

25A796

SUPREME COURT OF THE UNITED STATES

James L. Martin, petitioner : No.

v. :

Bruce L. Hudson, as successor to the late :
Ben T. Castle; Bruce L. Hudson, as an :
attorney who purported to represent the :
plaintiff; and Hudson and Castle Law, LLC, :
Appellees, defendants below, respondent :

Petitioner's Rule 23 Application to Justice Sotomayor
(Justice Alito is ineligible) to Stay

I, James L. Martin, apply for a stay this 13th day of December 2025,
and certify these statements to be true and correct based on my personal
knowledge in accord with 28 USC Sec. 1746:

1. The jurisdiction to review the case is at 28 USC Sec. 1257(a).
2. The judgment to be reviewed was issued on 11-24-2025, at Ex-1a
to 2a. The motion for reargument was denied on 12-9-2025, at Ex-3a, and
the motion for rehearing *en banc* was denied on 12-9-2025, at Ex-4a. The
motion for a stay was denied on 12-9-2025, at Ex-5a.
3. This Court has jurisdiction to enter a stay under 28 U.S.C. § 1651,
28 U.S.C. § 2101(f), and Supreme Court Rule 23. A stay can be entered “[i]n
any case in which the final judgment or decree of any court is subject to

review by the Supreme Court on a writ of certiorari.” 28 U.S.C. § 2101(f). Supreme Court Rule 10(b) (“Considerations Governing Review on Certiorari”) mandates review after a state court of last resort issues a ruling on a federal question to conflict with established precedent, and to carry national significance.

4. Medicare paid some of the medical expenses incurred by petitioner Martin after a crash. Surgeon Dr. Getz prescribed rehabilitation following major, open surgery.

5. Pursuant to the Social Security Act, Medicare may not pay for a beneficiary’s medical expenses when payment has been made under a liability insurance policy. If responsibility for the medical expenses is in dispute, and other insurance will not pay promptly, the provider may bill Medicare as the primary payer. If the medical service is reimbursable under Medicare rules, Medicare may pay conditionally, subject to later recovery if there is a subsequent, satisfied judgment. See 42 USC Sec. 1395. The Centers for Medicare and Medicaid Services (CMS) may recover from a primary insurer and a beneficiary that has received a primary payment.

6. The Benefits Coordination and Recovery Center (BCRC) identifies payments that Medicare has made conditionally. The BCRC issues a conditional payment letter with detailed claim information to the

beneficiary. This letter does not provide a final, conditional payment amount; Medicare might make additional, conditional payments while the beneficiary's claim is pending. The BCRC does not issue a formal recovery demand letter until there is a judgment.

7. Medicare's subrogation demand was based on medical treatment Dr. Getz prescribed for petitioner Martin following shoulder reconstruction surgery that resulted from a crash involving motorist Nixon. Dr. Getz updated his report dated 9-8-2021 to specify:

I previously summarized his surgery and postop rehab around the time of his initial injury. I would like to clarify that two MRIs did not show any interval change to the patient's rotator cuff between 2015 and 2019 and his residual shoulder dysfunction is a result of his initial injury and the inherent damage associated with it.

Dr. Getz testified during a videotaped trial deposition that all treatment he prescribed was causally related to the crash in 2015, consistent with his prior report referenced above:

Q [to Dr. Getz]: Is \$3,751.56 [the] reasonably accurate billed amount for the medical services you provided and prescribed after December 6th, 2016, to the present time [1-10-2022]?

A It is.

Motorist Nixon did not to conduct an independent medical evaluation of Martin and Nixon offered no testimony or evidence to contradict Dr. Getz's testimony, but the trial judge in the personal injury case disregarded the testimony from Dr. Getz and excluded treatment after 2016 as unrelated to

the crash on 10-10-2015. The judge further excluded Dr. Getz's testimony about traumatic brain injury, permanent disability, and other properly admissible trial testimony.

8. In a notice dated 11-27-204 from the Bureau of Fiscal Service, the collection agent for Medicare, and responsive to petitioner's request for a satisfaction and release of the subrogation claim, the Bureau stated: "Your debt has been returned to the creditor agency [Medicare]."

9. The medical expenses Medicare paid on Martin's behalf are the lawful basis of a subrogation claim only after the evidence relating the expenses to the crash are admissible in evidence.

10. Despite the testimony and the report from Dr. Charles Getz, the only medical expert in the underlying case, the medical expenses at issue were deemed unrelated to the crash. Their exclusion is evidence of legal malpractice, because respondent attorney Hudson failed to preserve any medical testimony from Dr. Getz and any other witness for Martin shortly before the trial. Martin's attorney Ben Castle died and (Castle's partner) was named to serve as the successor. Hudson abandoned Martin despite having access to the prepaid attorney's fees that Martin paid before the scheduled trial. Contrary to the Order issued on 12-9-2025 at issue here, at Ex-5a, the motion to stay is related to both the personal injury claim and to the legal

malpractice case: the pending subrogation claim would have been honored if there had been no legal malpractice.

11. The Medicare subrogation claim casts this statutory standard in focus again: No state statute or case law mandates a satisfaction of judgment and a release of claim until the judgment debtor's payment of the claim. Motorist Nixon, a party to the personal injury claim, demanded the satisfaction as a precondition of payment and was supported by the state judiciary. According to petitioner's primary bank, Wells Fargo, Nixon's scanned email of the check to Martin was not negotiable "payment." (Martin's fortuity with M&T Bank's processing the printed, emailed scan of the check does not render the recited abuse lawful.)

12. The 2025 Medicare Trustees' Report projects Medicare Part A to become insolvent in 2033, three years sooner than the projection in the 2024 Report. The Supplementary Medical Insurance Trust Fund (Parts B and D) is compromised with rapidly accelerating growth in costs, and places increasing demands on the federal budget and on premiums. The undermining of the subrogation process compromises Medicare's solvency: A stay, pending a fair resolution of Medicare's claim, is warranted. Social Security and Medicare are of national significance, and should be preserved despite the insolvency projections.

13. Justice Alito is disqualified in view of the fifteen-page Application to Associate Justice Samuel Alito for Recusal and for Disqualification, filed at No. 06-55, in *Martin v. United States Court of International Trade*, and incorporated herein by reference.

WHEREFORE, this Application to Stay should be granted, pending the resolution of Medicare's subrogation claim, so that the mandate from the state court is withheld for the duration of the stay.

Respectfully submitted,

James L. Martin

James L. Martin; petitioner; 805 W. 21st St.; Wilmington, DE 19802-3818
(302) 652-3957 e-mail martinjiml@aol.com

JAMES L. MARTIN,

V.

**Defendants Below,
Appellees.**

§
§ No. 58, 2025
§
§ Court Below—Superior Court
§ of the State of Delaware
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§ C.A. No. N21C-12-195
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Before **SEITZ**, Chief Justice; **LEGROW** and **GRIFFITHS**, Justices.

After consideration of the parties' briefs and the record on appeal, we find it evident that the judgment below should be affirmed on the basis of and for the reasons cited by the Superior Court in its January 14, 2025 opinion granting the appellees' motion for summary judgment.¹

Ex-1a

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ N. Christopher Griffiths
Justice

Ex. ²-2a



IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES L. MARTIN,

Plaintiff Below,
Appellant,

v.

BRUCE L. HUDSON, AS
SUCCESSOR TO THE LATE BEN
T. CASTLE; BRUCE L. HUDSON,
AS AN ATTORNEY WHO
PURPORTED TO REPRESENT
THE PLAINTIFF; and HUDSON
AND CASTLE LAW, LLC,

Defendants Below,
Appellees.

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§ No. 58, 2025
§
§ Court Below—Superior Court
§ of the State of Delaware
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§ C.A. No. N21C-12-195
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Before **SEITZ**, Chief Justice; **LEGROW** and **GRIFFITHS**, Justices.

ORDER

This 9th day of December 2025, the Court has carefully considered the motion for reargument filed by the appellant, and it appears that the motion is without merit and should be denied.

NOW, THEREFORE, IT IS ORDERED that the motion for reargument is DENIED.

BY THE COURT:

/s/ N. Christopher Griffiths
Justice

Ex. - 4a

§ No. 58, 2025

§ Court Below—Superior Court

§ of the State of Delaware

§ C.A. No. N21C-12-195

Ex. - 5a

SUPREME COURT OF THE UNITED STATES

James L. Martin, petitioner : No.

v. :

Bruce L. Hudson, as successor to the late :
Ben T. Castle; Bruce L. Hudson, as an :
attorney who purported to represent the :
plaintiff; and Hudson and Castle Law, LLC, :
respondents

Certificate of Service

I, James L. Martin, certify that I served a copy of the Petitioner's Rule 23 Application to Justice Sotomayor (Justice Alito is ineligible) to Stay with decisions at issue attached, upon counsel of record for the respondents at the following address:

Jeffrey M. Weiner, Esq.
1332 King St.
Wilmington, DE 19801

by pre-paid, first-class mail this 13th day of December 2025.

BY: James L. Martin
James L. Martin, petitioner
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Wilmington, DE 19802
(302) 652-3957