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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Bentley Price, Circuit Court Judge

Case No.: 2018-CP-10-05710
Appellate Tracking No.: 2021-000141

Estate of Patricia A. Brunson …….Intervenor/Appellant,

In re:

Elaine Mincey as Personal Representative for the Estate of
William Alexander Brunson, Jr.,…….Plaintiff/Respondent,

vs.

David Scott Wich and C. J. Wingerter Company, L.L.C., ……Defendants.

INITIAL REPLY BRIEF

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REPLY TO RESPONDENT'S STATEMENT OF CASE AND STANDARD OF REVIEW

The parties find much common ground in Respondent's brief. Respondent offers a succinct and accurate summary of the facts leading up to this legal dispute. However, Respondent misidentifies the legal issue raised here, and the same misidentification crept into the case from the beginning. Both the trial court and the Respondent conflate Rules 24 and 60. The Rule permitting a party to intervene to protect her rights is not analyzed under the Rule 60 time standard, something the trial court never recognized. Respondent also mischaracterizes the relief sought by the Appellant in this case. This misidentification is possible because when the trial court denied Appellant the right to intervene, she had no opportunity to develop the record, and the circuit court never appreciated the initial issue before the Court, which was Appellant's request to intervene.

The Respondent is correct about its efficacy in settling the tort case: the law firm hired by the Estate did a good job settling the personal injury case without the need to file suit, but the evidence that Decedent's wife caused the accident is both scant and highly disputed. The facts of the tort case show that she made a left turn from U. S. Highway 17 on to Main Road in the path of a speeding truck, but she claimed she had the left turn green arrow. Whether she did or did not, the black box on the pickup truck showed that it was proceeding at a dangerously high rate of speed through a congested intersection, and there was strong circumstantial evidence the driver was drinking alcohol. Initially Appellant thought she and her husband's Estate were working together, but when William Brunson's Estate settled his claim without Appellant, she (now her Estate) successfully prosecuted her personal injury and her loss of consortium claims on her own. The point is: Respondent's counsel did a good job settling the case, but they filed a petition for settlement without notifying the wife, and they neglected to tell Judge Hughston that they did not

represent the Wife—who was already in litigation with the Estate. Respondent admits they never provided notice either that they settled the case or that they filed a petition with the Court to allocate benefits. Because the beneficiaries of the Estate remain unsettled, it is legally impossible for the Estate to make decisions of allocation because they do not know who the beneficiaries are. As Respondent points out, a separate law firm, the one handling the Will contest, sent Appellant's counsel proposed an Order allocating settlement proceeds on December 18, 2018, but led counsel to believe that the money was being held in escrow **because the Wife's interest in the Estate has not been determined**! The December 18th e-mail conveying the Order is in the Record on Appeal at page ____, and as the Court can see, it stated that the Order was being sent to Probate Court for filing. Whether it has or has not is not presently known, but the letter conveying the Order made clear that the proposed disbursement was a settlement offer that proposed ending the Will contest in exchange for the Appellant (now her Estate) being satisfied with her elective share. What followed is years of negotiation which, so far, has not yielded a resolution.

The Estate's representation that the proceeds would be held pending further negotiation is exactly what Respondent's counsel told Judge Price. See Record on Appeal page ___[transcript page 16, lines 19-25]) Thus, when Respondent writes on page 2: "Because of Mr. Brunson's advanced age and the significance of his survival claim, the survival claim was worth more than the wrongful-death claim . . . ," this may or may not be a correct statement, but the far more important point is that the Decedent's wife never received notice of the hearing, and it is undisputed that the Wife's interest in the Estate is undetermined. It was not until the Estate, being handled by a separate law firm, notified the Wife on March 19, 2019, that it was disbursing did the Wife know the Estate was disbursing the proceeds. Not to put too fine a point on it, but the law firm handling

the tort claim is probably just as surprised as the Wife that the law firm handling the Estate decided to make distributions without knowing what the Wife's interest is. To date, Appellant does not know if the Estate really did make distributions or if the check mailed to Appellant on March 19, 2019, represents a proposal. The Estate of Brunson is so fractured that the Personal Representative of the Estate of William Brunson is currently facing a charge of assault and battery against the daughter of the Personal Representative of the Estate of Patricia Brunson. The intra-family hostility in this case makes Family Court look tame. As set forth fully in her initial brief, not only did the Estate plead that the proceeds would be held in trust, but also, as set forth above, counsel reaffirmed that representation in colloquy with the Court:

12. . . . These survival net proceeds are to be deposited in an Estate account or in the trust account of the attorney for the Estate until such time as the Estate is closed. (R.O.A. page ___[Petition at ¶12]

Counsel reaffirmed this:

MR. APPLEGATE: Your Honor, I am sorry to do this, but the confusion and this sort of misrepresentation and confusion of the facts are overwhelming. You know, everything that Mr. Goldstein says is really just incorrect, but the bottom line is, we filed a case and, yes, we settled a case on behalf of Mr. Brunson. Okay.

And what he's suggesting here is these facts, there was $150,000 that was allocated to the wrongful death case, and there was $400,000 allocated to the survival case. There are a lot of reasons why this was the case. Because the survival claims merited the payment. He suffered sort of a terrible death.

He was 96-years-old. The wrongful death claim didn't have a lot of value. So it was separated according to the law, the appropriate allocation of damages. Okay.

The only proceeds that have been distributed are the proceeds that were distributed according to the statutory beneficiaries. So she received the lion's share[1] of those, his client did, because that was what was available.

The other proceeds are still sitting in a trust. No one has received them because they are still arguing about the validity of the Will and if she had a different Will. That's, again, kind of beyond my involvement. It's not notice.

R.O.A. page ____[transcript page 22, line 2—page 23, line 15] (emphasis added)

[1] 9% of the total recovery

If this representation is correct, then this entire case is unnecessary or at least premature, but this assertion is in direct conflict with the March 19, 2019, correspondence transmitting to the surviving spouse a proposed distribution. To this date, the Appellant does not know whether the funds are in escrow or disbursed, but clearly the Estate cannot assert contradictory statements in the same case. See *Cothran v. Brown*, 357 S.C. 210, 592 S.E.2d 629 (2004):

> This Court has not previously explicitly delineated the requirements for the application of judicial estoppel. We now adopt the following elements necessary for the doctrine to apply: (1) two inconsistent positions taken by the same party or parties in privity with one another; (2) the positions must be taken in the same or related proceedings involving the same party or parties in privity with each other; (3) the party taking the position must have been successful in maintaining that position and have received some benefit; (4) the inconsistency must be part of an intentional effort to mislead the court; and (5) the two positions must be totally inconsistent. See *Carrigg v. Cannon*, 347 S.C. 75, 83, 552 S.E.2d 767, 772 (Ct. App. 2001).

Because the Court denied the Appellant's right to intervene, she was unable to appear and make a record that would allow this Court to have all the facts before it.

The final correction is the need to amplify Respondent's accurate recitation of the timing of the pleadings. As Respondent says, Appellant filed on February 14, 2020, her motion to intervene, which she filed less than one year from the date of March 19, 2019, which is the date the Estate's separate counsel sent her the Order with a check enclosed, purporting to represent the Appellant's share of the allocated proceeds. **This was the first notice that the Estate was intending to disburse on the settlement proceeds**, which it could not do because the Wife's interest in the Estate has not been determined! Eleven months later on February 14, 2020, Appellant filed a motion to intervene, and the Clerk of Court set a hearing for Monday, December 7, 2020. Respondent filed a brief in opposition on Friday, December 4, 2020, to which the Appellant replied on Sunday, December 6, 2020. The Respondent's December 4th brief frames the issue as being

controlled solely by Rule 60(b) and neither Respondent's counsel nor the circuit court addressed the main issue before the Court, which is Appellant's motion to intervene under Rule 24. From the time of briefing on Friday until the hearing on Monday, neither the trial court nor Respondent's counsel addressed the fundamental issue before the Court, the request under Rule 24 to intervene. Intervention remains the core issue, but the trial court treated the application as if it were solely a motion under Rule 60. If it were, then only Judge Hughston could entertain it. The Court does not reach an analysis under Rule 60 timeliness unless and until the Appellant is granted leave to intervene; otherwise she is on the outside looking in unable to make a record to address the Rule 60 issue. This palpable error of law permeates the order under review.

Finally, Appellant points out a contradiction in Respondent's brief. Respondent asserts that the circuit court lacked subject matter jurisdiction to remove Ms. Mincey as Personal Representative of the Estate. Leaving aside the fact that the circuit court has concurrent jurisdiction with the Probate Court over such matters, both opposing counsel and the circuit court misapprehended the Appellant's legal position. Respondent correctly points out in footnote 11 that there is a separate action pending to remove Ms. Mincey at Case No. 2020-CP-10-00965, and for that reason misapprehends the Appellant's prayer for relief. The application to remove Ms. Mincey applies only to this action. The case pending at 2020-CP-10-00965 will determine if she can continue to act.

Reply to Argument 1
One circuit court judge cannot overrule another circuit court judge.

The Respondent also misapprehends the Appellant's argument, which is fully addressed in her initial brief. The application to the Court was for leave to intervene. The circuit court possessed subject matter jurisdiction to make that determination because that is where the Estate filed its

Petition; however, because the Respondent appeared so late to the motion to intervene and the matter was rushed, both the circuit court and Respondent's counsel became distracted by the Rule 60 question before deciding the threshold issue of whether Appellant could or could not intervene under Rule 24. Neither the circuit court nor Respondent's counsel gave any consideration to this initial question which is a pre-condition for addressing Rule 60. The Respondent makes this point for the Appellant on page 10 of its brief where it writes: "When he issued the Order Approving Settlement, Judge Hughston had not considered or resolved the issues of alleged fraud that Appellant has raised in her motion, because those issues had not been raised to him." (Brief at page 10) This is exactly correct! The issues were not raised to him because, and only because, the Personal Representative did not furnish her step-mother with a copy of the Petition or alert her to an application pending! In short, the P.R. says to the Court: "I defrauded my step-mother, and now it is too late for her because I withheld notice." Respondent's statement concedes the question Appellant is raising: whether Judge Hughston would have approved an allocation of proceeds had the Personal Representative fulfilled her statutory duty of providing the Court with the correct facts or providing notice of her application to her step-mother. See § 62-3-703: "A personal representative is a fiduciary who shall observe the standards of care described in § 62-7-804." Therefore, while the circuit court may have possessed subject matter jurisdiction, it had it only for the limited purpose of deciding whether Patricia Brunson could or could not intervene. After that, the circuit court has no authority to alter the Order of another circuit court judge except as provided in Rule 63, *S. C. Rules of Civil Procedure*.

Reply to Argument 2
The trial court never addressed Rule 24 or applied the Rule to the facts of the case.

A. The motion to intervene is not time barred because the statute of limitations on

setting aside a fraud is three years, not one.

The Appellant filed her motion to intervene within one year of discovery that the Estate was proposing to disburse the settlement proceeds. Moreover, by deliberately withholding the pleadings from her step-mother or notifying her of the hearing scheduled before Judge Hughston, the Personal Representative deliberately kept her step-mother in the dark, and no court enforces a statute of limitations against a party who has been so defrauded. *Hagy v. Pruitt*, 339 S.C. 425, 529 S.E.2d 714 (S.C. 2000) (quoted below on page 16—Supreme Court held statute of limitations does not run against victim of fraud, and courts have inherent authority to set aside judgments obtained on fraud)

The Respondent conflates two time bars. The first is the motion to intervene. The Respondent never addresses whether the motion to intervene is or is not timely because the time period to set aside a fraudulent transaction is three years, not one. Moreover, the Estate intentionally mislead the Appellant that the proceeds were held in trust because that is what it plead and what it represented to the Court and when the Estate transmitted the Order, it said it was sending it for filing along with a proposal to resolve the case, so the time period under Rule 60 had not commenced to run and this issue was not before the Court until after the surviving spouse could intervene. Had the circuit court correctly resolved the motion to intervene, then, and only then could the Appellant have an opportunity to demonstrate there is no Rule 60 time bar based on fraud, judicial estopppel, and equitable estoppel. However, when the circuit court refused to allow her to intervene, it foreclosed her any opportunity to meet this objection. To this date, no one has provided a filed copy of the Settlement Order in the Probate Case. Because the Personal Representative never notified her step-mother of her filing or the scheduling of a

hearing, time did not begin to run until such time as her step-mother discovered the fraud, and this action is governed by a three-year statute of limitations period. S. C. Code Ann. § 15-3-530 (2005); see *Mazloom v. Mazloom*, 382 S.C. 307, 323, 675 S.E.2d 746, 755 (Ct. App. 2009) (citing three-year statute of limitations in breach of fiduciary duty action); *Turner v. Milliman*, 381 S.C. 101, 109-10, 671 S.E.2d 636, 640 (Ct. App. 2009) (applying three-year statute of limitations in fraud action). Whether the Appellant's application to re-allocate the benefits can or cannot be addressed, that question was never before the Court until, and only until, the Court grants the Appellant's application to intervene. Otherwise, the Appellant is left outside the action and unable to participate in her own claim.

More importantly, the Respondent's argument seeks to draft the circuit court as an involuntary accessory to fraud. The Appellant had every right to rely on the representations made to the Court both in its pleadings, when she discovered them, and as reaffirmed by counsel in open court on December 7, 2020, that the proceeds would be held in trust until such time as the Appellant's interest in the Estate was determined. The Respondent cannot assert an affirmative defense of a statute of limitations while simultaneously informing the Court and the Appellant that the proceeds were in trust, which drives home the point of the Personal Representative's dishonesty. She was dishonest with the Court; she was dishonest with her step-mother, and now she seeks to profit from her own wrongdoing. (Appellant does not contend counsel was dishonest—Appellant believes counsel thought the Personal Representative was going to do exactly what she said she was going to do; to wit, put the money in escrow until Appellant's interest was decided.) The Respondent acknowledges this injustice on page 13 of its brief: "For this reason, the trial court properly ruled that it should not even reach the merits of

Appellant's motion to intervene for the purpose of vacating the Order Approving Settlement based on the allegation of fraud." (Respondent's brief at page 13) This is correct! The standard governing intervention is "timeliness," not one year from entry of the Order, when the Personal Representative mislead her step-mother about the proceeds. Here the "entry of the Order" is in dispute, and had the Personal Representative simply conformed to what she filed with the Court and what she told the Court speaking through counsel on December 7, 2020, this entire action would be unnecessary. (To be fair to Respondent's counsel, it had nothing to do with the disbursement of settlement proceeds; it simply settled the tort case, took its fee, and remitted the net settlement proceeds to the Estate, all of which was proper. The train went off the tracks when the Personal Representative subsequently decided in March 2019 to plot a new course at variance with her pleadings and distribute proceeds prior to her step-mother's interest in the Estate being settled.) Whether the Appellant's attack on the allocation is or is not time barred is not a question that cannot be addressed until she is permitted to intervene and participate in the case, and the circuit court never addressed that fundamental question and applied the wrong time calculation to the motion to intervene.

B.
The surviving spouse is an indispensable party by statute.

In argument 2(B)(i), the Respondent asserts Appellant waived the right to argue she is an indispensable party. The Respondent misapprehends the simple facts of this case, fully addressed in Appellant's initial brief. However, in reply, it is indisputable that the William Brunson and Patricia Brunson were married for nearly 50 years. When Decedent succumbed to his injuries, Patricia was recovering from grievous injuries, first at M.U.S.C. and thereafter in a rehabilitation facility. Her interest in the Estate is yet to be determined. Her interest could be

all; it could be 1/3rd, or it could be $100.00, but this question has not been answered. When Appellant learned of the proposed Order on December 18th, the Estate's lawyers told her it was being sent to Probate Court for filing. (R.O.A. page ____[December 18, 2018 e-mail]) Whether this Order has been filed with the Probate Court is unknown, but more importantly, the December 18, 2018 transmission of the Order came with an offer of settlement, and settlement negotiations have been ongoing ever since. See R.O.A. page ____ [December 18, 2018 e-mail]) (In fact, the parties are currently scheduled for mediation on October 11, 2021.) There is nothing in that transmission that informed the Appellant that the Estate was contemplating making disbursements in accordance with the Order, and, as the record demonstrates, the first indication Appellant received that the Estate was apparently disbursing was on March 19, 2019. (R.O.A. page ____ [correspondence and check] Appellant is not required to argue or brief that Appellant is an indispensable party as this is something the law establishes because she is the surviving spouse and a beneficiary by operation of law. The Estate concedes this—she was the wife of the Decedent. She is listed as a beneficiary under the disputed Will, and if that Will is ultimately set aside, she becomes the sole beneficiary with or without a Will, she remains a beneficiary by operation of law; therefore, she is obviously an indispensable party. The question is not whether she is an indispensable party; the question is whether the Personal Representative breached her fiduciary duty to her step-mother by keeping her in the dark about the settlement of the tort case. The Appellant is not required to brief the existence of South Carolina law, and Respondent seeks to create a false distinction between "indispensable party" and "beneficiary." As set forth above, the Personal Representative's duties to her are governed by South Carolina, and there is no escaping that the P.R. committed fraud to the Appellant and the Court when she

failed to call to Judge Hughston's attention to the fact that there was a surviving spouse who was represented by separate counsel and who had an interest in the Estate and who was not informed of the proceedings.

Reply to argument 2(B)(ii)
Appellant is a beneficiary and thus entitled to be present and be heard.

The Respondent's argument here is a repetition of the preceding section and addressed in the preceding section. In reply it is only necessary to emphasize that the Appellant was the surviving spouse of the Decedent, and while the Personal Representative had the right to settle the tort case as set forth by the Respondent, she also had a duty to keep her step-mother informed and more importantly provide notice to her that she had filed a petition to settle the Appellant's husband's estate. At the time the Personal Representative filed her Petition to approve settlement on December 3, 2018, she knew her step-mother was represented by separate counsel and that her step-mother was a beneficiary, yet she did not provide a copy of the petition or otherwise alert her that a claim involving her was being settled. Appellant has never questioned that §§ 15-51-41 and 15-51-42, S. C. Code, Ann., gave her the authority to settle the case; rather that as an adverse party, she was entitled to be given notice and an opportunity to be heard to protect her rights. There is no transcript of the settlement hearing held before Judge Hughston on December 8, 2018, which leaves the Appellant and the Court groping in the dark as to what the Personal Representative told the Court, but it is indisputable that she was representing her step-mother and that she never provided notice to her step-mother she was settling the case without her participation or input even though their interests were adversarial. Since the Court is charged by statute to "receive into evidence those facts that the court considers necessary and

proper to evaluate the settlement," § 15-51-42, it is obvious that the Personal Representative withheld from the Court the required disclosure that would have allowed the Court to determine if the allocation was fair to the Decedent's surviving spouse. In short, what the Personal Representative did is unconscionable, and it is unnecessary for the parties to brief whether the surviving spouse of a 50-year marriage does or does not have an interest in her husband's estate. Because the surviving spouse is at least a statutory beneficiary and because she was not represented by the Personal Representative, against whom she was adversarial, and because the Personal Representative never provided the pleadings to the surviving spouse, the Court never acquired the necessary jurisdiction to enter an Order declaring the surviving spouse's rights without an opportunity to be provided notice of the pending petition and an opportunity to be heard. The Respondent concedes this point on page 15 of her brief, citing *Belle Hall Plantation v. Homewoners' Assn. v. Murray*, 419 S.C. 605, 799 S.E.2d 310 (2017): "Generally a party *against whom* a judgment or order is taken without notice may rightly ignore it and may assume that no court will enforce it against his person or property." (Respondent's brief at page 15, emphasis in Respondent's Brief.) Just because the General Assembly provides the Personal Representative the authority to settle a tort case does not bestow the authority on the Personal Representative to deceive an adversary party by withholding the pleadings from her. Thus the Court never acquired jurisdiction over the surviving spouse until she took steps to seek affirmative relief by petitioning to intervene. (See *S. C. Rules of Civil Procedure*, Rule 5(a) Service: When Required. The Respondent attempts to avoid the application of these fundamental rules by arguing that the Order allocating proceeds did not order her to do anything. (Respondent's Brief at page 15) This argument ignores the holding of *Belle Hall* relied on by

Respondent on the previous page. As *Belle Hall* makes clear, the law makes no distinction between the rights of the person vs. the rights of a person's property, and no one can dispute that the Appellant's property was implicated in Judge Hughston's Order or that she was given an opportunity to appear and be heard.

Reply to Argument 3
The Appellant requested the Personal Representative be set aside in this matter only.

The Respondent overstates the Appellant's prayer for removal of the Personal Representative. As the Respondent correctly points out, the parties have multiple cases pending arising out of the administration of this Estate, including a separately pending action to remove the Personal Representative. The Appellant's prayer for removal in this case related **only** to the present matter. To the extent that Appellant's pleadings were not clear on that prayer for relief, that fault lies with Appellant, but, as set forth above, the Appellant filed her motion to intervene in February. She heard nothing in response until the Friday before the Monday morning hearing, and as the transcript demonstrates, the parties spent most of their time discussing Rule 60, which was not the threshold issue before the Court. The threshold issue before the Court was whether the Court was going to allow her to intervene under Rule 24 so that she could be heard. The transcript reveals that the hearing was cursory, the matter decided on a Form Order with no explanation, and thereafter the Court informed the parties that it was not going to revisit its ruling. This in turn led to the filing of the unsolicited Order, which is now the Order under review. It is fair to say that the entire process was confusing, and it is also fair to say that both the trial courts and lawyers are currently overwhelmed with resolving backlogs caused by current circumstances, and as the trial courts struggle to overcome the backlog, the swollen case load

will pass further along the course of judicial review reaching the appellate courts like light travelling from distant stars. To the extent Appellant contributed to the procedural confusion on this issue, Appellant will absorb the blow, but it is clear even from this truncated record that the Personal Representative failed to provide notice to her step-mother of a pending petition to settle a case involving her rights and should not continue to serve in that capacity in this matter. Every court possesses the inherent authority to prevent a fraud. See *Hagy v. Pruitt*, 339 S.C. 425, 529 S.E.2d 425 (S.C. 2000):

> Judge Howard's concurrence in this case maintains that a statute of limitation cannot be constitutionally construed to limit a court's inherent authority to set aside a judgment for extrinsic fraud. We agree. The legislature cannot restrict the judicial branch's exercise of its inherent authority, *Williams v. Bordon's, Inc.*, 274 S.C. 275, 262 S.E.2d 881 (1980), which includes the inherent authority to set aside a judgment on the ground of extrinsic fraud. See *Center v. Center, supra*. Accordingly, we hold § 20-7-1800 does not bar an action to set aside an adoption on the ground of extrinsic fraud. . .

Conclusion

The record here demonstrates that the circuit court never addressed the threshold issue requiring an answer: Is the surviving spouse permitted to intervene in the settlement of a tort claim in which she is a beneficiary? It is undisputed that the Personal Representative kept her step-mother in the dark and prevented her from being notified of a pending hearing touching on a case in which she had a material interest. The Personal Representative knew her step-mother was represented by counsel; they were already embroiled in litigation over a putative Will drawn by the Decedent's oldest son, who is not a lawyer, and designed to disadvantage his step-mother and advantage himself. The Decedent spent almost 50 years married to the surviving spouse, and the idea that he would knowingly execute a Will leaving his Wife $100.00 is inconceivable (and the law prevents it), and the fact that her step-daughter would not provide the pleadings to her is unconscionable. To

be fair to Respondent's counsel, Appellant has no doubt the law firm believed exactly what they plead and said—that the net settlement proceeds would be held in the trust account of the Estate until the respective shares of the Estate were determined. Had the Estate done that, none of this litigation would be necessary, but the sole question before the circuit court was whether the Appellant could or could not intervene in a case in which she has an interest. The circuit court ducked the question, making this appeal necessary. It is clear from the lack of record that the appellate courts cannot determine if the Appellant does or does not have a valid claim, but one thing is certain: she had the right to be granted entry into the case in order that she could be heard in a meaningful manner.

Based on the foregoing, the Appellant respectfully requests that the Orders under review be reversed and remanded to the circuit court, assigned to Judge Hughston who can decide if the Appellant is entitled to any relief under Rule 60 or the common law of South Carolina.

Respectfully submitted,

October 6, 2021

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October 6, 2021

Hon. Jenny A. Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, S. C. 29201

Re: Estate of Patricia A. Brunson, Intervenor, Case No.: 2018-CP-10-05710
Appellate Tracking No. 2021 000141

Dear Ms. Kitchings,

I am filing electronically the Appellant's Reply Brief and Designation if Contents of Record On Appeal along with a proof of service. I am also sending a paper copy to opposing counsel. Please let me know if you require anything further to file this Reply Brief. I thank you in advance for your attention to this request. With kind regards, I am

Very truly yours,

Belk, Cobb, Infinger & Goldstein, P.A.

Thomas R. Goldstein

TRG/
enclosure: as stated
cc: Reynolds Blankenship, Esq.
Robin Hatch, Personal Representative