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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Case No. 2016-CP-40-04463
Appellate Case No. 2023-000556

Jean Watkins, as Personal
Representative of the Estate
Of Mildred Watkins,

Respondent,

v.

Sterling Healthcare, Inc.,
Countrywood Nursing
Center, LLC, and Guardian
Resources, LLC,

Appellants.

PETITION FOR REHEARING
OF RESPONDENT

Respondent Jean Watkins respectfully requests the rehearing of this matter pursuant to Rule 221(a), SCACR. The points overlooked or misapprehended by the Court pertain to Section I.B of the Court's opinion, particularly the reversal of the trial court's application of S.C. Code Ann. §15-32-530(C)(1) to the punitive damages award in this case.

As a first basis for rehearing, this specific portion of the Court of Appeals' opinion exceeds the appellate court's standard of review on this issue. "In an action at law tried without a jury, an

appellate court's scope of review extends merely to the correction of errors of law.” ... “The [c]ourt will not disturb the trial court's findings unless they are found to be without evidence that reasonably supports those findings.” Portrait Homes - S.C., LLC v. Pennsylvania Nat'l Mut. Cas. Ins. Co., 442 S.C. 515, 560, 900 S.E.2d 245, 269 (Ct. App. 2023), quoting Temple v. Tec-Fab, Inc., 381 S.C. 597, 599-600, 675 S.E.2d 414, 415 (2009). To apply subsection (C)(1) to the punitive damages awards in this case, the trial court was required to find “at the time of injury the defendant had an intent to harm and ... did in fact harm the claimant.” S.C. Code Ann. § 15-32-530(C)(1). The trial court made numerous factual findings which it described as “clear and convincing examples of intent to harm Mrs. Watkins, which in fact, did harm and ultimately kill her.” (ROA at 66-68) The Court of Appeals reversed these findings, ruling as follows:

While certainly indicative of gross abuse, we do not find these incidents prove intent to harm. Each instance could reasonably be attributed to gross negligence or even accidental injury. ... There is a wealth of evidence that staff treated Watkins with callous disregard, but there is no evidence that staff acted to intentionally harm her.

(Opinion at 10) In so ruling, the Court of Appeals substituted its factual judgment for that of the trial court rather than “look[ing] at the evidence in the light most favorable to the respondents and eliminat[ing] from consideration all evidence to the contrary.” Portrait Homes at 560, 900 S.E.2d at 270.

As a second basis for rehearing, S.C. Code Ann. §15-32-530 does not apply to the Respondent’s causes of action per the effective date of the statute. This section was enacted by 2011 Act No. 52. Section 7 of that legislation specifies “[t]his act takes effect January 1, 2012, and applies to all actions that accrue on or after the effective date except the provisions of SECTION 3 do not apply to any matter pending on the effective date of this act.” Mildred Watkins died on December 15, 2011. Thus, both the wrongful death and survival actions Jean Watkins is pursuing

accrued before January 1, 2012. As a result, S.C. Code Ann. §15-32-530 does not apply to this case.¹

For the reasons stated herein, the Court of Appeals should grant the Respondent's petition for rehearing.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

October 8, 2026
Columbia, South Carolina

¹ This point was not raised before the trial court or in Respondent's brief before the Court of Appeals. This point was raised by Respondent's counsel at oral argument. Respondent requests the Court of Appeals exercise its discretion to "affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal." Rule 220(c), SCACR.

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CERTIFICATE OF SERVICE

I certify that I have served Respondent's Petition for Rehearing on the Appellants via electronic mail this 8th day of October, 2026 by and through their counsel of record as follows:

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