

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas
Fifth Judicial Circuit

DeAndrea Benjamin, Circuit Court Judge

RECEIVED

JUL 19 2017

S.C. SUPREME COURT

Appellate Case No. 2015-002260
Court of Appeals Order filed April 5, 2017

CORY MCMILLAN,

Petitioner,

v.

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

Respondents.

REPLY TO RESPONDENTS' RETURN TO
PETITIONER'S PETITION FOR A WRIT OF CERTIORARI

James J. Kasprzycki
South Carolina Bar No: 12413
Kenneth S. Nugent, PC
One Bull Street, Suite 400
Savannah, GA 31401
(912) 790-5811 (Telephone)
(912) 629-9942 (Facsimile)

Attorney for Petitioner

I. PETITIONER HAS SET FORTH SPECIAL AND IMPORTANT REASONS WHY THIS COURT SHOULD REVIEW THE DECISION OF THE COURT OF APPEALS

While Rule 242(b), SCACR, lists five considerations as guidance, it is clear from the plain meaning of the rule that they neither control nor fully measure the Supreme Court's discretion or power to grant review in general. The spirit of Rule 242(b), SCACR, clearly states "A writ of certiorari is not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons."

Petitioner would lose credibility with this Court by stating that his "special and important reasons" fall into one of the five considerations. Instead, in his Petition to this Court, Petitioner's argument is that the Court of Appeals ignored the analysis put forth by this Court in *Dawkins v. Union Hospital District*, 408 S.C. 171, 758 S.E. 2d 501 (2014) when deciding his appeal. Even though the Court of Appeals referenced *Dawkins* in its decision, it ignored the detailed analysis put forth in *Dawkins* or failed to apply it to Petitioner's case, or both; and ruled upon Petitioner's appeal as though the *Dawkins* case was never decided by the South Carolina Supreme Court.

Additionally, in his third argument, Petitioner states that the Court of Appeals is holding him to a different standard of proof because his injury occurred at a medical facility when, under an identical fact pattern, at a non-medical facility, such expert testimony would not be required. While neither of the above reasons fit neatly into the five considerations in Rule 242(b) SCACR, they demonstrate special and important reasons why this Court should grant the Petition for a Writ of Certiorari.

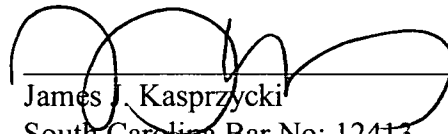
CONCLUSION

Petitioner presents three questions to this Court seeking review of the decision of the Court

of Appeals. Petitioner would merely rehash his arguments by specifically replying to the second question presented in Respondents' return. Petitioner sees no reason to waste the Court's time reiterating the arguments contained in his Petition.

Based upon the arguments contained in the Petition and this Reply, Petitioner renews his request that the Court grant the Petition for a Writ of Certiorari.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James J. Kasprzycki', is written over a horizontal line.

James J. Kasprzycki
South Carolina Bar No: 12413
Kenneth S. Nugent, PC
One Bull Street, Suite 400
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Savannah, Georgia
July 17, 2017

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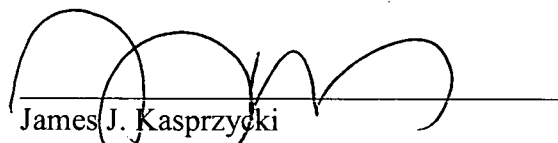
Respondents.

PROOF OF SERVICE

I certify that I have filed the Reply to Respondents' Return to Petitioner's Petition for Writ of Certiorari and served the document on the Respondents UCI Medical Affiliates, Inc., d/b/a Doctors Care and Jane Doe, by depositing a copy of same in the United States Mail, postage prepaid, on July 17, 2017, addressed to the attorney of record as follows:

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

Attorney for Respondents



James J. Kasprzycki
South Carolina Bar No: 12413
Kenneth S. Nugent, PC
One Bull Street, Suite 400
Savannah, GA 31401
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Attorney for Petitioner

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