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**Sep 26 2022**

**SC Court of Appeals**

In the Court of Appeals  
APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas  
G.D. Morgan, Jr., Circuit Court Judge

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Appellate Case No. 2022-000088

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Mark Rutland, as Power of Attorney for Mary Hoover, Appellant,

v.

Jeremy Locklair and Orangeburg Post Acute LLL  
d/b/a Edisto Post Acute, Respondents

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**RECORD ON APPEAL**

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Post Office Box 1084  
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Attorneys for Respondents

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Mark Rutland et al  
PLAINTIFF(S)

Jeremy Locklair et al  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED** (*CHECK REASON*):  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  
 Other
- ACTION STRICKEN** (*CHECK REASON*):  Rule 40(j), SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):  
 Affirmed;  Reversed;  Remanded;  
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

See page 2

**ORDER INFORMATION**

This order  ends  does not end the case.  See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 10/06/2021 .

As Power Of Attorney Of Mary Hoover

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

## **Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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This matter came before the Court on the Defendants' Motion to Dismiss pursuant to Rule 12(b)(6). Having reviewed the file and heard oral argument, the Court GRANTS the Defendants' motion under S.C. Code Section 15-79-110 et seq. The Defendants' motion addressed to the issue of the existence of Defendant Orangeburg Post Acute, LLC at the time of the alleged negligent acts, is denied on the grounds matters raised by the Defendants in support of their motion are outside the pleadings and cannot provide a basis under Rule 12(b)(6). The Defendants motion on the statute of limitations is denied. Defendants' attorney to prepare Order.



Orangeburg Common Pleas

**Case Caption:** Mark Rutland , plaintiff, et al VS Jeremy Locklair , defendant, et al

**Case Number:** 2021CP3800414

**Type:** Order/Electronic Form 4

So Ordered

G.D. Morgan Jr.

Electronically signed on 2021-10-06 12:52:12 page 3 of 3

Mark Rutland et al  
PLAINTIFF(S)

Jeremy Locklair et al  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
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This order  ends  does not end the case.  See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 12/29/2021 .

As Power Of Attorney Of Mary Hoover

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

## Court Reporter:

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

---

This matter came before the Court on Plaintiff Mark Rutland's Motion to Reconsider Order to Dismiss. Having considered the arguments presented in the motion, the Plaintiff's motion is denied. Plaintiff argues their failure to comply with the South Carolina Medical Malpractice Act is not fatal because, although Defendant Edisto Post Acute is a healthcare institution, Defendant Locklair is not a healthcare provider, thus, the act does not apply. The Court disagrees. Additionally, Plaintiff argued at the hearing and now in this motion, that Defendant Locklair's failure to communicate the bankruptcy of Defendant Edisto Post Acute to Plaintiff is actionable. Notably, and of great importance in a motion to dismiss under Rule 12(b)(6), SCRPC, there are no allegations in the Complaint concerning the bankruptcy and alleged failure to communicate it. In considering a motion to dismiss under Rule 12(b)(6), a court must base its ruling solely on the allegations set forth in the complaint. *Carnival Corp. v. Historic Ansonborough Neighborhood Ass'n*, 407 S.C. 67, 753 S.E.2d 846 (2014). Therefore, the Plaintiff's motion is denied.



Orangeburg Common Pleas

**Case Caption:** Mark Rutland , plaintiff, et al VS Jeremy Locklair , defendant, et al

**Case Number:** 2021CP3800414

**Type:** Order/Electronic Form 4

So Ordered

G.D. Morgan Jr.

Electronically signed on 2021-12-29 15:03:39 page 3 of 3



Pursuant to S.C. Code Ann. § 15-79-125 of The Medical Malpractice Act, prior to filing or initiating a civil action alleging injury or death as a result of medical malpractice, a plaintiff shall contemporaneously file a Notice of Intent to File Suit and an affidavit of an expert witness, subject to the affidavit requirements established in § 15-36-100, in a county in which venue would be proper for filing or initiating a civil action. The notice must name all adverse parties as defendants, must contain a short and plain statement of the facts showing that the party filing the notice is entitled to relief, must be signed by the plaintiff or by her attorney, and must include any standard interrogatories or similar disclosures required by the SCRCF. The Medical Malpractice Act further states that the parties shall participate in a mediation conference after which the plaintiff may initiate a civil action by filing a summons and complaint.

### **ANALYSIS**

This action was filed in the Orangeburg County Court of Common Pleas on April 20, 2021. The Orangeburg County Court of Common Pleas public docket does not identify any associated matters<sup>1</sup>. This a nursing home negligence matter wherein Plaintiff alleges that Mary Hoover ("Hoover") received negligent care as a result of Defendants' actions while a resident of the nursing home now known as Edisto Post Acute located at 575 Stonewall Jackson Street in Orangeburg, South Carolina, between October 4, 2017 and June 15, 2018.

Plaintiff argues that the allegations of the Complaint as to Defendant Jeremy Locklair were related to alleged failures in communication from him, in his capacity as the Administrator of the nursing home, to Hoover's family and his role in administration of the nursing home's resources.

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<sup>1</sup> Plaintiff filed a Notice of Intent to File Suit against Orianna Health Systems, LLC, Orangeburg Post Acute LLC d/b/a Edisto Post Acute and/or Riverside Rehabilitation and Healthcare Center LLC, Edisto Post Acute, and Riverside Rehabilitation and Healthcare Center, LLC on November 3, 2020, Civil Action No. 2020-NI-38-00019. That matter remains pending and the docket does not reflect that mandatory pre-suit mediation has been completed as required by §15-79-125. Defendant Jeremy Locklair is not a named defendant in the Notice of Intent to File Suit.

However, the Complaint does not support this argument. Instead, the Complaint makes reference to the skilled nursing services and care provided to Hoover at the nursing home by its employees and alleges that these employees failed to establish and meet the standard of care, thereby causing Hoover to suffer injuries. For example, the Complaint expressly alleges that Jeremy Locklair had a "responsibility to ... maintain appropriate standards of care...ensuring the safe and reasonable care of the residents." Complaint, Para. 13; see also, Para. 15, 16, 17, 18, 19. Any matter involving care provided at a nursing home falls squarely within The Medical Malpractice Act. See §15-79-110 (2)(7). Accordingly, a Notice of Intent to File Suit must be filed, accompanied by an expert affidavit that complies with S.C. Code Ann. §15-36-100. A summons and complaint cannot be filed until all statutory requirements are met and mandatory pre-suit mediation has been completed.

Plaintiff acknowledges that a Notice of Intent to File Suit and expert affidavit were not filed prior to filing the instant Complaint. Accordingly, the Court finds that based on the allegations of the Complaint, this matter is subject to the requirements of The Medical Malpractice Act, and, therefore, the Complaint was improperly filed and must be dismissed as a matter of law.<sup>2</sup>

Accordingly, it is hereby ORDERED, ADJUDGED, and DECREED that Defendants' Motion to Dismiss Plaintiff's Complaint pursuant Defendants' motion under S.C. Code Section 15-79-110, *et seq.* is GRANTED.

IT IS SO ORDERED.

---

G.D. Morgan, Jr.  
Presiding Judge

\_\_\_\_\_, 2021  
Orangeburg County, South Carolina

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<sup>2</sup> Defendants' other grounds asserted for the Motion to Dismiss are denied. See Form 4 Order.



Orangeburg Common Pleas

**Case Caption:** Mark Rutland , plaintiff, et al VS Jeremy Locklair , defendant, et al

**Case Number:** 2021CP3800414

**Type:** Order/Dismissal

So Ordered

G.D. Morgan Jr.

Electronically signed on 2021-12-06 15:04:50 page 4 of 4

STATE OF LOUISIANA  
PARISH OF RAPIDES

AFFIDAVIT OF MERIT OF  
LUANNE TRAHANT, MSN, APRN, FNP-BC

The Affiant, Luanne Trahant, MSN, APRN, FNP-BC, having been duly sworn testifies as follows:

- 1) I am over 18, legally competent, and I make this affidavit based upon medical records provided to me as well as my background, education, training, and experience.
- 2) I am a registered nurse in Louisiana. I received my Bachelor of Science in Nursing from Northwestern State University in 1992 and a Master of Science in Nursing in 2005. I am a Board-Certified Family Nurse Practitioner. I have practiced in the field of which I give this opinion for at least three out of the last five years.
- 3) I have been provided with the medical records from Riverside Rehabilitation and Healthcare Center and limited records from The Regional Medical Center pertaining to Mary Hoover.
- 4) A basic factual summary is as follows: Mary Hoover was an 82-year-old female who was admitted to Riverside Rehabilitation and Healthcare Center on October 4, 2017. On admission due to Ms. Hoover's age and co-morbidities, she was at risk for pressure injuries and worsening of existing pressure injuries.
- 5) A weekly skin check on December 4, 2017, after she returned from the hospital, documented Ms. Hoover had 2 open areas to her sacrum that were red in color with a small amount of drainage and no odor.
- 6) A weekly skin check on December 8, 2017, documented that Ms. Hoover was readmitted with excoriation to her coccyx and buttocks, but on current assessment, the areas were not open and that the areas ~~was~~ were to be treated with calazime protective cream to reduce the risk of the areas opening.
- 7) Riverside Rehabilitation and Healthcare Center and its staff were responsible for assessing Ms. Hoover's skin weekly and documenting this assessment within the standard and reporting any changes in her skin condition to her physician and family.

- 8) On January 6, 2018, the weekly wound information sheet documented that Ms. Hoover had a sacral wound/excoriation measuring 12cm x 12cm and that the area had worsened.
- 9) On January 11, 2018, the wound to her sacrum was described as a Stage II pressure ulcer (superficial, shallow opening of the skin) that measured 7.5cm x 11cm with minimal drainage and mild odor.
- 10) By March 31, 2018, Ms. Hoover's sacral wound deteriorated to a Stage III pressure ulcer (full thickness wound with injury to the fat tissue and muscle underlying) measuring 5.6cm x 2.2cm x 2.5cm. The wound bed was described as necrotic (dead tissue) and purple and exhibited symptoms of infection, including moderate drainage and foul odor.
- 11) On April 13, 2018, the sacral wound was documented as a Stage IV (full thickness injury to the skin and underlying tissue down to the bone) measuring 8.0 cm x 4.4 cm x 3.2cm with moderate foul drainage and tunneling which indicated that the wound damage was deeper than was able to be seen or measured.
- 12) Ms. Hoover was admitted to The Regional Medical Center on April 13, 2018, with a diagnosis of infected sacral pressure ulcer, dehydration, and severe protein-calorie malnutrition. The sacral wound required debridement of the dead tissue through the muscle fascia and down to her sacral bone.
- 13) Ms. Hoover was discharged from Riverside Rehabilitation and Healthcare Center on June 15, 2018, to be taken care of by home health and her nephew. The Stage IV wound to her sacrum measured 8.7cm x 9.2cm x 2.0cm and was described as beefy red and granulating (beginning to heal).
- 14) The Defendant employees failed to properly follow the standard of care for the prevention and treatment of pressure injuries. They failed to appropriately assess Ms. Hoover's skin/wounds and employ known interventions in the prevention and treatment of residents identified at risk for pressure injuries.
- 15) I reserve the right to alter, amend, add, or delete opinions as new information becomes available.

*Juanne Trahant APRN BC*  
Luanne Trahant, MSN, APRN, FNP-  
BC,

Sworn to and subscribed before me this  
9<sup>th</sup> day of September, 2020

*AWM MS #18373*

Notary Public for Louisiana

My Commission Expires: @ DEATH

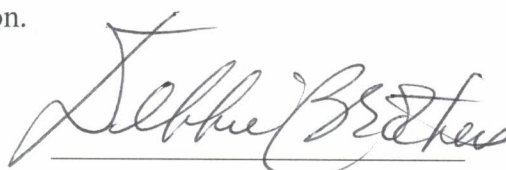
STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ORANGEBURG )  
 )  
Mark Rutland, as Power of Attorney )  
for Mary Hoover, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Jeremy Locklair and Orangeburg )  
Post Acute LLC d/b/a Edisto Post )  
Acute, )  
 )  
Defendants )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
CASE NO: 2021-CP-38-00414

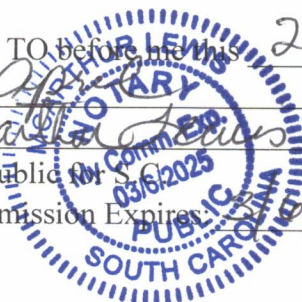
**AFFIDAVIT OF SERVICE**

The undersigned, Debbie Brothers being duly sworn, says that she served the foregoing: **COVER LETTER, SUMMONS AND COMPLAINT** in the above captioned action upon the Defendant **JEREMY LOCKLAIR** by delivering the same to:  
( ) the individual personally, or  
**(X) JERRY LOCKLAIR (father)** a person of suitable age and discretion residing at the residence of the defendant and leaving with him/her one (1) copy of the same at his usual place of abode **3865 Artist Drive, Lynchburg, SC** on the **27th day of April 2021**, at **7:20 p.m.**

The Affiant further says, that upon information and belief, he know the person so served to be the defendant mentioned and described in the documents served and that the affiant is not a party to nor interested in the action.



Debbie Brothers

SWORN TO before me this 28th day  
of April, 2021  
Arthur Lewis  
Notary Public for South Carolina  
My Commission Expires 03/16/2025  


STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Mark Rutland, as Power of Attorney for  
Mary Hoover,

Plaintiff,

vs.

Jeremy Locklair and Orangeburg Post  
Acute LLC d/b/a Edisto Post Acute,


Defendants.

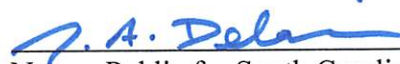
IN THE COURT OF COMMON PLEAS

Case No. 2021-CP-38-00414

**AFFIDAVIT OF SERVICE**

I, Christle Turner, the undersigned employee of Williams & Williams, do hereby certify that I have served a copy of Plaintiff's, Summons and Complaint in the above-captioned matter on Defendant Orangeburg Post Acute LLC d/b/a Edisto Post Acute, by depositing a copy of same in the United States Mail, postage prepaid, via certified mail, restricted delivery, return receipt requested, on April 21, 2021. Said Domestic Return Receipt is attached hereto showing that these documents were accepted and signed for by the registered agent for Defendant Orangeburg Post Acute LLC d/b/a Edisto Post Acute on April 27, 2021.

  
Christle Turner

Sworn to and subscribed before me )  
this 3rd day of May, 2021 )  
)  
 )  
Notary Public for South Carolina )  
My Commission Expires 2 / 05 / 2029 )

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Orangeburg Post Acute, LLC db/a  
 Edisto Post Acute  
 c/o CT Corporation System, RA  
 2 Office Park Court, Suite 103  
 Columbia, SC 29223



9590 9402 4579 8278 4551 10

2. Article Number (Transfer from service label)

7019 0700 0002 1238 8323

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *Lisa Collins*

- Agent
- Addressee

B. Received by (Printed Name)

*Y. J. J. J.*

C. Date of Delivery

D. Is delivery address different from item 1?  Yes

If YES, enter delivery address below:

- No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery

- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Mail Restricted Delivery

ROA 17

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Pursuant to S.C. Code Ann. § 15-79-125, prior to filing or initiating a civil action alleging injury or death as a result of medical malpractice, a plaintiff shall contemporaneously file a Notice of Intent to File Suit and an affidavit of an expert witness, subject to the affidavit requirements established in § 15-36-100, in a county in which venue would be proper for filing or initiating a civil action. The notice must name all adverse parties as defendants, must contain a short and plain statement of the facts showing that the party filing the notice is entitled to relief, must be signed by the plaintiff or by her attorney, and must include any standard interrogatories or similar disclosures required by the South Carolina Rules of Civil Procedure. The Act further states that the parties shall participate in a mediation conference after which the plaintiff may initiate a civil action by filing a summons and complaint. The subject action was filed on April 20, 2021, but the Orangeburg County Court of Common Pleas' docket does not reference any associated notice of intent cases.

Plaintiff filed a Notice of Intent against multiple defendants on November 3, 2020 ("NOI"). That matter remains pending and there is no indication that a pre-suit mediation has been completed as required by §15-79-125<sup>2</sup>. Further, Jeremy Locklair ("Locklair") was not a party to the NOI. Pursuant to §15-79-125, Plaintiff must include all adverse parties as defendants in any Notice of Intent. Accordingly, this Complaint is improper and should be dismissed against Defendants for failure to comply with The Act.

Alternatively, if this matter was filed separate from the NOI in an effort to avoid the requirements of The Act, such action is improper and the Complaint should be dismissed. The Complaint is replete with references regarding the skilled nursing services and care provided to Hoover at the nursing home by its employees and alleges these employees failed to establish and

<sup>2</sup> See Civil Action No. 2020NI3800019 naming Orangeburg Post Acute, LLC as a defendant.

meet the standard of care and caused Hoover to suffer injuries<sup>3</sup>. Any matter involving care provided at a nursing home falls squarely within the parameters of The Act. *See* §15-79-110 (2)(7). Accordingly, a Notice of Intent must be filed in accordance with The Act, accompanied by an expert affidavit, before a summons and complaint can be filed. Therefore, this Complaint must be dismissed.

**B. Defendant Orangeburg Post Acute, LLC did not exist at the times alleged in the Complaint.**

According to the South Carolina Secretary of State, Orangeburg Post Acute, LLC was not in existence during Hoover's residency and did not file its Articles of Organization until November 29, 2018, five months after Hoover's discharge from the referenced facility. Accordingly, Orangeburg Post Acute, LLC did not own, operate, control, oversee, manage and/or otherwise employ any individual or provide any services to residents, including Hoover, during all times alleged in the Complaint. Plaintiff further claims that Locklair was an employee of Defendant Orangeburg Post Acute, LLC d/b/a Edisto Post Acute during Hoover's residency. Because Orangeburg Post Acute, LLC did not exist, it could not and did not employ Locklair. Accordingly, there is no theory upon which Plaintiff's claims may legally result in a judgment against Defendants and, therefore, it should be dismissed as a matter of law.

**C. Plaintiff's claims are barred by the statute of limitations**

The Complaint alleges that Defendants failed to provide proper care and services during Hoover's admission causing her to suffer injuries. Pursuant to S.C. Code Ann. §15-3-530, plaintiff must commence an action three years from the date of the alleged injury. The Complaint was filed

<sup>3</sup> See Paragraphs 13,15, 16, 17, 18 and 19 of the Complaint.

April 20, 2021. Accordingly, any claimed actions or omissions by defendants or claims for damages incurred prior to April 20, 2018 are barred and not recoverable in this action.

This Motion will be supported by the South Carolina Rules of Civil Procedure, applicable case and statutory law, the pleadings and documents on file, arguments of counsel, any Memorandum of Law filed with the Court, and such other and further argument and/or information as may be properly presented to the Court.

Respectfully submitted this 25th day of May, 2021, in Mt. Pleasant, South Carolina.

**HALL BOOTH SMITH, P.C.**

*/s/ Ashley S. Heslop*

---

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*Counsel for Defendants Jeremy Locklair and  
Orangeburg Post Acute LLC d/b/a Edisto Post  
Acute*

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Mark Rutland, as Power of Attorney for  
Mary Hoover,

Plaintiff,

vs.

Jeremy Locklair and Orangeburg Post  
Acute LLC d/b/a Edisto Post Acute,

Defendants.

IN THE COURT OF COMMON PLEAS

Case No. 2021-CP-38-00414

**PLAINTIFF'S MOTION TO RECONSIDER  
ORDER TO DISMISS**

Pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, Plaintiff moves the Court to reconsider its order dismissing the action against Defendants due to Plaintiff's failure to follow the statutory requirements of S.C. Code Section 15-79-110, et seq. ("The Medical Malpractice Act"). This Court's order was entered on or about December 6, 2021. In accordance with the rule, this motion is presented within ten (10) days after Plaintiff received written notice of the entry of the order. *See* SCRCP 59(3). The court erred in dismissing the entirety of Plaintiff's Complaint based on the Notice of Intent requirements.

The South Carolina Medical Malpractice Act defines "medical malpractice" as "doing that which the reasonably prudent health care provider or health care institution would not do or not doing that which the reasonably prudent health care provider or health care institution would do in the same or similar circumstances." S.C. Code Ann. §15-79-110(6). A "healthcare institution" means an ambulatory surgical facility, a hospital, an institutional general infirmary, a nursing home, and a renal dialysis facility." *Id.* at (2). A "healthcare provider" means a physician, surgeon, osteopath, nurse, oral surgeon, dentist, pharmacist, chiropractor, optometrist, podiatrist, or any similar category of licensed health care provider, including a health care practice, association,

partnership, or other legal entity.” Id. at (3). While Orangeburg Post Acute LLC d/b/a Edisto Post Acute would be considered a healthcare institution, Jeremy Locklair is not a healthcare provider. Plaintiff has alleged numerous allegations separate and apart from any healthcare provided against Mr. Locklair and thus, those claims must proceed beyond a motion to dismiss.

Specifically, in paragraph 15 of his complaint, Plaintiff alleges “Defendant Locklair, as Edisto’s administrator, owed a duty to Ms. Hoover...to create and manage a health-care environment that would provide and promote standard of care services to its residents with...sufficiently funded facilities, continuity of care, coordinate care, and other reasonable performance of patient care as represented to the patients prior to and during their residency at Edisto.” Then in paragraph 16, “Defendant Locklair departed from these duties owed to Ms. Hoover...(a) in failing to properly communicate with Plaintiff as to the care and services offered to Ms. Hoover; ... (c) in failing to adequately manage the financial resources at Edisto so as to ensure adequate care of its residents...”

At the hearing on Defendants’ motion, Plaintiff specifically pointed to Defendant Edisto Post Acute’s bankruptcy and Defendant Locklair’s failure to communicate that bankruptcy to Plaintiff. The failure to do so has irreparably harmed Plaintiff’s ability to pursue the companion medical malpractice, an action that is fully supported by the requisite expert affidavit. The allegations of negligence in this case are separate from Defendant Edisto Post Acute’s medical malpractice and allege that Defendant Locklair was negligent in failing to communicate information, not medical information.

Furthermore, even if the Court finds an expert affidavit is required, Plaintiff has secured the same and Defendants are well aware that it exists, so there is no prejudice in connecting said affidavit to this lawsuit.

Plaintiff asks the Court to reverse its decision granting Defendants' Motion to Dismiss and allow Plaintiff's claim for negligence to proceed against Defendants.

WILLIAMS & WILLIAMS

By: s/Virginia W. Williams  
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Virginia W. Williams (SC Bar # 77899)  
Charlie H. Williams, III (SC Bar # 79899)  
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*Attorneys for Plaintiff*

December 16, 2021

**NOTICE OF APPEAL IN A CIVIL CASE**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas

G.D. Morgan, Jr., Circuit Court Judge

Case No. 2021CP3800414

Mark Rutland, as Power of  
Attorney for Mary Hoover,

Appellant,

v.

Jeremy Locklair and  
Orangeburg Post Acute LLC  
d/b/a Edisto Post Acute,

Respondent.

NOTICE OF APPEAL

Mark Rutland appeals the order granting Defendants' Motion to Dismiss (December 6, 2021) and order denying Plaintiff's Motion to Reconsider the Order to Dismiss (January 3, 2022).

January 27, 2022

\_\_\_\_\_  
Virginia W. Williams, 77898  
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Phone: (803) 534-5218  
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Other Counsel of Record:

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111 Coleman Boulevard, Suite 301

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Counsel for Jeremy Locklair and Orangeburg Post Acute LLC d/b/a Edisto Post Acute



existing under the laws of the State of South Carolina and with a location in Orangeburg County, South Carolina, at all times relevant herein.

4) Upon information and belief, Defendant Riverside Rehabilitation and Healthcare Center, is a business organized and existing under the laws of the State of South Carolina and with a location in Orangeburg County, South Carolina, at all times relevant herein.

**B. SHORT AND PLAIN STATEMENT OF THE FACTS SHOWING THAT THE PARTY FILING THE NOTICE IS ENTITLED TO RELIEF**

- 1) Defendants are in the business of running, managing, and operating a nursing home facility in Orangeburg County, South Carolina, to provide medical services, to include rehabilitation, for individuals in the surrounding area.
- 2) One such nursing home facility was located at 575 Stonewall Jackson Boulevard, Orangeburg, SC 29115, operating under the name of Edisto Post Acute and/or Riverside Rehabilitation and Healthcare Center (“Edisto/Riverside”).
- 3) On or about October 4, 2017, Mary Hoover was admitted to Edisto/Riverside after an admission to the Regional Medical Center.
- 4) Mary Hoover went back to the Regional Medical Center on November 3, 2017, for abdominal pain. She was discharged the same day to Edisto/Riverside.
- 5) Mary Hoover returned back to the Regional Medical Center on November 6, 2017, for urine retention and constipation. She was discharged the same day to Edisto/Riverside.
- 6) Mary Hoover returned again to the Regional Medical Center on November 27, 2017, for an acute UTI. She was discharged from December 4, 2017 and returned to Edisto/Riverside.
- 7) She returned from the hospital to Edisto/Riverside with two open areas to her sacrum.
- 8) Over the next several months while she was at Edisto/Riverside, the wounds deteriorated to Stage IV wounds with drainage and tunneling. Ms. Hoover was admitted to the Regional Medical Center on April 16, 2018, with multiple diagnosis, including a sacral wound,

dehydration, and renal failure.

- 9) Ms. Hoover left Edisto/Riverside on or about June 15, 2018, and returned home to be cared for by home health and her nephew. At that point, the sacral wound was still a Stage IV wound.
- 10) Defendants deviated from the standard of care in failing to properly care for Ms. Hoover.
- 11) The deviations from the standard of care, as set forth above and in the attached Affidavit of Expert, resulted in Plaintiff's injuries.

**C. STANDARD INTERROGATORIES - Rule 33(b) SCRPC**

The information specified in the standard interrogatories found in Rule 33(b) of the South Carolina Rules of Civil Procedure is attached hereto.

**D. AFFIDAVIT OF EXPERT**

In support of the Plaintiff's Notice of Intent to File Suit is the Affidavit of Luanne Trahant, MSN, APRN, FNP-BC, which is attached hereto and incorporated herein by reference.

**E. ADR REQUIREMENTS**

Pursuant to S.C. Code §15-79-125(C) and Rule 4(c) of the South Carolina ADR Rules, this dispute is subject to pre-suit mediation within 120 days from the service of the Notice of Intent to File Suit. The primary and secondary mediators are as follows:

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_

Plaintiff is willing to choose a different mediator by agreement with Defendants.

*[Signature page to follow]*

Respectfully submitted this 3rd day of November, 2020,

*s/Virginia W. Williams*

Virginia W. Williams, SC Bar No. 77898

David R. Williams, SC Bar No. 77899

Charles H. Williams III, SC Bar No. 79897

J. Andrew Delaney, SC Bar No. 72863

WILLIAMS & WILLIAMS

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ATTORNEYS FOR PLAINTIFF

Orangeburg, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ORANGEBURG )  
 )  
Mark Rutland, as Power of Attorney for )  
Mary Hoover, )  
 )  
 )  
 )  
Plaintiff(s) )  
 )  
vs. )  
 )  
Jeremy Locklair and Orangeburg Post )  
Acute LLC d/b/a Edisto Post Acute )  
 )  
 )  
Defendant(s). )

IN THE COURT OF COMMON PLEAS  
C/A NO.: 2021-CP-38-\_\_\_\_\_

**SUMMONS**  
**Jury Trial Demanded**

TO: DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscriber at 1281Russell Street (29115), Post Office Box 1084, Orangeburg, South Carolina 29116 within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint and judgment by default will be rendered against you for the relief demanded in the Complaint.

s/Virginia W. Williams  
Virginia W. Williams, 77898  
David R. Williams, 77899  
Charles H. Williams III, 7987  
J. Andrew Delaney, 72863  
WILLIAMS & WILLIAMS  
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ATTORNEYS FOR PLAINTIFF

Orangeburg, South Carolina  
April 20, 2021



the Administrator of Edisto Post Acute, a nursing home facility at 575 Stonewall Jackson Street in Orangeburg, South Carolina, acting with.

5. The events giving rise to this dispute took place in Orangeburg County, South Carolina.
6. Jurisdiction is proper in Orangeburg County, South Carolina.

### **FACTS**

7. On or about October 4, 2017, Plaintiff Mary Hoover was admitted to Riverside after an admission to the Regional Medical Center. She stayed at Riverside until November 3, 2017, when she was admitted to the Regional Medical Center for abdominal pain. She was discharged the same day to Edisto.
8. Ms. Hoover returned again to the Regional Medical Center on November 6, 2017, for urine retention and constipation. She was discharged the same day to Edisto.
9. Ms. Hoover returned again to the Regional Medical Center on November 27, 2017, for an acute UTI. She was discharged from December 4, 2017, and returned to Edisto with two open areas to her sacrum.
10. On or about April 13, 2018, the wound developed to a Stage IV wound with moderate foul drainage and tunneling. Ms Hoover was admitted to the Regional Medical Center that day, returning to Edisto on or about April 20, 2018.
11. Ms. Hoover stayed at Edisto until on or about June 15, 2018, when she was discharged home to be taken care of by home health and her nephew. At that time her sacral wound remained a Stage IV.
12. Defendant Locklair worked as the administrator of Edisto while Ms. Hoover was a patient.
13. Upon information and belief, Defendant Locklair, as the administrator, had the responsibility to supervise, plan, develop, monitor, and maintain appropriate standards of

care throughout all departments at Edisto, ensuring the safe and reasonable care of the residents.

**FOR A FIRST CAUSE OF ACTION**

**(Negligence, Gross Negligence, Negligence *per se*)**

14. Plaintiff reiterates and re-alleges the previous allegations as if fully set forth herein.
15. Defendant Locklair, as Edisto's administrator, owed a duty to Ms. Hoover, an Edisto resident from 2017 to 2018, to create and manage a health-care environment that would provide and promote standard of care services to its residents with competent healthcare providers, sufficiently funded facilities, continuity of care, coordinated care, and other reasonable performance of patient care as represented to the patients prior to and during their residency at Edisto.
16. Defendant Locklair departed from these duties owed to Ms. Hoover and was thereby negligent, careless, grossly negligent, reckless and in violation of the duties owed to Ms. Hoover, in that it committed one or more of the following acts of omission or commission, any or all of which were departures from the duties owed by an administrator:
  - a. In failing to properly communicate with Plaintiff as to the care and services offered to Ms. Hoover;
  - b. In failing to implement a system with adequate safeguards so as to prevent the demise of Ms. Hoover's health condition;
  - c. In failing to adequately manage the financial resources at Edisto so as to ensure adequate care of its residents;
  - d. In failing to establish the proper standards of care to be exercised at Edisto;

- e. In failing to direct and oversee the providers and employees at Edisto to ensure standard of care services were being offered and provided to its residents;
  - f. In failing to identify that Ms. Hoover was receiving below the standard medical care and services;
  - g. In failing to adequately supervise, train, and discipline employees, servants, and/or agents so as to prevent this foreseeable consequence; and
  - h. In such other and further particulars as may be ascertained through discovery procedures as undertaken pursuant to the South Carolina Rules of Civil Procedure and the evidence which the trial may show.
17. Defendant Edisto owed a duty to Ms. Hoover, an Edisto resident from 2017 to 2018, to create and manage a health-care environment that would provide and promote standard of care services to its residents with competent healthcare providers, sufficiently funded facilities, continuity of care, coordinated care, and other reasonable performance of patient care as represented to the patients prior to and during their residency at Edisto.
18. Defendant Edisto departed from these duties owed to Ms. Hoover and was thereby negligent, careless, grossly negligent, reckless and in violation of the duties owed to Ms. Hoover, in that it committed one or more of the following acts of omission or commission, any or all of which were departures from the duties owed by an administrator:
- a. In failing to properly communicate with Plaintiff as to the care and services offered to Ms. Hoover;
  - b. In failing to implement a system with adequate safeguards so as to prevent the demise of Ms. Hoover's health condition;

- c. In failing to adequately manage the financial resources at Edisto so as to ensure adequate care of its residents;
  - d. In failing to establish the proper standards of care to be exercised at Edisto;
  - e. In failing to direct and oversee the providers and employees at Edisto to ensure standard of care services were being offered and provided to its residents;
  - f. In failing to identify that Ms. Hoover was receiving below the standard medical care and services;
  - g. In failing to adequately supervise, train, and discipline employees, servants, and/or agents so as to prevent this foreseeable consequence; and
  - h. In such other and further particulars as may be ascertained through discovery procedures as undertaken pursuant to the South Carolina Rules of Civil Procedure and the evidence which the trial may show.
19. As a direct and proximate result of the aforesaid negligence, carelessness, gross negligence, recklessness, Ms. Hoover suffered serious injuries, enduring great physical pain, suffering, mental anguish, emotional distress, and impairment of health and body efficiency as well as significant financial expense and inconvenience. and ultimately her untimely death. Defendant Locklair is liable for compensatory, consequential, and actual damages, as well as such other relief as the Court may deem appropriate, including but not limited to punitive damages.

WHEREFORE, having fully set forth their complaint above, Plaintiffs pray for judgment against the Defendants as set forth herein.

*[Signature page to follow]*

s/Virginia W. Williams

---

Virginia W. Williams, 79898  
David R. Williams, 77899  
Charles H. Williams III, 79897  
J. Andrew Delaney, 72863  
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[ginny@williamsattys.com](mailto:ginny@williamsattys.com)  
ATTORNEYS FOR PLAINTIFF

Orangeburg, South Carolina  
April 20, 2021

1 STATE OF SOUTH CAROLINA )  
 2 ) IN THE COURT OF  
 3 COUNTY OF ORANGEBURG ) COMMON PLEAS  
 4  
 5 MARK RUTLAND, et al, )  
 6 Plaintiff, )  
 7 Vs ) CASE NO. 2021-CP-38-00414  
 8 JEREMY LOCKLAIR and )  
 9 ORANGEBURG POST ACUTE LLC)  
 10 d/b/a EDISTO POST ACUTE, )  
 11 Defendants )

12  
 13 SEPTEMBER 28, 2021  
 14 ORANGEBURG, SOUTH CAROLINA  
 15

16 HONORABLE G.D. MORGAN, JR, JUDGE

17 A P P E A R A N C E S:

18 BY: JOHN A. DELANEY, ESQUIRE  
 19 Attorney for the Plaintiff

20 BY: ASHLEY S. HESLOP, ESQUIRE  
 21 Attorney for the Defendants

22  
 23 KATHERINE A. SPIRES  
 24 REGISTERED PROFESSIONAL REPORTER  
 25

1 THE COURT: All right. It looks like  
2 the first motion is in Rutland verses Locklair.  
3 Defendant's Motion to Dismiss. I'll hear from you.

4 MS. HESLOP: Thank you, Your Honor.  
5 Ashley Heslop with Hall Booth Smith here on behalf  
6 of the Defendant's in this Motion to Dismiss. I  
7 represent Jeremy Locklair and Orangeburg Post  
8 Acute, LLC, d/b/a, Edisto Post Acute which is a  
9 nursing home here in Orangeburg. Mr. Locklair was  
10 the administrator of the nursing home.

11 We filed this Motion to Dismiss on  
12 several grounds. Mainly, that the action did not  
13 comply with the requirements for the Notice of  
14 Intent statute for 15-79-110. Specifically, no  
15 Notice of Intent was filed or associated with this  
16 particular Complaint and civil action number. As  
17 the Court is aware, the Medical Malpractice Act  
18 requires that a Notice of Intent be filed and  
19 precede mediation process be gone through pursuant  
20 to the statute and that was not done prior to  
21 filing this particular Complaint.

22 Specifically, as to Ms. -- there was a  
23 Notice of Intent that was filed with the same  
24 parties back on November 3, 2020; however, that  
25 matter, my understanding is, it continues to be

1 pending. It has not been dismissed. It has not  
2 been amended. No mediation has been completed in  
3 that action. I bring that up for this matter  
4 because Mr. Locklair was not named as a party to  
5 that Notice of Intent when it was filed back in  
6 November of 2020. He was not identified as a  
7 party. He was not named in the action at all even  
8 though he was the administrator and was employed at  
9 the time of the alleged acts.

10 The Plaintiff, Mary Hoover, she was a  
11 resident at the facility from October 4, 2017  
12 through June 15, 2018. During that time, it's  
13 alleged that she developed a pressure ulcer that  
14 progressed to a Stage IV. According to the  
15 allegations of the Complaint, the Stage IV ulcer  
16 was identified and she was sent to the hospital on  
17 April 13, 2018.

18 During all of that time, the facility  
19 that was known as Riverside Rehabilitation and  
20 Healthcare Center was operated by a different  
21 owner/operator. That owner/operator has since gone  
22 into bankruptcy and no longer exists. The current  
23 operator is Orangeburg Post Acute, LLC doing  
24 business as Edisto Post Acute. They did not exist.  
25 There are no articles of organization. They did

1 not exist until November 19, 2018, well after  
2 Ms. Hoover's discharge from the facility to which  
3 she did not return.

4 So, essentially, Edisto Post Acute had  
5 absolutely no involvement whatsoever in the  
6 ownership, operation, or employment of any  
7 individual at all at this facility during all of  
8 the times that Ms. Hoover was a resident there and  
9 received care and services.

10 So from an Edisto Post Acute  
11 standpoint, they are not a proper party. They  
12 could not and did not own, operate, manage, control  
13 any aspect of the care and services provided during  
14 her residency and they are not a proper party.

15 Mr. Locklair as the administrator could  
16 have been named in the original Notice of Intent,  
17 but he was not. The Notice of Intent was never  
18 amended to add him. The Notice of Intent was never  
19 dismissed. He was never included in it, but  
20 instead for the first time is named in a Complaint  
21 without --

22 THE COURT: That was a Notice of Intent  
23 back in November of 2019?

24 MS. HESLOP: Correct. So he was never  
25 involved in that Notice of Intent. He was never

1 named. He was never served. He had -- he was not  
2 identified by name in that Notice of Intent. We  
3 fast forward to the April 20, 2021 Complaint that  
4 is at issue here, and, again, no new Notice of  
5 Intent was filed prior to filing this action.

6 The Complaint itself, as the Court can  
7 read, alleges all sorts of acts and omissions on  
8 behalf of the facility which, of course, is the  
9 wrong facility because they weren't operating it at  
10 the time. But also alleges as to Mr. Locklair,  
11 several allegations of his control and supervision  
12 of employees and duty of care and duty to make sure  
13 the standards of care were met for Ms. Hoover. The  
14 Complaint is rife with references to standards of  
15 care and medical standards and nursing standards  
16 such that it falls squarely within the Notice of  
17 Intent statute. And, obviously, that should have  
18 been followed. There's no reason not to file a  
19 Notice of Intent as to Mr. Locklair in his  
20 involvement.

21 And, finally, the statute of  
22 limitations has run. The statute of limitations  
23 would have begun, we believe, as late as April 13,  
24 2018 per the Complaint when the wound was  
25 referenced to be a Stage IV, to have foul smelling

1 odor, and drainage, and requiring hospitalization.

2 So this Complaint was not filed until  
3 April 20, 2018. Because they didn't file the  
4 Notice of Intent prior to, there's no tolling of  
5 the statute of limitations. And, essentially, the  
6 case must fail on all aspects and all causes of  
7 action for failure to follow the Notice of Intent  
8 statute and for failure to meet the statute of  
9 limitations.

10 THE COURT: All right. Thank you. Mr.  
11 Delaney.

12 MR. DELANEY: May it please the Court,  
13 Your Honor. Andy Delaney here on behalf of the  
14 Plaintiff. Your Honor, just as a bit of  
15 background. One thing I want to correct, you  
16 mentioned that the Notice of Intent, I think you  
17 said, November of '19. Just so that I'm clear,  
18 it's November of '20. Just to make sure that the  
19 record is clear.

20 Your Honor, at that time, we did file a  
21 Notice of Intent as to a number of Defendant's  
22 including Arena Health Systems, Edisto Post Acute,  
23 d/b/a, Edisto Post Acute, Riverside Rehabilitation,  
24 Edisto Post Acute, and then again, Riverside  
25 Rehabilitation. Your Honor, a number of those

1 parties, they're owned by a big, I guess, nursing  
2 home conglomerate and there was a bankruptcy that  
3 was -- a very complex bankruptcy in Texas.

4           It was timely filed and we understand  
5 the requirements to mediate, but we did receive  
6 correspondence from the attorney who handled the  
7 bankruptcy for the Texas part of the action and  
8 basically threatened us with injunctions if we move  
9 forward with that. So it's more or less kind of  
10 been stayed while we sorted out this particular  
11 issue and we got notice of that and then tried to  
12 take a different route with the lawsuit.

13           With respect to this one, the case  
14 involving Jeremy Locklair and Edisto Post Acute, a  
15 couple of things. One, there's really frankly no  
16 evidence that Edisto Post Acute didn't exist.  
17 There's been no affidavits. No exhibits to the  
18 Complaint referencing the Secretary of State's  
19 website, anything along those lines about when in  
20 fact they were in existence or when they were  
21 registered with the state.

22           And, secondarily, and more importantly,  
23 when it applies to this particular action, but the  
24 allegations that we're making as to Mr. Locklair  
25 and to Edisto Post Acute don't actually arise out

1 of provisions of medical care. They arise out of  
2 Mr. Locklair's position as a health-care  
3 administrator. And that is why we did not file a  
4 Notice of Intent as to him or include him in the  
5 original proceedings.

6 And the key parts, Your Honor, of what  
7 we included within that are the failure to properly  
8 communicate with the Plaintiff, and failed to  
9 maintain a number of systems in place, and failure  
10 to adequately manage the resources of the facility.  
11 And why that's important, Your Honor, is it's our  
12 position in speaking with the family is that they  
13 never received any notice whatsoever of any  
14 bankruptcy that -- with the facility that she was  
15 in at the time. And so we were never able to bring  
16 a claim that could have been paid for prior to the  
17 entry of that bankruptcy. And that's the  
18 allegations we're making as to the failure to  
19 communicate that particular issue. That bankruptcy  
20 would have occurred sometime in, I believe, it's  
21 final in June of '19.

22 And so that's the key crux, Your Honor,  
23 of our Complaint is that there was failures to  
24 administer a facility adequately, failure to  
25 adequately address financial resources, but most

1 | importantly, Your Honor, failure to timely  
2 | communicate the notice of bankruptcy to the family  
3 | or to Ms. Rutland directly so that we could  
4 | preserve a claim as to the facilities that went  
5 | through the bankruptcy. And so for that reasons,  
6 | Your Honor, we would respectfully request that the  
7 | Motion to Dismiss be denied.

8 |           THE COURT: Let me ask you this.

9 |           MR. DELANEY: Yes, sir, Your Honor.

10 |           THE COURT: Are the allegations and I'm  
11 | looking at them right now, the allegations against  
12 | the administrator, Mr. Locklair, are you alleging  
13 | that his conduct is the proximate cause of the  
14 | injuries that she sustained mainly Stage IV ulcers?  
15 | Is that the argument that you're making that the  
16 | administrator is a result of his actions  
17 | proximately caused the Stage IV ulcer?

18 |           MR. DELANEY: No, sir. No. Because it  
19 | obviously would be the provision of the actual  
20 | medical care, I mean, if he's not addressing that.  
21 | What we're talking about is, there's evidence in  
22 | the affidavits from our expert that's attached to  
23 | the original pleading back in November of 2020 that  
24 | addressed the specific allegations of negligence as  
25 | to the facility.

1           What we're talking about is the issues  
2 with the bankruptcy and then the failure to  
3 preserve assets to avoid them going into  
4 bankruptcy, that's the things that have damaged Ms.  
5 Rutland (verbatim) because she's been unfortunately  
6 barred from bringing a claim against these other  
7 facilities because it's already been discharged  
8 from bankruptcy without any notice to our client.

9           THE COURT: All right. Anything in  
10 response?

11           MS. HESLOP: Just that my plain reading  
12 of the Complaint does not seem to show anything  
13 related to an allegation of a failure to  
14 communicate about a bankruptcy or that that's at  
15 issue. I think the plain reading of the Complaint  
16 is related to any allegations from Mr. Locklair  
17 specifically failing to establish proper standards  
18 of care to the exercise at Edisto, failing to  
19 implement a system with safeguards to prevent  
20 demise of her health condition. Again, it relates  
21 all back to the Complaint as it is pled relates all  
22 back to the health care and services that were  
23 provided to Ms. Hoover. And so it squarely falls  
24 under the Notice of Intent statute.

25           Furthermore, Mr. Locklair as a licensed

1 nursing home administrator, he -- his only job is  
2 the purview of a nursing home and a nursing home is  
3 clearly under the Notice of Intent statute. He is  
4 reportable as an individual if any action is made  
5 against him to a national health practitioner, that  
6 databank.

7 So for all of those reasons, he has a  
8 right to have a Notice of Intent served against  
9 him. He has the right to appear in it. And he has  
10 the right to be able to mediate a case before it  
11 goes to a formal complaint and, unfortunately, the  
12 Plaintiffs denied him that right.

13 THE COURT: The Notice of Intent that  
14 was served with that element back in November of  
15 2020, so that's a separate lawsuit as I understand,  
16 is it based on the same allegations?

17 MS. HESLOP: It is based on the exact  
18 same allegations, but it is not referenced at all  
19 in the Complaint that was filed. And when you look  
20 at the docket, it's not an associated action as  
21 would normally be done with the court system. If  
22 the Complaint was filed as an associated action  
23 because all of the steps were taken with the Notice  
24 of Intent, then it would have been together, but  
25 it's not. Instead, what they've done is because

1 | they felt like they couldn't pursue the Notice of  
2 | Intent due to the bankruptcy, that has been left  
3 | floundering and they started over with the same  
4 | dress in a deferent color.

5 |           So that's what has happened here.  
6 | There really was an option, I understand, that the  
7 | bankruptcy with some of the entities, but the  
8 | option was to dismiss the bankrupt entities and  
9 | then to amend the Notice of Intent and still toll  
10 | the statute of limitations at the time. And if  
11 | they wanted to add Mr. Locklair at the time that  
12 | could have happened, but they didn't and the  
13 | statute has now run.

14 |           THE COURT: So the prior company that  
15 | was not Orangeburg Post Acute, LLC, d/b/a, Edisto  
16 | Post Acute, so the time of the actions or the  
17 | alleged conduct, was it a totally different company  
18 | and --

19 |           MS. HESLOP: Correct.

20 |           THE COURT: -- then this company went  
21 | and bought the assets out of bankruptcy; is that  
22 | what happened?

23 |           MS. HESLOP: Correct.

24 |           THE COURT: Okay. And so the company  
25 | that was in business at the time is gone, they're

1 | done?

2 |           MS. HESLOP: Correct. It is bankrupt.  
3 | The bankruptcy is closed. It is done and I think  
4 | Plaintiff's counsel has the letter from them  
5 | stating such. I'm not a bankruptcy lawyer, so I'll  
6 | use the terms incorrectly if I try. But, yes, that  
7 | company is no longer in existence or operating.

8 |           THE COURT: Do we know if Locklair was  
9 | working for that prior company? Any idea?

10 |           MS. HESLOP: My understanding is he  
11 | was.

12 |           THE COURT: He was. Okay.

13 |           MS. HESLOP: But again, that speaks  
14 | even more towards if there are specific allegations  
15 | as to his conduct, you know, certainly as of  
16 | November 2020. All parties should be aware it's  
17 | under a new operator, the bankruptcy has already  
18 | been, I believe, closed. So any opportunities to  
19 | sue him under the original Notice of Intent could  
20 | have been done at that time.

21 |           THE COURT: Okay. And, Mr. Delaney,  
22 | just kind of following up on that. So, are the  
23 | allegations in the other lawsuit where a Notice of  
24 | Intent was filed, are the allegations the same as  
25 | in this lawsuit that the actions of the Defendant

1 or Defendants proximately caused the Stage IV  
2 ulcer?

3 MR. DELANEY: Your Honor, in that  
4 particular case the one with the Notice of Intent  
5 has been filed. The specific allegation regarding  
6 the weekly checks and the fact that they weren't  
7 done timely. What we're referencing here in this  
8 particular lawsuit is the failure to communicate  
9 with Ms. Hoover. And we do believe that  
10 Mr. Locklair was employed by, I think, it's  
11 Riverside was the entity and that's referenced in  
12 paragraph 16, subparts A, C, and D regarding, you  
13 know, the bankruptcy and the failure to communicate  
14 that to her and failed to avoid, you know, taking  
15 steps to avoid it going into bankruptcy.

16 Did I answer your question, Your Honor?

17 THE COURT: Yeah. All right. Anything  
18 further?

19 MS. HESLOP: No, Your Honor.

20 MR. DELANEY: Nothing further, Your  
21 Honor.

22 THE COURT: All right. I'll take it  
23 under advisement and thank you both for your  
24 arguments.

25 - - -END OF REQUESTED TRANSCRIPT OF RECORD- - -

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA )

COUNTY OF ORANGEBURG )

I, KATHERINE A. SPIRES, Registered Professional Reporter for the First Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Orangeburg County, South Carolina, on the 28th of September, 2021.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

March 1, 2022

*s/Katherine A. Spires*

Katherine A. Spires

Registered Professional Reporter

November 30, 2020

*Via Electronic Delivery*

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P. O. Box 1084  
Orangeburg, SC 29116-1084

**RE: Mark Rutland as Power of Attorney for Mary Hoover v. Orianna Health Systems, LLC, et al.  
Case No.: 2020-CP-38-00019**

Dear Ms. Williams and Mr. Williams:

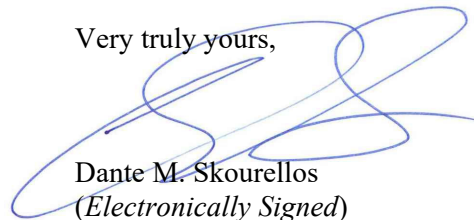
We have been retained to represent Orianna Health Systems, LLC and Riverside Rehabilitation and Healthcare Center, LLC (“Defendants”) in the above-referenced matter. Effective immediately, please direct all communications regarding this matter to my attention.

Please be advised that on March 6, 2018, Defendants filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended. On January 14, 2019, the Bankruptcy Court entered an order [Dkt. No. 1361] (the “Confirmation Order”) confirming the Debtors’ Modified Third Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, dated October 23, 2018 (as may be amended, modified, or supplemented, the “Plan”). The Plan became effective on February 13, 2019. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Plan. On June 16, 2020, the Bankruptcy Court entered an Order Granting Motion for Final Decree Closing Bankruptcy Cases [Dkt. No. 2066]. A copy of the Plan, the Confirmation Order, Final Decree Order, and all other documents filed in the Debtors’ bankruptcy cases are available for free at: <http://www.omningt.com/4west>.

The Confirmation Order contains a discharge of claims and an injunction on the commencement of any suit, action or other proceeding against the Debtors. Therefore, I am requesting that you dismiss Orianna Health Systems, LLC and Riverside Rehabilitation and Healthcare Center, LLC from this case to avoid possibly being held in contempt and sanctioned by the Bankruptcy Court.

Thank you for your anticipated cooperation with regard to the above.

Very truly yours,



Dante M. Skourellos  
(Electronically Signed)

DMS/zr