

**SECOND DIVISION
BARNES, P. J.,
RICKMAN and GOSS, JJ.**

**NOTICE: Motions for reconsideration must be
physically received in our clerk's office within ten
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August 15, 2018

In the Court of Appeals of Georgia

A16A0763. DOHERTY v. BROWN et al.

A16A0765. SOUTHEASTERN PAIN AMBULATORY SURGERY
CENTER LLC. v. BROWN et al.

A16A0766. SOUTHEASTERN PAIN SPECIALISTS, P. C. v.
BROWN et al.

BARNES, Presiding Judge.

In *Doherty v. Brown*, 339 Ga. App. 567 (794 SE2d 217) (2016) this Court affirmed the jury's verdict in favor of the plaintiffs. However, in *Southeastern Pain Specialists, P. C. v. Brown*, 303 Ga. 265 (811 SE2d 360) (2018), the Supreme Court of Georgia reversed this Court's opinion upon finding that because the evidence did not support the claim, the trial court had erred in giving an instruction on ordinary

negligence. Id. at 272-273 (2) (b). The Court instructed that this Court “on remand order a full retrial as to the appellants.” Id. at 266.¹

Thus, we vacate our opinion in these cases and adopt the opinion of our Supreme Court as our own. In accordance with the directive of the Supreme Court, the jury’s verdict must be reversed and the case remanded for a new trial.

Judgment reversed. Rickman and Goss, JJ., concur.

¹ The plaintiff-appellants in Case No. A16A0764, *Brown et al. v. Southeastern Pain Specialists, et al.*, did not file a separate petition challenging this Court’s affirmance of the trial court’s exclusion of certain evidence and denial of their motion for a mistrial. Thus, as to the evidentiary issues ruled on and asserted in that appeal, the Supreme Court held that the issues were “beyond the scope of [its] grant of certiorari” but, “the trial court remains free to revisit its ruling as it considers the admissibility of evidence on retrial.” *Southeastern Pain Specialists* at 303 Ga. at 274-275 (2) (c).