

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas
Fifth Judicial Circuit

DeAndrea Benjamin, Circuit Court Judge

Appellate Case No. 2015-002260

Cory McMillan,.....Appellant,

v.

UCI Medical Affiliates, Inc., d/b/a
Doctors Care and Jane Doe Respondents.

RETURN TO APPELLANT'S PETITION FOR REHEARING

This, the 27 day of April, 2017.

D. Gary Lovell, Jr.
S.C. Bar No.: 69293
William J. Farley, III
S.C. Bar No.: 101033
CARLOCK COPELAND & STAIR, LLP
40 Calhoun Street, Suite 400
Charleston, SC 29401
Attorneys for Respondents

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SC Court of Appeals

DISCUSSION

Respondents UCI Medical Affiliates, Inc., d/b/a Doctors Care and Jane Doe (“Respondents”), by and through the undersigned counsel, respectfully submit this Return to Appellant’s Petition for Rehearing pursuant to Rule 240, SCACR. In order to prevail on a petition for rehearing, an appellant must demonstrate the Court overlooked or misapprehended the appellant’s argument. Rule 221, SCACR. The purpose of a petition for rehearing is not to have the case tried in the appellate court a second time. Kennedy v. S.C. Ret. Sys., 349 S.C. 531, 564 S.E.2d 322 (2001).

In prior briefs submitted to this Court, Appellant advanced the same arguments contained in his Petition for Rehearing. Specifically, Appellant argues the Court may have “overlooked the analysis put forth by the South Carolina Supreme Court in Dawkins v. Union Hospital District” regarding the statutory pre-litigation requirements for a medical malpractice case. Appellant and Respondents fully briefed Dawkins and its application to the present case. This Court understood the parties’ respective positions on this issue, and even cited Dawkins in its Opinion affirming the circuit court’s dismissal of the case. The Petition for Rehearing is simply an attempt to re-argue the case which the Court correctly decided in its unanimous unpublished Opinion.

Accordingly, the Court should deny Appellant’s Petition for Rehearing.



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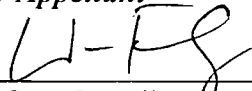
v.

UCI Medical Affiliates, Inc., d/b/a
Doctors Care and Jane Doe,Respondents.

PROOF OF SERVICE

I certify that I have served **Return to Appellant's Petition for Rehearing** upon the parties below, by depositing a copy of it in the United States Mail, postage prepaid, on April 27, 2017, addressed as follows:

James J. Kasprzycki, Jr., Esq.
One Bull Street, Suite 400
Savannah, GA 31401
Ph: (912) 447-5984
Attorney for Appellant



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REPLY TO CHARLESTON
OFFICE

April 27, 2017

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

Re: Cory McMillan v. UCI Medical Affiliates, Inc. *et. al*
Kershaw County Case No.: 2015-CP-28-174
Appellate Court Case No.: 2015-002260
CCS File No.: 3768-51427

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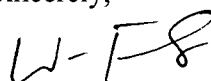
MAY 01 2017

SC Court of Appeals

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents Medical Affiliates, Inc. d/b/a Doctors Care and Jane Doe's **Return to Appellant's Petition for Rehearing** in this case, and original and one (1) copy of Proof of Service. Please provide me with clocked copies in the enclosed, self-addressed, stamped envelope. By copy of this letter, I am serving the same upon all counsel of record. If you have any questions, please feel free to contact me.

Sincerely,



D. GARY LOVELL, JR.
WILLIAM J. FARLEY, III

WJF:tjr
Enclosures

cc: James J. Kasprzycki, Jr., Esq. (w/encls)

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