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IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Capers G. Barr, III, Special Referee

Appellate Case No. 2021-000185

Case No. 2019-CP-10-03042

Judith A. Brown, as Personal Representative
for the Estate of Mildred C. Knight,
and Norman R. "Appellant Bobby" Knight, III, ... Appellants,

v.

Chloe Knight Tonney, ... Respondent.

FINAL BRIEF OF RESPONDENT

Charles S. Altman, Esquire
Kelli E.M. Goldstein, Esquire
The Law Offices of Charles S. Altman, LLC
575 King Street, Suite A
Charleston, South Carolina 29403
(843) 853-9907
Attorneys for Respondent

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STATEMENT OF THE CASE

The history of this matter is long and tortured. In 2005 Mildred C. Knight ("Mildred"), individually and as duly appointed legal guardian and conservator[1] for Norman R. Knight, Jr. ("Norman"), sued her daughter, Respondent Chloe Knight Tonney claiming real property at 3831 Rivers Avenue in Charleston County (the "Property"), that is titled in Tonney's maiden name was held by her for her father, Norman. *See generally*, 2005 Complaint, (R. p.9-11). This case was dismissed by Consent Order. In 2008 a Motion was filed requesting the 2005 case be reopened, which was granted. Plaintiffs' 2008 Motion to Restore, (Suppl. R. p. 1). In connection with Motion to restore the 2005 case, Mildred filed a Motion to Amend the Complaint to add a claim for loss of consortium. Plaintiffs' Motion for Leave to File First Amended Complaint (3/4/2008), (Suppl. R. p. 21-32). At the hearing before Judge Dennis on April 14, 2008, Judge Dennis restored the 2005 case (now the 2008 case) and had a discussion with Mildred regarding her proposed amendment. Defendant's Second Memorandum in Opposition to Plaintiffs' Motion to Amend the Complaint, Exhibit B, p. 15, lines 5–13 (Transcript of Hearing on Motion to Restore and Motion to Amend), (R. p. 175, line 5-15). After the discussion, Mildred withdrew her motion. *Id.* As a result of the restoration, the case was given a new case number and became the 2008 case. Order Granting

[1] Due to reasons which will be set forth hereafter and by Orders of the Probate Court, Mildred was removed as Norman's legal guardian and conservator with cause on August 25, 2005.

Plaintiffs' Motion to Restore, (Suppl. R. p. 1) . The 2008 case was likewise dismissed for lack of prosecution.

In 2019, the Appellants filed a new action which made the same claim as the 2005/2008 case and also moved to restore the 2005/2008 case. 2019 Complaint, (R. p. 12-14). The motion to restore was granted and then consolidated with the 2019 case. Order Restoring 2008-CP-10-02537. The Complaints as filed deal solely with the status of title to the Property. 2005 Complaint, 2019 Complaint, (R. p. 9-14). Appellants filed a Motion to Amend the Complaint on July 16, 2020 almost a year after filing the 2019 pleadings, seeking to add claims for loss of consortium[2] and conspiracy[3]. Motion to Amend Complaint (7/16/2020), (R. p. 21). The trial court denied Appellants' Motion to Amend and Motion for Reconsideration in the 2019 consolidated case and Appellants filed the instant appeal. Order Denying Motion to Amend, (R. p. 8). Respondent filed a Motion to Dismiss, arguing that denials of motions to amend are interlocutory, which the Court denied but requested that the parties brief the issue.

STANDARD OF REVIEW

"A motion to amend is within the sound discretion of the trial judge." *Health Promotion Specialists, LLC v. S.C. Bd. Of Dentistry*, 403 S.C. 623, 632, 743 S.E.2d 808 (S.C. 2013). "While we have consistently held that a circuit court's ruling on a Rule 15 motion to amend is within its discretion, a court's failure to exercise its discretion is itself an abuse of discretion." *Patton v.*

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[2]The loss of consortium claim can only be based on the loss of the marital relationship between Norman R. Knight, Jr. and Mildred Knight, husband and wife. Norman died in 2008 and Mildred died in 2010. The Statute of Limitations has long run.

[3]The draft pleadings do not make any statement as to who Respondent may have conspired with or what the conspiracy consisted of.

Miller, 420 S.C. 471, 489, 804 S.E.2d 252 (S.C. 2017). Therefore Court of Appeals reviews the decision of the trial court on an abuse of discretion standard. *Id. See also, Patton*, 420 S.C. at 471.

SCRCP Rule 15 governs amendments of pleadings. Rule 15(a) controls amendments before trial and states that amendments should be allowed only "when justice so requires," and the amendment does not prejudice the other party. SCRCP Rule 15(a), *Patton v. Miller*, 420 S.C. 471, 489, 804 S.E.2d 252 (S.C. 2017). The *Patton* court looked to the United States Supreme Court for guidance in construing Rule 15(a), and stated that motions to amend should be denied when reasons such as "undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, **futility of amendment**, etc." exist. *Id.* (citing *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227 (1962)). (Emphasis added)

To be allowed, amendments of pleadings must also "relate back" to the original pleadings under Rule 15(c), and do so when "the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out – or attempted to be set out – in the original pleading." SCRCP Rule 15(c)(1)(B). When the proposed claims are unrelated to the original pleadings, under Rule 15(c), an unrelated amendment cannot salvage the proposed expired claims. *Thomas v. Grayson*, 318 S.C. 82, 88, 456 S.E.2d 377 (S.C. 1995).

ARGUMENT

I. The trial court did not err in denying the Motion to Amend, as it lacks any relation back to the original pleadings, is barred by the doctrine of futility, and allowing the amendment would be prejudicial.

The trial court found "that this action to effect the title to the Property by adverse possession or by the imposition of a trust was first filed in 2005, fifteen years ago . . . [Mildred] had actual

knowledge of the facts or evidence she believed would support a cause of action for loss of consortium at least as of March 4, 2008 when she filed her motion to amend the then pending complaint to allege loss of consortium." Order Denying Motion to Amend Complaint, p. 2-3, (R. p. 2-3). The trial court correctly concluded that Appellants' delay in bringing the claims for loss of consortium and conspiracy was undue, that Respondent would be prejudiced if the amendments were allowed, that the amended complaint did not relate back to the original pleadings, and that the proposed amended complaint would be barred by the doctrine of futility. *See generally,* Order Denying Motion to Amend Complaint, (R. p. 1-7). Unlike the trial court decision in the case of *Patton v. Miller*, 420 S.C. 471, 804 S.E.2d 252 (S.C. 2017), where the Court reversed a denial of a motion to amend because the record contained no basis for the denial, the trial court judge in the pending case gave very specific reasons for the denial of the Motion. 420 S.C. 471, 804 S.E.2d 252 (S.C. 2017). The reasons given by the Special Referee are clear and support this decision. *See generally,* Order Denying Motion to Amend Complaint, (R. p. 1-7).

1. The trial court was correct in finding that the Motion to Amend must be denied due to the lack of relationship between the proposed amendments and the original pleadings.

The trial court stated that "[t]he genesis of this case was the filing by Plaintiff Brown's Decedent [Mildred] of a summons and complaint in 2005 seeking an order that she and her late husband had acquired title to the Property by adverse possession, and alternatively seeking the imposition of a trust for their benefit." Order Denying Motion to Amend Complaint, p. 4-5 (R. p. 4-5). It continued, "[a]fter a timespan of fifteen years, [Appellants] now seek to amend their complaint to allege active, tortious conduct by [Respondent]; that is, her participating in the filing of DSS protective proceedings relating to the [Respondent's] late father, Norman Knight Jr.,

allegedly occurring in 2004 . . . sixteen years ago." Order Denying Motion to Amend Complaint, p. 5 (R. p. 5). The trial court stated that it "must conclude that a sixteen-year delay is an undue delay," and that *both* parties would be tasked with the impossibility of investigating, and discovering and presenting evidence, related to the DSS proceedings sixteen years ago. Order Denying Motion to Amend Complaint, p. 6 (R. p. 6). The Appellants clearly have a statute of limitations issue due to their undue delay, and allowing the amendment now, sixteen years later, would contravene both the purpose of Rule 15 and statutes of limitations generally.

Additionally, Rule 15(c) requires that any proposed claim "relate back" to the original pleading. "Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction or occurrence set forth or attempted to be set forth in the original pleadings, the amendment relates back to the date of the original pleading." SCRCP Rule 15(c). The test for relation back is clear in the rule: "whether the claim asserted in the amended pleading arose out of the conduct, transaction or occurrence set forth in the original pleading." *Patton v. Miller*, 420 S.C. 471, 496–497 (2017). The trial court's conclusion that Appellants' delay in alleging loss of consortium and conspiracy was an undue delay is correct. Therefore, the claims are barred by the statute of limitations as there is "no nexus whatsoever" between the proposed amendments and the original pleadings. Order Denying Motion to Amend Complaint, p. 6 (R. p. 6).

A. The statute of limitations bars the Appellants' proposed claims of loss of consortium and conspiracy.

"The purpose of Rule 15(c) is to salvage causes of action otherwise barred by the statute of limitations" and is "based on the concept that once litigation involving particular conduct or a given transaction or occurrence has been instituted, the parties are not entitled to the protection of the statute of limitations against the later assertion by amendment of defenses or claims that arise out

of the same conduct, transaction, or occurrence as set forth in the original pleading." *Thomas v. Grayson*, 318 S.C. 82, 88 (1995). Therefore, the purpose of the Rule is to only salvage *related* claims – allowing new claims to enjoy the benefit of avoiding the statute of limitations that have nothing to do with original claim would not only violate the purpose of Rule 15(c), but also of statutes of limitation in general.

Here, it is clear that Appellants have a statute of limitations problem. The loss of consortium and conspiracy claims are outside the statute of limitations, which is three (3) years. SC Code §15-3-530 (1976, as Amended). Norman and Mildred both died over ten (10) years ago, and any loss of consortium or conspiracy would have occurred prior to the death of Norman who died in 2008. Further, the first attempt with regarding to the claims by Mildred was the filing of the 2008 Motion to Amend. *See generally,* Plaintiffs' Motion for Leave to File First Amended Complaint (3/4/2008) (Suppl. R. p. 21-32). If an action for loss of consortium ever existed, which is denied by Defendant, the latest date recognized by Mildred was when she filed the Motion to Amend in 2008. The statute of limitations, in the light best for the Appellants, began to run in 2008 and it has long since expired.

B. The *only* way that Appellants can now bring the expired claims for loss of consortium and conspiracy is to establish a relationship between those proposed claims and the original pleadings, which they can not.

Rule 15(c) requires that any proposed claim "relate back" to the original pleading. "Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction or occurrence set forth or attempted to be set forth in the original pleadings, the amendment relates back to the date of the original pleading." Rule 15(c). The test for relation back is clear in the rule: "whether the claim asserted in the amended pleading arose out of the conduct,

transaction or occurrence set forth in the original pleading." *Patton v. Miller*, 420 S.C. 471, 496–497 (2017).

The trial court was also correct in its finding that "there is no nexus whatsoever" between the proposed claims and the original pleadings. Order Denying Motion to Amend Complaint, p. 6, (R. p. 6). As the trial court stated, there is simply no nexus between the matters originally plead regarding title to the Property, and "the allegations of the proposed amended complaint that the [Respondent] tortiously caused a DSS intervention with her father." Order Denying Motion to Amend Complaint, p. 6, (R. p. 6). These matters do not arise out of the "same conduct, transaction, or occurrence" of the issue of title to the Property and therefore are not entitled to avoid the statute of limitations as contemplated by the *Thomas v. Grayson* court. *Thomas v. Grayson*, 318 S.C. 82 (S.C. 1995). As the trial court correctly found,

> South Carolina Code Section 15-3-530 provides a three year limitations period for the commencement of an action for any injury to the person or to the rights of another, not arising on contract and not enumerated by law. Because more than three years has elapsed since the 2004 DSS proceedings that form the basis for [Appellants'] proposed amended complaint, and because the amended complaint does not "relate back" to the original filing, the amended complaint would be barred by the statute of limitations.

Order Denying Motion to Amend Complaint, p. 7, (R. p. 7).

The requisite relation back simply is not present in this case. Neither the conduct, transaction or occurrence suggested in the proposed amendment is related to the 2005 case, 2008 case, or 2019 case, as required by Rule 15(c). SCRCP Rule 15(c). The original pleadings *only* deal with the issue of title to the Property, which was deeded to Respondent by her grandmother in 1979. *See generally,* 2005 Complaint, 2019 Complaint, (R. p. 9-14). The proposed amendments, on the other hand, involve alleged conduct involving the breakdown in the marital relationship between

Mildred and Norman, beginning with the outset of Norman's Alzheimer's Disease, which commenced sometime before the declaration of his incapacity in 2004, and lasted until his death in 2008. Motion to Amend Complaint (7/16/2020), (R. p. 21-22). Loss of consortium and conspiracy as alleged in the Motion to Amend have nothing to do with the title to the Property. *Id.* While the parties may be the same, Rule 15(c) is a question of related facts, which are simply not present here, as the time period, alleged actions, and transactions at issue are completely unrelated. SCRCP Rule 15(c). In the hearing on Mildred's Motion to Amend in 2008, in which she similarly sought to add a loss of consortium claim to Case No. 2005-CP-10-2674, the Court implied that there is no relation between the loss of consortium and the title to the property at issue, the same question before the Court here: Judge Dennis stated,

> Ms. Knight, all I have right now is an action that was filed and this is the basis of this action. [The original pleading] appears to be an effort to have a deed either reformed to vest title in yours and Mr. Knight's name by virtue of being declared to be a resulting trust or a mutual mistake or something to that effect. So all we're talking about is actions that deal with – with the deed.

Defendant's Second Memorandum in Opposition to Plaintiffs' Motion to Amend the Complaint, Exhibit A, p. 15, lines 5–13 (Transcript of Hearing on Motion to Restore and Motion to Amend), (R. p. 175, line 5-13). Mildred then withdrew her Motion to Amend and Judge Dennis replied, "That's what I thought would be the best thing to do." *Id.* p. 15, lines 16–17, (R. p. 15, line 16-17). Respondent had every reason to believe that the claim for loss of consortium, if one every existed, which Respondent denies, died when Mildred withdrew it in 2008.

Additionally, the only real party to the alleged loss of consortium is Appellant Judith Brown, as Personal Representative to Mildred's estate, as "[l]oss of consortium arises out of the special relationship between a husband and wife." *Stewart v. STATE FARM MUT. AUT. INS.*, 341 S.C. 143,

156, 533 S.E.2d 597 (S.C. App. 2000). Respondent presumes the conspiracy claim is related to the proposed loss of consortium claim, which as discussed herein, cannot be proven. Appellants have provided nothing to show a factual relationship between the claim in the complaint and the purported claims to be added by amendment.

2. The trial court was also correct in its conclusion that Appellant's proposed amendments are barred by the doctrine of futility.

The trial court also correctly found that the "proposed amended complaint would also be barred by the doctrine of futility." Order Denying Motion to Amend Complaint, p. 7, (R. p. 7). "[A] trial court may deny a motion to amend if the amendment would be clearly futile." *Skydive Myrtle Beach, Inc. v. Horry Cty.*, 426 S.C. 175, 182, 826 S.E.2d 585 (S.C. 2019); *see also, Jennings v. Jennings*, 389 S.C. 190, 697 S.E.2d 671 (S.C. App. 2010), *rev'd on other grounds*; *see also, Foman*, 371 U.S. at 182 (allowing for denial of leave to amend on futility of proposed amendment). A trial court may consider the merits of an amended complaint in a determination of futility. *Skydive*, 426 S.C. at 183; *see also, Alterna Tax Asset Grp. LLC v. York Cnty.*, No. 5836 (S.C. App. July 14, 2021) (using the doctrine of futility to dismiss a complaint when any amendment would be futile). In the instant case, the proposed claims for loss of consortium and conspiracy are clearly futile for numerous reasons, including the failure to relate back to the original pleading (as discussed above) and the lack of factual basis (as discussed below).

The facts clearly demonstrate the claims for loss of consortium and conspiracy are futile and the denial of the Motion on that basis is correct. The loss of consortium was caused by two (2) factors: 1) Norman's affliction with Alzheimer's Disease, and 2) the actions of Mildred and Bobby violating the Orders of the Probate Court, being found in contempt resulting in Mildred being removed as guardian and conservator for Norman, Norman being removed from the family home

and eventually both Mildred and Bobby being incarcerated. A review of the Probate Court orders clearly refutes the Appellants' claims dealing with Norman's incapacity and the actions of Mildred and Appellant Bobby. Exhibit D to Defendants Second Memorandum in Opposition to Amending the Complaint, (R. p. 185-209).

The spousal relationship would have began to deteriorate when Norman began exhibiting symptoms of Alzheimer's Disease when he was diagnosed in 2001. Exhibit D to Defendant's Second Memorandum in Opposition to Amending the Complaint (Amended Order dated August 18, 2005, p. 1), (R. p. 189). Norman then became incapacitated due to his disease, a fact not in controversy as admitted by Appellants.[4] Exhibit C to Defendant's Second Memorandum in Opposition to Amending the Complaint (Proposed Order, p. 1), (R. p. 181). He was judicially declared incapacitated in 2004 and Mildred was appointed as his Guardian and Co-Conservator. Exhibit D to Defendant's Second Memorandum in Opposition to Amending the Complaint (Order dated August 25, 2005, p. 2), (R. p. 193).

At a Probate Court hearing on July 20, 2005, Mildred testified that she violated court orders and admitted to being uncooperative with the Co-Conservator, and that she "withdrew/spent funds from the banking accounts and credit cards after the Court Orders directed her not to for household expenditures." Exhibit D to Defendant's Second Memorandum in Opposition to Amending the Complaint (Order dated August 25, 2005, p. 5), (R. p. 196). She "further testified that she along with Norman Robert Knight, Jr. or Bobby III, withdrew the funds from [Norman's]

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[4]In a separate but related appeal from the Probate Court (Case No. 2005-CP-10-3573), Appellants submitted a proposed Order to Judge Good on January 17, 2006, which states, "The court is constrained to accept the Probate Court's findings as to the incapacity of Norman R. Knight Jr. Since the record does not contain a contest on this issue." Exhibit D to Defendant's Second Memorandum in Opposition to Amending the Complaint (Proposed Order, p. 1), (R. p. 192).

investment/savings account, and that funds are currently held in a sole account in the name of Bobby Knight, III. She further testified that she knowingly withdrew the funds without Court approval." Exhibit D to Defendant's Second Memorandum in Opposition to Amending the Complaint (Order dated August 25, 2005, p. 6), (R. p. 197).. She also testified that "she had removed Norman Knight Jr. from the home on the dates & times for scheduled visitation with the daughters." Exhibit D to Defendant's Second Memorandum in Opposition to Amending the Complaint (Order dated August 25, 2005, p. 6), (R. p. 197). By Probate Court Order dated August 25, 2005, Mildred was removed as both Guardian and as Co-Conservator by the Honorable Tamara C. Curry:

> This Court does not take lightly the institution of marriage. However considering Norman Robert Knight Jr.'s substantial health care needs, the continuos problems with visitation, the previous violations of this Courts Orders and the refusal of the parties involved [which include Mildred and Bobby] to cooperate, that an independent person should be appointed Guardian.
>
> This Court has further determined that it would be in the best interest of Norman Robert Knight, Jr. that the Temporary Conservator, Family Services, Inc. be appointed as permanent Conservator for Norman Robert Knight, Jr.

Exhibit D to Defendant's Second Memorandum in Opposition to Amending the Complaint (Order dated August 25, 2005, p. 7), (R. p. 198).

On September 20, 2005, a Temporary Guardian and Temporary Conservator were appointed during the pendency of an appeal, due to "the continued refusal of both Mildred and Norman Robert "Bobby" Knight, III to comply with this Courts previous orders, and in order to protect the health, welfare and safety of Norman Robert Knight, Jr." Exhibit D to Defendant's Second Memorandum in Opposition to Amending the Complaint (Order dated September 20, 2005, p. 2), (R. p. 193).

On January 31, 2006, by Emergency Order by the Honorable Tamara C. Curry, due to the "continuing contempt by orders of [the Probate Court], and of the Circuit Court, by [Appellant] Mr.

Norman Robert "Bobby" Knight III and Mrs. Mildred Knight," it was in the best interest of Norman to have him removed from the home and placed in custody of the court-appointed Guardian, by assistance of the Charleston County Sheriff's Office, if necessary. Exhibit D to Defendant's Second Memorandum in Opposition to Amending the Complaint (Order dated January 31, 2006, p. 2), (R. p. 205). Later, on June 2, 2006, the Honorable Tamara C. Curry found that Mildred and Bobby continued to violate court orders due to their failure to both turn over proceeds of the investments/savings account and to turn over financial records to the Conservator. Exhibit D to Defendant's Second Memorandum in Opposition to Amending the Complaint (Order dated June 2, 2006, p. 2), (R. p. 208). The Probate Court also found that Mildred's testimony "directly contradicted" her previous testimony on record. Exhibit D to Defendant's Second Memorandum in Opposition to Amending the Complaint (Order dated June 2, 2006, p. 2), (R. p. 208). Judge Tamara C. Curry stated that due to the foregoing, Mildred and Bobby gave her "no other choice than to place them in Contempt of Court and to Order that they be placed into the custody of the Charleston County Sheriff's Department" and incarcerated until they complied with the Court's Orders. Exhibit D to Defendant's Second Memorandum in Opposition to Amending the Complaint (Order dated June 2, 2006, p. 2), (R. p. 208).

Based on the foregoing, whatever relationship that existed in 2004 between Norman and Mildred was lost because of Mildred's own actions, and the actions of her son, Appellant Bobby. The Probate Court did everything they could to keep Norman in the home and under the care of Mildred, but she, along with Appellant Bobby, repeatedly chose to disrespect the Probate Court and her relationship with Norman. As a result of these continued violations of Probate Court Orders, she not only lost her custody of Norman, but also his companionship. *See generally,* Exhibit D to

Defendant's Second Memorandum in Opposition to Amending the Complaint, (R. p. 185-209). The set of facts outlined simply by the Court Orders is indisputable and make the claims for loss of consortium and/or conspiracy clearly futile on the merits. As such, Respondent should not be forced to expend time and money on the defense of such claims.

3. Finally, the trial court was correct in finding that both parties would suffer prejudice if the proposed amendment is allowed.

"Prejudice occurs when the amendment states a new claim or defense that would require the opposing party to introduce additional or different evidence to prevail in the amended action." *Holland ex rel Knox v. Morbark, Inc.*, 407 S.C. 227, 235, 754 S.E.2d 714 (S.C. 2014).

The trial court was within its discretion when it held that granting the motion to amend would cause prejudice to not only the Respondent, but also to Appellants, and that the motion to amend should not be granted under Rule 15(a). Order Denying Motion to Amend Complaint, p. 6, (R. p. 6). The trial court was correct in its finding that because the "genesis" of the underlying action is the filing of the 2005 case with the alleged tort occurring sixteen years ago, the

> investigation, discovery and presentation in evidence of events transpiring sixteen years before the filing of an action may well be an almost impossible task. But even if it could be accomplished, it would present significant challenges and difficulties to all parties, and would thereby be prejudicial; and not only to the [Respondent] but to the [Appellants] as well.

Order Denying Motion to Amend Complaint, p. 4-5, (R. p. 4-5).

Indeed, there is no one to testify as to the facts of the alleged torts, as both Mildred and Norman are deceased and any other witness testimony would be barred under the hearsay rules or

the Deadman's Statute[5], and Appellants have provided no information related to potential witnesses or what evidence exists. The only evidence that is available in this case with regard to the proposed amendments is the undisputed Probate Court Orders, which clearly demonstrate that the alleged loss of consortium was entirely the fault of Mildred and Bobby. Forcing Respondent to defend against these claims would be extremely prejudicial, as it as it would lead to undue additional costs and stale evidence. Further, as discussed above, charging Respondent with defending against claims which are clearly futile is prejudicial.

II. The appeal of the denial of the Motion to Amend should be dismissed, as it is not immediately appealable.

As a general rule, "only final judgments are appealable." *Tillman v. Tillman*, 420 S.C. 246, 248, 801 S.E.2d 757 (S.C. App. 2017) (citing *Doe v. Howe*, 362 S.C. 212, 216, 607 S.E.2d 354, 356 (S.C. App. 2004).

> A final judgment is one that ends the action and leaves the court with nothing to do but enforce the judgment by execution. An order reserving an issue, or leaving open the possibility of further action by the trial court before the rights of the parties are resolved, is interlocutory.

Tillman, 420 S.C. at 249 (internal citations omitted). Courts have repeatedly ruled that denials of motions to amend are interlocutory and not immediately appealable. *Id.* at 251; *Baldwin Const. Co. Inc. v. Graham*, 357 S.C. 227, 230, 593 S.E.2d 146 (S.C. 2004). The denial of the motion to amend does not affect the issue alleged in the complaint which makes the Order interlocutory.

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[5]SC Code §19-11-20 (1976, as Amended) prohibits Appellant Bobby Knight from testifying due to the fact that as the sole beneficiary under his mother's will he stands to gain in the event of a finding against Respondent.

CONCLUSION

The trial court did not err in its denial of Appellants' Motion to Amend, and it was correct in its following findings:

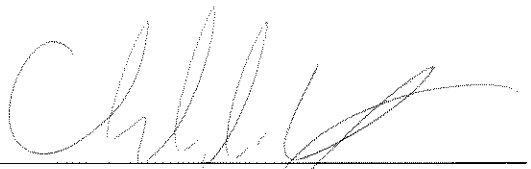
1) no relation exists between the matters originally plead and those contemplated by the proposed amendment,

2) the amendment is barred by the doctrine of futility, and,

3) significant prejudice would result if the proposed amendment was allowed.

There is nothing in the record to factually connect the underlying case and the proposed amendments. In all of the Appellants' arguments, including the 2005, 2008, and 2019 pleadings, statements at the hearings on the Motion to Amend, and their brief before this Court, there is not one word which establishes a relationship between the claims. Appellants have provided no facts either to show the basis of the loss of consortium and conspiracy claims, nor linking the proposed claims to the issue of the underlying case – title to the Property. Appellants cannot provide these facts because they do not exist.

Therefore, the trial court's denial of Appellants' Motion to Amend should be upheld. In the alternative, Appellants' appeal should be dismissed as the denial of the Motion to Amend is an interlocutory order that is not immediately appealable.



Charles S. Altman (SC Bar No. 351)
Kelli E.M. Goldstein (SC Bar No. 105163)
The Law Offices of Charles S. Altman, LLC
575 King Street, Suite A
Charleston, South Carolina 29403
(843) 853-9907
Attorneys for Respondent

January 5, 2022