

**NO 18-8806**

**IN THE SUPREME COURT OF THE UNITED STATES**

---

**Marguerite Dutton,**

Petitioner,

v.

**Nikkisha P. McCrea**

Respondent,

---

**APPEAL NO. 555 EDA 2017  
Court Docket No. 160900014**

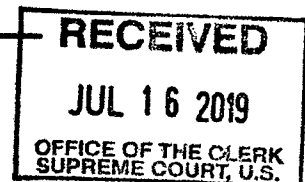
---

**PETITION FOR REHEARING**

---

**Marguerite Dutton  
5607 WARRINGTON AVE  
PHILA, PA 19143  
PHONE (267)349-9192  
[spikeno1@yahoo.com](mailto:spikeno1@yahoo.com)**

**07/12/ 2019**



## **TABLE OF CONTENTS**

TABLE OF CONTENTS .....	i
PETITION FOR REHEARING.....	1
FACTUAL & PROCEDURAL BACKGROUND.....	1.2.3
REASONS FOR GRANTING THE PETITION.....	3.4
<u>Pa. Rule 2.3.</u>	
(a) A Judge shall perform the duties of judicial office, without bias or prejudice	
CONCLUSION .....	4.5
CERTIFICATE OF PRO SE.....	6
Exhibit .....	7

## **PETITION FOR REHEARING**

Pursuant to Supreme Court Rule 44, petitioner Marguerite Dutton respectfully petitions for rehearing of its 06/17/ 2019 order dismissing the writ of certiorari in this case. The court had entered the following order the petition for writ of certiorari is denied. Marguerite Dutton moves this Court to grant this petition for rehearing and considering petitioners' case with merit. Pursuant to Supreme Court Rule 44.1, this petition for rehearing is filed within 25 days of this Court's decision in this case. The issue raised by the petitioner is whether a RULE 233.1 petitioner raise in a prior action against the same respondent.

Pursuant to U.S.C. Rule 8.9(1) Rule 8.(b)(b) for these reasons, more fully explained in this petition, the petition for rehearing writ of certiorari should be granted.

## **FACTUAL & PROCEDURAL BACKGROUND**

On September 4, 2016 plaintiff filed her Prose arbitration complaint. On September 6, 2016 Arbitration hearing scheduled on June 8, 2017. On September 23, 2016 defendant entry of appearance, September 23, 2016 defendant filed preliminary objection. September 27, 2016 respondent filed motion to dismiss. On October 13, 2016 petition answer to respondent preliminary objection and motion to dismiss. October 17, 2016 Preliminary objection assigned to Judge Carpenter, October 19, 2016 Motion to dismiss assigned to Judge Carpenter. November 2, 2016 order entered preliminary objection to respondent

complaint arguing improper service is sustained; the remaining preliminary objection are dismissed without prejudice. Petitioner is granted leave of twenty (20) days from docketing date of order to effectuate service upon respondent civil procedure regarding original service of process. November 2, 2016 order upon consideration of respondent's motion to dismiss and the response thereto, it is hereby ordered and decreed that the motion is dismissed without prejudice to refile one service of original process is perfected. November 18, 2016 affidavit of service filed by petitioner. November 22, 2016 respondent notice of intent to enter judgment of non pros for failure to file certificate of merit. November 22, 2016 respondent filed preliminary objection and Motion to dismiss to petitioner complaint. December 8, 2016 petitioner Motion for extension of time to file certificate of merit, and also Motion to amend arbitration complaint.

December 12, 2016 petitioner answer in OPPOSITION of motion to dismiss and in OPPOSITION of preliminary objection. December 14, 2016 motion to dismiss and preliminary objection assigned to judge, On December 15, 2016 respondent answer motion /petition in opposition to petitioner amended complaint and motion to file certificate of merit. December 29, 2016 petitioner reply in support of motion to amend complaint and reply in support of motion extend to file certificate of merit,

January 3, 2016 motion to amend arbitration complaint and motion to extend certificate of merit assigned to Judge Carpenter. On January 20, 2016 plaintiff motion is stricken with prejudice. Petitioner lawsuit is dismissed with prejudice. Petitioner is barred from pursuing additional litigation against respondent. January 20, 2016 ordered preliminary objection are sustained: 1. Petitioner complaint is stricken with prejudice in its entirety for improper service.: 2. Petitioner complaint is stricken with prejudice and her case dismissed pursuant to P.A.R.C.P. 233.1; 3.

Petitioner complaint is stricken for failure to conform with P.A.R.C.P. 1022 which provides pleading shall be divided into consecutive numbered paragraphs; 4. Paragraph 18 and 19 are stricken with prejudice for factual insufficiency of pleading; 5. Petitioner complaint including the wherefore clause is stricken for failing to comply with 1021. January 31, 2017 Petitioner appeal filed.

### **REASON FOR GRANTING THE PETITION**

The petitioner has filed several lawsuits against respondent. In the decision the court made reference to the required certificate of merit form. The court said the reason for granting respondent motion to dismiss was petitioner didn't submit a certificate of merit form. Petitioner filed her first action against DR. McCrea and Hospital of University on May 15, 2015.

On July 17, 2015 the court docketed a judgment of non pros for petitioner failure to file a certificate of merit.

### **Under Rule 2.3. Bias, Prejudice, and Harassment**

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender identity or expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

After reviewing the court of Pa. opinion, there are misleading statements made by the Judges as well as false statements presented by the Common Pleas of Pa.

Petitioner made three attempts through litigation against the respondent. The court in their opinion stated, no certificate of merit was not presented during the first legal action. This was a false statement presented by the court. A copy of certificate of merit was presented during the first legal proceeding is attach in the exhibit.

Petitioner field several motions involving the second and third legal proceedings. As evident in the court opinion, the court demonstrated its Bias against petitioner, when all motions were denied.

Following the court decision, to allow respondent to file four motions, the court granted all motions in favor of respondent and dismiss petitioner case with prejudice, even though petitioner filed objections to respondent four motions presented.

Clearly the court was Bias toward petitioner; this is a clear violation of **Pa. Rule 2.3.**

These are precisely the type of factual issue that need to be resolved in full briefing and argument and for this reason rehearing is appropriate. See Schweiker v Hansen

Here is a copy of submitted form to the Philadelphia court of common pleas.

**See exhibits**

### **CONCLUSION**

I am asking the court to reconsider their decision Not to hear the case. Because as stated the opinion of the court of common pleas court of Philadelphia Petitioner and respondent both filed several motions against each other. The court of common pleas of Philadelphia granted all respondent motions and denied all petitioner motions.

This clearly shows bias and prejudice of the Pa. court.

As a result of the court decision, petitioner loss her rights to future litigation. Petitioner should have been given the opportunity to address the concerns of the court.

I am asking the U.S. Supreme Court to review the documents and exhibits before making an decision.

*Marguerite Dutton*

**Marguerite Dutton**  
**5607 WARRINGTON AVE**  
**PHILA, PA 19143**  
**PHONE (267)349-9192**  
**spikenooone@yahoo.com**

**Date: 07/12/2019**

**CERTIFICATE OF PRO SE**

I hereby certify that this petition for rehearing is presented  
in good faith and not for delay.

*Marguerite Dutton*

**Marguerite Dutton  
5607 WARRINGTON AVE  
PHILA, PA 19143  
PHONE (267)349-9192  
spikenooone@yahoo.com**

**Date: 07/12/2019**



**SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, DC 20543-0001**

July 17, 2019

Marguerite Dutton  
5607 Warrington Avenue  
Philadelphia, PA 19143

RE: 18-8806

Dear Ms. Dutton:

The petition for rehearing in the above-entitled case was postmarked July 12, 2019 and received July 16, 2019 and is herewith returned for failure to comply with Rule 44 of the Rules of this Court. The petition must briefly and distinctly state its grounds and must be accompanied by a certificate stating that the grounds are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented.

You must also certify that the petition for rehearing is presented in good faith and not for delay.

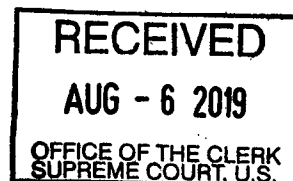
Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 15 days of the date of this letter, the petition will not be filed. Rule 44.6.

Sincerely,  
Scott S. Harris, Clerk

By:

M. Blalock  
(202) 479-3023

Enclosures



**Additional material  
from this filing is  
available in the  
Clerk's Office.**