

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

ORIGINAL

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Allison Rene Lee
Circuit Court Judge

Case No. 2008-CP-40-4832

Ruth Sturkie LeClair as next of kin to
And Personal Representative of the Estate
Of Raymond Conrad LeClair
v.

Palmetto Health

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JUN 08 2012

SC Court of Appeals

**RESPONSE TO MOTION TO DISMISS APPEAL AND MEMORANDUM IN
SUPPORT OF MOTION TO DISMISS APPEAL**

The Appellant responds to the Respondent's motion to dismiss as follows:

Respondent's allegation that the appeal has a "tortured procedural history" is ludicrous. There were a few minor issues that the Respondent in the initial Brief that were in error as to procedure but were not erroneous as to content. The Brief was corrected and Respondent filed his Reply Brief. It is only subsequent to his Reply Brief that the Respondent now moves to dismiss. I put it to you that the only reason for the motion to dismiss is that the Respondent does not have a valid argument in support of his position on Appeal. Respondent cannot support his position and is therefore adding an additional ground himself, a ground that was denied by the trial court and a ground that he did not appeal



Appellant has made an error in the restatement of the arguments on appeal, it was not intentional and it was not deliberate as stated by the Respondent. No matter how stated, there is only one issue and the issue is that the Trial Court erred in granting summary judgment in favor of the Defendant. No matter how phrased the issue is the same; the trial Court's misplaced reliance on the case of Stokes v. Pee Dee Family Physicians, 389 S.C. 343, 699 S.E.2d (2010) granted summary judgment ultimately barring the Plaintiff from proceeding. Reliance on the Stokes case is the error and no matter how the Respondent argues the facts of Stokes do not support his position. The issues Respondent complains of in his Motion to Dismiss are minor and do not cause him any procedural or substantive harm and should not affect the status of the Appeal.

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Attorney for Appellant
June 7, 2012

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CERTIFICATE OF SERVICE

The undersigned employee of The Soltis Law Firm, attorney for the Appellant, does hereby certify that service of the **RESPONSE TO MOTION TO DISMISS APPEAL AND MEMORANDUM SUPPORT OF MOTION TO DISMISS APPEAL** in the above-captioned matter was made upon all counsel of record by placing copies in the United States Mail, fist class postage prepaid, at the below listed addresses clearly indicated on said envelopes this 8th day of June 2012:

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