

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM OCONEE COUNTY  
CIRCUIT COURT

CORDELL MADDOX, CIRCUIT COURT JUDGE

RECEIVED  
FEB 23 2018  
SC Court of Appeals

CASE NO.: 2012-CP-37-00902  
APPELLATE CASE NO. 2017-000294

Alexander Pastene.....Appellant,

v.

Marion R. McMillan and Synergy Spine Center, P.A.....Respondents.

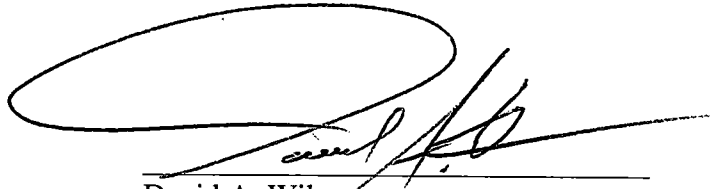
**MOTION TO STRIKE**  
**“AMENDED REPLY BRIEF OF APPELLANT”**

Pursuant to Rule 240, SCACR, Respondents Marion R. McMillan and Synergy Spine Center, P.A. respectfully request an order striking the Amended Reply Brief of Appellant dated February 12, 2018. The Amended Reply Brief exceeds the scope of the instructions from the South Carolina Court of Appeals. The Appellant did not have leave of court or consent from the Respondent to add or modify the arguments contained in his initial Reply Brief.

The Initial Reply Brief of Appellant contained exhibits in violation of Rule 208, SCACR. By letter dated February 2, 2018, South Carolina Court of Appeals instructed Appellant to prepare an amended initial reply brief without exhibits. Instead of submitting an amended initial reply brief which simply deleted the exhibits, Appellant filed Appellant’s Amended Initial Reply Brief which

contains entirely new arguments and also revised previous arguments. The Amended Initial Reply Brief of Appellant exceeds the scope of the instructions contained within the deficiency letter of the South Carolina Court of Appeals dated February 2, 2018. Appellant did not file a motion requesting leave of court to amend his Reply Brief. The South Carolina Appellate Court Rules do not allow parties to amend briefs.

Based upon the foregoing, the Respondents Marion R. McMillan and Synergy Spine Center, P.A. respectfully move for an order striking the "Amended Reply Brief of Appellant."

A handwritten signature in black ink, appearing to read "David A. Wilson", is written over a horizontal line. The signature is stylized with a large, sweeping loop at the beginning.

David A. Wilson  
The Law Offices of David A. Wilson, LLC  
200 Whitsett Street, Suite B  
Greenville, South Carolina 29601  
(864) 232-2329  
ATTORNEY FOR RESPONDENTS

February 21, 2018

THE STATE OF SOUTH CAROLINA  
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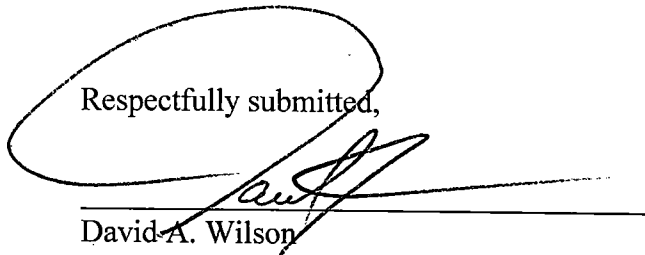
Marion R. McMillan and Synergy Spine Center, P.A.....Respondents.

**PROOF OF SERVICE**

I certify that I have served the Motion to Strike "Amended Reply Brief of Appellant" on Appellant by depositing a copy to him in the United States Mail, Postage prepaid, on February 20, 2018 addressed as follows:

Alexander Pastene  
P.O. Box 22298  
Hilton Head Island, SC 29925

Respectfully submitted,



David A. Wilson  
Wilson & Englehardt, LLC  
200 Whitsett Street, Suite B  
Greenville, South Carolina 29601  
(864) 232-2329

February 21, 2018

ATTORNEY FOR RESPONDENTS



**WILSON & ENGLEBARDT, LLC**  
LITIGATION • APPEALS • DISPUTE RESOLUTION

David A. Wilson  
Eric K. Englehardt

dwilson@GreenvilleSCLaw.com  
eric@GreenvilleSCLaw.com

February 21, 2018

The Honorable Jenny Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

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SC Court of Appeals

**Re: Alexander Pastene, Appellant v. Marion R. McMillan and Synergy  
Spine Center, P.A., Respondents  
Appellate Case No.: 2017-000294**

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents' Motion to Strike "Amended Reply Brief of Appellant" in the above-referenced case along with the proof of service upon Appellant.

Also, enclosed is our firm's check in the amount of \$25.00 as the required filing fee for this request. Please return the filed copies to me in the enclosed self-addressed stamped envelope.

If you have any questions or concerns, please feel free to contact me.

Thank you for your assistance.

Sincerely,



David A. Wilson

DAW/ccb  
Enclosures

cc: Marion R. McMillan  
Alexander Pastene

Wilson & Englehardt, LLC  
200 Whitsett Street, Suite 100B  
Greenville, SC 29601

**RECEIVED**

FEB 23 2018

SC Court of Appeals



The Honorable Jenny A. Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia SC 29211-1629

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