

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Jean H. Toal, Circuit Court Judge
DeAndrea G. Benjamin, Circuit Court Judge
James P. Kelly, Arbitrator

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S.C. SUPREME COURT

Case No. 2014-CP-40-6017
Appellate Case No. 2017-000994

Rajinder ParmerRespondent,

v.

Balbir S. Minhas, Midlands Gastroenterology, PC, and Midlands Endoscopy Center, LLC
..... Appellants.

MOTION FOR JAMES E. SMITH, JR. TO WITHDRAW AS COUNSEL OF RECORD

Pursuant to Rule 264, SCACR, the undersigned counsel respectfully moves the Court to permit their withdrawal as counsel of record for the Appellants in this matter. The undersigned has served only as trial counsel in the instant matter and not for an appeal.

Appellants have consented to their counsel's withdrawal. Once the Court rules on this motion, Appellants request sixty (60) days to advise the Court whether they intend to proceed with substitute appellate counsel or pro se.

RESPECTFULLY SUBMITTED,

JAMES E. SMITH, JR., P.A.

By: 

James E. Smith, Jr.
James E. Smith, Jr., P.A.
1422 Laurel Street
Columbia, South Carolina 29201
803-933-9800

Attorney for Appellants

Columbia, South Carolina

11 / 2, 2017

RULE 240
MOTIONS AND PETITIONS GENERALLY

(a) Applicability. This Rule governs all motions or petitions filed in the appellate court, including but not limited to: motions for extension of time, motions to reinstate, petitions for rehearing, motions to be relieved as counsel or for substitution of counsel, petitions for supersedeas, motions to remand or dismiss and petitions for hearing *en banc*. Where Rules 241 through 246 provide different or additional requirements or procedures, those requirements or procedures shall apply.

(b) Stay of Time Limits. Unless otherwise provided by these Rules, or ordered by the appellate court, the time limits imposed by these Rules shall not be stayed by the filing of a motion or petition. A motion to dismiss an appeal or a motion to relieve counsel shall, however, automatically stay the time limits for perfecting the appeal until the motion is decided.

(c) Form and Content of Motions and Petitions. All motions or petitions filed in an appellate court shall be in writing, shall state the grounds thereof, and shall comply with the requirements of Rule 267. The pages of the motion or petition and all supporting documents shall be consecutively numbered. Each motion or petition shall include the following:

(1) A certificate or affidavit of service reflecting the date of service upon all parties. The original certificate or affidavit of service must be filed with the original motion or petition.

(2) A memorandum with citation of authorities in support of the motion.

(3) Where the Record on Appeal or Appendix has not been filed, or where the facts relied upon in support of the motion are not contained in the Record on Appeal or Appendix, the parties shall file affidavits and other documents in support of their positions.

(d) Filing of Motions and Petitions. An original and six (6) copies of the motion shall be filed with the clerk of the appellate court, and a copy shall be served upon each party. The copies filed with the appellate court shall be accompanied by the filing fee set by order of the Supreme Court. [1] This filing fee shall not be required for motions or petitions in criminal appeals, petitions for writs of certiorari under Rules 242 and 243, certified questions under Rule 244, petitions to invoke the original jurisdiction of the Supreme Court under Rule 245, or motions or petitions filed by the State of South Carolina or its departments or agencies. In extraordinary cases, the appellate court may relieve a party from paying the filing fee.

(e) Return to Motion. Any party opposing a motion or petition shall have ten (10) days from the date of service thereof to file an original and six (6) copies of his return with the clerk and serve on all parties a copy of the return; provided, however, a return to a petition or motion for rehearing under Rule 221 need not be filed unless requested by the court. The court may in its discretion enlarge or limit the time for filing the return. The provisions of Rule 240(c) shall apply to a return. Failure of a party to timely file a return may be deemed a consent by that party to the relief sought in the motion or petition.

(f) Reply. The moving party shall have five (5) days from the date of service of a return to file an original and six (6) copies of a reply with the clerk and serve on all parties a copy of the reply. The provisions of Rule 240(c) apply to a reply.

(g) Failure to Comply. Failure of the moving party to perform any act required by this Rule may be deemed an abandonment of the motion or petition.

(i) Rehearing. The court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal.

(j) Authority of an Individual Judge or Justice. Except where these rules require the concurrence of two or more members of an appellate court, an individual judge or justice may grant or deny any motion or petition on behalf of the court. Any review of an order issued by an individual judge or justice shall be by petition for rehearing.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by order of the same date.

[1] By order dated October 2, 1985, the filing fee for motions and petitions was set at twenty-five (\$25.00) dollars.

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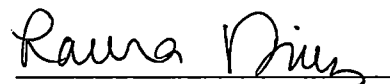
Balbir S. Minhas, Midlands Gastroenterology, PC, and Midlands Endoscopy Center, LLC
..... Appellants.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicted below, she served counsel for the Respondent with a copy of the *Motion for James E. Smith, Jr. to Withdraw as Counsel of Record* by mailing copies of the same by United States Mail with first class postage prepaid to the following address:

E. Wade Mullins, III
Bruner, Powell, Wall & Mullins, LLC
P.O. Box 61110
Columbia, SC 29260-1110

November 6, 2017


Laura Diaz, Paralegal