

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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RECEIVED

DEC 27 2017

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

SC Court of Appeals

R. Markley Dennis, Jr., Circuit Court Judge

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C.A. No.: 2013-CP-10-1400  
Appellate Case No. 2015-000269

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Robert J. Burke.....Respondent,

v.

Republic Parking System, Inc. ....Appellant.

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**AMENDED PETITION FOR REHEARING BY RESPONDENT**

**ROBERT J. BURKE**

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Pursuant to Rule 221(a) of the South Carolina Appellate Court Rules, Respondent Robert J. Burke (“Burke”) hereby petitions for rehearing of the Court’s opinion and decision in this appeal, Opinion No. 5519 filed on October 25, 2017, by and through this Amended Petition for Rehearing, filed with leave of the Court pursuant to the Court’s Order filed on December 18, 2017.

The opinion of this Court, respectfully, overlooks and misapprehends the following particular points at issue in this appeal from the bifurcated jury trial and jury verdicts in this case:

1. In deciding that the entire case was reversed and remanded for a new trial. The Court overlooks and misapprehends that the trial in this case was bifurcated between a liability phase and a damages phase, at the request of Appellant Republic Parking System, Inc. (“Republic”). Republic sought to have Dr. Todd Shuman (a medical expert) testify only in the damages portion of the trial, after the liability verdict was already established. No medical experts testified in the liability phase, only in the damages phase. The Court overlooked and misapprehended the fact that this was a bifurcated trial in reversing the entire case and to the extent that the trial court committed error with the exclusion of Dr. Shuman, which is denied, the liability verdict of the jury should stand as there was no prejudice to Republic in the liability phase of the trial associated with the exclusion of Dr. Shuman’s testimony. To that end, the Court should only reverse and remand the damages phase of the bifurcated trial if the additional arguments in this petition are unpersuasive to the Court.
2. In deciding that the trial court did not adequately consider and evaluate the appropriate factors or make the appropriate inquiry before excluding the expert that Republic sought to have testify at trial, even though the expert was never designated by Republic. The Court overlooks the trial court’s analysis of the appropriate factors and inquiry which was sufficient under the applicable standard of review and which need not be specifically or formulaically enunciated as a matter of law.
3. Based on the analysis of the trial court, the Court misapprehended and overlooked the application of the appropriate standard of review on the issue of admission or exclusion of evidence.

4. The Court mistakenly misapprehends that Republic was prejudiced by the exclusion of the expert Republic sought to have testify, but which it never identified in accordance with the SCRCF in the first place.

Based on the foregoing, as further explained herein, Burke respectfully requests that this Court grant Burke's petition for rehearing and affirm the jury verdict in this case, or at a minimum, affirm the liability jury verdict and phase of the trial and remand for a new trial on damages only.

### **Law / Analysis**

"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). Burke submits, respectfully, that the Court overlooked and misapprehended key issues in his argument and based on the appellate record and therefore the petition for rehearing should be granted, the Court's opinion vacated and the case and judgment should be affirmed or altered to preserve the unaffected liability verdict.

In this petition, Burke respectfully contends that the Court and the opinion of the Court overlooks and misapprehends the following particular points and further fails to address some of the arguments raised in the appeal:

- 1. In deciding that the entire case was reversed and remanded for a new trial. The Court overlooks and misapprehends that the trial in this case was bifurcated between a liability phase and a damages phase, at the request of Appellant Republic Parking System, Inc. ("Republic"). Republic sought to have Dr. Todd Shuman (a medical expert) testify only in the damages portion of the trial, after the liability verdict was already established. No medical experts testified in the liability phase, only in the**

**damages phase. The Court overlooked and misapprehended the fact that this was a bifurcated trial in reversing the entire case and to the extent that the trial court committed error with the exclusion of Dr. Shuman, which is denied, the liability verdict of the jury should stand as there was no prejudice to Republic in the liability phase of the trial associated with the exclusion of Dr. Shuman's testimony. To that end, the Court should only reverse and remand the damages phase of the bifurcated trial if the additional arguments in this petition are unpersuasive to the Court.**

Republic moved the trial court under Rule 42(b), SCRPC for separate trials on liability and damages which the trial court granted. (R. p. 54-56; p.248-263). The trial was bifurcated into two distinct separate trials, one on liability and one on damages. Each phase of the trial was distinct, with each retaining their own opening statements, presentation of evidence and witnesses, closing arguments, jury charges and verdicts. Two separate verdicts were found by the jury. At the conclusion of the liability phase, a liability verdict was found by the jury which found Republic negligent and which also found Burke to be twenty percent (20%) comparatively negligent. (R. p.6-7). At the conclusion of the damages phase of the trial, a verdict of damages was found by the jury. (R. p.8). In the case of separate trials on liability and damages, if reversible error occurs in the damages phase only, the liability verdict should stand and the Court should only reverse as to the damages phase and only remand for a new damages phase of the trial. E.g., Durham v. Vinson, 360 S.C. 639, 653-654, 602 S.E.2d 760 (2004).

While the trial court took up the motion in limine of Dr. Shuman prior to the commencement of the trial, Dr. Shuman was offered as a medical expert in the damages portion of the trial only, not the liability portion of the trial. In addition, because of the decision by the trial court to have a bifurcated trial at the request of Republic, no medical or damages witnesses

were allowed in the liability phase. Certainly, no medical experts testified in the liability phase and they would not be permitted to do so due to the bifurcated trial. Rather, such evidence and testimony were reserved for the issues of causation and damages which was the subject matter of the damages portion of the trial.

The Court misapprehends and overlooks that the trial was bifurcated and that Dr. Shuman's role (if permitted to testify) was solely in the damages phase of the trial, along with Burke's expert Dr. Marshall White. This Court found that the exclusion of Dr. Shuman as a witness was improper and the Court reversed and remanded the entire case without drawing a distinction between the liability and damages phases and separate verdicts. However, the Court's opinion did not address the separate liability verdict and whether it should stand and be affirmed. Burke contends that the trial court did not commit error in its discretion by excluding Dr. Shuman in the first place as an expert witness for Republic who was never been identified by Republic. Those arguments are contained in subsequent sections of this Petition. However, if this Court finds that the trial court's exclusion of Dr. Shuman was an abuse of discretion, the liability verdict and liability trial should be affirmed, with the damages portion of the bifurcated trial only being reversed and remanded.

The Court's opinion only finds prejudice to Republic in the damages phase of the trial related to impact on the "*causation and damages* elements of Burke's claims." Opinion, ¶ 3, page 6 (emphasis added). The Court found in its opinion that "Shuman was Republic's only expert witness to contradict Burke's expert [Marshall White], and his testimony would have impacted the *causation and damages elements* of Burke's claims." Opinion ¶ 3, page 6 (emphasis added). The Court further found that "[b]y excluding Shuman's testimony, the jury was not permitted to hear and consider all relevant evidence relating to *causation and damages*, and there is a reasonable probability the jury's verdict was influenced by the trial court's decision." Opinion ¶ 3, page 6

(emphasis added). The Court concluded “[t]hus, Shuman’s testimony was vital to Republic’s *causation and damages* arguments, and the trial court’s exclusion of it prejudiced Republic. Accordingly, because the trial court abused its discretion by excluding Shuman’s testimony and that error was prejudicial, we reverse and remand for a new trial.” Opinion ¶ 3, page 6 (emphasis added).

The Court concluded that the exclusion of Dr. Shuman prejudiced Republic as to causation and damages arguments which occurred in the damages phase of the trial only, not in the liability phase of the trial, which had already been concluded with a verdict. The Court however misapprehended and overlooked this key issue when it reversed and remanded the entire case for “a new trial.” The Court did not specify whether it was reversing and remanding for a new trial on damages only or for a new trial on liability and damages.

The Court should only reverse and remand the damages portion of the trial and allow the previous unaffected jury liability verdict to stand, as there was no error or prejudice to Republic in the liability phase. There cannot be any error related to Dr. Shuman’s exclusion as a witness or any prejudice in the liability phase of the trial because Dr. Shuman was a medical expert which Republic sought to have testify to causation and damages in the damages phase.

The Court misapprehended and overlooked the separate bifurcated trials between liability and damages, that the prior liability verdict was unaffected by the assigned error, that the liability verdict was unaffected by any prejudice found by the Court and that to the extent any reversal is warranted, only the damages trial should be reversed and remanded for a new damages phase of the trial, with the prior unaffected liability verdict intact. Burke submits that to the extent that the other arguments in this Petition do not cause the Court to grant Burke’s petition and affirm the entire proceeding below, the Court’s opinion should be vacated on this ground, grant Burke’s

Petition for Rehearing, affirm the trial court and the jury's verdict on the liability phase of the trial and remand only for a new trial on the damages phase.

The liability phase of the trial and the jury's liability verdict should also be affirmed by the Court because there was no other error or prejudice in that phase of the trial based on the issues on appeal for the reasons briefed by the parties and argued to the Court at oral argument.

**2. In deciding that the trial court did not adequately consider and evaluate the appropriate factors or make the appropriate inquiry before excluding the expert that Republic sought to have testify at trial, even though the expert was never designated by Republic. The Court overlooks the trial court's analysis of the appropriate factors and inquiry which was sufficient under the applicable standard of review and which need not be specifically or formulaically enunciated as a matter of law.**

A trial court need not specifically enunciate the factors from Jumper in its analysis and it is not reversible error to not do so. Arthur v. Sexton Dental Clinic, 368 S.C. 326, 339, 628 S.E.2d 894, 901 (Ct. App. 2006). Rather, it is sufficient for a trial court to consider the factors and make the appropriate inquiry either by arguments of counsel or the trial court itself eliciting sufficient information to cover or satisfy each of the factors in Jumper v. Hawkins, 348 S.C. 142, 558 S.E.2d 911 (Ct. App. 2001). Id.

In this case, based on the record and discussions on the motion in limine, the trial court adequately covered and satisfied each of the factors expressed in Jumper with the information derived from argument and the trial court's own questions. The factors expressed in Jumper are:

- (1) the type of witness involved;
- (2) the content of the evidence emanating from the proffered witness;

- (3) the nature of the failure or neglect or refusal to furnish the witness' name;
- (4) the degree of surprise to the other party, including the prior knowledge of the name of the witness; and
- (5) the prejudice to the opposing party.

Jumper v. Hawkins, 348 S.C. 142, 152, 558 S.E.2d 911, 916 (Ct. App. 2001); Barnette v. Adams Bris. Logging, Inc., 355 S.C. 588, 592, 586 S.E.2d 572, 574.

Either by arguments of counsel or the trial court's own questioning, sufficient information was elicited which covered all of the factors in Jumper and which enabled the trial court to rule on the motion, in its discretion. (R. p. 242-246). The trial court was not required to specifically enunciate the Jumper factors during its deliberation of the motion in limine to exclude the expert witness which Republic sought to have testify for its defense. See Arthur v. Sexton Dental Clinic at 339.

The Court misapprehends and overlooks the trial court's consideration of all of the Jumper factors by stating that the trial court made its decision simply on Republic's failure to file a supplemental interrogatory or that the trial court based its decision only on Republic's failure to timely name the witness. The Court overlooks all of the argument and questions by the trial court which covered the factors appropriately. While the trial court did initially hone in on the fact that Republic did not meet its initial or continuing obligation under the South Carolina Rules of Civil Procedure to designate testifying experts, the trial court nevertheless continued to hear additional arguments which covered all of the factors before making its ultimate conclusion, in its discretion, that Dr. Shuman should not testify. (R. p. 242-246). The Court misapprehends and overlooked that the trial court considered all of the factors rather than focusing solely on the failure to provide timely notice of a witness.

As to the first Jumper factor (the type of witness involved), the trial court clearly considered the type of witness which was involved under this motion in limine. This is readily apparent from the exchange between the trial court and the attorneys by way of questions by the trial court and the arguments by counsel. (R. p. 242-246). The trial court was certainly aware that Dr. Shuman was an expert witness. A portion of the trial court's consideration of this factor is set forth below with the remainder in the record at the citation:

Mr. McCullough: One thing that honestly I didn't know was an issue until the trial brief came in and their witness list came in was that they plan on relying on a gentleman by the name of Dr. Todd Shuman. Dr. Shuman was the City's expert witness...part of the strategy at mediation that was discussed with the defense was, "let's take the City out of this, because they are the only ones with an expert." So now they're attempting to use the City's Expert. (R. p. 242, ln. 10-22).

Mr. McCullough: I'd not argue insofar as what he is going to say, I'm saying that was part of our trial strategy and settlement strategy based on the fact that Republic had not listed an expert witness. It still hasn't. (R. p. 243, ln. 24 – p. 244, ln. 4).

Mr. McCullough: Not experts. I looked yesterday. It's totally on fact witnesses, not expert witnesses. They did not. They said "no experts listed at this time." (R. P. 244, ln. 18-22).

The Court: ...there's a duty to identify an expert. (R. p. 245, ln. 4-5).

As to the second Jumper factor (the content of the evidence emanating from the proffered witness), the trial court adequately considered the discussion emanating from its questions and arguments from counsel as to this factor on what the content of the evidence would be. In addition, because a former party to the case had identified the witness as an expert, a discovery deposition was taken and the deposition was proffered to the trial court. (R. p. 1204-1297).

As to the third Jumper factor (the nature of the failure or neglect or refusal to furnish the witness' name), the trial court clearly considered the nature, reasoning and why Republic did not disclose the existence of this expert witness in accordance with Republic's ongoing and affirmative obligations under the S.C. Rules of Civil Procedure. The trial court considered this factor by way

of argument of counsel and the trial court's own questions. (R. p. 242-246). A portion of trial court's consideration of this factor is set forth below, with the remainder in the record at the citation:

Ms. Ruparelia: Your Honor, at the time Dr. Shuman was retained, obviously one lawyer takes the lead in dealing with the expert. Lisa Reynolds, who represents the City of Charleston, had agreed with Mr. Darling to split the cost of Dr. Shuman. Dr. Shuman never got around to sending out an invoice. In fact, today he has not been paid because he's never gotten around to sending an invoice. I had a conversation with Miss Reynolds, talked about Dr. Shuman, and he is ready to go. He's been deposed, his discovery deposition was taken and he has given testimony. So really essentially all we're doing is bringing him to testify in front of the jury. (R. p. 243, ln. 6-22).<sup>1</sup>

The Court: But they—they haven't identified him. (R. p. 244, ln.5-6).

Mr. McCullough: The first time that we knew that he was going to testify now was on Friday. (R. p. 244, ln. 7-9).

Ms. Ruparelia: Your Honor, we identified witnesses on our witness list as the ones that we would bring in. In addition, we've indicated every time that we've responded that in addition to other parties called as witnesses that we will call those or are adding those, incorporating their witnesses into our list. (R. p. 244, ln. 10-17).

Mr. McCullough: Not experts. I looked yesterday. It's totally on fact witnesses, not expert witnesses. They did not. They said "no experts listed at this time." (R. P. 244, ln. 18-22).

The Court: Did you ever supplement your interrogatories?

Ms. Ruparelia: No, Your Honor. (R. p. 244, ln. 25).

The Court: I am banking on the fact that you have answered interrogatories and today you've still not identified an expert witness. (R. p. 245, ln. 13-16).

The Court: Well, I appreciate that but did you – there was a specific interrogatory as to experts. Did you ever identify and list an expert in response to that interrogatory? (R. p. 246, ln. 12-16).

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<sup>1</sup> It should be noted that there was no evidence in the record of any cost sharing or expert sharing agreement between the City of Charleston and Republic. Rather, the only evidence in the record is that the City of Charleston designated Dr. Shuman to testify for the City only and Republic designated no expert witnesses. Whether such an agreement existed, which there is no evidence of, is irrelevant to the duty of Republic to disclose its testifying experts.

As to the fourth Jumper factor (the degree of surprise, including prior knowledge of the name of the witness), the trial court clearly considered the degree of surprise and the extent of the Plaintiff's prior knowledge of the name of the witness through argument of counsel and the trial court's questions. (R. p. 242-246). The trial court clearly considered that Republic had never disclosed any expert witness in the case that it may call until the eve of trial, notwithstanding that a former defendant (the City of Charleston) had identified the expert as to serving as an expert for the City only. (R. p. 242-246, R. p. 1403). The Plaintiff was completely surprised as to Republic naming an expert in a pre-trial brief on the eve of trial when he had zero notice that the purported expert would also serve as an expert for Republic. The Court misapprehended and overlooked that the City had only named Dr. Shuman as an expert for the City by stating in its opinion that "Burke ...claimed only the City named him." (R. p. 242-246, R. p. 1403). This was not a claim by Burke, but fact based on the record on appeal. There was no evidence in the record to support Republic's contention during the motion in limine argument or this Court's opinion that Dr. Shuman was to be a shared expert or that Republic had agreed to split his costs. Rather, the only evidence in the record was that the City and only the City had designated Dr. Shuman as an expert in this case, for the City, and Republic designated no experts. The Court misapprehends and overlooks the facts in the record on appeal as to this issue.

As to the fifth Jumper factor (the degree of prejudice to the opposing party), the trial court also clearly considered the prejudice to the Plaintiff by the late surprise notice of Republic trying to disclose an expert on the eve of trial (R. p. 242-246). The Plaintiff was prejudiced because he agreed to settle with the City of Charleston based on the City's, and only the City's, designated expert's testimony. In addition, as the record will reflect, the Plaintiff was prejudiced by not having an expert prepared and available to testify to rebut the testimony of Dr. Shuman based on

the surprise which resulted from the failure of Republic to designate experts in accordance with the clear rules of civil procedure. Burke's main testifying expert testified via video and Burke would not have had time to either reexamine him for purposes of trial or subpoena him. (R. p. 1298-1392, Court Exhibits 12b-12d). Burke elected to not go and take video depositions of Burke's treating physicians at Duke University prior to trial because he relied on the City's expert being gone due to the settlement. Furthermore, because Republic attempted to name an expert witness on the eve of trial, Burke was prejudiced because he was unprepared to rebut Dr. Shuman's opinion on causation related to Burke's kidney complications because they had no notice that Dr. Shuman would be testifying for Republic.

The Court misapprehends that Burke agreed to settle with the City due to the South Carolina Tort Claim Act's cap on recovery against a governmental entity because the record will reflect that there were two caps applicable in this case for a total of \$600,000.00 in cap based on a loss of consortium claim of Jane Burke and Robert Burke's claims, and Burke settled for \$300,000.00, not the full applicable caps. (R. p. 19-26, p. 800-823, p. 5). The Court overlooks and misapprehends that the Burkes did not settle for the full cap. Rather, the Burkes settled for half of the cap that was applicable to these claims.

For the above reasons, the Court misapprehended and overlooked the trial court's proper consideration of the Jumper factors and the trial court's discretionary ruling that Dr. Shuman should not testify. Burke submits that the Court's opinion should be vacated on this ground, grant Burke's petition for rehearing, and affirm the trial court and the judgment.

- 3. Based on the analysis of the trial court, the Court misapprehended and overlooked the application of the appropriate standard of review on the issue of admission or exclusion of evidence.**

The admission or exclusion of evidence is a matter within the sound discretion of the trial court and absent clear abuse, will not be disturbed on appeal. Jenkins v. Few, 391 S.C. 209, 218, 705 S.E.2d 457, 462 (Ct. App. 2010). Also, where a party fails timely to disclose the identity of an expert witness, the question of whether the witness' testimony may be received in evidence is left largely to the discretion of the trial judge. Id. at 218-219.

As set forth above, the Court misapprehended and overlooked the trial court's proper consideration of the Jumper factors in determining that Dr. Shuman should not testify as an expert for Republic. Based on the analysis contained in the record and applied by the trial court on the question of whether or not to exclude Dr. Shuman, the Court misapprehended the standard of review and the discretion of the trial court in its opinion in this case and supplanted its discretion for that of the trial court when no clear abuse was shown.

An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law. State v. Pagan, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006). The Court misapprehended and overlooks that there is no clear abuse of discretion on this issue as the trial court heard argument or elicited questions on the appropriate factors before ultimately making its determination.

For the above reasons, the Court misapprehended or overlooked the application of the abuse of discretion standard of review in this instance. Burke submits that the Court's opinion should be vacated, grant Burke's petition for rehearing, and affirm the trial court and the judgment.

- 4. The Court mistakenly misapprehends that Republic was prejudiced by the exclusion of the expert Republic sought to have testify, but which it never identified in accordance with the SCRPC in the first place.**

The Court misapprehends and overlooks the record in concluding that Republic was prejudiced by the decision of the trial court to not allow Dr. Shuman to testify as an expert witness for Republic. The Court overlooks that at no time did Republic ever properly name Dr. Shuman as an expert witness, but the Court concluded that “Dr. Shuman was Republic’s only expert witness” in its finding of prejudice. The record will reflect that Republic never properly designated an expert witness and therefore, the Court misapprehends that Dr. Shuman was in fact Republic’s expert witness.

Republic was the wrongdoer in failing to comply with the S.C. Rules of Civil Procedure in the first place yet the Court overlooks such duty and imposes prejudice on Republic even though it failed to comply with the rules which govern procedure in civil action in this state. Pursuant to Rule 33(b)(6), SCRCPP, counsel has a duty to disclose any expert witness whom the party proposes to use as a witness at the trial of the case. Jenkins v. Few, 391 S.C. 209, 219, 705 S.E.2d 457 (Ct. App. 2010). This rule imposes an ongoing duty to supplement interrogatory answers to reflect the addition of witnesses or the intention to call a listed witness as an expert. Id.; Rule 33(b), SCRCPP. The trial court has the discretion to determine whether a sanction is warranted for a violation of Rule 33(b)’s continuing duty to disclose information. Id.

The Court misapprehends its finding of Republic suffering prejudice when it never had an expert witness in the first place and did not comply with the S.C. Rules of Civil Procedure in designating expert witnesses. The Court overlooks that such a conclusion and result inevitably leads to the conclusion that parties simply do not have to comply with their duties in the S.C. Rules of Civil Procedure in disclosing expert witnesses and such noncompliance will have no adverse effect and no penalty or sanction.

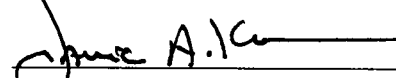
In addition, the Court overlooks that Republic was not prejudiced in this instance because Republic cross-examined Burke's treating physician Dr. Joseph Sakran and Burke's medical expert Dr. Marshall White (who had long been disclosed to Republic) on similar subject matter that Republic intended for Dr. Shuman to testify on. (R. p.1298-1392, Court Exhibits 12b-12d, p. 691-739). In addition, Republic thoroughly cross-examined Burke himself on the same subject matter throughout Burke's testimony. (R. p. 287-298, 619-625). The jury even found Burke to be twenty percent (20%) comparatively negligent. (R. p. 6-7).

For the above reasons, the Court overlooks and misapprehends its finding of prejudice to Republic under the circumstance of this particular case. Burke submits that the Court's opinion should be vacated, grant Burke's petition for rehearing, and affirm the trial court and the judgment.

### **Conclusion**

The Court, in its filed opinion, overlooked and misapprehended that the liability portion of the trial and the jury's liability verdict should be affirmed at a minimum, that the trial court considered and evaluated of all of the Jumper factors before making its determination, in its discretion, that Dr. Shuman should be excluded. In addition, the Court overlooked and misapprehended that Republic was not prejudiced under these circumstances. Burke respectfully requests that the Court should vacate the opinion, grant Burke's petition for rehearing, and affirm the trial court and the judgment or at a minimum, affirm the liability phase of the trial and the jury verdict on liability and remand for the damages portion of the trial only.

McCULLOUGH KHAN, LLC



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December 22<sup>nd</sup>, 2017  
Charleston, South Carolina

**ATTORNEYS FOR RESPONDENT ROBERT J. BURKE**

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

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C.A. No.: 2013-CP-10-1400

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DEC 27 2017

SC Court of Appeals

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Republic Parking System, Inc. ....Appellant.

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**PROOF OF SERVICE**

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I hereby certify that a true and correct copy of the *Amended Petition for Rehearing by Respondent Robert J. Burke* has been served upon the following by mailing a copy, properly addressed and with the sufficient postage affixed thereto, via U.S. Mail on this 22<sup>nd</sup> day of December, 2017.

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December 22, 2017

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SC Court of Appeals

**VIA U.S. MAIL**

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

**Re: *Robert J. Burke and Jane B. Burke v. Republic Parking Systems, Inc.***  
**Civil Action No.: 2013-CP-10-1400**  
**Appellate Case No.: 2015-000269**

Dear Ms. Kitchings:

I hope this letter finds you well. Enclosed for filing please find the original and seven (7) copies of the Amended Petition for Rehearing by Respondent Robert J. Burke and Proof of Service of the same, which was authorized by the Court pursuant to the Order filed on December 18, 2017. I am unsure if this filing requires a \$25.00 filing fee so we have included it out of an abundance of caution. Please file the original and return the extra clocked copy to our office in the enclosed self-addressed stamped envelope. We are hereby serving a copy of the Petition on counsel for Appellant pursuant to the Proof of Service.

Thank you in advance for your assistance and please do not hesitate to contact our office if you have any questions or need anything further. With kind regards, I remain

Sincerely yours,

Jamie A. Khan

JAK/dd

Enclosures

cc: Sarah P. Spruill, Esq.  
Roopal S. Ruparelia, Esq.

SC Court of Appeals

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Columbia, SC 29201

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