

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

NOV 20 2017

APPEAL FROM SPARTANBURG COUNTY S.C. SUPREME COURT
J. Mark Hayes, II, Circuit Court Judge

Opinion No. 5515
(S.C. Ct. App. filed September 14, 2017)

Lisa McKaughan, Individually and as the
Personal Representative of the Estate of William Farr, Respondent,

v.

Upstate Lung and Critical Care Specialists, P.C.;
and Sau-Yin Wan, M.D., Petitioners.

PETITION FOR WRIT OF CERTIORARI

RECEIVED

NOV 20 2017

SC Court of Appeals

Andrew F. Lindemann
DAVIDSON & LINDEMANN, P.A.
1611 Devonshire Drive
Post Office Box 8568
Columbia, South Carolina 29202
(803) 806-8222

Ashby W. Davis
David L. Williford, II
DAVIS, SNYDER & WILLIFORD, P.A.
5 Hawthorne Park Court
Greenville, South Carolina 29615
(864) 335-3500

Counsel for Petitioners

TABLE OF CONTENTS

Certificate of Counsel 1

Question Presented 2

Statement of the Case 3

Arguments 9

 I. The Court of Appeals erred in reversing the directed verdict
 on the issue of proximate cause. 9

Conclusion 17

CERTIFICATE OF COUNSEL

Counsel for the Petitioners Upstate Lung and Critical Care Specialists, P.C. and Sau-Yin Wan, M.D. certifies that their Petition for Rehearing was made and finally ruled on by the South Carolina Court of Appeals on October 19, 2017. (App. 9-10).

QUESTION PRESENTED

- I. Did the Court of Appeals err in reversing the directed verdict entered by the trial court on the issue of proximate cause?

STATEMENT OF THE CASE

This is a medical malpractice case. The Respondent Lisa McKaughan, as the Personal Representative of the Estate of William Farr ("Estate"), brought suit against Sau-Yin Wan, M.D. and her employer, Upstate Lung and Critical Care Specialists, P.C. The Estate alleges that Dr. Wan deviated from the standard of care by failing to timely diagnose lung cancer on an x-ray of William Farr in January 2010, which allegedly caused his death in June 2012.

The Estate filed a Notice of Intent to File Suit alleging medical malpractice on December 12, 2012. After the Notice of Intent process completed and ended in an impasse, the Estate filed the Complaint on June 3, 2013, after which the Petitioners timely filed their Answer denying liability. (R. 3-27).

By way of further factual background, the decedent, William Farr, was referred to Dr. Sau-Yin Wan, who is a board-certified pulmonologist, by Farr's hematologist/oncologist, Dr. Sarah Vidito, on January 5, 2010, to get his lungs checked as a part of Dr. Vidito's continuous treatment for erythrocytosis, a condition of elevated red blood cells resulting from his life-long smoking abuse. (R. 364-365, 456, 853). Dr. Wan evaluated Farr on January 11, 2010 at her office, performed a physical exam, ordered and performed a pulmonary function test and a chest x-ray with two views (AP and lateral). (R. 853-855). She diagnosed Farr as

having mild hypoxemia, dyspnea (respiratory insufficiency) and chronic obstructive pulmonary disease (COPD) as a result of his life-long smoking abuse. (R. 855). She noted that the x-rays showed "hyperinflation" (due to COPD) and "no infiltrate." She also noted that the plan was for "SMOKING CESSATION!" and provided a prescription for Chantix to assist with this plan. (R. 855). She noted that he should return to the clinic in six months. Farr, however, did not follow up with Dr. Wan. (R. 463-464, 855).

On October 6, 2010, William Farr was seen by his family physician, Dr. Ronald Littlefield, for a routine checkup for "multiple medical problems" including increased shortness of breath and chest pain. Dr. Littlefield ordered a stress test, echocardiogram and a chest x-ray, among other tests, for evaluating his complaints. (R. 861-865). The chest x-ray interpretation on October 7, 2010 by Dr. Raul Ceballos, Jr., a radiologist, stated as follows: "No hilar or mediastinal adenopathy or mass lesions evident ... confluent patchy and streaky radiopacities in the anterior segment of the right upper lobe. ... While this may be chronic in nature, early or evolving pneumonitis cannot be excluded ... In addition, the possibility of an underlying occult pulmonary mass cannot be totally excluded." (R. 868). As a result of this x-ray, CT and PET scans were ordered, which did not clearly show cancer and which were ultimately inconclusive. (R. 883-892). Nonetheless, Farr sought surgical exploration for possible right lung cancer on

December 2, 2010, by Dr. Christophe Nguyen, an oncological surgeon in Spartanburg.

As noted in the December 2, 2010 operative report of Dr. Nguyen and as a result of the surgical pathology report of Dr. David Wren, a pathologist, lung cancer (papillary predominant adenocarcinoma) was found and entirely removed. In addition, as part of the procedure, the lymph nodes were removed, all of which were negative for lymphatic spread or metastasis. The surgical margins were also clear, evidencing no spread of cancer. The first line of Dr. Nguyen's dictated operative note states: "No evidence of metastatic disease." (R. 941).

As a result of William Farr's decision to obtain a second opinion on whether or not to receive adjuvant chemotherapy, the surgical pathology slides were reviewed a few months later in February 2011, by Dr. Masha Bilie and Dr. Paul Eberts, both pathologists at the Medical University of South Carolina (MUSC). Dr. Bilie and Dr. Eberts made the same findings as those of Dr. Wren in Spartanburg: the lymph nodes were negative for cancer, the surgical margins were clear, and the cancer type was "adenocarcinoma, papillary predominant histological subtype." (R. 1003). The MUSC pathology report confirmed Dr. Wren's pathological and Dr. Nguyen's surgical determinations that all of Mr. Farr's lung cancer was removed and that there was no metastasis. (R. 1003).

During the next fourteen months, William Farr continued to smoke against medical advice. His oncologist, Dr. Sharmila Mehta, noted in his May 10, 2011 visit, for example, that "[u]nfortunately, the patient continues to smoke and I have once again expressed to him the greatest factor of his cancer coming back is because he continues to smoke on a regular basis. ... He continues to refuse formal smoking cessation." (R. 1025).

In addition, during those fourteen months, Farr was seen and evaluated periodically by various treating physicians for follow-up care. Eventually there became a clinical suspicion of a possible recurrence but with respect to Farr's left lung. As a result, Dr. Nguyen resected a portion of Farr's left lung on April 17, 2012. (R. 1097-1098). The surgical specimens were reviewed by Dr. Rosanna Lapham, a pathologist, who issued her surgical pathology report on April 20, 2012 and concluded that the left lung was "adenocarcinoma, lipidic predominant and with acinar pattern ... within the random sections of the lung parenchyma there are multiple minute foci of lipidic in situ adenocarcinoma." (R. 1099). This left lung cancer was of a different histological subtype than the right lung cancer, and the left lung cancer had in situ components, which reflected that this left lung cancer originated in the left lung and did not spread from the right lung. Thus, as the Petitioners contend, this left lung cancer was unrelated to Farr's right lung cancer, which was completely removed about one and a half years earlier.

William Farr died soon thereafter in June 2012. The Petitioners contend that death resulted from his chronic pulmonary issues caused by smoking all of his life against medical advice, even until the very month of his death, as noted in his medical records.

In its lawsuit, the Estate alleges that Dr. Wan misdiagnosed Farr's chest x-ray of January 11, 2010, by failing to detect his right lung cancer. Even though the right lung cancer was completely removed surgically and that it did not spread by any of the known mechanisms of metastasis, the Estate alleges that the right lung cancer spread by way of an "endobronchial" or "aerogenic" spread theory. The Estate's "aerogenic" theory basically suggests that lung cancer can spread by "breathing." The Petitioners contend that that theory has no proven basis whatsoever in the pathology literature and is not recognized as an accepted pathological mode of metastasis.

The case was tried beginning on July 27, 2015, by Circuit Court Judge J. Mark Hayes, II and a jury. On July 29, 2015, at the close of the Estate's case-in-chief, the Petitioners moved for a directed verdict on two grounds. Judge Hayes denied the directed verdict motion on the standard of care issue. However, after arguments by counsel for both parties, Judge Hayes granted a directed verdict on the proximate cause issue. As part of that ruling, Judge Hayes also conducted a Rule 702 review of the expert testimony of Dr. Willard Milby, who was the

Respondent's pathology expert witness. Judge Hayes found unreliable under Rule 702 Dr. Milby's opinion that the cancer in William Farr's right lung spread to his left lung by an "endobrochial" or "aerogenic" mechanism.

In a published opinion filed on September 14, 2017, the Court of Appeals reversed the directed verdict entered by Judge Hayes. The Petitioners filed a petition for rehearing, which was subsequently denied on October 19, 2017.

ARGUMENTS

I. The Court of Appeals erred in reversing the directed verdict on the issue of proximate cause.

In reversing the directed verdict entered by the trial court, the South Carolina Court of Appeals analyzed the basis for the trial judge's ruling solely as a sufficiency of the evidence issue rather than what was the essence of that ruling -- that the causation evidence presented by the Estate was not reliable under the test established in *State v. Council*, 335 S.C. 1, 515 S.E.2d 508 (1999). In order to justify a reversal of the directed verdict, the Court of Appeals inexplicably failed to even address the reliability of the causation evidence presented. Moreover, in so ruling, the Court of Appeals applied an incorrect standard of review, having entirely disregarded the abuse of discretion standard which is applicable to a trial judge's determination of the *reliability* of expert evidence in fulfilling his gatekeeping role under Rule 702, SCRE, and the test established in *Council*. The standard of review, in fact, requires that great deference be given to the trial judge's evidentiary rulings. *See, State v. Torres*, 390 S.C. 618, 703 S.E.2d 226, 230 (2010) ("[t]he appellate court reviews a trial judge's ruling on admissibility of evidence pursuant to an abuse of discretion standard and gives great deference to the trial court").

It is well settled that "[t]he admission of expert testimony is governed by Rule 702, SCRE, which provides:

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill experience, training, or education may testify thereto in the form of an opinion or otherwise.

Rule 702, SCRE. This Court has recognized that "expert testimony receives additional scrutiny relative to other evidentiary decisions." *Watson v. Ford Motor Co.*, 389 S.C. 434, 699 S.E.2d 169, 175 (2010). In fulfilling its "gatekeeping" duties, a trial court is required to make "three key preliminary findings which are fundamental to Rule 702 before the jury may consider expert testimony." *Id.* "All expert testimony must satisfy the Rule 702 criteria, and that includes the trial court's gatekeeping function in ensuring the proposed expert testimony meets a reliability threshold for the jury's ultimate consideration." *State v. White*, 382 S.C. 265, 676 S.E.2d 684 (2009).

This Court has stressed that "[r]eliability is a central feature of Rule 702 admissibility." *Id.* This Court has explained as follows:

[T]he trial courts of this state have a gatekeeping role with respect to all evidence sought to be admitted under Rule 702, whether the evidence is scientific or nonscientific. In the discharge of its gatekeeping role, a trial court must assess the threshold foundational requirements of qualifications and reliability and further find that the proposed evidence will assist the trier of fact. The familiar evidentiary mantra that a challenge to

evidence goes to "weight, not admissibility" may be invoked only after the trial court has vetted the matters of qualifications and reliability and admitted the evidence.

White, 676 S.E.2d at 689. As this Court stated in *White*, the case of *State v. Council*, 335 S.C. 1, 515 S.E.2d 508 (1999) is the leading case that addresses "the gatekeeping role of the trial court with regard to expert testimony under Rule 702, as well as the standard reliability factors for scientific evidence." 676 S.E.2d at 688.

The errors committed by the Court of Appeals in addressing this complex medical malpractice case are multi-faceted and clearly merit the issuance of a writ of certiorari. This case will allow this Court to expand the current jurisprudence in this State on the proper application of Rule 702 and the trial judge's role as a gatekeeper. This case also allows for this Court to fully address that a finding of "sufficiency" of the evidence does not excuse or override the requirement under Rule 702 that the evidence must be reliable.

As an initial point, the Court of Appeals failed to recognize that the Estate presented Dr. Willard Milby, a pathologist, as its causation expert. Instead, the Court focused on the testimony of Dr. Barry Singer without any mention at all of Dr. Milby's opinions. Yet, Dr. Singer distinctly testified that he is not a pathologist and is not qualified to offer opinions in the field of pathology. (R. 223). He readily deferred to the opinions of the pathologist -- Dr. Milby -- as to what types of lung

cancer the decedent William Farr had. (R. 223-224). Disregarding that admitted deference by Dr. Singer, the Court of Appeals reversed the directed verdict and failed to address the actual causation testimony offered by Dr. Milby which had been determined to be unreliable by Judge Mark Hayes at trial.

Moreover, without conducting any analysis under Rule 702 and *Council*, the Court of Appeals summarily rejected the results of the trial judge's gatekeeping role. As indicated, the Court did this by treating the issue as one of *sufficiency* of the evidence rather than *reliability* of the evidence. The Court made no assessment of reliability of the causation testimony on which it based the reversal of the directed verdict motion. More importantly, the Court of Appeals failed to actually discuss or explicitly reverse the trial judge's reliability rulings under *Council*. Instead, by footnote at the close of the opinion, the Court of Appeals states only that it "declines to address McKaughan's arguments regarding expert testimony that was excluded as reliable." (App. 7). Those reliability rulings -- which are subject to an abuse of discretion standard rather than a "mere scintilla" standard -- are the crux of the directed verdict and should not have been disregarded or overlooked in adjudicating this appeal. Even given the Court of Appeals' finding that the conclusory opinions of Dr. Singer satisfy the "mere scintilla" standard, such evidence must first meet the reliability requirement under Rule 702 and *Council* in order even be deemed admissible.

Furthermore, the Court of Appeals' analysis was significantly flawed because the Court failed to apply the critical element in a medical malpractice case that mandates that "the expert testimony as to proximate cause must provide a *significant causal link* between the alleged negligence and the injuries suffered, rather than a tenuous and hypothetical connection." *Martasin v. Hilton Head Health System, L.P.*, 364 S.C. 430, 613 S.E.2d 795, 800 (Ct. App. 2005). (Emphasis added). The Estate's causation evidence, even with consideration of the unsupported opinions of Dr. Singer, does not meet this standard. As Judge Hayes correctly determined, without evidence as to how the cancer spread from the right lung to the left lung, the Estate could not and did not show a "significant causal link." Judge Hayes correctly explained that the Estate has "got that burden of proof of establishing what – some way how that cancer got from one lung to the other. ... I'm not convinced that it's enough for a doctor to come in and look at the end result and say okay, this cancer's the same as the other cancer, ... it metastasized and not say well how it did." (R. 607). Judge Hayes was concerned with "allow[ing] the jury to speculate as to how it got from one lung to the other." (R. 607). Later, in his ruling on the directed verdict motion, Judge Hayes explained that "the Plaintiff has to explain to the jury medically how that transfer happened." (R. 617).

Judge Hayes recognized that, consistent with the expert testimony presented, including the testimony of Dr. Milby, there are three mechanisms by which cancer typically metastasizes: (1) through the lymphatic system, (2) through the bloodstream (i.e., "hemotogenous spread"), or (3) by direct extension. (R. 512, 559). Importantly, the Estate was unable to point to any of these three mechanisms to explain the alleged spread of the cancer from the decedent's right lung to his left lung. Even Dr. Singer, on whose testimony the Court of Appeals solely relied to reverse the directed verdict, could not opine that one of those three mechanisms supported the Estate's theory of liability. Indeed, Dr. Singer's testimony, when closely examined, offers only possibilities -- but no concrete explanation for causation that satisfies the "most probably" standard. *See generally, Harris v. Rose's Stores, Inc.*, 315 S.C. 344, 433 S.E.2d 905, 907 (Ct. App. 1993). ("[c]ausation based upon a possibility rather than a probability is not sufficient for a plaintiff to recover"). In fact, as the basis for its reversal of the directed verdict, the Court of Appeals specifically relies on Dr. Singer's testimony that "these close margins indicated 'there's a great risk that cells may have been left after the surgery.'" (App. 7). That testimony using the term "may" does not meet the requirement that causation be proven to a probability. Moreover, it shows that Dr. Singer was only speculating, at best, as to a mechanism of spread. Likewise, the Court of Appeals cited Dr. Singer's testimony that "30% of patients with negative margins and no lymph node

involvement subsequently have a recurrence of cancer." (App. 7). That testimony also does not provide proof of causation meeting the "most probably" standard. Thus, contrary to the Court of Appeals' conclusion, Dr. Singer's testimony did not, in fact, provide sufficient evidence of causation to survive the directed verdict motion.

Moreover, the Estate's counsel conceded in his directed verdict argument that Dr. Singer "can't offer an opinion on how it spread." (R. 607). But, the Court of Appeals nonetheless found his testimony sufficient to prove a metastasis, which was in error.

In reversing the directed verdict, the Court of Appeals excused the Estate's lack of proof of causation by concluding that "the trial court imposed too high a burden on McKaughan to prove how the cancer spread from one lung to the other." (App. 5). The Court found that "it was an error of law to direct a verdict in favor of Respondents because Dr. Singer did not definitively indicate by what method the cancer metastasized." (App. 5). The Court went on to explain that "[i]f a plaintiff presents an expert who testifies, to a reasonable degree of medical certainty, *and with supporting scientific evidence*, that the plaintiff's cancer is a metastasis, the plaintiff has met its burden to overcome a directed verdict." (App. 6). (Emphasis added).

The Court of Appeals' error in this ruling was two-fold. First, the Court of Appeals erred in finding that proof of a mechanism of spread was "too high a


burden." That proof was necessary to establish the requisite significant causal link, just as Judge Hayes correctly determined. This alone shows a divergence with prior precedent thereby justifying the issuance of a writ of certiorari. Second, as already discussed, the Court of Appeals makes no mention of the requirement that the "supporting scientific evidence" be reliable under Rule 702 and the *Council* test. In fact, the Court of Appeals explicitly declined to address the reliability of the causation evidence -- which again is the crux of this case and the trial judge's ruling at the directed verdict stage. In effect, the Court stripped the trial judge of his gatekeeper role under *Council*, which clearly merits the issuance of a writ of certiorari to review and reverse the Court of Appeals' decision.

CONCLUSION

Based on the foregoing discussion, the Petitioners respectfully request that this Court grant their petition for a writ of certiorari.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

BY: 
ANDREW F. LINDEMANN
1611 Devonshire Drive
Post Office Box 8568
Columbia, South Carolina 29202
(803) 806-8222

-and-

ASHBY W. DAVIS
DAVID L. WILLIFORD, II
DAVIS, SNYDER & WILLIFORD, P.A.
5 Hawthorne Park Court
Greenville, South Carolina 29615
(864) 335-3500

Counsel for Petitioners

Columbia, South Carolina

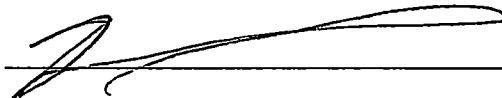
November 20, 2017

CERTIFICATE OF SERVICE

The undersigned employee of Davidson & Lindemann, P.A., attorneys for the Petitioners, does hereby certify that service of the **Petition for Writ of Certiorari** in the above referenced action was made upon the Clerk of the South Carolina Court of Appeals by hand delivery and upon all counsel of record as well as a copy of the **Appendix** being made upon all counsel of record (minus the briefs and Record filed with the Court of Appeals) by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelope this the 20th day of November 2017:

Hand Delivered

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

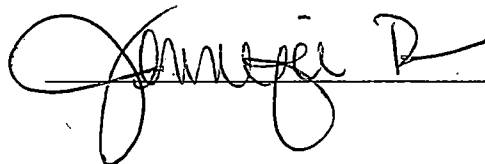


Via U.S. Mail

Jordan C. Calloway, Esquire
McGowan, Hood & Felder, LLC
1539 Healthcare Drive
Rock Hill, South Carolina 29732

Via U.S. Mail

Ashby W. Davis, Esquire
David L. Williford, II, Esquire
Davis, Snyder & Williford, P.A.
5 Hawthorne Park Court
Greenville, South Carolina 29615



RECEIVED
NOV 20 2017
SC Court of Appeals

DAVIDSON & LINDEMANN, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202-8568
Telephone: (803) 806-8222
Facsimile: (803) 806-8855
www.dml-law.com

November 20, 2017

COPY

William H. Davidson, II
Andrew F. Lindemann*
James M. Davis, Jr.†
Robert D. Garfield
Michael B. Wren

Daniel C. Plyler
Joel S. Hughes
David A. DeMasters
Steven R. Spreewuers
Brandon M. Briggs
Ryan J. Patane

*Also Admitted In North Carolina
†Certified Mediator

RECEIVED

NOV 20 2017

Writer's Email: alindemann@dml-law.com

Of Counsel
Kenneth P. Woodington

Hand Delivered

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201

S.C. SUPREME COURT

RE: Lisa McKaughan, Individually and as the Personal Representative of the Estate of William Farr v. Upstate Lung and Critical Care Specialists, P.C.; and Sau-Yin Wan, M.D.
Court of Appeals Case Number: 2015-001828
Civil Action Number: 2013-CP-42-2404
Our File Number: 359.9771

Dear Mr. Shearouse:

Please find enclosed for filing the original and seven copies of the **Petition for Writ of Certiorari** in the above referenced matter. Please file the original and return a clocked-in copy to me by way of my courier. Additionally, please find enclosed for filing two copies of the **Appendix** (one bound copy and one unbound copy). I have also enclosed my law firm's check in the amount of \$100.00 for the filing fee.

By copy of this letter, I am serving a copy of the Petition on all counsel of record as well as the Clerk of the Court of Appeals. I am also serving a copy of the Appendix on all counsel of record; however, have not provided counsel with the briefs and five-volume record filed with the Court of Appeals since they are already in possession of those documents.

Thank you for your assistance in this matter.

Sincerely,

DAVIDSON & LINDEMANN, P.A.

Andrew F. Lindemann

RECEIVED

NOV 20 2017

SC Court of Appeals

AFL/jmb
Enclosures

The Honorable Daniel E. Shearouse
November 20, 2017
Page Two

cc: (w/ Enclosures, As Stated)

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Jordan C. Calloway, Esquire
McGowan, Hood & Felder, LLC
1539 Healthcare Drive
Rock Hill, South Carolina 29732

Ashby W. Davis, Esquire
David L. Williford, II, Esquire
Davis, Snyder & Williford, P.A.
5 Hawthorne Park Court
Greenville, South Carolina 29615

DAVIDSON & LINDEMANN, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

William H. Davidson, II
Andrew F. Lindemann*
James M. Davis, Jr.†
Robert D. Garfield
Michael B. Wren

1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202-8568
Telephone: (803) 806-8222
Facsimile: (803) 806-8855
www.dml-law.com

November 20, 2017

Daniel C. Plyler
Joel S. Hughes
David A. DeMasters
Steven R. Spreetowers
Brandon M. Briggs
Ryan J. Patane

*Also Admitted In North Carolina
†Certified Mediator

Of Counsel
Kenneth P. Woodington

Writer's Email: alindemann@dml-law.com

Hand Delivered

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RE: Lisa McKaughan, Individually and as the Personal Representative of the Estate of William Farr v. Upstate Lung and Critical Care Specialists, P.C.; and Sau-Yin Wan, M.D.
Appellate Case Number: 2015-001828
Civil Action Number: 2013-CP-42-2404
Our File Number: 359.9771


Dear Ms. Kitchings:

Please find enclosed for filing two copies of the **Petition for Writ of Certiorari** and Certificate of Service in the above referenced matter that has been filed with the South Carolina Supreme Court. Please provide me with a clocked-in copies of each document by way of my courier.

Thank you for your assistance in this matter.

Sincerely,

DAVIDSON & LINDEMANN, P.A.


Andrew F. Lindemann

AFL/jmb
Enclosures

cc: Jordan C. Calloway, Esquire (w/ Enclosures)
Ashby W. Davis, Esquire (w/ Enclosures)
David L. Williford, II, Esquire (w/ Enclosures)

RECEIVED

NOV 20 2017

SC Court of Appeals

RECEIVED

NOV 20 2017

S.C. SUPREME COURT