

# LEVENTIS & RANSOM

## ATTORNEYS AT LAW

Post Office Box 11067  
Columbia, South Carolina 29211

1913 Bull Street  
Columbia, South Carolina 29201

Telephone (803) 765-2383  
Facsimile (803) 799-1612 (fax)

James J. Leventis  
jjleventis@aol.com

Robert B. Ransom  
bertcone@aol.com

September 14, 2017

Jenny Abbott Kitchings  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

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SEP 18 2017

SC Court of Appeals

Re: Shon Turner v. MUSC  
Appellate Case No. 2016-001986

Dear Ms. Kitchings:

Pursuant to SCACR 208(7) ("Supplemental Citations"), I am writing to advise the Court that the decision today in McKaughan v. Upstate Lung and Critical Care Specialists, PC, Op. No. 5515 (S.C.Ct.App. filed September 14, 2017) bears upon the issue *sub judice* of the trial court's directing a verdict on the issue of proximate cause. *See*, Final Brief of Appellant at pages 19 - 21 and 24 - 25; Respondent's Final Brief at pages 29 - 32; and Final Reply Brief of Appellant at pages 14 - 15.

In the instant case, although the Plaintiff's expert (Dr. Kofke) testified that to a reasonable degree of medical certainty, the physician breached the standard of care and that this breach most probably caused the patient's harm, the trial court nevertheless granted a directed verdict by finding the testimony on the issue of proximate cause was not sufficiently detailed to explain what the physician should have done differently.

The McKaughan decision notes that "only on the rarest occasion should the trial court determine the issue of proximate cause as a matter of law" and rejects the argument that a plaintiff must meet a heightened burden in proving the details of medical causation. Which is to say, the McKaughan decision rejects the burden which the trial court imposed on the Plaintiff in the instant case.

Thank you for consideration of these remarks. Please call me if you have any questions or comments.

Very truly yours,



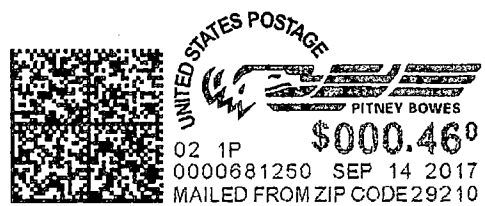
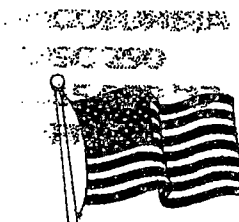
Robert B. Ransom

c: M. Dawes Cooke, Jr., Esq.  
Alex Apostolou, Esq.

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