

THE STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF OCONEE )

13<sup>th</sup> JUDICIAL CIRCUIT

Barbra Colegrove Marcum, )  
PLAINTIFF )

**SUMMONS**

v. )

Dale Colegrove, Mountain View Funerals )  
and Cremations, )  
DEFENDANT. )

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscriber at his office located at 4136 Clemson Blvd, Anderson, SC 29621 within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the court for a default judgment for the relief demanded in the Complaint.

Respectfully submitted,

/s/ Ashaley Boatwright

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THE STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF OCONEE )

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Barbra Colegrove Marcum, )  
PLAINTIFF )

**COMPLAINT  
AND JURY TRIAL  
COMMAND**

v. )

Dale Colegrove, Mountain View Funerals )  
and Cremations, )  
DEFENDANT. )

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Plaintiff, Barbra Colegrove Marcum (“Plaintiff”), complaining of Dale Colegrove (“Defendant 1”) and Mountain View Funerals and Cremations, (“Defendant 2”) would respectfully show unto the Court as follows:

**PARTIES AND JURISDICTION**

1. Plaintiff is a resident Oconee County, South Carolina.
2. Defendant 1 is a resident of Oconee County, South Carolina.
3. Defendant 2 is a business licensed to do business in the state of South Carolina, and operates in Oconee County, South Carolina
4. This Court has Jurisdiction over Defendant1 because he lives in Oconee County, South Carolina, and over Defendant 2 because it conducts business in Oconee County, South Carolina.
5. This venue is correct because the actions giving rise to this complaint occurred in Oconee County, South Carolina.

6. Plaintiff is informed and believes that this Court has jurisdiction over the parties to and subject matter of this action.

### STATEMENT OF FACTS

1. Plaintiff is the daughter of Pearl Colegrove and Orville Colegrove.
2. Defendant 1 is the son of Pearl Colegrove and Orville Colegrove.
3. Orville Colegrove passed away on September 1, 2022.
4. Pearl Colegrove passed away on April 8, 2023.
5. Pearl Colegrove gave a durable power of attorney to her husband on May 29, 2019.
6. Pearl Colegrove listed Defendant 1 as the substitute or successor attorney in fact, in the event that her husband was unwilling or unable to serve.
7. On July 6, 2022 Defendant 1 signed an agreement with Defendant 2, authorizing Defendant 2 to cremate Pearl Colegrove in the event of her death.
8. Defendant 1 knew at the time of signing the authorization that Pearl and Orville had prepaid for the burial sites, and intended to be buried not cremated.
9. Defendant 1 used the POA as his authority to sign the cremation authorization form.
10. On July 6, 2022, Orville Colegrove had the capacity and was willing to act as the POA for Pearl Colegrove.
11. Defendant 1 did not have the authority to act as the POA for Pearl Colegrove at the time of signing the cremation authorization.
12. Defendant 1 knew that Plaintiff did not want Pearl to be cremated.
13. Defendant 1 knew that other siblings did not want Pearl to be cremated.
14. On July 6, 2022, Pearl Colegrove was of sound mind and body and to make decisions herself.

15. The POA for Pearl Colegrove did not give the attorney in fact the authority to make decisions regarding cremation or burial in the event of her death.
16. On September 16, 2022, Defendant 1 put Pearl Colegrove in a nursing facility.
17. Defendant 1 instructed the facility that she could not have any visitors other than him.
18. Defendant 1 used his power as POA to prevent Plaintiff from seeing her mother.
19. Defendant 1 was not authorized to prevent the Plaintiff from seeing her mother at the nursing facility.
20. While Pearl Colegrove was in the nursing facility Defendant 1 was constantly demanding that they give her more morphine than she was prescribed.
21. Defendant 1 would try to get the nursing facility to give additional morphine during shift change, hoping the change of employees would cause confusion and result in them giving additional doses of morphine.
22. Defendant 1 got a Doctor in Anderson to prescribe Pearl Colegrove morphine, while she was at the nursing facility, and picked up the prescription on April 1, 2023.
23. Pearl Colegrove passed away on April 8, 2023.
24. Plaintiff asked for an autopsy to be conducted.
25. Defendant 1 sold the home belonging to Pearl Colegrove and kept the proceeds for himself.
26. Defendant 1 used the authority of the POA for his own benefit with little regards to the wishes and desires of Pearl Colegrove.

### **FIRST CAUSE OF ACTION**

**(BREACH OF FIDUCIARY DUTY UNDER POWER OF ATTORNEY AS TO  
DEFENDANT 1)**

27. Plaintiff herein incorporates by reference all previous and subsequent allegations consistent herewith.
28. Defendant 1 owed a fiduciary duty to his parents as their agent under the Power of Attorney.
29. Defendant 1 was granted Power of Attorney for his parents, creating a fiduciary relationship.
30. Defendant 1 breached his fiduciary duty.
31. Defendant 1 used the Power of Attorney to cremate his mother against her expressed wishes.
32. Defendant 1 used the Power of Attorney to put his mother in a nursing home, even though Plaintiff was willing and able to provide for her mother.
33. Defendant 1 used the Power of Attorney to prevent Plaintiff from seeing her mother while she was in the nursing home.
34. Defendant 1 used the Power of Attorney to sell his parents' home without authorization and kept the proceeds for himself.
35. Defendant 1's breach of fiduciary duty proximately caused damages to Plaintiff.
36. As a result of Defendant 1's actions, Plaintiff suffered financial losses from the sale of their parents' home and emotional distress from the unauthorized cremation of their mother and being prevented from seeing her.
37. Plaintiff has been damaged by Defendant 1's breach of fiduciary duty.

**SECOND CAUSE OF ACTION**

**(CONVERSION AS TO DEFENDANT 1)**

38. Plaintiff herein incorporates by reference all previous and subsequent allegations consistent herewith.
39. Plaintiff had a right to possess the property of their parents' estate.
40. As potential heir, Plaintiff had an interest in their parents' property, including the family home.
41. Defendant 1 wrongfully exercised dominion over the property.
42. Defendant 1 sold the parents' home without authorization and kept the proceeds for himself, depriving Plaintiffs of their potential inheritance.
43. Plaintiff suffered damages as a result of Defendant 1's conversion.
44. The value of the parents' home that was sold constitutes the damages resulting from Defendant's conversion.

**THIRD CAUSE OF ACTION**

**(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AS TO  
DEFENDANT 1)**

45. Plaintiff herein incorporates by reference all previous and subsequent allegations consistent herewith.
46. Defendant 1 intentionally or recklessly inflicted severe emotional distress on Plaintiff.
47. Defendant 1 cremated his mother against her expressed wishes, sold the family home, and prevented the Plaintiff from seeing her mother while in a nursing home.
48. Defendant 1's conduct was extreme and outrageous.

49. Cremating a parent against their wishes, selling the family home without authorization, and preventing siblings from seeing their mother (at the end of her life) exceed all bounds of decency and are utterly intolerable in a civilized community.
50. Defendant 1's actions caused Plaintiff emotional distress.
51. Plaintiff suffered severe emotional distress as a direct result of being unable to fulfill her mother's burial wishes, losing the family home, and being prevented from seeing her mother.

#### **FOURTH CAUSE OF ACTION**

##### **(WRONGFUL DEATH AS TO DEFENDANT 1)**

52. Plaintiff herein incorporates by reference all previous and subsequent allegations consistent herewith.
53. Defendant 1's actions caused the death of his mother.
54. Defendant 1 allegedly administered excess morphine to his mother, leading to her death.
55. Defendant 1 would continuously request the nursing home staff administer more morphine than his mother was prescribed.
56. Defendant 1 would try and get the nursing home staff to administer more doses of morphine than prescribed, by waiting till shift change at the nursing home.
57. Plaintiff believes Defendant 1 obtained additional morphine from a medical provider in a different county.
58. Plaintiff believes Defendant 1 then administered additional dosages of morphine to his mother outside the presence of medical staff.

59. The deceased would have been entitled to maintain an action and recover damages if death had not ensued.
60. If Defendant 1 and Plaintiff's mother had survived, she could have brought a personal injury claim against Defendant 1 for battery or negligence due to the unauthorized administration of excess morphine.
61. Plaintiff is a statutory beneficiary entitled to bring this wrongful death action.
62. Plaintiff is the daughter of the Deceased and is a proper beneficiary under South Carolina's wrongful death statute.
63. Plaintiff has suffered emotional damages as a result of her mother's death.
64. Plaintiff has experienced pecuniary loss, mental shock and suffering, wounded feelings, grief, sorrow, and loss of society and companionship due to the untimely death of the deceased.

#### **FIFTH CAUSE OF ACTION**

##### **(SURVIVAL ACTION AGAINST DEFENDANT 1)**

65. Plaintiff herein incorporates by reference all previous and subsequent allegations consistent herewith.
66. The deceased suffered injuries prior to her death as a result of Defendant 1's actions.
67. The deceased likely experienced pain and suffering due to the administration of excess morphine before her death.
68. The injuries were caused by Defendant 1's wrongful acts.
69. Defendant 1's unauthorized administration of excess morphine caused the deceased's injuries and suffering.

70. The deceased died before she could prosecute a personal injury claim.
71. The deceased passed away before any legal action could be taken regarding her injuries and suffering.
72. The estate of the deceased has suffered damages as a result of the injuries.
73. The estate is entitled to recover damages for the pain and suffering experienced by the deceased prior to her death.

**SIXTH CAUSE OF ACTION**  
**(NEGLIGENCE AS TO DEFENDANT 2)**

74. Plaintiff herein incorporates by reference all previous and subsequent allegations consistent herewith.
75. Defendant 2 owed a duty of care to Plaintiff to handle the remains of Plaintiff's mother in accordance with applicable laws and professional standards.
76. Defendant 2 breached this duty by cremating Plaintiff's mother's remains without proper authorization and in violation of South Carolina law.
77. Defendant 2's cremation of Plaintiff's mother's remains without a valid Power of Attorney constitutes a breach of the standard of care expected of funeral homes in South Carolina.
78. Defendant 2's breach of this duty directly and proximately caused harm to the Plaintiff.
79. As a direct and proximate result of Defendant's negligence, Plaintiff has suffered emotional distress, mental anguish, and other damages.

**SEVENTH CAUSE OF ACTION**

**(VIOLATION OF SOUTH CAROLINA CREMATION LAWS AGAINST  
DEFENDANT 2)**

80. Plaintiff herein incorporates by reference all previous and subsequent allegations consistent herewith.
81. Defendant 2 is a funeral establishment operating in the State of South Carolina.
82. Defendant 2 is subject to South Carolina laws and regulation governing funeral establishments and cremation procedures.
83. Defendant 2 failed to comply with South Carolina laws regarding cremation by performing the cremation of Plaintiff's mother's remains without proper authorization.
84. Specifically, Defendant 2 cremated Plaintiff's mother's remains without obtaining a valid Power of Attorney as required by South Carolina law and knew that the family was requesting an autopsy and that the Plaintiff's mother's wishes were to be buried at her burial plat.
85. Defendant 2's failure to comply with South Carolina cremation laws directly and proximately caused harm to Plaintiff.
86. As a result of Defendant 2's actions, Plaintiff has suffered emotional distress, mental anguish, and other damages.

WHEREFORE, Plaintiff prays for relief as follows:

- A. For compensatory damages in the amount of 5 million dollars.
- B. For punitive damages in an amount to be determined.
- C. For interest, costs, and attorney's fees.

D. For such other and further relief as the trier of fact deems just and proper.

Respectfully submitted,

/s/ Ashaley Boatwright

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