

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

APR 19 2017

SC Court of Appeals

APPEAL FROM OCONEE COUNTY
COMMON PLEAS

J. CORDELL MADDOX, JR., CIRCUIT COURT JUDGE

CASE NO.: 2012-CP-37-00902
APPELLATE CASE NO.: 2017-000294

Alexander Pastene.....Appellant,

v.

Marion R. McMillan and Synergy Spine Center, P.A.....Respondents.

**RESPONDENTS' RETURN
TO
"MOTION IN RESPONSE TO ORDER OF DISMISSAL
BY SOUTH CAROLINA COURT OF APPEALS
FILED APRIL 4, 2017, RULES 207 & 262 SCACR"**

Pursuant to Rule 240(e), SCACR, Respondents Marion R. McMillan and Synergy Spine Center, P.A. respond to the "Motion in Response to Order of Dismissal by South Carolina Court of Appeals filed April 4, 2016, Rules 207 & 262 SCACR" dated April 7, 2017. The Respondents oppose the Appellant's motion.

By correspondence dated February 28, 2017, the South Carolina Court of Appeals ordered the Appellant to file two documents with the Court of Appeals by March 10, 2017 to prevent his appeal from being dismissed. Appellant did not comply with the specific instructions of this court.

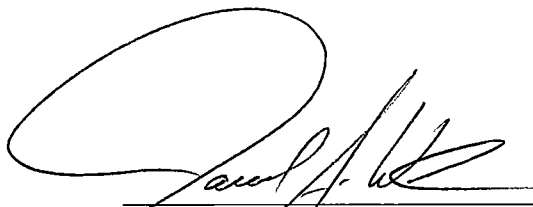
This court specifically requested that the Appellant serve and file a proof of

service “substantially in the format shown by Form 7 Appendix C to part II of the SCACR.” (S.C. Ct. App. correspondence dated 02/28/17). Instead of filing a proof of service in the form indicated by this court, Appellant simply filed a document stating that “he did file proof of service.” (See Appellant’s Response to S.C. Ct. App. correspondence of 02/28/17). The Appellant did not serve and file proof of service as expressly directed by this court.

This court also specifically requested that Appellant provide the Office of Court Administration a copy of Appellant’s request for the transcript. Instead of providing proof that this correspondence was provided to the Office of Court Administration, Appellant simply attached documentation he sent *something* to Court Reporter Vivian Cross on February 15, 2017. Even after being specifically instructed to send a copy of the request for a transcript to the Office of Court Administration, Appellant failed to do so.

Appellant failed to comply with the South Carolina Court of Appeals’ very specific instructions set forth in correspondence dated February 28, 2017. Appellant’s disregard for this court’s rules and instructions is consistent with his disregard for the rules of civil procedure which resulted in the default judgment and the Order Denying Plaintiff’s Motion for Relief from Judgment in this case. The Court of Appeals appropriately dismissed this appeal by Order filed April 4, 2017.

Based upon the foregoing, the Respondents Marion R. McMillan and Synergy Spine Center, P.A. oppose the Appellant’s “Motion in Response to Order of Dismissal by South Carolina Court of Appeals filed April 4, 2016, Rules 207 & 262 SCACR.”



David A. Wilson #65273
Wilson & Englehardt, LLC
200 Whitsett Street, Suite 100B
Greenville, South Carolina 29601
(864) 232-2329
ATTORNEY FOR RESPONDENTS

Greenville, South Carolina
April 17, 2017

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM OCONEE COUNTY
COMMON PLEAS

RECEIVED

APR 19 2017

J. CORDELL MADDOX, JR., CIRCUIT COURT JUDGE

SC Court of Appeals

CASE NO.: 2012-CP-37-00902
APPELLATE CASE NO.: 2017-000294

Alexander Pastene.....Appellant,

v.

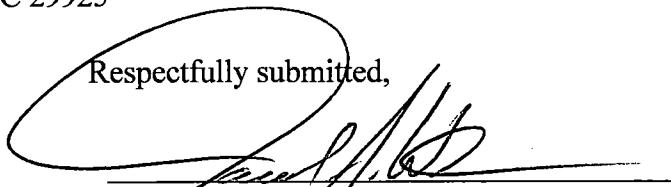
Marion R. McMillan and Synergy Spine Center, P.A.....Respondents.

PROOF OF SERVICE

I certify that I have served the Respondents' Return to "Motion in Response to Order of Dismissal By South Carolina Court of Appeals Filed April 4, 2017, Rules 207 & 262 SCACR" on Appellant by depositing a copy in the United States Mail, Postage prepaid, on April 17, 2017 addressed as follows:

Alexander Pastene
P.O. Box 22298
Hilton Head Island, SC 29925

Respectfully submitted,



David A. Wilson
Wilson & Englehardt, LLC
200 Whitsett Street, Suite 100B
Greenville, South Carolina 29601
(864) 232-2329

ATTORNEY FOR RESPONDENTS

April 17, 2017

WILSON & ENGLEBARDT, LLC*

Litigation • Appeals • Dispute Resolution

David A. Wilson
Eric K. Englebardt

dwilson@GreenvilleSClaw.com
eric@GreenvilleSClaw.com

April 17, 2017

RECEIVED

APR 19 2017

SC Court of Appeals

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

**RE: Alexander Pastene, Appellant v. Marion R. McMillan and Synergy
Spine Center, P.A., Respondents
Case No.: 2012-CP-23-00902
Appellate Case No.: 2017-000294**

Dear Ms. Kitchings:

Enclosed please find the original and seven copies of Respondents' Return to "Motion in Response to Order of Dismissal By South Carolina Court of Appeals Filed April 4, 2017, Rules 207 & 262 SCACR" along with Proof of Service upon Appellant Alexander Pastene.

Please return a filed copy to me in the enclosed self-addressed stamped envelope.

Respectfully,



David A. Wilson

DAW/ccb
Enclosure

cc: Dr. Marion McMillan
Alexander Pastene

Wilson & Englehardt, LLC
200 Whitsett Street, Suite 100B
Greenville, SC 29601

\$2.030
US POSTAGE
FIRST-CLASS
FROM 29601
APR 17 2017
stamps
.com



062S-293765041



Jenny Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia SC 29211-1629

RECEIVED

APR 19 2017

SC Court of Appeals