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ADVANCE SHEET HEADNOTE
June 29, 2026

2026 CO 55

No. 23SC932, *City of Grand Junction v. Nicola* – Survival Claim – Statute of Limitations – Person Under Disability – Legal Representative.

Section 13-81-103(1)(b), C.R.S. (2025) (“subsection (1)(b)”), provides that if a person dies while under disability and “before the expiration of the period of limitation in [section 13-81-103(1)(a) (“subsection (1)(a)”)],” then any survival claim must be brought within one year after the date of the person’s death. § 13-81-103(1)(b). The supreme court holds that subsection (1)(b) applies irrespective of whether a legal representative has been appointed for a person under disability.

If the person under disability had no legal representative appointed, then the phrase “the expiration of the period of limitation in [subsection (1)(a)]” simply refers to the applicable statute of limitations. *Id.* But if the person under disability had a legal representative appointed, then “the expiration of the period of limitation in [subsection (1)(a)]” refers to the expiration of the applicable statute of

limitations or two years after the appointment of the legal representative, whichever is later. *Id.*

The supreme court concludes that subsection (1)(b) applies to John Nicola's survival claims and renders them untimely. The supreme court also concludes that the City of Grand Junction and Public Service Company of Colorado, d/b/a Xcel Energy, are entitled to an award of reasonable attorney fees under section 13-17-201, C.R.S (2025). Accordingly, the supreme court reverses the judgment of the court of appeals and remands the case for further proceedings consistent with this opinion, including reinstatement of the district court's judgment dismissing Nicola's complaint and determination of appropriate attorney fees.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2026 CO 55

Supreme Court Case No. 23SC932
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 22CA656

Petitioners:

City of Grand Junction and Public Service Company of Colorado d/b/a Xcel
Energy,

v.

Respondent:

John Nicola, individually and as the Personal Representative of the Estate of
Danielle Nicola.

Judgment Reversed

en banc

June 29, 2026

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CHIEF JUSTICE MÁRQUEZ delivered the Opinion of the Court, in which **JUSTICE BOATRIGHT, JUSTICE HOOD, JUSTICE GABRIEL, JUSTICE SAMOUR, JUSTICE BERKENKOTTER,** and **JUSTICE BLANCO** joined.

CHIEF JUSTICE MÁRQUEZ delivered the Opinion of the Court.

¶1 Danielle Nicola was struck by a car while crossing a street after dark. She immediately lost consciousness and remained comatose until she passed away nineteen days later. No conservator or guardian was appointed for her before her death.

¶2 Nearly two years after Danielle’s death, her father, John Nicola,¹ sued the City of Grand Junction and Public Service Company of Colorado, d/b/a Xcel Energy, (“Defendants”) in this case, bringing survival claims for negligence and premises liability. Nicola alleged that Defendants failed to properly maintain the streetlights and signage at the intersection near where Danielle was struck.

¶3 Defendants moved to dismiss Nicola’s suit as untimely. As relevant here, Defendants argued that under section 13-81-103(1)(b), C.R.S. (2025) (“subsection (1)(b)”), Nicola had one year from the date of Danielle’s death to bring the survival claims. Subsection (1)(b) provides that if a person dies while under disability and “before the expiration of the period of limitation in [section 13-81-103(1)(a) (“subsection (1)(a)”),” then any survival claim must be brought within one year after the date of the person’s death. § 13-81-103(1)(b). The district court agreed with Defendants and granted their motions to dismiss.

¹ For clarity, we refer to John Nicola as “Nicola” and Danielle Nicola as “Danielle” in this opinion. We mean no disrespect to either person.

¶4 On appeal, a division of the court of appeals reversed, holding that “[subsection (1)(b)] applies only when a person under a disability (1) had a legal representative and (2) died after the expiration of the applicable statute of limitations but less than two years after the legal representative was appointed.” *Nicola v. City of Grand Junction*, 2023 COA 111, ¶ 40, 544 P.3d 120, 129. The division reasoned that a legal representative is required because subsection (1)(b) refers to “the period of limitation in [subsection (1)(a)],” and in turn, subsection (1)(a) applies when a legal representative has been appointed for the person under disability. *Id.* at ¶¶ 41–43, 544 P.3d at 129 (alteration in original) (quoting § 13-81-103(1)(b)). Because Danielle was not appointed a legal representative, the division concluded that the one-year statute of limitations under subsection (1)(b) did not apply to render Nicola’s claims time-barred. *Id.* at ¶ 59, 544 P.3d at 132–33. Instead, the division applied section 13-80-112, C.R.S. (2025), the general limitations provision applicable to survival actions. *Nicola*, ¶¶ 59–60, 544 P.3d at 132–33. The division reasoned that under this provision, Nicola’s claims were timely because, as Danielle’s personal representative, Nicola had the longer of either the applicable statute of limitations (running from the date her disability was removed by her death) or one year from the date of her death to bring the survival action. *Id.* at ¶ 60, 544 P.3d at 133.

¶5 We granted Defendants’ petitions for certiorari review and now reverse the judgment of the court of appeals.² We hold that subsection (1)(b) applies irrespective of whether a legal representative has been appointed for the person under disability. We conclude that the phrase “the expiration of the period of limitation in [subsection (1)(a)],” refers to the expiration of the applicable statute of limitations, or, if a legal representative was appointed, before the expiration of any additional time to which the legal representative would be entitled under subsection (1)(a) to bring the claim. § 13-81-103(1)(a)-(b); § 13-81-103(1)(c) (“subsection (1)(c)”).

¶6 Here, the parties do not dispute that Danielle was a person under disability when her claims accrued. She passed away without ever regaining full

² We granted certiorari to review the following issues:

1. Whether, in reversing dismissal of a survival claim based on the statute of limitations, the court of appeals erred in concluding that section 13-81-103(1)(b), C.R.S. (2023), applies only when a person under a disability (1) had a legal representative and (2) died after the expiration of the applicable statute of limitations but less than two years after the legal representative was appointed and thereby instead applying section 13-80-112, C.R.S. (2023).
2. Whether the court of appeals erred by concluding that the statute of limitations for a personal representative to file a survival action under section 13-80-112, C.R.S. (2023), is two years from the date of death rather than two years from the date of the incident as required under sections 13-20-101(2) and 13-80-108(1), C.R.S. (2023).

consciousness and thus died before her disability terminated. And her death occurred only nineteen days after she was struck by the car, well before the expiration of any applicable statute of limitations. Therefore, subsection (1)(b) applies, and Nicola had one year from the date of Danielle's death to bring the survival claims. Because Nicola brought the claims almost two years after Danielle's death, they are untimely and barred by subsection (1)(b).³

¶7 Accordingly, we reverse the judgment of the court of appeals. We remand the case for further proceedings consistent with this opinion, including reinstatement of the district court's judgment dismissing Nicola's complaint and determination of appropriate attorney fees under section 13-17-201, C.R.S (2025).

I. Facts and Procedural History

¶8 On the evening of November 23, 2018, Danielle was struck by a car as she was crossing a street in Grand Junction, Colorado. A law enforcement officer responding to the scene noticed and photographed a nonworking streetlamp at the intersection near the accident. Danielle was transported to a hospital with life-threatening injuries, including severe brain trauma. She never regained full consciousness, and on December 12, 2018, she died from her injuries. Five months

³ Because we conclude that the claim was untimely under subsection (1)(b), we do not reach the second issue presented.

later, Nicola sued the driver who hit Danielle, and those parties settled Nicola's wrongful death claims.

¶9 On December 11, 2020, Nicola filed a separate lawsuit against Defendants, asserting survival claims for negligence and premises liability.⁴ Nicola alleged that the streetlight had not been working at the intersection where Danielle was struck, and that Defendants had breached their duties of care by failing to maintain adequate street lighting and failing to warn of dangerous conditions on their property.

¶10 Defendants moved to dismiss the survival claims as time-barred, arguing that subsection (1)(b) requires an executor or administrator of a person who died while under disability to bring claims within one year. Here, Defendants argued, Nicola filed the claims almost two years after Danielle's death, which made them untimely. The district court agreed and granted Defendants' motions to dismiss.

¶11 Nicola appealed, arguing that he had the entire applicable statute of limitations period to file suit, not just one year. A division of the court of appeals

⁴ Nicola also asserted wrongful death claims for negligence and premises liability against Defendants. The district court dismissed those claims as barred by the "one civil action" rule because Nicola had previously brought—and, after reaching a settlement, voluntarily dismissed—wrongful death claims against the driver of the car. The division affirmed, *Nicola*, ¶¶ 12–26, 544 P.3d at 124–26, and we denied Nicola's cross-petition for certiorari review on this issue. Accordingly, the wrongful death claims are not before us.

agreed with Nicola and reversed the district court's judgment. *Nicola*, ¶¶ 51, 62, 544 P.3d at 131, 133.

¶12 After evaluating several interrelated provisions governing statutes of limitations, the division made the following observations.

- Section 13-81-103(1) (“subsection (1)”) “tolls” the statute of limitations for persons under disability and establishes the circumstances under which it begins running again. *Nicola*, ¶¶ 33–34, 544 P.3d at 127–28.
- Under subsection (1)(a), “[o]nce a legal representative is appointed, the statute of limitations begins to run as though the disability has been removed or terminated.” *Id.* at ¶ 35, 544 P.3d at 128.
- Subsection (1)(a) also “extends the period within which a legal representative can bring a claim on behalf of the person under a disability for an additional two years from the date of appointment.” *Id.*

¶13 The division then turned to subsection (1)(b) and concluded that it “applies only when a person under a disability (1) had a legal representative and (2) died after the expiration of the applicable statute of limitations but less than two years after the legal representative was appointed.” *Id.* at ¶ 40, 544 P.3d at 129.

¶14 The division arrived at this conclusion by first observing that subsection (1)(b) applies in situations where “the person under disability” dies before the expiration of “the period of limitation in [subsection (1)(a)].” *Id.* at ¶ 42, 544 P.3d at 129 (alteration in original) (emphasis omitted) (quoting § 13-81-103(1)(b)). Importantly, the division assumed that under subsection (1)(a), the applicable statute of limitations runs against a person under disability as it

would against anyone else *only if* a legal representative has been appointed. *Id.* at ¶ 40, 544 P.3d at 129. In other words, the division reasoned that if no legal representative has been appointed, then the applicable statute of limitations is tolled; there is no “period of limitation” in subsection (1)(a) that runs or expires. *Id.* at ¶ 43, 544 P.3d at 129. Thus, under the division’s view, subsection (1)(b) must be construed to apply only when a person has a legal representative.

¶15 Applying this construction of section 13-81-103, the division reasoned that because Danielle was never appointed a legal representative, subsection (1)(b) did not apply to Nicola’s survival claims, and he was not required to file them within one year of Danielle’s death. *Nicola*, ¶ 59, 544 P.3d at 132–33.

¶16 Next, because it concluded that none of the provisions of section 13-81-103 applied to Nicola’s claims, the division turned to section 13-80-112, the general limitations provision applicable to survival actions. *Nicola*, ¶ 59, 544 P.3d at 132–33. Under section 13-80-112, the division concluded that Nicola had the longer of the applicable statute of limitations (which the division concluded did not begin to run until Danielle’s disability was removed by her death), or one year from the date of Danielle’s death on December 12, 2018, to bring a survival action. *Nicola*, ¶ 60, 544 P.3d at 133. Although the parties disputed whether the applicable

statute of limitations is two or three years,⁵ because Nicola filed the claims less than two years after Danielle’s death, the division concluded that Nicola’s claims were timely regardless of which statute of limitations applied. *Id.* Thus, the division reversed the district court’s judgment dismissing Nicola’s survival claims and remanded the case to the district court for further proceedings. *Id.* at ¶ 62, 544 P.3d at 133.

¶17 We granted Defendants’ petitions for certiorari review and now reverse.

II. Standard of Review and Principles of Statutory Construction

¶18 We review questions of statutory construction de novo. *Colo. Dep’t of Revenue v. Creager Mercantile Co.*, 2017 CO 41M, ¶ 16, 395 P.3d 741, 744. In construing a statute, we aim to ascertain and give effect to the legislature’s intent. *Jordan v. Panorama Orthopedics & Spine Ctr., PC*, 2015 CO 24, ¶ 14, 346 P.3d 1035, 1039. To determine legislative intent, we look to the plain and ordinary meaning of the statutory language. *Id.* We do not add or subtract words from the statute, and we construe the absence of particular language as a deliberate omission

⁵ Defendants argued that the applicable statute of limitations was two years under section 13-80-102(1)(h), C.R.S. (2025) (applying to all actions against “any public or governmental entity”). *Nicola*, ¶ 60, 544 P.3d at 133. Nicola contended it was three years under section 13-80-101(1)(n)(I), C.R.S. (2025) (applying to tort actions for bodily injury “arising out of the use or operation of a motor vehicle”). *Nicola*, ¶ 60, 544 P.3d at 133.

reflecting legislative intent. *Jefferson Cnty. v. Dozier*, 2025 CO 36, ¶ 9, 570 P.3d 482, 486; *Pinnacol Assurance v. Hoff*, 2016 CO 53, ¶ 48, 375 P.3d 1214, 1223. At the same time, we read the statutory scheme as a whole—giving consistent, harmonious, and sensible effect to all its parts and avoiding constructions that would render any words or phrases superfluous or lead to illogical or absurd results. *Brown v. Walker Com., Inc.*, 2022 CO 57, ¶ 15, 521 P.3d 1014, 1018.

III. Analysis

¶19 As an initial matter, we note that article 80 of title 13 sets forth limitations periods for personal actions, and includes section 13-80-112, the provision generally applicable to survival actions. Article 81, in turn, governs limitations periods specifically for persons under disability, including section 13-81-103, the provision at issue here.

¶20 We first review the framework created by section 13-81-103, taking each subsection in turn. We next analyze whether subsection (1)(b) requires a legal representative to have been appointed for the person under disability, and we conclude that it does not. We then apply subsection (1)(b) to Nicola’s survival claims and conclude that they are untimely. Finally, we conclude that Defendants are entitled to attorney fees under section 13-17-201.

A. Section 13-81-103

¶21 Section 13-81-103 contains two overarching subsections. Subsection (1) makes clear that the statute applies to plaintiffs who are “under disability” at the time their cause of action accrues:

When in any of the statutes of the state of Colorado a limitation is fixed upon the time within which a right of action, right of redemption, or any other right may be asserted either affirmatively or by way of defense or an action, suit, or proceeding based thereon may be brought, commenced, maintained, or prosecuted and *the true owner of said right is a person under disability at the time such right accrues*, then: . . .

§ 13-81-103(1) (emphasis added).

¶22 Subsections (1)(a), (1)(b), and (1)(c) go on to identify specific circumstances that modify the statute of limitations on a right of action that has accrued to a person under disability.

¶23 Subsection (1)(a) applies if the person under disability is represented by a legal representative when the right accrues or if a legal representative is appointed after the right accrues and before the disability is terminated. § 13-81-103(1)(a). Under this provision, the legal representative must bring a claim within the applicable statute of limitations or within two years after their appointment, whichever is later:

If such person under disability is represented by a legal representative at the time the right accrues, or if a legal representative is appointed for such person under disability at any time after the right accrues and prior to the termination of such disability, the applicable statute

of limitations shall run against such person under disability in the same manner, for the same period, and with the same effect as it runs against persons not under disability. Such legal representative, or [their] successor in trust, in any event shall be allowed not less than two years after [their] appointment within which to take action on behalf of such person under disability, even though the two-year period expires after the expiration of the period fixed by the applicable statute of limitations.

Id.

¶24 In contrast, subsection (1)(c) applies only if a person under disability does *not* have a legal representative. § 13-81-103(1)(c). If the disability is terminated “before the expiration of the period of limitation in [subsection (1)(a)],” then the person formerly under disability must bring a claim within the remaining applicable statute of limitations or two years after the removal of their disability, whichever is later:

If the disability of any person is terminated before the expiration of the period of limitation in [subsection (1)(a)] and no legal representative has been appointed for him, such person shall be allowed to take action within the period fixed by the applicable statute of limitations or within two years after the removal of the disability, whichever period expires later.

Id.

¶25 Unlike subsections (1)(a) and (1)(c), subsection (1)(b) makes no mention of a legal representative. *See* § 13-81-103(1)(b). It simply provides that if a person under disability dies both before their disability is terminated and “before the

expiration of the period of limitation in [subsection (1)(a)],” then an executor or administrator must bring a claim within one year of the person’s death:

If the person under disability dies before the termination of [their] disability and before the expiration of the period of limitation in [subsection (1)(a)] and the right is one which survives to the executor or administrator of a decedent, such executor or administrator shall take action within one year after the death of such person under disability[.]

Id.

¶26 Finally, section 13-81-103(2) (“subsection (2)”) prohibits extending the statutes of limitations in subsections (1)(a), (1)(b), and (1)(c) beyond what those subsections expressly provide:

After the expiration of the period fixed in [subsection (1)(a), (1)(b), or (1)(c)], neither the person under disability, nor [their] legal representative, nor anyone for him shall be permitted or allowed to take action based on any such right.

B. Subsection (1)(b)

¶27 With this overview of section 13-81-103 in mind, we now home in on subsection (1)(b). In contrast to subsections (1)(a) and (1)(c), subsection (1)(b) does not require, or even mention, a legal representative. *See* § 13-81-103(1)(b). We view that silence “not as an oversight, but as a deliberate omission reflecting legislative intent.” *Pinnacol Assurance*, ¶ 48, 375 P.3d at 1223. Accordingly, we construe the absence of any reference to a legal representative in subsection (1)(b)

to mean that the provision applies when its conditions are met, irrespective of whether a person under disability has a legal representative.

¶28 Nicola argues that the reference in subsection (1)(b) to “*the person under disability*” refers to the person who falls under subsection (1)(a). § 13-81-103(1)(b) (emphasis added). He further contends that subsection (1)(b) incorporates subsection (1)(a)’s legal representative requirement because subsection (1)(b) references “the period of limitation in [subsection (1)(a)],” and subsection (1)(a) applies only when the person under disability has a legal representative. § 13-81-103(1)(a)–(b). The division reached the same conclusions. *Nicola*, ¶¶ 42–43, 544 P.3d at 129.

¶29 It is true that the definite article “the” particularizes the subject it precedes. *City of Ouray v. Olin*, 761 P.2d 784, 787 (Colo. 1988). But “*the person under disability*” to which subsection (1)(b) refers is not the person in subsection (1)(a)—it is the person under disability in subsection (1)—the basic condition triggering application of section 13-81-103. § 13-81-103(1)(b) (emphasis added) (requiring “a person under disability at the time [their] right accrues”).

¶30 Subsection (2) likewise invokes the phrase “*the person under disability*” and does so with reference to all three paragraphs of subsection (1). § 13-81-103(2) (emphasis added) (“After the expiration of the period fixed in [subsection (1)(a), (1)(b), or (1)(c)], neither *the person under disability*, nor [anyone on their behalf] shall

be permitted or allowed to take action” (emphasis added)). Subsection (2) thus confirms that the phrase “the person under disability” is not a specific reference to a person with a legal representative under subsection (1)(a), but more broadly, any “person under disability” under subsection (1). Indeed, subsection (2) refers to subsection (1)(c), which is limited to persons under disability who do *not* have a legal representative. *Id.*

¶31 Nicola’s interpretation would ascribe different meanings to the identical phrases in subsections (1)(b) and (2). Yet, when “the legislature employs the same words or phrases in different parts of a statute, then, in the absence of any manifest indication to the contrary, the meaning attributed to the words or phrases in one part of the statute should be ascribed to the same words or phrases found elsewhere in the statute.” *Colo. Common Cause v. Meyer*, 758 P.2d 153, 161 (Colo. 1988). To ascribe consistent meaning across these references in subsections (1)(b) and (2), we instead interpret them as pointing to the same overarching condition in subsection (1): “a person under disability at the time [their] right accrues.” § 13-81-103(1). In sum, the definite article in subsection (1)(b) is not a reference to subsection (1)(a) but rather to subsection (1).

¶32 We further disagree with Nicola and the division below that subsection (1)(b) must be construed to apply only when the person under disability has a legal representative because subsection (1)(b) references “the

period of limitation in [subsection (1)(a)],” and subsection (1)(a) applies only when the person under disability has a legal representative. § 13-81-103(1)(a)-(b).

¶33 Nicola’s and the division’s interpretation cannot be squared with the language in subsection (1)(c). Subsection (1)(c) likewise refers to “the expiration of the period of limitation in [subsection (1)(a)].” § 13-81-103(1)(c). Yet, subsection (1)(c) applies only when “no legal representative has been appointed” for the person under disability. *Id.* Thus, the reference to the “period of limitation in [subsection (1)(a)]” cannot be read to require the appointment of a legal representative.

¶34 So, what then is the “period of limitation in [subsection (1)(a)]”? Subsection (1)(a) provides that “the applicable statute of limitations shall run against such person under disability in the same manner, for the same period, and with the same effect as it runs against persons not under disability.” § 13-81-103(1)(a); *see also* § 13-81-101(1), C.R.S. (2025) (defining “[a]pplicable statute of limitations” as “any statute of limitations which would apply in a similar case to a person not a person under disability”). Put differently, a claim accrues and the statute of limitations begins running against a person under disability in the same way as it would for a person who was not under disability when their claim accrued.

¶35 This interpretation aligns with our holding in *Kinslow v. Mohammadi*, 2024 CO 19, ¶ 21, 546 P.3d 130, 133–34, a decision issued after the division rendered its opinion in this case. In that case, a sixteen-year-old was injured when she was struck by a car. *Id.* at ¶ 1, 546 P.3d at 131. Because the plaintiff was a minor when the accident occurred, she was a “[p]erson under disability” under section 13-81-101(3) when her claim accrued. *See Kinslow*, ¶ 8, 546 P.3d at 131. She later turned eighteen, and sued the driver more than two years, but less than three years, after her eighteenth birthday. *Id.* at ¶ 1, 546 P.3d at 131. The defendant moved to dismiss the suit, arguing that under subsection (1)(c), the statute of limitations expired two years after the plaintiff reached her eighteenth birthday. *Kinslow*, ¶¶ 1–2, 546 P.3d at 131. We agreed, reasoning that under subsection (1)(c), when a minor reaches the age of majority (i.e., their disability has terminated) before the regular statute of limitations has run, that person has the longer of time remaining on the limitations period, or two years after their eighteenth birthday, to bring their claim. *Id.* at ¶ 22, 546 P.3d at 134. Because the plaintiff did not bring her claim within either of those periods, her suit was untimely. *Id.* at ¶ 23, 546 P.3d at 134.

¶36 As relevant here, we observed in *Kinslow* that subsection (1)(c) makes clear that a disability can terminate “before the expiration of the period of limitation.” *Id.* at ¶ 15, 546 P.3d at 132–33 (quoting § 13-81-103(1)(c)). Logically, this is possible

only if the applicable statute of limitations begins to run *before* the disability is terminated. *Id.*, 546 P.3d at 133.

¶37 The division below assumed, contrary to our subsequent decision in *Kinslow*, that section 13-81-103 “tolls” the running of any statute of limitations against a person under disability during the period of disability, unless the person is appointed a legal representative. *Nicola*, ¶¶ 33, 46, 544 P.3d at 127, 130; *see also id.* at ¶ 43, 544 P.3d at 129 (“[T]here is no ‘period of limitation’ in subsection (1)(a) that accrues, runs, or expires if the person under a disability does not have a legal representative.”).

¶38 As we explained in *Kinslow*, “we have referred to [subsection (1)] as tolling the statute of limitations for a person under disability,” but that “[t]he use of the term ‘tolled’ in [our prior] cases has obviously caused confusion, and we want to end that confusion here.” ¶¶ 17, 21, 546 P.3d at 133. We noted that the two most relevant cases, *Rudnicki v. Bianco*, 2021 CO 80, 501 P.3d 776, and *Elgin v. Bartlett*, 994 P.2d 411 (Colo. 1999), *overruled by Rudnicki*, 2021 CO 80, 501 P.3d 776, both involved minors, and in both cases, none of the circumstances specifically identified in subsection (1)(a), (1)(b), or (1)(c) were present. *Kinslow*, ¶¶ 17, 20, 546 P.3d at 133 (“No legal representative had been appointed, the minor had not died, and they had not reached the age of majority before the expiration of the statute of limitations . . .”). Thus, we clarified that “[t]he most these cases stand

for is the idea that, when none of the specific provisions of [subsection (1)] are in play, a minor's statute of limitations will not begin to run until they reach the age of majority." *Id.* at ¶ 21, 546 P.3d at 133.

¶39 Although the plaintiff in *Kinslow* met the conditions of subsection (1)(c) (because her disability terminated "before the expiration of the period of limitation" and she had no legal representative), we concluded that the only logical reading of that provision was that the limitations period was not tolled, but in fact had begun to run before the plaintiff's disability terminated. *Id.* at ¶ 15, 546 P.3d at 132-33 (quoting § 13-81-103(1)(c)). Although we did not cite to subsection (1)(a), the language in subsection (1)(c) that we discussed expressly refers to the "expiration of the period of limitation in [subsection (1)(a)]." § 13-81-103(1)(c); *see Kinslow*, ¶ 15, 546 P.3d at 132-33.

¶40 Again, subsection (1)(a) refers broadly to the applicable statute of limitations that would apply to persons not under disability. § 13-81-103(1)(a). Subsection (1)(a) further provides, however, that when a person under disability has a legal representative, that legal representative may bring a claim before the expiration of the applicable limitations period or two years from the date of their appointment, whichever is later. *Id.* (stating that such legal representative "in any event shall be allowed not less than two years after [their] appointment . . . even

though the two-year period expires after the expiration of the period fixed by the applicable statute of limitations.”).

¶41 Taken all together, the phrase “before the expiration of the period of limitation in [subsection (1)(a)]” means before expiration of the applicable statute of limitations, or, if a legal representative has been appointed, before the expiration of any additional time to which the legal representative would be entitled under subsection (1)(a) to bring the claim. § 13-81-103(1)(a)–(c); *see also Kinslow*, ¶¶ 2, 10, 13, 15, 23, 546 P.3d at 131–34.

¶42 Our interpretation today gives consistent, harmonious, and sensible effect to all the parts of section 13-81-103. The overarching question governing subsections (1)(a), (1)(b), and (1)(c) is whether a person under disability encounters circumstances that enable them (or someone else, on their behalf) to bring a claim. In subsection (1)(a), that is the appointment of a legal representative to advocate on their behalf. In subsection (1)(c), that is the termination of the legal disability, which enables the person to advocate on their own behalf. And in subsection (1)(b), that is their death—when their claim survives to an executor or administrator who may bring a claim on their behalf.

¶43 Notably, subsections (1)(a) and (1)(c) address situations in which a person under disability brings a claim while they are alive—either through a legal representative or on their own after their disability is terminated. In each of those

situations, the claim must be brought within the remaining statute of limitations or two years after the event that enabled them to bring the claim (i.e., two years after the date of appointment of a legal representative or two years after the removal of the disability), whichever period expires later.

¶44 In contrast, when a person under disability dies under the conditions of subsection (1)(b), only survival claims may be pursued by the decedent’s executor or administrator, and the limitations period is changed to one year from the decedent’s death—for everyone, whether they had a legal representative or not. *See Kinslow*, ¶ 14, 546 P.3d at 132 (observing that subsection (1)(b) “simply gives one year following the death of a person under a disability for an executor or administrator to pursue a claim”); *id.* at ¶ 22, 546 P.3d at 134 (observing that when a person under disability dies, “an executor or administrator has one year from that death to pursue any available claim”).

¶45 To summarize:

- Subsection (1)(a) applies when a person under disability has a legal representative appointed either before the cause of action accrues, or after the cause of action accrues and before the disability is terminated. § 13-81-103(1)(a). The legal representative must bring a claim within the applicable statute of limitations or two years after their appointment, whichever is later. *Id.*
- Subsection (1)(b) applies when a person under disability dies “before the expiration of the period of limitation in [subsection (1)(a)]” and their claim survives to an executor or administrator, who must bring the claim within one year of the decedent’s death. § 13-81-103(1)(b).

- If the person under disability had no legal representative appointed, “the expiration of the period of limitation in [subsection (1)(a)]” simply refers to the applicable statute of limitations. *Id.*
- If the person under disability had a legal representative appointed, then “the expiration of the period of limitation in [subsection (1)(a)]” refers to the expiration of the applicable statute of limitations or two years after the appointment of the legal representative, whichever is later. *Id.*
- Subsection (1)(c) applies when a person under disability does not have a legal representative. § 13-81-103(1)(c). Accordingly, “the expiration of the period of limitation in [subsection (1)(a)]” simply refers to the applicable statute of limitations. *Id.* If their disability is terminated before the expiration of the applicable statute of limitations, then they must bring a claim within the remaining applicable statute of limitations or two years after the removal of their disability, whichever is later. *Id.*

¶46 We acknowledge that our interpretation of section 13-81-103 may sometimes result in a different limitations period than section 13-80-112, the general provision governing limitations periods for survival actions. *See* § 13-80-112 (providing that when a person dies before the statute of limitations expires on their claim, then “the action may be commenced by the personal representative of the deceased person at any time within one year after the date of death and not afterwards if barred by provision of this article.”). But we need not harmonize these two provisions, which appear in different articles in title 13. Section 13-81-103 is the more specific provision established by the legislature applicable to persons under disability at the time their claim accrues, and only if

the conditions in subsection (1)(a), (1)(b), or (1)(c) are satisfied. § 13-81-103(1); *Kinslow*, ¶ 21, 546 P.3d at 133–34.

¶47 We also recognize that our interpretation today may shorten the amount of time within which executors and administrators of some decedents under disability may file claims, depending on the circumstances of a case. However, we are not at liberty to rewrite section 13-81-103. Our goal is to effectuate the legislature’s intent, and here, the legislature has unambiguously imposed a one-year limitations period under the circumstances in subsection (1)(b).

C. Application

¶48 Turning to the facts of this case, we hold that subsection (1)(b) applies to Nicola’s claims and renders them untimely.

¶49 First, the parties agree that Danielle was a “[p]erson under disability” as that term is defined in section 13-81-101(3). The parties also do not dispute that Danielle was a “person under disability” for purposes of subsection (1) when her claims accrued. And the parties agree that no legal representative was appointed for Danielle after the accident and while she was alive.

¶50 Next, Danielle passed away before the termination of her disability for purposes of subsection (1)(b) because she never regained full consciousness before her death on December 12, 2018, nineteen days after the accident. Danielle also passed away well before the expiration of any applicable statute of limitations,

whether two years under section 13-80-102(1)(h), C.R.S. (2025), or three years under section 13-80-101(1)(n)(I), C.R.S. (2025). After Danielle's death, Nicola was appointed personal representative and Danielle's claims for negligence and premises liability survived to him. Accordingly, under subsection (1)(b), Nicola had one year from the date of Danielle's death to bring the survival claims. Because Nicola brought the claims on December 11, 2020, almost two years after Danielle's death, they are untimely and barred by subsection (1)(b).

D. Attorney Fees

¶51 Defendants request attorney fees and costs on appeal as prevailing defendants under section 13-17-201. When this court affirms a trial court's judgment dismissing an entire tort action under C.R.C.P. 12(b), an award of reasonable attorney fees in defending the action is mandatory. § 13-17-201(1).

¶52 Here, we affirm the district court's judgment dismissing Nicola's survival claims against Defendants under C.R.C.P. 12(b). As a result, Defendants are entitled to attorney fees under section 13-17-201.

IV. Conclusion

¶53 For the foregoing reasons, we reverse the division's judgment and hold that Nicola's survival claims are untimely. We remand the case for further proceedings consistent with this opinion, including reinstatement of the district court's

judgment dismissing Nicola's complaint and determination of appropriate attorney fees under section 13-17-201.