

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas

Edgar W. Dickson, Circuit Court Judge

Case No. 2012-CP-38-0845

**RECEIVED**  
JAN 30 2020  
SC Court of Appeals

Ralph C. Williams, Sr., and Linda Williams, ..... Appellants,

v.

Patricia A. Johnson, Josette Peppers  
and UniHealth Post-Acute Care – Orangeburg, LLC ..... Respondents.

**PETITION FOR REHEARING**

Pursuant to Rules 221 and 240, SCACR, Appellants petition this court to rehear the opinion in *Williams v. Johnson*, 2020-UP-014 (S.C. Ct. App. Filed January 15, 2020). For all points: The Court overlooked or misapprehended the following points or arguments from the Appellants:

A. The Order granting a new trial under the Thirteenth Juror Doctrine was in error because it was controlled by an error of law, inasmuch as the trial judge’s reasons for the new trial were, in part:

1. that he may have made a mistake in charging the immunity statute and
2. that he was concerned the jury improperly handled the issue of the [nurses] immunity under the Act; and
3. the Judge pointed to nothing which suggested the Jury “misapplied” any

aspect of the Act.

4. Although a trial judge need not give a reason for granting the new trial under the Thirteenth Juror Doctrine, the judge did so here and those reasons were controlled by an error of law.

These mistakes and concerns demonstrate control by an error of law and therefore an abuse of discretion.

B. The trial judge's failure to find that the issue that the nurses' conduct at issue was, as a matter of law, within the scope of employment as to both nurses.

C. The Court of Appeals erroneously held the issue as to the improper joint defense was not preserved for appellate review.

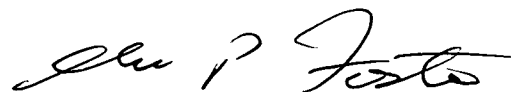
1. The first opportunity to raise the issue occurred only after the defense lawyers violated their agreement not to attempt to exonerate the employer-defendant by pointing to the actions of the employee-defendants.

2. The trial judge's failure to hold, that the defense lawyers created an unwaivable conflict of interest to their client nurses was error, and should have been prevented by defense lawyers from submitting jury instructions and verdict questions in furtherance of the sole interest of their corporate client, over their nurse clients.

3. The Court overlooked or misapprehended Appellants' request for instructions for the new trial to prevent the Defendants from setting forth a supposed and improper "joint defense" as they did in the first trial.

January 29, 2020

Respectfully Submitted,



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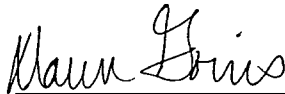
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The undersigned hereby certifies that on the date indicated below she served the Respondents with a copy of the Petition For Rehearing by mailing a copy of the same by Federal Express to the following addresses:

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January 29, 2020



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