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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
DEADRA L. JEFFERSON, Circuit Court Judge

**RECEIVED**  
DEC 02 2019  
SC Court of Appeals

Case No. 2015-CP-10-5000  
Appellate Case No. 2019-000640

Jim Washington,.....Appellant,

v.

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

**REQUEST TO PETITION FOR SUPERSEDEAS/STAY WITH THE FULL APPELLATE COURT  
AND REQUEST TO STAY ALL TIME LIMIT TO THE APPEAL FILING PROCESS**

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## FACTS

The facts as they now stands at this point today are alleged in Appellant's **request to reply to respondent's response in opposition to supersedeas/stay**, filed on 11/12/19, p.2, line1-p. 3, line 6; p. 3, ground II, line 1-p. 8 and petition for supersedeas/stay, file on 10/28/19, p.2, line 1-p. 17 alleging that Respondent's attorneys has systematically and repeatedly attempt to prevent Appellant from being heard on the two critical issues in this case concerning the allegations of extrinsic fraud on the matter of invalid contract consent agreement and Judge Dennis subsequent decision informing Appellant to contact his law clerk which is critical to the issues of jurisdiction after the remittitur timely challenging the subsequent decision of Judge Dennis and extrinsic fraud. {Request to reply to Respondent Response inOpposition to Supersedeas/Stay, filed on 11/12/19, p. 2, line 1-p. 3, line 6; p.3, ground II, line 1-p.8; petition for supersedeas/stay,filed on 10/28/19, p. 2, line 1-p. 17}. Respondent's attorneys in their Opposition in Response to Supersedeas/Stay, filed on 11/7/19, pp.13-15 **argued** " After the reimmittur issued, Appellant proceeded to file a "motion to reconsider conclusion" and "motion to vacate judgment" in the circuit court. The circuit court denied the motions and Appellant appealed, bringing things to where they are today." Respondent's attorneys further argued " Quite simply, even if the Court were to remand, there would be nothing for the circuit court to rule on since all viable and pending motions were addressed by the circuit court. Judge Jefferson fully and fairly considered the entirety of the arguments raised in Appellant's post-remittitur motions and denied them in toto. Appellant has not met his burden of showing that Judge Jefferson abused her discretion." {petition for supersedeas/stay before the full court, pp.5-10}. Appellant, now petition the full court realleges that the above intentional and deliberate false statements by Respondent's attorneys in their Response in Opposition to petition for supersedeas/stay up to this point shows that Respondent attorneys has repeatedly and systematically misrepresented to the circuit court and now this court the truth about the

above issues involved and that there are two pending motions still not ruled on in the circuit court in their attempt to prevent Appellant from being heard on the above issues in the (2) two pending post-remittitur motions. {Request to file Reply in Response to Respondent's Opposition to Supersedeas/Stay, filed on 11/12/19, pp.2-17; petition for suprseadeas/stay,filed on 10/28/19,pp. 2-17 }. On 11/8/19 this Court issued its order denying supersedeas/stay. {order of the Court of Appeals, filed on 11/8/19, R\_\_\_}. On 11/12/19 Appellant filed a request to file a reply to Respondent's Opposition to Supersedeas/Stay, R\_\_\_}. On 11/13/19 this Court issued its order granting Appellant request to file a reply but adhered to its 11/8/19 order denying supersedeas/stay, R\_\_\_}. On 11/13/19 the Clerk of Court of the Court of Appeals issued a letter notifying Appellant that " This Court received your reply to the return to your petition for supersedeas/stay on 11/12/19. The Court ruled on the motion on 11/8/19. See Rule 263(b), SCACR. Accordingly, no further action will be taken on your filing." {Court of Appeals, letter dated 11/13/19, p.19\_\_\_\_\_}. Thereafter, Appellant, spoke with clerk Amelia Smith who transferred his call to the Clerk of Court, Jenny Abbott Kitchings where upon the matter was discuss that since the Court granted request to file the reply because Appellant was not given the mandatory (5) five days notice to reply to Respondent's Opposition to Supersedeas/Stay then the 11/13/19 letter was not unnecessary because SCACR Rule 263 (b)was no longer applicable to further filing time limits. Ms. Abbott, then explain that Appellant would have to put this matter in writing to be address whereupon Appellant said he would comply and the discussion end. {petition for supersedeas/stay before the full appellate court, Rpp.\_\_\_\_\_; request to reply to Respondent's Response in Opposition to Spersedeas/Stay, filed on 11/12/19, p. 3}. This petition for supersedeas/stay before the full court followed, pp. 1-22\_\_}.

### **ARGUMENTS**

I. Because the right to reply arises by operation of law not the discretion of the court under SCACR Rule 240 (f) whereby the moving party have a mandatory (5) five days to enforce his right to file a reply before that right can be violated, interpreted or arbitrarily enforced as waived to have the full court review a final order Appellant must be afforded his right to full court review under SCACR 241(d)(2) .

This Court on 11/13/19 granted Appellant request to enforce his right to file a reply to Respondent's Response in Opposition to Petition for Spersedeas/Stay on 11/7/19. Thus, this Court extended the time to reply under SCACR Rule 263(b). {Court of Appeals, order dated 11/13/19, Rp.\_\_\_\_\_; request to reply to respondent response in opposition to supersedeas/stay, filed on 11/12/19, pp. 2-17}. Under SCACR Rule 241(d)(2) which states that upon issuance of the final order by this Court which does not grant the supersedeas/stay and refer the matter to the full appellate court to hear and determine the matter the aggrieved party may petition the full appellate court for review of that decision. Therefore, Appellant argues this Court is required by operation of law not this Court's discretion to a full court review of the order denying supersedeas/stay. See Smith v. Tiffany, 419 S.C. 548, 556-558, 798 S.E.2d 479(2017)(Same)(citations omitted)(quotations omitted). "in interpreting the meaning of South Carolina Rules of Civil Procedure, the Court applies the rules of construction used to interpret statutes." Fairchild v. Dept. of Transportation, 398 S.C. 90, 107-110, 727 S.E.2d 407(2012)(quoting Maxwell v. Genez, 356 S.C. 617, 620, 591 S.E.2d 26, 27(2003)). Accordingly, under rules of statutory construction it is well-established that "interpretation of a statute is to ascertain and effectuate the intention of the legislature." Ranucci v. Crain, 409 S.C. 493, 500-501, 763 S.E.2d 189(2014)(quoting Sloan v. Hardee, 371 S.C. 495, 498, 640 S.E.2d 457, 459(2007)). Furthermore, "When a statute's terms are clear and unambiguous on their face, there is no room for statutory construction and a court must apply the statute according to its literal meaning." *Id.* In interpreting a statute, "[w]ords must be given their plain and ordinary meaning without resort to subtle or force construction to limit or expand the statute's operation." *Id.*, at 499, 640, S.E.2d at 459. Further, "the statute must be read as a whole and sections which are part of same general statutory law must be construed together and each one give effect." Ranucci v. Crain, 409 S.C. at 500 (quoting S.C. Port Auth. v. Jasper Cnty., 368 S.C. 388, 398, 629 S.E.2d 624, 629(2006)). Thus, Appellant argues SCACR Rule 241(d)(2) would be rendered meaningless to

limit its operation if not allowed to petition to the full court for supersedeas/stay after final order which did not refer the matter to the full court for review would be absurd since the Court granted Appellant his right to the mandatory (5) five days to reply to Respondent Opposition to Supersedeas/Stay because this Court issued its 11/8/19 order only (1) one day after Respondent's Response in Opposition, filed on 11/7/19 which would defeat the purpose of SCACR Rules 240(f) and 241(d)(2) to apply SCACR Rule 263(b) to limit the rules operation. See Ranucci v. Crain, 409 S.C. 493, 500-501, 763 S.E.2d 189(2014)(citing Lancaster Cnty. Bar Ass'n v. S.C. Comm'n on Indigent Def., 380 S.C. 219, 222, 670 S.E.2d 371, 373(2008); See also Town of Mt. Pleasant v. Roberts, 393 S.C. 278, 337-350, 713 SE.2d 278(2014)(Same)(citations omitted); See Beaufort County v. Jasper County, 220 S.C. 421, 479-480, 63 S.E.2d 421(1951)(Same)(citations omitted)(quotations omitted). The right to the (5) five days to notice to reply and the right to petition the full court after denying supersedeas/stay is by operation of law in the rules and not within the discretion of the court to deny. See Smith v. Tiffany, 419 S.C. 548, 556-558, 798 S.E.2d 479(2017)(Same)(citations omitted)(quotations omitted); See also Transp. Ins.. Co. v. Second Injury Fund, 389 S.C. 422, 428-431, 699 S.E.2d 687(2010)(Same)(citations omitted)(quotations omitted); See Denman v. City of Columbia, 387 S.C. 131, 137-140, 691 S.E.2d 465(Same)(citations omitted)(quotations omitted). Thus, this Court must allow this petition for supersedeas/stay to be reviewed by the Court of Appeals full court.

II. This Court orders accepting Respondent's Opposition to Supersedeas/Stay that there is no extrinsic fraud /untimely to seek remand to consider prior motion not ruled on and that quite simply, even if the Court remand, there would be nothing for the court to rule on since all viable motions were addressed in its entirety and denied shows repeated attempts by Respondent's attorneys to present extrinsic fraud upon both Courts and not a proper basis for denying Supersedeas/Stay, and **conflicts** with Ex Parte Carter, 422 S.C. 623, 626-631, 813 S.E.2d 686(2018); Chewning v. Ford Motor Company, 346 S.C. 28, 32-37, 550 S.E.2d 584(Ct. App. 2001); In re Broome, 356 S.C. 302, 306-319, 589 S.E.2d 188(2003); Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 239-251, 64 S.Ct. 997, 88 L.Ed. 1250(1944) and Narruhn v. Alea London Limited, 404 S.C. 337, 340-341, 745 S.E.2d 90(2013).

Appellant, argues that based upon Appellant's allegation in the Petition for supersedeas/stay filed on

10/28/19 , pp. 2-24 and his allegations in the request to filed reply to Respondent's Response in Opposition to Supersedeas/Stay, filed on 11/12/19, pp. 2-17 alleging Respondent's attorneys repeated and deliberate misrepresentation of the facts that two post-remittitur motions were filed and ruled on in the circuit court when in fact Appellant argued and the record showed that there were (4) four post-remittitur motions filed in the circuit court but the court only ruled on (2) two post-remittitur motions which are the **motion to vacate judgment**, filed on 10/25/18, pp. 19-22 and pp. 134-156 which the circuit court ruled in its order that " This matter came before the Court on 2/7/19 upon Plaintiff's Motion to Vacate Judgment and Motion to Amend the Pleadings, filed on 10/25/18. After thorough review of Plaintiff's motions, the Court finds that they improperly seeks relitigation of these issues, lack of jurisdiction and no evidence of extrinsic fraud" and, the **motion to reconsider/motion to vacate**, filed on 2/22/19, pp. 23-24; pp. 52-63 and pp. 199-223 "which the circuit court ruled in a footnote that the motion was being decided on the record at the time of the 2/7/19 hearing and briefs filed by Appellant on 2/22/19 and Respondent's brief filed on 3/8/19. The circuit court ruled that Appellant presented no novel facts, arguments, or theories in support of the motion to reconsider/vacate the judgment. The Defendants have not highlighted any portions of the record this Court may have misunderstood, failed to fully consider, or perhaps failed to rule on. Accordingly, the motion to alter/amend judgment is denied." Therefore, Appellant argues that based upon these above facts in the circuit court orders and the record the Court relied upon at the time of the rulings " clear and convincingly shows evidence that were deliberate misrepresentations to the Circuit Court and now this Court by Respondent attorneys in its **Response in Opposition to Supersedeas/Stay** which were repeated attempts to systematically prevent Appellant to be fully and fairly heard on the matters of invalid contract consent agreement which is critical to the issues of sufficient allegation of extrinsic fraud and also critical to the issue of Judge Dennis 6/22/18 subsequent post-remittitur decision to contact his law clerk for further question is interwoven with the issue of timely filed SCRPC Rule 60(b)(3) motions to have jurisdiction

and sufficient allegation of extrinsic fraud.” {request to reply to Respondent Response in Opposition to supersedeas/stay, filed on 11/12/19, pp. 2-17}. See Ex Parte Carter, 422 S.C. 623, 627-632, 813 S.E.2d 686(2018){Same}(citations omitted)(quotations omitted); See also In re Broome, 356 S.C. 302, 306-319, 589 S.E.2d 188(2003){Same}(citations omitted)(quotations omitted); See Chewning v. Ford Motor Company, 346 S.C. 28, 32-37, 550 S.E.2d 584(Ct. App. 2001){Same}(citations omitted)(quotation omitted){aff. 354 S.C. 72, 579 S.E.2d 605(2003)}; See also Narruhn v. Alea London Limited, 404 S.C. 337, 340-341, 745 S.E.2d 90(2013){Same}(citation omitted)(quotation omitted); See Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 239-251, 64 S.Ct. 997, 88 L.Ed. 1250(1944). Appellant did timely followed Judge Dennis post-remittitur instruction by contacting the clerk of court office on several occasions per telephone attempting to speak with the law clerk but was unsuccessful and was told the case was closed. Thereafter, on 7/6/18 Appellant filed a **motion to reconsider conclusion** in the circuit court alleging a theory that the judgment was procured by Respondent attorneys presenting extrinsic fraud upon the court and challenging Judge Dennis post-remittitur decision that all post-trial motions were conclude on appeal and requesting a hearing. Eventually, on 10/20/18 Appellant spoke with Judge Dennis law clerk and was told a hearing would be scheduled. Thus, Appellant allegations on the theory of extrinsic fraud was sufficient and his SCRPC Rule 60(b) motions were timely filed challenging Judge Dennis post-remittitur decision dated 6/22/18.{petition for supersedeas/stay, filed on 10/28/19, pp. 68-80; Request to Reply to Respondent Response in Opposition to Supersedeas/Stay, filed on 11/12/19, pp. 2-8}. See Ex Parte Carter, 422 S.C. 623, 627-632, 813 S.E.2d 686(2018){Same}(citations omitted)(quotations omitted); See also Chewning v. Ford Motor Company, 346 S.C. 28, 32-37, 550 S.E.2d 584(Ct. App. 2001){citations omitted}(quotations omitted) aff. 354 S.C. 72, 77-86, 579 S.E.2d 605(2003); See Narruhn v. Alea London Limited, 404 S.C. 337, 340-341, 745 S.E. 90(2013){Same}(citations omitted)(quotations omitted); See also Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 239-251, 64 S.Ct. 997, 88 L.Ed. 1250(1944){citations omitted}(quotations omitted). The circuit court orders

of 3/18/19 and 2/7/19 did not address nor ruled on the above factual matters nor render any legal conclusion concerning Appellant two pending post-remittitur motions filed on 7/6/18 and 2/4/19 and under South Carolina and U.S. Supreme Court applicable case laws **stay of the appeal and remand** for a hearing on the merits are the appropriate remedy. {Request to Reply to Respondent Response in Opposition to Supersedeas/Stay, filed on 11/12/19, pp. 2-8}. See Mr. T. v. Ms. T., 378 S.C. 127, 132-140, 662 S.E.2d 413(Ct. App. 2008)(Same)(citations omitted)(quotations omitted); See also Robinson v. Estate of Harris, 391 S.C. 114, 128-132, 705 S.E.2d 41(2011)(Justice BEATTY, dissenting)(Same)(citations omitted)(quotations omitted); See In re Broome, 356 S.C. 302, 306-319, 589 S.E.2d 188(2003)(Same)(citations omitted)(quotations omitted); See also Ex Parte Carter, 422 S.C. 623, 629-631, 813 S.E.2d 686(2018)(Same)(citations omitted)(quotations omitted); See Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 239-251, 64 S.Ct. 997, 88 L.Ed. 1250(1944)(Same)(citations omitted)(quotations omitted); See Hodge v. Unihealth Post-Acute Care, 422 S.C. 544, 555-573, 813 S.E.2d 292(Ct. App. 2018)(citing Dean v. Heritage Healthcare of Ridgeway, 408 S.C. 371, 376-388, 759 S.E.2d 727(2014); See Stokes-Craven Holding Corp. v. Robinson, 416 S.C. 517, 532-539(2016)(Same)(citations omitted)(quotations omitted); See also Lancaster v. Georgia-Pacific Corp., 403 S.C. 136, 137-138, 742 S.E.2d 867(2013)(Same); See Tillman v. Oakes, 398 S.C. 245, 254-257, 728 S.E.2d 45(Ct. App. 2012)(Same)(citations omitted)(quotations omitted); See In The Matter of the Treatment and Care of Luckabaugh, 351 S.C. 122, 131-134, 568 S.E.2d 338(2002)(Same)(citations omitted)(quotations omitted); See also Heater of Seabrook v. The Public Service Commission of South Carolina, 332 S.C. 20, 25-30, 503 S.E.2d 739(1998)(Same)(citations omitted)(quotation omitted); See Doe v. Howe, 367 S.C. 432, 446-449, 626 S.E.2d 25(Ct. App. 2005)(Same)(citations omitted)(quotations omitted); See also Woodson v. DLI Properties, LLC, 406 S.C. 517, 526-528, 753 S.E.2d 428(2014)(Same)(citations omitted)(quotations omitted). Thus, this Courts' order reaffirming its prior order denying supersedeas/stay based upon Respondent's Response in Opposition to supersedeas/stay

“that all post-remittitur motions were fully and fairly ruled on/untimely to challenge prior motion not ruled on did not require reversal and remand to determine the extrinsic fraud/jurisdiction issues on the merit that Appellant alleged in his **motion to reconsider conclusion**, filed on 7/6/18, pp. 68-133 and **memorandum of law in support of motion to vacate judgment and motion to amend the pleadings**, filed on 2/4/19, pp. 157-198 both motions which were not ruled on because the circuit court **clearly stated in both of its orders that the Court was only ruling on the basis of the motion to vacate judgment and motion to amend the pleadings**, filed on 10/25/18 which Appellant argues shows repeated attempts by Respondent’s attorneys to systematically prevent Appellant from being heard on these post-remittitur motions that the consent agreement relied on by Respondent’s attorneys was invalid to have the accompanying documents to the complaint dismissed by the court for lack of subject matter jurisdiction to procure the 2/5/16 judgment which prevented Appellant from presenting his claims and defenses and be heard to meet his burden of proof was sufficient allegation of extrinsic fraud and challenging the prior motion not ruled on was timely.” See Ex Parte Carter, 422 S.C. 623, 629-632, 813 S.E.2d 686(2018)(Same)(citations omitted)(quotations omitted); See also Narruhn v. Alea London Limited, 404 S.C. 337, 340-341, 745 S.E.2d 90(2013)(Same)(citations omitted)(quotations omitted); See Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 239-251, 64 S.Ct. 997, 88 L.Ed 1250 (1944)(Same)(citations omitted)(quotations omitted). Thus, this Court orders denying supersedeas/stay conflicts with Ex parte Carter; Chewning v. Ford Motor Company; In re Broome; Narruhn v. Alea London Limited and Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 239-251(1944)(Same)(citations omitted)(quotations omitted). {orders denying supersedeas/stay, filed on 11/13/19 and 11/8/19, R\_\_\_\_; request to reply to respondent opposition to supersedeas/stay, filed on 11/12/19, pp. 2-17; petition for supersedeas/stay, filed on 10/28/19, pp. 2-24 }. See Charleston Lumber Company, Inc. v. determine issue on fraud claim )(citations omitted); See also Ex Parte Carter, 422 S.C. 623, 627-632, 813 S.E.2d 686(2018)(Same)(citations omitted)(quotations omitted); See Chewning v. Ford Motor Company,

346 S.C. 28, 32-37, 550 S.E.2d 584(Ct. App. 2001)(Same)( citations omitted)(quotations omitted); See also In re Broome,, 356 S.C. 302, 306-319, 589 S.E.2d 188(2003)(Same)(citations omitted)(quotations omitted); See Chewing v. Ford Motor Company, 346 S.C. 28, 32-37, 550 S.E.2d 584(Ct. App. 2001)(Same)(citations omitted)(quotations omitted)(aff. 354 S.C. 72, 77-86, 579 S.E.2d 605(2003) ) ; See also Hazel-Atlas Glass Co. v. Hartford-Empire Co. , 322 U.S. 238, 239-251, 64 S.Ct. 997, L.Ed. 1250(1944)(Same)(citations omitted)(quotations omitted);See Sauner v. Public Service Authority of South Carolina, 354 S.C. 397, 410-411, 581 S.E.2d 161(2003)(quoting Dinkins v. Robbins, 203 S.C. 199, 202,26 S.E.2d 689, 690(1943))(a prior order of one circuit judge may be modified by the subsequent order of another Circuit Judge in cases where the right to do so has been reserved to the succeeding Judge, when it is allowed by rule or statute, or when the subsequent order does not substantially affect the ruling or decision represented by the prior decision); See also Buckley v. Shealy, 370 S.C. 317, 323-324, 635 S.E.2d 76(2006)(Same)(citations omitted)(quotations omitted); See Narruhn v. Alea London Limited, 404 S.C. 337, 340-341, 745 S.E.2d 90(2013)(Same)(citations omitted)(quotations omitted); See also Stokes-Craven Holding Corp. v. Robinson, 416 S.C. 517, 532-539(2016)(Same)(citations omitted)(quotations omitted); See Tillman v. Oakes, 398 S.C. 245, 254-257, 728 S.E.2d 45(Ct. App. 2012)(Same)(citations omitted)(quotations omitted).

iii. This Court orders denying petition for supersedeas/stay conflicts with Stokes-Craven Holding Corp. v. Robinson, 416 S.C. 517, 532-539(2016); Tillman v. Oakes, 398 S.C. 245, 254-257, 725 S.E.2d 45(Ct. App. 2012); Dean v. Heritage Healthcare of Ridgeway, 408 S.C. 371, 387-401, 759 S.E.2d 727(2014) ; Patton v. Miller, 420 S.C. 471, 489-499, 804 S.E.2d 252(2017); Skydive Myrtle Beach v. Horry County, 426 S.C. 175, 179-192, 826 S.E.2d 585(2019); Tanner v. Florence County Treasurer, 336 S.C. 552, 558-560, 521 S.E.2d 153(1999); Fontaine v. Peitz, 291 S.C. 565, 538-539, 354 S.E.2d 565(1987); Health Promotion Specialists, LLC v. Board of Dentistry, 403 S.C.623, 631-633, 743 S.E.2d 808(2013) and Wilkinson v. East Cooper Community Hospital, Inc., 410 S.C. 163, 167-174, 763 S.E.2d 426(2014) on the issue the circuit court abuse its discretion by failing to exercise its discretion to deny amendment/supplement of the pleadings which does not seek to re-litigate the merit of the claims raised but to amend/supplement the pleadings to relate back to the pleadings in the complaint to state a claim for relief was sufficient and timely.

Appellant , argues this Courts order s denying supersedeas/stay conflicts with South Carolina Supreme Court decisions granting relief requires vacate and remand because the injuries occurred

during 9/23/12 to 9/26/12 and the Complaint was filed on 9/11/15. Under South Carolina law S.C. Code Statute 15-79-125(A) requires a pre-suit Notice of Intent and Expert Witness Affidavit prior to filing the Complaint. The Complaint must contain these pre-suit pleadings to commence the action and the action must be commenced within three years of the injuries. However, under SCRCP Rule 15(b) and (c) allows pleadings to be amended and relate back to original pleadings and to conform to the evidence. A party opposing the motion to amend must show prejudice for the Court to deny such motion to amend the pleadings. See Patton v. Miller, 420 S.C. 471, 489-494, 804 S.E.2d 252(2017)(Same)(citations omitted)(quotations omitted); See also Skydive Myrtle Beach v. Horry County, 426 S.C. 175, 179-192, 826 S.E.2d 585(2019)(Same)(citations omitted)(quotations omitted); See Tanner v. Florence County Treasurer, 336 S.C. 552, 558-559, 521 S.E.2d 153(1999)(Same)(citations omitted quotation omitted). Appellant, at a hearing held on 1/7/16 request to the court a ruling on his motion to amend the complaint which was denied and filed a motion to reconsider on 1/27/16 raising these issues but the motion was not ruled on. [petition for supersedeas/stay, filed on 1/28/19, pp. 85-133}. Appellant, on 10/28/18, filed a motion to reconsider conclusion, in which he requested a show cause hearing ruling on the pending 1/27/16 motion in which the Court on 6/22/18 instructed Appellant to contact his law clerk for further question and eventually was told by the law clerk on 10/20/18 a hearing would be scheduled. {petition for supersedeas/stay, filed on 10/28/19, p. 80; p. 157; p. 199-p. 202, line 14; request to reply to respondent response to opposition to supersedeas/stay, p. 2}. Appellant, then filed a motion to vacate judgment and motion to amend the pleadings, in the circuit court on 10/25/18 under SCRCP Rule 15 (b) and (c) seeking to amend the pleadings to conform to the evidence and relation back relying on S.C. Code Statute 15-79-125(A) and S.C. Supreme Court decisions applying these statutory provisions and rules granting relief to permit amendment and supplement the pleadings in the Complaint with expert affidavit as timely and sufficient pleadings which the circuit court improperly denied as untimely, improperly seek to re-litigate the merit of the claim and lack of jurisdiction. {petition for

supersedeas/stay filed on 10/28/19, pp. 19-22; pp. 134-156}. See Wilkinson v. East Cooper Community Hospital, Inc., 410 S.C. 163, 172-175, 763 S.E.2d 426(2014)(Same)(citations omitted)(quotations omitted). Thereafter, Appellant filed a memorandum of law in support of motion to vacate judgment and motion to amend the pleadings, on 2/4/19 relying on S.C. Code Statute 15-79-125(A) and S.C. Supreme Court decisions applying these statutory provisions and SCRPC Rule 15 granting relief to have the prior judgment vacated which the circuit court denied on 2/14/19 without ruling on the 2/4/19 memorandum of law. {petition for supersedeas/stay, filed on 10/28/19, pp. 19-22; pp. 157-164; pp. 171-198}. See Patton v. Miller, 420 S.C. 471, 489-498, 804 S.E.2d 252(2017)(Same)(citations omitted)(quotations omitted); See also Skydive Myrtle Beach v. Horry County, 426 S.C. 175, 175-192, 826 S.E.2d 585(2019)(Same)(citations omitted)(quotations omitted); See Wilkinson v. East Cooper Community Hospital, Inc., 410 S.C. 163, 172-175, 763 S.E.2d 426(2014)(Same)(citations omitted)(quotations omitted). Appellant, then filed a SCRPC Rule 59(e) motion to reconsider/motion to vacate, on 2/22/19 “arguing the issue and requesting the Court to exercise its discretion seeking to supplement the pleadings with the pending memorandum of law in support of the motion to vacate judgment and motion to amend the pleadings, filed on 2/4/19, pp. 171-198, which contain the affidavit sworn under oath, valid contract consent agreement showing a meeting of the mind to do a second MRI and follow up with the results of the MRI” which the circuit court also improperly fail to exercise its discretion but ruled as a matter of law and denied the motion to reconsider/motion to vacate on 3/18/19 by citing in a footnote that the Court would only consider the 10/25/18 motion and by “incorporating by reference citations of authority in the order ruling that Appellant met the notice requirement but did not proffer an affidavit under oath under the statute as required which showed there was a meeting of the mind on the issue of valid contract to toll the statute of limitation/mediation and the intent to harm tort claim was an unconstitutional shifting of the burden of proof which the jury did not rest its decision on to convict. Further, finding SCRPC Rule 15 was improper remedy after


judgment to seek relief from judgment.” {request to reply to respondent response in opposition to supersedeas/stay, filed on 11/12/19, pp. 3-17; petition for supersedeas/stay, filed on 10/28/19, pp. 23-24; pp. 134-156; pp. 157-198 pp. 199-224}. See Fontaine v. Peitz, 291 S.C. 536, 538-539, 354 S.E.2d 565(1987)(Same)(citations omitted)(quotations omitted); See Skydive Myrtle Beach v. Horry County, 426 S.C. 175, 175-192, 826 S.E.2d 585(2014)(Same)(citations omitted)(quotations omitted); See also Patton v. Miller, 420 S.C. 471, 489-498, 804 S.E.2d 252(2017)(Same)(citations omitted)(quotations omitted); See Wilkerson v. East Cooper Community, Inc., 410 S.C. 163, 172-175, 763 S.E.2d 426(2014)(Same)(citations omitted)(quotations omitted); See also Dean v. Heritage Healthcare of Ridgeway, 408 S.C. 371, 387-401, 759 S.E.2d 727(2014)(Same)(citations omitted)(quotations omitted) . Accordingly, Appellant argues S.C. Code Statute 15-79-125(A) pre-suit medical malpractice statute, SCRPC Rules 15(b) and (c) and case laws does not prohibit amendment /supplement of the pleadings to relate back to the original complaint under the facts and circumstances of this case because when Respondent received notice of claim in 2012 from the second hospital he was admitted and Social Security Administration both requesting medical records from Respondent before the action was file in 2015 the statute of limitation did not expire and under S.C. Code Statute 15-79-125(A), SCRPC Rules 15(b)and (c) and applicable case laws amendment of the pleadings with the supplemental affidavit related back to the original complaint pleadings and was sufficient and timely. {petition for spersedas/stay, filed on 10/28/19, pp. 19-24; pp. 105-116; pp. 134-156; pp. 157-198; pp. 199-224; request to reply to respondent response in opposition to supersedeas/stay, filed on 11/12/19, pp. 2-17}. See Wilkinson v. East Cooper Community Hospital, 410 S.C. 163, 172-175, 763 S.E.2d 426(2014)(citing Fisher v. Pelstring, 817 F. Supp.2d 791, 807 n. 8(D.S.C. 2011)(quotations omitted); See also Ranucci v. Crain, 409 S.C. 493, 506-609, 763 S.E.2d 189(2014)(Same)(citation omitted)(quotations omitted); See Dean v. Heritage Healthcare of Ridgeway, 408 S.C. 371, 387-401, 759 S.E.2d 727(2014)(Same)(citations omitted)(quotation omitted); See also Patton v. v. Miller, 420 S.C. 471, 489-

498, 804 S.E.2d 252(2017)(Same)(citations omitted)(quotations omitted); See Skydive Myrtle Beach v. Horry County, 426 S.C. 175, 179-192, 826 S.E.2d 585(2019)(Same)(citations omitted)(quotations omitted).

Appellant, argued these same above issues that the circuit court abused its discretion by failing to exercise its discretion to allow amendment/supplement of the pleadings in the **Request to Reply to Respondent Response in Opposition to Supersedeas/Stay**, filed on 11/12/19, in this Court, pp. 2-17. Thus, this Court orders denying supersedeas/stay on the basis that the circuit court orders properly denied the motion to vacate judgment and motion to amend the pleadings which does not require stay of the appeal and remand to circuit court was in error and conflicts with applicable South Carolina statute, rules and case laws. See Tillman v. Oakes, 389 S.C. 245, 254-257, 728 S.E.2d 45(Ct. App. 2012)(Same)(citations omitted)(quotations omitted); See also Stokes Craven Holding Corp. v. Robinson, 416 S.C. 517, 532-539(2016)(Same)(citations omitted)(quotations omitted); See also Patton v. Miller, 420 S.C. 471, 490-491, 804 S.E.2d 252(2017)(Same)(citations omitted)(quotations omitted); See Skydive Myrtle Beach v. Horry County, 426 S.C. 175, 179-192, 826 S.E.2d 585(2019)(Same)(citations omitted)(quotations omitted); See Fontaine v. Peitz, 291 S.C. 536, 538-539, 354 S.E.2d 565(1985)(Same)(citations omitted)(quotations omitted); See also Tanner v. Florence County Treasurer, 336 S.C. 552, 558-560, 521 S.E.2d 153(1999)(Same)(citations omitted)(quotations omitted); See Health Promotion Specialists, LLC v. Board of Dentistry, 403 S.C. 623, 631-633, 743 S.E.2d 808)(2013)(Same)(citations omitted)(quotations omitted); See also Wikinson v. East Cooper Community Hospital, Inc., 410 S.C. 163, 172-175, 763 S.E.2d 426(Same)(citations omitted)(quotations omitted); See Dean v. Heritage Healthcare of Ridgeway, 408 S.C. 371, 387-401, 759 S.E.2d 727(2014)(Same)(citations omitted)(quotations omitted). Thus, this Court should grant the supersedeas/stay.

**CONCLUSION**

This Court should allow this petition for supersedeas/stay for review before the full court. This Court should also stay the appeal, reverse its two prior orders and remand the matter back to the circuit court.

S/   
\_\_\_\_\_  
Jim Washington  
209 Signet Drive  
Eutawville, S.C. 29048  
WTS Transport, LLC@yahoo.com  
803-496-4655  
Appellant, Pro Se

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

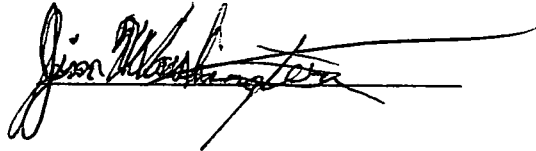
APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Case No. 2015-CP-10-5000  
Appellate Case No. 2019-000640

Jim Washington.....Appellant,  
v.  
Trident Medical Center, LLC.....Respondent.

VERIFICATION

I, Jim Washington, being duly sworn upon oath, depose and say that I have subscribed to the foregoing Request to Petition for Supersedeas/Stay before the full court; that I know the contents thereof; that it includes every ground known to me for the issuance of an order granting the Supersedeas/Stay reversing its two prior orders dated 11/13/19 and 11/8/19; and that the matter and allegations therein are true.



SWORN to and subscribed before me  
This 29<sup>th</sup> day of November, 2019

Lawanda R. Felder L.S.  
NOTARY PUBLIC

My Commission Expires: 8/16/2023

LAWANDA R. FELDER  
Notary Public, South Carolina  
My Commission Expires  
August 16, 2023

# The South Carolina Court of Appeals

Jim Washington, Appellant,

v.

Trident Medical Center, LLC, Respondent.

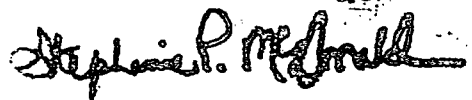
Appellate Case No. 2019-000640

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## ORDER

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Appellant has filed a request to file a reply in response to this court's order denying his petition for supersedeas/stay. The request to accept the reply is granted. However, after careful consideration of the reply, this court adheres to the order denying Appellant's petition for supersedeas/stay.



J.

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FOR THE COURT

Columbia, South Carolina

cc:

Jim Washington

David H. Batten, Esquire

C. Mitchell Brown, Esquire

Blake Terence Williams, Esquire

**FILED**

November 13, 2019

# The South Carolina Court of Appeals

Jim Washington, Appellant,

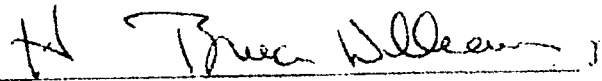
v.

Trident Medical Center, LLC, Respondent.

Appellate Case No. 2019-000640

-----  
ORDER  
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Appellant's petition for supersedeas/stay is denied.

  
-----  
FOR THE COURT

Columbia, South Carolina

cc:

Jim Washington  
David H. Batten, Esquire  
C. Mitchell Brown, Esquire  
Blake Terence Williams, Esquire

**FILED**

November 8, 2019



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

November 13, 2019

Jim Washington  
209 Signet Drive  
Eutawville SC 29048

Re: Jim Washington v. Trident Medical Center (2)  
Appellate Case No. 2019-000640

Dear Mr. Washington:

The Court received your reply to the return to your petition for supersedeas/stay on November 12, 2019. The Court ruled on the motion on November 8, 2019. See Rule 263(b), SCACR. Accordingly, no further action will be taken on your filing.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: David H. Batten, Esquire  
C. Mitchell Brown, Esquire  
Blake Terence Williams, Esquire



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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November 08, 2019

Jim Washington  
209 Signet Drive  
Eutawville SC 29048

Mr. David H. Batten, Esquire  
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Mr. C. Mitchell Brown, Esquire  
PO Box 11070  
Columbia SC 29211

Blake Terence Williams, Esquire  
1320 Main Street, 17Th Floor (29201)  
PO Box 11070  
Columbia SC 29211

Re: Jim Washington v. Trident Medical Center (2)  
Appellate Case No. 2019-000640

Dear Counsel and Mr. Washington:

Enclosed is an order pertaining to the motion to supersedeas/stay. The record on appeal is due to be served, and proof of service filed with the Court, by December 2, 2019.

Very truly yours,

*V. Claude Allen, Deputy*

CLERK

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
DEADRA L. JEFFERSON, Circuit Court Judge

**RECEIVED**  
DEC 02 2019  
SC Court of Appeals

Case No. 2015-CP-10-5000  
Appellate Case No. 2019-000640

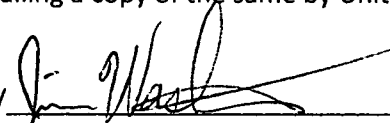
Jim Washington, .....Appellant,

v.

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

**PROOF OF SERVICE**

I, the undersigned, do hereby certify that I have served all counsel in this action with a copy of request to petition for supersedeas/stay before the full appellate court and request to stay all time limit to the appeal filing process herein below specified by mailing a copy of the same by United States Mail, postage prepaid, to the following addresses:

s/   
Jim Washington  
209 Signet Drive  
Eutawville, S.C. 29048  
WTS Transport, LLC@yahoo.com  
803-496-4655  
Appellant, Pro Se

C. Mitchell Brown, Esquire  
Blake T. Williams, Esquire  
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David H. Batten, Esquire  
4141 Parklake Ave., Suite 350  
Raleigh, N.C. 27612  
919-439-2221  
Attorneys for Respondent

STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
DEADRA L. JEFFERSON, Circuit Court Judge

Case No. 2015-CP-10-5000  
Appellate Case No. 2019-000640

Jim Washington, .....Appellant,  
v.  
Trident Medical Center, LLC.....Respondent.

December 2, 2019

**VIA-HAND DELIVERY**

The Honorable Jenny Kitchings Abbott  
Clerk of Court  
S.C. Court of Appeals  
P.O. Box 11629  
Columbia, S.C. 29211

**RECEIVED**

DEC 02 2019

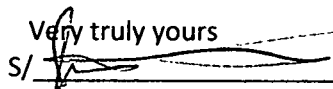
SC Court of Appeals

RE: Jim Washington v. Trident Medical Center, LLC

Dear Ms. Kitchings:

On November 13, 2019 your office issued a letter stating "This Court received your reply to the return to your petition for supersedeas/stay on 11/12/19. The Court ruled on the motion on 11/8/19. See Rule 263 (b), SCACR. Accordingly, no further action will be taken on your filing." After receiving the letter I called your office and spoke to you over the telephone concerning the 11/13/19 letter whereupon I stated the letter should be voided because the Court in its order dated 11/13/19 granted the right for the reply to be filed because the mandatory 5 days right to reply to opposing party **Response in Opposition to the Supersedeas/Stay** was not adhered to by the Court when the initial 11/8/19 order was issued. Under SCACR Rule 241(d)(2) which states that upon issuance of the final order by this Court which does not grant the supersedeas/stay or refer the matter to the full court to hear and determine the matter the aggrieved party may petition the full court for review of that decision. See SCACR Rule 241(d)(2). Thus, the rule does not allow SCACR Rule 263(b) to limit or restrict the aggrieved party the opportunity to have the full court to hear the denied petition after the final order issued which does not refer the matter to the full court. In the particular case at hand the orders denied supersedeas/stay therefore the aggrieved party must be afforded the opportunity to petition the full court. Therefore, your office should take further filing for the petition for supersedeas/stay before the full court.

With kind regards, I remain

Very truly yours  
S/   
Jim Washington  
209 Signet Drive  
Eutawville, S.C. 29048  
WTS Transport, LLC@yahoo.com  
803-496-4655

JW: jw

Enclosure

Cc: Blake T. Williams  
David H. Batten