

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

R. Ferrell Cothran, Jr., Circuit Court Judge

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Case No. 2012-CP-43-2030

Appellate Case No.: 2016-000774

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Win Myat.....Appellant,

v.

Tuomey Healthcare System.....Respondent.

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**SUPPLEMENTAL RECORD ON APPEAL**

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Francis "Brink" Hinson (S.C. Bar No. 74917)

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RECORDED

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS

COUNTY OF SUMTER )

C.A. NO. 2012-CP-43-2030

JAMES CAMPBELL  
CLERK OF COURT  
SUMTER COUNTY, S.C.)

Win Myat, )

Plaintiff, )

**AMENDED ANSWER**  
(jury trial demanded)

v. )

Tuomey, )

Defendants. )

Defendant Tuomey, answering the Amended Complaint of the Plaintiff, would respectfully show:

1. Defendant denies each and every allegation of the Amended Complaint not hereinafter specifically admitted, qualified, or explained.

**For the First Defense**

2. Paragraphs one, two, three, four, and five are admitted.

3. Upon information and belief, Plaintiff fell at the approximate time, date and location set forth in paragraph six. All other allegations of paragraph six are specifically denied.

4. Paragraph seven is denied.

5. Paragraph eight is denied except to the extent that Plaintiff has, upon information and belief, received some medical treatment. All other allegations of paragraph eight are specifically denied.

6. Paragraphs nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen are denied. Plaintiff's presence on Defendant's property was for the primary benefit of Plaintiff, a physician practicing medicine on patients in the hospital, and is therefore an invitee.

7. Paragraphs nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, and twenty-five are denied.

**For a Second Defense**

8. Defendant moves to dismiss the amended complaint. Rule 12(b)(1), *SCRCP*. Plaintiff is an employee as defined by the laws of the workers' compensation act, and thus his claim is barred by *South Carolina Code* § 42-1-540.

**For a Third Defense**

9. Plaintiff's damages, if any, were caused by his own negligence in failing to keep a proper lookout, in failing to take notice of open and obvious conditions, in failing to keep himself under proper control, in failing to wear appropriate protective attire, and in otherwise acting as a reasonable person under the attending circumstances.

10. Plaintiff is barred from recovery pursuant to the doctrine of comparative negligence.

11. Plaintiff's recovery, if any, shall be proportionally reduced pursuant to the doctrine of comparative negligence.

**For the Fourth Defense**

12. Plaintiff's damages, if any, were caused by an unavoidable accident or occurrence.

**For the Fifth Defense**

13. Defendant asserts the protections of Solicitation of Charitable Funds Act as set forth *South Carolina Code* § 33-56-180, specifically the limit on damages recoverable.

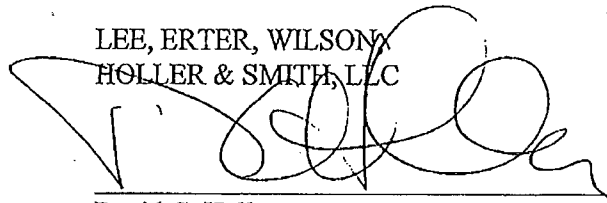
14. Defendant demands trial by jury.

*DOA*  
*#2*

WHEREFORE, Defendant, having fully answered, prays the amended complaint be dismissed, including without limitation for lack of subject matter jurisdiction, for the costs in defending this matter, and for such other and further relief as this Court deem necessary and proper.

Respectfully submitted,

LEE, ERTER, WILSON  
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August 21 2015

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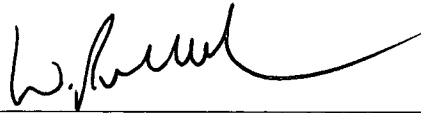
Tuomey Healthcare System.....Respondent.

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CERTIFICATE OF COUNSEL

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The undersigned hereby certifies that the Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material. I also certify that the Supplemental Record on Appeal is in compliance with the Order of May 1, 2008 Amendments to the Court Carolina appellant Court Rules.



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May 22, 2017

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