

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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May 11 2021

SC Court of Appeals

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APPEAL FROM AIKEN COUNTY  
Clifton B. Newman, Circuit Court Judge

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Case no. 2021-CP-02-00274

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*Ex parte* Lashelle Burnette, .....Appellant,

v.

*In re* James Monroe Elliott, Sr.,  
as personal representative of the  
estate of Tamesha Singletary,  
Ray Dennis Russell and Hansen  
Pallet Company, ..... Defendants,

Of whom:  
James Monroe Elliott, Sr.,  
as personal representative of the  
estate of Tamesha Singletary, .....Respondent.

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**Motion to Dismiss**

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A basic tenet of law is one must have an interest in a dispute to seek judicial enforcement of a claimed right. Our appellate rules also require that a party be aggrieved by a decision to pursue an appeal. The trial court correctly found Appellant lacked standing to pursue the remedy she sought – to intervene in and object to Respondent’s petition for approval of a wrongful death settlement. Appellant is not aggrieved by the order denying that relief. She is in active litigation to redress her claimed injuries in a separate lawsuit involving the same event. Because she lacks

standing to intervene, Appellant also lacks standing to pursue this appeal. Respondent respectfully seeks an order dismissing the appeal.

**I. History.**

Respondent’s daughter, Tamesha Singletary, was struck by a passing tractor trailer while standing off the side of Interstate 20 in Aiken County on April 3, 2020.<sup>1</sup> Just prior, Appellant’s vehicle became disabled on the side of the road after running out of fuel.<sup>2</sup> Ms. Singletary, a Good Samaritan, pulled her vehicle off the highway to assist Appellant.<sup>3</sup> At the time she was struck, Ms. Singletary was standing beside Appellant’s vehicle filling it with fuel.<sup>4</sup> Appellant was inside her vehicle and observed Ms. Singletary being struck by the passing tractor trailer.<sup>5</sup> Appellant did not sustain bodily injury in the event. Ms. Singletary died from her injuries.<sup>6</sup> The probate court appointed Respondent personal representative of his daughter’s estate.<sup>7</sup>

Following this tragedy, Respondent made a claim against the tractor trailer’s owner and operator. The owner (Hansen Pallet) and operator (Ray Dennis Russell)<sup>8</sup> had liability coverage for the tractor trailer with Progressive Northern Insurance.<sup>9</sup> At some point, Appellant also notified Progressive that she was asserting a claim for damages. In response, Progressive offered to tender the policy limits of one million dollars (\$1,000,000.00) to the Respondent and Appellant on the

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<sup>1</sup> Ex. A – Pet. for approval of wrongful death and survival claim settlement, ¶ 2.

<sup>2</sup> *Id.*

<sup>3</sup> Ex. B – Order denying motion to intervene, at 1.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Ex. A, ¶ 2.

<sup>7</sup> *Id.*, ¶ 1.

<sup>8</sup> Hansen Pallet and Mr. Russell are named defendants in this action. However, the underlying action was filed solely as a wrongful death settlement approval petition.

<sup>9</sup> Ex. A, ¶ 3

condition that the two parties could agree to an allocation of the funds.<sup>10</sup> Respondent and Appellant did not agree to an allocation.<sup>11</sup>

After the impasse, Respondent sent a letter to Progressive on November 4, 2020 demanding Progressive pay the one million dollars in liability coverage to Respondent to resolve the estate's claim. On December 17, 2020, Appellant filed a lawsuit against the owner and operator of the tractor trailer in Orangeburg County Common Pleas.<sup>12</sup> In that suit, Appellant alleges negligence against the defendants and seeks actual and punitive damages.<sup>13</sup> Progressive, on behalf of its insureds, agreed to Respondent's demand and to pay one million dollars to settle the wrongful death claim.<sup>14</sup> On February 8, 2021, Respondent filed this action in Aiken County Common Pleas solely to seek approval of the wrongful death settlement.<sup>15</sup>

After Respondent filed his petition for approval, Appellant filed a motion to intervene in the matter.<sup>16</sup> Appellant claims she is entitled to intervene in order to protect her property interest in the subject matter of Respondent's settlement approval action.<sup>17</sup> Despite Appellant pursuing an active lawsuit through which she seeks judgment against the tractor trailer's owner and operator, she claims some interest in the liability insurance Progressive agreed to pay Respondent to settle the estate's claims. Appellant does not claim an existing right to those funds. She only seeks to intervene for the purpose of objecting to the settlement. Her goal is to have the court reject the settlement despite it being the result of an arms-length agreement between Progressive and

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<sup>10</sup> Ex. C – Motion to intervene at Ex. 2 (Oct. 28, 2020 Letter).

<sup>11</sup> *Id.* at Ex. 3, p.5 (Dec. 30, 2020 email).

<sup>12</sup> *Burnett v. Russell, et al.*, C/A no. 2020-CP-38-01473 (Orangeburg County Common Pleas).

<sup>13</sup> Ex. C at Ex. 1, ¶¶ 11-12 (Complaint).

<sup>14</sup> Ex. C at Ex. 3, p.1 (Jan. 26, 2021 email).

<sup>15</sup> Ex. A.

<sup>16</sup> Ex. C.

<sup>17</sup> *Id.* at ¶¶ 1, 10.

Respondent. Her aim is to preserve the amount of liability coverage available under the policy despite her lack of interest in the funds Progressive has agreed to pay Respondent.<sup>18</sup> Put differently, her “interest” in the subject matter of Appellant’s petition to approve the settlement is solely the *financial implication to her* of Respondent and Progressive’s settlement. Appellant’s interest is not whether the proposed settlement is reasonable or fair to Respondent or Ms. Singletary’s statutory beneficiaries.<sup>19</sup>

After briefing and a hearing on Appellant’s motion March 29, 2021, the trial court denied Appellant’s motion to intervene by written order April 30, 2021.<sup>20</sup> On April 29, 2021, the trial court held a hearing on Respondent’s motion to approve the settlement, and it was approved by the court at that time. The written order approving the settlement was filed May 3, 2021.<sup>21</sup>

Appellant appeals the denial of her motion to intervene. She filed her notice of appeal April 30, 2021.

## **II. Legal analysis.**

Because Appellant lacks standing and is not an aggrieved party under Rule 201, SCACR, her appeal must be dismissed. *See generally Powell ex rel. Kelley v. Bank of Am.*, 379 S.C. 437, 665 S.E.2d 237 (Ct. App. 2008) (dismissing appeal where appellant lacked standing and was not aggrieved by trial court order). Although closely related, either deficiency is grounds for dismissal of this appeal and, here, Appellant cannot meet either requirement.

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<sup>18</sup> *Id.* at ¶ 10.

<sup>19</sup> *See* S.C. Code Ann. § 15-51-42 (purpose of court approval of wrongful death settlements is to satisfy the trial court that a proposed settlement of a wrongful death or survival claim is fair and reasonable to beneficiaries or the estate).

<sup>20</sup> *See* Ex. B. The court also issued an amended order denying the motion to intervene on May 3, 2021, but it appears the only amendment was removing the text “[AMENDED PROPOSED]” from the title of the order. *Comp.* Ex. B with Ex. D – Order denying motion to intervene, filed May 3, 2021.

<sup>21</sup> Ex. E – Order approving settlement.

## A. Standing.

Lack of standing by an appellant is grounds for dismissal of an appeal. *See Powell ex rel. Kelley v. Bank of Am.*, 379 S.C. 437, 665 S.E.2d 237 (Ct. App. 2008) (dismissing Bank’s appeal due to lack of real interest in subject matter of dispute). Standing requires three things.

“First, the plaintiff must have suffered an injury in fact – an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of – the injury has to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court. Third, it must be likely as opposed to merely speculative, that the injury will be redressed by a favorable decision.”

*Smiley v. S.C. Dep’t of Health and Env’t Control*, 374 S.C. 326, 329, 649 S.E.2d 31, 32-33 (2007) (internal citations and quotations omitted).

In order for one to suffer an “injury in fact” she must demonstrate she is a real party in interest. This requires the person have a “personal stake in the subject matter of the litigation,” *Ex Parte Morris*, 367 S.C. 56, 62, 624 S.E.2d 649, 652 (2006). A real party in interest must have a “real, actual, material or substantial interest in the subject matter of the action, as distinguished from one who has only a nominal, formal, or technical interest in, or connection with, the action.” *Ex Parte Government Employee’s Insurance Co.*, 373 S.C. 132, 138, 644 S.E.2d 699, 702 (2007) (“*Ex Parte GEICO*”). The interest must be more than merely attenuated or “contingent.” *See Ex Parte Builders Mut. Ins. Co.*, 431 S.C. 93, 99, 847 S.E.2d 87, 90 (2020) (quoting *Restor-A-Dent Dental Lab’s, Inc. v. Certified Alloy Products, Inc.*, 725 F.2d 871, 874 (2d Cir. 1984)). Most importantly, a party’s interest in the “**financial implications** of a [court’s] decision” which is otherwise “peripheral to the subject matter before the court” is not a valid basis to confer standing. *Ex Parte GEICO*, 373 S.C. at 139, 644 S.E.2d at 702 (emphasis added).

A party's standing is also the threshold issue in determining whether a party may intervene under Rule 24(a), SCRCP. *See Bailey v. Bailey*, 312 S.C. 454, 458, 441 S.E.2d 325, 327 (1994); *see also Ex Parte GEICO*, 373 S.C. 132, 644 S.E.2d 699, 702 (2007). The trial court correctly concluded Appellant lacks standing due to her lack of a real interest in the subject matter of Respondent's action to have a settlement approved.

Context is important here. This is an action to approve a wrongful death settlement. This is not an action to determine fault for the underlying collision or resulting damages. Appellant's contention – that she should be permitted to intervene because her claim and this action have common questions of law and fact<sup>22</sup> – is mistaken. The only question of law before the trial court is whether the settlement agreed to by Respondent and Progressive is fair and reasonable to the estate and statutory beneficiaries. Appellant lacks any real interest in that determination, and there is no question of fact or other right to adjudicate that would impact Appellant's rights.

Undermining her claimed interest is Appellant's pending lawsuit in which she is actively seeking to enforce her right to redress the injuries she claims to have suffered. Rule 24(a), SCRCP, only permits intervention by right when the disposition of the action would prejudice the movant's ability to protect her rights. Appellant concedes the purpose for her motion (and this appeal) is not to adjudicate her right to recover, but rather to object to the settlement between Respondent and Progressive to preserve some part of the liability insurance proceeds for herself. *See Ex. C at Ex. 4 - Compl. in Intervention* ¶ 4. In truth, both the underlying motion and this appeal seek to block a compromise agreement to which Appellant is not a party. But to what end is unclear. It serves no useful purpose to permit Appellant to intervene and object. The trial court approved the

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<sup>22</sup> Rule 24(b)(2), SCRCP (giving courts discretion to permit intervention if common questions of law or fact exist so long as it would not unduly delay or prejudice the rights of the original parties).

settlement. *See* Ex. E. The trial court is not likely to reverse course simply because Appellant wants some of the money. The terms of the settlement agreed to by Respondent and Progressive are fair and reasonable to the estate and statutory beneficiaries under the circumstances.

The futility of Appellant's effort to intervene is not the only factor weighing in favor of dismissal. Appellant's claim that she is a real party in interest finds no solace in the case law. For example, in *Powell ex rel. Kelley v. Bank of America*, this court dismissed an appeal for lack of standing where the appellant had no real interest in the funds at issue in the litigation. 379 S.C. 437, 665 S.E.2d 237 (Ct. App. 2008) There, the bank's interest in the financial implication of the underlying decision was insufficient to confer standing. *Id.*

Cody Powell, a minor, and his mother received settlement funds for the wrongful death of their father / husband. A family member with accounting experience was appointed conservator for Cody and given control of Cody and his mother's settlement funds. Rather than put Cody's funds in a restricted account, the family member put Cody's funds in her personal account at Bank of America, and she put Cody's mother's funds in a separate personal account at another bank. She then used the funds for herself. Cody and his mother later sued her for conversion, and the unscrupulous family member interpleaded whatever funds were remaining. Cody also sued Bank of America for permitting the family member to deposit his funds directly into her personal account. Then, the trial court held a hearing to determine the apportionment of the interpleaded funds between Cody and his mother. Bank of America had no legal claim to the funds but sought to object to the apportionment to argue that Cody should receive all or most of the funds. The bank's interest here was that the more Cody received, the more it would reduce his damages in his action against Bank of America. Bank of America's only interest was the pecuniary benefit of having less exposure to Cody's claim. This court found the bank's attempt to protect its financial

interest fell “far short of” of the standing requirement. In doing so, it noted “[n]ot every practical concern equates to the legal interest required for standing.” Given that the bank’s liability was undetermined at the time of apportionment, the court also found the bank’s interest in reducing Cody’s damages “speculative and contingent.” *Id.* at 445, 665 S.E.2d at 241.

In dismissing Bank of America’s appeal, the *Powell* court relied heavily on the supreme court’s decision in *Ex Parte GEICO*, 373 S.C. 132, 644 S.E.2d 699 (2007). *GEICO* also supports dismissal here. *GEICO* sought to intervene in a family court action where the petitioner sought a declaration of common law marriage. If the family court found the petitioner was married under the common law, it would impact the petitioner’s ability to stack additional underinsured motorist coverages as a Class I insured. *Id.* at 134, 644 S.E.2d at 700. *GEICO* previously denied the petitioner’s UIM claim because he was neither a spouse nor resident relative of his alleged common law wife. The family court denied *GEICO*’s attempt to intervene due to its lack of an interest in the determination of whether the petition proved common law marriage. Affirming that denial, the supreme court rejected the sufficiency of *GEICO*’s interest where “*GEICO*’s interest is in the *financial implications* of the family court’s decision, which is peripheral to the subject matter before the court.” *Id.* at 138-39, 644 S.E.2d at 702 (emphasis in original).

The same is true here. Appellant’s stated intent is to “protect her property interest in the *resolution of her claim against Ray Russell and Hansen Pallett [sic] Company.*” Ex. C - Mot. to Intervene, ¶ 10. In other words, she seeks to preserve insurance coverage *in the event* she succeeds in her separate state court action against the defendants. That interest is speculative and contingent. And Appellant’s potential right to recover against those defendants is adequately protected by her lawsuit. *See* Ex. C at Ex. 4 - Compl. in Intervention, ¶ 15 (indicating discovery, including depositions, ongoing in Appellant’s state court action). As found by the trial court, the only interest

Appellant has in Respondent's petition to approve the settlement is the financial implications of the settlement. That is not a sufficient basis to confer standing. *See Powell*, 379 S.C. at 446, 665 S.E.2d at 242; *Ex Parte GEICO*, 373 S.C. at 138-39, 644 S.E.2d at 702; *Bailey*, 312 S.C. at 458, 441 S.E.2d at 327 (movants' interest in preserving funds to pay attorneys fees is peripheral and not sufficient for standing). For that reason, Appellant lacks standing, and the court should dismiss this appeal.

### **B. Aggrieved party**

Additionally, Appellant is not aggrieved by the trial court's order denying intervention. Rule 201(b), SCACR, permits an appeal only by a party "aggrieved by an order . . ." That phrase is interpreted to mean "a substantial grievance, a denial of some personal or property right, or the imposition on a party of a burden or obligation." *Beaufort Realty Co. v. Beaufort Cnty.*, 346 S.C. 298, 301, 551 S.E.2d 588, 589 (Ct. App. 2001). At most, the approval of Respondent's settlement with Progressive has contingent, financial implications for Appellant's ability to collect a future judgment on her claims against Progressive insureds. Appellant cannot claim that the settlement approval "affects its property rights or otherwise bears on its interest." *Powell*, 379 S.C. at 447, 665 S.E.2d at 243. Under *Powell* and *GEICO*, Appellant is not aggrieved.

Appellant has no right to, or interest in, the settlement between Respondent and Progressive. She simply has a contingent claim against Progressive's insureds, not the liability proceeds. Progressive, well aware of Appellant's claim, made a decision to offer the limits of its liability coverage to Respondent. Progressive assessed its risk and made a decision. Progressive could have filed an interpleader. It did not. If Progressive's decision was in error and it has exposed its insureds to a judgment in Appellant's state court action, Appellant may pursue its rights further by way of assignment if she obtains a judgment. While this analysis is unnecessary for

purposes of this motion, it further highlights the lack of interest Appellant has in Respondent's action.


There is also a compelling policy reason for dismissing Appellant's appeal: Appellant wants the court to interfere with Respondent and Progressive's settlement agreement for her own financial gain and to the prejudice and delay of Respondent. The only party aggrieved here is Respondent who is now dragged into the appellate courts when all he sought was to have a fair settlement approved and to gain some closure from the tragic death of his daughter.

### **III. Conclusion.**

Because Appellant lacks standing to pursue this appeal the court should dismiss the appeal and remit the matter to the trial court.

Respectfully submitted,

**RICHARDSON THOMAS HALTIWANGER  
MOORE & LEWIS, LLC**

By:   
\_\_\_\_\_  
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May 11, 2021

**EXHIBIT  
A**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF AIKEN	)	CASE NO.: 2021-CP-02 -
	)	
<u>Ex Parte</u> : James Monroe Elliott, Sr., as Personal Representative of the Estate of Tamesha Singletary,	)	
Petitioner,	)	<b>PETITION FOR APPROVAL OF WRONGFUL DEATH AND SURVIVAL CLAIM SETTLEMENT</b>
	)	
<u>In re</u> : Petition for Approval of Wrongful Death Claim Settlement for the Estate of Tamesha Singletary, by and through its Personal Representative, James Monroe Elliott, Sr.	)	
	)	

Plaintiff petitions this Honorable Court for an order approving a wrongful death / survival action claim settlement. Plaintiff and defendants have mutually agreed to resolve this matter pre-suit. Plaintiff submits the attached, verified petition for settlement approval as required by S.C. Code Ann. § 15-51-42(B).

In addition, plaintiff’s counsel certifies that he is of the opinion that the settlement is fair and reasonable and in the best interests of both the statutory beneficiary and the estate of the decedent.

As such, plaintiff / petitioner asks the Court to approve this settlement as set forth in the attached, verified petition.

Respectfully,

**RICHARDSON THOMAS HALTIWANGER  
MOORE & LEWIS, LLC**

s/Chris Moore  
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February 8, 2021  
Florence, South Carolina

**Attorney for plaintiff**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF AIKEN	)	CASE NO.: 2021-CP-02 -
	)	
<u>Ex Parte</u> : James Monroe Elliott, Sr., as	)	
Personal Representative of the Estate of	)	
Tamesha Singletary,	)	
	)	
Petitioner,	)	<b>PETITION FOR APPROVAL OF</b>
	)	<b>WRONGFUL DEATH AND</b>
<u>In re</u> : Petition for Approval of Wrongful	)	<b>SURVIVAL CLAIM SETTLEMENT</b>
Death Claim Settlement for the Estate of	)	
Tamesha Singletary, by and through its	)	
Personal Representative, James Monroe	)	
Elliott, Sr.	)	

Petitioner, above named, would respectively show unto this Court:

1. Petitioner, James Monroe Elliott, Sr., is the duly qualified and acting Personal Representative of the Estate of Tamesha Singletary, appointed by The Honorable Tonya L. Marchant, Probate Court Judge for the County of Aiken, State of South Carolina on October 28, 2020. A true and accurate copy of the Certificate of Appointment is attached as Exhibit A.

2. On or about April 3, 2020, Petitioner’s Decedent died from injuries she received from an accident that occurred that day on Interstate 20 near Graniteville, South Carolina. Decedent was standing in the roadway assisting a disabled vehicle stopped in the emergency lane when she was struck by a tractor trailer driven by Ray Dennis Russell which was owned by Hansen Pallet Company. Petitioner’s Decedent was transported by ambulance to Augusta University Medical Center where she died from her injuries shortly thereafter.

3. At the time of the accident, Ray Dennis Russell and Hansen Pallet Company were covered by a liability insurance policy issued by Progressive Northern Insurance Company (Policy No. 08155566-1) to Hansen Pallet Company with liability limits of One Million and no/100 (\$1,000,000.00) Dollars.

4. As Personal Representative of the Estate of Tamesha Singletary, Petitioner is informed and believes that he has the right to make claims for the alleged wrongful death and survival claims of the Decedent against the above-named Ray Dennis Russell and Hansen Pallet Company under S.C. Code Ann. § 15-51-10 (2005) and 15-5-90 (2005), respectively, as a result of the incident described in Paragraph (2) above, and that pursuant to S.C. Code Ann. §15-51-42 (2005), with the approval and consent of the Court, Petitioner is the proper individual to and is authorized to settle and compromise all claims of the Estate of Tamesha Singletary.

5. Petitioner seeks the permission of the Court to allow Petitioner to enter into a settlement for the alleged wrongful death and survival claims of Decedent whereby, in exchange for the payment of One Million and no/100 (\$1,000,000.00) Dollars, paid to Petitioner as Personal Representative of the Estate of Tamesha Singletary, Petitioner agrees to sign a full release in favor of Ray Dennis Russell, his heirs, agents, devisees, personal representatives, conservators, guardians and assigns, Hansen Pallet Company, and Progressive Northern Insurance Company, their parent companies, subsidiaries, successors, assigns, officers, directors, agents, employees, attorneys and all other personal or entities acting on their behalf.

6. Decedent left surviving, as her sole heir-at-law and statutory beneficiary under the South Carolina Wrongful Death Statute, her father, James Monroe Elliott, Sr. (Petitioner). Under S.C. Code Ann. § 15-51-40, which applies the laws of intestate succession as set forth in S.C. Code Ann. § 62-2-101 (2009) et seq., James Monroe Elliott, Sr. (Petitioner) is entitled to receive any damages recovered for the wrongful death of Decedent.

7. Further, in consonance with S.C. Code Ann. § 15-5-90 (2005) and because Decedent died intestate, any damages recovered for any survival claims of Decedent will also be

distributed pursuant to intestate succession as set forth above, with Petitioner, receiving all of the proceeds.

8. Petitioner is aware of the following claims and liens against Decedent's Estate for medical treatment related to this accident: Argos Health/AU Medical Center- Fifteen Thousand Nine Hundred Thirty-eight and no/100 (\$15,938.00) Dollars; Aiken County EMS- Five Hundred Ninety-six and no/100 (\$596.00) Dollars; and Equian- One Thousand Two Hundred Forty and 20/100 (\$1,240.20) Dollars. These liens total Seventeen Thousand Seven Hundred Seventy-four and 20/100 (\$17,774.20) Dollars.

9. Petitioner has retained the services of Chris Moore, Esquire at Richardson, Thomas, Haltiwanger, Moore & Lewis, LLC in Columbia, South Carolina, David E. Harris, Esquire at Sico Hoelscher Harris LLP in Corpus Christi, Texas and Bryan K. Harris, Esquire in Corpus Christi, Texas in order to fully protect the rights of Petitioner and of the Estate of Tamesha Singletary. Petitioner seeks approval of payment of attorney's fees to them for the representation of Petitioner, as Personal Representative of the Estate herein, in the total amount of Three Hundred Thirty-three Thousand Three Hundred Thirty-three and 30/100 (\$333,333.30) Dollars. Of this amount, Petitioner seeks to pay Thirty-three Thousand Three Hundred and Thirty-three and 33/100(\$33,333.33) Dollars to Richardson, Thomas, Haltiwanger, Moore & Lewis, LLC, One Hundred Forty-nine Thousand Nine Hundred Ninety-nine and 99/100 (\$149,999.99) Dollars to the Law Offices of Bryan K. Harris, PC, and One Hundred Forty-nine Thousand Nine Hundred Ninety-nine and 98/100 (\$149,999.98) Dollars payable to Sico Hoelscher Harris LLP. Petitioner also seeks approval of payment of associated costs to his attorneys in the total amount of Twenty Nine Thousand Seven Hundred Sixty-four and 55/100 (\$29,764.55) Dollars, comprised of Ninety-one and 15/100 (\$91.15) Dollars to Richardson, Thomas, Haltiwanger & Lewis, LLC, Nineteen

Thousand Six Hundred Seventy-three and 40/100 (\$19,673.40) Dollars to Sico Hoelscher Harris LLP, and Ten Thousand and no/100 (\$10,000.00) Dollars in expected future expenses. The proposed payment of attorneys' fees and expenses totals Three Hundred Sixty-three Thousand Ninety-seven and 85/100 (\$363,097.85) Dollars.

10. Progressive Northern Insurance Company, on behalf of Ray Dennis Russell and Hansen Pallet Company, and without admitting liability, has offered to pay the total sum of One Million and no/100 (\$1,000,000.00) Dollars to Petitioner, as Personal Representative of the Estate of Tamesha Singletary, as set forth in paragraph five (5) in exchange for Petitioner's agreement to sign a full release of all claims against Ray Dennis Russell, his heirs, agents, devisees, personal representatives, conservators, guardians and assigns, Hansen Pallet Company, Progressive Northern Insurance Company, and their parent companies, subsidiaries, successors, assigns, officers, directors, agents, employees, attorneys and all other persons or entities acting on their behalf.

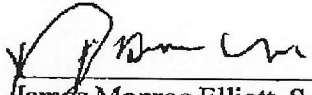
11. After payment of all attorney's fees and costs totaling Three Hundred Sixty-three Thousand Ninety-seven and 85/100 (\$363,097.85) Dollars, the net settlement proceeds to Petitioner would be Six Hundred Thirty-six Thousand Nine Hundred Two and 15/100 (\$636,902.15) Dollars. Of this amount, Seventeen Thousand Seven Hundred Seventy-four and 20/100 (\$17,774.20) Dollars is allocated for any and all claims under the South Carolina Survival Statute for the payment of any legally collectible medical liens and claims against the Estate. There is no evidence that Decedent experienced any conscious pain and suffering. The remaining sum of Six Hundred Nineteen Thousand One Hundred Twenty-seven and 95/100 (\$619,127.95) Dollars is allocated for any and all claims under the South Carolina Wrongful Death Statute. Petitioner will receive this amount as he is the sole heir at law.

12. Petitioner is informed and believes that, pursuant to S.C. Code Ann. § 15-51-42 (E)(2005), upon approval of this Petitioner by this Court, Ray Dennis Russell, Hansen Pallet Company, Progressive Northern Insurance Company and all others protected by the terms of the settlement are relieved and discharged from further liability for the distribution of the settlement proceeds and shall have no obligation or legal duty to see to the appropriate or proper distribution of the same and are fully discharged from any further liability in connection with the action or actions.

13. After due inquiry into the facts and circumstances in this case, the amount and terms of the offers of settlement and the propriety of continued litigation of these claims for the award and entry of judgment against the parties named hereinabove, including the disputed nature of the claims and the uncertainty of liability, Petitioner James Monroe Elliott, Sr., as Personal Representative of the Estate of Tamesha Singletary, believes and concludes that Progressive Northern Insurance Company's total payment of One Million and no/100 (\$1,000,000.00) Dollars in exchange for the full and complete release of Ray Dennis Russell, Hansen Pallet Company, and Progressive Northern Insurance Company is fair and reasonable and in the best interests of the Estate of Tamesha Singletary, the beneficiaries of the Estate of Tamesha Singletary, and the beneficiaries of the statutory causes of action thereof for the foregoing reasons, and Petitioner is satisfied with the terms of the settlement.

14. The aforementioned compromise proposal and settlements are approved by counsel for Petitioner as evidenced by his written approval endorsed hereon, and Petitioner desires to submit this compromise proposal and settlement to this Court under the provisions of the aforementioned statute.

WHEREFORE, the Petitioner prays that this Court inquire into the advisability of the acceptance of the aforementioned settlement offer and to approve, authorize and direct the Petitioner's acceptance of the same under an appropriate order, making provisions for the release herein contemplated.

  
James Monroe Elliott, Sr., as Personal Representative of the Estate of Tamesha Singletary, Petitioner

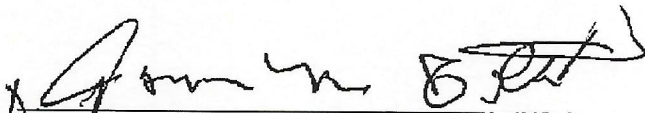
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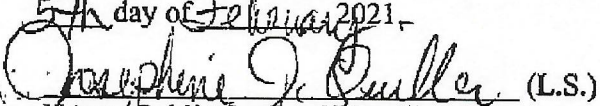
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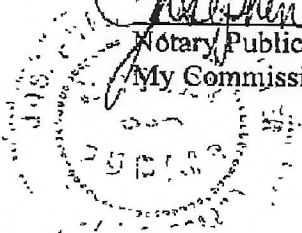
STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN )

**VERIFICATION**

PERSONALLY appeared before me James Monroe Elliott, Sr., who being first duly sworn, deposes and says: That he is the Personal Representative of the Estate of Tamesha Singletary and the Petitioner herein; that he has read the foregoing Petition for Approval of Wrongful Death and Survival Claim Settlement and the matters and things therein stated are true to his own knowledge, except those matters and things therein stated on information and belief, and those he believes to be true.

  
James Monroe Elliott, Sr., Personal Representative of the Estate of Tamesha Singletary

SWORN to before me this  
5th day of February 2021  
 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: 8/15/2028



STATE OF SOUTH CAROLINA       )  
  )  
COUNTY OF AIKEN                    )

**CERTIFICATE OF COUNSEL**

I, Chris Moore, am a member in good standing of the South Carolina Bar. As counsel for James Monroe Elliott, Sr., in his capacity as Personal Representative of the Estate of Tamesha Singletary, I am of the opinion that the settlement described in the attached Petition for Approval of Wrongful Death and Survival Claim Settlement is fair and reasonable and in the best interests of the statutory beneficiaries and the Estate of Tamesha Singletary.



\_\_\_\_\_  
Chris Moore, Attorney for James Monroe Elliott, Sr. Personal Representative of the Estate of Tamesha Singletary

Aiken, South Carolina  
2/8/, 2021

**EXHIBIT  
B**

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS  
C/A No. 2021-CP-02-00274

Ex parte: James Monroe Elliott, Sr., as  
personal representative of the estate of  
Tamesha Singletary,

Petitioner,

**[AMENDED PROPOSED] ORDER**

v.

In re: Petition for approval of wrongful death  
claim settlement for the estate of Tamesha  
Singletary, by and through its personal  
representative, James Monroe Elliott, Sr.

THIS MATTER APPEARS before the Court upon motion of Movant / Intervenor Lashelle Burnett (“Burnett”). Burnett seeks to intervene in an action filed by Petitioner James Monroe Elliott, Sr. (“Petitioner”), as personal representative of the estate of Tamesha Singletary, seeking the approval of a wrongful death settlement between Petitioner and Progressive Northern Insurance Company (“Progressive”). The court denies Burnett’s motion.

**Background facts**

Petitioner’s daughter, Tamesha Singletary, was killed on April 3, 2020 when she was struck by a passing tractor trailer on I-20 West operated by Ray Dennis Russell and owned by Hansen Pallet Company. At the time of her death, Ms. Singletary was assisting Burnett whose vehicle was stranded off the side of the road after having run out of gas. Burnett was inside her vehicle and witnessed Ms. Singletary being struck by the tractor trailer as Singletary was filling Burnett’s vehicle with gas.

Both Petitioner and Burnett made claims against the tractor trailer owner and operator’s liability insurer, Progressive. In response, Progressive offered to tender the policy limits of one

million dollars (\$1,000,000.00) to Petitioner and Burnett, provided they could agree to an allocation of the funds. Petitioner and Burnett did not agree on an allocation of those proceeds. Burnett then filed a negligence action against the tractor-trailer's owner and operator and that case is currently pending in Orangeburg County. *See Burnett v. Russell*, C/A 2020-CP-38-01473 (Orangeburg County Common Pleas).

After Petitioner and Burnett did not agree on an allocation, Petitioner sent a demand letter to Progressive seeking the policy limits for the Singletary estate's claims. Progressive then tendered its policy limits of one million dollars in liability coverage to Petitioner. At the hearing on Burnett's motion, counsel for Hansen Pallet and Ray Russell affirmed that Progressive agreed to a settlement for the policy limits with Petitioner. Petitioner accepted Progressive's offer and the parties voluntarily agreed to settle the case pending the court's approval of the settlement as reasonable. Petitioner filed this action seeking approval of the settlement on February 8, 2021. Burnett filed the motion to intervene on February 10, 2021.

Burnett claims she possesses a property interest in the one million dollar policy limits, and that approval of this settlement will impair her ability to protect that interest. She seeks to intervene in the settlement approval to object to the settlement. The court heard argument on Burnett's motion on March 29, 2021 at which counsel for Petitioner, Burnett, and Hansen Pallet and Ray Russell were present.

## **Analysis**

### **1. Rule 24, SCRPC standard**

Under Rule 24, SCRPC, a person has a right to intervene in an action "when the applicant claims an interest relating to property or transaction which is the subject of the action and he is so situated that disposition of the action may as a practical matter impair or impede his ability to

protect that interest.” Rule 24(a)(2), SCRC. Rule 24 also permits intervention when an applicant’s “claim . . . and the main action have a question of law or fact in common.” Rule 24(b)(2). However, in determining whether an applicant can intervene the court must consider “whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.”

Further, when intervention as a matter of right is sought, the person seeking intervention must have standing to intervene. *See Bailey v. Bailey*, 312 S.C. 454, 458 (1994); *see also Ex Parte Government Employee’s Ins. Co.*, 373 S.C. 132, 644 S.E.2d 699, 702 (2007). A real party in interest must have a “real, actual, material or substantial interest in the subject matter of the action, as distinguished from one who has only a nominal, formal, or technical interest in, or connection with, the action.” *Ex Parte GEICO*, 644 S.E.2d at 702. The interest must be more than merely attenuated or “contingent.” *See Ex parte Builders Mut. Ins. Co.*, 431 S.C. 93, 99 (2020) (quoting *Restor-A-Dent Dental Labs., Inc. v. Certified Alloy Prods., Inc.*, 725 F.2d 871, 874 (2d Cir. 1984)). In addition, in order to intervene the applicant must demonstrate that without intervention, disposition of the action may impair or impede her ability to protect her interest. She must also demonstrate that her interest is not adequately represented by another party to the action.

## **2. Burnett lacks standing to intervene**

Burnett asserts that she has a property interest in the one million dollars in liability insurance coverage that Progressive has voluntarily offered to Petitioner. She also argues that court approval of the settlement between Progressive and Petitioner will impair her rights to an unstated portion of the insurance coverage.

Petitioner asserts that Burnett has no real property interest in his settlement with Progressive and, thus, Burnett lacks standing to intervene in his petition to have the court approve the settlement. The court agrees.

Burnett is not a real party in interest and lacks standing to intervene. Burnett lacks a real, actual, material or substantial interest in the subject matter of the action. Here Petitioner and Progressive seek to have their settlement approved. Petitioner and Progressive voluntarily agreed to settle Petitioner's claims as a result of arms-length negotiations. Burnett is not a party to the settlement. This is a matter between Petitioner and Progressive, not Burnett.

If Burnett has any interest in this action, it is, at best, remote or contingent as Burnett does not have a judgment in her state court action and is currently litigating her claim against Progressive's insureds. Burnett has no legal entitlement to the liability insurance proceeds at issue. Progressive made a determination to offer the limits of its liability coverage to Petitioner. Should Burnett succeed in her state court action she has recourse against the defendants or potentially Progressive if its decision to settle with Petitioner was in error. As such, Burnett also fails to demonstrate that disposition of this action would impair or impede her rights. The interest she seeks to protect – to secure relief in her claim against the tractor trailer owner and operator – is being adequately pursued in her state court action.

Burnett's motive in intervening is to preserve liability coverage for her own claims. But our courts hold that a mere interest in the financial implication of an action is insufficient to confer standing for purposes of intervention. For example, in *Ex parte GEICO*, GEICO sought to intervene in a family court action where the petitioner sought a declaration of common law marriage because it would impact the petitioner's ability to stack additional undersinsured coverages as a Class I insured. 644 S.E.2d at 700. GEICO had previously denied the petitioner's

claim because he was not a spouse or resident relative of his alleged common law wife. The Supreme Court affirmed the trial court's finding that GEICO lacked standing to intervene noting:

GEICO has no real interest in whether Cooper and Goethe have a valid common law marriage. GEICO's interest is in the financial implications of the family court's decision, which is peripheral to the subject matter before the court. This interest is insufficient to warrant GEICO's intervention in Cooper's family court action under Rule 24(a)(2), SCRPC.

*Ex parte GEICO*, 644 S.E.2d at 702.

Burnett similarly lacks a sufficient interest in Petitioner's action to have a settlement approved – her concern is the financial implication of Petitioner's settlement. That is not enough. Burnett has the opportunity and right to pursue her claims and is doing so. That is the forum for Burnett to protect her right to recover on her injury claims.

### **3. Permissive intervention would serve no purpose and prejudice Petitioner**

Burnett also claims she should be permitted to intervene because her claim shares common questions of law or fact with this action. The court disagrees.

This is an action to approve a wrongful death settlement. The facts of the underlying crash, or legal questions impacting any party's liability for that crash, are not at issue in this action except to the extent they provide a context for the proposed settlement. The factual and legal issues here have no bearing on, and will not prejudice, Burnett's ability to pursue her claims in her pending lawsuit. Intervention by Burnett would, however, delay or prejudice Petitioner and Progressive's ability to have the court approve a settlement to which they voluntarily agreed. Permitting Burnett to intervene for the sole purpose of objecting to the reasonableness or fairness of the settlement between Petitioner and Progressive would serve no useful purpose. Burnett's objection has no bearing on the question of whether the settlement agreed to by Petitioner and Progressive is fair and reasonable to Petitioner under the circumstances.

### Conclusion

Because Burnett lacks standing and a real property interest in the subject matter of this action, and because the rights she claims are adequately protected by her pending state court suit arising from the same crash, intervention is not warranted under Rule 24, SCRPC. Burnett's motion to intervene is denied.

---

Clifton B. Newman  
Circuit Court Judge

\_\_\_\_\_, 2021  
Kingstree, South Carolina



Aiken Common Pleas

**Case Caption:** James Monroe Elliott Sr. , plaintiff, et al VS Ray Dennis Russell ,  
defendant, et al  
**Case Number:** 2021CP0200274  
**Type:** Order/Other

So Ordered

s/ Clifton B. Newman, 2127

**EXHIBIT  
C**

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS  
CIVIL ACTION NO.: 2021-CP-02-00274

Ex Parte: James Monroe Elliott, Sr., as  
Personal Representative of the Estate of  
Tamesha Singletary,

Petitioner,

vs.

**MOTION TO INTERVENE**

In re: Petition for Approval of  
Wrongful Death Claim Settlement for  
the Estate of Tamesha Singletary, by  
and through its Personal  
Representative, James Monroe Elliott,  
Sr,

Movant/Intervenor Lashelle Burnett ("Burnett"), pursuant to Rule 24, SCRCPP, hereby respectfully moves this Court to issue an Order allowing Burnett to intervene in the above-styled civil action and states the following in support thereof:

1. Burnett has an interest relating to the facts and circumstances which is the subject of the above captioned action.
2. Burnett's claim directly relates to the subject of the principal action and shares common questions of law and fact with the principal action.
3. More specifically, Burnett suffered injuries in the automobile collision that gives rise to this action.
4. On December 17, 2020, Lashelle Burnett filed suit against Ray Russell and Hansen Pallett Company—the parties she contends were responsible for the injuries suffered in the automobile collision. This lawsuit remains pending in the Orangeburg County Court of Common Pleas (2020-CP-38-1473). (Ex. 1).

5. One million dollars of liability insurance exists through Progressive Northern Insurance Company to compensate both Burnett and the Estate of Tamesha Singletary for the injuries suffered in the automobile collision.

6. On October 28, 2020 Progressive Northern Insurance Company made a global tender of its policy limits to Burnett and the Estate of Tamesha Singletary in the hopes that the injured parties may agree upon an allocation of damages. (Ex. 2)

7. Burnett and the Estate of Tamesha Singletary were unable to agree upon an allocation of damages.

8. On January 26, 2021, the attorney representing Ray Russell and Hansen Pallett Company informed the undersigned counsel that Progressive Northern Insurance Company had chosen to tender its full policy limits to the Estate of Tamesha Singletary, leaving it “not in a position to discuss resolution or file an interpleader action, as the limits will be exhausted.” (Ex. 3)

9. Pursuant to Rule 24(a)(2), SCRCPP, “upon timely application anyone shall be permitted to intervene in an action ... when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest.”

10. The approval of the proposed settlement in this action will impair or impede Lashelle Burnett’s ability to protect her property interest in the resolution of her claim against Ray Russell and Hansen Pallett Company. As a result, she is entitled to intervene in this action as a matter of right in order to object to the terms of the proposed settlement.

11. Pursuant to Rule 24(b)(2), SCRCPP, “upon timely application anyone may be permitted to intervene in an action ... when an applicant's claim or defense and the main action

have a question of law or fact in common.”

12. Lashelle Burnett’s claims against Ray Russell and Hansen Pallett Company arise out of the same questions of law and fact giving rise to this action.

13. Lashelle Burnett's intervention in this matter will unduly delay or prejudice the adjudication of the rights of the original parties to this action.

14. As a result, and as an alternative to the relief requested above, Lashelle Burnett should be permitted to intervene in this action in order to protect her property interest in the resolution of her claim against Ray Russell and Hansen Pallett Company.

15. As required by Rule 24(c), SCRPC, the pleading setting forth the claim for which intervention is sought is attached hereto as (Ex. 4).

WHEREFORE, Movant/Intervenor, Burnett, respectfully requests the attached proposed form of Order be granted so that it be allowed to participate fully in all proceedings, to object to the terms of the proposed settlement, and to receive such relief to which it may be entitled, or for any other relief this Honorable Court deems just.

CHAPPELL, SMITH AND ARDEN, P.A.

BY: s/W. Hugh McAngus, Jr.  
W. Hugh McAngus  
Attorney for Plaintiff  
P.O. Box 12330  
Columbia, South Carolina 29211

February 10, 2021  
Columbia, South Carolina

# EXHIBIT 1

STATE OF SOUTH CAROLINA  
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS  
CIVIL ACTION NO.:

LASHEALLE F. BURNETTE,

Plaintiff,

vs.

**SUMMONS**  
**(JURY TRIAL REQUESTED)**

RAY D. RUSSELL AND HANSEN  
PALLET COMPANY,

Defendants.

TO: RAY D. RUSSELL and HANSEN PALLET COMPANY, THE DEFENDANTS,  
ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to said complaint upon the subscriber, at his office at 2801 Devine Street, Suite 300, Columbia, SC 29205, within thirty (30) days after the service thereof, exclusive of the day of such service, and if you fail to answer the complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the complaint.

CHAPPELL, SMITH & ARDEN, P.A.

s/W. Hugh McAngus, Jr.

W. Hugh McAngus

Attorney for the Plaintiff

Post Office Box 12330

Columbia, South Carolina 29211

(803) 929-3600

December 17, 2020

STATE OF SOUTH CAROLINA  
COUNTY OF ORANGEBURG

LASHEALLE F. BURNETTE,

Plaintiff,

vs.

RAY D. RUSSELL and HANSEN  
PALLET COMPANY,

Defendants.

IN THE COURT OF COMMON PLEAS  
CIVIL ACTION NO.:

**COMPLAINT**

The Plaintiff would respectfully show unto the Court that:

1. The Plaintiff is a citizen and resident of the County of Richmond, State of Georgia.
2. Upon information and belief, the Defendant Ray D. Russell is a citizen and resident of the County of Orangeburg, State of South Carolina.
3. Upon information and belief, the Defendant Hansen Pallet Company is a corporation organized under the laws of the State of South Carolina.
4. On or about April 3, 2020, Plaintiff was the operator of a vehicle that was disabled and stopped completely off of any lanes of travel on I-20 West in Aiken County, South Carolina.
5. The Defendant Russell, operating a commercial motor vehicle owned by and in the course and scope of his employment with Hansen Pallet Company was traveling west on I-20.
6. At the same time and place, Tamesha Elliott was standing in the travel lane of I-20 west attempting to put gasoline in Plaintiff's vehicle.

7. Defendant Russell's vehicle collided with Tamesha Elliot and Plaintiff's vehicle, causing a violent collision.

8. As a result of the collision, the Plaintiff suffered the following injuries and damages:

- a. Physical pain, mental anguish, suffering and discomfort;
- b. disability for a period of time, past and future;
- c. inability to carry on normal activities;
- d. emotional trauma and distress;
- e. loss of enjoyment of life; and,
- f. property damage, diminished value, and loss of use of her vehicle.

9. The injuries and damages incurred by the Plaintiff were directly and proximately caused by the Defendant Russell's careless, negligent, grossly negligent, willful, wanton, reckless, and unlawful acts in one or more of the following particulars:

- a. in failing to apply the brakes of the vehicle and/or maintain them in proper working condition;
- b. in failing to steer or take other evasive action so as to avoid the collision;
- c. in failing to keep a proper lookout;
- d. in failing to yield as required by law;
- e. in operating the vehicle too fast for existing conditions;
- f. in leaving the travel lane of I-20;
- g. in failing to observe the condition of traffic, particularly the presence and location of the Plaintiff's vehicle and Tamesha Elliott.

10. The Defendant Hansen Pallet Company is liable for the negligent acts and omissions of Defendant Russell under the doctrine of respondeat superior, agency/principal, and/or by virtue of the Federal Motor Carrier Safety Regulations.

11. The Defendants' careless, negligent, willful, wanton, reckless and unlawful acts were the direct and proximate cause of the collision and resulting injuries and damages to the Plaintiff.

12. The Plaintiff is informed and believes that she is entitled to judgment against the Defendants for actual and punitive damages in an appropriate amount.

WHEREFORE, the Plaintiff prays for judgment against the Defendants for actual and punitive damages in an appropriate amount to be determined at trial, the costs of this action, and for such other and further relief as the Court may deem just and proper.

CHAPPELL, SMITH & ARDEN, P.A.

s/W. Hugh McAngus, Jr.  
W. Hugh McAngus  
Attorneys for Plaintiff  
Post Office Box 12330  
Columbia, South Carolina 29211  
803/929-3600

December 17, 2020

## **EXHIBIT 2**



# BAKER RAVENEL BENDER

ATTORNEYS AT LAW

William P. Davis  
[wdavis@brblegal.com](mailto:wdavis@brblegal.com)  
(803) 343-3865 – direct dial

October 28, 2020

VIA EMAIL: [dharris@shhlaw.com](mailto:dharris@shhlaw.com)  
David E. Harris, Esquire  
SICO Hoelscher Harris  
802 North Carancahua, Suite 900  
Corpus Christi, Texas 78401

VIA EMAIL: [hmcangus@csa-law.com](mailto:hmcangus@csa-law.com)  
W. Hugh McAngus Jr., Esquire  
Chappell Smith & Arden, P.A.  
P.O. Box 12330  
Columbia, SC 29211

RE: Claimant: Estate of Tamesha Elliott-Singletary/Lashealle Burnett  
D/Incident: 04/03/2020  
Insured: Hansen Pallet Company  
Claim Number: 20-3360292  
Our File Number: 10716.215

Gentlemen:

On behalf of Hansen Pallet Company and Progressive Northern Insurance Company, I am hereby tendering to your clients the \$1,000,000 limit of liability coverage available under the Progressive policy issued to Hansen in exchange for releases of all claims against Hansen Pallet Company and its driver, Ray Dennis Russell. Please let me know if you can agree as to how this fund should be divided between your clients if this tender is accepted. If it is not possible to reach an agreement in that regard, we suggest that we enlist the help of a mediator.

I have attached a copy of the Progressive policy for your review. I look forward to hearing from you soon.

Sincerely yours,

*s/William P. Davis*

William P. Davis  
WPD:jo  
Enclosure

cc: Lisa Hansen, Hansen Pallet Company (via email)  
Karen M. Castelli, Progressive Group of Insurance Companies (via email)

## **EXHIBIT 3**

**Hugh McAngus**

---

**From:** Davis, William P. <WDavis@brblegal.com>  
**Sent:** Tuesday, January 26, 2021 11:25 AM  
**To:** Hugh McAngus  
**Subject:** RE: Burnett v. Hansen Pallett

Sorry for the delay in my response. I was off Friday and Monday. Progressive has tendered the policy limit to the attorney for the decedent's estate, so we're not in a position to discuss resolution or file an interpleader action, as the limits will be exhausted. However, if I remember correctly, there may be UIM coverage with State Farm that will be available for your client's claim. I'd appreciate your letting me know if that's the case. Of course, once the settlement has been consummated, we can send you the release so you can send it to the UIM carrier.

William P. Davis  
Baker, Ravenel & Bender, LLP  
P.O. Box 8057 (29202)  
3710 Landmark Drive, Suite 400 (29204)  
Columbia, South Carolina  
(803) 799-9091  
(803) 343-3865  
wdavis@brblegal.com

---

**From:** Hugh McAngus <hugh@csa-law.com>  
**Sent:** Wednesday, January 20, 2021 11:03 AM  
**To:** Davis, William P. <WDavis@brblegal.com>  
**Subject:** Re: Burnett v. Hansen Pallett

Sorry i missed this email yesterday. Looks like you already filed answers.

Do you know if your carrier intends on filing an Interpleader of the tendered policy? Are they interested in discussing resolution of Burnett's case or should we move forward with discovery?

W. Hugh McAngus, Jr.  
Chappell, Smith & Arden  
PO Box 12330  
Columbia, SC 29211  
803-929-3600 (Office)  
803-509-5828 (Direct)  
803-929-3604 (Fax)  
Licensed in SC and NC

Sent from my iPad

On Jan 19, 2021, at 10:15 AM, Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)> wrote:

I agree with you about removal. I'll therefore be filing answers for both defendants in state court. I've got them drafted but would appreciate a 30-day extension, if you're amenable.

William P. Davis  
Baker, Ravenel & Bender, LLP  
P.O. Box 8057 (29202)  
3710 Landmark Drive, Suite 400 (29204)  
Columbia, South Carolina  
(803) 799-9091  
(803) 343-3865  
[wdavis@brblegal.com](mailto:wdavis@brblegal.com)

---

**From:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Sent:** Thursday, January 14, 2021 4:08 PM  
**To:** Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Subject:** RE: Burnett v. Hansen Pallett

Not a problem at all. Thanks.

W. Hugh McAngus, Jr.  
**Chappell, Smith & Arden, P.A.**  
PO Box 12330  
Columbia, SC 29211  
(803)-509-5828 (Direct)  
(803) 929-3604 (f)  
Past President, South Carolina Association for Justice

<image001.png>

Also licensed in North Carolina.

---

**From:** Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Sent:** Thursday, January 14, 2021 4:07 PM  
**To:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Subject:** RE: Burnett v. Hansen Pallett

No, don't hold me to this, but upon reflection, I think you're probably right. Will look at it some more and get back to you. Sorry.

William P. Davis  
Baker, Ravenel & Bender, LLP  
P.O. Box 8057 (29202)  
3710 Landmark Drive, Suite 400 (29204)  
Columbia, South Carolina

(803) 799-9091  
(803) 343-3865  
[wdavis@brblegal.com](mailto:wdavis@brblegal.com)

---

**From:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Sent:** Thursday, January 14, 2021 4:04 PM  
**To:** Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Subject:** RE: Burnett v. Hansen Pallett

Right. But it also alleges that the Defendants are an SC resident and SC corporation. Unless I am wrong, the case is not removable under the Home State Defendant Rule, 28 USC 1441(b)(1).

If those allegations are incorrect please let me know or let me know how the case is removable when it only has in state defendants. Happy to discuss if so, or if I'm otherwise wrong, which certainly happens from time to time.

W. Hugh McAngus, Jr.  
**Chappell, Smith & Arden, P.A.**  
PO Box 12330  
Columbia, SC 29211  
(803)-509-5828 (Direct)  
(803) 929-3604 (f)  
Past President, South Carolina Association for Justice

<image001.png>

Also licensed in North Carolina.

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**From:** Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Sent:** Thursday, January 14, 2021 3:42 PM  
**To:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Subject:** RE: Burnett v. Hansen Pallett

The complaint alleges that Ms. Burnett is a resident of Georgia.

William P. Davis  
Baker, Ravenel & Bender, LLP  
P.O. Box 8057 (29202)  
3710 Landmark Drive, Suite 400 (29204)  
Columbia, South Carolina  
(803) 799-9091  
(803) 343-3865  
[wdavis@brblegal.com](mailto:wdavis@brblegal.com)

---

**From:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Sent:** Thursday, January 14, 2021 3:39 PM  
**To:** Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Subject:** RE: Burnett v. Hansen Pallett

William:

How does the case get to Federal Court? Is the Complaint wrong alleging that Russell is a SC resident and Hansen is a SC corporation? If I am right, there may be diversity but the Home State Defendant Rule would prohibit removal. If I am incorrect, I am more than happy to open that discussion and see what my client would say, but as alleged I don't see how the case would be removed in the first place.

Thanks.

W. Hugh McAngus, Jr.  
**Chappell, Smith & Arden, P.A.**  
PO Box 12330  
Columbia, SC 29211  
(803)-509-5828 (Direct)  
(803) 929-3604 (f)  
Past President, South Carolina Association for Justice

<image001.png>

Also licensed in North Carolina.

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**From:** Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Sent:** Thursday, January 14, 2021 3:35 PM  
**To:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Subject:** RE: Burnett v. Hansen Pallett

Hugh – Would your client be willing to stipulate that her damages don't exceed \$74,999 in order to keep the case in state court?

-Bill

William P. Davis  
Baker, Ravenel & Bender, LLP  
P.O. Box 8057 (29202)  
3710 Landmark Drive, Suite 400 (29204)  
Columbia, South Carolina  
(803) 799-9091  
(803) 343-3865  
[wdavis@brblegal.com](mailto:wdavis@brblegal.com)

---

**From:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Sent:** Wednesday, December 30, 2020 8:54 AM  
**To:** Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Subject:** Burnett v. Hansen Pallett

William:

Your carrier has made a global tender. The plaintiffs were not able to agree on an allocation of that money. Frankly, I don't think my client is asking for very much. Would your carrier be interested in discussing settlement with just my client if it would include a CNTE to Hansen and its driver, as well as a release of all claims against the carrier?

As you know Burnett has filed suit and is moving forward with litigation. I am not sure if the Estate has filed, but Burnett is more than happy to have her case resolved.

W. Hugh McAngus, Jr.  
**Chappell, Smith & Arden, P.A.**  
PO Box 12330  
Columbia, SC 29211  
(803)-509-5828 (Direct)  
(803) 929-3604 (f)  
Past President, South Carolina Association for Justice

<image001.png>

Also licensed in North Carolina.

## **EXHIBIT 4**

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS  
CIVIL ACTION NO.: 2021CP0200274

Ex Parte: James Monroe Elliott, Sr., as  
Personal Representative of the Estate of  
Tamesha Singletary,

Petitioner,

vs.

**COMPLAINT IN INTERVENTION**

In re: Petition for Approval of Wrongful  
Death Claim Settlement for the Estate of  
Tamesha Singletary, by and through its  
Personal Representative, James Monroe  
Elliott, Sr,

Intervenor, Lashelle Burnett ("Burnett"), by and through undersigned counsel, hereby intervenes to these proceedings and in support of its Complaint in Intervention, respectfully avers as follows:

1. Laeshalle Burnett is a citizen and resident of Richmond County, Georgia.
2. Burnett is the Plaintiff in an action pending in the Orangeburg County Court of Common Pleas styled *Lashelle F. Burnette v. Ray D. Russell and Hansen Pallet Company*, c/a 2020-CP-38-1473 ("the Related Lawsuit"). (Ex. 1)
3. In the Related Lawsuit, Burnett alleges that Ray D. Russell and Hansen Pallet Company negligently and recklessly caused physical, mental, and emotional injuries and damages to Burnett in the collision that is the subject of the Petition for Approval of Wrongful Death and Survival Claim Settlement.
4. Burnett claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical

matter impair or impede his ability to protect that interest, and the applicant's interest is not adequately represented by existing parties.

5. Burnett objects to and asks the Court to deny James Monroe Ellittott, R.’s Petition for Approval of Wrongful Death and Survival Claim Settlement (“the Settlement Petition”).

6. As stated above, and as more specifically alleged in the Related Lawsuit, Burnett suffered injuries and damages in the same motor vehicle collision.

7. On October 28, 2020, counsel for Progressive Norther Insurance Company sent correspondence tendering the \$1,000,000 that is the subject of the Settlement Petition to counsel for the Estate of Tamesha Elliot-Singletary and Laeshelle Burnette that included the following:

October 28, 2020

VIA EMAIL: [dharris@shhlaw.com](mailto:dharris@shhlaw.com)  
David E. Harris, Esquire  
SICO Hoelscher Harris  
802 North Carancahua, Suite 900  
Corpus Christi, Texas 78401

VIA EMAIL: [hmcangus@csa-law.com](mailto:hmcangus@csa-law.com)  
W. Hugh McAngus Jr., Esquire  
Chappell Smith & Arden, P.A.  
P.O. Box 12330  
Columbia, SC 29211

RE: Claimant: Estate of Tamesha Elliott-Singletary/Lashealle Burnett  
D/Incident: 04/03/2020  
Insured: Hansen Pallet Company  
Claim Number: 20-3360292  
Our File Number: 10716.215

Gentlemen:

On behalf of Hansen Pallet Company and Progressive Northern Insurance Company, I am hereby tendering to your clients the \$1,000,000 limit of liability coverage available under the Progressive policy issued to Hansen in exchange for releases of all claims against Hansen Pallet Company and its driver, Ray Dennis Russell. Please let me know if you can agree as to how this fund should be divided between your clients if this tender is accepted. If it is not possible to reach an agreement in that regard, we suggest that we enlist the help of a mediator.

I have attached a copy of the Progressive policy for your review. I look forward to hearing from you soon.

Sincerely yours,

*s/William P. Davis*

(Ex 2 – “the Tender Letter”)

8. Burnett received and reasonably relied upon the Tender Letter and its tendering coverage to both Burnette and the Estate of Elliott-Singletary.

9. On November 5, 2020, Counsel for Burnett replied to the Tender Letter as follows:

---

From: Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
Sent: Thursday, November 05, 2020 2:27 PM  
To: Rodriguez, Suzanne <[SRodriguez@brblegal.com](mailto:SRodriguez@brblegal.com)>; 'dharris@shhlaw.com' <[dharris@shhlaw.com](mailto:dharris@shhlaw.com)>  
Cc: 'Karen\_Castelli@Progressive.com' <[Karen\\_Castelli@Progressive.com](mailto:Karen_Castelli@Progressive.com)>; 'lisa.hansen1956@gmail.com' <[lisa.hansen1956@gmail.com](mailto:lisa.hansen1956@gmail.com)>; Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
Subject: RE: Claim No.: 20-3360292; Hansen Pallett Company; D/Incident: 04/03/2020; James Monroe Elliott, on behalf of the Estate of Tamesha Elliott-Singletary; 10716.215

Suzanne

Thank you, and please tell Mr. Davis that the plaintiffs have attempted to confer and reach an agreement on the allocation of these funds. My suggestion would be that Progressive files an interpleader action.

(Ex. 3)

10. On November 5, counsel for Progressive Northern replied by stating the following and recapping his discussion with attorney Louie Cook, a member of the Texas Bar and confirming that Progressive Northern would “get back to you both asap”:

Thanks for your email, Hugh. Louie just called me and suggested the same thing. I'll discuss with Ms. Hansen and Ms. Castelli and get back to you both asap.

William P. Davis  
Baker, Ravenel & Bender, LLP  
P.O. Box 8057 (29202)

11. Counsel for Burnett and counsel for Progressive Northern thereafter exchanged no less than 9 emails regarding the tendered settlement, discussing Burnett's intent to file the Related Lawsuit, and referencing settlement. (Ex. 4)

12. On January 26, 2021, Counsel for Progressive Northern informed Burnett that the entire \$1,000,000 previously tendered to both Burnett and the Estate of Elliott-Singletary was being paid to the Estate of Elliott-Singletary.

13. No mediation as suggested by Progressive Northern Insurance Company has occurred.

14. Progressive Northern never “got back” with Burnett.

15. On February 10, 2021, Burnett deposed Ray D. Russell in the Related Lawsuit, in which he testified that he was unaware the full \$1,000,000 was being tendered to the Estate only, that he relied on Progressive Northern to resolve all claims against him, and expressed his desire that the Related Lawsuit should be resolved by Progressive Northern if possible.

16. Burnett has an interest in the insurance proceeds that are the subject of this action.

17. Burnett is so situated that disposition of this action without her intervention may, as a practical matter, impair her ability to protect that interest.

18. Burnett’s interests are not adequately protected by the existing parties.

WHEREFORE, Burnett prays for the following relief:

1. Any attempts to settle or dispose of the insurance policy at issue without Burnett’s participation be denied;
2. That Burnett be permitted to object to the terms of the “Petition for Approval of Wrongful Death and Survival Claim Settlement”;
3. That the “Petition for Approval of Wrongful Death and Survival Claim Settlement”, including its request for attorneys fees, incurred expenses, and “expected future expenses” be denied; and,
4. Such other and further relief as the Court deems appropriate.

(SIGNATURE BLOCK ON FOLLOWING PAGE)

CHAPPELL, SMITH AND ARDEN, P.A.

BY: s/W. Hugh McAngus, Jr.

W. Hugh McAngus  
Attorney for Plaintiff  
P.O. Box 12330  
Columbia, South Carolina 29211

February 10, 2021  
Columbia, South Carolina

# EXHIBIT 1

STATE OF SOUTH CAROLINA  
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS  
CIVIL ACTION NO.:

LASHEALLE F. BURNETTE,

Plaintiff,

vs.

**SUMMONS**  
**(JURY TRIAL REQUESTED)**

RAY D. RUSSELL AND HANSEN  
PALLET COMPANY,

Defendants.

TO: RAY D. RUSSELL and HANSEN PALLET COMPANY, THE DEFENDANTS,  
ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to said complaint upon the subscriber, at his office at 2801 Devine Street, Suite 300, Columbia, SC 29205, within thirty (30) days after the service thereof, exclusive of the day of such service, and if you fail to answer the complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the complaint.

CHAPPELL, SMITH & ARDEN, P.A.

s/W. Hugh McAngus, Jr.

W. Hugh McAngus

Attorney for the Plaintiff

Post Office Box 12330

Columbia, South Carolina 29211

(803) 929-3600

December 17, 2020

STATE OF SOUTH CAROLINA  
COUNTY OF ORANGEBURG

LASHEALLE F. BURNETTE,

Plaintiff,

vs.

RAY D. RUSSELL and HANSEN  
PALLET COMPANY,

Defendants.

IN THE COURT OF COMMON PLEAS  
CIVIL ACTION NO.:

**COMPLAINT**

The Plaintiff would respectfully show unto the Court that:

1. The Plaintiff is a citizen and resident of the County of Richmond, State of Georgia.
2. Upon information and belief, the Defendant Ray D. Russell is a citizen and resident of the County of Orangeburg, State of South Carolina.
3. Upon information and belief, the Defendant Hansen Pallet Company is a corporation organized under the laws of the State of South Carolina.
4. On or about April 3, 2020, Plaintiff was the operator of a vehicle that was disabled and stopped completely off of any lanes of travel on I-20 West in Aiken County, South Carolina.
5. The Defendant Russell, operating a commercial motor vehicle owned by and in the course and scope of his employment with Hansen Pallet Company was traveling west on I-20.
6. At the same time and place, Tamesha Elliott was standing in the travel lane of I-20 west attempting to put gasoline in Plaintiff's vehicle.

7. Defendant Russell's vehicle collided with Tamesha Elliot and Plaintiff's vehicle, causing a violent collision.

8. As a result of the collision, the Plaintiff suffered the following injuries and damages:

- a. Physical pain, mental anguish, suffering and discomfort;
- b. disability for a period of time, past and future;
- c. inability to carry on normal activities;
- d. emotional trauma and distress;
- e. loss of enjoyment of life; and,
- f. property damage, diminished value, and loss of use of her vehicle.

9. The injuries and damages incurred by the Plaintiff were directly and proximately caused by the Defendant Russell's careless, negligent, grossly negligent, willful, wanton, reckless, and unlawful acts in one or more of the following particulars:

- a. in failing to apply the brakes of the vehicle and/or maintain them in proper working condition;
- b. in failing to steer or take other evasive action so as to avoid the collision;
- c. in failing to keep a proper lookout;
- d. in failing to yield as required by law;
- e. in operating the vehicle too fast for existing conditions;
- f. in leaving the travel lane of I-20;
- g. in failing to observe the condition of traffic, particularly the presence and location of the Plaintiff's vehicle and Tamesha Elliott.

10. The Defendant Hansen Pallet Company is liable for the negligent acts and omissions of Defendant Russell under the doctrine of respondeat superior, agency/principal, and/or by virtue of the Federal Motor Carrier Safety Regulations.

11. The Defendants' careless, negligent, willful, wanton, reckless and unlawful acts were the direct and proximate cause of the collision and resulting injuries and damages to the Plaintiff.

12. The Plaintiff is informed and believes that she is entitled to judgment against the Defendants for actual and punitive damages in an appropriate amount.

WHEREFORE, the Plaintiff prays for judgment against the Defendants for actual and punitive damages in an appropriate amount to be determined at trial, the costs of this action, and for such other and further relief as the Court may deem just and proper.

CHAPPELL, SMITH & ARDEN, P.A.

s/W. Hugh McAngus, Jr.  
W. Hugh McAngus  
Attorneys for Plaintiff  
Post Office Box 12330  
Columbia, South Carolina 29211  
803/929-3600

December 17, 2020

## **EXHIBIT 2**



# BAKER RAVENEL BENDER

ATTORNEYS AT LAW

William P. Davis  
[wdavis@brblegal.com](mailto:wdavis@brblegal.com)  
(803) 343-3865 – direct dial

October 28, 2020

VIA EMAIL: [dharris@shhlaw.com](mailto:dharris@shhlaw.com)  
David E. Harris, Esquire  
SICO Hoelscher Harris  
802 North Carancahua, Suite 900  
Corpus Christi, Texas 78401

VIA EMAIL: [hmcangus@csa-law.com](mailto:hmcangus@csa-law.com)  
W. Hugh McAngus Jr., Esquire  
Chappell Smith & Arden, P.A.  
P.O. Box 12330  
Columbia, SC 29211

RE: Claimant: Estate of Tamesha Elliott-Singletary/Lashealle Burnett  
D/Incident: 04/03/2020  
Insured: Hansen Pallet Company  
Claim Number: 20-3360292  
Our File Number: 10716.215

Gentlemen:

On behalf of Hansen Pallet Company and Progressive Northern Insurance Company, I am hereby tendering to your clients the \$1,000,000 limit of liability coverage available under the Progressive policy issued to Hansen in exchange for releases of all claims against Hansen Pallet Company and its driver, Ray Dennis Russell. Please let me know if you can agree as to how this fund should be divided between your clients if this tender is accepted. If it is not possible to reach an agreement in that regard, we suggest that we enlist the help of a mediator.

I have attached a copy of the Progressive policy for your review. I look forward to hearing from you soon.

Sincerely yours,

*s/William P. Davis*

William P. Davis  
WPD:jo  
Enclosure

cc: Lisa Hansen, Hansen Pallet Company (via email)  
Karen M. Castelli, Progressive Group of Insurance Companies (via email)

## **EXHIBIT 3**

## Hugh McAngus

---

**From:** Hugh McAngus  
**Sent:** Thursday, December 17, 2020 2:44 PM  
**To:** Davis, William P.; Rodriguez, Suzanne  
**Cc:** 'Karen\_Castelli@Progressive.com'; 'lisa.hansen1956@gmail.com'  
**Subject:** RE: Claim No.: 20-3360292; Hansen Pallett Company; D/Incident: 04/03/2020; James Monroe Elliott, on behalf of the Estate of Tamesha Elliott-Singletary; 10716.215

William:

I have not heard from anyone regarding this claim since the email below. Please note that Ms. Burnette intends to file suit and proceed with litigation. Please let me know if you can accept service for the Defendants Russell and Hansen Pallet Company. If you can, I will not hold them in default. Thanks.

W. Hugh McAngus, Jr.  
**Chappell, Smith & Arden, P.A.**  
PO Box 12330  
Columbia, SC 29211  
(803)-509-5828 (Direct)  
(803) 929-3604 (f)  
Past President, South Carolina Association for Justice



Also licensed in North Carolina.

---

**From:** Davis, William P. <WDavis@brblegal.com>  
**Sent:** Thursday, November 5, 2020 2:51 PM  
**To:** Hugh McAngus <hugh@csa-law.com>; Rodriguez, Suzanne <SRodriguez@brblegal.com>; 'dharris@shhlaw.com' <dharris@shhlaw.com>  
**Cc:** 'Karen\_Castelli@Progressive.com' <Karen\_Castelli@Progressive.com>; 'lisa.hansen1956@gmail.com' <lisa.hansen1956@gmail.com>  
**Subject:** RE: Claim No.: 20-3360292; Hansen Pallett Company; D/Incident: 04/03/2020; James Monroe Elliott, on behalf of the Estate of Tamesha Elliott-Singletary; 10716.215

Thanks for your email, Hugh. Louie just called me and suggested the same thing. I'll discuss with Ms. Hansen and Ms. Castelli and get back to you both asap.

William P. Davis  
Baker, Ravenel & Bender, LLP  
P.O. Box 8057 (29202)

3710 Landmark Drive, Suite 400 (29204)  
Columbia, South Carolina  
(803) 799-9091  
(803) 343-3865  
[wdavis@brblegal.com](mailto:wdavis@brblegal.com)

---

**From:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Sent:** Thursday, November 05, 2020 2:27 PM  
**To:** Rodriguez, Suzanne <[SRodriguez@brblegal.com](mailto:SRodriguez@brblegal.com)>; 'dharris@shhlaw.com' <[dharris@shhlaw.com](mailto:dharris@shhlaw.com)>  
**Cc:** 'Karen\_Castelli@Progressive.com' <[Karen\\_Castelli@Progressive.com](mailto:Karen_Castelli@Progressive.com)>; 'lisa.hansen1956@gmail.com' <[lisa.hansen1956@gmail.com](mailto:lisa.hansen1956@gmail.com)>; Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Subject:** RE: Claim No.: 20-3360292; Hansen Pallett Company; D/Incident: 04/03/2020; James Monroe Elliott, on behalf of the Estate of Tamesha Elliott-Singletary; 10716.215

Suzanne

Thank you, and please tell Mr. Davis that the plaintiffs have attempted to confer and reach an agreement on the allocation of these funds. My suggestion would be that Progressive files an interpleader action.

W. Hugh McAngus, Jr.  
**Chappell, Smith & Arden, P.A.**  
PO Box 12330  
Columbia, SC 29211  
(803)-509-5828 (Direct)  
(803) 929-3604 (f)  
Past President, South Carolina Association for Justice



Also licensed in North Carolina.

---

**From:** Rodriguez, Suzanne <[SRodriguez@brblegal.com](mailto:SRodriguez@brblegal.com)>  
**Sent:** Wednesday, October 28, 2020 9:26 AM  
**To:** 'dharris@shhlaw.com' <[dharris@shhlaw.com](mailto:dharris@shhlaw.com)>; Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Cc:** 'Karen\_Castelli@Progressive.com' <[Karen\\_Castelli@Progressive.com](mailto:Karen_Castelli@Progressive.com)>; 'lisa.hansen1956@gmail.com' <[lisa.hansen1956@gmail.com](mailto:lisa.hansen1956@gmail.com)>; Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Subject:** Claim No.: 20-3360292; Hansen Pallett Company; D/Incident: 04/03/2020; James Monroe Elliott, on behalf of the Estate of Tamesha Elliott-Singletary; 10716.215

Dear Mr. Harris and Mr. McAngus:

Attached please find correspondence to you from William Davis.

Thank you.

**Suzanne Rodriguez**  
**Legal Assistant**  
**William P. Davis**  
**Catharine Garbee Griffin**  
**Jay Bender**  
[srodriquez@brblegal.com](mailto:srodriquez@brblegal.com)



[www.brblegal.com](http://www.brblegal.com)  
mail. p.o. box 8057, columbia, sc 29202  
phone. 803.799.9091 | fax. 803.779.3423

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## **EXHIBIT 4**

**Hugh McAngus**

---

**From:** Davis, William P. <WDavis@brblegal.com>  
**Sent:** Tuesday, January 26, 2021 11:25 AM  
**To:** Hugh McAngus  
**Subject:** RE: Burnett v. Hansen Pallett

Sorry for the delay in my response. I was off Friday and Monday. Progressive has tendered the policy limit to the attorney for the decedent's estate, so we're not in a position to discuss resolution or file an interpleader action, as the limits will be exhausted. However, if I remember correctly, there may be UIM coverage with State Farm that will be available for your client's claim. I'd appreciate your letting me know if that's the case. Of course, once the settlement has been consummated, we can send you the release so you can send it to the UIM carrier.

William P. Davis  
Baker, Ravenel & Bender, LLP  
P.O. Box 8057 (29202)  
3710 Landmark Drive, Suite 400 (29204)  
Columbia, South Carolina  
(803) 799-9091  
(803) 343-3865  
wdavis@brblegal.com

---

**From:** Hugh McAngus <hugh@csa-law.com>  
**Sent:** Wednesday, January 20, 2021 11:03 AM  
**To:** Davis, William P. <WDavis@brblegal.com>  
**Subject:** Re: Burnett v. Hansen Pallett

Sorry i missed this email yesterday. Looks like you already filed answers.

Do you know if your carrier intends on filing an Interpleader of the tendered policy? Are they interested in discussing resolution of Burnett's case or should we move forward with discovery?

W. Hugh McAngus, Jr.  
Chappell, Smith & Arden  
PO Box 12330  
Columbia, SC 29211  
803-929-3600 (Office)  
803-509-5828 (Direct)  
803-929-3604 (Fax)  
Licensed in SC and NC

Sent from my iPad

On Jan 19, 2021, at 10:15 AM, Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)> wrote:

I agree with you about removal. I'll therefore be filing answers for both defendants in state court. I've got them drafted but would appreciate a 30-day extension, if you're amenable.

William P. Davis  
Baker, Ravenel & Bender, LLP  
P.O. Box 8057 (29202)  
3710 Landmark Drive, Suite 400 (29204)  
Columbia, South Carolina  
(803) 799-9091  
(803) 343-3865  
[wdavis@brblegal.com](mailto:wdavis@brblegal.com)

---

**From:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Sent:** Thursday, January 14, 2021 4:08 PM  
**To:** Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Subject:** RE: Burnett v. Hansen Pallett

Not a problem at all. Thanks.

W. Hugh McAngus, Jr.  
**Chappell, Smith & Arden, P.A.**  
PO Box 12330  
Columbia, SC 29211  
(803)-509-5828 (Direct)  
(803) 929-3604 (f)  
Past President, South Carolina Association for Justice

<image001.png>

Also licensed in North Carolina.

---

**From:** Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Sent:** Thursday, January 14, 2021 4:07 PM  
**To:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Subject:** RE: Burnett v. Hansen Pallett

No, don't hold me to this, but upon reflection, I think you're probably right. Will look at it some more and get back to you. Sorry.

William P. Davis  
Baker, Ravenel & Bender, LLP  
P.O. Box 8057 (29202)  
3710 Landmark Drive, Suite 400 (29204)  
Columbia, South Carolina

(803) 799-9091  
(803) 343-3865  
[wdavis@brblegal.com](mailto:wdavis@brblegal.com)

---

**From:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Sent:** Thursday, January 14, 2021 4:04 PM  
**To:** Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Subject:** RE: Burnett v. Hansen Pallett

Right. But it also alleges that the Defendants are an SC resident and SC corporation. Unless I am wrong, the case is not removable under the Home State Defendant Rule, 28 USC 1441(b)(1).

If those allegations are incorrect please let me know or let me know how the case is removable when it only has in state defendants. Happy to discuss if so, or if I'm otherwise wrong, which certainly happens from time to time.

W. Hugh McAngus, Jr.  
**Chappell, Smith & Arden, P.A.**  
PO Box 12330  
Columbia, SC 29211  
(803)-509-5828 (Direct)  
(803) 929-3604 (f)  
Past President, South Carolina Association for Justice

<image001.png>

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**From:** Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Sent:** Thursday, January 14, 2021 3:42 PM  
**To:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Subject:** RE: Burnett v. Hansen Pallett

The complaint alleges that Ms. Burnett is a resident of Georgia.

William P. Davis  
Baker, Ravenel & Bender, LLP  
P.O. Box 8057 (29202)  
3710 Landmark Drive, Suite 400 (29204)  
Columbia, South Carolina  
(803) 799-9091  
(803) 343-3865  
[wdavis@brblegal.com](mailto:wdavis@brblegal.com)

---

**From:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Sent:** Thursday, January 14, 2021 3:39 PM  
**To:** Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Subject:** RE: Burnett v. Hansen Pallett

William:

How does the case get to Federal Court? Is the Complaint wrong alleging that Russell is a SC resident and Hansen is a SC corporation? If I am right, there may be diversity but the Home State Defendant Rule would prohibit removal. If I am incorrect, I am more than happy to open that discussion and see what my client would say, but as alleged I don't see how the case would be removed in the first place.

Thanks.

W. Hugh McAngus, Jr.  
**Chappell, Smith & Arden, P.A.**  
PO Box 12330  
Columbia, SC 29211  
(803)-509-5828 (Direct)  
(803) 929-3604 (f)  
Past President, South Carolina Association for Justice

<image001.png>

Also licensed in North Carolina.

---

**From:** Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Sent:** Thursday, January 14, 2021 3:35 PM  
**To:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Subject:** RE: Burnett v. Hansen Pallett

Hugh – Would your client be willing to stipulate that her damages don't exceed \$74,999 in order to keep the case in state court?

-Bill

William P. Davis  
Baker, Ravenel & Bender, LLP  
P.O. Box 8057 (29202)  
3710 Landmark Drive, Suite 400 (29204)  
Columbia, South Carolina  
(803) 799-9091  
(803) 343-3865  
[wdavis@brblegal.com](mailto:wdavis@brblegal.com)

---

**From:** Hugh McAngus <[hugh@csa-law.com](mailto:hugh@csa-law.com)>  
**Sent:** Wednesday, December 30, 2020 8:54 AM  
**To:** Davis, William P. <[WDavis@brblegal.com](mailto:WDavis@brblegal.com)>  
**Subject:** Burnett v. Hansen Pallett

William:

Your carrier has made a global tender. The plaintiffs were not able to agree on an allocation of that money. Frankly, I don't think my client is asking for very much. Would your carrier be interested in discussing settlement with just my client if it would include a CNTE to Hansen and its driver, as well as a release of all claims against the carrier?

As you know Burnett has filed suit and is moving forward with litigation. I am not sure if the Estate has filed, but Burnett is more than happy to have her case resolved.

W. Hugh McAngus, Jr.  
**Chappell, Smith & Arden, P.A.**  
PO Box 12330  
Columbia, SC 29211  
(803)-509-5828 (Direct)  
(803) 929-3604 (f)  
Past President, South Carolina Association for Justice

<image001.png>

Also licensed in North Carolina.

**EXHIBIT  
D**

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF AIKEN

C/A No. 2021-CP-02-00274

Ex parte: James Monroe Elliott, Sr., as personal representative of the estate of Tamesha Singletary,

Petitioner,

**ORDER**

v.

In re: Petition for approval of wrongful death claim settlement for the estate of Tamesha Singletary, by and through its personal representative, James Monroe Elliott, Sr.

THIS MATTER APPEARS before the Court upon motion of Movant / Intervenor Lashelle Burnett (“Burnett”). Burnett seeks to intervene in an action filed by Petitioner James Monroe Elliott, Sr. (“Petitioner”), as personal representative of the estate of Tamesha Singletary, seeking the approval of a wrongful death settlement between Petitioner and Progressive Northern Insurance Company (“Progressive”). The court denies Burnett’s motion.

**Background facts**

Petitioner’s daughter, Tamesha Singletary, was killed on April 3, 2020 when she was struck by a passing tractor trailer on I-20 West operated by Ray Dennis Russell and owned by Hansen Pallet Company. At the time of her death, Ms. Singletary was assisting Burnett whose vehicle was stranded off the side of the road after having run out of gas. Burnett was inside her vehicle and witnessed Ms. Singletary being struck by the tractor trailer as Singletary was filling Burnett’s vehicle with gas.

Both Petitioner and Burnett made claims against the tractor trailer owner and operator’s liability insurer, Progressive. In response, Progressive offered to tender the policy limits of one

million dollars (\$1,000,000.00) to Petitioner and Burnett, provided they could agree to an allocation of the funds. Petitioner and Burnett did not agree on an allocation of those proceeds. Burnett then filed a negligence action against the tractor-trailer's owner and operator and that case is currently pending in Orangeburg County. *See Burnett v. Russell*, C/A 2020-CP-38-01473 (Orangeburg County Common Pleas).

Progressive ultimately tendered its policy limits of one million dollars in liability coverage to Petitioner. At the hearing on Burnett's motion, Progressive affirmed that it has a settlement for the policy limits with Petitioner. Petitioner accepted Progressive's offer and the parties voluntarily agreed to settle the case pending the court's approval of the settlement as reasonable. Petitioner filed this action seeking approval of the settlement on February 8, 2021. Burnett filed the motion to intervene on February 10, 2021.

Burnett claims she possesses a property interest in the one million dollar policy limits, and that approval of this settlement will impair her ability to protect that interest. She seeks to intervene in the settlement approval to object to the settlement. The court heard argument on Burnett's motion on March 29, 2021 at which counsel for Petitioner, Burnett, and Progressive were present.

### **Analysis**

#### **1. Rule 24, SCRPC standard**

Under Rule 24, SCRPC, a person has a right to intervene in an action "when the applicant claims an interest relating to property or transaction which is the subject of the action and he is so situated that disposition of the action may as a practical matter impair or impede his ability to protect that interest." Rule 24(a)(2), SCRPC. Rule 24 also permits intervention when an applicant's "claim . . . and the main action have a question of law or fact in common." Rule 24(b)(2). However, in determining whether an applicant whether an applicant can intervene the

court must consider “whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.”

Further, when intervention as a matter of right is sought, the person seeking intervention must have standing to intervene. *See Bailey v. Bailey*, 312 S.C. 454, 458 (1994); *see also Ex Parte Government Employee’s Ins. Co.*, 373 S.C. 132, 644 S.E.2d 699, 702 (2007). A real party in interest must have a “real, actual, material or substantial interest in the subject matter of the action, as distinguished from one who has only a nominal, formal, or technical interest in, or connection with, the action.” *Ex Parte GEICO*, 644 S.E.2d at 702. The interest must be more than merely attenuated or “contingent.” *See Ex parte Builders Mut. Ins. Co.*, 431 S.C. 93, 99 (2020) (quoting *Restor-A-Dent Dental Labs., Inc. v. Certified Alloy Prods., Inc.*, 725 F.2d 871, 874 (2d Cir. 1984)). In addition, in order to intervene the applicant must demonstrate that without intervention, disposition of the action may impair or impede her ability to protect her interest. She must also demonstrate that her interest is not adequately represented by another party to the action.

## **2. Burnett lacks standing to intervene**

Burnett asserts that she has a property interest in the one million dollars in liability insurance coverage that Progressive has voluntarily offered to Petitioner. She also argues that court approval of the settlement between Progressive and Petitioner will impair her rights to an unstated portion of the insurance coverage.

Petitioner asserts that Burnett has no real property interest in his settlement with Progressive and, thus, Burnett lacks standing to intervene in his petition to have the court approve the settlement. The court agrees.

Burnett is not a real party in interest and lacks standing to intervene. Burnett lacks a real, actual, material or substantial interest in the subject matter of the action. Here Petitioner and

Progressive seek to have their settlement approved. Petitioner and Progressive voluntarily agreed to settle Petitioner's claims as a result of arms-length negotiations. Burnett is not a party to the settlement. This is a matter between Petitioner and Progressive, not Burnett.

If Burnett has any interest in this action, it is, at best, remote or contingent as Burnett does not have a judgment in her state court action and is currently litigating her claim against Progressive's insureds. Burnett has no legal entitlement to the liability insurance proceeds at issue. Progressive made a determination to offer the limits of its liability coverage to Petitioner. Should Burnett succeed in her state court action she has recourse against the defendants or potentially Progressive if its decision to settle with Petitioner was in error. As such, Burnett also fails to demonstrate that disposition of this action would impair or impede her rights. The interest she seeks to protect – to secure relief in her claim against the tractor trailer owner and operator – is being adequately pursued in her state court action.

Burnett's motive in intervening is to preserve liability coverage for her own claims. But our courts hold that a mere interest in the financial implication of an action is insufficient to confer standing for purposes of intervention. For example, in *Ex parte GEICO*, GEICO sought to intervene in a family court action where the petitioner sought a declaration of common law marriage because it would impact the petitioner's ability to stack additional undersinsured coverages as a Class I insured. 644 S.E.2d at 700. GEICO had previously denied the petitioner's claim because he was not a spouse or resident relative of his alleged common law wife. The Supreme Court affirmed the trial court's finding that GEICO lacked standing to intervene noting:

GEICO has no real interest in whether Cooper and Goethe have a valid common law marriage. GEICO's interest is in the financial implications of the family court's decision, which is peripheral to the subject matter before the court. This interest is insufficient to warrant GEICO's intervention in Cooper's family court action under Rule 24(a)(2), SCRCP.

*Ex parte GEICO*, 644 S.E.2d at 702.

Burnett similarly lacks a sufficient interest in Petitioner's action to have a settlement approved – her concern is the financial implication of Petitioner's settlement. That is not enough. Burnett has the opportunity and right to pursue her claims and is doing so. That is the forum for Burnett to protect her right to recover on her injury claims.

### **3. Permissive intervention would serve no purpose and prejudice Petitioner**

Burnett also claims she should be permitted to intervene because her claim shares common questions of law or fact with this action. The court disagrees.

This is an action to approve a wrongful death settlement. The facts of the underlying crash, or legal questions impacting any party's liability for that crash, are not at issue in this action except to the extent they provide a context for the proposed settlement. The factual and legal issues here have no bearing on, and will not prejudice, Burnett's ability to pursue her claims in her pending lawsuit. Intervention by Burnett would, however, delay or prejudice Petitioner and Progressive's ability to have the court approve a settlement to which they voluntarily agreed. Permitting Burnett to intervene for the sole purpose of objecting to the reasonableness or fairness of the settlement between Petitioner and Progressive would serve no useful purpose. Burnett's objection has no bearing on the question of whether the settlement agreed to by Petitioner and Progressive is fair and reasonable to Petitioner under the circumstances.

### **Conclusion**

Because Burnett lacks standing and a real property interest in the subject matter of this action, and because the rights she claims are adequately protected by her pending state court suit arising from the same crash, intervention is not warranted under Rule 24, SCRPC. Burnett's motion to intervene is denied.

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Clifton B. Newman  
Circuit Court Judge

\_\_\_\_\_, 2021  
Kingstree, South Carolina



Aiken Common Pleas

**Case Caption:** James Monroe Elliott Sr. , plaintiff, et al VS Ray Dennis Russell ,  
defendant, et al  
**Case Number:** 2021CP0200274  
**Type:** Order/Other

So Ordered

s/ Clifton B. Newman, 2127

**EXHIBIT  
E**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF AIKEN	)	CASE NO.: 2021-CP-02-00274
	)	
<u>Ex Parte</u> : James Monroe Elliott, Sr., as Personal Representative of the Estate of Tamesha Singletary,	)	
Petitioner,	)	<b>ORDER APPROVING WRONGFUL DEATH AND SURVIVAL CLAIM SETTLEMENT</b>
	)	
<u>In re</u> : Petition for Approval of Wrongful Death Claim Settlement for the Estate of Tamesha Singletary, by and through its Personal Representative, James Monroe Elliott, Sr.	)	

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This matter comes before me on the 29th day of April, 2021, upon the verified Petition for Approval of Wrongful Death and Survival Claim Settlement of James Monroe Elliott, Sr., Personal Representative of the Estate of Tamesha Singletary, as appointed by the Judge of the Probate Court of Aiken County, South Carolina, seeking approval of same.

Present and appearing before the Court are James Monroe Elliott, Sr., Personal Representative of the Estate of Tamesha Singletary and Petitioner of the above-referenced Petition along with his attorney, Chris Moore, Esquire. Also appearing is Susan Drake DuBose, Esquire, attorney for Ray Dennis Russell, Hansen Pallet Company, and Progressive Northern Insurance Company.

It appears that Petitioner wishes to enter into a settlement agreement for the alleged wrongful death and conscious pain and suffering of Decedent consisting of signing a full and complete Release of all claims in favor of Ray Dennis Russell, his heirs, agents, devisees, personal representatives, conservators, guardians and assigns, and Hansen Pallet Company and Progressive Northern Insurance Company, their parent companies, subsidiaries, successors, assigns, officers, directors, agents, employees, attorneys and all other persons or entities acting

on their behalf, in exchange for the total payment of One Million and no/100 (\$1,000,000.00) Dollars. Petitioner seeks the Court's approval of the settlement agreement. In determining the propriety of the proposed settlement, this Court has considered those facts necessary and proper for said determination as set forth in S.C. Code Ann. § 15-51-42(B) (2005).

It appears to this Court that Tamesha Singletary died on April 3, 2020 from injuries she received from an accident that occurred on Interstate 20 near Graniteville, South Carolina. Decedent was standing in the roadway assisting a disabled vehicle stopped in the emergency lane when she was struck by a tractor trailer driven by Ray Dennis Russell which was owned by Hansen Pallet Company. Petitioner's Decedent was transported by ambulance to Augusta University Medical Center where she died from her injuries shortly thereafter.

It also appears to this Court that at the time of the accident, Ray Dennis Russell and Hansen Pallet Company were covered by a liability insurance policy issued by Progressive Northern Insurance Company (Policy No. 08155566-1) to Hansen Pallet Company with liability limits of One Million and no/100 (\$1,000,000.00) Dollars.

It appears further to the Court that Progressive Northern Insurance Company, without admitting liability, has entered into negotiations with Petitioner to settle all claims for liability for any damages for the wrongful death and conscious pain and suffering of Petitioner's Decedent by offering to pay Petitioner, as Personal Representative of the Estate of Tamesha Singletary the total amount of One Million and no/100 (\$1,000,000.00) Dollars in exchange for Petitioner's agreement to sign a complete and full release in favor of Ray Dennis Russell, his heirs, agents, devisees, personal representatives, conservators, guardians and assigns, and Hansen Pallet Company and Progressive Northern Insurance Company, their parent companies, subsidiaries, successors, assigns, officers, directors, agents, employees, attorneys and all other

personal or entities acting on their behalf. It appears to this Court that Petitioner's Decedent is survived by her father, James Monroe Elliott, Sr., Petitioner, and that he is the sole statutory beneficiary under S.C. Code Ann. § 15-51-20 (2005) for the wrongful death of Decedent. It appears further that S.C. Code Ann. § 15-51-40 (2005) provides that James Monroe Elliott, Sr., Petitioner is entitled to any damages recovered for the wrongful death of Decedent according to the laws of intestacy of this State as set forth in S.C. Code Ann. § 62-2-102 (2009) and § 62-2-103 (2009). Since Decedent died intestate any damages recovered under the survival statute will also be distributed by intestate succession.

Petitioner is of the following claims and liens against the Estate: Argos Health/AU Medical Center- Fifteen Thousand Nine Hundred Thirty-eight and no/100 (\$15,938.00) Dollars; Aiken County EMS- Five Hundred Ninety-six and no/100 (\$596.00) Dollars; and Equian- One Thousand Two Hundred Forty and 20/100 (\$1,240.20) Dollars. These liens total Seventeen Thousand Seven Hundred Seventy-four and 20/100 (\$17,774.20) Dollars.

It appears further that Petitioner has retained the advice and counsel of Chris Moore, Esquire at Richardson, Thomas, Haltiwanger, Moore & Lewis, LLC in Columbia, South Carolina, David E. Harris, Esquire at Sico Hoelscher Harris LLP in Corpus Christi, Texas and Bryan K. Harris, Esquire in Corpus Christi, Texas. It further appears that they are entitled to a total fee of Three Hundred Thirty-three Thousand Three Hundred Thirty-three and 30/100 (\$333,333.30) Dollars. Of this amount, Petitioner seeks to pay Thirty-three Thousand Three Hundred and Thirty-three and 33/100 (\$33,333.33) Dollars to Richardson, Thomas, Haltiwanger, Moore & Lewis, LLC, One Hundred Forty-nine Thousand Nine Hundred Ninety-nine and 99/100 (\$149,999.99) Dollars to the Law Offices of Bryan K. Harris, PC, and One Hundred Forty-nine Thousand Nine Hundred Ninety-nine and 98/100 (\$149,999.98) Dollars payable to

Sico Hoelscher Harris LLP. I further find that counsel is entitled to the reimbursement of associated costs and expenses associated with this suit in the total amount of Twenty Nine Thousand Seven Hundred Sixty-four and 55/100 (\$29,764.55) Dollars, comprised of Nineteen Thousand, Seven Hundred Sixty-four and 55/100 Dollars in litigation costs, and Ten Thousand and no/100 (\$10,000.00) Dollars in expected future expenses. After payment of all attorneys' fees and costs totaling Three Hundred Sixty-three Thousand Ninety-seven and 85/100 (\$363,097.85) Dollars, the net settlement proceeds to Petitioner will be Six Hundred Thirty-six Thousand Nine Hundred Two and 15/100 (\$636,902.15) Dollars.

Of this amount, Seventeen Thousand Seven Hundred Seventy-four and 20/100 (\$17,774.20) Dollars is allocated for any and all claims under the South Carolina Survival Statute for the payment of any legally collectible medical liens and claims against the Estate. There is no evidence that Decedent experienced any conscious pain and suffering. The remaining sum of Six Hundred Nineteen Thousand One Hundred Twenty-seven and 95/100 (\$619,127.95) Dollars is allocated for any and all claims under the South Carolina Wrongful Death Statute. Petitioner will receive this entire amount as the sole heir at law.

It also appears that, pursuant to S.C. Code Ann. § 15-51-42(E) (Supp. 2002), upon approval of this Petition by this Court, Ray Dennis Russell, Hansen Pallet Company, Progressive Northern Insurance Company and all others protected by the terms of the settlement shall be relieved and discharged from further liability for the distribution of the settlement proceeds and shall have no obligation or legal duty to see to the appropriate or proper distribution of the same and shall be fully discharged from any further liability in connection with the action or actions.

This Court has conducted a proper and due inquiry into the facts and circumstances in this case, the amount and terms of the offer of settlement and the propriety of litigation of these

claims for the award and entry of judgment against the parties named hereinabove, including the disputed nature of the claims and the uncertainty of liability. Petitioner believes and concludes that the total payment of One Million and no/100 (\$1,000,000.00) Dollars in exchange for a release of the above named parties and insurers is fair and reasonable and in the best interests of the Estate of Tamesha Singletary, the beneficiaries of the Estate of Tamesha Singletary, and the beneficiaries of the statutory causes of action thereof. For the foregoing reasons, Petitioner is satisfied with the terms of the settlement. Considering Petitioner's Petition, the Certificate of Counsel and the factors listed above, this Court has the authority to approve said settlement pursuant to the provisions of S.C. Code Ann. § 15-51-42 (Supp. 2002) and is of the opinion that the proposed settlement set forth should be approved.

Now, therefore, it is hereby ORDERED that the proposed settlement is in the best interest of the Estate of Tamesha Singletary, and that James Monroe Elliott, Sr., Personal Representative of the Estate of Tamesha Singletary be and hereby is authorized to accept the sum of One Million and no/100 (\$1,000,000.00) Dollars from Progressive Northern Insurance Company in exchange for the complete and full release of Ray Dennis Russell, Hansen Pallet Company and Progressive Northern Insurance Company. These amounts shall be accepted as settlement in full of any and all liability for any claims, liens, causes of action, settlements, judgments or the like that said Personal Representative of the Estate of Tamesha Singletary, her heirs, personal representatives, executors, administrators, successors and assigns have or might have at some time against Ray Dennis Russell, Hansen Pallet Company and Progressive Northern Insurance Company, or any of them, arising out of the accident that occurred on April 3, 2020, including, but not limited to, all claims, liens, actions, causes of action, judgments or the like for the wrongful death and conscious pain and suffering of Decedent.

IT IS ORDERED that Petitioner James Monroe Elliott, Sr., Personal Representative of the Estate of Tamesha Singletary was, is and shall be responsible for the proper distribution of the aforementioned proceeds among the wrongful death and survival claim beneficiaries as set forth above in accordance with the law and those persons and entities protected by the contemplated releases are relieved and discharged from any and all liability with respect to the proper distribution of the aforementioned proceeds.

IT IS ORDERED FURTHER that James Monroe Elliott, Sr., Personal Representative of the Estate of Tamesha Singletary be and hereby is authorized and directed to execute and deliver to Progressive Northern Insurance Company a complete release of Ray Dennis Russell, his heirs, agents, devisees, personal representatives, conservators, guardians and assigns, and Hansen Pallet Company and Progressive Northern Insurance Company, their parent companies, subsidiaries, successors, assigns, officers, directors, agents, employees, attorneys and all other personal or entities acting on their behalf, which will protect them from all liability for any claims, liens, causes of action, settlements, judgments or the like that said Personal Representative of the Estate of Tamesha Singletary or her heirs, personal representatives, executors, administrators, successors and assigns have or might have at some time against Ray Dennis Russell, Hansen Pallet Company and Progressive Northern Insurance Company, or any of them, arising out of the accident that occurred on April 3, 2020, including, but not limited to, all claims, liens, actions, causes of action, judgments or the like for the wrongful death and/or conscious pain and suffering of Decedent.

IT IS FURTHER ORDERED that James Monroe Elliott, Sr., Personal Representative of the Estate of Tamesha Singletary be and hereby is authorized and directed to release Ray Dennis

Russell, Hansen Pallet Company and Progressive Northern Insurance Company from any further obligation for the accident described in the Petition.

IT IS FURTHER ORDERED that the settlement funds shall be allocated and disbursed as outlined above.

AND IT IS ORDERED.

Kingstree, South Carolina  
\_\_\_\_\_, 2021

\_\_\_\_\_  
Clifton B. Newman  
Circuit Court Judge



Aiken Common Pleas

**Case Caption:** James Monroe Elliott Sr. , plaintiff, et al VS Ray Dennis Russell ,  
defendant, et al  
**Case Number:** 2021CP0200274  
**Type:** Order/Approval Of Settlement

So Ordered

s/ Clifton B. Newman, 2127

**RECEIVED**  
**May 11 2021**  
**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM AIKEN COUNTY  
Clifton B. Newman, Circuit Court Judge

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Case no. 2021-CP-02-00274

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*Ex parte* Lashelle Burnette, .....Appellant,

v.

*In re* James Monroe Elliott, Sr.,  
as personal representative of the  
estate of Tamesha Singletary,  
Ray Dennis Russell and Hansen  
Pallet Company, ..... Defendants,

Of whom:  
James Monroe Elliott, Sr.,  
as personal representative of the  
estate of Tamesha Singletary, .....Respondent.

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**Proof of Service**

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I certify that I have served Respondent's motion to dismiss on Appellant Lashelle Burnette by depositing a copy of said motion in the United States Mail, postage pre-paid, on May 11, 2021, addressed to her attorney as follows:

W. Hugh McAngus, Jr.  
Chappell Smith & Arden, P.A.  
Post Office Box 12330  
Columbia, South Carolina 29211

Signature page below.

May 11, 2021

**RICHARDSON THOMAS HALTIWANGER  
MOORE & LEWIS, LLC**

By:



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Chris Moore  
1513 Hampton Street  
Columbia, South Carolina 29201  
T: 803.281.8147  
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TERRY E. RICHARDSON, JR.  
BRADY R. THOMAS  
WILLIAM C. LEWIS  
DANIEL S. HALTIWANGER  
CHRIS MOORE

Chris Moore  
cmoore@rpwb.com

May 11, 2021

**Via electronic mail to [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)**

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

**RECEIVED**  
**May 11 2021**  
**SC Court of Appeals**

Re: *Ex Parte Lashelle Burnette v. James Monroe Elliott, Sr.*  
Appellate Case no. 2021-000461, South Carolina Court of Appeals

Dear Ms. Kitchings,

Enclosed for filing is Respondent James Monroe Elliott, Sr.'s motion to dismiss the appeal and accompanying exhibits and proof of service of the same. I am separately mailing today a check made out to the Court of Appeals for the \$50.00 filing fee for this motion.

The documents for filing include:

1. Motion to Dismiss
  - a. Ex. A - Petition to approve settlement
  - b. Ex. B - Order denying motion to intervene
  - c. Ex. C - Motion to intervene and accompanying exhibits
  - d. Ex. D - Amended order denying motion to intervene
  - e. Ex. E - Order approving settlement
2. Proof of service of the motion to dismiss

Please let me know if you have any questions.

Most respectfully,



Chris Moore

ENC

Cc: W. Hugh McAngus, Jr., Esq.