

IN THE INDIANA COURT OF APPEALS

CAUSE NO. _____

CITY OF KOKOMO, INDIANA,	)	
	)	
Appellant (Plaintiff below),	)	Appeal from the Howard Superior Court, No. 2
	)	
v.	)	Trial Court Case No.:34D02-1612-PL000937
	)	
ESTATE OF AUDRA NEWTON,	)	The Honorable Brant J. Parry, Judge.
	)	
Appellee (Defendant below).	)	

**NOTICE OF APPEAL
(Appearance)**

Party Information

Name: City of Kokomo, Indiana
Address: 100 South Union Street
Kokomo, Indiana 46901

The following party information *only if not represented by an attorney*:

Tel. No.: _____ Fax No.: _____

E-Mail: _____

Requesting service of orders and opinions of the Court by:

☐ E-mail ☐ FAX or ☐ U.S. Mail (choose one)

In forma pauperis: ☐ Yes ☐ No

Attorney(s) representing party filing Notice of Appeal, if any:

Name: Blake J. Burgan
Attorney # 18350-49
Address: Taft Stettinius & Hollister LLP, One Indiana Square, Suite 3500
Indianapolis, Indiana 46204
Tel. No.: (317) 713-3500 Fax No.: (317) 713-3699
E-Mail: bburgan@taftlaw.com

Name: Chou-il Lee
Attorney # 21183-53
Address: Taft Stettinius & Hollister LLP, One Indiana Square, Suite 3500
Indianapolis, Indiana 46204
Tel. No.: (317) 713-3500 Fax No.: (317) 713-3699
E-Mail: clee@taftlaw.com

Name: Manuel Herceg
Attorney # 29956-06
Address: Taft Stettinius & Hollister LLP, One Indiana Square, Suite 3500
Indianapolis, Indiana 46204
Tel. No.: (317) 713-3500 Fax No.: (317) 713-3699
E-Mail: mherceg@taftlaw.com

Name: Steven C. Shockley
Attorney # 2179-49
Address: Taft Stettinius & Hollister LLP, One Indiana Square, Suite 3500
Indianapolis, Indiana 46204
Tel. No.: (317) 713-3500 Fax No.: (317) 713-3699
E-Mail: sshockley@taftlaw.com

IMPORTANT: Each attorney specified above:

- (a) certifies that the contact information listed for him/her on the Indiana Supreme Court Roll of Attorneys is current and accurate as of the date this Notice of Appeal is filed;
- (b) acknowledges that all orders, opinions, and notices in this matter will be sent to the attorney at the email address(es) specified by the attorney on the Roll of Attorneys regardless of the contact information listed above for the attorney; and
- (c) understands that he/she is solely responsible for keeping his/her Roll of Attorneys contact information accurate, see Ind. Admis. Disc. R. 2(A).

Attorneys can review and update their Roll of Attorneys contact information on the Indiana Courts Portal

INFORMATION FOR JUDGMENT/ORDER BEING APPEALED

Date of Judgment/Order being appealed: **March 15, 2019**

Title of Judgment/Order being appealed: **Judgment** (final judgment entered on jury verdict)

Date Motion to Correct Error denied ☒ or deemed denied ☐, if applicable: **May 21, 2019**

If case was heard by a magistrate, date trial judge approved judgment or order: _____

Basis for Appellate Jurisdiction:

- ☒ Appeal from a Final Judgment, as defined by Appellate Rule 2(H) and 9(I)
- ☐ Appeal from an interlocutory order, taken as of right pursuant to Appellate Rule 14(A) or 14(D)
- ☐ Appeal from an interlocutory order, accepted by discretion pursuant to Appellate Rule 14(B)(3) or 14(C)(5)
- ☐ Expedited Appeal, taken pursuant to Appellate Rule 14.1

This appeal will be taken to:

- ☒ Court of Appeals of Indiana, pursuant to Appellate Rule 5
- ☐ Indiana Supreme Court, pursuant to Appellate Rule 4
 - ☐ This is an appeal in which a sentence of death or life imprisonment without parole is imposed under Ind. Code § 35-50-2-9 or a post conviction relief case in which the sentence was death
 - ☐ This is an interlocutory appeal authorized under Rule 14 involving the death penalty or a life without parole case raising a question of interpretation of Ind. Code § 35-50-2-9
 - ☐ This is an appeal from an order declaring a statute unconstitutional
 - ☐ This is an appeal involving a waiver of parental consent to abortion under Rule 62
 - ☐ This is an appeal involving mandate of funds

Trial Court Clerk/Administrative Agency/Court Reporter Instructions

Pursuant to Appellate Rule 10 or 14.1(C), the clerk of the Howard Superior Court, No. 2, is requested to assemble the Clerk's Record, as defined in Appellate Rule 2(E).

Pursuant to Appellate Rule 11 or 14.1(C), the Court Reporter of the Howard Superior Court, No. 2, is requested to transcribe, certify, and file with the clerk of the Howard Superior Court, No. 2, the following hearings of record, including exhibits: **The transcript of the jury trial and all proceedings of record held on March 13–15, 2019, in the above captioned cause, including all exhibits offered or admitted.**

Public Access

Was the entire trial court or agency record sealed or excluded from public access?

☐ Yes ☒ No

Was a portion of the trial court or agency record sealed or excluded from public access?

☐ Yes ☒ No

If yes, which provision in Administrative Rule 9(G) provides the basis for this exclusion:

If Administrative Rule 9(G)(4) provides the basis for this exclusion, was the trial court or agency order issued in accordance with the requirements of Administrative Rule 9(G)(4)(a-d)?

☐ Yes ☐ No

Appellate Alternative Dispute Resolution

If civil case, is Appellant willing to participate in Appellate Dispute Resolution?

☐ Yes ☒ No

If yes, provide a brief statement of the facts of the case. (Attach additional pages as needed.)

Attachments

The following SHALL be attached to this Notice of Appeal (in all appeals):

☒ Copy of judgment or order being appealed (Judgment and jury verdict attached)

The following SHALL be attached to this Notice of Appeal if applicable (check if applicable):

☐ Copy of the trial court or Administrative Agency's findings and conclusion (in civil cases)

☐ Copy of the sentencing order (in criminal cases)

☒ Order denying Motion to Correct Error or, if deemed denied, copy of Motion to Correct Error

☐ Copy of all orders and entries relating to the trial court or agency's decision to seal or exclude information from public access

☐ If proceeding pursuant to Appellate Rule 14(B)(3), copy of Order from Court of Appeals accepting jurisdiction over interlocutory appeal

☐ The documents required by Rule 40(C), if proceeding *in forma pauperis*

Certification

By signing below, I certify that:

- (1) This case ☐ does ☒ does not involve an interlocutory appeal; issues of child custody, support, visitation, adoption, paternity, determination that a child is in need of services, termination of parental rights; or an appeal entitled to priority by rule or statute.
- (2) I have reviewed and complied, and will continue to comply, with the requirements of Appellate Rule 9(J), 23(F), and Administrative Rule 9(G) on appeal; and,
- (3) I will make satisfactory payment arrangements for any Transcripts ordered in this Notice of Appeal, as required by Appellate Rule 9(H).

Respectfully submitted,

/s/ Blake J. Burgan

Attorney No. 18350-49
Taft Stettinius & Hollister LLP,
One Indiana Square, Suite 3500
Indianapolis, Indiana 46204
(317) 713-3500

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 10th day of June, 2019, I electronically filed the foregoing Notice of Appeal with the Clerk of the Indiana Supreme Court, Court of Appeals, and Tax Court using the Indiana E-File System.

I also certify that on this 10th day of June, 2019, the foregoing Notice of Appeal was served upon the following by the means specified below:

By First Class, United States mail, postage prepaid, upon

Brian J. Zaiger
William J. Barkhimer
Krieg DeVault, LLP
12800 N. Meridian Street
Suite 300
Carmel, Indiana, 46032

Katherine J. Noel
101 N. Washington Street
P.O. Box 826
Kokomo, Indiana 46901

By First Class, Certified Mail, Return Receipt Requested, upon the following:

The Honorable Brant J. Parry, Judge
Howard Superior Court, No. 2
104 N. Buckeye Street, Room 304
Kokomo, Indiana 46901

Debbie Stewart, Clerk
Howard County Superior Court, No. 2
104 N. Buckeye Street, Room 114
Kokomo, Indiana 46901

By First Class, Certified Mail, Return Receipt Requested, and by electronic transmission (email), upon the following:

Debbie Booth, Court Reporter
Howard Superior Court, No. 2
104 N. Buckeye Street, Room 304
Kokomo, Indiana 46901
debbie.booth@howardcountyin.gov

/s/ Blake J. Burgan
Blake J. Burgan

STATE OF INDIANA

IN THE HOWARD SUPERIOR
COURT II

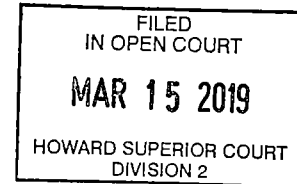
COUNTY OF HOWARD

CAUSE NO.: 4D02-1612-PL-000937

CITY OF KOKOMO, INDIANA,
PLAINTIFF

V.

ESTATE OF AUDRA R. NEWTON,
DEFENDANT

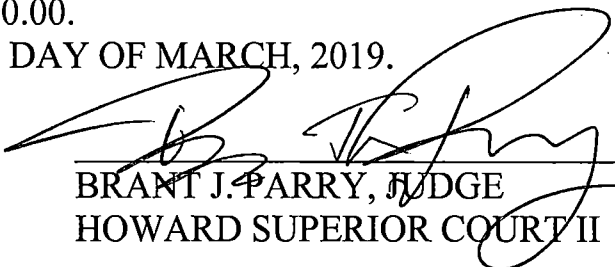


JUDGMENT

The Jury having returned the verdict in this cause, the Court now enters JUDGMENT in favor of the Defendant, Estate of Audra R. Newton, and against the Plaintiff, City of Kokomo, Indiana, in the sum of \$305,600.00 with interest accruing at the rate of 8% per annum from the date the City of Kokomo, Indiana took possession of the property on August 8, 2017.

Court now awards the Defendant, Estate of Audra R. Newton, litigation expenses in the amount of \$25,000.00.

SO ORDERED THIS 15TH DAY OF MARCH, 2019.



BRANT J. PARRY, JUDGE
HOWARD SUPERIOR COURT II

Distribution:

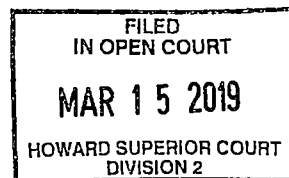
Brian J. Zaiger, Esq.
William J. Barkimer, Esq.
Katherine J. Noel, Esq.

STATE OF INDIANA) IN THE HOWARD SUPERIOR COURT II
) SS:
COUNTY OF HOWARD) CAUSE NO.: 34D02-1612-PL-00937

CITY OF KOKOMO

V.

THE ESTATE OF AUDRA R. NEWTON



VERDICT

We, the Jury, decide that the Defendant property owner's
damages are \$ 305,600.

03/15/2019

Date

T. Dan h. Lee

Presiding Juror

STATE OF INDIANA)
)SS:
COUNTY OF HOWARD)

IN THE HOWARD SUPERIOR COURT II
CAUSE NO.: 34D02-1612-PL-00937

CITY OF KOKOMO,
Plaintiff

v.

ESTATE OF AUDRA NEWTON
Defendants

FILED
May 21, 2019
BR

ORDER ON MOTIONS TO CORRECT ERROR

Comes now the Plaintiff, the City of Kokomo, by counsel, and files their Motion to Correct Error. The Defendant, the Estate of Audra Newton, by counsel, files their Response and their own Motion to Correct Error. The Court having reviewed said Motions and Response, and being duly advised, now Orders as follows:

1. The Plaintiff, the City of Kokomo's, Motion to Correct Error is DENIED.
2. The Defendant, The Estate of Audra Newton's, Motion to Correct Error is also DENIED.

ALL OF WHICH IS ORDERED THIS 21st DAY OF MAY, 2019.



BRANT J. PARRY
JUDGE, HOWARD SUPERIOR COURT II

Distribution:

Katherine Noel

Blake Burgan

Huber, Teresa

From: efil@mail@tylerhost.net
Sent: Monday, June 10, 2019 3:32 PM
To: Huber, Teresa
Subject: Filing Submitted for Case: 8330178; ; Envelope Number: 8330178

Notice of Electronic Filing



Envelope Number: 8330178
Case Number: 8330178
Case Style:

The filing below has been submitted to the clerk's office for review. Please allow 24 - 48 hours for clerk office processing.

Filing Details	
Court	Appellate Courts
Date/Time Submitted	6/10/2019 3:31 PM EST
Filing Type	Notice of Appeal
Filing Description	Notice of Appeal
Type of Filing	EFileAndServe
Filed By	Teresa Huber
Filing Attorney	Blake Burgan

Fee Details	
Your account is never charged until your filing is accepted. If you see any pending charges on your account prior to acceptance, this is an authorization hold to ensure the funds are available so your filing can be accepted without delay.	
If the filing is canceled or rejected these funds will be released and will return to your account according to your financial institution's policies (typically 3-10 business days).	
This envelope is pending review and fees may change.	
Case Fee Information	\$8.12
Payment Service Fees	\$8.12
Notice of Appeal	\$250.00
Court Fees	\$250.00
Total: \$258.12 (The envelope still has pending filings and the fees are subject to change)	

Document Details

Lead Document	2019-06-10 - Notice of Appeal.pdf
Lead Document Page Count	7
File Copy	Download Document
This link is active for 45 days.	

For technical assistance, contact your service provider

Service Provider: Tyler Technologies Odyssey File and Serve [Need Help?](#)
Email: efiling.support@tylertech.com

Please do not reply to this email. It was automatically generated.