Vermont Superior Court
Filed 05/11/26
Rutland Unit

VERMONT SUPERIOR COURT
Rutland Unit
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Rutland VT 05701
802-775-4394
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CIVIL DIVISION
Case No. 24-CV-05293

Vickie Wendell v. Harry Wagner

ENTRY REGARDING MOTION

Title: Motion to Amend Complaint (Motion: 7)
Filer: Sarah J. Sanchez
Filed Date: April 13, 2026

The motion is DENIED.

In this wrongful death action, Plaintiff Executrix of the Estate of Stanley M. Borucki moves to amend her complaint to include recovery of damages for herself personally and Skyler Borucki. The original complaint names Mr. Borucki's parents entitled to such damages as next of kin, as he died without a spouse or children.

Ms. Wendell has presented a policy argument in support of making damages under the Wrongful Death Act available to persons with a relationship to the Decedent like those of herself and Skyler. Ms. Wendell argues that she was a functional equivalent of a spouse to the decedent as she was financially and emotionally dependent on him and that Skyler, age 10 when Mr. Boruski died, knew him as a father figure, was also supported by him, and was in the process of being adopted by him. The record provided shows that during Decedent's life, Skyler's legal relationship was that of a foster child. The adoption petition was filed in the Probate Division months after Decedent's death.[1]

The Wrongful Death Act limits damages to specified classes of recipients in a priority order. 14 V.S.A. ¶ 1492(b). The Legislature has not seen fit to amend the Act to make benefits available to the class of persons for whom Plaintiff advocates. While it has done so in other areas of law, it has not done so with respect to wrongful death damages. The court's responsibility is to apply statutory law as established by the Legislature. Plaintiff seeks to amend the complaint to pursue a recovery not authorized by law. The motion to amend is therefore denied.

Electronically signed May 11, 2026 pursuant to V.R.E.F. 9 (d).

Mary Miles Teachout

[1] The Adoption Decree states that the petition for adoption was filed on February 5, 2024. Mr. Borucki died on October 28, 2023.

Mary Miles Teachout
Superior Judge (Ret.), Specially Assigned