

Article 7.Part 3. Representation	Article 7.Part 3.
<p>GENERAL COMMENT</p> <p>This article deals with representation of beneficiaries, both representation by fiduciaries (personal representatives, trustees, guardians, and conservators), and what is known as virtual representation. Representation is a topic not adequately addressed under the trust law of most States. Representation is addressed in the Restatement (First) of Property Sections 180-186 (1936), but the coverage of this article is more complete.</p> <p>Section 301 is the introductory section, laying out the scope of the article. The representation principles of this article have numerous applications under this Code. The representation principles of the article apply for purposes of settlement of disputes, whether by a court or nonjudicially. They apply for the giving of required notices. They apply for the giving of consents to certain actions.</p> <p>Sections 302-305 cover the different types of representation. Section 302 deals with representation by the holder of a general testamentary power of appointment. (Revocable trusts and presently exercisable general powers of appointment are covered by Section 603, which grant the settlor or holder of the power all rights of the beneficiaries or persons whose interests are subject to the power). Section 303 deals with representation by a fiduciary, whether of an estate, trust, conservatorship, or guardianship. The section also allows a parent without a conflict of interest to represent and bind a minor or unborn child. Section 304 is the virtual representation provision. It provides for representation of and the giving of a binding consent by another</p>	<p>GENERAL COMMENT</p> <p>This article deals with representation of beneficiaries, both representation by fiduciaries (personal representatives, trustees, guardians, and conservators), and what is known as virtual representation.</p> <p>There is significant overlap between Part 3 of the South Carolina Trust Code covering judicial proceedings and South Carolina Probate Code provisions concerning representation of others. To promote consistency and familiarity with existing South Carolina law and practice, the relevant South Carolina Probate Code language has been maintained whenever possible under this part of the South Carolina Trust Code.</p> <p>Section 62-7-301 is the introductory section, laying out the scope of the article. The representation principles of this article have numerous applications under this Code. The representation principles of the article apply for purposes of settlement of disputes, whether by a court or nonjudicially. They apply for the giving of required notices. They apply for the giving of consents to certain actions.</p> <p>Sections 62-7-302 through 305 cover the different types of representation. Section 62-7-302 deals with representation by the holder of a general testamentary power of appointment. Section 62-7-303 deals with representation by a fiduciary, whether of an estate, trust, conservatorship, or guardianship. The section also allows a parent without a conflict of interest to represent and bind a minor or unborn issue. Section 62-7-304 is the virtual representation provision. It provides for representation of and the giving of a</p>

person having a substantially identical interest with respect to the particular issue. Section 305 authorizes the court to appoint a representative to represent the interests of unrepresented persons or persons for whom the court concludes the other available representation might be inadequate.

The provisions of this article are subject to modification in the terms of the trust. See Section 105. Settlers are free to specify their own methods for providing substituted notice and obtaining substituted consent.

#### **SOUTH CAROLINA COMMENT**

There is significant overlap between Part 3 of the Uniform Trust Code covering judicial proceedings and South Carolina Probate Code provisions concerning representation of others. To promote consistency and familiarity with existing South Carolina law and practice, the relevant South Carolina Probate Code language has been maintained whenever possible under this part of the South Carolina Trust Code.

**SECTION 62-7-301.** When parties bound by others.

(a) For purposes of this part, “beneficiary representative” refers to a person who may represent and bind another person concerning the affairs of trusts.

(b) Notice to a beneficiary representative has the same effect as if notice were given directly to the represented person. Notice of a hearing on any petition in a judicial proceeding must be given pursuant to Section 62-7-109(d).

(c) The consent of a beneficiary representative is binding on the person represented unless the person represented objects to the representation

binding consent by another person having a substantially identical interest with respect to the particular issue. Section 62-7-305 authorizes the court to appoint a representative to represent the interests of unrepresented persons or persons for whom the court concludes the other available representation might be inadequate.

The provisions of this article are subject to modification in the terms of the trust. Settlers are free to specify their own methods for providing substituted notice and obtaining substituted consent.

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(b) Notice to a beneficiary representative has the same effect as if notice were given directly to the represented person. Notice of a hearing on any petition in a judicial proceeding must be given pursuant to Section 62-7-109(d).

(c) The consent of a beneficiary representative is binding on the person represented unless the person represented objects to the representation before the consent

before the consent would otherwise have become effective.

(d) Except as otherwise provided in Sections 62-7-411 and 62-7-602, a person who under this part may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

(e) In judicial proceedings, orders binding a beneficiary representative under this part bind the person(s) represented by that beneficiary representative.

#### COMMENT

This section is general and introductory, laying out the scope of the article.

Subsection (a) validates substitute notice to a person who may represent and bind another person as provided in the succeeding sections of this article. Notice to the substitute has the same effect as if given directly to the other person. Subsection (a) does not apply to notice of a judicial proceeding. Pursuant to Section 109(d), notice of a judicial proceeding must be given as provided in the applicable rules of civil procedure, which may require that notice not only be given to the representative but also to the person represented. For a model statute for the giving of notice in such cases, see Unif. Probate Code Section 1-403(3). Subsection (a) may be used to facilitate the giving of notice to the qualified beneficiaries of a proposed transfer of principal place of administration (Section 108(d)), of a proposed trust combination or division (Section 417), of a temporary assumption of duties without accepting trusteeship (Section 701(c)(1)), of a trustee's resignation (Section 705(a)(1)), and of a trustee's report (Section 813(c)).

Subsection (b) deals with the effect of a

would otherwise have become effective.

(d) Except as otherwise provided in Sections 62-7-411 and 62-7-602, a person who under this part may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

(e) In judicial proceedings, orders binding a beneficiary representative under this part bind the person(s) represented by that beneficiary representative.

#### REPORTER'S COMMENT

This section applies to both judicial and nonjudicial matters involving trusts. Nonjudicial matters may include, for example, the transfer of a trust's principal place of business, a proposed trust combination or division, a trustee's resignation, appointment of a successor trustee by consent, a trustee's resignation, and the consent to, release of, or affirmance of a trustee's actions. See SCTC Section 62-7-111.

Subsection (a) defines the terms "beneficiary representative" for purposes of this part in an effort to avoid confusion between the SCTC term "representative" and the familiar term "personal representative" under the South Carolina Probate Code.

Subsection (b) of South Carolina Trust Code Section 62-7-301 confirms that notice of a hearing on a petition in a judicial proceeding must be given in the manner prescribed under SCTC Section 62-7-109(d). However, this section does not expressly address the manner of commencing a judicial proceeding.

Subsection (c) deals with the effect of a consent, whether by actual or virtual representation. Subsection (c) may be used to facilitate consent of the beneficiaries to

consent, whether by actual or virtual representation. Subsection (b) may be used to facilitate consent of the beneficiaries to modification or termination of a trust, with or without the consent of the settlor (Section 411), agreement of the qualified beneficiaries on appointment of a successor trustee of a noncharitable trust (Section 704(c)(2)), and a beneficiary's consent to or release or affirmance of the actions of a trustee (Section 1009). A consent by a representative bars a later objection by the person represented, but a consent is not binding if the person represented raises an objection prior to the date the consent would otherwise become effective. The possibility that a beneficiary might object to a consent given on the beneficiary's behalf will not be germane in many cases because the person represented will be unborn or unascertained. However, the representation principles of this article will sometimes apply to adult and competent beneficiaries. For example, while the trustee of a revocable trust entitled to a pourover devise has authority under Section 303 to approve the personal representative's account on behalf of the trust beneficiaries, such consent would not be binding on a trust beneficiary who registers an objection. Subsection (b) implements cases such as *Barber v. Barber*, 837 P.2d 714 (Alaska 1992), which held that the a refusal to allow an objection by an adult competent remainder beneficiary violated due process. Subsection (c) implements the policy of Sections 411 and 602 requiring express authority in the power of attorney or approval of court before the settlor's agent, conservator or guardian may consent on behalf of the settlor to the termination or revocation of the

modification or termination of a trust, with or without the consent of the settlor (Section 62-7-411), agreement of the qualified beneficiaries on appointment of a successor trustee of a noncharitable trust (Section 62-7-704(c)(2)), and a beneficiary's consent to or release or affirmance of the actions of a trustee (Section 62-7-1009). A consent by a beneficiary representative bars a later objection by the person represented, but a consent is not binding if the person represented raises an objection prior to the date the consent would otherwise become effective. The possibility that a beneficiary might object to a consent given on the beneficiary's behalf will not be germane in many cases because the person represented will be unborn or unascertained. However, the representation principles of this article will sometimes apply to adult and competent beneficiaries.

Subsection (d) addressing a person who may represent an incapacitated settlor specifically references the possibility of additional requirements imposed under Section 62-7-411 regarding modification or termination of noncharitable irrevocable trusts by consent and Section 62-7-602 addressing revocation or amendment of revocable trusts.

Subsection (e) confirms that orders in a judicial proceeding binding a beneficiary representative bind the person(s) represented by that beneficiary representative.

settlor's revocable trust.

#### SOUTH CAROLINA COMMENT

This section applies to both judicial and nonjudicial matters involving trusts. Nonjudicial matters may include, for example, the transfer of a trust's principal place of business, a proposed trust combination or division, a trustee's resignation, appointment of a successor trustee by consent, a trustee's resignation, and the consent to, release of, or affirmance of a trustee's actions. See SCTC Section 62-7-111.

The application of this section to judicial proceedings is currently provided for in South Carolina Probate Code Section 62-1-401. Subsection (b) of South Carolina Trust Code Section 62-7-301 confirms that notice of a hearing on a petition in a judicial proceeding must be given in the manner prescribed under SCTC Section 62-7-109(d). However, this section does not expressly address the manner of commencing a judicial proceeding.

Subsection (a) defines the term "beneficiary representative" for purposes of this part in an effort to avoid confusion between the Uniform Trust Code term "representative" and the familiar term "personal representative" under the South Carolina Probate Code.

Subsection (d) addressing a person who may represent an incapacitated settlor specifically references the possibility of additional requirements imposed under Section 62-7-411 regarding modification or termination of noncharitable irrevocable trusts by consent and Section 62-7-602 addressing revocation or amendment of revocable trusts.

Subsection (e) confirms that orders in a judicial proceeding binding a beneficiary representative

bind the person(s) represented by that beneficiary representative.

Because SCTC Section 62-7-301 differs significantly from the corresponding UTC section, the UTC Comment should be adjusted accordingly.

**SECTION 62-7-302.** Representation by holder of general testamentary power of appointment.

To the extent there is no conflict of interest between the holder of a presently exercisable general power of appointment and the persons represented with respect to the particular question or dispute, the holder may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power. The term “presently exercisable general power of appointment” includes a testamentary general power of appointment having no conditions precedent to its exercise other than the death of the holder, the validity of the holder’s last Will and Testament, and the inclusion of a provision in the Will sufficient to exercise this power.

**COMMENT**

This section specifies the circumstances under which a holder of a general testamentary power of appointment may receive notices on behalf of and otherwise represent and bind persons whose interests are subject to the power, whether as permissible appointees, takers in default, or otherwise. Such representation is allowed except to the extent there is a conflict of interest with respect to the particular matter or dispute. Typically, the holder of a general

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**REPORTER’S COMMENT**

This section tracks the language of current South Carolina Probate Code Section 62-1-108 which defines the term “presently exercisable general power of appointment.” This section does not extend the substitute representation under this section to limited or nongeneral powers of appointment (which are also not covered under South Carolina Probate Code Section 62-1-108).

It specifies the circumstances under which a

testamentary power of appointment is also a life income beneficiary of the trust, oftentimes of a trust intended to qualify for the federal estate tax marital deduction. See I.R.C. Section 2056(b)(5). Without the exception for conflict of interest, the holder of the power could act in a way that could enhance the holder's income interests to the detriment of the appointees or takers in default, whoever they may be.

**SOUTH CAROLINA COMMENT**

This section tracks the language of current South Carolina Probate Code Section 62-1-108 which defines the term "presently exercisable general power of appointment." This section does not extend the substitute representation under this section to limited or nongeneral powers of appointment (which are also not covered under South Carolina Probate Code Section 62-1-108).

**SECTION 62-7-303.** Representation by fiduciaries and parents.

(a) To the extent there is no conflict of interest between the following beneficiary representatives and the person represented or among those being represented with respect to a particular question or dispute:

(1) a conservator may represent and bind the estate that the conservator controls to the extent of the powers and authority conferred upon conservators generally or by court order;

(2) a guardian may represent and bind the ward if a conservator of the ward's estate has not been appointed to the extent of the powers and authority conferred upon guardians generally or by court order;

holder of a general testamentary power of appointment may receive notices on behalf of and otherwise represent and bind persons whose interests are subject to the power, whether as permissible appointees, takers in default, or otherwise. Such representation is allowed except to the extent there is a conflict of interest with respect to the particular matter or dispute. Typically, the holder of a general testamentary power of appointment is also a life income beneficiary of the trust, oftentimes of a trust intended to qualify for the federal estate tax marital deduction. See I.R.C. Section 2056(b)(5). Without the exception for conflict of interest, the holder of the power could act in a way that could enhance the holder's income interests to the detriment of the appointees or takers in default, whomever they may be.

**SECTION 62-7-303.**

(a) To the extent there is no conflict of interest between the following beneficiary representatives and the person represented or among those being represented with respect to a particular question or dispute:

(1) a conservator may represent and bind the estate that the conservator controls to the extent of the powers and authority conferred upon conservators generally or by court order;

(2) a guardian may represent and bind the ward if a conservator of the ward's estate has not been appointed to the extent of the powers and authority conferred upon guardians generally or by court order;

(3) an agent may represent and bind the

(3) an agent may represent and bind the principal to the extent the agent has authority to act with respect to the particular question or dispute;

(4) a trustee may represent and bind the beneficiaries of the trust with respect to questions or disputes involving the trust;

(5) a personal representative of a decedent's estate may represent and bind persons interested in the estate with respect to questions or disputes involving the decedent's estate; and,

(6) a person may represent and bind the person's minor or unborn issue if a conservator or guardian for the issue has not been appointed.

(b) The order in which the beneficiary representatives are listed above sets forth the priority each such beneficiary representative has relative to the others. In any judicial proceeding or upon petition to the court, the court for good cause may appoint a beneficiary representative having lower priority or a person having no priority.

#### COMMENT

This section allows for representation of persons by their fiduciaries (conservators, guardians, agents, trustees, and personal representatives), a principle that has long been part of the law. Paragraph (6), which allows parents to represent their children, is more recent, having originated in 1969 upon approval of the Uniform Probate Code. This section is not limited to representation of beneficiaries. It also applies to representation of the settlor. Representation is not available if the fiduciary or parent is in a conflict position with respect to the particular matter or dispute,

principal to the extent the agent has authority to act with respect to the particular question or dispute;

(4) a trustee may represent and bind the beneficiaries of the trust with respect to questions or disputes involving the trust;

(5) a personal representative of a decedent's estate may represent and bind persons interested in the estate with respect to questions or disputes involving the decedent's estate; and,

(6) a person may represent and bind the person's minor or unborn issue if a conservator or guardian for the issue has not been appointed.

(b) The order in which the beneficiary representatives are listed above sets forth the priority each such beneficiary representative has relative to the others. In any judicial proceeding or upon petition to the court, the court for good cause may appoint a beneficiary representative having lower priority or a person having no priority.

#### REPORTER'S COMMENT

This section allows for representation of persons by their fiduciaries (conservators, guardians, agents, trustees, and personal representatives). Representation is not available if the fiduciary or parent is in a conflict position with respect to the particular matter or dispute, however. A typical conflict would be where the fiduciary or parent seeking to represent the beneficiary is either the trustee or holds an adverse beneficial interest.

South Carolina Probate Code Section 62-1-403 is the counterpart to South Carolina Trust Code Section 62-7-303. The SCTC, however, adds representation by an agent on



however. A typical conflict would be where the fiduciary or parent seeking to represent the beneficiary is either the trustee or holds an adverse beneficial interest.

Paragraph (2) authorizes a guardian to bind and represent a ward if a conservator of the ward's estate has not been appointed. Granting a guardian authority to represent the ward with respect to interests in the trust can avoid the need to seek appointment of a conservator. This grant of authority to act with respect to the ward's trust interest may broaden the authority of a guardian in some States although not in States that have adopted the Section 1-403 of the Uniform Probate Code, from which this section was derived. Under the Uniform Trust Code, a "conservator" is appointed by the court to manage the ward's property, a "guardian" to make decisions with respect to the ward's personal affairs. See Section 103.

Paragraph (3) authorizes an agent to represent a principal only to the extent the agent has authority to act with respect to the particular question or dispute. Pursuant to Sections 411 and 602, an agent may represent a settlor with respect to the amendment, revocation or termination of the trust only to the extent this authority is expressly granted either in the trust or the power. Otherwise, depending on the particular question or dispute, a general grant of authority in the power may be sufficient to confer the necessary authority.

#### SOUTH CAROLINA COMMENT

South Carolina Probate Code Section 62-1-403 is the counterpart to South Carolina Trust Code Section 62-7-303. The SCTC, however, adds representation by an agent on behalf of the principal under Subsection (a)(3).

behalf of the principal under Subsection (a)(3).

The authority of a conservator or guardian under this section is subject to the authority conferred upon conservators and guardians generally under provisions of the South Carolina Probate Code or by court order, it not being the intent herein to enlarge a conservator's or guardian's powers otherwise.

Subsection (a)(2) authorizes a guardian to bind and represent a ward if a conservator of the ward's estate has not been appointed. Granting a guardian authority to represent the ward with respect to interests in the trust can avoid the need to seek appointment of a conservator. Under the South Carolina Trust Code, a "conservator" is appointed by the court to manage the ward's property, a "guardian" to make decisions with respect to the ward's personal affairs. See Section 62-7-103.

Subsection (a)(3) authorizes an agent to represent a principal only to the extent the agent has authority to act with respect to the particular question or dispute. Pursuant to Sections 62-7-411 and 62-7-602, an agent may represent a settlor with respect to the amendment, revocation or termination of the trust only to the extent this authority is expressly granted either in the trust or the power. Otherwise, depending on the particular question or dispute, a general grant of authority in the power may be sufficient to confer the necessary authority.

Subsection (b) prioritizes the right to act as substitute representative where more than one such representation may apply.

The authority of a conservator or guardian under this section is subject to the authority conferred upon conservators and guardians generally under provisions of the South Carolina Probate Code or by court order, it not being the intent herein to enlarge a conservator's or guardian's powers otherwise. Subsection (b) prioritizes the right to act as substitute representative where more than one such representation may apply.

**SECTION 62-7-304.** Representation by person having substantially identical interest.

Unless otherwise represented, a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to the particular question or dispute, but only to the extent there is no conflict of interest between the beneficiary representative and the person represented and provided the interest of the person represented is adequately represented by the beneficiary representative.

**COMMENT**

This section authorizes a person with a substantially identical interest with respect to a particular question or dispute to represent and bind an otherwise unrepresented minor, incapacitated or unborn individual, or person whose location is unknown and not reasonably ascertainable. This section is derived from Section 1-403(2)(iii) of the Uniform Probate Code, but with several modifications. Unlike the UPC, this section does not expressly require that the representation be adequate, the

**SECTION 62-7-304.**

Unless otherwise represented, a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to the particular question or dispute, but only to the extent there is no conflict of interest between the beneficiary representative and the person represented and provided the interest of the person represented is adequately represented by the beneficiary representative.

**REPORTER'S COMMENT**

This section authorizes a person with a substantially identical interest with respect to a particular question or dispute to represent and bind an otherwise unrepresented minor, incapacitated or unborn individual, or person whose location is unknown and not reasonably ascertainable. This section extends the doctrine of virtual representation to representation of minors and incapacitated individuals. This section does not apply to the extent there is a conflict of interest between the beneficiary representative and the person

drafters preferring to leave this issue to the courts. Furthermore, this section extends the doctrine of virtual representation to representation of minors and incapacitated individuals. Finally, this section does not apply to the extent there is a conflict of interest between the representative and the person represented.

Restatement (First) of Property Sections 181 and 185 (1936) provide that virtual representation is inapplicable if the interest represented was not sufficiently protected. Representation is deemed sufficiently protective as long as it does not appear that the representative acted in hostility to the interest of the person represented. Restatement (First) of Property Section 185 (1936). Evidence of inactivity or lack of skill is material only to the extent it establishes such hostility. Restatement (First) of Property Section 185 cmt. b (1936).

Typically, the interests of the representative and the person represented will be identical. A common example would be a trust providing for distribution to the settlor's children as a class, with an adult child being able to represent the interests of children who are either minors or unborn. Exact identity of interests is not required, only substantial identity with respect to the particular question or dispute. Whether such identity is present may depend on the nature of the interest. For example, a presumptive remaindermen may be able to represent alternative remaindermen with respect to approval of a trustee's report but not with respect to interpretation of the remainder provision or termination of the trust. Even if the beneficial interests of the representative and person represented are

represented by the beneficiary representative, consistent with current South Carolina Probate Code Section 62-1-403(2)(iii).

Typically, the interests of the beneficiary representative and the person represented will be identical. A common example would be a trust providing for distribution to the settlor's children as a class, with an adult child being able to represent the interests of children who are either minors or unborn. Exact identity of interests is not required, only substantial identity with respect to the particular question or dispute. Whether such identity is present may depend on the nature of the interest. For example, a presumptive remaindermen may be able to represent alternative remaindermen with respect to approval of a trustee's report but not with respect to interpretation of the remainder provision or termination of the trust. Even if the beneficial interests of the beneficiary representative and person represented are identical, representation is not allowed in the event of conflict of interest. The beneficiary representative may have interests outside of the trust that are adverse to the interest of the person represented, such as a prior relationship with the trustee or other beneficiaries.

South Carolina Probate Code Section 62-1-403(2)(iii) is the current counterpart to this Section 62-7-304. However, the South Carolina Trust Code adds an incapacitated person to the list of those who may be represented by another person under this section.

identical, representation is not allowed in the event of conflict of interest. The representative may have interests outside of the trust that are adverse to the interest of the person represented, such as a prior relationship with the trustee or other beneficiaries. See Restatement (First) of Property Section 185 cmt. d (1936).

**SOUTH CAROLINA COMMENT**

South Carolina Probate Code Section 62-1-403(2)(iii) is the current counterpart to this Section 62-7-304. However, the South Carolina Trust Code adds an incapacitated person to the list of those who may be represented by another person under this section. Whereas the Uniform Trust Code conditions the application of this provision on there being no conflict of interest between the beneficiary representative and the person represented, South Carolina adds the additional condition that the interest of the person represented be adequately represented by the beneficiary representative, consistent with current South Carolina Probate Code Section 62-1-403(2)(iii).

**SECTION 62-7-305.** Appointment of representative.

At any point in a judicial proceeding, a court may appoint a guardian ad litem to represent the interest of a minor, an incapacitated, unborn, or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest otherwise would be inadequate. If not precluded by conflict of interests, a guardian ad litem may be appointed to represent several persons or interests. The court shall set out its reasons for appointing a guardian ad litem as a

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<p>part of the record of the proceeding.</p> <p><b>COMMENT</b></p> <p>This section is derived from Section 1-403(4) of the Uniform Probate Code. However, this section substitutes “representative” for “guardian ad litem” to signal that a representative under this Code serves a different role. Unlike a guardian ad litem, under this section a representative can be appointed to act with respect to a nonjudicial settlement or to receive a notice on a beneficiary’s behalf. Furthermore, in making decisions, a representative may consider general benefit accruing to living members of the family. “Representative” is placed in brackets in case the enacting jurisdiction prefers a different term. The court may appoint a representative to act for a person even if the person could be represented under another section of this article.</p> <p><b>SOUTH CAROLINA COMMENT</b></p> <p>Whereas the Uniform Trust Code encourages nonjudicial settlements and authorizes court appointment of a representative to act like a guardian ad litem but without ongoing court involvement, South Carolina expressly limits the scope of nonjudicial settlements to those matters specified in Section 62-7-111 and follows current practice for the appointment of guardians ad litem and ongoing court involvement pursuant to South Carolina Probate Code Section 62-1-403(4).</p>	<p>part of the record of the proceeding.</p> <p><b>REPORTER’S COMMENT</b></p> <p>Whereas the Uniform Trust Code encourages nonjudicial settlements and authorizes court appointment of a representative to act like a guardian ad litem but without ongoing court involvement, South Carolina expressly limits the scope of nonjudicial settlements to those matters specified in Section 62-7-111 and follows current practice for the appointment of guardians ad litem and ongoing court involvement pursuant to South Carolina Probate Code Section 62-1-403(4).</p>
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