

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

RECEIVED

JUL 04 2016

SC Court of Appeals

Appeal from Charleston County
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

Appellate Case No. 2015-001463
Circuit Court Case Nos. 2012-CP-10-2867 and 2011-CP-10-8313

Clair Craver Johnson,

Appellant,

v.

John Roberts, M.D.,

Respondent.

And

Clair Craver Johnson,

Appellant,

v.

Medical University of South Carolina,

Respondent.

**INITIAL BRIEF OF RESPONDENT
JOHN ROBERTS, M.D.**

YOUNG CLEMENT RIVERS, LLP

Stephen L. Brown (SC Bar No. 66468)

D. Jay Davis, Jr. (SC Bar No. 12084)

James E. Scott, IV (SC Bar No. 69436)

Russell G. Hines (SC Bar No. 72100)

25 Calhoun Street, Suite 400

Charleston, South Carolina 29401

P.O. Box 993 (29402)

843-720-5488

Attorneys for Respondent

John Roberts, M.D.

TABLE OF CONTENTS

| | <u>Page</u> |
|--|--------------------|
| Table of Contents | i |
| Table of Authorities | ii |
| Introduction | 1 |
| Counter-Statement of Issues on Appeal | 2 |
| Counter-Statement of the Case | 2 |
| Argument | 4 |
| I. As a threshold matter, it is neither appropriate nor necessary for the Court to reach the merits of Ms. Johnson’s appeal to affirm the summary judgments in favor of the Respondents..... | 4 |
| A. Ms. Johnson’s appellate argument is not preserved for review. | 5 |
| B. Ms. Johnson’s appellate argument is rendered moot by the two-issue rule..... | 7 |
| II. Assuming, <i>arguendo</i> , the merits are properly considered, the circuit court correctly concluded that Ms. Johnson’s claims are time-barred under § 15-3-545(A)..... | 8 |
| Conclusion | 13 |

TABLE OF AUTHORITIES

| <u>Cases</u> | <u>Pages</u> |
|--|--------------|
| <u>Anderson v. S.C. Dep't of Highways & Pub. Transp.</u> , 322 S.C. 417, 472 S.E.2d 253 (1996) | 4, 8 |
| <u>Bergstrom v. Palmetto Health Alliance</u> , 358 S.C. 388, 596 S.E.2d 42 (2004) | 9 |
| <u>Charter Peachford Behavioral Health Sys. v. Kohout</u> , 233 Ga. App. 452, 504 S.E.2d 514 (Ct. App. 1998)..... | 12 |
| <u>Cont'l Ins. Co. v. Shives</u> , 328 S.C. 470, 492 S.E.2d 808 (Ct. App. 1997) | 5, 8 |
| <u>Elam v. S.C. Dep't of Transp.</u> , 361 S.C. 9, 602 S.E.2d 772 (2004) | 4, 5, 7 |
| <u>Epstein v. Brown</u> , 363 S.C. 372, 610 S.E.2d 816 (2005) | 11 |
| <u>First Union Nat'l Bank of S.C. v. Soden</u> , 333 S.C. 554, 511 S.E.2d 372 (Ct. App. 1998) | 5, 8 |
| <u>Grier v. AMISUB of S.C., Inc.</u> , 397 S.C. 532, 725 S.E.2d 693 (2012) | 13 |
| <u>Harrison v. Bevilacqua</u> , 354 S.C. 129, 580 S.E.2d 109 (2003) | 10, 11, 12 |
| <u>Hodges v. Rainey</u> , 341 S.C. 79, 533 S.E.2d 578 (2000) | 13 |
| <u>I'On, L.L.C. v. Town of Mt. Pleasant</u> , 338 S.C. 406, 526 S.E.2d 716 (2000) | 4, 7, 8 |
| <u>Jinks v. Richland County</u> , 355 S.C. 341, 585 S.E.2d 281 (2003) | 4, 8 |
| <u>Jones v. Lott</u> , 387 S.C. 339, 692 S.E.2d 900 (2010) | 4, 8 |
| <u>Langley v. Pierce</u> , 313 S.C. 401, 438 S.E.2d 243 (1993) | 9, 10, 13 |
| <u>McCall v. IKON</u> , 380 S.C. 649, 670 S.E.2d 695 (Ct. App. 2008) | 5, 7, 8 |

| | |
|---|------------|
| <u>Mears v. Gulfstream Aerospace Corp.</u> , 225 Ga. App. 636, 484 S.E.2d 659 (Ct. App. 1997)..... | 12 |
| <u>O’Tuel v. Villani</u> , 318 S.C. 24, 455 S.E.2d 698 (Ct. App. 1995) | |
| <u>Preer v. Mims</u> , 323 S.C. 516, 476 S.E.2d 472 (1996) | 10 |
| <u>Taylor v. Medenica</u> , 324 S.C. 200, 479 S.E.2d 35 (1996) | 7, 8 |
| <u>Watson v. Underwood</u> , 407 S.C. 443, 756 S.E.2d 155 (Ct. App. 2014) | 4, 5, 7, 8 |
| <u>Wilder Corp. v. Wilke</u> , 330 S.C. 71, 497 S.E.2d 733 (1998) | 5, 7 |

Statutes

| | |
|-----------------------------------|-----------------------------|
| S.C. Code Ann. § 15-3-545(A)..... | 1, 2, 3, 6, 7, 8, 9, 11, 13 |
|-----------------------------------|-----------------------------|

Rules

| | |
|----------------------------|----|
| Rule 208(b)(6), SCACR..... | 13 |
|----------------------------|----|

INTRODUCTION

In this appeal, Ms. Johnson¹ challenges the circuit court's twin summary judgments in favor of Dr. Roberts and MUSC,² i.e., Ms. Johnson challenges the circuit court's grant of summary judgment to the respective defendant in both of her consolidated actions for medical malpractice.

Ms. Johnson's challenge should fail, not only because the circuit court correctly concluded that her claims are barred by the six-year statute of repose for medical malpractice actions in S.C. Code Ann. § 15-3-545(A), but also, as threshold matter, because it is clear that Ms. Johnson cannot carry the burden that she, as the appellant, must shoulder to upset the presumptive validity of the judgments she appeals; indeed, it is neither appropriate nor necessary for this Court to even reach the merits of Ms. Johnson's appeal, because her only appellate argument is not preserved for review, and, in any event, it is rendered moot by the two-issue rule.

¹ Plaintiff/Appellant Clair Craver Johnson is referred to as "Ms. Johnson."

² Defendants/Respondents John Roberts, M.D., and the Medical University of South Carolina are referred to as "Dr. Roberts" and "MUSC," respectively; collectively, they are referred to as the "Respondents."

COUNTER-STATEMENT OF ISSUES ON APPEAL

- I. As a threshold matter, is it appropriate or necessary for the Court to reach the merits of Ms. Johnson's appeal?**
- A. Is Ms. Johnson's appellate argument preserved for review?**
- B. Is Ms. Johnson's appellate argument rendered moot by the two-issue rule?**
- II. Assuming, *arguendo*, the merits are properly considered, did the circuit court correctly conclude that Ms. Johnson's claims are time-barred under § 15-3-545(A)?**

COUNTER-STATEMENT OF THE CASE

Both of the medical malpractice lawsuits involved in this appeal were commenced by Ms. Johnson in Charleston County, in the Court of Common Pleas, one on November 8, 2011, against MUSC, the other on May 1, 2012,³ ⁴ against Dr. Roberts, a psychiatrist in private practice. With the consent of all parties, the cases were consolidated in the circuit court.

In both cases, Ms. Johnson has alleged professional negligence relating to electroconvulsive therapy ("ECT") she received at MUSC on a number of occasions while under Dr. Roberts's care for certain mental

³ Previously, on November 8, 2011, Ms. Johnson had filed notice of her intent to sue Dr. Roberts. The matter was not resolved through pre-suit mediation.

⁴ Ms. Johnson's operative complaint against Dr. Roberts is her amended complaint, filed May 16, 2012.

disorders. The alleged negligence dates back to at least 2003,⁵ when the course of treatment via ECT was commenced—after this course began in 2003, Ms. Johnson continued with ECT periodically until 2008. According to Ms. Johnson, the ECT was involuntary and improper and caused her damages, including loss of memory and exacerbated mental impairment. (Complaint [MUSC]; Amended Complaint [Dr. Roberts].)

The Respondents moved for summary judgment, contending that Ms. Johnson's claims were time-barred under § 15-3-545(A), and their motions were heard in the circuit court on January 9, 2014, the Honorable R. Markley Dennis, Jr., presiding. (Dr. Roberts's Motion for Summary Judgment; MUSC's Motion for Summary Judgment; MUSC's Memo in Support of Summary Judgment; Ms. Johnson's Memo in Opposition to Summary Judgment; Dr. Roberts's Memo in Support of Summary Judgment; Transcript of Hearing on January 9, 2014.) The circuit court granted the Respondents' motions and thereafter denied Ms. Johnson's motion for reconsideration. (Form 4 Order, filed January 16, 2014; Order

⁵ Although not expressly pleaded, Dr. Roberts has been accused, via expert testimony on behalf of Ms. Johnson, of negligence dating back to February of 2002 relating to his prescription of certain medication to Ms. Johnson. (Exhibit A to Dr. Roberts's Memo in Support of Summary Judgment.)

Granting Summary Judgment, filed February 4, 2014; Order Denying Reconsideration (Dr. Roberts); Order Denying Reconsideration (MUSC).)

This appeal follows.

ARGUMENT

I. As a threshold matter, it is neither appropriate nor necessary for the Court to reach the merits of Ms. Johnson’s appeal to affirm the summary judgments in favor of the Respondents.

To prevail on appeal, Ms. Johnson has the affirmative obligation to present argument/analysis that is both preserved for review and sufficient to show reversible error as to every independent ground supporting the circuit court’s summary judgments.⁶ It is clear that Ms. Johnson has not met this

⁶ See Jones v. Lott, 387 S.C. 339, 346, 692 S.E.2d 900, 903 (2010) (“Under the two issue rule, where a decision is based on more than one ground, the appellate court will affirm unless the appellant appeals all grounds because the unappealed ground will become the law of the case.”); Elam v. S.C. Dep’t of Transp., 361 S.C. 9, 25, 602 S.E.2d 772, 780 (2004) (explaining that South Carolina’s preservation requirements are “mandatory”); Jinks v. Richland County, 355 S.C. 341, 344, 585 S.E.2d 281, 283, n. 3 (2003) (an issue which is not argued in the brief is deemed abandoned and precludes consideration on appeal); I’On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 420-22, 526 S.E.2d 716, 723-24 (2000) (explaining, “as expressed in Rule 220(c), SCACR, . . . an appellate court may affirm the lower court’s judgment for any reason appearing in the record on appeal[,] . . . [but] [a]n appellate court may not, of course, *reverse* for any reason appearing in the record.”) (emphasis in original); Anderson v. S.C. Dep’t of Highways & Pub. Transp., 322 S.C. 417, 420, 472 S.E.2d 253, 255 n. 1 (1996) (noting that the two-issue rule is applicable to circuit court orders); Watson v. Underwood, 407 S.C. 443, 452, 756 S.E.2d 155, 160, n. 9 (Ct. App. 2014) (“[A]ppellants have the responsibility to identify errors on

obligation; therefore, it is neither appropriate nor necessary for the Court to reach the merits of Ms. Johnson's appeal to affirm the summary judgments in favor of the Respondents.

A. Ms. Johnson's appellate argument is not preserved for review.

"Issues and arguments are preserved for appellate review only when they are raised to and ruled on by the lower court." Elam, 361 S.C. at 23, 602 S.E.2d at 779-80. Also, to be preserved, an argument must be "sufficiently specific to inform the trial court of the point being urged" Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998).

In her issue statement, Ms. Johnson frames the circuit court's alleged error as one of invasion of the province of the jury as to a question of fact and expressly identifies the error as, "being that [ECT] treatment did not cause identifiable injury to appellant until no earlier than 2009-2010 thereby

appeal, not the [c]ourt.' '[A]ppellate courts in this state, like well-behaved children, do not speak unless spoken to and do not answer questions they are not asked.'" (citations omitted); McCall v. IKON, 380 S.C. 649, 659-60, 670 S.E.2d 695, 701 (Ct. App. 2008) (noting an appealed order comes to the appellate court with a presumption of correctness, with the burden on the appellant to demonstrate reversible error); First Union Nat'l Bank of S.C. v. Soden, 333 S.C. 554, 566, 511 S.E.2d 372, 378 (Ct. App. 1998) (holding an "unchallenged ruling, right or wrong, is the law of the case and requires affirmance"); Cont'l Ins. Co. v. Shives, 328 S.C. 470, 474, 492 S.E.2d 808, 811, n. 2 (Ct. App. 1997) (an issue not raised in the appellant's principal brief may not be raised via a reply brief).

triggering a three[-]year period in which to initiate a claim pursuant to . . . § 15-[3]-545(A).” (App’s Br. at p. 1 (capitalization and emphasis omitted).) In the body of her brief, Ms. Johnson goes on to say, “the evidence of the date triggering the statute of repose is not a question of law for the Court but is one of fact,”⁷ and that, “[her] position is that . . . § 15-3-545(A) gave [her] a cause of action arising from the application of [ECT] that resulted in brain damage to [her] not for [ECT] treatment that did not in symptoms,”⁸ and that, with respect to the timeliness of her suits, “[t]he issue [for a jury] is not whether use of [ECT] therapy is negligent from the first treatment but at what point (number and timing and type of [ECT]) does use of [ECT] constitute negligence.” (App’s Br. at p. 5.)

Ms. Johnson simply did not make this argument to the circuit court in opposition to the Respondents’ motions for summary judgment—and, of course, it was not ruled on by the circuit court. Indeed, this argument is contradictory to the argument she did make to the circuit court in opposition to the motions.⁹ Ms. Johnson’s appellate argument—her only appellate

⁷ (App’s Br. at p. 2.)

⁸ (App’s Br. at p. 3.)

⁹ At the summary-judgment hearing, Ms. Johnson’s counsel argued as follows:

[T]his lady received electro-convulsive shock therapy eighty-six times over a several years

argument—is not preserved for review, and her appeal necessarily fails. Elam, 361 S.C. at 23, 602 S.E.2d at 779-80; I’On, L.L.C., 338 S.C. at 420-22, 526 S.E.2d at 723-24; Wilder Corp., 330 S.C. at 76, 497 S.E.2d at 733; *see also* Taylor v. Medenica, 324 S.C. 200, 479 S.E.2d 35 (1996) (party may not argue one ground for objection at trial and another ground on appeal); *cf.* I’On, L.L.C., 338 S.C. at 420-22, 526 S.E.2d at 723-24; Watson, 407 S.C. at 452, 756 S.E.2d at 160, n. 9; McCall, 380 S.C. at 659-60, 670 S.E.2d at 701.

B. Ms. Johnson’s appellate argument is rendered moot by the two-issue rule.

As a matter of law, the circuit court ruled that “the six-year statute of repose [under § 15-3-545(A)] begins to run upon an ‘occurrence’ of medical negligence[,]”¹⁰ that “the initiation of ECT in 2003 is the occurrence from which the statute of repose is set to run[,]”¹¹ and that there was no tolling mechanism available to Ms. Johnson. (Order Granting Summary Judgment, filed February 4, 2014, at pp. 7-9.) Aside from the fact that Ms. Johnson’s

period of time -- 2003 to 2008. Each time she received that, it was a blow to her head, a tort. Each one, . . . standing alone.

(Transcript of Hearing on January 9, 2014, at p. 6, lines 11-17.)

¹⁰ (Order Granting Summary Judgment, filed February 4, 2014, at p. 5.)

¹¹ (Order Granting Summary Judgment, filed February 4, 2014, at p. 7.)

appellate argument is unpreserved, because it is exclusively focused on the supposed existence of a question of fact for a jury, it does not sufficiently challenge the circuit court's legal analysis, which is thus the law of the case and requires affirmance under the two-issue rule. Jones, 387 S.C. at 346, 692 S.E.2d at 903; Jinks, 355 S.C. at 344, 585 S.E.2d at 283, n. 3; Anderson, 322 S.C. at 420, 472 S.E.2d at 255 n. 1; Soden, 333 S.C. at 566, 511 S.E.2d at 378; Shives, 328 S.C. at 474, 492 S.E.2d at 811, n. 2; *cf.* I'On, L.L.C., 338 S.C. at 420-22, 526 S.E.2d at 723-24; Watson, 407 S.C. at 452, 756 S.E.2d at 160, n. 9; McCall, 380 S.C. at 659-60, 670 S.E.2d at 701.

II. Assuming, *arguendo*, the merits are properly considered, the circuit court correctly concluded that Ms. Johnson's claims are time-barred under § 15-3-545(A).

While Ms. Johnson may *now*¹² argue, “[t]he issue is not whether use of [ECT] is negligent from the first treatment but at what point . . . does use

¹² To be clear, as noted above, this is contrary—and improperly so, *see Taylor*, 324 S.C. 200, 479 S.E.2d 35—to the position Ms. Johnson has previously taken in this case. (*See* Transcript of Hearing on January 9, 2014, at p. 6, lines 11-17 (wherein Ms. Johnson's counsel argued that each instance of ECT administered to her was “a tort . . . standing alone”); Ms. Johnson's Memo in Opposition to Summary Judgment at p. 3 (wherein Ms. Johnson describes the Respondents as “continuing to treat [her] in a negligent manner”); Amended Complaint [Dr. Roberts] at p. 2 (wherein Ms. Johnson alleges that Dr. Roberts breached duties of care owed to her “in connection with her 2003 to 2008 course of treatment”).)

of [ECT] constitute negligence[,]”¹³ nonetheless, “[she] contends that the *cumulative effect* of these [ECT] treatments constituted an independent tort” (App’s Br. at p. 6 (emphasis added).) This idea of divorcing cumulative effect from causative origin is not only illogical but also contrary to § 15-3-545(A).¹⁴

To begin, it seems that Ms. Johnson has conflated the date of accrual of a cause of action¹⁵ with the date of occurrence under § 15-3-545(A). As observed in Langley v. Pierce, however, in effecting the economic balance struck by the legislative body, “[s]tatutes of repose by their nature impose on some plaintiffs the hardship of having a claim extinguished before it is

¹³ (App’s Br. at p. 6.)

¹⁴ In pertinent part, § 15-3-545(A) provides as follows:

In any action . . . to recover damages for injury to the person arising out of any medical, surgical, or dental treatment, omission, or operation by any licensed health care provider as defined in Article 5, Chapter 79, Title 38 acting within the scope of his profession must be commenced within three years from the date of the treatment, omission, or operation giving rise to the cause of action or three years from date of discovery or when it reasonably ought to have been discovered, not to exceed six years from date of occurrence, or as tolled by this section.

¹⁵ See Bergstrom v. Palmetto Health Alliance, 358 S.C. 388, 397, 596 S.E.2d 42, 46 (2004) (“A cause of action accrues at the moment when the plaintiff has a legal right to sue on it.”) (citation omitted).

discovered, *or perhaps before it even exists.*”) 313 S.C. 401, 404, 438 S.E.2d 243, 244 (1993) (emphasis added) (citation omitted).

Moreover, in Harrison v. Bevilacqua, our Supreme Court “declin[ed] to adopt the continuous treatment rule or the doctrine of continuing tort.” 354 S.C. 129, 141, 580 S.E.2d 109, 115 (2003). Quoting its prior decision in Preer v. Mims, the Harrison Court first summarized the “continuous treatment rule” as follows:

“The so-called ‘continuous treatment’ rule as generally formulated is that if the treatment by the doctor is a continuing course and the patient’s illness, injury or condition is of such a nature as to impose on the doctor a duty of continuing treatment and care, the statute does not commence running until treatment by the doctor for the particular disease or condition involved has terminated—unless during treatment the patient learns or should learn of negligence, in which case the statute runs from the time of discovery, actual or constructive.”

Id. at 135, 580 S.E.2d at 112 (quoting Preer, 323 S.C. 516, 519, 476 S.E.2d 472, 473 (1996)).

The Harrison Court went on to explain that—*notwithstanding* numerous policy considerations supporting adoption of the rule—“the continuous treatment rule should not be judicially adopted,” because, “[p]ut simply, . . . judicial adoption of the continuous treatment rule would run afoul of the absolute limitations policy the Legislature has clearly set via the

statutes discussed above¹⁶].” Id. at 136-38, 580 S.E.2d at 112-13; *see also Epstein v. Brown*, 363 S.C. 372, 378, 610 S.E.2d 816, 819 (2005) (“Notwithstanding the very legitimate policy rationales in favor of adoption of a continuous treatment rule, we declined to adopt it, finding the Legislature has set absolute time restrictions for the bringing of medical malpractice actions in the statutes of repose both for medical malpractice and for persons operating under disability”) (citing Harrison, 354 S.C. at 136-37, 580 S.E.2d at 113).

The Harrison Court then addressed—and rejected—Harrison’s additional argument that it should adopt the “continuing tort doctrine.” Id. at 139, 580 S.E.2d at 114 (“Citing Georgia law, petitioner also argues the Court should adopt the continuing tort doctrine. We disagree.”). It explained,

Under Georgia law, the doctrine of continuing tort:

applies “where any negligent or tortious act is of a continuing nature and produces injury in varying

¹⁶ Among “the statutes discussed above,” was, of course, the medical malpractice statute of repose in § 15-3-545(A). Id. at 137-38, 580 S.E.2d at 113 (explaining, “[t]he primary argument against adoption of the continuous treatment rule is that it offends the clear policy set by the Legislature in its adoption of statutes of limitations and statutes of repose;” then expressly citing the repose provision in § 15-3-545(A) and noting the “economic balance struck by the legislative body” in enacting such a statute of repose) (citations omitted).

degrees over a period of time.” . . .
Under this theory, the statute of
limitation does not begin to run “until
such time as the continued tortious act
producing injury is eliminated.”

Id. (quoting Mears v. Gulfstream Aerospace Corp., 225 Ga. App. 636, 484
S.E.2d 659, 664 (Ct. App. 1997) (citations omitted)).

Having explained the continuing tort theory, the Harrison Court explained that, in Georgia, “the ‘continuing tort’ theory is inapplicable to actions for medical malpractice ‘since it would nullify the intent of the [Georgia] General Assembly that, after five years, no medical malpractice action could be brought . . . because the statute of repose abolishes any action five years after the negligent or wrongful act or omission.’” Id. (quoting Charter Peachford Behavioral Health Sys. v. Kohout, 233 Ga. App. 452, 504 S.E.2d 514, 521 (Ct. App. 1998)). “Thus,” the Harrison Court concluded, “*for the same reason* we reject adoption of the *continuous treatment rule*, Georgia has rejected application of its own *continuous tort theory* to medical malpractice claims. Accordingly, we find [Harrison’s] argument on the *continuing tort doctrine* unavailing.” Id. (emphasis added).

Ms. Johnson’s claims, which arise out of a course of treatment initiated by 2003, but were not pursued via legal action until more than six years thereafter, are barred by the medical malpractice statute of repose in

§15-3-545(A). Her argument to the contrary is incompatible with that statute (more specifically—and most importantly—the legislative intent reflected thereby¹⁷), while the circuit court’s analysis faithfully adheres to the overriding responsibility of ascertaining and effectuating the legislature’s intent.

CONCLUSION

For the reasons set forth herein, as well as those set forth in MUSC’s brief, which, except insofar as they may be inconsistent herewith, Dr. Roberts adopts by reference pursuant to Rule 208(b)(6), SCACR, Dr. Roberts asks the Court to affirm summary judgment in his favor.

<SIGNED ON THE FOLLOWING PAGE>

¹⁷ Of course, “[i]t is well-established that ‘[t]he cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.’” Grier v. AMISUB of S.C., Inc., 397 S.C. 532, 535, 725 S.E.2d 693, 696 (2012) (quoting Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000)). And, with respect to statutes of repose, our Supreme Court has recognized that they are “typically an *absolute time limit* beyond which liability no longer exists and is not tolled for any reason because to do so would upset the economic balance struck by the legislative body.” Langley, 313 S.C. at 404, 438 S.E.2d at 244 (emphasis in original).

Respectfully submitted,

YOUNG CLEMENT RIVERS, LLP

By: 

Stephen L. Brown (SC Bar No. 66468)

D. Jay Davis, Jr. (SC Bar No. 12084)

James E. Scott, IV (SC Bar No. 69436)

Russell G. Hines (SC Bar No. 72100)

25 Calhoun Street, Suite 400

Charleston, South Carolina 29401

P.O. Box 993 (29402)

843-720-5488

Attorneys for Respondent

John Roberts, M.D.

Charleston, South Carolina

Dated: 12/30/15

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Charleston County
Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge
R. Markley Dennis, Jr., Circuit Court Judge

Appellate Case No. 2015-001463
Case No. 2012-CP-10-02867; 2011-CP-10-08318

RECEIVED
JAN 04 2016
SC Court of Appeals

Clair Craver Johnson,

Appellant,

v.

John Roberts, M.D.,

Respondent.

And

Clair Craver Johnson,

Appellant,

v.

Medical University of South Carolina,

Respondent.

PROOF OF SERVICE

YOUNG CLEMENT RIVERS, LLP
Stephen L. Brown
D. Jay Davis, Jr.
James E. Scott, IV
Russell G. Hines
25 Calhoun Street, Suite 400
Charleston, SC 29401
P.O. Box 993 (29402)
(843) 720-5488
Attorneys for John Roberts, M.D.

I, Russell G. Hines, of Young Clement Rivers, LLP, counsel for the Respondent above named, do hereby certify that I have served the **INITIAL BRIEF OF RESPONDENT JOHN ROBERTS, M.D.** and the **DESIGNATION OF MATTERS TO BE INCLUDED IN THE RECORD ON APPEAL BY RESPONDENT JOHN ROBERTS, M.D.** on all parties of record by depositing a copy of the same in the United States Mail, postage prepaid, on December 30, 2015, addressed as follows to their counsel of record:

D. Cravens Ravenel, Esquire
Baker, Ravenel & Bender, L.L.P.
P.O. Box 8057
Columbia, SC 29202

Attorney for Clair Craver Johnson

-and-

William P. Early, Esquire
Pierce, Hems, Sloan & McLeod, LLC
P.O. Box 22437
Charleston, SC 29401

Attorney for Medical University of South Carolina

Respectfully submitted,

YOUNG CLEMENT RIVERS, LLP

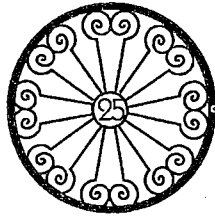
By: 

Russell G. Hines

Attorneys for John Roberts, M.D.

Charleston, South Carolina

Dated: 12/30/15



YCR LAW

Young Clement Rivers, LLP

CELEBRATING 50 YEARS OF LEGAL SERVICE

50 YEARS

Russell G. Hines
Partner

Direct Dial: (843) 720-5488
Direct Fax: (843) 579-1327
E-mail: RHines@ycrlaw.com

December 30, 2015

Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED

JAN 04 2016

SC Court of Appeals

Re: Clair Craver Johnson vs. John Roberts, M.D.
Clair Craver Johnson vs. Medical University of South Carolina
Appellate Case No. 2015-001463
Case No.: 2012-CP-10-2867
YCR File: 2466-20111027

Dear Ms. Kitchings:

Enclosed for filing in the above-referenced matter, please find the original and one copy of the Initial Brief of Respondent John Roberts, M.D. and the Designation of Matters to be Included in the Record on Appeal by Respondent John Roberts, M.D. Also enclosed is the original and one copy of a proof of service regarding the same. Kindly file the originals and return one court-stamped copy to me using the pre-stamped envelope provided.

With best wishes and kindest regards, I am

Sincerely,

YOUNG CLEMENT RIVERS, LLP

Russell G. Hines
Partner

RGH/amj
Enclosures

cc: D. Cravens Ravenel, Esquire, Baker, Ravenel & Bender, L.L.P.
William P. Early, Esquire, Pierce, Hems, Sloan & McLeod, LLC



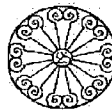
Hasler FIRST-CLASS MAIL
12/30/2015
US POSTAGE \$003.62⁰



ZIP 29401
011D12603180

FIRST CLASS MAIL

RECEIVED
JAN 04 2016
SC Court of Appeals



YCRLAW

25 Calhoun Street, Suite 400
P.O. Box 993
Charleston, SC 29402-0993

KBB
2466-
20111027

Jenny Abbott Kitchings, Clerk of
Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211