

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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JAN 25 2018

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. MARKLEY DENNIS, Jr., Circuit Court Judge

Appellate Case No. 2016-000495

Unpublished Opinion No. 2018-UP-006

Jim Washington,.....Appellant,

V.

Trident Medical Center,LLC.....Respondent.

**MOTION FOR REHEARING WITH
MOTION FOR WRIT OF CERTIORARI**

Jim Washington
209 Signet Drive
Eutawville, S.C. 29048
(803) 496-4655
Appellant, Pro Se

Respondents' Councils of Record:

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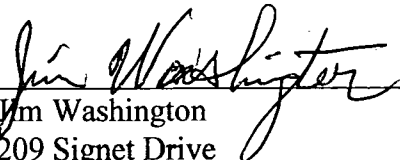
TO; Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

You will please take notice that the Appellant, Jim Washington, respectfully move this Court For a Motion for Rehearing, and Motion For Writ of Certiorari to S.C. Supreme Court the above-reference appeal pursuant to SCACR Rule 221 and 242(b)(3) and in accordance with SCACR Rule 240.

The basis of said motion is that this court overlooked and misapprehend the Appellant's claim for relief in the pleadings and supporting documents attached to complaint and incorporated by reference therein, and included in the record on appeal which support his claim for relief that the pre suit notice of intent (NOI) under S.C. Code Statute 15-79-125(A) and expert witness affidavit exception pursuant to S.C. Code Statute 15-36-100(C)(2) and S.C. Code Statute 15-36-100 (B) were applicably because the attached expert witness document to the complaint shows the pre suit NOI timely filed on 10/25/12 prior to the action being filed on 9/11/15 and refilled or amended NOI on 9/11/15 attached and incorporated by reference to the complaint. By statutes and case laws the above mentioned constitutes compliance with S.C. Code Statute 15-79-125 (A) pre suit requirements and the requisite statute of limitation is therefore tolled. Therefore, appellant's claim for relief should be granted and this court's order affirming dismissal and the circuit court's order should be reversed on the aboved mentioned basis.

WHEREFORE, for the reasons stated above and in any Memorandum of Law in Support of this Motion, Appellant respectfully move this court for entry of and Order reversing the Order affirming dismissal of this action and to compel ADR mediation, and I, also hereby respectfully move this court in this motion under SCRAP 242(b)(3) to grant a Writ of Certiorari to the S.C. Supreme Court to decide whether this courts order to affirm the circuit courts order dismissal of the action conflicts with Wilkinson, 410 S.C. 163, 763 S.E.2d 426(2014) and Ranucci, II, 409 S.C. 493, 763 S.E.2d 189(2014) to this action and for any further relief which this Court deem appropriate.

This 25th day of January, 2018.

S/ 
Jim Washington
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(803) 496-4655
Appellant/ Pro Se

CERTIFICATE OF SERVICE

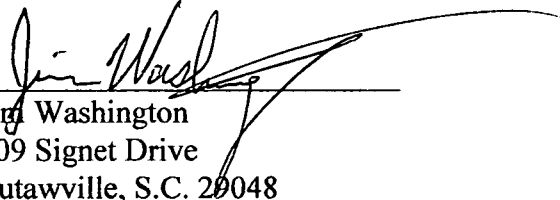
The undersigned hereby certifies that on this date a copy of the foregoing document was duly served upon each party to this cause by depositing same in a postpaid wrapper in a post office or official depository under the exclusive care and custody of the U.S. Postal Service, **VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED**, properly addressed as follows:

C. Mitchell Brown, Esquire
Nelson, Mullins, Riley and Scarborough LLP
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Attorneys for Respondent

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THE STATE OF SOUTH CAROLINA
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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. MARKLEY DENNIS, Jr., Circuit Court Judge

Appellate Case No. 2016-00495
Unpublished Opinion No. 2018-UP-006

Jim Washington,-----Appellant,

V.

Trident Medical Center, LLC-----Respondent.

**MEMORANDUM OF LAW IN
SUPPORT OF MOTION FOR REHEARING WITH
MOTION FOR WRIT OF CERTIORARI**

TO : Jenny Abbott Kitchings,
South Carolina Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

NOW COMES the Appellant and submits this Memorandum of Law In Support of
this Motion For Rehearing With Motion For Writ of Certiorari. SCACR Rules
221,242(b)(3) and 240.

ISSUES ON MOTION FOR REHEARING WITH
MOTION FOR WRIT OF CERTIORARI

I. DID THE COURT AFFIRMING DISMISSAL OF THIS ACTION BECAUSE APPELLANT DID NOT FILE A PRESUIT NOTICE OF INTENT AND EXPERT WITNESS AFFIDAVIT PRIOR TO FILING THE ACTION UNDER THE FACTS AND CIRCUMSTANCES OF THIS CASE CONFLICTS WITH WILKINSON AND RANUCCI II FOR TECHNICAL NONCOMPLIANCE OF THESE STATUTES?

Statement of the Case

In this medical malpractice action, Appellant Jim Washington (“Washington”) files A Motion For Rehearing With Motion For Writ of Certiorari affirming the order motion To dismiss of Respondent Trident Medical Center, LLC (“Trident”) based on Washington Failure to comply with the presuit requirements mandated by Sections 15-79-125 and 15-36-100 of the South Carolina Code. {Order affirming motion to dismiss, dated 1/10/18 Unpublished Opinion No. 2018-UP-006, Appellate Case No. 2016-000495}. On 10/25/12, Appellant filed a Notice of Intent with the Disability Administration to authorizing to give , Respondent Notice of Intent of same related claim in this action filed on 9/11/15, { Rpp. 9-11, Rpp. 20-23, Rpp. 62-63, Rpp. 70-73, Rpp. 90-91} which is attached To the Expert Witness Affidavit incorporated by reference into the complaint. { Rpp. 7-11, Rpp. 20-55, Rpp.30-55, Rpp.56-61, Rpp. 62-63, Rpp. 79-84, Rpp. 90-95}. Appellant, filed a complaint on 9/11/12 alleging medical malpractice and reckless against Respondent pursuant 15-79-125 and 15-36-100. { Rpp. 7-11}. Respondent moved to dismiss the complaint contending appellant failed to filed the presuit NOI required by Section 15-79-125(A) and did not submit an expert witness affidavit to testify that Respondent violated any applicable standard of care. {Rpp. 17-19}.

At the hearing for motion to dismiss appellant contend he did file the presuit NOI And Expert Witness Affidavit. { Rpp.56-61}. The circuit court granted the motion to Dismiss. {Rpp. 1-5, Rpp. 56-61}. Appellant filed motion to reconsider. Thereafter, Appellant filed appeal. {Notice of Appeal, R. ____}. The court affirmed order of Dismissal. {R., Unpublished Opinion No. 2018-UP-006 filed 1/10/18.

DISCUSSION

In this matter, the pro se Appellant, Jim Washington on September 23, 2012 was admitted to Trident Medical Center, “ corporate name Trident, LLC” hereinafter Respondent for service and treatment for rightside weakness of stroke like symptoms. Appellant, made respondent aware during admission that he was allergic to aspirin. Respondent noted this in appellant medical records and ran several diagnostic test procedures to determined the source of appellant right side weakness and also decided appellant would be treated with plavix (a blood thinner for secondary stroke prevention) rather than with aspirin but that respondent needed to determined what was the cause of his allergies. { Rpp. 30-31}. Aspirin can be used as a blood thinner to prevent clots which is one factor that cause stroke when used in a lower doses). {Rpp. 54-55, Rpp.95}. Therefore, a reasonably deducible inference can be drawn that aspirin treatment for secondary stroke prevent in a 325mg doses is useless and likely increases the risk of a clot, strokes and embolism. {Rpp. 54-55, Rp. 95}. Brouwer v. Sisters of Charity Providence Hospitals, 409 S.C. 514, 522, 763 S.E.2d 200 (2014)(We find the substance of Brouwer’s allegation , that the negligent exposure of a patient to latex with a known allergy can result in an allergic reaction in that patient , is a matter within the common knowledge or experience so that no special learning is needed to evaluate Respondent’s conduct at the pre-litigation stage) (quoting Green v. Lilliewood, 272 S.C. 186, 249, S.E.2d 910 (1978)(holding tubal litigation rendering intrauterine device and other birth control device useless constitutes a matter of common knowledge). On 9/24/12 thur 9/26/12 respondent changed appellant treatment from plavik to aspirin 325mg. {Rpp. 9-

11, Rpp.20-23, Rp. 32}. On 9/24/12 respondent ordered a test procedure suspecting cardio embolism as a possibly source of appellant's right side weaknesses. Respondent test procedures stated no source of embolism was found and that the test was normal. {Rpp. 9-11, Rp. 31, Rpp. 36-37}. A few hours later an MRI procedure of the head showed multi foci restrictive diffusion and acute infarct. { Rpp. 9-11,Rpp.40-41}. Multi foci restrictive diffusion shown on MRI of the brain suggests' evidence cardio embolism is the likely source of the stroke. {Rpp. 70-72, Rpp. 79-83, Rpp. 90-95}. When cardio embolism is a possibility, the generally recognize and accepted standard of care requires a treating physician Hospitalist, to order a Anticoagulation Heparin Drip, consult Neurology to rule out embolism and to treat according to Neurology protocol, then discharge on coumadin with follow up instruction to PCP for adjustments within 2 days to Family Health and(TRMC) where he was treated for a second stroke after discharged from respondent facility. { Rpp. 30-45, Rpp.54-55, Rpp. 70-73, Rpp. 79-84, Rpp. 90-95}. Rosario v. U.S., 824 F. Supp. 268, 281-Dist. Court, D. Mass. (1993)(For these reasons Dr. Vanna concluded that Mr. Rosario should not have been placed on the anticoagulation medication when he was admitted to the V A. This Court finds this conclusion unworthy of credence. Other evidence adduced at trial revealed that Heparin is a common and widely used drug in patients where a stroke is suspected . In addition to preventing harmful blood clotting, Heparin is used to deter ongoing or future strokes in patients who demonstrate stroke-like symptoms. This court finds Heparin was appropriate under the circumstances when doctors reasonably believed he was suffering from a possible stroke); [An " infarct" is "an area of coagulation necrosis in a tissue...resulting from obstruction of local circulation by a thrombus[(blood clot)] or embolus [(foreign

particle circulating in the blood)].” WEBSTERS THIRD NEW INTERNATIONAL DICTIONARY 1157 (2002); A known cause of a strokes is “formation of an embolus or thrombus that occludes an artery.” TABER’S CYCLOPEDIA MEDICAL DICTIONARY 1847 (18th ed. 1997). Id. “Appellant, pleading in the complaint with the supporting documents attached and incorporated by reference alleged that Respondent failure to follow the above procedures that is generally recognized and accepted in the profession was a breach of the standard of care and reckless disregard of right of right to reasonable care” . { Rpp.9-11, Rpp. 20-23, Rpp. 30-45, Rpp. 54-55, Rpp. 56-61, Rpp. 70-73, Rpp. 79-84, R.pp. 90- 95}. King v. Williams, 276 S.C. 478, 481-484, 279 S.E.2d 618 (1981)(adopting a national standard of care and finding local custom is but one factor to consider, however other factor merit in consideration in deciding breach the standard of care); Taylor v. Medenica, 324 S.C. 200, 479 S.E.2d 35(1996)(conscious useless test, conscious fail to take additional test and to warn); Doe v. American Red Cross Blood Services, 279 S.C. 430, 435, 377 S.E.2d 323(1989)(We now hold that in a professional negligence cause of action , the standard of care that the plaintiff must prove is that the professional failed to conform to the generally recognized and accepted practices in his profession). Therefore, a reasonable deducible inference can be drawn which taken as true as you must under SCRCR Rule 12 (b)(6) motion that respondent failure to follow the above procedures for secondary clots, strokes and embolism from 9/23/12 thru. 9/26/12 was a breach of the standard of care and reckless, stated a claim which relief can be granted . {Rpp. 9-11, Rpp. 20-23, Rpp. 30-45, Rpp. 54-55, Rpp. 56-61, Rp.67, Rpp. 70-72, Rpp. 79-84, Rpp. 90- 95, Appellant Final Brief In Reply, pp. 8-15}. Toussaint v. Ham, 292 S.C. 415, 416, 357 S.E.2d 8(1987)(We cannot agree with the lower court’s

view that appellant's amended complaint fails to allege facts sufficient to a cause of action); King v. Williams, 276 S.C. 478, 481-484, 279 S.E.2d 618 (1981); Cf. Armstrong v. Weiland, 267 S.C. 12, 15-16, 225 S.E.2d 851(1976)(defendant was told that Mr. Armstrong was taking coumadin an anticoagulant, for his heart condition, but he gave no indication of any possible adverse effects from taking the two drugs. He was given a refill prescription for ten days and permitted to return home. About three days later his condition worsened. He was readmitted to the hospital emergency room for testing. On cross examination he admitted that he was in a serious accident in 1968 which cause injuries. The trial judge granted the motion for a nonsuit solely because the plaintiff fail to produce evidence from which proximate cause can be inferred. On cross examination , plaintiff medical expert testified he was not aware of any instances reported in pharmacology or excepted medical doctor literature where the drugs had any adverse reaction with coumadin whatsoever. Doctor reply no. We find no error in the lower court granting the nonsuit and the order granting the nonsuit is affirmed). Id.

This court and the circuit court overlooked and misapprehended appellant's claim for relief in construction and interpreting S.C. Code Statutes 15-79-125 (A) NOI and S.C. Code Statute 15-36-100 in its decision to affirm the circuit court order to dismiss appellant's action for failure to file the statutory mandate presuit Notice of Intent and Expert Witness Affidavit prior to filing the complaint. However, this court overlooked and misapprehend the facts and pleadings in the complaint with supporting documents attached and incorporated by reference which shows that appellant did filed the statutory mandated presuit Notice of Intent and Expert Witness Affidavit before he filed the

complaint on 9/11/15. The presuit NOI documents authorized, signed and dated by appellant on 10/25/12 with the Disability Administrative Agency to give respondent Notice of Intent of the claim are attached and incorporated by reference to the medical malpractice action filed on 9/11/15 with the circuit court under S.C. Code Statutes 15-79-125 (A) and S.C. Code Statute 15-36-100 are based on the same related claim in this action cause by respondent negligence beginning from Admission on 9/23/12 until Discharge on 9/26/12 based on the medical services and treatments received at respondent's facility as it relates to the Notice of Intent and Expert Witness Affidavit date of filing on 10/25/12. Respondent received the same Notice of Intent. { Rpp. 7-11, Rpp. 20-23, Rpp. 30-45, Rpp. 56-61, Rpp. 62-63, Rpp. 70-73, Rpp. 79-84, Rpp. 90-95, Rpp. 108-111 }. This is a **technical noncompliance** interpretation of the statutes for this court to hold that the presuit Notice of Intent and Expert Witness Affidavit were not filed before appellant filed the complaint on 9/11/15. The S.C. Supreme Court has consistently held in its decisions to permit medical malpractice cases to proceed on the merits rather than to affirm unwarranted dismissal based on technical noncompliance with the medical malpractice statutes. Wilkinson v. East Cooper Community Hospital, 410 S.C. 163, 172-174, 763 S.E.2d 426 (2014) (quoting Ross v. Waccamaw Cmty. Hosp., 404 S.C. 56, 744 S.E.2d 547 (2013) and Grier v. AMISUB of S.C., Inc., 397 S.C. 532, 725 S.E.2d 6939 (2012) (holding that the prelitigation expert affidavit, which is filed pursuant to section 15-79-125, must specify at least one negligent act or omission and the factual basis for each claim, but does not to include an opinion as to proximate cause)). Furthermore, Wilkinson, Supra is controlling authority to the issue in Appellant's presuit NOI filed on 10/25/12 in this different related proceeding prior to ultimately filing the

action on 9/11/15. {Rpp. 7-11, Rpp. 20-23, Rpp. 30-45, Rpp. 56-61, Rpp. 70-73, Rpp. 79-84, Rpp. 90-91, Rpp. 92-95 }. In Wilkinson the court disagreed under almost identical if not identical circumstance as appellant here that the 10/25/12 was prelitigation NOI pleadings combined with 9/11/15 litigation pleadings did not converted this into two civil cases that required him to filed two NOI and two Expert Affidavits but disagreed with these contention and found this of no consequences because they both comprise a single medical malpractice claim. Wilkinson, S.C. at173(citing Fisher v. Pelstrings, 817 F. Supp. 2d 791, 807 n. 8 (D.S.C.2011)(analyzing procedures for initiating medical malpractice claims and stating “ [s]ection 15-79-125 also does not include any language indicating that the case number under which a Notice of Intent is served on a defendant must be the same as the case number assigned to the complaint served on that defendant if a civil action is ultimately initiated”)). Therefore, this courts order to affirm conflicts with Wilkinson not to affirm but to proceed on the merit rather than affirm unwarranted dismissal on technical noncompliance with the medical malpractice statutes. Id.

Furthermore, appellant refiled and/ or amend the 10/25/12 attached document which is incorporated by reference into the complaint on 9/11/15 under S.C. Code Statutes 15-79-125(A) and 15-36-100 on the caption of the attached document cured any defect in the NOI and Affidavit of Expert Witness before respondent initial responsive pleading challenge defective NOI and Expert Witness Affidavit filed on 1/5/16. { Rpp. 9-11, Rpp. 20-23, Rpp. 30-45, Rpp. 56-61,Rpp. 62-63, Rpp. 70-73, Rpp. 79-84, Rp. 90- 95, Rpp. 97-98}. S.C. Code Statute 15-36-100 (E) which allows cure by amendment within 30 days after respondent initial responsive pleadings challenge to defective NOI and Affidavit,

which gave appellant until 2/5/16 to cure any defect to state a claim for relief without the action being subject to dismissal. Appellant met this time period so the action is not subject to dismissal for failure to state a claim for which relief can be granted. Toussaint v. Ham, 292 S.C. 415, 416, 357 S.E.2d 8(1987)(We cannot agree with the lower court's view that appellant's amended complaint fail to allege facts sufficient to state a cause of action). Wilkinson, at S.C. 171, applying Ranucci, II, to determine the sufficiency of the NOI and finding error to dismiss because the NOI and Affidavit timely filed in almost identical if not identical circumstances as appellant in this action. Id. Therefore, Wilkinson, is controlling authority on this issue and this court affirm the dismissal of the action conflicts with, Wilkinson. See Grazia v. S.C. Plastering, LLC, 390 S.C.562, 569-574, 703 S.E.2d 196(2010)(Analyzing presuit notice of intent to file claim prior to filing an action and right to cure defects act stay provision harmonizing the two conflict so both statute could be given effect and finding this as procedural rather than substantive mechanism because the General Assembly included this provision to specifically address situation where claimants file an action prior to full compliance with the notice provisions , also finding the stay provision cannot be disregarded no more than not disregarded the notice provision. Finally, citing case from, Florida which follows this procedure to not warranting dismissal of the action in medical malpractice cases under statutory law enacted by the legislature). Id.

Finally, based on his treating physicians statements from TRMC, { Rpp. 9-11, Rpp. 20-23, Rpp. 30-40, Rp. 45, Rpp. 56-61, Rpp. 70-73, Rpp. 79-84, Rp. 90- 95} that “ because embolism is a possibility, I called Mr. Washington at home and told him he

needed to come back to the hospital immediately and be put on an anticoagulation because embolism was the likely source of his injury” and “ the patient was admitted and because embolism is a possibility I, ordered a Heparin Drip, Neurology has been consulted to be treated according to Neurology protocol”. From these statements in combination with the above mentioned acts and omissions of Respondents’ failure to follow the generally recognized and accepted procedure in it’s profession from 9/24/12 thru. 9/26/12. There is a reasonable deducible inference in the pleadings that respondent failure to follow these procedures was negligent in diagnosing and treatment, therefore respondent breach the standard of care. The S. C. Supreme Court has stated in it’s decisions under almost identical if not identical circumstances as appellant here that S.C. Code Statute 15-79-125(A) and 15-36-100 allows appellant to used the above mentioned documented statements to be used as expert witness affidavit with qualifying opinion under these statutes which this court and the circuit court overlooked and misapprehend this which shows appellant is in compliance with the above mandated statutes. Ranucci v. Crain, II, is binding controlling authority on the above issues. See Ranucci v. Crain, 409 S.C. 493,501-502, 507-509, 763 S.E.2d 189 (2014). These same issues were squarely confronted to this court in Appellants’ Final Brief In Reply, pp. 8-15, in rebuttal to Respondents’ Initial Brief and Final Brief, pp. 5-9, inclusively, by citing Justice, Pleicones, opinion which actually concurs’ with Ranucci, I, interpretation and construction of the affidavit statute at issue in this action. This is apparent from the citation 409 S.C. at 510, 763 S.E.2d at 197 from these pages above cited that is actually relying on, Justice, Pleicones, dissenting opinion which rely on Ranucci, I. Therefore, the outcome of this courts’ decision to affirm was effected by accepting Respondents’

arguments that Appellant did not file a pre suit affidavit and the treating physician was not qualifying expert witness under the statute which misapprehends appellants' claim for relief. Inversely, if this court did not consider appellants' argument in his Final Brief In Reply, pp. 8-15, this court overlooked this issue in making it's decision which effect the outcome to affirm because it directly conflicts with the S.C. Supreme Court binding precedent, Ranucci v. Crain, II, on the same issue in this action which states a claim where relief can be granted. The S.C. Supreme Court in Ranucci II, overruled Ranucci v. Crain, 397 S.C. 168, 723 S.E.2d 242 (Ct. App. 2012) in almost identical if not identical facts and circumstances as appellant in this case granted relief and reversed and remanded. In Ranucci, II, at id. 501-502 the S.C. Supreme Court stated : “ Based on the legislative history, we conclude the General Assembly enacted: (1) section 15-36-100 to establish the general construct regarding expert witnesses for all professional negligence cases; and (2) section 15-79-125 as a supplement to section 15-36-100 to provide for pre-litigation requirements that are unique to medical malpractice cases, including mandatory mediation. Thus, even without delving into the specific text of each statute, it is evident the General Assembly intended for sections 15-36-100 and 15-79-125 to be read in pari materia. Because there are no words of limitation surrounding the reference to section 15-36-100, we find it is incorporated into section 15-79-125 in its entirety.” Id.

Finally, Ranucci, at, S.C. 508, The S.C. Supreme Court stated in its opinion under almost identical if not identical circumstances as appellants' here in this action, declined to affirm this court and the circuit courts' order to dismiss, stating “ As to Dr. Crain's assertions regarding defects in the authorship and content of Dr. Boortz-Marx's affidavit,

we find this is not an appropriate ground to affirm the circuit court's order because the affidavit is facially sufficient given it is sworn and identifies a potentially meritorious medical malpractice claim. Moreover, there is no factual basis in the record to challenge either the expert's qualifications or the content of the affidavit. (quoting Poch v. Bayshore Concrete Prods. /S.C., Inc., 405 S.C. 359, 378 n. 13, 747 S.E.2d 757, 767 n. 13 (2013)) (declining to reject affidavit presented as proof of workers' compensation insurance as there was "no basis for which to reject the affidavit as it by its very nature a sworn statement intended as documentary evidence in a legal proceeding"). Thus, we conclude that any alleged deficiencies would have to be made by Dr. Crain filing the appropriate motion to dismiss in circuit court pursuant to section 15-36-100(E). Finally, we find failure to conduct mediation is not fatal to Ranucci's case." Id. Therefore, this court's order affirming dismissal of the treating doctors' statements for qualified affidavit purposes under S.C. Code Statute 15-36-100 and being defective conflicts with Ranucci.

II. Finally, appellant, here had an additionally 4 (four) days left to conduct mediation before the 120 days deadline when the hearing was held on 1/7/16/. If the circuit court had denied respondent's motion to dismiss the case could have proceeded to mediation within the four days. Therefore, appellant should not be penalized. { Appellant's Final Brief In Reply, pp. 15-16}. Id.

CONCLUSION

The South Carolina Tort Reform Act and Notice of Intent and Expert Witness Affidavit requirements were intended to aid in keeping out frivolous lawsuits out of the court system. Statutes governing professional negligence require the filing of a Notice of Intent to file suit and a Expert Witness Affidavit and other pre-suit procedural requirements prior to filing the Complaint because it helps keep meritless complaints from being litigated. The S.C. Supreme Court case laws has interpret these Medical Malpractice Statutes in a way that the General Assembly intent for these statutes to be construct in a way to not affirm unwarranted dismissal on technical noncompliance with these statutes, but rather to permit meritorious “ Complaints” to proceed on the merits. Appellant’s “ Complaint” technically and fully complied with all of these gate-keeping requirements supported by these same statutes and S.C. Supreme Court case laws cited therein as applied to the facts and circumstances of this case shows that the, Notice of Intent and Expert Witness Affidavit were signed, dated and filed on 10/25/12 prior to the Complaint filed in the circuit court on 9/11/15. Id. Accordingly, this courts overlooked and misapprehend the above matters and also conflicts with S.C. Supreme Court binding precedents.

Accordingly, Motion For Rehearing With Motion For Writ of Certiorari should be granted. SCACR Rules 221, 242(b)(3) and 240. Id.

CERTIFICATE OF SERVICE

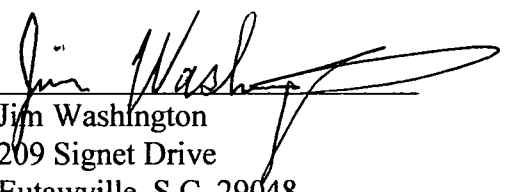
The undersigned hereby certifies that on this date a copy of the foregoing document was duly served upon each party to this cause by depositing same in a postpaid wrapper in a post office or official depository under the exclusive care and custody of the U.S. Postal Service, **VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED**, properly addressed as follows:

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