

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 18-1693

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UNITED STATES OF AMERICA ex rel.  
J. WILLIAM BOOKWALTER, III, M.D.;  
ROBERT J. SCLABASSI, M.D.; ANNA MITINA

v.

UPMC; UNIVERSITY OF PITTSBURGH PHYSICIANS,  
d/b/a UPP DEPARTMENT OF NEUROSURGERY

J. WILLIAM BOOKWALTER, III, M.D.;  
ROBERT J. SCLABASSI, M.D.; ANNA MITINA,  
Appellants

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(W.D. Pa. No. 2:12-cv-00145)

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SUR PETITION FOR REHEARING

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Present: SMITH, Chief Judge, and McKEE, AMBRO, CHAGARES, JORDAN,  
HARDIMAN, GREENAWAY, JR., SHWARTZ, KRAUSE, RESTREPO,  
BIBAS, MATEY, PHIPPS, and FUENTES,\* Circuit Judges

The petition for rehearing filed by Appellees in the above-captioned case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, it is hereby **ORDERED** that the petition for rehearing is **GRANTED IN PART**. A majority of the judges who participated in the decision of the Court having voted for rehearing, the petition for rehearing by

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\* Judge FUENTES's vote is limited to panel rehearing only.

the panel is **GRANTED**. The opinion and judgment filed September 17, 2019, are hereby **VACATED**. A subsequent opinion and judgment are herewith issued.

The majority has made changes to the language that appeared at pages 3–4, 6, 11, 15, 27–30, 32–33, 35–37, and 39–40 of the original opinion. Most of the material that appeared at pages 18–25 of the original opinion has been deleted. Judge AMBRO’s opinion concurring in the judgment has been withdrawn.

A majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the Court en banc is **DENIED**.

By the Court,

s/ Stephanos Bibas  
Circuit Judge

Dated: December 20, 2019

NMR/cc: Patrick K. Cavanaugh, Esq.  
Stephen J. Del Sole, Esq.  
Gregory M. Simpson, Esq.  
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