



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

May 27, 2015

The Honorable Paul B. Wickensimer  
Courthouse  
305 E North St  
Greenville SC 29601-2121

## REMITTITUR

Re: James Dawkins v. Troy Watts, Jr.  
Lower Court Case No. 2011CP2304585  
Appellate Case No. 2013-000666

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

Enclosure

cc: Donald R. Moorhead, Esquire  
Marcus Kirk McGarr, Esquire

Cynthia Barrier Patterson, Esquire  
The Honorable D. Garrison Hill

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

James L. Dawkins and Delphine Dawkins, Appellants,

v.

Troy Lee Watts, Jr., Respondent.

Appellate Case No. 2013-000666

---

Appeal From Greenville County  
D. Garrison Hill, Circuit Court Judge

---

Unpublished Opinion No. 2015-UP-242  
Submitted March 1, 2015 – Filed May 6, 2015

---

**AFFIRMED**

---

Donald R. Moorhead, of Donald R. Moorhead, PA, of  
Greenville; and Cynthia Barrier Patterson, of Columbia,  
for Appellants.

Marcus Kirk McGarr, of Marcus K. McGarr, PA, of  
Greenville, for Respondent.

---

**PER CURIAM:** Affirmed pursuant to Rule 220(b), SCACR, and the following  
authorities:

1. As to whether the trial court erred by denying James L. Dawkins's motions for a new trial on damages or a new trial nisi additur: *Todd v. Joyner*, 385 S.C. 509, 517, 685 S.E.2d 613, 618 (Ct. App. 2008), *aff'd*, 385 S.C. 421, 685 S.E.2d 595 (2009) ("The denial of a motion for a new trial [nisi additur] is within the trial court's discretion and will not be reversed on appeal absent an abuse of discretion."); *id.* at 517-18, 685 S.E.2d at 618 ("A trial court does not abuse its discretion in denying a motion for new trial [nisi additur] where evidence in the record supports the jury's verdict."); *Cartin v. Keller Bldg. Prods. of Charleston*, 299 S.C. 152, 153, 382 S.E.2d 922, 923 (1989) ("The law in South Carolina is clear that when a verdict *in favor of a plaintiff* is fully supported by the evidence on the issue of liability but the damages awarded are inadequate, a new trial [may] be ordered on the issue of damages alone." (emphasis added)).

2. As to whether the trial court erred by allowing Troy Lee Watts's counsel to refer to Watts as his client: *Doe v. S.B.M.*, 327 S.C. 352, 356, 488 S.E.2d 878, 880 (Ct. App. 1997) ("A contemporaneous objection is required to properly preserve an error for appellate review. The failure to make an objection at the time evidence is offered constitutes a waiver of the right to object." (citation omitted)); *Austin v. Stokes-Craven Holding Corp.*, 387 S.C. 22, 39, 691 S.E.2d 135, 143-44 (2010) (explaining that when a party objects and receives the relief it sought, there is no issue for the appellate court to decide).

3. As to whether the trial court erred by allowing Watts's counsel to present evidence showing Dawkins received disability benefits prior to the collision: *Vaught v. A.O. Hardee & Sons, Inc.*, 366 S.C. 475, 480, 623 S.E.2d 373, 375 (2005) ("The admission of evidence is within the sound discretion of the trial [court], and absent a clear abuse of discretion amounting to an error of law, the trial court's ruling will not be disturbed on appeal."); *Johnson v. Horry Cnty. Solid Waste Auth.*, 389 S.C. 528, 534, 698 S.E.2d 835, 838 (Ct. App. 2010) ("An appellate court reviews Rule 403 rulings pursuant to an abuse of discretion standard and gives great deference to the trial court." (internal quotation marks and citation omitted)); Rule 403, SCRE ("Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice . . . ."); *Johnson*, 389 S.C. at 534, 698 S.E.2d at 838 ("Unfair prejudice means an undue tendency to suggest a decision on an improper basis." (internal quotation marks and citation omitted)).

4. As to whether the trial court erred by allowing Watts's counsel to present evidence showing Dawkins had health insurance benefits during June 2009 because it violated the collateral source rule: *Vaught*, 366 S.C. at 480, 623 S.E.2d

at 375 ("The admission of evidence is within the sound discretion of the trial [court], and absent a clear abuse of discretion amounting to an error of law, the trial court's ruling will not be disturbed on appeal."); Rule 607, SCRE ("The credibility of a witness may be attacked by any party, including the party calling the witness."); *Bonaparte v. Floyd*, 291 S.C. 427, 443, 354 S.E.2d 40, 50 (Ct. App. 1987) (finding the trial court did not abuse its discretion by admitting evidence showing the plaintiff had health insurance after the plaintiff testified she could not afford to attend doctor's visits because the evidence had "relevance to the [plaintiff]'s credibility").<sup>1</sup>

**AFFIRMED.**<sup>2</sup>

**FEW, C.J., and HUFF and WILLIAMS, JJ., concur.**

---

<sup>1</sup> As to whether the trial court erred by allowing Watts's counsel to present evidence showing Dawkins had health insurance benefits during June 2009 because its probative value was substantially outweighed by the danger of unfair prejudice: *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial [court] to be preserved for appellate review.").

<sup>2</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.