

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM KERSHAW COUNTY
Court of Common Pleas
Fifth Judicial Circuit

MAY 08 2017
SC Court of Appeals

DeAndrea Benjamin, Circuit Court Judge

Appellate Case No. 2015-002260
Unpublished Opinion No. 2017-UP-145 (filed April 5, 2017)

CORY MCMILLAN,

Appellant,

v.

UCI MEDICAL AFFILIATES, INC., d/b/a
DOCTORS CARE and JANE DOE,

Respondents.

REPLY TO RESPONDENTS' RETURN TO APPELLANT'S
PETITION FOR REHEARING

James J. Kasprzycki
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Attorney for Appellant

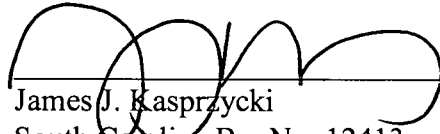
Appellant, Cory McMillan (“Appellant”), by and through his undersigned counsel, respectfully submits this Reply to Respondents’ Return to Appellant’s Petition for Rehearing pursuant to Rule 240, SCACR.

“In order to prevail on a petition for rehearing, appellants must demonstrate the Court overlooked or misapprehended their argument.” Kennedy v. S.C. Ret. Sys., 349 S.C. 531, 532, 564 S.E.2d 322, 322 (2001) (citing Rule 221(a), SCACR). The purpose of a Petition for Rehearing “is to aid the Court in deciding correctly a case heard by it.” Arnold v. Carolina Power & Light Co., 168 S.C. 163, 172, 167 S.E. 234, 238 (1933).

Appellant is not advancing the same arguments in his Petition for Rehearing as he did in his prior briefs. Respectfully, Appellant is of the opinion that this Court overlooked the analysis put forth by the South Carolina Supreme Court in *Dawkins v. Union Hospital District*, 408 S.C. 171, 758 S.E. 2d 501 (2014). In its Order affirming the trial court’s decision that Appellant’s complaint alleged medical malpractice, this Court did not set forth reasons nor discuss Appellant’s contention in his amended complaint that he was receiving routine care at the time of his alleged injury. Even though this Court cited *Dawkins*, Appellant contends it reached its decision with a pre-*Dawkins* mind-set.

Therefore, the Court should grant Appellant’s Petition for Rehearing.

Respectfully submitted,



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Attorney for Appellant

May 5, 2017
Savannah, Georgia

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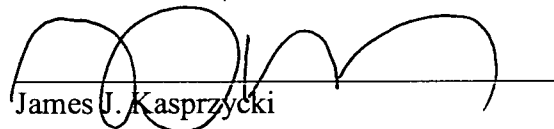
UCI MEDICAL AFFILIATES, INC., d/b/a
DOCTORS CARE and JANE DOE,

Respondents.

CERTIFICATE OF SERVICE

The undersigned certifies that he is the attorney for Appellant in the within matter and that the Reply to Respondents' Return to Appellant's Petition for Rehearing, was served upon all parties, by depositing a copy of same in the United States Mail, with sufficient postage affixed thereto, addressed as follows:

D. Gary Lovell, Jr., Esq.
Carlock, Copeland & Stair, LLP
40 Calhoun Street, Suite 400
Charleston, South Carolina 29401


James J. Kasprzycki

May 5, 2017

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May 5, 2017

Clerk of Court
South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

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SC Court of Appeals

Re: *Cory McMillan v. UCI Medical Affiliates, Inc., d/b/a Doctors Care and Jane Doe*
In the South Carolina Court of Appeals
Appellate Case No. 2015-002260; Unpublished Opinion No. 2017-UP-145

Dear Clerk of Court:

Enclosed please find:

1. Original and six copies of Appellant's Reply to Respondents' Return to Appellant's Petition for Rehearing.
2. Original and two copies of Certificate of Service.

Once the originals have been filed, please return the copies in the self-addressed, stamped envelope provided.

As always, thank you for your assistance with this matter.

Sincerely,


James J. Kasprzycki
Attorney for Appellant

JJK/tc

Enclosures

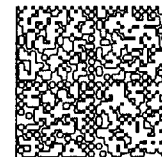
cc: D. Gary Lovell, Jr., Esq. (w/encl.)



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