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**SC Court of Appeals**

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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Kristi L. Harrington, Circuit Court Judge

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Case Nos. 2015-CP-10-5379; 2017-002317  
Opinion No. 5789 (S.C. Ct. App. Filed January 13, 2021)

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William Sean Irvin, Jr., as Personal Representative of the Estate of  
Jonathan Edward Irvin, Deceased, Appellant,

v.

City of Folly Beach, South Carolina Department of Highways and Public Transportation,  
Daniel Wilcutt, and Mitchell Dewitt Rabon, Jr., Defendants,

Of whom Mitchell Dewitt Rabon, Jr., is the Respondent.

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**JOINT MOTION TO DISMISS APPEAL AND VACATE PRIOR OPINION**

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Brooklyn A. O'Shea, #102505  
Ian R. O'Shea, #100712  
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*Attorney for Respondent*

AND

Thomas R. Goldstein, #2186  
Belk, Cobb, Infinger & Goldstein, P.A.  
PO Box 71121  
North Charleston, SC 29415

**SETTLEMENT AGREEMENT**  
Circuit Case No.: 2015-CP-10-5379  
South Carolina Court of Appeals Opinion No. 5789

William Sean Irvin, Jr. as PR for the Estate of  
Jonathan Edward Irvin, Deceased ..... Plaintiff

v.

City of Folly Beach, SC Department of Highways  
and Public Transportation, Daniel Wilcutt and  
Mitchell Dewitt Rabon, Jr., of whom

Mitchell Dewitt Rabon, Jr., is ..... Defendant.

William Sean Irvin, Jr. (“Irvin”) and Mitchell Dewitt Rabon, Jr. (“Rabon”) agree to resolve the lawsuit between them arising from the October 5, 2013 motor vehicle collision that involved the death of Jonathan Edward Irvin:

1. Irvin agrees immediately to withdraw his Petition for Rehearing filed with the South Carolina Court of Appeals and agrees not to file any future petition for rehearing or file a motion for a Writ of Certiorari with the South Carolina Supreme Court.
2. Irvin agrees he will, if necessary, dismiss all claims against Rabon in the underlying litigation and will file any document as required in the Court of Common Pleas to substantiate that Rabon is dismissed with prejudice from the underlying lawsuit. Further, Irvin agrees not to file any subsequent motion or pleading at any time that adds Rabon as a party to the underlying lawsuit.
3. Each party will bear all costs and expenses, including legal fees, for the lawsuit and the appeal. This allocation shall constitute the consideration for this Settlement Agreement.

\_\_\_\_\_  
William Sean Irvin, Jr.

\_\_\_\_\_  
Brooklyn O’Shea, Attorney for  
Plaintiff Irvin

\_\_\_\_\_  
Mitchell Dewitt Rabon, Jr.

\_\_\_\_\_  
David Cobb, Attorney for Defendant Rabon

Dated: This \_\_\_\_ Day of \_\_\_\_\_, 2021.

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Case Nos. 2015-CP-10-5379; 2017-002317  
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William Sean Irvin, Jr., as Personal Representative of the Estate of  
Jonathan Edward Irvin, Deceased, Appellant,

v.

City of Folly Beach, South Carolina Department of Highways and Public Transportation,  
Daniel Wilcutt, and Mitchell Dewitt Rabon, Jr., Defendants,

Of whom Mitchell Dewitt Rabon, Jr., is the Respondent.

**PROOF OF SERVICE**

I, Brooklyn A. O'Shea, of O'Shea Law Firm, LLC, counsel for the Appellant above-named, do hereby certify that I have served the *Joint Motion to Dismiss Appeal and Vacate Prior Opinion, Cover Letter, and Proof of Service* on all counsel of record pursuant to The South Carolina Supreme Court Order: Operation of the Appellate Courts During the Coronavirus Emergency (As Amended May 29, 2020), Appellate Case No. 2020-000447, by AIS Email on February 10, 2021 addressed as follows:

David S. Cobb, Esq.  
[dcobb@turnerpadget.com](mailto:dcobb@turnerpadget.com)  
ATTORNEY FOR RESPONDENT

Max G. Mahaffee, Esq.  
[max.mahaffee@grimcab.com](mailto:max.mahaffee@grimcab.com)  
ATTORNEY FOR DANIEL WILLCUTT

Victoria L. Anderson, Esq.  
[tanderson@ycrlaw.com](mailto:tanderson@ycrlaw.com)  
ATTORNEY FOR CITY OF  
FOLLY BEACH

Roy P. Mabank, Esq.  
[roy@maybanklaw.com](mailto:roy@maybanklaw.com)  
ATTORNEY FOR SCDOT

(signature page to follow)

Charleston, SC  
February 10, 2021

s/ Brooklyn A. O'Shea  
O'Shea Law Firm, LLC  
1120 Folly Road  
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**O'Shea Law Firm**  
— LLC —  
**SC Court of Appeals**

FEB 16 2021

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**Ian R. O'Shea, Esq.\***  
**Brooklyn A. O'Shea, Esq.**  
**J.C. Nicholson, Jr., Esq.**  
**James H. Leffew, Esq.**

\*licensed in SC & NY

[www.oshealaw.com](http://www.oshealaw.com)

February 10, 2021

**Via Facsimile: 803-734-1839**

**Via Email: [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)**

**Via US Mail:**

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

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**SC Court of Appeals**

Re: William Sean Irvin, Jr., as Personal Representative of the Estate of Jonathan Edward Irvin, Deceased v. City of Folly Beach, South Carolina Department of Highways and Public Transportation, Daniel Wilcutt, and Mitchell Dewitt Rabon, Jr.  
Civil Action No.: 2015-CP-10-5379  
Appellate Case No.: 2017-002317

Dear Ms. Kitchings:

Please find enclosed the Joint Motion to Dismiss Appeal and Vacate Prior Opinion and the Proof of Service for same. Also enclosed is our firm's check in the amount of \$50.00 for the filing fee. Thank you for your assistance with this matter.

With kind regards, I am,

Sincerely,

*Brooklyn O'Shea*

Brooklyn A. O'Shea  
[brooklyn@oshealaw.com](mailto:brooklyn@oshealaw.com)

Enclosures

cc: David Cobb, Esq. (via email only)  
Max Mahaffee, Esq. (via email only)  
Victoria Anderson, Esq. (via email only)  
Roy Maybank, Esq. (via email only)  
Thomas Goldstein, Esq. (via email only)  
Ian O'Shea, Esq. (via email only)



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The Honorable Jenny Abbott Kitchings  
 South Carolina Court of Appeals  
 Clerk of Court  
 PO Box 11629  
 Columbia SC 29211-1629

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