

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA
No. 15-0692

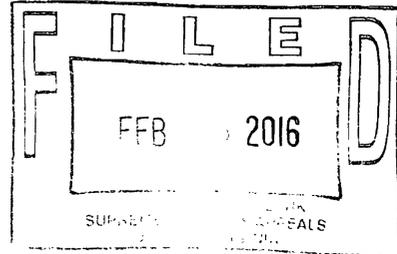
DIANE HORTON, Executrix of the
Estate of Gene Ray Dudding, Plaintiff Below,

Petitioner,

vs.

PROFESSIONAL BUREAU OF COLLECTIONS
OF MARYLAND, INC., Defendant Below,

Respondent.



PETITIONER'S REPLY BRIEF

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SUMMARY OF ARGUMENT

What the Respondent asserts that this Court should do is first determine that Petitioner Diane Horton's cause of action did not survive the death of the claimant, Mr. Dudding, but that, if the Court finds that the claim did survive claimant's death, that this Court should interpret the West Virginia Consumer Credit and Protection Act ("WVCCPA") to reach the irrational result that the Legislature intended to create a private cause of action that survived the death of the claimant but which the claimant's representative, who is legally obligated to pursue, cannot pursue.

It is clear from this Court's ruling in *Nezan v. Aries Technologies, Inc.*, 226 W.Va. 631, 704 S.E.2d 631 (2010) that "this Court should not create situations where a strict interpretation would lead to an unjust, much less senseless, result". *Id.* at 642. Accordingly, if Mr. Dudding's WVCCPA claims survive his death, then it would be an absurd result that Diane Horton, Mr. Dudding's personal representative who is a natural person, could not pursue those survived claims because this Court applied a too-strict interpretation of the term "consumer" in W.Va. Code § 46A-5-101.

Furthermore, W.Va. Code § 55-7-8a(b) of the survival statute, directly following subsection (a), states: "If any such action is begun during the lifetime of the injured party, and within the period of time permissible under the applicable statute of limitations as provided by articles two and two-A of this chapter, (either against the wrongdoer or his personal representative), and such injured party dies

pending the action it may be revived in favor of the personal representative of such injured party". The Legislature has provided that, if Mr. Dudding deceased after his lawsuit was filed and his claims survive, then his personal representative may revive the action. This is what happened in this action. Diane Horton, Mr. Dudding's personal representative and a natural person, moved to substitute Mr. Dudding as the plaintiff and revive his cause of action.

Lastly, the Defendant conveniently glossed over the nuances of *Stanley v. Sewell*, 169 W.Va. 72, 285 S.E.2nd 679 (1982), and ignored that both actual and constructive fraud survives the death of the claimant under the survival statute. Pursuant to this Court's reasoned opinions, the types of fraud claims that exist, that the survival statute says survives death, are of two types - actual fraud and constructive fraud - which do not carry all of the required elements of a traditional fraud claim, but which the courts have come to deem constructive fraud for the protection of the victim and the public. These are broadly defined fraud claims which survive death pursuant to this Court's learned opinion in *Stanley v. Sewell*. This is the same type of constructive fraud and deceptive conduct embodied by the Plaintiff's W.Va. Code § 46A-2-127(c) claim in this matter, titled "Fraudulent, deceptive or misleading representations," that the Defendant concealed its identity in attempting to collect the debt against the Plaintiff for the purpose of misleading the Plaintiff as to who was contacting the Plaintiff to collect the debt. Regardless of whether or not the other sub-provisions of W.Va. Code § 46A-2-127 are sufficiently analogous to fraud and deceit to survive death under the survival statute, the

Plaintiff's claim under subsection (c) is sufficiently analogous to constructive fraud to survive death. Defendant would have the Court believe that this Court is incapable to parse out and properly interpret those portions of W.Va. Code § 46A-2-127 which are sufficiently analogous to constructive fraud and survive death, and those which are not. The Petitioner does not believe this and believes that this Court can and will intelligently look at the specific claims made by the Appellant and determine whether they are sufficiently like constructive fraud to survive Mr. Dudding's death.

The WVCCPA claims raised by the Petitioner are sufficiently analogous to deceit and fraud such as to survive the death of the claimant, Mr. Dudding, pursuant to this Court's binding precedent in *Stanley*. In particular, the Petitioner's claims for fraudulent, deceptive or misleading collection actions under W.Va. Code § 46A-2-127 are sufficiently analogous to deceit and fraud to survive death.

The survival statute, W.Va. Code § 55-7-8a(a), clearly, plainly and unambiguously preserves injuries to property rights from being extinguished at death. Mr. Dudding was forced by the Respondent to incur obligations to pay his attorney fees and costs to enforce his rights under the WVCCPA, which constitutes an injury to his property rights. The WVCCPA permits Mr. Dudding, and his personal representative in substitution, to recover attorney fees and costs for this injury to Mr. Dudding's property rights under W.Va. Code § 46A-5-104. Accordingly, the Petitioner's claims to recover the attorney fees and costs incurred

by Mr. Dudding are injuries to property rights which survive the death of Mr. Dudding.

Case law and public policy require that a personal representative have standing to pursue claims that survive the death of the decedent. It would both offend public policy and create an absurd result to find that a claimant's personal representative did not have standing to pursue claims that the Legislature and interpretive case law provides survive the death of the claimant. For all of these reasons, the Court must reverse the Circuit Court ruling and remand for further consistent proceedings.

ARGUMENT

I. RESPONDENT ATTEMPTS TO CONFUSE THE COURT AS TO WHOM THE PARTY IS REPLACING THE DECEDENT: THE PERSONAL REPRESENTATIVE, WHO IS A NATURAL PERSON, OR THE ESTATE?

The Respondent attempts to confuse the issue and mislead the Court as to the party who has replaced and revived the claims of the deceased Mr. Dudding. Diane Horton, a natural person, is the personal representative of the deceased Mr. Dudding and has replaced and revived this action in her name as required by W.Va. Code § 55-7-8a(b), which states:

If any such action is begun during the lifetime of the injured party, and within the period of time permissible under the applicable statute of limitations as provided by articles two and two-A of this chapter, (either against the wrongdoer or his personal representative), and such injured party dies pending the action it may be revived in favor of the personal representative of such injured party and prosecuted to judgment and execution against the wrongdoer or his personal representative.

Id. (emphasis added). The survival statute, at subsection (b), requires that only the personal representative, not the estate, of the deceased claimant can substitute in and revive the deceased claimant's claims. In this case, Diane Horton, the personal representative of the deceased Mr. Dudding, has substituted in as plaintiff for the deceased and revived Mr. Dudding's claims against the Respondent. Diane Horton is a natural person.

The Respondent has asserted that only a "natural person" can have standing to bring a cause of action under W.Va. Code § 46A-5-101 because that statute gives a cause of action to a "consumer", which is defined for the purposes of 46A-5-101 as only including a "natural person", not an estate. In this case, the plaintiff is Diane Horton, a natural person and the personal representative of Mr. Dudding. Diane Horton, as Mr. Dudding's personal representative, may have fiduciary obligations to enforce Mr. Dudding's WVCCPA claims for the benefit of Mr. Dudding's estate. But those facts do not convert Diane Horton into a fictional entity, or into an estate. Nor could they since W.Va. Code § 55-7-8a(b) only permits the "personal representative", NOT the estate, of the deceased claimant to substitute in for the deceased claimant, revive the deceased claimant's claims, and pursue them to judgment. That is what happened in this case as you can see from the style of the case, that Diane Horton and not the Estate of William Dudding is the Plaintiff and Petitioner in this action. Accordingly, there exists no linguistic bar in the WVCCPA to Diane Horton, as the personal representative of the deceased, and a natural person, to pursuing the deceased WVCCPA claims against the Respondent, if those

claims in fact have survived the death of the claimant.

**II. BOTH THE SURVIVAL STATUTE AND W.VA. CODE § 46A-2-127(C)
SHOULD BE APPLIED USING THE LIBERAL CONSTRUCTION THIS
COURT HAS MANDATED FOR BOTH PROVISIONS**

The Court's consideration of whether or not the Petitioner's W.Va. Code § 46A-2-127(c) fraudulent, deceptive or misleading claim is sufficiently analogous to constructive fraud to survive Mr. Dudding's death and whether or not a deceased's estate may, or is required to, revive and pursue a decedent's WVCCPA W.Va. Code § 46A-2-127(c) claim are both controlled by this Court's admonition that both the survival statute and the WVCCPA are remedial and nature and must be construed liberally.

"In reaching this result, we recognize that as a general rule a survival statute such as W.Va.Code, 55-7-8a, is to be liberally construed as it is remedial in nature." *Stanley* at 77-8, 683 (emphasis added)(citing *Carter v. American Casualty Co.*, 131 W.Va. 584, 590, 48 S.E.2d 404, 408 (1948); cf. *Wilder v. Charleston Transit Co.*, 120 W.Va. 319, 197 S.E. 814 (1938); 1 Am.Jur.2d *Abatement, Survival & Revival* § 54 (1962)).

"[T]he WVCCPA should be construed liberally in favor of the consumer". *Vanderbilt Mortg. and Finance, Inc. v. Cole*, 230 W.Va. 505, 511, 740 S.E.2d 562, 568 (2013)(emphasis added).

The Court's decision is also controlled by its prior admonitions that the primary objective in interpretation of the law is legislative intent, and in determining legislative intent by looking at the public policy reasons for enacting

the law.

The Respondent provides no response to the Petitioner's cited case law on the issue of the application of the survival statute to W.Va. Code § 46A-2-127(c) as constructive fraud but to conclusively state, without any authority, that the Petitioner's case law is "unpersuasive." The only support from the Respondent that Petitioner's case law is unpersuasive is a cite to *Wright v. Finance Service of Norwalk, Inc.*, 22 F.3d 647 (1994). The Court in that case did not just state that their interpretation of the Fair Debt Collection Practices Act ("FDCPA") was based solely on the broad language of the phrase "with respect to any person." The Court therein went on to state the additional reasons why it found that the interpretation given to that phrase should be so broad:

We believe that the purpose of the FDCPA and the legislative history of the act also support this conclusion. The FDCPA's purpose is "to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses." 15 U.S.C. § 1692(e). In outlining the need for passage of the FDCPA, the Senate declared that debt collection abuse was "a widespread and serious national problem." S.Rep. No. 382, 95th Cong., 1st Sess. 2 (1977), reprinted in 1977 U.S.C.C.A.N. 1695, 1696. Congress, however, chose to leave enforcement to private, not governmental, means. S.Rep. No. 382 at 5, reprinted in 1977 U.S.C.C.A.N. at 1699.

Given the broad language of the FDCPA, the purpose of the statute, and Congress's intent to make the statute self-enforcing. . .

Id. at 650.

We conclude that the phrase, at a minimum, includes those persons, such as Wright, who “stand in the shoes” of the debtor or have the same authority as the debtor to open and read the letters of the debtor. Otherwise, a debt collector's liability would depend upon fortuities such as an alleged debtor's death. Such a result is inconsistent with the broad scope of the FDCPA, and we decline to so limit the act.

Id. The Court therein said that the private cause of action provision in the FDCPA provided for parties other than the consumer “who ‘stand in the shoes’ of the debtor,” like the estate in this case, were entitled to a cause of action under the FDCPA. This indicates that it was not just the bald face meaning of the phrase at issue that determined the Court’s interpretation of the FDCPA, but the Court considered policy reasons and legislative intent for the enactment of the consumer protection laws. Further, the Court in *Wright* recognized that the result of the debt collector escaping liability due to the fortuity of the debtor’s death was an injustice that could not be tolerated by a Court primarily obligated with meting out justice. The Court therein took into consideration the very circumstance that this Supreme Court faces today; should a debt collector in violation of the statute find a reprieve from the deterrent purpose of the consumer protection laws by the fortuity of the death of their victim? This Court’s answer should be a resounding “No.”

This Court has expressed the policies and purposes behind the Legislature’s enactment of the WVCCPA.

The Court has enunciated the purpose of the WVCCPA: "The purpose of the [WVCCPA] is to protect consumers from unfair, illegal, and deceptive acts or practices by providing an avenue of relief for consumers who would

otherwise have difficulty proving their case under a more traditional cause of action." *Dunlap v. Friedman's, Inc.*, 213 W.Va. 394, 399, 582 S.E.2d 841, 846 (2003) (quoting *State ex rel. McGraw v. Scott Runyan Pontiac-Buick, Inc.*, 194 W.Va. 770, 777, 461 S.E.2d 516, 523 (1995)). Furthermore, we have said that the WVCCPA "represents a comprehensive attempt on the part of the Legislature to extend protection to the consumers and persons who obtain credit in this State." *Harless v. First Nat'l Bank in Fairmont*, 162 W.Va. 116, 125, 246 S.E.2d 270, 275-76 (1978). Finally, we have explained that the WVCCPA should be construed liberally in favor of the consumer. *Dunlap*, 213 W.Va. at 399, 582 S.E.2d at 846.

The Fair Debt Collection Practices Act ("FDCPA") is the federal equivalent to the WVCCPA, and like the WVCCPA, it also allows consumers to seek actual damages and civil penalties from creditors. . . .

We find that by including the option for consumers to pursue civil penalties, the Legislature intended that § 46A-5-101(1) function, in part, as a disincentive for creditors to engage in certain undesirable behaviors that might not result in actual damages.

Vanderbilt at 511, 568 (emphasis added). Thereby, this Court indicated that the WVCCPA was to be given proactive effect to protect consumers, to act as a disincentive for undesirable behaviors, and that the WVCCPA should be construed liberally to effect these purposes. The Respondent would have you ignore this Court's previous mandates regarding the WVCCPA and interpret the WVCCPA strictly instead of liberally to defeat these purposes.

This Court next said in *Vanderbilt*, "As suggested by the court in *State v. Custom Pools*, 150 Vt. 533, 536, 556 A.2d 72, 74 (1988), "[i]t must be our primary objective to give meaning and effect to this legislative purpose.'" *Vanderbilt* at 511, 568 (emphasis added). If the WVCCPA is to act prospectively to protect persons

from undesirable behaviors and to deter debt collectors from engaging in prohibited conduct and it is this Court's primary objective to give meaning and effect to this purpose, how are those purposes served by allowing violators to escape the consequences due to the death of the claimant?

By referencing *Wilt v. State Auto. Mut. Ins. Co.*, 203 W.Va. 165, 506 S.E.2d 608 (1998), the Respondent disregards and overlooks the nuanced consideration that this Court gave in *Stanley* to determining whether or not a claim was sufficiently analogous to fraud or deceit to survive the death of the claimant. The Respondent focuses on *Wilt's* reference to the lack of the requisite elements of a fraud claim that would prohibit certain unfair trade settlement practice factual scenarios being sufficiently analogous to fraud or deceit to survive death. While *Wilt* was attempting to apply the test for analogism to fraud or deceit established by *Stanley*, it failed to consider that portion of the *Stanley* test which considered analogy to constructive fraud, which does not require all of the elements of an actual fraud. Confusing the required elements of an actual fraud claim and a constructive fraud claim are fatal to any such analysis.

This Court has already spoken to the issue of what constitutes fraud and deceit for the purposes of claims that survive the death of an injured party under W.Va. Code § 55-7-8a. In *Stanley*, the Supreme Court analyzed its general principles of the concept of fraud claims as applicable to the survival of claims under W.Va. Code § 55-7-8a. 169 W.Va. 72, 285 S.E.2d 679 (1981). The *Stanley* Court was asked to decide whether a claim for retaliatory discharge was sufficiently

similar to action for fraud or deceit so that the claim survived under W.Va. Code § 55-7-8a.

The Court therein found that the underlying principles of a retaliatory discharge action were sufficiently related to an action for fraud or deceit so that the claims survived the death of the injured party. *Id.* at 77, 683. The Court initially confirmed the long-held opinion that "as a general rule a survival statute such as W.Va. Code, 55-7-8a, is to be liberally construed as it is remedial in nature", *Stanley* at 77-8; an opinion that this Court is bound to apply herein. Addressing what constitutes or is sufficiently similar to a claim for fraud or deceit so as to survive the death of a party, the Court stated that "[f]raud has been defined as including all acts, omissions, and concealments which involve a breach of legal duty, trust or confidence justly reposed, and which are injurious to another, or by which undue and unconscientious advantage is taken of another." *Id.* at 76.

The Court further went on to state that "[f]raud may be either actual or constructive. The word "fraud" is a general term and, construed in its broadest sense, embraces both actual and constructive fraud. Actual fraud, or fraud involving guilt, is defined as anything falsely said or done to the injury of property rights of another." *Id.*

The Court went on to state that "[c]onstructive fraud is a breach of a legal or equitable duty, which, irrespective of moral guilt of the fraud feisor, the law declares fraudulent, because of its tendency to deceive others, to violate public or private confidence, or to injure public interests", *Id.* at 76-7(emphasis added) (citing

Miller v. Huntington & Ohio Bridge Co., 123 W.Va. 320, 15 S.E.2d 687 (1941). See also, *Steele v. Steele*, 295 F.Supp. 1266 (S.D.W.Va.1969); *Bowie v. Sorrell*, 113 F.Supp. 373 (W.D.Va.1953); *Loucks v. McCormick*, 198 Kan. 351, 424 P.2d 555 (1967); *Bank v. Board of Education of City of New York*, 305 N.Y. 119, 111 N.E.2d 238 (1953); *Braselton v. Nicolas & Morris*, 557 S.W.2d 187 (Tex.Civ.App.1977)), and "[p]erhaps the best definition of constructive fraud is that it exists in cases in which conduct, although not actually fraudulent, ought to be so treated, that is, in which conduct is a constructive or quasi fraud, which has all the actual consequences and legal effects of actual fraud. . . Constructive fraud does not require proof of fraudulent intent. The law indulges in an assumption of fraud for the protection of valuable social interests based upon an enforced concept of confidence, both public and private." *Id.* at 77 (emphasis added).

In considering whether or not an unfair settlement claim was sufficiently analogous to fraud and deceit such that it survives the death of the claimant, the *Wilt* Court stated: "Viewing claims under the Act as necessarily fraudulent in nature is problematic, however, because the type of conduct that constitutes an unfair settlement claim may include a variety of factual scenarios which lack the requisite elements of a fraud claim." The Court then gave little consideration as to whether or not, under the standard set forth in *Stanley*, an unfair settlement claim was sufficiently analogous to constructive fraud, which does not require all of the elements of a fraud claim, such that the claim would survive death. Although the *Wilt* Court mentioned constructive fraud from *Stanley* in Footnote 5, the Court

made no effort to apply that standard from *Stanley* to the unfair settlement claim before the Court.

W.Va. Code § 46A-2-127(c) states:

No debt collector shall use any fraudulent, deceptive or misleading representation or means to collect or attempt to collect claims or to obtain information concerning consumers. Without limiting the general application of the foregoing, the following conduct is deemed to violate this section: . . . (c) The failure to clearly disclose the name and full business address of the person to whom the claim has been assigned for collection, or to whom the claim is owed, at the time of making any demand for money.

Id. This provision is intended to deter and prohibit debt collectors from defrauding persons by failing to disclose the identity of the debt collector so that the person either does not know, or is confused about, the person or entity who is contacting the person to collect an alleged debt and, therefore, either does not know that the person or entity trying to collect against him or her is a debt collector or is confused or misled into believing that the debt collector is the original creditor.

In this case, the facts are that the Respondent failed to clearly disclose its identity, i.e. name, in telephone calls to the Petitioner in the Caller ID readout, but instead displayed “Toll Free Number” in order that the Petitioner would be deceived and misled that it was the Respondent, a debt collector, that was calling the Petitioner. Such conduct is a fraudulent, deceptive or misleading representation in the attempts to collect a claim and is sufficiently analogous to constructive fraud to survive death, i.e. irrespective of moral turpitude the law has declared this conduct fraudulent because of its tendency to deceive others, to violate public or private

confidence, or to injure public interests, and in order to vitiate valuable public policies and interests, the legal assumption that such conduct is fraud is indulged.

Applying the general principles underlying claims of fraud set forth in *Stanley*, and the policies set forth by this Court underlying the enactment of the WVCCPA to deter and prevent undesirable debt collection conduct against consumers and persons and the policy of construing the remedial WVCCPA liberally, it is clear that the purpose of the Legislature in enacting W.Va. Code § 46A-2-127(c) was to prevent and deter debt collectors from using the fraudulent, deceptive or misleading tactic of concealing the debt collector's true identity from the alleged debtor is analogous to constructive fraud because "irrespective of moral guilt of the fraud feisor" it has a "tendency to deceive others, to violate public or private confidence, or to injure public interests". *Stanley* at 77. Ruling in this way would not overturn or negate the holding in *Wilt* in any way, but would only show this Court's more complex and nuanced manner of applying the law in line with this Court's precedent.

III. *WILT* DID NOT HAVE BEFORE IT AND DID NOT CONSIDER INJURY TO PROPERTY RIGHTS DUE TO INCURRING ATTORNEY FEES AND COSTS PROVIDED BY STATUTE

The Respondent asserts that the *Wilt* Court would not have ruled the way that it did if a claimant's incurring attorney fees and costs in violation of a statutory scheme constituted an injury to property rights sufficient to survive the claimant's death. However, the *Wilt* Court did not have before it, did not consider and did not discuss an injury to the property rights, in the form of incurring attorney fees and

costs awardable to the claimant due to the violation of a statutory regime, of a claimant in order for those claims to survive the claimant's death under W.Va. Code § 55-7-8a. This issue was not before the Court so the Court did not address it. Accordingly, the fact that the *Wilt* Court ruled the way it did without considering this issue, which was not before the Court, lends no support to the Respondent's assertion that the Petitioner's incurring of attorney fees and costs awardable to her by the WVCCPA for the Respondent's WVCCPA violations is not an injury to property rights which survive death under W.Va. Code § 55-7-8a.

The Petitioner's attorney fee and cost claims clearly constitute injuries to Petitioner's property rights as the recovery of attorney fees and costs provided for under the WVCCPA are intended to satisfy the Petitioner's financial obligations to her attorneys for prosecuting her claims against Respondent's purportedly violative actions and to recover costs incurred due to the same. Accordingly, W.Va. Code § 55-7-8a(b) provides for the survival of Petitioner's claims for attorney fees and costs and revival of said claims in the name of Diane Horton, as Mr. Dudding's personal representative.

IV. CONTRACT RIGHTS SURVIVE DEATH AT COMMON LAW

Under West Virginia law, contract claims survive the death of a party at common law. *Woodford v. McDaniels*, 73 W.Va. 736 81 S.E. 544, 545 (1914). Whenever a plaintiff makes claims of violations of the WVCCPA by a debt collector and the debt collector asserts that an arbitration clause in the contract giving rise to the alleged debt that the debt collector was attempting to collect is enforceable

against the plaintiff's WVCCPA statutory claims because those WVCCPA statutory claims arise out of the contract, the courts often order that the WVCCPA statutory claims arise out of the contract such that the arbitration clause is enforceable against the WVCCPA statutory claims. If this is so, then the WVCCPA claims by the Petitioner herein are sufficiently related to contract claims such that those claims should survive the death of Mr. Dudding.

At least one Circuit Court has ruled that WVCCPA claims survive death when they are related to a contract. The Honorable Judge Paul M. Blake, Circuit Court of Fayette County, West Virginia, found that WVCCPA Article 2 claims were sufficiently related to the underlying contract such that they survived the death of the claimant at common law. See "Order Denying Defendants' Motion to Dismiss", *Spencer v. Access Nat'l Mortg. Corp., et al.*, Civil Action No. 13-C-14 at ¶¶ 6 and 7 (J. Blake, Fayette Co. Cir. Ct., July 24, 2013).

Accordingly, if WVCCPA statutory claims arise out of contract such that an arbitration clause therein can be enforced against such WVCCPA claims, then such WVCCPA claims arise out of the underlying contract and cause those claims to survive the claimant's pursuant to West Virginia common law.

CONCLUSION

It was apparent that the Petitioner's WVCCPA claims were sufficiently analogous to constructive fraud and deceit to survive the death of the plaintiff, Mr. Dudding. The Petitioner's claims for the injuries to the decedent's property rights for attorney fees and costs incurred, clearly survived the decedent's death under the

plain and unambiguous language of the survival statute. The remedial nature of the WVCCPA, public policy and substantial justice require that both the WVCCPA claims survive the death of the claimant and that the personal representative has standing to pursue those survived claims, pursuant to W.Va. Code § 55-7-8a(b). Since the Petitioner Diane Horton is a “natural person” and the personal representative of the deceased, she has standing to pursue the decedent’s WVCCPA claims under both the WVCCPA and W.Va. Code § 55-7-8a(b). Lastly, at common law, contract claims survive death and courts have said the WVCCPA claims arise out of the underlying contract creating the alleged debt at issue, such that those WVCCPA claims survive Mr. Dudding’s death at common law.

For the reasons stated herein, the grant of summary judgment was in error. Petitioner seeks an order from this Court vacating the grant of summary judgment and remanding this case for trial.



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**DIANE HORTON, Executrix of the
Estate of Gene Ray Dudding,
Petitioner
By Counsel**

BEFORE THE SUPREME COURT OF APPEALS OF WEST VIRGINIA
No. 15-0692

DIANE HORTON, Executrix of the
Estate of Gene Ray Dudding, Plaintiff Below,

Petitioner,

v.

PROFESSIONAL BUREAU OF COLLECTIONS
OF MARYLAND, INC., Defendant Below,

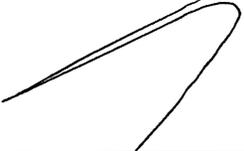
Respondent.

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true copy of the foregoing has been served upon the following known counsel of record, this day by USPS to the following addresses:

David P. Cook, Esq.
MacCorkle Lavender & Sweeney PLLC
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Counsel for Respondent

Dated this 8th day of February, 2016.



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