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SUPREME COURT OF ALABAMA

SPECIAL TERM, 2013

1110931

Ex parte Tyson Foods, Inc., et al.

PETITION FOR WRIT OF MANDAMUS

(In re: Reba Kirkley, as administratrix of the estate of
Allen Hayes, deceased

v.

Tyson Foods, Inc., et al.)

(Blount Circuit Court, CV-2008-900082)

MOORE, Chief Justice.

APPLICATION OVERRULED. NO OPINION.

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Stuart, Bolin, Parker, Shaw, Main, Wise, and Bryan, JJ.,
concur.

Murdock, J., concurs specially.

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MURDOCK, Justice (concurring specially).

The application for rehearing is based on an argument that the issue presented in this case is one of standing. The rejection of that argument on original submission was a position with which I agreed and with which I continue to agree. I therefore must concur in overruling the application for rehearing.

That said, I believe a question exists as to whether the issue before us is properly considered to be a real-party-in-interest issue, as the main opinion suggests, entitling the plaintiff to the benefit of the relation-back principle embodied in Rule 15(a), Ala. R. Civ. P., or whether this is a case in which the only party with a cause of action under Alabama law simply missed her statute-of-limitations deadline for commencing an action. The application for rehearing, however, does not explore the circumstances that the real-party-in-interest concept was intended to address.