

IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

CHRISTIAN LUIS LOPEZ and MICHAEL
ANDRE SALINAS, as the surviving children
of JOHANNA LOPEZ and CHRISTIAN
LUIS LOPEZ, as the administrator of the
estate of JOHANNA LOPEZ,

Plaintiffs,

v.

LAS TERRAZAS CUBAN BAKERY LLC,

Defendant.

Civil Action No.: 22-C-01779-S4

PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION TO DISMISS

1. Introduction

This is a dram shop case. Defendant Las Terrazas Cuban Bakery, LLC (“Las Terrazas”) knowingly served a visibly intoxicated patron an obscene amount of alcohol. That patron stumbled to his car, drove over several grassy medians, and eventually struck Johanna Lopez. She died several hours after the collision.

This case has been filed by Christian Luis Lopez and Michael Andre Salinas (“Plaintiffs”), the sole surviving children of Ms. Johanna Lopez. It is undisputed that Plaintiffs are the correct parties to bring the wrongful death claim arising from Ms. Lopez’s death. *See* O.C.G.A. § 51-4-2(a). Although the probate process is underway and not yet complete, it is undisputed that Christian Luis Lopez will soon be the Administrator of his mother’s estate. *See* Petition for Letters of Administration (Ex. A). Nonetheless, Las Terrazas seeks dismissal of this lawsuit because the probate process is still underway. Plaintiffs respectfully request the Court

deny that motion. *See, e.g., Jordan v. Evans Delivery Co.*, No. 320-cv-60, Order Denying Motion to Stay because of Ongoing Probate Proceedings (N.D. Ga. Sept. 28, 2020) (Ex. B).

2. Factual Allegations

2.1. The subject incident.

On January 15, 2022, Johanna Lopez was an invitee of Las Terrazas Cuban Restaurant. Compl. ¶ 5. On the same night, another patron of Las Terrazas sat at the bar drinking alcoholic beverages all night. *Id.* at ¶ 6. The other patron was noticeably intoxicated. *Id.* at ¶ 7. Specifically, the other patron strongly smelled of alcohol, had red, bloodshot eyes, had trouble standing and walking, and was slurring his speech. *Id.* at ¶ 8. Despite showing obvious signs of intoxication, of which Las Terrazas was aware, Las Terrazas continued selling the patron alcoholic beverages. *Id.* at ¶ 9.

The other patron left Las Terrazas and entered his car, which was parked in the parking lot. *Id.* at ¶ 10. The other patron drove over multiple grassy medians before striking Johanna Lopez with his vehicle. *Id.* at ¶ 11. Ms. Lopez died from injuries sustained in the collision shortly after the collision. *Id.* at ¶ 12.

Las Terrazas knowingly sold, furnished, and served alcoholic beverages to the other patron even though he was noticeably intoxicated and knew he would soon be driving a motor vehicle. See O.C.G.A. § 51-1-40. *Id.* at ¶ 13. Therefore, Las Terrazas is liable for negligence. *Id.* at ¶ 15.

2.2. Plaintiffs are Johanna Lopez's surviving Children and Christian Luis Lopez will soon be appointed as the administrator of her estate.

Christian Luis Lopez and Michael Andre Salinas are Ms. Lopez’s surviving children. *Id.* at ¶¶ 1-2. Christian Luis Lopez will soon be the administrator of Johanna Lopez’s estate. *Id.* at ¶ 1, n.2. Plaintiffs foresee no objections anticipate the entry of Letters of Administration and an Order Appointing Mr. Lopez in the near future, and Defendant suggests none.

3. Argument

The Court should deny Defendant’s Motion because Plaintiffs are the proper parties. “If an action is not being prosecuted by the real party in interest, *before dismissing* the case the trial court should allow a reasonable time after objection to allow the real party in interest to ratify, join, or be substituted in the action.” *Moon v. Mercury Ins. Co. of Georgia*, 253 Ga. App. 506, 509 (2002) (emphasis added); *see also* O.C.G.A. § 9-11-17(a). Stated differently, where a case is brought in the name of a purported representative who turns out to be improper, the remedy is to give the plaintiff a reasonable amount of time to substitute the proper party – even if the statute of limitations has run. *Rooks v. Tenet Healthsystem GB, Inc.*, 292 Ga. App. 477, 479 (2008).

The Court of Appeals has expressly approved the practice of naming a purported representative and later allowing substitution. *E.g., Rooks*, 292 Ga. App. 477. In *Rooks*, the decedent’s sister filed a wrongful death lawsuit, even though he was survived by his wife. *Id.* at 477. She filed the suit as the “purported representative of the surviving spouse, the person with exclusive standing to bring the claim.” *Id.* at 480. Three years after the decedent’s sister filed the lawsuit, the defendants moved for summary judgment on the issue of standing. *Id.* at 477. The trial court granted the defendants’ motions for summary judgment, but the Court of Appeals

reversed. *Id.* at 478. The Court held that “a wrongful death action was properly commenced in the name of a purported representative of the real party in interest and that amendment was allowed under the above law to correct Rooks’s lack of capacity to bring the suit within a reasonable time of an objection.” *Id.* at 479. Trial courts follow *Rooks* and deny motions to dismiss like this one, which are typically aimed only at delay. *See Jordan v. Evans Delivery Co.*, No. 320-cv-60, Order Denying Motion to Stay because of Ongoing Probate Proceedings (N.D. Ga. Sept. 28, 2020) (Ex. B).

In this case, no substitution will be necessary. That is, Plaintiffs are already the proper parties for the wrongful death claim and Christian Lopez will be the proper party for the estate claim once he is formally appointed as the administrator. *See* O.C.G.A. § 51-4-2. Plaintiffs are working with a probate lawyer and anticipate Mr. Lopez’s appointment as administrator in the near future. As soon as the appointment is official, Defendant’s motion will be mooted. This practice is allowed by the Civil Practice Act (*see* O.C.G.A. § 9-11-17(a)), by the appellate courts (*Rooks*, 292 Ga. App. at 479), and by trial courts (*see* Order, Ex. B). Defendant’s motion should be denied.

4. Conclusion

Defendant’s motion fails as a matter of law. Plaintiffs are the real parties in interest for the wrongful death claim and Christian Luis Lopez will be the real party in interest for the estate’s claim as soon as he is appointed as the administrator of his deceased mother’s estate. Plaintiff respectfully requests that the Court deny Defendant’s motion.

Respectfully submitted this 16th day of May 2022.

BUTLER LAW FIRM

BY: /s/ Matthew R. Kahn
JAMES E. BUTLER, III
Georgia Bar No. 116955
MATTHEW R. KAHN
Georgia Bar No. 833443

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Atlanta, Georgia 30324
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matt@butlerfirm.com
(t) 678 940 1444
(f) 678 306 4646

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **PLAINTIFFS'**
RESPONSE TO DEFENDANT'S MOTION TO DISMISS has been electronically filed via
Odyssey eFileGA and will automatically send notification to the following attorneys of record:

William D. Ortiz
Shubra R. Mashelkar
Cecilia D. Orozco
Weinberg Wheeler Hudgins Gunn & Dial, LLC
3344 Peachtree Rd., Suite 2400
Atlanta, GA 30326
wortiz@wwhgd.com
smashelkar@wwhgd.com
corozco@wwhgd.com

This 16th day of May 2022.

BUTLER LAW FIRM

BY: /s/ Matthew R. Kahn
JAMES E. BUTLER, III
Georgia Bar No. 116955
MATTHEW R. KAHN
Georgia Bar No. 833443

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ATTORNEYS FOR PLAINTIFF

EXHIBIT A

FILED IN OFFICE
 PROBATE COURT
 GWINNETT COUNTY, GA
 MAR 25 AM 8:38

COPY

IN THE PROBATE COURT OF GWINNETT COUNTY,
 STATE OF GEORGIA

IN RE: ESTATE OF)
)
JOHANA ANTUANETH LOPEZ,)
 DECEASED)

CLERK
 ESTATE NO. 2022-70

PETITION FOR LETTERS OF ADMINISTRATION

The petition of Michael Andre Salinas
 [Full name(s) of petitioner(s)] First Middle Last
 whose physical address(es) is/are 4851 Eagle Watch Dr., Flowery Branch, Hall Co., GA 30542,
 Street City County State Zip Code
 and mailing address(es) is/are 4851 Eagle Watch Dr., Flowery Branch, Hall Co., GA 30542,
 Street City County State Zip Code

shows to the Court the following:

1.

Johana Antuaneth Lopez
 [Full name of decedent] First Middle Last
 whose place of domicile was 445 Heathgate Dr., Lawrenceville, Gwinnett Co., GA 30044,
 Street City County State Zip Code
 departed this life on January 15, 2022, intestate.

2.

The Decedent died intestate [i.e., without making a valid last will and testament].

3.

Listed below are all of the decedent's heirs at law, with age or majority status, address, and relationship to the decedent set opposite the name of each:

Name	Age (or over 18)	Address	Relationship
<u>Michael Andre Salinas</u>	<u>Over 18</u>	<u>4851 Eagle Watch Dr. Flowery Branch, GA 30542</u>	<u>Son</u>
<u>Christian Luis Lopez</u>	<u>Over 18</u>	<u>3094 Branham Drive Dunwoody, GA 30360</u>	<u>Son</u>

4.

Required: *[Provide sufficient factual information to enable the Court to conclude that all of the heirs of the decedent are included and that there are no heirs of the same or closer degree according to O.C.G.A. § 53-2-1. Provide the names of any deceased heirs, the name and address of his or her personal representative, if any, and include the date of death for each (see instructions for further clarification). Also, state here all pertinent facts that may govern the method of giving notice to any person and that may determine whether or not a guardian ad litem should be appointed for any person. If any heirs listed above are cousins, grandchildren, nephews or nieces of the decedent, indicate the deceased ancestor through whom they are related to the decedent.]*

Johana Antuaneth Lopez (the "Decedent") was not married at the time of death. The Decedent passed away with two living children: Michael Andre Salinas and Christian Luis Lopez. The Decedent had no other born, adopted, living or deceased children. All heirs of the estate are listed above in paragraph 3. No guardian ad litem is necessary.

5.

Under the law, it is necessary that said estate be administered and Michael Andre Salinas should be appointed administrator(s) by reason of:

[Initial one]

- _____ (a) being unanimously selected by all the heirs *[This alternative does not apply if the surviving spouse is the sole heir and an action for divorce or separate maintenance was pending at the time of decedent's death.];*
- _____ (b) being the surviving spouse where no action for divorce or separate maintenance was pending at the time of decedent's death;
- MAS* _____ (c) being (an) heir(s) and not the surviving spouse;
- _____ (d) having been selected by a majority in interest of the heirs;
- _____ (e) being (an) eligible person(s) as defined by O.C.G.A. § 53-6-1;
- _____ (f) being (a) creditor(s) of the decedent (evidence of the indebtedness is attached);
- _____ (g) being the county administrator.

6.

To the knowledge of the petitioner(s), no other proceedings with respect to this estate are pending, or have been completed, in any other probate court in this or any other state.

7.

The decedent passed leaving an estate of real property located in Gwinnett County(ies), Georgia [~~List real property that is located in another state and/or country~~] having a total fair market value of approximately \$ 228,100.00.

The decedent passed leaving personal property as follows [*Provide approximate value*]:

- MAS (a) Cash/bank accounts/certificates of deposit: \$ UNKNOWN
 - MAS (b) Stocks/bonds/brokerage accounts: \$ UNKNOWN
 - MAS (c) Other assets of significant value [*List assets*]: \$ UNKNOWN
-
-

APPROXIMATE TOTAL VALUE OF PERSONAL PROPERTY \$ UNKNOWN

8.

[*Petitioner(s) MUST initial one*]

- _____ (a) All heirs have consented to the waiver of bond, waiver of reports, waiver of statements, and/or grant of certain powers contained in O.C.G.A. § 53-12-261 to the administrator(s). Therefore, the petitioner(s) hereby move(s) the Court to publish notice of the filing of the petition and tender(s) with this petition publication fees. [*This only applies if all heirs have properly selected, acknowledged, and consented to this option.*]
- _____ (b) The identities and/or addresses of all heirs are not known. Therefore, the petitioner(s) hereby move(s) the Court to publish notice of the filing of the petition, and tender(s) with this petition publication fees.
- MAS (c) Notice of this petition need not be published because the petitioner(s) has/have listed all heirs at law and their addresses, and petitioner(s) is/are not requesting a waiver of bond, waiver of reports, waiver of statements, or the grant of powers contained in O.C.G.A. § 53-12-261.

9.

Additional data: [*Where full particulars are lacking, state here the reasons for any such omission.*]

WHEREFORE, petitioner(s) pray(s):

1. Service be perfected; and
2. that if no good cause is shown to the contrary, Michael Andre Salinas
be appointed administrator(s) of the estate of said decedent.

Michael Salinas
Signature of Petitioner

Michael Andre Salinas
Printed Name

4851 Eagle Watch Dr.

Flowery Branch, GA 30542
Mailing Address

404-569-4196
Telephone Number

Signature of Attorney:

Chris Gable

Printed Name of Attorney: Chris Gable

Address: 900 Circle 75 Parkway, Ste. 800

Atlanta, GA 30339

Telephone Number: 770-933-9009 State Bar #607447

VERIFICATION

GEORGIA, Colo COUNTY

Personally appeared before me the undersigned petitioner(s) who, after being duly sworn, state(s) that the facts set forth in the foregoing petition for letters of administration (and the attached exhibit(s)) are true and correct.

Sworn to and subscribed before me this
10th day of March, 2022

Michael Salinas
Signature of Petitioner

Erica Peyton
NOTARY/CLERK OF PROBATE COURT

Michael Andre Salinas
Printed Name of Petitioner

My Commission Expires: 6-30-2025

Erica Lindsey Peyton
NOTARY PUBLIC
Douglas County, GEORGIA
My Commission Expires 06/30/2025

IN THE PROBATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

IN RE: ESTATE OF)

JOHANA ANTUANETH LOPEZ,)
DECEASED)

ESTATE NO. _____

SELECTION BY HEIRS

(AND CONSENT OF HEIRS TO WAIVER OF BOND AND/OR GRANT OF CERTAIN POWERS)

[Make a separate page of this form for each heir consenting]

The undersigned, being 18 years of age or older, laboring under no legal disability and being an heir of the above-named decedent, hereby acknowledges service of a copy of the petition for letters of administration and notice, waives copies of same, waives further service and notice, and hereby selects Michael Andre Salinas to act as administrator(s) of the above-styled estate. If so indicated below, I hereby consent for the administrator(s) to be granted the additional powers contained in (a), (b), (c), and/or (d) of this page.

- MAS (a) *[optional; initial if applicable TO GRANT POWERS]* The personal representative is required by law to file a petition for leave to sell and obtain other approval by the Court for various acts. By initialing here I agree that the personal representative should be awarded all of the powers contained in O.C.G.A. § 53-12-261 except the personal representative shall not be authorized to bind the estate by any warranty in any conveyance or contract in violation of O.C.G.A. § 53-8-14 (a); AND/OR
- MAS (b) *[optional; initial if applicable TO WAIVE REPORTS]* The personal representative is required by law to file reports (e.g., inventory and returns) and provide a copy to each interested party. By initialing here I agree that the personal representative should not be required to file any reports with the Court; AND/OR
- MAS (c) *[optional; initial if applicable TO WAIVE BOND]* The personal representative is required by law to post a bond as the Court deems necessary. By initialing here I agree that the personal representative should not be required to post a bond; AND/OR
- MAS (d) *[optional; initial if applicable TO WAIVE STATEMENTS]* The personal representative is required by law to furnish to the heirs, at least annually, a statement of receipts and disbursements. By initialing here I agree that the personal representative should not be required to furnish these statements.

Sworn to and subscribed before me this
10th day of March, 2022.

Michael Seely
Signature of Heir

Erica Peyton
NOTARY/CLERK OF PROBATE COURT

Michael Andre Salinas
Printed Name of Heir

My Commission Expires: 6-30-22

Erica Lindsey Peyton
NOTARY PUBLIC
Douglas County, GEORGIA
My Commission Expires 06/30/2025

**IN THE PROBATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

IN RE: ESTATE OF

**JOHANA ANTUANETH LOPEZ,
DECEASED**

)
)
)
)

ESTATE NO. _____

**PETITION FOR LETTERS OF ADMINISTRATION
ORDER FOR SERVICE OF NOTICE**

_____ (a) Since the heirs have not made a unanimous selection,

IT IS ORDERED that notice be issued and served upon each heir who did not acknowledge service. Notice of this petition shall be mailed by First-Class Mail to each heir with a known address at least 30 days prior to the date on or before which any objection is required to be filed. If there is any heir whose current address is unknown, notice shall be published once a week for four weeks prior to the date for which any objection must be filed.

_____ (b) Since the heirs have made a unanimous selection, and the petitioner(s) has/have requested the waiver of bond, waiver of reports, waiver of statements, and/or grant of certain powers,

IT IS ORDERED that notice shall be published once each week for four weeks prior to the week which includes the date on or before which any objection must be filed.

SO ORDERED this _____ day of _____, 20____.

Judge of the Probate Court

IN THE PROBATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

IN RE: ESTATE OF

JOHANA ANTUANETH LOPEZ,
DECEASED

)
)
)
)

ESTATE NO. _____

PETITION FOR LETTERS OF ADMINISTRATION
NOTICE

[Strike the sentence in parenthesis below if not applicable.]

TO: _____

[List here all heirs who have not acknowledged service]

and to whom it may concern:

_____ has petitioned for _____
to be appointed administrator(s) of the estate of _____
deceased, of said county. ~~(The petitioner has also applied for waiver of bond, waiver of reports, waiver of statements, and/or grant of certain powers contained in O.C.G.A. § 53-12-261.)~~ All interested persons are hereby notified to show cause why said petition should not be granted. All objections to the petition must be in writing, setting forth the grounds of any such objections, and must be filed with the Court on or before _____, 20____.

BE NOTIFIED FURTHER: All objections to the petition must be in writing, setting forth the grounds of any such objections. All objections should be sworn to before a notary public or before a probate court clerk, and filing fees must be tendered with your objections, unless you qualify to file as an indigent party. Contact probate court personnel for the required amount of filing fees. If any objections are filed, a hearing will be (held on _____, 20____)(scheduled at a later date). If no objections are filed, the petition may be granted without a hearing.

Judge of the Probate Court

By: _____
Clerk of the Probate Court

Address

Telephone Number

**IN THE PROBATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

IN RE: ESTATE OF

**JOHANA ANTUANETH LOPEZ,
DECEASED**

)
)
)
)

ESTATE NO. _____

CERTIFICATE OF SERVICE

I certify that I have this date mailed (unless otherwise noted) in an envelope with the proper postage affixed thereto for First-Class Mail delivery a copy of the petition for letters of administration, order for service of notice, including any attached exhibits and the notice to the following persons:

This _____ day of _____, 20____.

Clerk of the Probate Court

Address

Telephone Number

IN THE PROBATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

IN RE: ESTATE OF)

JOHANA ANTUANETH LOPEZ,)
DECEASED)

ESTATE NO. _____

ORDER APPOINTING ADMINISTRATOR

A petition for letters of administration for the above named decedent was filed.

Michael Andre Salinas was/were nominated administrator(s) in the petition and is/are hereby found to be legally qualified for said office. The Court finds that the decedent died domiciled within, or domiciled outside the State of Georgia but owning property within, the above county. The Court finds that the decedent died intestate. The Court further finds that all of the heirs at law were served or acknowledged service. The Court further finds that no objection has been filed, and all requirements of law have been fulfilled.

ACCORDINGLY, IT IS ORDERED that the person(s) named above is/are found to be qualified for such office and is/are hereby appointed administrator(s) of the estate of the decedent, and that appropriate letters be issued upon said administrator(s) giving bond with approved surety in the sum of \$_____ and taking the oath as provided by law. The administrator(s) shall not make any distribution to a person for the benefit of a minor unless that person is qualified to receive such funds according to law.

IT IS FURTHER ORDERED that upon unanimous consent and publication of notice as necessary, the Court hereby: *[Initial all that apply]*

- _____ (a) **POWERS GRANTED:** Grants to the administrator(s) all of the powers contained in O.C.G.A. § 53-12-261, except the administrator(s) shall not be authorized to bind the estate by any warranty in any conveyance or contract in violation of O.C.G.A. § 53-8-14 (a).
- _____ (b) **REPORTS WAIVED:** Grants to the administrator(s) the specific power to serve without making and filing inventory, and without filing any annual or other returns or reports to any court.
- _____ (c) **BOND WAIVED:** Waives the specific requirement to post bond.
- _____ (d) **STATEMENTS WAIVED:** Grants to the administrator(s) the specific power to serve without furnishing to the heirs statements of receipts and disbursements.

SO ORDERED this _____ day of _____, 20_____.

Judge of the Probate Court

IN THE PROBATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA

IN RE: ESTATE OF

JOHANA ANTUANETH LOPEZ,
DECEASED

)
)
)
)

ESTATE NO. _____

LETTERS OF ADMINISTRATION

[Bond waived and/or certain powers granted]

At a regular term of probate court, this Court granted an order allowing Michael Andre Salinas to qualify as administrator(s) of the above-named decedent, who was domiciled in this county at the time of his or her death or was domiciled in another state but owned property in this county at the time of his or her death, and that upon so doing, letters of administration be issued to such personal representative(s).

THEREFORE, the said administrator(s), having taken the oath of office and complied with all necessary prerequisites of the law, is/are legally authorized to discharge all the duties and exercise all powers of personal representative(s), according to Georgia law. In addition this Court:

[Initial all that apply]

- _____ (a) **POWERS GRANTED:** Grants to the administrator(s) all of the powers contained in O.C.G.A. § 53-12-261, except the administrator(s) shall not be authorized to bind the estate by any warranty in any conveyance or contract in violation of O.C.G.A. § 53-8-14 (a).
- _____ (b) **REPORTS WAIVED:** Grants to the administrator(s) the specific power to serve without making and filing inventory, and without filing any annual or other returns or reports to any court.
- _____ (c) **BOND WAIVED:** Waives the specific requirement to post bond.
- _____ (d) **STATEMENTS WAIVED:** Grants to the administrator(s) the specific power to serve without furnishing to the heirs statements of receipts and disbursements.

IN TESTIMONY WHEREOF, I have hereunto affixed my signature as judge of the probate court of said county and the seal of this office this ____ day of _____, 20__.

Judge of the Probate Court

The following must be signed if the judge does not sign the original of this document:

Issued by:

[Seal]

Clerk of the Probate Court

**IN THE PROBATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

IN RE: ESTATE OF

**JOHANA ANTUANETH LOPEZ,
DECEASED**

)
)
)
)

ESTATE NO. _____

LETTERS OF ADMINISTRATION

[Bond, inventory and returns required]

At a regular term of probate court, this Court granted an order allowing Michael Andre Salinas to qualify as administrator(s) of the above-named decedent, who was domiciled in this county at the time of his or her death or was domiciled in another state but owned property in this county at the time of his or her death, and that upon so doing, letters of administration be issued to such personal representative(s).

THEREFORE, the said administrator(s), having taken the oath of office and complied with all necessary prerequisites of the law, is/are legally authorized to discharge all the duties and exercise all powers of personal representative(s), according to Georgia law.

IN TESTIMONY WHEREOF, I have hereunto affixed my signature as judge of the probate court of said county and the seal of this office this ____ day of _____, 20__.

Judge of the Probate Court

*The following must be signed if the judge
does not sign the original of this document:*

Issued by:

[Seal]

Clerk of the Probate Court

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION

OLIVER JORDAN,

Plaintiff,

v.

EVANS DELIVERY COMPANY,
INC.,
ENC HOLDING CORPORATION,
and ACE AMERICAN
INSURANCE COMPANY,

Defendants.

CIVIL ACTION FILE

NO. 3:20-cv-60-TCB

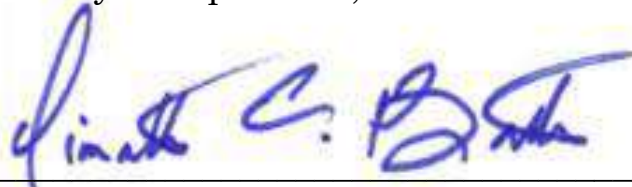
ORDER

This case comes before the Court on the motion [37] to stay, or in the alternative, motion to limit the scope of discovery filed by Defendants Evans Delivery Company, Inc., ENC Holding Corporation, and ACE American Insurance Company.

Based on the representations made to the Court by counsel for Plaintiff Oliver Jordan regarding the anticipated appointment of his

sole heir as representative of the estate, the Court denies Defendants' motion [37] to stay. All discovery matters in this case, including Mr. Reed's deposition on Wednesday, September 30, 2020, shall proceed.

IT IS SO ORDERED this 28th day of September, 2020.

A handwritten signature in blue ink, appearing to read "Timothy C. Batten, Sr.", written over a horizontal line.

Timothy C. Batten, Sr.
United States District Judge