310 S.C. 330, 334 n.4, 426 S.E.2d 777, 780 n.4 (1993).

Cranston is unquestionably aggrieved by these orders. Pursuant to the Federal Motor Carrier Safety Regulations, Cranston generally is responsible for negligent acts or omissions committed by Mr. Burdette while operating under Cranston's motor carrier authority. *See* 49 CFR §390.11. Consequently, Cranston is subject to vicarious liability for any finding of negligence at trial against Mr. Burdette. Accordingly, Cranston is without a doubt aggrieved by the trial court orders in multiple ways. First, by making factual determinations of matters in dispute, the trial court has improperly imposed its own view of the evidence into the case, usurping the jury's role as the sole finder of fact. The factual determinations by the trial court are detrimental to Burdette and Cranston and increase the likelihood a jury imposes liability against Burdette, which will be imputed to Cranston. This unquestionably reflects Cranston's rights being directly upon his interest, and therefore satisfying the definition of an aggrieved party under *Bivens*.

Second, the trial court's orders arguably serve to preclude Cranston from introducing evidence to rebut these highly disputed matters. Rule 36(b), SCRCPP, states an admitted matter is

“conclusively established” unless the court permits withdrawal or amendment. In their Complaints, Plaintiffs allege Cranston negligently trained, supervised, and monitored Mr. Burdette and violated the Federal Motor Carrier Safety Regulations (*See* Exhibit A, Jones Complaint, para. 15; Exhibit B, Hill Complaint, para. 16). Cranston has denied these allegations of direct negligence (*See* Exhibit C, Amended Answer to Jones, para. 15; Exhibit D, Amended Answer to Hill, para. 16). The requests to admit at issue raise specific matters connected to Cranston’s training, monitoring, supervision, and compliance with Federal Motor Carrier Safety Regulations. Therefore, in taking the extraordinary steps to weigh evidence, decide facts at issue, and order a party to admit matters previously denied, the trial court has effectively struck Cranston’s answer denying the allegations of direct negligence. Consequently, Cranston very well may be prevented from introducing any evidence at trial contrary to the inappropriate factual findings made by the trial court, thereby blocking Cranston from mounting a viable defense to those claims. Therefore, if the trial court orders are allowed to stand, and Cranston is not permitted to challenge the erroneous factual findings of the trial court, Cranston will be deprived of due process under the United States Constitution. “The Due Process Clause requires all parties be given an opportunity to be heard in a meaningful way. In cases where important decisions turn on questions of fact, due process at least requires an opportunity to present favorable witnesses.” *Halsey v. Simmons*, 432 S.C. 54, 849 S.E.2d 578 (2020) (internal cites and quotation marks omitted). Being deprived of its Constitutional right to due process clearly establishes Cranston as an aggrieved party entitled to seek appellate review.

However, even if Cranston *is* permitted to present evidence at trial to rebut the trial court’s improper determination of the facts, Cranston would be in the untenable position of contradicting the (court-imposed) testimony of its own driver for whom it can be held

vicariously liable. While Cranston certainly recognizes there are instances in which parties with aligned interests are forced to take contrary positions on certain issues, those situations do not generally arise out of the trial court's willful decision to invade the jury's role at trial. If the trial court orders are allowed to stand and Burdette is required to change his accurate responses to less-than-accurate responses, Cranston will face the prospect of either not challenging factually-inaccurate testimony or attacking the credibility of a party who himself disagrees with the court's factual determinations but is prohibited from saying so. The Rules of Civil Procedure are neither designed nor intended to place parties in a Catch-22 situation, yet that is precisely what will occur if the trial court orders are allowed to stand. In sum, the trial court's orders plainly aggrieve Cranston.

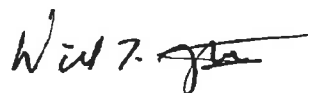
Appealability must be determined on a case-by-case basis. *Stone v. Thompson*, 426 S.C. 291, 295, 826 S.E.2d 868, 870 (2019). Because Cranston is an aggrieved party entitled to seek appellate review, and considering the *Whetstone* preconditions for appealing a discovery order are impossible for Cranston to meet, this Court overlooked the particular circumstances here which do not warrant a summary dismissal of Cranston's appeal. Where a party has the right to appeal, there must be some way for that party to do so. Cranston is obligated to seek appellate review of these orders now. Otherwise, the orders will be deemed the law of the case and not subject to review. *See Shirley's Iron Works, Inc. v. City of Union*, 403 S.C. 560, 743 S.E.2d 778 (2013) ("An unappealed ruling is the law of the case and requires affirmance"); *see also Walters v. Canal Ins. Co.*, 294 S.C. 150, 151, 363 S.E.2d 120 (Ct. App. 1987) ("Where no exception is taken to findings of facts or conclusions of law, they become the 'law of the case.'") (*quoting Ashy v. WeCare Distributors, Inc.*, 289 S.C. 526, 528, 347 S.E.2d 123, 125 (Ct. App. 1986)). A manifest injustice would occur if this Court were to refuse to hear an aggrieved party's appeal on

account of that party's inability to perform an impossible task. The only way to avoid that result is to allow Cranston's appeal to proceed. As this issue appears to be a matter of first impression in South Carolina, and because there is no possibility of appellate review of this issue at a later date, the logical conclusion is to allow the appeal to proceed.

In summary, this Court overlooked or misapprehended several key issues in dismissing this appeal, all of which may be attributed to overlooking Cranston's unique position in this matter. Even though Cranston's interests and rights are doubtlessly compromised and invaded upon by the trial court's rulings, this Court mistakenly presumed Cranston could be held in contempt for a failure to comply with the underlying discovery order. That is simply not the case. As an aggrieved party, Cranston has a right to seek appellate review. Moreover, if the trial court orders are not challenged at this time, the findings will become the law of the case and not subject to appellate review following a trial. For these reasons, as well as those arguments set forth in the other Appellants' petitions for rehearing, Cranston respectfully requests this Court rehear its Order granting Respondents' motion to dismiss and allow this appeal to proceed.

February 19, 2021

GALLIVAN WHITE BOYD



By: _____

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Exhibit A

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS

Gregory Jones, Sr.,)
as the father and duly)
appointed Personal)
Representative of the)
Estate of Jessica Dawn)
Jones, Deceased,)

SUMMONS

Plaintiff,)

Jury Trial Requested

vs.)

C/A No. 2019-CP-42-_____

Cranston Print Works)
Company d/b/a Cranston)
Trucking Company, Ryder)
Systems, Inc., Optimum)
Staffing, Inc. d/b/a)
Optimum Logistic)
Solutions, and Jason E.)
Burdette,)

Defendants.)

TO: CRANSTON PRINT WORKS COMPANY d/b/a CRANSTON TRUCKING
COMPANY, RYDER SYSTEMS, INC., OPTIMUM STAFFING, INC. d/b/a
OPTIMUM LOGISTIC SOLUTIONS, AND JASON E. BURDETTE,
DEFENDANTS

YOU ARE HEREBY SUMMONED and required to answer the
Complaint in this action, a copy of which is herewith served upon
you, and to serve a copy of your Answer to the Complaint on the
undersigned at his office located at P.O. Box 5159, 250 Magnolia
Street, Spartanburg, S.C. 29304, within thirty (30) days after
the service hereof, exclusive of the day of such service, unless
you received your copy by certified mail, in which case you must
serve a copy of your answer on the subscriber within thirty-five
(35) days after the service hereof, exclusive of the day of such

service, and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint.

DATED at Spartanburg, South Carolina, on the 18th day of June, 2019.

PATRICK E. KNIE, P.A.

/s/ Patrick E. Knie

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG)

Gregory Jones, Sr.,)
as the father and duly)
appointed Personal)
Representative of the) COMPLAINT
Estate of Jessica Dawn)
Jones, Deceased,)
)
Plaintiff,) Jury Trial Requested

vs.) C/A No. 2019-CP-42-_____

Cranston Print Works)
Company d/b/a Cranston)
Trucking Company, Ryder)
Systems, Inc., Optimum)
Staffing, Inc. d/b/a)
Optimum Logistic)
Solutions, and Jason E.)
Burdette,)
)
Defendants.)

The Plaintiff, complaining of the Defendants, would show unto the Court:

1. The Plaintiff, Gregory Jones, Sr., is the father and duly appointed Personal Representative of the Estate of Jessica Dawn Jones, Deceased, and is a citizen and resident of the County of Cherokee, State of South Carolina.

2. The Defendant, Cranston Print Works Company d/b/a Cranston Trucking Company, hereinafter referred to as Cranston, is a corporation organized and existing under the laws of the State of Rhode Island, and at all times mentioned herein, doing business in Spartanburg County, South Carolina.

3. The Defendant, Ryder Systems, Inc., hereinafter referred to as Ryder, is a corporation organized and existing under the laws of a state other than South Carolina with its corporate headquarters in Miami, Florida, and at all times mentioned herein, doing business in Spartanburg County, South Carolina.

4. The Defendant, Optimum Staffing, Inc. d/b/a Optimum Logistic Solutions, is a corporation organized and existing under the laws of the State of Illinois, and at all times mentioned herein, doing business in Spartanburg County, South Carolina.

5. The Defendant, Jason E. Burdette, is a citizen and resident of Anderson County, South Carolina.

6. Venue is proper in Spartanburg County pursuant to SC Code 15-7-30(C) (2) in that the substantial part of the alleged acts or omissions giving rise to the cause of action occurred in Spartanburg County.

7. On or about February 1, 2019 at approximately 8:30 a.m., Jessica Dawn Jones was traveling as a passenger in a Kia Minivan owned and operated by her uncle, Mark Douglas Hill.

8. The minivan was traveling north on Business I-85 in Spartanburg, South Carolina near Interstate I-26 in the right-hand lane.

9. Because of heavy traffic, Mark Douglas Hill was forced to come to a stop for traffic stopped ahead of him.

10. At the same time, a 2016 Freightliner eighteen (18) wheel tractor-trailer, driven by the Defendant, Jason E. Burdette, traveling at a high rate of speed, was unable to stop and struck the Hill vehicle in the rear, knocking it forward and into a third vehicle.

11. As a result, Jessica Dawn Jones suffered severe injuries and damages and ultimately her tragic and untimely death.

12. The Plaintiff is informed and believes that at all times herein the eighteen (18) wheel tractor-trailer driven by the Defendant, Jason E. Burdette, was owned by Defendant Ryder and leased to the Defendant Cranston.

13. The Plaintiff is informed and believes that Defendants Cranston and Ryder had a contractual arrangement regarding the maintenance of the tractor-trailer.

14. The Plaintiff is further informed and believes that the Defendant, Jason E. Burdette, was employed by the Defendant Optimum which provided Defendant, Jason E. Burdette, to Defendant Cranston, to drive the eighteen (18) wheel tractor-trailer described herein.

15. The collision, the injuries and death of Jessica Dawn Jones, and the damages to her father and statutory heirs are the direct and proximate result of the combined and concurring willful, wanton, reckless, grossly negligent, negligent, and careless acts of the Defendants by and through

their respective agents in the following particulars:

AS TO DEFENDANT CRANSTON

- (a) In operating an eighteen wheeler too fast for the conditions then and there existing;
- (b) In traveling at an excessive rate of speed;
- (c) In traveling at a speed in excess of the posted speed limit;
- (d) In failing to keep a proper lookout;
- (e) In failing to properly brake or slow down to stopped traffic directly ahead;
- (f) In failing to maintain the eighteen wheeler;
- (g) In failing to make the proper pre-trip inspection of the eighteen wheeler;
- (h) In allowing a vehicle with a known or presumptively known safety defect onto the road;
- (i) In failing by its driver to follow the training received for his commercial driver's license (CDL);
- (j) In failing to properly train its driver;
- (k) In failing to properly supervise and monitor its driver;
- (l) In violating federal regulations including, but not limited to, 49 CFR Sections 350-359;
- (m) In failing to use the degree of care and caution that would otherwise be used by a reasonably

prudent person with a CDL;
all of which were a direct and proximate cause of the injuries,
death, and damages complained of herein.

AS TO DEFENDANT RYDER

- (a) In failing to provide a safe and properly maintained vehicle to Defendant Cranston for its use and operation;
- (b) In failing to maintain the tractor and trailer supplied to the Defendant Cranston for its use and operation;
- (c) In failing to inspect the eighteen wheeler;
- (d) In failing to properly train its agents and employees on the proper maintenance of tractors and trailers provided to others for their and operation, or in the alternative, in failing to follow the procedures and guidelines provided in its training to its employees for the maintenance and operation of tractors and trailers provided to others for their use and operation;
- (e) In failing to warn Defendant Cranston of the safety issues with the tractor and trailer provided to Defendant Cranston for its use and operation;

all of which were a direct and proximate cause of the injuries,
death, and damages complained of herein.

AS TO DEFENDANT OPTIMUM

- (a) In operating an eighteen wheeler too fast for the conditions then and there existing;
- (b) In traveling at an excessive rate of speed;
- (c) In traveling at a speed in excess of the posted speed limit;
- (d) In failing to keep a proper lookout;
- (e) In failing to properly brake or slow down to stopped traffic directly ahead;
- (f) In failing by its driver to follow the training received for his commercial driver's license (CDL);
- (g) In failing to properly train its driver;
- (h) In failing to properly supervise and monitor its driver;
- (i) In violating federal regulations including, but not limited to, 49 CFR Sections 350-359;
- (j) In failing to use the degree of care and caution that would otherwise be used by a reasonably prudent person with a CDL;

all of which were a direct and proximate cause of the injuries, death, and damages complained of herein.

AS TO DEFENDANT BURDETTE

- (a) In operating an eighteen wheeler too fast for the conditions then and there existing;

- (b) In traveling at an excessive rate of speed;
- (c) In traveling at a speed in excess of the posted speed limit;
- (d) In failing to keep a proper lookout;
- (e) In failing to properly brake or slow down to stopped traffic directly ahead;
- (f) In failing to request maintenance of the eighteen wheeler;
- (g) In failing to make a proper pre-trip inspection of the eighteen wheeler;
- (h) In failing to report safety or maintenance issues with the eighteen (18) wheeler which he was operating;
- (i) In failing to follow the training he received for his commercial driver's license (CDL);
- (j) In violating federal regulations including, but not limited to, 49 CFR Sections 350-359;
- (k) In failing to use the degree of care and caution that would otherwise be used by a reasonably prudent person with a CDL;

all of which were a direct and proximate cause of the injuries, death, and damages complained of herein.

16. Prior to Jessica Dawn Jones' death which was caused by the conduct of the Defendants as set forth herein, Jessica Dawn Jones was twenty-four (24) years old with a life

expectancy of 57.37 years.

FOR A FIRST CAUSE OF ACTION

Survival Action

17. Plaintiff brings this action in his fiduciary capacity under and by virtue of the authority and provisions of Section 15-5-90 of the South Carolina Code of Laws, 1976, to recover for the injuries and damages suffered and sustained by Jessica Dawn Jones prior to her death resulting from the accident complained herein.

18. Prior to her death on February 1, 2019, Jessica Dawn Jones suffered great and excruciating conscious physical and mental pain and suffering as a direct and proximate cause of the acts and omissions complained of in this Complaint. As a further result, the decedent incurred substantial medical and hospital bills.

19. As a result of the foregoing, her estate is entitled to recover her actual damages and such punitive damages as may be appropriate in this case.

FOR A SECOND CAUSE OF ACTION

Wrongful Death Action

20. Plaintiff brings this action in his fiduciary capacity under and by virtue of the authority and provisions of Section 15-51-10 of the South Carolina Code of Laws, 1976, on his behalf as the father of Jessica Dawn Jones, and on behalf of her statutory heirs.

21. By reason of the early and untimely death of Jessica Dawn Jones, her father and statutory heirs have been caused great mental shock and suffering by reason of this tragedy. They have in the past, and will forever, be caused grief and sorrow because of the loss of Jessica Dawn Jones' love, society, and companionship. They have been deprived of her services, experience, and judgment. They have suffered pecuniary loss as well.

22. As a further result, the father and statutory heirs of Jessica Dawn Jones have incurred medical bills, funeral, burial, and other related expenses.

FOR A THIRD CAUSE OF ACTION

23. Plaintiff brings this action in his fiduciary capacity to recover for the injuries and damages sustained by Jessica Dawn Jones prior to her death as a bystander to the injuries received by Mark Douglas Hill, Helen Casey Hill, and Mark Douglas Hill, III.

24. Jessica Dawn Jones was riding in the same vehicle with Mark Douglas Hill, Helen Casey Hill, and Mark Douglas Hill, III.

25. Jessica Dawn Jones, Mark Douglas Hill, Helen Casey Hill, and Mark Douglas Hill, III were closely related.

26. Jessica Dawn Jones contemporaneously perceived the collision.

27. The emotional distress suffered by Jessica Dawn

Jones manifested itself by physical symptoms.

28. As a result of the foregoing, her estate is entitled to recover her actual damages and such punitive damages as may be appropriate in this case.

AS TO ALL CAUSES OF ACTION

29. As a result of the foregoing acts, the father and statutory heirs of Jessica Dawn Jones have been damaged in actual damages and such punitive damages as may be appropriate in the case.

WHEREFORE, Plaintiff prays for actual damages, plus such punitive damages as may be awarded, for the costs of this action, and such other and further relief as to the Court seems just and proper.

PATRICK E. KNIE, P.A.

/s/ Patrick E. Knie

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ATTORNEYS FOR PLAINTIFF

June 18, 2019

Exhibit B

ELECTRONICALLY FILED - 2019 Jun 18 4:31 PM - SPARTANBURG - COMMON PLEAS - CASE#2019CP4202212

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG)

Mark Douglas Hill, III,)
by and through his duly)
appointed Guardian ad)
Litem, Helen Kaci Hill,) SUMMONS
)
Plaintiff,) Jury Trial Requested
)
vs.) C/A No. 2019-CP-42-_____

Cranston Print Works)
Company d/b/a Cranston)
Trucking Company, Ryder)
Systems, Inc., Optimum)
Staffing, Inc, d/b/a)
Optimum Logistic)
Solutions, and Jason E.)
Burdette,)
)
Defendants.)

TO: CRANSTON PRINT WORKS COMPANY d/b/a CRANSTON TRUCKING
COMPANY, RYDER SYSTEMS, INC., OPTIMUM STAFFING, INC. d/b/a
OPTIMUM LOGISTIC SOLUTIONS, AND JASON E. BURDETTE,
DEFENDANTS

YOU ARE HEREBY SUMMONED and required to answer the
Complaint in this action, a copy of which is herewith served upon
you, and to serve a copy of your Answer to the Complaint on the
undersigned at his office located at P.O. Box 5159, 250 Magnolia
Street, Spartanburg, S.C. 29304, within thirty (30) days after
the service hereof, exclusive of the day of such service, unless
you received your copy by certified mail, in which case you must
serve a copy of your answer on the subscriber within thirty-five
(35) days after the service hereof, exclusive of the day of such
service, and if you fail to answer the Complaint within the time

aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint.

DATED at Spartanburg, South Carolina, on the 18th day of June, 2019.

PATRICK E. KNIE, P.A.

/s/ Patrick E. Knie

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ATTORNEYS FOR PLAINTIFF

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS

Mark Douglas Hill, III,)
by and through his duly)
appointed Guardian ad)
Litem, Helen Kaci Hill,)

COMPLAINT

Plaintiff,)

Jury Trial Requested

vs.)

C/A No. 2019-CP-42-_____

Cranston Print Works)
Company d/b/a Cranston)
Trucking Company, Ryder)
Systems, Inc., Optimum)
Staffing, Inc. d/b/a)
Optimum Logistic)
Solutions, and Jason E.)
Burdette,)

Defendants.)

The Plaintiff, complaining of the Defendants, would show unto the Court:

1. The Plaintiff, Helen Kaci Hill, is the mother of Mark Douglas Hill, III, age six (6) months, and is the duly appointed Guardian ad Litem for Mark Douglas Hill, III.

2. The Defendant, Cranston Print Works Company d/b/a Cranston Trucking Company, hereinafter referred to as Cranston, is a corporation organized and existing under the laws of the State of Rhode Island, and at all times mentioned herein, doing business in Spartanburg County, South Carolina.

3. The Defendant Ryder Systems, Inc., hereinafter referred to as Ryder, is a corporation organized and existing under the laws of a state other than South Carolina with its

corporate headquarters in Miami, Florida, and at all times mentioned herein, doing business in Spartanburg County, South Carolina.

4. The Defendant, Optimum Staffing, Inc. d/b/a Optimum Logistic Solutions, is a corporation organized and existing under the laws of the State of Illinois, and at all times mentioned herein, doing business in Spartanburg County, South Carolina.

5. The Defendant, Jason E. Burdette, is a citizen and resident of Anderson County, South Carolina.

6. Venue is proper in Spartanburg County pursuant to SC Code 15-7-30(C) (2) in that the substantial part of the alleged acts or omissions giving rise to the cause of action occurred in Spartanburg County.

7. On or about February 1, 2019 at approximately 8:30 a.m., the Plaintiff was traveling as a passenger in a Kia Minivan owned and operated by his father, Mark Douglas Hill.

8. The minivan was traveling north on Business I-85 in Spartanburg, South Carolina near Interstate I-26 in the right-hand lane.

9. Because of heavy traffic, Plaintiff's father, Mark Douglas Hill, was forced to come to a stop for traffic stopped ahead of him.

10. At the same time, a 2016 Freightliner eighteen (18) wheel tractor-trailer, driven by the Defendant, Jason E.

Burdette, traveling at a high rate of speed, was unable to stop and struck the Hill vehicle in the rear, knocking it forward and into a third vehicle.

11. As a result, Mark Douglas Hill, III suffered injuries and damages.

12. The Plaintiff is informed and believes that at all times herein the eighteen (18) wheel tractor-trailer driven by the Defendant, Jason E. Burdette, was owned by Defendant Ryder and leased to the Defendant Cranston.

13. The Plaintiff is informed and believes that Defendants Cranston and Ryder had a contractual arrangement regarding the maintenance of the tractor-trailer.

14. The Plaintiff is further informed and believes that the Defendant, Jason E. Burdette, was employed by the Defendant Optimum which provided Defendant, Jason E. Burdette, to Defendant Cranston, to drive the eighteen (18) wheel tractor-trailer described herein.

15. As a result of the collision, the Plaintiff has suffered medical expenses, serious bodily injury, physical and mental pain and suffering, mental anguish, and will continue to do so in the future, and further has suffered physical disability, and a loss of enjoyment of life.

16. The collision and Plaintiff's damages, injuries, and losses are the direct and proximate result of the combined and concurring willful, wanton, reckless, grossly negligent,

negligent, and careless acts of the Defendants by and through their respective agents in the following particulars:

AS TO DEFENDANT CRANSTON

all of which were a direct and proximate cause of the injuries and damages complained of herein.

- (a) In operating an eighteen wheeler too fast for the conditions then and there existing;
- (b) In traveling at an excessive rate of speed;
- (c) In traveling at a speed in excess of the posted speed limit;
- (d) In failing to keep a proper lookout;
- (e) In failing to properly brake or slow down to stopped traffic directly ahead;
- (f) In failing to maintain the eighteen wheeler;
- (g) In failing to make the proper pre-trip inspection of the eighteen wheeler;
- (h) In allowing a vehicle with a known or presumptively known safety defect onto the road;
- (i) In failing by its driver to follow the training received for his commercial driver's license (CDL);
- (j) In failing to properly train its driver;
- (k) In failing to properly supervise and monitor its driver;
- (l) In violating federal regulations including, but

not limited to, 49 CFR Sections 350-359;

- (m) In failing to use the degree of care and caution that would otherwise be used by a reasonably prudent person with a CDL;

AS TO DEFENDANT RYDER

- (a) In failing to provide a safe and properly maintained vehicle to Defendant Cranston for its use and operation;
- (b) In failing to maintain the tractor and trailer supplied to the Defendant Cranston for its use and operation;
- (c) In failing to inspect the eighteen wheeler;
- (d) In failing to properly train its agents and employees on the proper maintenance of tractors and trailers provided to others for their and operation, or in the alternative, in failing to follow the procedures and guidelines provided in its training to its employees for the maintenance and operation of tractors and trailers provided to others for their use and operation;
- (e) In failing to warn Defendant Cranston of the safety issues with the tractor and trailer provided to Defendant Cranston for its use and operation;

all of which were a direct and proximate cause of the injuries

and damages complained of herein.

AS TO DEFENDANT OPTIMUM

- (a) In operating an eighteen wheeler too fast for the conditions then and there existing;
- (b) In traveling at an excessive rate of speed;
- (c) In traveling at a speed in excess of the posted speed limit;
- (d) In failing to keep a proper lookout;
- (e) In failing to properly brake or slow down to stopped traffic directly ahead;
- (f) In failing to follow by its driver the training received for his commercial driver's license (CDL);
- (g) In failing to properly train its driver;
- (h) In failing to properly supervise and monitor its driver;
- (i) In violating federal regulations including, but not limited to, 49 CFR Sections 350-359;
- (j) In failing to use the degree of care and caution that would otherwise be used by a reasonably prudent person with a CDL;

all of which were a direct and proximate cause of the injuries and damages complained of herein.

AS TO DEFENDANT BURDETTE

- (a) In operating an eighteen wheeler too fast for the

- conditions then and there existing;
- (b) In traveling at an excessive rate of speed;
 - (c) In traveling at a speed in excess of the posted speed limit;
 - (d) In failing to keep a proper lookout;
 - (e) In failing to properly brake or slow down to stopped traffic directly ahead;
 - (f) In failing to request maintenance of the eighteen wheeler;
 - (g) In failing to report safety or maintenance issues with the eighteen (18) wheeler which he was operating;
 - (h) In failing to make a proper pre-trip inspection of the eighteen wheeler;
 - (i) In failing to follow the training he received for his commercial driver's license (CDL);
 - (j) In violating federal regulations including, but not limited to, 49 CFR Sections 350-359;
 - (k) In failing to use the degree of care and caution that would otherwise be used by a reasonably prudent person with a CDL;

all of which were a direct and proximate cause of the injuries and damages complained of herein.

17. As a result of the foregoing combined and concurrent acts and omissions of the Defendants and each of them,

Plaintiff is informed that he is entitled to actual damages, plus such punitive damages as the Court may award, and for such other and further relief as to the Court may seem just and proper.

WHEREFORE, Plaintiff prays for actual damages, plus such punitive damages as may be awarded, for the costs of this action, and such other and further relief as to the Court seems just and proper.

PATRICK E. KNIE, P.A.

/s/ Patrick E. Knie

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CUMMINGS & LEWIS

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ATTORNEYS FOR PLAINTIFF

June 18, 2019

Exhibit C

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF SPARTANBURG) C.A. No.: 2019-CP-42-002215

Gregory Jones, Sr., as the father and duly)
appointed Personal Representative of the)
Estate of Jessica Dawn Jones, Deceased,)

Plaintiff,)

v.)

Cranston Print Works Company d/b/a)
Cranston Trucking Company, Ryder Truck)
Rental, Inc., Optimum Staffing, Inc. d/b/a)
Optimum Logistic Solutions, and Jason E.)
Burdette,)

Defendants.)

**DEFENDANTS, CRANSTON PRINT
WORKS COMPANY D/B/A CRANSTON
TRUCKING COMPANY AND JASON E.
BURDETTE'S AMENDED ANSWER TO
COMPLAINT**

(Jury Trial Demanded)

Defendants, Cranston Print Works Company d/b/a Cranston Trucking Company
("hereinafter "Cranston") and Jason E. Burdette, (collectively hereinafter "Defendants")
answering the Plaintiff's Complaint alleges and will show unto the Court that:

FOR A FIRST DEFENSE AS TO ALL CAUSES OF ACTION

1. Defendants are without knowledge to form an opinion or belief as to the truth of
the allegations contained in paragraph 1 of Plaintiff's Complaint and therefore deny same.

2. In regards to paragraph 2 of Plaintiff's Complaint, Defendants admit so much as it
relates to the corporate name and State of Incorporation. Defendants deny the remaining
allegations.

3. Defendants are without knowledge to form an opinion or belief as to the truth of
the allegations contained in paragraph 3 of Plaintiff's Complaint and, therefore, deny same.

4. Defendants are without knowledge to form an opinion or belief as to the truth of
the allegations contained in paragraph 4 of Plaintiff's Complaint and, therefore, deny same.

5. Defendants deny the allegations contained in paragraph 5 of Plaintiff's Complaint.

6. Defendants would show that the allegations contained in paragraph 6 constitute a legal conclusion for which no response is required. To the extent a response is deemed necessary, the same is hereby denied.

7. Upon information and belief, Defendants admit the allegations contained in paragraph 7 of Plaintiff's Complaint.

8. Upon information and belief, Defendants admit so much of the allegations contained in paragraph 8 of Plaintiff's Complaint as allege Plaintiff was travelling North on I-85 Business at the time of the accident. The remaining allegations of paragraph 8 are denied.

9. Defendants deny the allegations contained in paragraph 9 of the Plaintiff's Complaint.

10. Defendants admit so much of paragraph 10 of Plaintiff's Complaint as allege that a collision occurred involving two other vehicles. The remaining allegations of paragraph 10 are denied.

11. Defendants admit so much of paragraph 11 of Plaintiff's Complaint as allege that Jessica Dawn Jones died, however, it denies to the extent it alleges conscious pain and suffering. The remaining allegations of paragraph 11 are denied.

12. Defendants admit the allegations contained in paragraph 12 of Plaintiff's Complaint.

13. Defendants admit the allegations contained in paragraph 13 of Plaintiff's Complaint.

14. Defendants admit so much of paragraph 14 of Plaintiff's Complaint as allege that Jason E. Burdette drove for Cranston through Optimum. The remaining allegations of paragraph 14 are denied.

15. Defendants deny the allegations contained in paragraph 15, including all subparts, of the Complaint.

16. Defendants would show that the allegations contained in paragraph 16 constitute a legal conclusion for which no response is required. To the extent a response is deemed necessary, the same is hereby denied.

17. Defendants would show that the allegations contained in paragraph 17 constitute a legal conclusion for which no response is required. To the extent a response is deemed necessary, the same is hereby denied.

18. Defendants deny the allegations contained in paragraph 18 of Plaintiff's Complaint.

19. Defendants deny the allegations contained in paragraph 19 of Plaintiff's Complaint.

20. Defendants would show that the allegations contained in paragraph 20 constitute a legal conclusion for which no response is required. To the extent a response is deemed necessary, the same is hereby denied.

21. Defendants deny the allegations contained in paragraph 21 of Plaintiff's Complaint.

22. Defendants deny the allegations contained in paragraph 22 of Plaintiff's Complaint.

23. Defendants would show that the allegations contained in paragraph 23 constitute a legal conclusion for which no response is required. To the extent a response is deemed necessary, the same is hereby denied.

24. Upon information and belief, Defendants admit the allegations contained in paragraph 24 of Plaintiff's Complaint.

25. Defendants are without knowledge to form an opinion or belief as to the truth of the allegations contained in paragraph 25 of Plaintiff's Complaint and, therefore, denies same.

26. Defendants deny the allegations contained in paragraph 26 of Plaintiff's Complaint.

27. Defendants deny the allegations contained in paragraph 27 of Plaintiff's Complaint.

28. Defendants deny the allegations contained in paragraph 28 of Plaintiff's Complaint.

29. Each and every allegation of the Complaint not specifically admitted, explained, or modified herein is denied and strict proof demanded thereof.

FOR A SECOND DEFENSE AS TO ALL CAUSES OF ACTION

30. Defendants incorporate herein the allegations of their first defense not inconsistent herewith.

31. Defendants allege that the Plaintiff's Complaint fails to state facts sufficient to constitute causes of action upon which relief can be granted as against them and is, accordingly, barred.

FOR A THIRD DEFENSE AS TO ALL CAUSES OF ACTION

32. Defendants incorporate herein the allegations of their defenses not inconsistent herewith.

33. Defendants allege that insofar as the Plaintiff has failed to mitigate his damages in the manner provided for by law, such failure to mitigate is pled as a complete defense and bar to his claims.

FOR A FOURTH DEFENSE AS TO ALL CAUSES OF ACTION

34. Defendants incorporate herein the allegations of their defenses not inconsistent herewith.

35. The Plaintiff's decedent's injuries and damages were a result of superseding and/or intervening causes beyond the control of these Defendants.

FOR A FIFTH DEFENSE AS TO ALL CAUSES OF ACTION

36. Defendants incorporate herein the allegations of their defenses not inconsistent herewith.

37. Defendants allege that this accident was caused by a sudden emergency. Defendants further allege that when confronted with this sudden emergency, Defendant Burdette acted as a reasonable person under the circumstances then and there existing. As such, Defendants are not liable to the Plaintiff for any sum whatsoever.

FOR A SIXTH DEFENSE AS TO ALL CAUSES OF ACTION

38. Defendants incorporate herein the allegations of their defenses not inconsistent herewith.

39. Defendants allege that this accident and the Plaintiff's decedent's injuries and damages were caused by conduct on the part of persons or entities over whom they have no control and for whom they have no responsibility. They further allege that such conduct intervened and acted as the sole proximate cause of this accident and the Plaintiff's decedent's alleged injuries and damages. As such, his claims against Defendants are barred.

FOR A SEVENTH DEFENSE AS TO ALL CAUSES OF ACTION

40. Defendants incorporate herein the allegations of their defenses not inconsistent herewith.

41. Defendants allege that insofar as the Plaintiff's Complaint seeks punitive damages, such punitive damages are violative of both the U.S. and South Carolina Constitutions. As such, the Plaintiff's claim for punitive damages is barred and should be stricken from the Complaint.

FOR AN EIGHTH DEFENSE AS TO ALL CAUSES OF ACTION

42. Defendants incorporate herein the allegations of their defenses not inconsistent herewith.

43. Defendants reserve and do not waive any additional or further defenses as may be revealed by additional information that may be acquired in discovery or otherwise.

FOR A TWELVETH DEFENSE AS TO ALL CAUSES OF ACTION

44. Defendants incorporate herein the allegations of their defenses not inconsistent herewith.

45. Defendants asserts any award returned by the jury in this case for punitive damages must be capped in accordance with the provisions of South Carolina Code §15-32-530(A) and (B).

WHEREFORE, having fully answered Plaintiff's Complaint, Defendants pray that the Complaint be dismissed as against them with costs and for any such other and further relief as this court shall deem just and proper.

s/ T. David Rheney

T. David Rheney (S.C. Bar No. 13148)
William T. Young III (S.C. Bar No. 75153)
GALLIVAN, WHITE & BOYD, P.A.
Post Office Box 10589, F.S.
Greenville, South Carolina 29603
(864) 271-9580

*Attorneys for Defendants Cranston Print
Works Company d/b/a Cranston Trucking
Company and Jason E. Burdette*

Greenville, South Carolina

July 24, 2019

Defendants demand a trial by jury.

s/ T. David Rheney

Exhibit D

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF SPARTANBURG)	C.A. No.: 2019-CP-42-002212
)	
Mark Douglas Hill, III by and through his duly appointed Guardian ad Litem, Helen Kaci Hill,)	DEFENDANTS, CRANSTON PRINT WORKS COMPANY D/B/A CRANSTON TRUCKING COMPANY AND JASON E. BURDETTE'S AMENDED ANSWER TO COMPLAINT
Plaintiff,)	
)	
v.)	(Jury Trial Demanded)
)	
Cranston Print Works Company d/b/a)	
Cranston Trucking Company, Ryder Truck)	
Rental, Optimum Staffing, Inc. d/b/a)	
Optimum Logistic Solutions, and Jason E.)	
Burdette,)	
)	
Defendants.)	
)	

Defendants, Cranston Print Works Company d/b/a Cranston Trucking Company (hereinafter "Cranston") and Jason E. Burdette, (collectively hereinafter "Defendants") answering the Plaintiff's Complaint allege and will show unto the Court that:

FOR A FIRST DEFENSE AS TO ALL CAUSES OF ACTION

1. Defendants are without knowledge to form an opinion or belief as to the truth of the allegations contained in paragraph 1 of Plaintiff's Complaint and therefore deny same.
2. In regards to paragraph 2 of Plaintiff's Complaint, Defendants admit so much as it relates to the corporate name and State of Incorporation. Defendants deny the remaining allegations.
3. Defendants are without knowledge to form an opinion or belief as to the truth of the allegations contained in paragraph 3 of Plaintiff's Complaint and therefore deny same.
4. Defendants are without knowledge to form an opinion or belief as to the truth of the allegations contained in paragraph 4 of Plaintiff's Complaint and therefore deny same.

ELECTRONICALLY FILED - 2020 Jul 24 12:08 PM - SPARTANBURG - COMMON PLEAS - CASE#2019CP4202212

5. Defendants deny the allegations contained in paragraph 5 of Plaintiff's Complaint.

6. Defendants would show that the allegations contained in paragraph 6 constitute a legal conclusion for which no response is required. To the extent a response is deemed necessary, the same is hereby denied.

7. Upon information and belief, Defendants admit the allegations contained in paragraph 7 of Plaintiff's Complaint.

8. Upon information and belief, Defendants admit so much of the allegations contained in paragraph 8 of Plaintiff's Complaint as allege Plaintiff was travelling North on I-85 Business at the time of the accident. The remaining allegations of paragraph 8 are denied.

9. Defendants deny the allegations contained in paragraph 9 of the Plaintiff's Complaint.

10. Defendants admit so much of paragraph 10 of Plaintiff's Complaint as allege that a collision occurred involving two other vehicles. The remaining allegations of paragraph 10 are denied.

11. Defendants deny the allegations contained in paragraph 11 of the Plaintiff's Complaint.

12. Defendants admit the allegations contained in paragraph 12 of the Plaintiff's Complaint.

13. Defendants admit the allegations contained in paragraph 13 of the Plaintiff's Complaint.

14. Defendants admit so much of the allegations of paragraph 14 of Plaintiff's Complaint as allege that Jason E. Burdette drove for Cranston through Optimum. The remaining allegations of paragraph 14 are denied.

15. Defendants deny the allegations contained in paragraph 15 of the Plaintiff's Complaint.

16. Defendants deny the allegations contained in paragraph 16, including all subparts, of Plaintiff's Complaint.

17. Defendants deny the allegations contained in paragraph 17 of the Plaintiff's Complaint.

18. Each and every allegation of the Complaint not specifically admitted, explained, or modified herein is denied and strict proof demanded thereof.

FOR A SECOND DEFENSE AS TO ALL CAUSES OF ACTION

19. Defendants incorporate herein the allegations of their first defense not inconsistent herewith.

20. Defendants allege that the Plaintiff's Complaint fails to state facts sufficient to constitute causes of action upon which relief can be granted as against them and is, accordingly, barred.

FOR A THIRD DEFENSE AS TO ALL CAUSES OF ACTION

21. Defendants incorporate herein the allegations of their defenses not inconsistent herewith.

22. Defendants allege that insofar as the Plaintiff has failed to mitigate his damages in the manner provided for by law, such failure to mitigate is pled as a complete defense and bar to his claims.

FOR A FOURTH DEFENSE AS TO ALL CAUSES OF ACTION

23. Defendants incorporate herein the allegations of their defenses not inconsistent herewith.

24. The Plaintiff's injuries and damages were a result of superseding and/or intervening causes beyond the control of these Defendants.

FOR A FIFTH DEFENSE AS TO ALL CAUSES OF ACTION

25. Defendants incorporate herein the allegations of their defenses not inconsistent herewith.

26. Defendants allege that this accident was caused by a sudden emergency. Defendants further allege that when confronted with this sudden emergency, Defendant Burdette acted as a reasonable person under the circumstances then and there existing. As such, Defendants are not liable to the Plaintiff for any sum whatsoever.

FOR A SIXTH DEFENSE AS TO ALL CAUSES OF ACTION

27. Defendants incorporate herein the allegations of their defenses not inconsistent herewith.

28. Defendants allege that this accident and the Plaintiff's injuries and damages were caused by conduct on the part of persons or entities over whom they have no control and for whom they have no responsibility. They further allege that such conduct intervened and acted as the sole proximate cause of this accident and the Plaintiff's decedent's alleged injuries and damages. As such, his claims against Defendants are barred.

FOR A SEVENTH DEFENSE AS TO ALL CAUSES OF ACTION

29. Defendants incorporate herein the allegations of their defenses not inconsistent herewith.

30. Defendants allege that insofar as the Plaintiff's Complaint seeks punitive damages, such punitive damages are violative of both the U.S. and South Carolina Constitutions. As such, the Plaintiff's claim for punitive damages is barred and should be stricken from the Complaint.

FOR AN EIGHTH DEFENSE AS TO ALL CAUSES OF ACTION

31. Defendants incorporate herein the allegations of their defenses not inconsistent herewith.

32. Defendants reserve and do not waive any additional or further defenses as may be revealed by additional information that may be acquired in discovery or otherwise.

FOR A NINETH DEFENSE AS TO ALL CAUSES OF ACTION

33. Defendants incorporate herein the allegations of their defenses not inconsistent herewith.

34. Defendants asserts any award returned by the jury in this case for punitive damages must be capped in accordance with the provisions of South Carolina Code §15-32-530(A) and (B).

WHEREFORE, having fully answered Plaintiff's Complaint, Defendants pray that the Complaint be dismissed as against them with costs and for any such other and further relief as this court shall deem just and proper.

s/ T. David Rheney

T. David Rheney (S.C. Bar No. 13148)
William T. Young III (S.C. Bar No. 75153)
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(864) 271-9580

*Attorneys for Defendants Cranston Print
Works Company d/b/a Cranston Trucking
Company and Jason E. Burdette*

Greenville, South Carolina

February 6, 2020

Defendants demand a trial by jury.

RECEIVED

Feb 19 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

The Honorable R. Keith Kelly, Circuit Court Judge

Appeal No.: 2020-001695

Mark Douglas Hill, III, by and through his
Duly appointed Guardian ad Litem, Helen
Kaci Hill, Plaintiff..... Respondent,

v.

Cranston Print Works Company d/b/a
Cranston Trucking Company, Ryder Truck
Rental, Inc., Optimum Staffing, Inc., d/b/a
Optimum Logistic Solutions, and Jason E.
Burdette, Defendants,

And

Gregory Jones, Sr., as the Father and Duly
Appointed Personal Representative of the
Estate of Jessica Dawn Jones, Deceased, Plaintiff, Respondent,

v.

Cranston Print Works Company d/b/a
Cranston Trucking Company, Ryder Truck
Rental, Inc., Optimum Staffing, Inc., d/b/a
Optimum Logistic Solutions, and Jason E.
Burdette, Defendants,

of whom Cranston Print Works Company d/b/a
Cranston Trucking Company, Optimum Staffing, Inc., d/b/a
Optimum Logistic Solutions, and Jason E. Burdette are the Appellants.

PROOF OF SERVICE

I certify I have served Appellant Cranston Print Works Company's Petition for rehearing on the following counsel of record via email and depositing a copy of it in the United States Mail, postage prepaid, addressed as follows:

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W. Blake Cummings, Esq.
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*Counsel for Optimum Staffing, Inc.
d/b/a Optimum Logistic Solutions*

By: s/Kadija S. Berry
Kadija S. Berry
Legal Assistant to William T. Young III

February 19, 2021

February 19, 2021

RECEIVED
Feb 19 2021
SC Court of Appeals

VIA ELECTRONIC AND U.S. MAIL

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

Re: Gregory Jones, Sr., as the father and duly appointed Personal Representative of the Estate of Jessica Dawn Jones v. Cranston Print Works Company, et al.

Mark Douglas Hill, III, by and through his duly appointed Guardian ad Litem, Helen Kaci Hill v. Cranston Print Works Company, et al.

Appeal No. 2020-001695

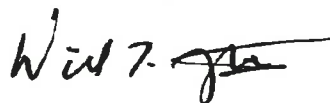
Dear Ms. Kitchings:

Enclosed for filing are the original and one copy of Cranston Print Works Company's Petition for Rehearing in the above-referenced matter, along with the proof of service and filing fee in the amount of \$50.00.

Please advise if you require any additional submissions.

Sincerely,

GALLIVAN, WHITE & BOYD, P.A.



William T. Young III

ksb/WTY