



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

April 20, 2012

Chalmers Carey Johnson, Esquire
523 S. G St., Apt. 402
Tacoma, WA 98405

Re: Holmes, Cynthia v. East Cooper (3)
2011198092

Dear Mr. Johnson:

We have received the Record on Appeal, Appellant's Final Brief and Appellant's Final Reply Brief in the above case. However, according to Rule 210(g) of the SCACR, the Appellant must certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material. If you wish the Court to accept the Record on Appeal as filed, you must serve and file your request in the form of a motion.

Furthermore, you must provide a Certificate of Counsel for the Final Brief and Final Reply Brief according to Rule 211 of the SCACR.

Additionally, according to Rule 267 of the SCACR the names, addresses and phone numbers of all counsel in the case must be included on all covers of the record, and the Court of Appeals policy requires the firm name of any counsel shown must be included in his or her address.

Within ten days of the date of this letter, you must arrange for a representative from your office to come to the Court of Appeals filing desk on the 1st floor of the Edgar A. Brown Building to make the required corrections to the record, provide the Certificates of Counsel for the briefs and your motion. **We request that the Appellant notify this office when someone will be arriving to make the corrections so the documents will be available without delay.**

Very truly yours,

V. Claire Allen, Deputy
CLERK

JAK/laf

cc: Lindsay Smith-Yancy, Esquire
E.D. Pratt-Thomas, Esquire
Daniel S. McQueeney, Jr., Esquire

Chalmers Carey Johnson
523 So. G Street, Apt. 402
Tacoma, WA 98405
(425) 999-0900
chalmersjohnson@gmail.com

April 9, 2012

Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: Holmes v. ECCH
Case No. 2010-CP-10-3410

Dear Ms. Gee:

Enclosed please find the following:

- 1) Appellant's Brief (1 original, unbound and 14 copies);
- 2) Appellant's Reply Brief (1 original, unbound and 14 copies);;
- 3) Proof of service (one original and one copy);
- 4) Self Addressed Stamped Envelope

Please file the Appellant's Brief, Appellant's Reply Brief, and the original proof of service. Please return a clocked copy of the Proof of Service to me in the enclosed envelope. Thank you.

Sincerely,


Chalmers C. Johnson

Enclosures: 1) Appellant's Brief x 15; 2) Appellant's Reply Brief x 15, ; 3) Proof of service (one original and one copy); 4) Self Addressed Stamped Envelope

Cc:

Lindsay Smith-Yancey
E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

RECEIVED
APR 13 2012
SC COURT OF APPEALS

RECEIVED
MAR 26 2012

SC Court of Appeals

Chalmers Carey Johnson
523 So. G Street, Apt. 402
Tacoma, WA 98405
(425) 999-0900
chalmersjohnson@gmail.com

March 24, 2012

Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: Holmes v. ECCH
Case No. 2010-CP-10-3410

Dear Ms. Gee:

Enclosed please find the following:

- 1) One original unbound copy of the Record on Appeal;
- 2) Appellant's Certificate of Compliance with Rule 210
- 3) Proof of service (one original and one copy);
- 4) Self Addressed Stamped Envelope

Please file the record on appeal, and the original proof of service. Please return a clocked copy of the Proof of Service to me in the enclosed envelope. The remaining 14 copies of the record on appeal, bound, will be delivered to the Court presently, as they are being created by a copying service. Thank you.

Sincerely,


Chalmers C. Johnson

Enclosures: 1) record on appeal; 2) Certificate of compliance with Rule 210(g) 3) Proof of service (one original and one copy); 4) Self Addressed Stamped Envelope

Cc:

Lindsay Smith-Yancey
Chip McQueeney
E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lea Harrington, Circuit Court Judge

Case No. 2010-CP-10-3410

Dr. Cynthia Holmes, M.D.

Appellant,

v.

East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

**APPELLANT'S
SUPPLEMENTAL DESIGNATION OF MATTER TO BE INCLUDED IN THE
RECORD ON APPEAL**

Appellant proposes the following to be included in the Record on Appeal. These documents were not included in Appellant's original designations because they appear only in the reply brief:

Orders

Order of 3-9-11

Order granting Summary Judgment, 7-26-11

Pleadings

Plaintiff's Answer to counterclaims and motion to Dismiss and to Strike, 10-18-10

Transcripts

Transcript of Hearing 12-16-10

Transcript of March 9, 2011

Other materials

Notice of Motion and Motion for Reconsideration 12-22-10

Defendant's Motion for Judgment on and Dismissal of Plaintiff's Pleadings 9-23-10

Plaintiff's Response to Defendant's Motion to Dismiss and for Sanctions 12-10-10

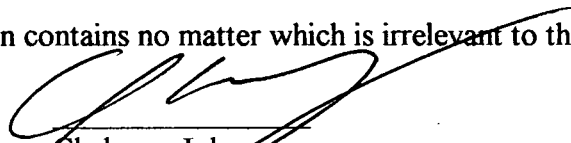
Defendant's Memorandum in Support of Motion to dismiss for lack of subject matter jurisdiction and motion for judgment on the pleadings 12-13-10)

Notice of 4-25-11

Plaintiff's response to Defendant's motion for Summary Judgment 7-6-11

Proposed Order from Plaintiff dismissing counterclaims, Proposed order regarding summary judgment 7-13-11

I certify that this designation contains no matter which is irrelevant to this appeal.



Chalmers Johnson
523 So. G St., Apt. 402
Tacoma, WA 98405
425.999.0900
Attorney for Appellant

Date: 3-14-12

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lea Harrington, Circuit Court Judge

Case No. 2010-CP-10-3410

Dr. Cynthia Holmes, M.D.

Appellant,

v.

East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

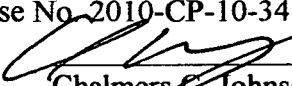
RECEIVED

MAR 19 2012

SC Court of Appeals

**PROOF OF SERVICE FOR
APPELLANT'S INITIAL REPLY BRIEF AND
APPELLANT'S SUPPLEMENTAL DESIGNATION OF MATTER TO BE
INCLUDED
IN RECORD ON APPEAL**

I certify that I have served a copy of the Appellant's Initial Reply Brief and Appellant's Supplemental Designation of Matter to be Included in the Record on Appeal on the Respondents by depositing a copy of it in the United States Mail, postage prepaid, addressed to the attorney of record for Respondents, Case No. 2010-CP-10-3410, on this date, March 15, 2012.


Chalmers C. Johnson
523 So. G St., Apt. 402
Tacoma, WA 98405
425.999.0900
Attorney for the Appellant

Chalmers Carey Johnson
523 So. G Street, Apt. 402
Tacoma, WA 98405
(425) 999-0900
chalmersjohnson@gmail.com

March 15, 2012

Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: Holmes v. ECCH
Case No. 2010-CP-10-3410

Dear Ms. Gee:

Enclosed please find the following:

- 1) Appellant's Initial Reply Brief;
- 2) Appellant's supplemental designation of matter to be included in the record on appeal;
- 3) Proof of service (one original and one copy);
- 4) Self Addressed Stamped Envelope

Please file the Appellant's Initial Reply Brief, Appellant's supplemental designation of matter to be included in the record on appeal, and the original proof of service. Please return a clocked copy of the Proof of Service to me in the enclosed envelope. Thank you.

Sincerely,


Chalmers C. Johnson

Enclosures: 1) Appellant's Initial Reply Brief; 2) Appellant's designation of matter to be included in the record on appeal; 3) Proof of service (one original and one copy); 4) Self Addressed Stamped Envelope

Cc:

Lindsay Smith-Yancey
E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

RECEIVED
MAR 19 2012
SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lea Harrington, Circuit Court Judge

Case No. 2010-CP-10-03410

Dr. Cynthia Holmes, M.D.,

Appellant,

v.

East Cooper Community Hospital, Inc.,
and Tenet HealthSystem Medical, Inc.,

Respondents.

RECEIVED
MAR 05 2012
SC Court of Appeals

RESPONDENTS' DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

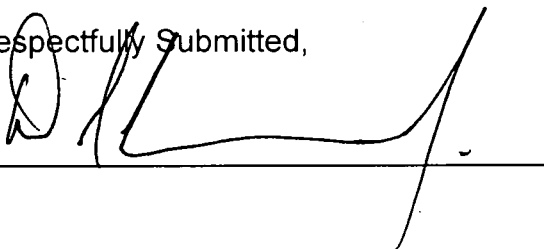
Respondents East Cooper Community Hospital, Inc., and Tenet HealthSystem Medical, Inc., hereby propose the following materials be included in the Record on Appeal:

1. Plaintiff's Complaint, filed on April 16, 2010;
2. Defendants' Answer & Counterclaims, filed on September 17, 2010;
3. All Exhibits to Defendants' Answer & Counterclaims;
4. Defendants' Motion for Judgment on the Pleadings, filed September 24, 2010;
5. December 16, 2010 Hearing Transcript;
6. Defendants' Motion to Reconsider, filed December 22, 2010;
7. March 8, 2011 Hearing Transcript;

8. Form Order Denying Defendants' Motion to Reconsider, filed March 9, 2011;
9. Defendants' Motion for Summary Judgment, filed June 6, 2011;
10. Bagwell Affidavit, filed June 28, 2011;
11. Narang Affidavit, filed June 28, 2011;
12. Stroud Affidavit, filed June 28, 2011;
13. Darby Affidavit, filed June 28, 2011;
14. Meuli Affidavit, filed June 28, 2011;
15. All Exhibits to Meuli Affidavit;
16. Pocock Affidavit, filed July 1, 2011;
17. Defendants' Memorandum in Support of Summary Judgment, filed July 5, 2011;
18. Majeski Affidavit, filed July 7, 2011;
19. Shershow Affidavit, filed July 7, 2011;
20. Holmes Affidavit, filed July 7, 2011;
21. Transcript of Hearing on Motion for Summary Judgment;
22. Order Granting Summary Judgment, filed July 29, 2011;
23. Defendants' Motion for Sanctions filed August 8, 2011;
24. Order Awarding Sanctions filed February 1, 2012;
25. Plaintiff's Notice of Appeal;

I certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully Submitted,



A handwritten signature in black ink, consisting of a stylized first name and a longer last name, is written over a horizontal line. The signature is positioned to the right of the text 'Respectfully Submitted,'.

Lindsay K. Smith-Yancey
E. Douglas Pratt-Thomas
Daniel S. McQueeney, Jr.
Pratt-Thomas Walker, P.A.
Post Office Drawer 22247
Charleston, South Carolina 29413-2247
(843) 727-2200
ATTORNEYS FOR RESPONDENTS

Charleston, South Carolina
March 2, 2012

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lea Harrington, Circuit Court Judge

Case No. 2010-CP-10-03410

Dr. Cynthia Holmes, M.D.,

Appellant,

v.

East Cooper Community Hospital, Inc.,
and Tenet HealthSystem Medical, Inc.,

Respondents.

RECEIVED

MAR 05 2012

SC Court of Appeals

PROOF OF SERVICE

I certify that I have served Respondents' Initial Brief and Designation of Matter on Appellant Cynthia Holmes, M.D., by depositing a copy of it in the United States Mail, postage prepaid, on March 2, 2012, addressed to her attorney of record, Chalmers C. Johnson, 523 So. G Street, Apartment #402, Tacoma, WA 98405.



Alison A. B. Preacher
Paralegal to Daniel S. McQueeney, Jr.
Pratt-Thomas Walker, P.A.
Post Office Drawer 22247
Charleston, South Carolina 29413-2247
(843) 727-2230
Attorneys for Respondents

PROFESSIONAL ASSOCIATION

16 CHARLOTTE STREET
CHARLESTON, SC 29403

PO DRAWER 22247
CHARLESTON, SC 29413-2247

PHONE: 843.727.2200
FAX: 843.727.2238

WWW.P-TW.COM

E. DOUGLAS PRATT-THOMAS
G. TRENHOLM WALKER
W. ANDREW GOWDER, JR.
JON L. AUSTEN
LINDSAY K. SMITH-YANCEY (SC, NC)
THOMAS H. HESSE (SC, GA)
IAN W. FREEMAN (SC, CA)
DANIEL S. McQUEENEY, JR.
KATHLEEN FOWLER MONOC

DIRECT DIAL: 843.727.2256
DIRECT FAX: 843.727.2231
EMAIL: DSM@P-TW.COM

March 2, 2012

The Honorable Tanya Gee
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
MAR 05 2012
SC Court of Appeals

RE: Holmes v. East Cooper Comm. Hosp., Inc., et al.
Case No. 2010-CP-10-3410

Dear Ms. Gee:

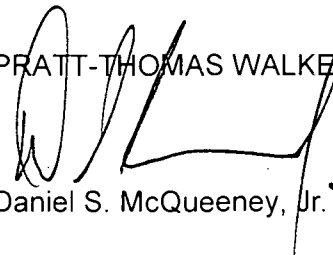
Please find enclosed an original and two (2) copies of Respondents' Initial Brief and Designation of Matter in connection with the above-referenced matter. I would appreciate it if you could return a filed copy of the Brief and Designation to me in the self-addressed, stamped envelope enclosed herewith.

As evidenced by the enclosed Proof of Service, and by copy of this letter to Appellant's counsel, I am serving Appellant with a copy of the Initial Brief and Designation of Matter.

Thank you for your assistance in this regard.

With warmest regards, I am,

PRATT-THOMAS WALKER, P.A.



Daniel S. McQueeney, Jr.

DSM:aabp
Enclosure
cc: Chalmers C. Johnson, Esq.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lea Harrington, Circuit Court Judge

Case No. 2010-CP-10-3410

Dr. Cynthia Holmes, M.D.

Appellant,

v.

East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

**AMENDED
PROOF OF SERVICE FOR
APPELLANT'S INITIAL BRIEF AND
APPELLANT'S DESIGNATION OF MATTER TO BE INCLUDED
IN RECORD ON APPEAL**

I certify that, on February 1, 2012, I have served a copy of the Appellant's Initial Brief and Appellant's Designation of Matter to be Included in the Record on Appeal on the Respondents by depositing a copy of it in the United States Mail, postage prepaid, addressed to the attorney of record for Respondents at
Lindsay Smith-Yancey
E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

RECEIVED

FEB 24 2012

SC Court of Appeals



Chalmers C. Johnson
523 So. G St., Apt. 402
Tacoma, WA 98405
425.999.0900

Attorney for the Appellant

2-20-12

Chalmers Carey Johnson

523 So. G Street, Apt. 402

Tacoma, WA 98405

(425) 999-0900

chalmersjohnson@gmail.com

February 20, 2012

Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: Holmes v. ECCH
Case No. 2010-CP-10-3410

Dear Ms. Gee:

Enclosed please find the following:

1) Amended Proof of service for the Appellant's Initial Brief and Appellant's designation of matter to be included in the record on appeal.

I appreciate you bringing to my attention the fact that my original proof of service was missing the address for the respondent.

Sincerely,


Chalmers C. Johnson

Enclosures: 1) Amended Proof of service

Cc:

Lindsay Smith-Yancey

E.D. Pratt-Thomas, Esq.

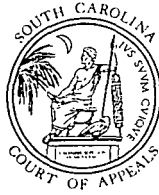
POD 22247

Charleston, SC 29413

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FEB 24 2012

SC Court of Appeals



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
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FAX: (803) 734-1839
www.sccourts.org

February 7, 2012

Chalmers Carey Johnson, Esquire
523 S. G St., Apt. 402
Tacoma, WA 98405

Re: Holmes, Cynthia v. East Cooper (3)
2011198092

Dear Mr. Johnson:

We have received the Appellant's Initial Brief and Designation of Matter in the above case. However, the proof of service must show the name and address of the person you have served. Within ten days of the date of this letter, please provide an Amended Proof of Service showing the name and address of the opposing counsel.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/laf

cc: Lindsay Smith-Yancy, Esquire
E.D. Pratt-Thomas, Esquire

RECEIVED
FEB 06 2012
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lea Harrington, Circuit Court Judge

Case No. 2010-CP-10-3410

Dr. Cynthia Holmes, M.D.

Appellant,

v.

East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

**APPELLANT'S
DESIGNATION OF MATTER TO BE INCLUDED IN THE
RECORD ON APPEAL**

Appellant proposes the following to be included in the Record on Appeal:

Orders

1. Judge Dennis Order of 3-9-2011
2. Judge Harrington's Order of July 29, 2011

Pleadings

3. Complaint
4. Answer and Counterclaims
5. Plaintiff's answer to Counterclaims and motions

6. Amended Answer/ Motion to Dismiss

Transcripts

7. Hearing Transcript December 16, 2010

8. Transcript of Hearing, 3-8-11

9. Transcript of hearing July 8, 2011

Exhibits and other materials

10. ECCH Memorandum in support of Motion to Dismiss

11. Plaintiff's Response to Defendant's Motion to Dismiss

12. ECCH's Motion for Reconsideration

13. ECCH's Motion for Summary Judgment

14. Affidavit of Pocock

15. ECCH Memorandum in support of Summary Judgment

16. Dr. Holmes Response to Defendant's motion for summary judgment, with exhibits

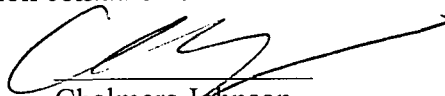
17. Affidavit of Holmes July 5, 2011, with exhibits

18. Proposed Order of ECCH

19. Proposed Order of Dr. Holmes

20. Notice of Appeal)

I certify that this designation contains no matter which is irrelevant to this appeal.



Chalmers Johnson
523 So. G St., Apt. 402
Tacoma, WA 98405
425.999.0900
Attorney for Appellant

Date: 2-1-12

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lea Harrington, Circuit Court Judge

Case No. 2010-CP-10-3410

Dr. Cynthia Holmes, M.D.

Appellant,

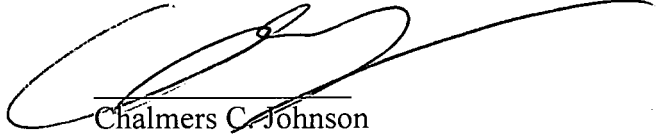
v.

East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

**PROOF OF SERVICE FOR
APPELLANT'S INITIAL BRIEF AND
APPELLANT'S DESIGNATION OF MATTER TO BE INCLUDED
IN RECORD ON APPEAL**

I certify that I have served a copy of the Appellant's Initial Brief and Appellant's Designation of Matter to be Included in the Record on Appeal on the Respondents by depositing a copy of it in the United States Mail, postage prepaid, addressed to the attorney of record for Respondents, Case No. 2010-CP-10-3410, on this date, February 1, 2012.



Chalmers C. Johnson
523 So. G St., Apt. 402
Tacoma, WA 98405
425.999.0900
Attorney for the Appellant

Chalmers Carey Johnson

523 So. G Street, Apt. 402

Tacoma, WA 98405

(425) 999-0900

chalmersjohnson@gmail.com

February 1, 2012

Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RECEIVED
FEB 06 2012
SC Court of Appeals

Re: Holmes v. ECCH
Case No. 2010-CP-10-3410

Dear Ms. Gee:

Enclosed please find the following:

- 1) Appellant's Initial Brief;
- 2) Appellant's designation of matter to be included in the record on appeal;
- 3) Proof of service (one original and one copy);
- 4) Self Addressed Stamped Envelope

Please file the Appellant's Initial Brief, Appellant's designation of matter to be included in the record on appeal, and the original proof of service. Please return a clocked copy of the Proof of Service to me in the enclosed envelope. Thank you.

Sincerely,


Chalmers C. Johnson

Enclosures: 1) Appellant's Initial Brief; 2) Appellant's designation of matter to be included in the record on appeal; 3) Proof of service (one original and one copy); 4) Self Addressed Stamped Envelope

Cc:

Lindsay Smith-Yancey
E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

The South Carolina Court of Appeals

Dr. Cynthia Holmes, M.D., Appellant,

v.

East Cooper Community Hospital, Inc.,
and Tenet HealthSystem Medical, Inc., Respondents.

The Honorable Kristi Lea Harrington
Charleston County
Trial Court Case No. 2010-CP-10-03410

ORDER

For good cause having been shown, the time for Appellant's Initial Brief and Designation of Matter to be served and filed in the above entitled matter is hereby extended until February 2, 2012.

IT IS SO ORDERED.

JOHN CANNON FEW, CHIEF JUDGE
For the Court

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina
cc: Chalmers Carey Johnson, Esquire
Lindsay Smith-Yancy, Esquire
E.D. Pratt-Thomas, Esquire

FILED
1-24-12 *VF*

Chalmers Carey Johnson
523 South G Street, Apt. # 402
Tacoma, WA 98405
(425) 999-0900
chalmersjohnson@gmail.com

January 4, 2012

The Honorable Tanya Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RECEIVED
JAN 06 2012
SC Court of Appeals

Re: Holmes v ECCH et al
Case No. 2010-CP-10-3410

Dear Ms. Gee:

I am requesting a thirty day extension to file the Appellant's Initial Brief and Designation of Matter to be included in the record on appeal. The original due date was January 5, 2012. I am requesting an extension up to and including February 4, 2012 (30 days). This is the first request for an extension that I have made. I am including a check for \$25.00, and, by copy of this letter, have served it upon opposing counsel.

Sincerely,



Chalmers C. Johnson

cc: E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

1/5/12 1st
2/4/12

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lee Harrington, Circuit Court Judge

Case No. 2010-CP-10-3410

RECEIVED
DEC 09 2011
SC Court of Appeals

Dr. Cynthia Holmes, M.D.

Appellant,

v.


East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

NOTICE OF RECEIPT OF TRANSCRIPT

On December 6, 2011, the Appellant received the requested transcript of hearing before Judge Harrington in Charleston County on July 8, 2011. Appellant will file an Initial Brief within thirty (30) days of the date of receipt.

Dated: 12-6-11


Chalmers C. Johnson
S.C. I.D. # 11583
523 So. G St. Apt. # 402
Tacoma, WA 98405
(425) 999-0900
Attorney for the Appellant

Counsel of Record for Respondents:
Lindsay Smith-Yancey
E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lee Harrington, Circuit Court Judge

RECEIVED
DEC 09 2011
SC Court of Appeals

Case No. 2010-CP-10-3410

Dr. Cynthia Holmes, M.D.

Appellant,

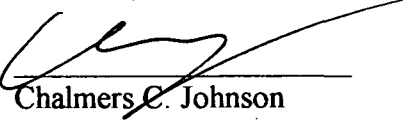
v.

East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

PROOF OF SERVICE FOR
NOTICE OF RECEIPT OF TRANSCRIPT

I certify that on December 6, 2011, I sent a copy of the Notice of Receipt of Transcript in this case to the Respondent's attorneys of record at: Lindsay Smith-Yancey and E.D. Pratt-Thomas, Esq., POD 22247, Charleston, SC 29413 by U.S. Mail, First Class.


Chalmers C. Johnson
S.C. I.D. # 11583
523 So. G St. Apt. # 402
Tacoma, WA 98405
(425) 999-0900
Attorney for the Appellant

Chalmers Carey Johnson
523 South G Street, Apt. # 402
Tacoma, WA 98405
(425) 999-0900
chalmersjohnson@gmail.com

December 6, 2011

The Honorable Tanya Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RECEIVED

DEC 09 2011

Re: Holmes v ECCH et al
Case No. 2010-CP-10-3410

SC Court of Appeals

Dear Ms. Gee:

Enclosed for filing is an original Notice of Receipt of Transcript in the above case.
Also, enclosed are the following:

- 1) Proof of Service for the notice of Receipt of Transcript,
- 2) a copy of the Notice of Receipt of Transcript,
- 3) SASE for return

Would you please file the Notice of Receipt of Transcript and return a clocked copy to me in the enclosed envelope? Thank you.

Sincerely,


Chalmers C. Johnson

cc: E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

Chalmers Carey Johnson
523 South G Street, Apt. # 402
Tacoma, WA 98405
(425) 999-0900
chalmersjohnson@gmail.com

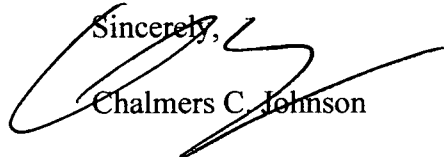
October 17, 2011

The Honorable Tanya Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: Holmes v ECCH et al
Case No. 2010-CP-10-3410

Dear Ms. Gee:

Enclosed please find a copy of a letter I received from the Court reporter in this case, requesting pre-payment, and my response, which included the requested prepayment. Please accept this letter and enclosures as an update to the Court on the status of the transcript request.

Sincerely,

Chalmers C. Johnson

cc: E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

RECEIVED
OCT 20 2011
SC Court of Appeals

SUSAN "MIA" PERRON
CIRCUIT COURT REPORTER
POST OFFICE BOX 31865
CHARLESTON, SOUTH CAROLINA 29417-1865
1-706-231-6028 [office phone]
1-843-768-9946 [fax]

October 2, 2011

Chalmers C. Johnson
523 South G Street, Apt. 402
Tacoma, WA 98405

In Re: Holmes v. ECCH [hearing date 7/8/11]
2010-CP-10-3410

Dear Mr. Johnson:

Per your request for the above-captioned transcript, I have reviewed my records and estimate that your transcript will be approximately 35 pages. Based on the current rate of \$3.25 per page, the estimated cost of the transcript will be 113.75.

Under our rules, I have 60 days to complete the transcript. Upon receipt of your check in the amount of \$113.75, the 60 days begin. If I have underestimated the number of pages, you will be notified of the balance due prior to delivery of the transcript. If I have overestimated the number of pages, you will be refunded the overpayment.

In the event I need an extension of time to complete the transcript, I will request an extension from Court Administration. You will be notified if the extension is granted.

RECEIVED

OCT 20 2011

SC Court of Appeals

Sincerely,

Mia Perron

Mia Perron, CVR-CM

Chalmers Carey Johnson
523 South G Street, Apt. # 402
Tacoma, WA 98405
(425) 999-0900
chalmersjohnson@gmail.com

October 17, 2011


Susan "Mia" Perron
Circuit Court Reporter
P.O. Box 31865
Charleston, SC 29417-1865

Re: Holmes v ECCH et al
Case No. 2010-CP-10-3410

Dear Ms. Perron:

Thank you for your letter of October 2, 2011. As requested, I have enclosed a check to you in the amount of \$113.75. Please forward the transcript and any refund or further billing necessary to me as soon as possible. If you need to contact me please feel free to call or email me any time.

Sincerely,



Chalmers C. Johnson

cc: Lindsay Simth-Yancey; E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

The Honorable Tanya Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

South Carolina Office of Court Administration
1015 Sumter St., Ste 200
Columbia, SC 29201

RECEIVED
OCT 20 2011
SC Court of Appeals

Chalmers Carey Johnson
523 South G Street, Apt. # 402
Tacoma, WA 98405
(425) 999-0900
chalmersjohnson@gmail.com

September 26, 2011

The Honorable Tanya Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RECEIVED
SEP 29 2011
SC Court of Appeals

Re: Holmes v ECCH et al
Case No. 2010-CP-10-3410

Dear Ms. Gee:

Enclosed for filing is an original Proof of Service showing that I served the Notice of Request for Transcript in the above case on the South Carolina Office of Court Administration. By copy of this letter, with enclosure, I am sending a copy of the Proof of service to Defense Counsel as well. Thank you for reminding me of the oversight.

Sincerely,


Chalmers C. Johnson

cc:
Lindsay K. Smith-Yancey
E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lee Harrington, Circuit Court Judge

Case No. 2010-CP-10-3410

Dr. Cynthia Holmes, M.D.

Appellant **RECEIVED**
SEP 29 2011
SC Court of Appeals
Respondents.


v.

East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

PROOF OF SERVICE FOR
NOTICE OF REQUEST FOR TRANSCRIPT

I certify that on September 26, 2011, I sent a copy of the Notice of Request for Transcript in this case to The South Carolina Office of Court Administration at 1015 Sumter St., Ste. 200, Columbia, SC 29201: by U.S. Mail, First Class.

Dated: September 26, 2011


Chalmers C. Johnson
S.C. I.D. # 11583
523 So. G St. Apt. # 402
Tacoma, WA 98405
(425) 999-0900
Attorney for the Appellant



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

September 28, 2011

Chalmers Carey Johnson, Esquire
523 South G St., Apt. 402
Tacoma, WA 98405

Re: Holmes, Cynthia v. East Cooper (3)
2011198092

Dear Mr. Johnson:

In our letter dated September 12, 2011, we requested you provide proof you notified the Office of Court Administration of your transcript request. As of today's date we have not received any additional information.

Please furnish proof you served the request for the transcript on the Office of Court Administration within seven (7) days of this letter, or your appeal will be dismissed.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/laf

cc: Lindsay Smith-Yancy, Esquire
E.D. Pratt-Thomas, Esquire



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

September 12, 2011

Chalmers Carey Johnson, Esquire
523 S. G St., Apt. 402
Tacoma, WA 98405

Re: Holmes, Cynthia v. East Cooper (3)
2011198092

Dear Mr. Johnson:

We have received a copy of your request for the transcript in the above matter. However, this request did not notify the Office of Court Administration as required in Rule 207(a)(1) of the South Carolina Appellate Court Rules. Please furnish proof you served this request on the Office of Court Administration within ten (10) days of the date of this letter.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/laf

cc: Lindsay Smith-Yancy, Esquire
E.D. Pratt-Thomas, Esquire

Chalmers Carey Johnson
523 South G Street, Apt. # 402
Tacoma, WA 98405
(425) 999-0900
chalmersjohnson@gmail.com

September 6, 2011

Mia Perron
P.O. Box 31865
Charleston, SC 29417-1865

Re: Holmes v ECCH et al
Case No. 2010-CP-10-3410

Dear Ms. Perron:

I contacted Court Administration, and was informed that you were the reporter for the hearing identified below. Would you please send me the transcript for the hearing? I would be happy to prepay if you need me to. Please give me a call or email me if you would like me to send payment before receiving the transcript, otherwise, I will pay your invoice promptly upon receipt. Here is the information on the hearing:

Case: Holmes v. East Cooper Community Hospital, C.A . 2010-CP-10-3410
County: Charleston
Judge: Judge Harrington
Date: July 8, 2011
Time: 1:30pm

When you have completed the transcript, would you please send it to me at this address:

Chalmers Johnson
2819 NW Kitsap Place
P.O. Box 368
Silverdale, WA 98383

Thank you. If you need to contact me, please feel free to call or email me.

Sincerely,


Chalmers C. Johnson

cc: Lindsay Simth-Yancey; E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

RECEIVED
SEP 09 2011
SC COURT OF APPEALS

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lee Harrington, Circuit Court Judge

Case No. 2010-CP-10-3410

Dr. Cynthia Holmes, M.D.

Appellant,

v.

East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

NOTICE OF REQUEST FOR TRANSCRIPT

The Appellant has requested the transcript of a hearing before Judge Harrington in Charleston County on July 8, 2011, which is relevant to the order on appeal in this case. A copy of the request for transcript is attached.

Dated: September 6, 2011



Chalmers C. Johnson
S.C. I.D. #11583
523 So. G St. Apt. # 402
Tacoma, WA 98405
(425) 999-0900
Attorney for the Appellant

Counsel of Record for Respondents:
Lindsay Smith-Yancey
E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

RECEIVED
SEP 09 2011
SOUTH CAROLINA
COURT OF APPEALS

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lee Harrington, Circuit Court Judge

Case No. 2010-CP-10-3410

Dr. Cynthia Holmes, M.D.

Appellant,

v.

East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

PROOF OF SERVICE FOR
NOTICE OF REQUEST FOR TRANSCRIPT

I certify that on September 6, 2011, I sent a copy of the Notice of Request for Transcript in this case to the Respondent's attorneys of record at: Lindsay Smith-Yancey and E.D. Pratt-Thomas, Esq., POD 22247, Charleston, SC 29413 by U.S. Mail, First Class.

Dated: September 6, 2011



Chalmers C. Johnson
S.C. I.D. # 11583
523 So. G St. Apt. # 402
Tacoma, WA 98405
(425) 999-0900
Attorney for the Appellant

RECEIVED
SEP 09 2011
SC Court of Appeals

Chalmers Carey Johnson
523 South G Street, Apt. # 402
Tacoma, WA 98405
(425) 999-0900
chalmersjohnson@gmail.com

September 6, 2011

The Honorable Tanya Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: Holmes v ECCH et al
Case No. 2010-CP-10-3410

Dear Ms. Gee:

Enclosed for filing is an original Notice of Request for Transcript in the above case. Also, enclosed are the following:

- 1) Proof of Service for the notice of Request for Transcript,
- 2) a copy of the Notice of Request for Transcript,
- 3) SASE for return

Would you please file the Notice of Request for Transcript and return a clocked copy to me in the enclosed envelope? Thank you.

Sincerely,


Chalmers C. Johnson

cc: E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

RECEIVED
SEP 09 2011
SC Court of Appeals



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

September 1, 2011

Chalmers Carey Johnson, Esquire
523 S. G St., Apt. 402
Tacoma, WA 98405

Re: Holmes, Cynthia v. East Cooper (3)
2011198092
2010-CP-10-03410

Dear Mr. Johnson:

We have received your Notice of Appeal in the case noted above. This case will be docketed in the Court of Appeals and all communications concerning this case, including motions and petitions, initial and final briefs, and the Record on Appeal, should be directed to and filed in this Court. For all filings, please note the requirements of Rule 267(a) of the South Carolina Appellate Court Rules, and be further advised that Court of Appeals policy requires the firm name of any counsel shown must be included in his or her address.

We suggest that large parcels such as copies of final briefs and the Record On Appeal be sent directly to the Court via the street address: 1015 Sumter Street, Columbia, S.C. 29201. Thank you for your attention to this. Failure to file in the proper court may result in the dismissal of your appeal.

PLEASE BE ADVISED that, pursuant to Rule 207 of the South Carolina Appellate Court Rules, the transcript must be ordered within ten days of the proof of service of the Notice of Appeal and you must provide this Court, opposing counsel, and the Office of Court Administration with all correspondence regarding the transcript. It is also Appellant's responsibility to make satisfactory arrangements (including agreement regarding payment for the transcript) with the Court Reporter for furnishing the transcript. You are reminded of the notification requirements of Rule 207(a)(5), SCACR, also, please advise the Court in writing upon receipt of the transcript.

NOTE: If you believe this case has been improperly filed in the Court of Appeals, by reason of the limitations set forth in S.C. Code Ann. Section 14-8-200(b)(1998), as amended June 1, 1999, notify the Clerk's office of the Court of Appeals immediately. The cited Code Section prohibits the Court of Appeals from hearing appeals in seven classes of cases:

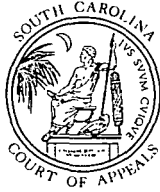
- 1) any final judgment from the circuit court which includes a sentence of death;
- 2) any final judgment from the circuit court setting public utility rates pursuant to Title 58;
- 3) any final judgment involving a challenge on state or federal grounds to the constitutionality of a state law or county or municipal ordinance where the principal issue is the constitutionality of the law or ordinance;
- 4) any final judgment from the circuit court involving the authorization, issuance, or proposed issuance of general obligation debt, revenue, institutional, industrial, or hospital bonds of the state, its agencies, political subdivisions, public service districts, counties, and municipalities or any other indebtedness now or hereafter authorized by Article X of the Constitution of this state;
- 5) any final judgment from the circuit court pertaining to elections and election procedure;
- 6) any order limiting an investigation by a State Grand Jury under S.C. Code Ann. Section 14-7-1630;
- 7) any order of the family court relating to an abortion by a minor under S.C. Code Ann. Section 44-41-33.

Very truly yours,

V. Claire Allen, Deputy
Tanya A. Gee
CLERK

TAG/laf

cc: Lindsay Smith-Yancy, Esquire
E.D. Pratt-Thomas, Esquire
The Honorable Julie J. Armstrong



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMNER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

September 1, 2011

Chalmers Carey Johnson, Esquire
523 S. G St., Apt. 402
Tacoma, WA 98405

Re: Holmes, Cynthia v. East Cooper (3)
2011198092
2010-CP-10-03410

Dear Mr. Johnson:

This office has received your Notice of Appeal in the above matter. It has been assigned the Case Tracking Number that appears above. Please use this number on all future correspondence relating to this matter.

I do wish to call the attention of the parties to the attached order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/laf

cc: Lindsay Smith-Yancy, Esquire
E.D. Pratt-Thomas, Esquire
The Honorable Julie J. Armstrong

pm
POS 8-24-11

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lee Harrington, Circuit Court Judge

Case No. 2010-CP-10-3410

 Dr. Cynthia Holmes, M.D.

Appellant,

v.

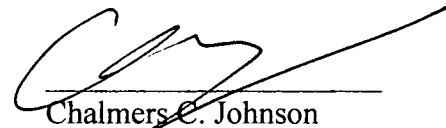
East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

NOTICE OF APPEAL

The Appellant appeals the Order of Judge Kristi Lee Harrington entered Filed July 29, 2011. A copy of the Order under appeal is attached.

Dated: August 24, 2011



Chalmers C. Johnson
S.C. I.D. # 11583
523 So. G St. Apt. # 402
Tacoma, WA 98405
(425) 999-0900
Attorney for the Appellant

Counsel of Record for Respondents:
Lindsay Smith-Yancey
E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lee Harrington, Circuit Court Judge

Case No. 2010-CP-10-3410

Dr. Cynthia Holmes, M.D.

Appellant,

v.

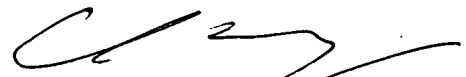
East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

PROOF OF SERVICE FOR
NOTICE OF APPEAL

I certify that on August 24, 2011, I sent a copy of the Notice of Appeal in this case to the Appellants' attorney of record at: Lindsay Smith-Yancey and E.D. Pratt-Thomas, Esq., POD 22247, Charleston, SC 29413 by U.S. Mail, First Class. A copy of the notice of appeal has also been delivered to the Clerk of Court, Charleston County, 100 Broad St. #106, Charleston, SC 29401.

Dated: August 24, 2011



Chalmers C. Johnson
S.C. I.D. # 11583
523 So. G St. Apt. # 402
Tacoma, WA 98405
(425) 999-0900
Attorney for the Appellant

Chalmers Carey Johnson
523 South G Street, Apt. # 402
Tacoma, WA 98405
(425) 999-0900
chalmersjohnson@gmail.com

August 24, 2011

The Honorable Tanya Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RECEIVED
AUG 29 2011
SC Court of Appeals

Re: Holmes v ECCH et al
Case No. 2010-CP-10-3410

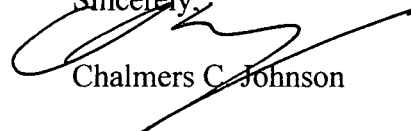
Dear Ms. Gee:

Enclosed for filing is an original Notice of Appeal in the above case. Also, enclosed are the following:

- 1) Proof of Service for the notice of appeal,
- 2) a copy of the Notice of Appeal,
- 3) the filing fee of \$100.00,
- 4) SASE for return
- 5) A copy of the Order under appeal listed in the Notice of Appeal

Would you please file the Notice of Appeal and return a clocked copy to me in the enclosed envelope? Thank you.

Sincerely,


Chalmers C. Johnson

cc: E.D. Pratt-Thomas, Esq.
POD 22247
Charleston, SC 29413

Clerk of Court, Charleston County
100 Broad St. #106
Charleston, SC 29401

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
C.A. NO.: 2010-CP-10-3410

Dr. Cynthia Holmes, M.D.,

Plaintiff,

vs.

East Cooper Community Hospital, Inc.,
and Tenet HealthSystem Medical, Inc.,

Defendants.

FILED
2011 JUL 29 PM 4:43
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

SUMMARY JUDGMENT ORDER

This action came before the undersigned on July 8, 2010 for Summary Judgment. Counsel for Plaintiff and Defendants Law, Affidavits, and oral argument, which have been considered incorporated into the record. As explained more fully below, there is no genuine issue of material fact as to Plaintiff's claims and that Defendants are entitled to summary judgment.

Civil

Miscellaneous

Undisputed Facts

Plaintiff is a medical doctor specializing in the field of Ophthalmology. Defendant East Cooper Community Hospital, Inc., owns, operates, and does business as East Cooper Medical Center (hereinafter referred to as the "Hospital") and is a wholly owned subsidiary of Defendant Tenet HealthSystem Medical, Inc.

At the times relevant herein, Plaintiff was a member of the Hospital's Consulting Medical Staff. All appointments to the Hospital's Medical Staff are for a limited two (2) year term. Plaintiff's 2004 appointment to the Medical Staff, which was the subject of previous litigation between the parties, was nearing expiration in October of 2006, at

[Handwritten signature]
7/29/11

which time Plaintiff submitted a reappointment application. In her application Plaintiff requested advancement in Medical Staff category and clinical privileges to perform surgery on the eye. The Hospital's Credentials and Medical Executive Committees found Plaintiff's application to contain insufficient evidence that she was currently clinically competent for the Medical Staff category and surgical privileges requested and recommended that she be reappointed to the Consulting Staff category. Plaintiff requested and was granted an administrative hearing of this recommendation. The Hospital's Governing Board upheld the recommendation and Plaintiff was reappointed to the Consulting Medical Staff for another two year term.

Prior to the expiration of this 2006 appointment, in or around October of 2008, Plaintiff submitted another reappointment application again requesting advancement in Medical Staff category and surgical privileges. The Hospital, through its Credentials Committee, Medical Executive Committee, and Governing Board, this time determined Plaintiff's application to be incomplete and a deemed voluntary resignation from the Medical Staff without appellate rights under the Medical Staff Bylaws.

On April 26, 2010, Plaintiff instituted this civil action against Defendants alleging causes of action for breach of contract and breach of the covenant of good faith and fair dealing. Plaintiff alleges the actions taken with respect to her 2006 and 2008 reappointment applications breached a Settlement Agreement among the parties arising from a previous lawsuit filed against these same Defendants also regarding her Medical Staff privileges at the Hospital. The Settlement Agreement, entered in 2003, called for Plaintiff's reappointment to the Hospital's Consulting Medical Staff from 2002 to 2004 with "the right to apply for a change in status in accordance with the Bylaws."

A handwritten signature in black ink, appearing to read "D.H. [unclear]", is located at the bottom center of the page.

Standard of Review

Summary judgment is appropriate when it is clear that there is no genuine issue of material fact and the moving party is entitled to summary judgment as a matter of law. Rule 56(c) S.C.R.Civ.P; City of Columbia v. American Civil Liberties Union, 323 S.C. 384, 475 S.E.2d 747 (1996). Summary judgment is proper where plain, palpable and indisputable facts exist on which reasonable minds cannot differ. *Byerly v. Conner*, 307 S.C. 441, 415 S.E.2d 796 (1992). Summary judgment is not a "disfavored procedural shortcut," but an important mechanism for weeding out "claims and defenses [that] have no factual basis." Celotex Corp. v. Catrett, 477 U.S. 317, 327 (1986). The party seeking summary judgment has the burden of establishing the absence of a genuine issue of material fact. McCall v. State Farm Mut. Auto. Ins. Co., 359 S.C. 372, 597 S.E.2d 181 (Ct. App. 2004). Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations contained in the pleadings. Regions Bank v. Schmauch, 354 S.C. 648, 582 S.E.2d 432 (Ct. App. 2003). The nonmoving party must come forward with specific facts showing there is a genuine issue for trial. Rife v. Hitachi Constr. Mach. Co., Ltd., 363 S.C. 209, 609 S.E.2d 565 (Ct. App. 2005). A party's response to the motion must set forth specific facts, admissible evidence, showing that there is a genuine issue for trial. It is not sufficient that one create an inference which is not reasonable or an issue of fact that is not genuine. Dickert v. Metropolitan Life Ins. Co., 306 S.C. 311, 411 S.E.2d 672 (Ct. App. 1991).

[Handwritten signature]
11/26/11

I. This Court lacks subject matter jurisdiction to review the actions of private hospitals concerning medical staff privileges.

“Subject matter jurisdiction refers to the court’s power to hear and determine cases of the general class to which the proceedings in question belong.” Bunkum v. Manor Properties, 321 S.C. 95, 100, 467 S.E.2d 758, 761 (Ct. App. 1996). “Claims of lack of subject matter jurisdiction may be raised at any time, and subject matter jurisdiction may not be waived by filing responsive pleadings or otherwise consenting to the jurisdiction of a particular court.” Eldridge v. City of Greenwood, 331 S.C. 398, 408, 503 S.E.2d 191, 196 (Ct. App. 1998).

South Carolina courts have consistently held that private hospitals are free in the absence of regulatory provisions to decide the nature and extent of medical practice permitted to persons to whom it grants medical staff privileges. “A private hospital is free to adopt reasonable regulations for the conduct of its affairs.” Gowan v. St. Francis Cmty. Hosp., 275 S.C. 203, 204, 268 S.E.2d 580, 581 (1980). It is well settled in South Carolina that the Court does not have jurisdiction to review the decisions of the medical staff of a private hospital concerning the membership and credentialing of its physicians. Strauss v. Marlboro County Gen. Hosp., 185 S.C. 425, 194 S.E. 65, 65 (1937); Wood v. Hilton Head Hosp., Inc., 292 S.C. 403, 405, 356 S.E.2d 841, 842 (1987); Gowan, 275 S.C. at 204, 268 S.E.2d at 581.

It is undisputed that the Defendant Hospital herein is a private, for-profit hospital governed by a Board of Directors. It is also undisputed that its Medical Staff operates pursuant to written Medical Staff Bylaws, Rules and Regulations, which have been approved by the Governing Board of the Hospital, and by which all physicians receiving

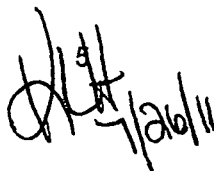
A handwritten signature in black ink, appearing to be 'H. H. Bell', is located at the bottom center of the page.

privileges at the Hospital agree to be bound as a condition of membership in the Medical Staff.

Plaintiff alleges that her present lawsuit is not a challenge of the Hospital's implementation of the Medical Staff Bylaws, nor of the Hospital's credentialing decisions concerning her reappointment applications, but, rather, of the term of the previous Settlement Agreement allowing her the right to apply for a change in status in accordance with the Bylaws. Indeed, Plaintiff conceded at the hearing of this Motion that a challenge of the Hospital's implementation of its Bylaws and credentialing decisions are matters outside the scope of this Court's subject matter jurisdiction.

Despite Plaintiff's argument that her claim is one for breach of the Settlement Agreement, the Plaintiff's Complaint and the evidence in the record clearly show she is indeed seeking a judicial interpretation of the Hospital's implementation of its Medical Staff Bylaws and of the decisions regarding her Medical Staff privileges. Specifically, the Plaintiff requests this Court to review whether the Hospital's denial of advancement in Medical Staff category and surgical privileges in 2006; reappointment of her to the Consulting Medical Staff in 2006; refusal to accept her 2008 application as complete; refusal to process and consider her 2008 application for advancement in Medical Staff category and surgical privileges; and denial of an administrative hearing regarding her 2008 reappointment process were decisions made in accordance with the applicable Bylaws.

Though styled as a breach of contract action, as her multiple previous lawsuits against Defendants were, the Plaintiff's claims all arise out of the peer review process at the Hospital and, as such, are not subject to judicial review. Both the Plaintiff's

 7/26/11

Complaint and the Affidavits submitted by the Plaintiff in opposition to summary judgment support this conclusion. In fact, the Affidavit of Plaintiff's expert witness contains a lengthy discussion and interpretation of the Bylaws, but omits any reference to the subject Settlement Agreement. This Affidavit unequivocally shows the Plaintiff's claims are dependent upon the issue of whether the Hospital properly applied the Bylaws in reviewing the Plaintiff's 2006 and 2008 reappointment applications, as this is the sole basis on which the expert opines. None of the evidence or testimony submitted by the Plaintiff demonstrates a genuine issue of material fact as to whether the subject Settlement Agreement was breached, but, rather, only challenges the decisions regarding her peer review processes. The Court does not have jurisdiction to determine these issues, and the Plaintiff has presented no evidence or reason to persuade the Court to depart from the long-standing principle that such actions are not subject to judicial review.

The Plaintiff contends that the Court has jurisdiction over this matter based on Lee v. Chesterfield General Hosp., 289 S.C. 6, 344 S.E.2d 379 (Ct. App. 1986). The Court declines to adopt the Plaintiff's interpretation of the Lee decision and, in any event, Lee applies only to actions for civil conspiracy, not claimed herein, rather than causes of action sounding in contract. In Lee, the Court of Appeals confirmed the decision reached by the Supreme Court in Gowan but found subject matter jurisdiction where the Plaintiff did not seek to conduct a judicial review of internal hospital rules, but claimed that the Bylaws were imposed in furtherance of a conspiracy, the purpose of which was to injure the Plaintiff. Id. In this case, Plaintiff asks the Court to review the basis for the Hospital's privileging decisions and substitute its judgment for the Hospital

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and its review committees by determining that the decisions were inappropriately made. This is precisely the type of intervention that the Supreme Court of South Carolina in Strauss, Gowen, and Wood sought to prevent.¹

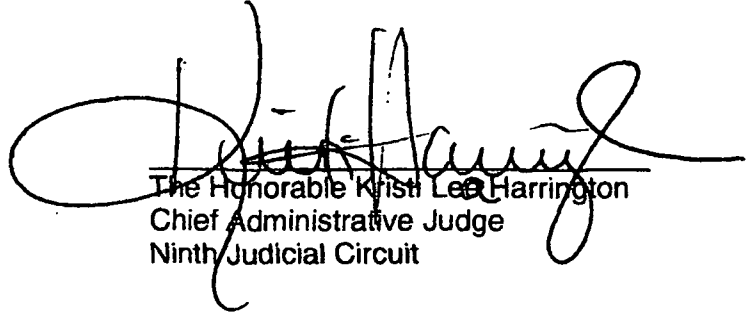
Finally, the Plaintiff's contentions that this Court has previously ruled on and agreed to accept subject matter jurisdiction of this controversy are without merit. Plaintiff argues the Court's previous denial of Defendants' Motion to Dismiss and Motion for Judgment on the Pleadings based, in part, on lack of subject matter jurisdiction, now confer subject matter jurisdiction on this Court. Plaintiff concedes that the Court's denial of said Motion was based upon prematurity of the issues rather than merit. Regardless, an Order denying a motion to dismiss for lack of subject matter jurisdiction is not immediately appealable and does not, as the Plaintiff contends, bind the parties. See Deskins v. Boltin, 319 S.C. 356, 357, 461 S.E.2d 395, 396 (1995) ("The denial of a motion to dismiss for lack of subject matter jurisdiction is not immediately appealable."); Woodard v. Westvaco Corp., 319 S.C. 240, 243, 460 S.E.2d 392, 394 (1995) overruled on other grounds by Sabb v. S.C. State Univ., 350 S.C. 416, 567 S.E.2d 231 (2002) ("An order *denying* a motion to dismiss for lack of subject matter jurisdiction does not *finally* determine anything.").

¹ In deciding this issue, this Court relies only on the Plaintiff's Complaint and the Plaintiff's own Affidavits in opposition to summary judgment. This Court does not rely on filings and orders from previous actions; however, at least two prior orders entered by The Honorable R. Markley Dennis, Jr., in a previous case between these parties operate as res judicata and/or collateral estoppel as to this issue, and these also support the Court's decision herein.

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Conclusion

For the foregoing reasons, there is no genuine issue of material fact as to the causes of action asserted by the Plaintiff and Defendants' Motion for Summary Judgment is GRANTED.



The Honorable Kristi Lee Harrington
Chief Administrative Judge
Ninth Judicial Circuit

July 26, 2011
Charleston, South Carolina