

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

) IN THE COURT OF COMMON PLEAS
)
) CASE NO. 2017-CP-2672

THE ESTATE OF SARA LYNN
COLUCCI, BY AND THROUGH
SUCCESSOR PERSONAL
REPRESENTATIVE J.R. MOORE,

PLAINTIFF,

VS.

MICHAEL F.A. COLUCCI,

DEFENDANT.

AMENDED COMPLAINT
(Jury Trial Demanded)

WRONGFUL DEATH

MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

18 APR 24 PM 2:50

FILED

The Estate of Sara Lynn Colucci, by and through Successor Personal Representative J.R. Moore ("Estate of Sara"), and through the undersigned counsel, hereby complains of Michael F.A. Colucci ("Colucci") and shows unto the Court the following:

PARTIES, JURISDICTION AND VENUE

1. On May 20, 2015, Sara Lynn Colucci's ("Sara Lynn") life came to an abrupt and tragic end in the City of Summerville within Berkeley County, South Carolina. (Death Certification, "Exhibit A"). Sara Lynn was a citizen and resident of Berkeley County, South Carolina residing at 177 Woodbrook Way, Moncks Corner S.C. 29461 before her death.
2. At the time of Sara Lynn's death, Colucci was a citizen and resident of Berkeley County, South Carolina residing with his wife on Woodbrook Way in Moncks Corner.

3. Following Sara Lynn's death, Colucci opened and administered the Estate of Sara in the Berkeley County Probate Court. Colucci was appointed Personal Representative of the Estate of Sara on February 5, 2016.

4. In September 2017, Colucci was removed as Personal Representative of the Estate of Sara by Order of the Berkeley County Probate Court. Sara Lynn's natural and biological father, J.R. Moore, was appointed Successor Personal Representative for the Estate of Sara Lynn Colucci with all powers and duties appurtenant to the position under South Carolina law, including the right to assert a wrongful death action on behalf of the Estate of Sara against Colucci. (September 20, 2017 Order, "Exhibit B").

5. This Court has personal jurisdiction over the parties to this action and subject matter jurisdiction over the claims asserted in this Complaint. Venue is proper in this Court.

FACTUAL ALLEGATIONS

6. Sara Lynn and Colucci met in or around 2009 and began dating shortly thereafter. Sara Lynn was previously married to one Michael Vieira ("Vieira") who died suddenly in May 2007. Sara Lynn and Vieira had one daughter ("Child Doe") together.

7. Colucci was previously married to one Mary Camilla Colucci ("Mary Camilla"). That relationship ended by divorce on December 15, 2010 in the Charleston County Family Court. Colucci and Mary Camilla had one daughter together.

8. During Colucci's divorce, he began living with Sara Lynn and her daughter, Child Doe. Colucci and Sara Lynn had a church wedding in 2011 and were formally married by civil ceremony on September 25, 2012.

9. Soon thereafter, Colucci legally adopted Sara Lynn's daughter, Child Doe, unbeknownst to Child Doe's maternal grandparents in Berkeley County, South Carolina.

The records surrounding Colucci's adoption of Child Doe are sealed.

10. Colucci is the biological son of Doris Duane Colucci, Deceased ("Doris Colucci") who was married to Ivo Francesco Colucci ("Ivo Colucci"). Upon information and belief, there is no legal relationship between Colucci and Ivo Colucci. Colucci changed his surname from Antonio to Colucci after Doris Colucci and Ivo Colucci were married.

11. Upon additional information and belief, Colucci has an extensive history of illegal drug use and abuse. Despite his involvement and ties to multiple jewelry and property holding businesses in the Charleston area, Colucci also has an extensive history of financial distress. To wit, the home Colucci shared with Sara Lynn at 177 Woodbrook Way in Moncks Corner was in foreclosure prior to Sara Lynn's death on May 20, 2015 due to Colucci's failure to make timely mortgage payments.

12. In or around July 30, 2014, Colucci and Sara Lynn filed a civil lawsuit against Northwood Academy for negligence. That lawsuit survived Sara Lynn's death. Settlement was reached by the parties in 2016 but is now subject to appeal before the South Carolina Court of Appeals on the defendant's motion to vacate the settlement agreement. Charleston County Court of Common Pleas C/A No.: 2014-CP-10-4680.

13. From 2014 through her death on May 20, 2015, Sara Lynn communicated to her mother and friends growing tension and stress in her marriage to Colucci. Sara Lynn called 911 on two separate occasions during arguments with Colucci in their home out of fear for her physical safety. During the same time period, Sara Lynn's mother came to the home that Colucci and Sara Lynn shared at Sara Lynn's request to take care of Child Doe and/or

intercede in arguments between Colucci and Sara Lynn. Sara Lynn informed her mother that she feared Colucci, particularly when Colucci was using drugs. Colucci was physically violent toward Sara Lynn's father.

14. In the days before May 20, 2015, Sara Lynn communicated to her mother that she was going to leave Colucci on Saturday, May 23, 2015.

15. On the day of Sara Lynn's death, Sara Lynn telephoned her mother at approximately 3:30p.m. Sara Lynn informed her that she was in downtown Charleston with Colucci at their attorneys' office and needed to use the restroom. Sara Lynn informed her mother that she would never go into the attorneys' office again, was tired of having to look over her shoulder all the time, and that Colucci was not a good person. Sara Lynn ended that telephone call with her mother at around 4:00p.m.

16. At approximately 7:20p.m. on May 20, 2015, law enforcement were notified of Sara Lynn's lifeless body outside of a storage shed previously used by Colucci in his various business dealings at 2206 North Main Street in Summerville, S.C.

17. Between the hours of 4:00p.m. and her death at approximately 7:20p.m. on May 20, 2015 Colucci was the only person with Sara Lynn.

18. Colucci informed law enforcement officials at the scene that he pulled up to the storage shed and Sara Lynn got out of his vehicle to go into the storage shed and later discovered her at the door with a black garden hose around her neck. Sara Lynn's Death Certification identifies the cause of death as 'Asphyxia by Neck Compression' and notes that it is undetermined as to how the injury occurred. (Death Certification, "Exhibit A").

19. In the days and weeks following Sara Lynn's death, Colucci's version of the events surrounding Sara Lynn's death varied considerably. Colucci initially informed Sara Lynn's

family that he had not been drinking when Sara Lynn died but then recanted this and informed them that he had been drinking fireball cinnamon whiskey. Colucci also informed Sara Lynn's family that he never took his eyes off of Sara Lynn from the time she exited his car to the time he found her dead but then recanted this version of events and informed them that Sara Lynn tripped and fell into the garden hose causing her death. Colucci further informed Sara Lynn's family that he discovered Sara Lynn's lifeless body standing straight up against the storage shed but then recanted this and informed Sara Lynn's mother that he discovered Sara Lynn's body leaning forward at forty-five (45) degree angle from a fence.

20. In light of Colucci's contradictory and inconsistent statements, the medical evidence, injuries to Colucci, information from several witnesses, and evidence that a fight or struggle ensued, the Estate of Sara is informed and believes Colucci did, by way of assault, battery, and with intentional and reckless indifference to life end Sara Lynn's life on May 20, 2015.

21. Following Sara Lynn's death, Colucci removed Sara Lynn's biological daughter, Child Doe, from her maternal grandparents and took her to live with Doris Colucci and Ivo Colucci in Summerville in July 2015.

22. Child Doe resided with Colucci, Doris Colucci, and Ivo Colucci until May 4, 2016 when Colucci was charged with the Murder of Sara Lynn by the S.C. Law Enforcement Division. (05/03/2016 SLED Affidavit, "Exhibit C"). By court order, Child Doe was removed from the Colucci household and placed in the care of her biological maternal grandparents.

23. While Child Doe resided with Colucci, Doris Colucci and Ivo Colucci between July 2015 and May 4, 2016, Child Doe was exposed to domestic violence, drug use, and misled about the events surrounding her mother's death.

24. On April 14, 2017, Ivo Colucci shot and killed Doris Colucci on the premises of the family's jewelry store business in North Charleston, S.C.

25. This wrongful death lawsuit against Colucci, brought by the Estate of Sara, seeks civil damages for the exclusive benefit of Child Doe, Sara Lynn's only child and only heir at law of the Estate of Sara. Child Doe has suffered extreme grief, sorrow, and anguish beyond that of which any child should be reasonably expected to endure or experience.

FOR A FIRST CAUSE OF ACTION
(WRONGFUL DEATH/SURVIVAL)
Intentional Tort

26. The Estate of Sara re-alleges and incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein verbatim.

27. On May 20, 2015, Colucci engaged in conduct that placed Sara Lynn in reasonable fear of bodily harm.

28. On May 20, 2015 Colucci inflicted forcible contact on Sara Lynn's person.

29. As a result of Colucci's conduct and infliction of forcible contact on Sara Lynn, Sara Lynn suffered injuries, damages and death.

30. As a direct and proximate result of Colucci's assault, battery, and intentional and reckless indifference to life, the Estate of Sara's beneficiary, Child Doe, has suffered injuries, which have caused, and in the future, will cause Child Doe to suffer the following elements of damage as to the wrongful death claim:

- a. pecuniary loss;

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- b. mental shock and suffering;
 - c. wounded feelings;
 - d. grief and sorrow;
 - e. loss of companionship; and
 - f. deprivation of use and comfort of Sara Lynn's society, including loss of her experience, knowledge, and judgment in managing the affairs of her beneficiary.

31. In addition, as a direct and proximate result of Colucci's assault, battery, and intentional and reckless indifference to the life of Sara Lynn as set out above, Sara Lynn suffered injuries, which caused her death and to suffer one or more of the following elements of damage as to the Estate of Sara's survival action claim:

- a. physical pain;
 - b. suffering;
 - c. mental anguish;
 - d. emotional distress;
 - e. shock and injury to Sara Lynn's nerves and nervous system;
 - f. pecuniary loss; and
 - g. medical expenses/cost of medical treatment.
- COURTESY OF
LUNASHARK MEDIA

32. That as a direct and proximate result of the foregoing, the Estate of Sara is entitled to judgment against Colucci for actual and punitive damages for the wrongful death of Sara Lynn in an amount to be determined by the Jury.

FOR A SECOND CAUSE ACTION
DECLARATORY JUDGMENT

33. The Estate of Sara re-alleges and incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein verbatim.

34. The Estate of Sara seeks a declaration from this Court that Colucci permit and direct that one-half (50%) of all proceeds recovered by plaintiffs in Michael Colucci et al v. Northwood Academy and Wilcomp Software, LLC d/b/a RenWeb, C/A No.: 2014-CP-10-4680 be paid to the Estate of Sara.

FOR A THIRD CAUSE OF ACTION
GROSS NEGLIGENCE/RECKLESSNESS

35. The Estate of Sara re-alleges and incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein verbatim.

36. At all times relevant herein, Colucci owed Sara Lynn duties to exercise reasonable care as it related to her health, safety, and welfare under the circumstances, to warn of any concealed or dangerous conditions on his premises, and/or to provide aid and support to Sara Lynn by virtue of Colucci's special relationship to Sara Lynn.

37. Colucci breached these duties to Sara Lynn, to wit, Colucci:

- a. Failed at all times relevant herein to exercise reasonable care toward Sara Lynn under the circumstances alleged herein;
- b. Placed Sara Lynn in a position of grave danger and harm to her person and welfare;
- c. Failed to warn or alert Sara Lynn of any and all concealed or dangerous conditions on premises Colucci owned, leased, and/or had an interest in;
- d. Failed to provide any aid or support to Sara Colucci who appeared in immediate and grave distress for her life in plain view of Colucci; and
- e. In any other particulars that may become known to the Estate of Sara in discovery or at trial.

All of the above acts and omissions separately or taken together were willful, wanton, grossly negligent, and the actual and proximate cause of Sara Lynn's death on May 20, 2015.

38. As a direct and proximate result of Colucci's gross negligence, and reckless indifference to life, the Estate of Sara's beneficiary, Child Doe, has suffered injuries, which have caused, and in the future, will cause Child Doe to suffer the following elements of damage as to the wrongful death claim:

- a. pecuniary loss;
- b. mental shock and suffering;
- c. wounded feelings;
- d. grief and sorrow;
- e. loss of companionship; and
- f. deprivation of use and comfort of Sara Lynn's society, including loss of her experience, knowledge, and judgment in managing the affairs of her beneficiary.

39. In addition, as a direct and proximate result of Colucci's negligence, gross negligence, and reckless indifference to the life of Sara Lynn as set out above, Sara Lynn suffered injuries, which caused her death and to suffer one or more of the following elements of damage as to the Estate of Sara's survival action claim:

- a. physical pain;
- b. suffering;
- c. mental anguish;
- d. emotional distress;
- e. shock and injury to Sara Lynn's nerves and nervous system;

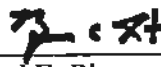
- f. pecuniary loss; and
- g. medical expenses/cost of medical treatment.

40. That as a direct and proximate result of the foregoing, the Estate of Sara is entitled to judgment against Colucci for actual and punitive damages for the death of Sara Lynn in an amount to be determined by the Jury.

WHEREFORE, The Estate of Sara prays for a trial by jury and for the following:

- i. Judgment against Colucci for actual and punitive damages in an amount to be determined by the jury;
- ii. For the costs of this action;
- iii. For a declaration that Colucci permit and direct that one-half (50%) of all proceeds recovered by plaintiffs in Michael Colucci et al v. Northwood Academy and Wilcomp Software, LLC d/b/a RenWeb, C/A No.: 2014-CP-10-4680 be paid to the Estate of Sara; and
- iii. For such other and further relief as this court deems just and proper.

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April 24, 2018

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VIA HAND DELIVERY:

The Honorable Mary P. Brown
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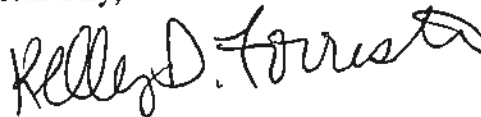
Re: *The Estate of Sara Lynn Colucci, by and through Successor Personal Representative J.R. Moore v. Michael F.A. Colucci*
PHSW File No.: P2842.00

Dear Ms. Brown,

Enclosed please find the original and one copy of the Amended Complaint in the above referenced matter. Please note that the document filed as the Amended Complaint on 4/23/18 was the incorrect document. Please replace that document with the attached Amended Complaint. Please file the original with the Court and return a clocked in copy to our office via our courier. Should you have any questions or concerns, please do not hesitate to contact our office.

With kind regards, I am,

Sincerely,



Kelly D. Forrester
Paralegal to Benjamin C. Smoot, II

BCSII/

cc: Angus Lawton, Esq.

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