

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.

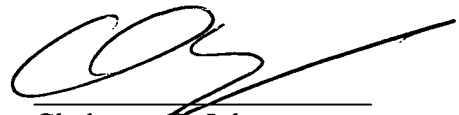
East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

NOTICE OF RECEIPT OF TRANSCRIPT

On May 9, 2012, the Appellant received the requested transcript of hearing before Judge Harrington in Charleston County on November 22, 2011. Appellant will file an Initial Brief within thirty (30) days of the date of receipt.

Dated: 5-14-12



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

MAY 17 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 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 RECEIPT OF TRANSCRIPT

I certify that on May 14, 2012, 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

RECEIVED
MAY 17 2012

SC Court of Appeals

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

May 14, 2012

Clerk, South Carolina Court of Appeals
Attn: Laurie Field
Post Office Box 11629
Columbia, SC 29211

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

Dear Ms. Field:

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

RECEIVED

MAY 17 2012

SC Court of Appeals

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

May 1, 2012

Clerk, South Carolina Court of Appeals
Attn: Laurie Fields
Post Office Box 11629
Columbia, SC 29211

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

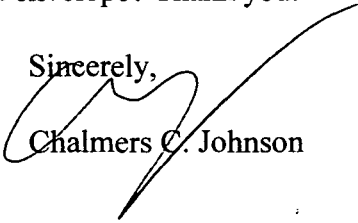
Dear Laurie:

Enclosed for filing is an original Amended 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 Proof of service for Amended Notice of Request for Transcript,
- 3) SASE for return

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

Sincerely,


Chalmers C. Johnson

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

RECEIVED

MAY 07 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 Lee Harrington, Circuit Court Judge

Case No. 2010-CP-10-3410

Dr. Cynthia Holmes, M.D.

Appellant,

v.

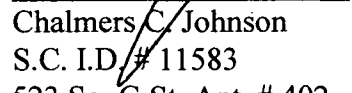
East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

PROOF OF SERVICE FOR
AMENDED NOTICE OF REQUEST FOR TRANSCRIPT

I certify that on May 1, 2012, 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: May 1, 2012


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
MAY 07 2012

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
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Dr. Cynthia Holmes, M.D.

Appellant,

v.


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

Respondents.

AMENDED NOTICE OF REQUEST FOR TRANSCRIPT

On March 14th, the Appellant gave notice that she had requested the transcript of a hearing before Judge Harrington in Charleston County on November 22, 2011, which is relevant to the order on appeal in this case. A copy of the request for transcript was attached. Since then, the Court reporter to whom the letter was addressed notified Appellant that she had not been the court reporter on that day. She returned the initial fee that had been paid. Appellant has forwarded the request for transcript to the correct Court reporter, and hereby notifies the Court and opposing counsel of the updated request. A copy of the pertinent letters are attached.

Dated: April 30, 2012


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

MAY 07 2012

SC Court of Appeals

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

RECEIVED
MAY 07 2012

SC Court of Appeals

SUSAN "MIA" PERRON
CIRCUIT COURT REPORTER
POST OFFICE BOX 31865
CHARLESTON, SOUTH CAROLINA 29417-1865
1-706-231-6028 [cell]

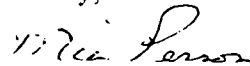
March 28, 2012

Please accept my apologies for not checking the date on the transcript I sent you. I have enclosed a check in the full amount of your deposit of \$100.00.

I was not the court reporter for the hearing on November 22, 2011. Please contact the following reporter to request your transcript.

Anne B. Meyer
PO Box 12093
Charleston, SC 29422

Cordially,



Susan "Mia" Perron

RECEIVED

MAY 07 2012

SC Court of Appeals

C. Collie, Esq.

PO Box 187
Sullivans Island, SC 29482-0187
843.883.3010

4/3/12
March 7, 2012

Ms. Mia Perron
POB 31865
Charleston, SC 29417-1865

Re: transcript for 2010-CP-10- 3410 on November 22, 2011

Dear Ms. Perron: *Mia Perron*

I am writing to request transcript for the hearing on November 22, 2011. I agree to pay the authorized fee for the transcript. Enclosed please find a check for deposit. Please let me know if you need anything further.

Thanking you in advance for your kind consideration, I remain

Very truly yours,

C. Collie

Cc
Check # *2079*

11 2083

RECEIVED
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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,

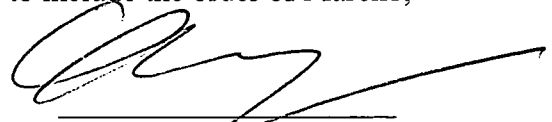
v.

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

Respondents.

AMENDED NOTICE OF APPEAL

The Appellant has previously and recently appealed the Order of Judge Kristi Lee Harrington Filed February 1, 2012. At that time, there were outstanding motions for relief from judgment under Rul6 60 SCRCF and to alter or amend the February 1 Order. The Court has issued an order denying those motions, dated March 1, 2012 and filed March 7, 2012. Plaintiff received notice of the order by email from the Court . The Plaintiff hereby amends her March 1 appeal in this case to include the order of March 1, 2012. A copy of the Order under appeal is attached.
Dated: March 19, 2012



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

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
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APPEAL FROM CHARLESTON COUNTY
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The Honorable Kristi Lee Harrington, Circuit Court Judge

Case No. 2010-CP-10-3410

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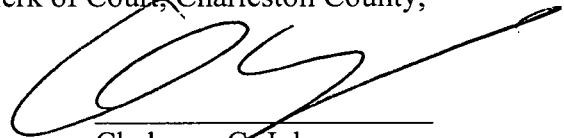
East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

PROOF OF SERVICE FOR
AMENDED NOTICE OF APPEAL

I certify that on March 19, 2012, I sent a copy of the Amended 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: March 19, 2012



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
MAR 21 2012

SC Court of Appeals

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

March 19, 2012

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

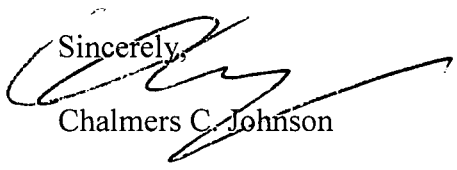
Dear Ms. Gee:

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

- 1) Proof of Service for the amended notice of appeal,
- 2) a copy of the Amended Notice of Appeal,
- 3) SASE for return
- 5) A copy of the Order under appeal listed in the Amended Notice of Appeal

Would you please file the Amended 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.
Lindsay K. Smith-Yancey
POD 22247
Charleston, SC 29413

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

RECEIVED

MAR 21 2012

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
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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 March 19, 2012, 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: March 19, 2012



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

MAR 21 2012

SC Court of Appeals

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

March 19, 2012

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:

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Sincerely,


Chalmers C. Johnson

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

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MAR 21 2012

SC Court of Appeals



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

March 21, 2012

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

Re: Holmes, Cynthia v. East Cooper (4)
2012209666

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. Failure to file in the proper court may result in the dismissal of your appeal. 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 bar number and firm name of any counsel shown must be included in his or her address.

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.

I further 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
Jenny Kitchings
CLERK

JAK/laf

cc: Lindsay Smith-Yancey, Esquire

The Supreme Court of South Carolina

RE: Interim Guidance Regarding Personal Data Identifiers and
Other Sensitive Information in Appellate Court Filings

ORDER

Under the Federal Constitution, our State Constitution, and our common law, court records are presumptively open to the public, and these records may only be sealed by a court based on specific findings that the need for secrecy outweighs the presumption of openness. Ex parte Capital U-Drive-It, Inc., 369 S.C. 1, 630 S.E.2d 464 (2006); Davis v. Jennings, 304 S.C. 502, 405 S.E.2d 601 (1991). Therefore, with some few exceptions,¹ documents filed with this Court or the South Carolina Court of Appeals (appellate court) are available to the public unless sealed by order of the appellate court in which the matter is pending.

Several commercial vendors have recently requested copies of briefs filed with the appellate courts, and it is anticipated that these and other appellate filings will be available electronically from both private and public sources in the future. The ready availability of these documents raises significant privacy concerns. While this problem is currently under review by the Chief Justice's Task Force on Public Access to Court Records, we adopt the following interim guidance regarding personal data identifiers and other sensitive information in documents filed in the appellate courts.

Parties shall not include, or will partially redact where inclusion is necessary, the following personal data identifiers from documents filed with an appellate court:²

1. Social Security Numbers. If a social security number must be included, only the last four digits of that number should be used.
2. Names of Minor Children. If a minor is the victim of a sexual assault or is involved in an abuse or neglect case, the minor's name will be completely redacted and a term such as "victim" or "child" should be used. In all other cases, only the minor's first name and first initial of the last name (i.e., John S.) should be used.
3. Financial Account Numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.
4. Home Addresses. If a home address must be included, only the city and state should be used.

Parties wishing to file documents containing the personal data identifiers listed above may file unredacted documents under seal, together with redacted versions for the public file. The sealed unredacted documents shall be filed in a separate Appendix and the bottom of each page of the Appendix shall be marked "Sealed." No order of the appellate court will be required to file this sealed Appendix. The number of copies of the Appendix to be served and filed shall be the same as that required for the brief, record on appeal, motion or other filing that includes the redacted documents.

If the caption of the case contains any of the personal data identifiers listed above, the parties should file a motion to amend the caption to redact the identifier. This should be done contemporaneously with the filing of the notice of appeal or the commencement of the case with the appellate court. Without a motion to the appellate court, the caption of a juvenile delinquency matter from the family court shall be redacted to only use the juvenile's first name and first letter of the juvenile's last name (i.e., In the Interest of John S., a Juvenile.)

A party seeking to seal material beyond those personal identifiers listed above, must file a motion to seal with the appellate court in which the matter is pending. This is true even if the lower court or administrative tribunal may have issued an order sealing the record. Until the motion is ruled on, the clerk of the appellate court shall treat the material as if it is sealed. Parties and counsel are reminded that the standard established in Ex parte Capital U-Drive-It, Inc. and Davis v. Jennings, *supra*, must be met before any request to seal all or a portion of a record will be granted. Once sealed by order of an appellate court, the materials will remain sealed before the appellate courts unless otherwise ordered by the appellate court in which the matter is pending.

Parties should exercise caution in including other sensitive personal data in their filings, such as personal identifying numbers, medical records, employment history, individual financial information, proprietary or trade secret information, information regarding an individual's cooperation with the government, information regarding the victim of any criminal activity, or national security information.

Attorneys are expected to discuss this matter with their clients so that an informed decision can be made about the inclusion of sensitive information. The appellate courts and their staff will not review filings for redaction or to determine if materials should be sealed; the responsibility for insuring that information is redacted or sealed rests with counsel and the parties.

IT IS SO ORDERED.

s/Jean H. Toal C.J.

s/James E. Moore J.

s/John H. Waller, Jr. J.

s/E.C. Burnett, III J.

s/Costa M. Pleicones J.

Columbia, South Carolina

August 13, 2007

¹ See, e.g., Rule 12 of the Rules for Lawyer Disciplinary Enforcement contained in Rule 413, SCACR; Rule 12 of the Rules for Judicial Disciplinary Enforcement contained in Rule 502, SCACR; Rule 402(n), SCACR; and Rule 403(l), SCACR.

² This restriction shall not apply when this information is required or requested by the appellate court. For example, the application for admission to practice law under Rule 402, SCACR, requires many of these personal identifiers to be disclosed.

STATE OF SOUTH CAROLINA
 COUNTY OF
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. **2010CP-10-2410**

Dr. Cynthia Holmes, M.D.

East Cooper Community Hospital, Inc.;
 Trident Healthsystem Medical, Inc.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

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), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit); Rule 43(k), SCRCP (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRCP; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

FILED
 2012 MAR -7 PM 2:23
 JULIE J. ARMSTRONG
 CLERK OF COURT

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:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : Plaintiff's Motion to Reconsider, Alter or Amend the Court's Order of February 1, 2012 is denied.

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	\$N/A
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

[Signature]
 Circuit Court Judge

2/5/12 3/1/12
 RECEIVED
 Judge Code Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or _____ placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

RECEIVED

MAR 21 2012

SC Court of Appeals

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The Honorable Kristi Lee Harrington, Circuit Court Judge

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Respondents.

NOTICE OF REQUEST FOR TRANSCRIPT

The Appellant has requested the transcript of a hearing before Judge Harrington in Charleston County on November 22, 2011, which is relevant to the order on appeal in this case. A copy of the request for transcript is attached.

Dated: March 14, 2012



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

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SC Court of Appeals

C. Collie, Esq.

PO Box 187
Sullivans Island, SC 29482-0187
843.883.3010

March 7, 2012

Ms. Mia Perron
POB 31865
Charleston, SC 29417-1865

Re: transcript for 2010-CP-10- 3410 on November 22, 2011

Dear Ms. Perron:

I am writing to request transcript for the hearing on November 22, 2011. I agree to pay the authorized fee for the transcript. Enclosed please find a check for deposit. Please let me know if you need anything further.

Thanking you in advance for your kind consideration, I remain

Very truly yours,

C. Collie

Cc
Check # 2079

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pm → 3/1/12
POS = 3/1/12 -

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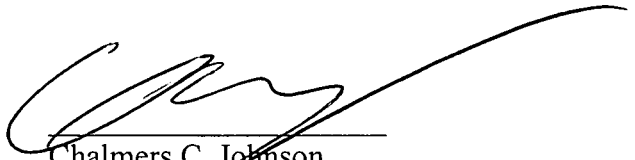
East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.,

Respondents.

NOTICE OF APPEAL

The Appellant appeals the Order of Judge Kristi Lee Harrington Filed February 1, 2012. Plaintiff received notice of the order by mail from the Court on February 6, 2012. A copy of the Order under appeal is attached.

Dated: March 1, 2012



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

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PROOF OF SERVICE FOR
NOTICE OF APPEAL

I certify that on March 1, 2012, 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: March 1, 2012



Chalmers C. Johnson
S.C. I.D. # 11583
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Attorney for the Appellant

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MAR 05 2012

SC Court of Appeals

Chalmers Carey Johnson
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Tacoma, WA 98405
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March 1, 2012

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 Appeal in the above case. Also, enclosed are the following:

- 1) Proof of Service for the notice of appeal,
- 2) One original and one 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

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SC Court of Appeals

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.)

ORDER AWARDING SANCTIONS

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JULIE J. ARMSTRONG
CLERK OF COURT
B.V.

This matter came before the Court on Defendants' motion pursuant to the South Carolina Frivolous Civil Proceedings Sanctions Act, codified at section 15-36-10 of the South Carolina Code (hereinafter referred to as the "FCPSA" or "the Act"). A hearing on Defendants' motion was held on November 22, 2011. As indicated more fully below, this Court grants Defendants' motion, sanctions the Plaintiff pursuant to the Act, and awards judgment against Plaintiff in the amount of \$53,447.15 (Fifty-Three Thousand Four Hundred Forty-Seven and 15/100 Dollars) payable to Defendants for reimbursement of attorneys' fees and other expenses incurred in the defense of this action.

In addition, in light of the Plaintiff's long history of litigation against Defendants and others, the Court finds injunctive relief pursuant to section 15-36-10(G)(3) appropriate. Consequently, this Court hereby orders that any future litigation filed on behalf of the Plaintiff against the Defendants in any way premised upon the status of her medical staff membership, categorization, or privileges or her prior litigation with the Defendants shall be accompanied by a \$50,000.00 bond or letter of credit paid in to the

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Clerk of Court, to be applied to Defendants' attorneys' fees and other litigation expenses in the event Defendants are the prevailing party and the Court finds them to be entitled to reimbursement of their attorneys' fees and other litigation expenses. If the Plaintiff fails to post such a bond or letter of credit, Defendants may present a certified copy of this Order to the Clerk of Court, upon which the Clerk shall summarily dismiss the action.

Factual/Procedural Background

The Plaintiff herein is a medical doctor specializing in the field of ophthalmology. Her current Complaint alleges causes of action for breach of contract and breach of the covenant of good faith and fair dealing concerning her medical staff privileges at Defendant East Cooper Community Hospital, Inc., which owns and operates East Cooper Medical Center (hereinafter referred to as the "Hospital").

This is the fourth lawsuit filed by the Plaintiff against Defendants arising out of her medical staff privileges at the Hospital. The Plaintiff's first lawsuit, Doe v. Tenet HealthSystem Medical, Inc., et al., Civil Action Number 2:99-0833-23, was filed in the United States District Court for the District of South Carolina, and Defendants were granted summary judgment. The Plaintiff's second lawsuit, Doe v. Tenet HealthSystem Medical, Inc., et al., Civil Action Number 2000-CP-10-1888, was filed in the Charleston County Court of Common Pleas. The parties resolved the second lawsuit through a Settlement Agreement and General Release in Full (the "Settlement Agreement") in 2002.

The Plaintiff's third lawsuit, Holmes v. East Cooper Community Hosp., Inc., et al., Civil Action Number 2005-CP-10-5113, was also filed in the Charleston County Court of

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Common Pleas. The Plaintiff's allegations in Paragraphs 31-36 of the Amended Complaint in Case Number 2005-CP-5113, stating an alleged cause of action for breach of a covenant of good faith and fair dealing, are almost identical to the allegations in Paragraphs 12-16 of the Plaintiff's Complaint in the present lawsuit.¹ In her third lawsuit, the Plaintiff contended, among other things, that the Defendants breached the Settlement Agreement in their consideration of her 2002 and 2004 applications for reappointment to the Hospital's medical staff, advancement in staff category, and surgical privileges. She made the same argument in the instant case with respect to her 2006 and 2008 applications.

Defendants were awarded summary judgment in the Plaintiff's third lawsuit, and Plaintiff was ultimately sanctioned pursuant to the Act. Defendants were awarded a \$90,000.00 judgment against Plaintiff. The Plaintiff's appeals of these orders were dismissed and remitted by the South Carolina Court of Appeals.

Plaintiff's allegations in the current lawsuit relate to her applications for reappointment to the Hospital's medical staff, advancement in staff category, and request for surgical privileges in 2006 and 2008. On July 29, 2011, this Court entered an order granting summary judgment to Defendants. On August 8, 2011, Defendants filed and served this motion.

Law/Analysis

I. The FCPSA Standard

¹ The Plaintiff's Amended Complaint in Case Number 2005-CP-10-5113 includes two separate paragraphs labeled 31 through 36. This Court is referring to the second such set of paragraphs therein.

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The FCPSA allows for the imposition of sanctions for the initiation and prosecution of civil lawsuits without merit. Section 15-36-10(C)(1) of the FCPSA provides when an action has been dismissed by summary judgment, upon motion of the prevailing party, "the court shall proceed to determine if the claim . . . was frivolous." Section 15-36-10(C)(1) further provides that a party shall be sanctioned for a frivolous claim if the Court finds that the party failed to comply with one of the following conditions:

(a) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(b) a reasonable attorney in the same circumstances would believe that *his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party*; or

(c) a reasonable attorney in the same circumstances would believe that *the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based.*

(emphasis added).

Section 15-36-10(E) of the Act sets forth the elements a Court should consider when determining whether a party has violated the provisions of the Act, stating the Court shall take into account the following:

- (1) the number of parties;
- (2) the complexity of the claims and defenses;
- (3) the length of time available to the attorney, party, or pro se litigant to investigate and conduct discovery for alleged violations of the provisions of subsection (A)(4);

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- (4) information disclosed or undisclosed to the attorney, party, or pro se litigant through discovery and adequate investigation;
- (5) previous violations of the provisions of this section;
- (6) the response, if any, of the attorney, party, or pro se litigant to the allegation that he violated the provisions of this section; and
- (7) other factors the court considers just, equitable, or appropriate under the circumstances.

Section 15-36-10(G) of Act sets forth the sanctions allowable, including (1) reasonable costs and attorneys' fees; (2) a reasonable fine to the court; or (3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith.

In Rutland v. Holler, Dennis, Corbett, Ormond & Garner, 371 S.C. 91, 98, 637 S.E.2d 316, 320 (Ct. App. 2006), the South Carolina Court of Appeals affirmed the circuit court's award of sanctions to the defendant, emphasizing that "Respondents were able to show that the primary purpose for which the proceedings were initiated 'was not that of securing the proper . . . adjudication of the civil proceedings.'" The Court recognized: "A review of the record reveals that the lawsuit at issue alleged causes of action for the same complaint as the previous lawsuits, *i.e.*, Rutland's dissatisfaction with Corbett and his law firm." Id. "In light of this unsuccessful procedural history, it is inconceivable that Rutland reasonably believed that his claims against Respondents were valid." Id.

II. Defendants are entitled to sanctions under the FCPSA for continuing to argue that this Court has jurisdiction to review the privileging decisions of a private, for-profit hospital.

The Plaintiff herein violated the Act by initiating and continuing this litigation despite this Court's lack of subject matter jurisdiction, despite a prior ruling against the



Plaintiff that this Court lacks subject matter jurisdiction, and despite being sanctioned for arguing that this Court has subject matter jurisdiction in a previous case based on the very same allegations.

The Plaintiff contends in this action, as she did in Case Number 2005-CP-10-5113, that rather than asking the Court to review the decisions made regarding her credentialing process, she seeks a determination of whether Defendants breached the Settlement Agreement in their consideration of her applications for advancement in staff category and surgical privileges. In the previous lawsuit, the Honorable R. Markley Dennis, Jr., not only granted summary judgment to Defendants on the basis that the circuit court lacked jurisdiction over such claims, but also sanctioned the Plaintiff for raising the argument.

"Generally speaking, subject matter jurisdiction is the power to hear and determine cases of the general class to which the proceedings in question belong." Metts v. Mims, 384 S.C. 491, 498, 682 S.E.2d 813, 817 (2009). "It is well settled in South Carolina, and throughout the country, that it is improper for the courts to review the decisions of governing boards of private hospitals concerning the staff privileges of practitioners." Wood v. Hilton Head Hosp., Inc., 292 S.C. 403, 405, 356 S.E.2d 841, 842 (1987). Thus, "the implementation of the regulations of a private hospital which are initiated to restrict a practitioner's practices are not subject to judicial review." Id.

As this Court recognized in its Order granting summary judgment to Defendants: "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

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Hospital and, as such, are not subject to judicial review.” **Summ. J. Order filed 07/29/2011, p.5.**

As previously discussed, in the 2005 lawsuit, Judge Dennis granted summary judgment to Defendants. **Summ. J. Order filed 05/23/2007 in 2005-CP-10-5113.** In addressing the allegations set forth above relating to the Plaintiff’s 2004 application, which are almost identical to the claims set forth in the current case relating to the Plaintiff’s 2006 and 2008 applications, Judge Dennis held, in pertinent part:

The Plaintiff’s Amended Complaint seeks judicial determination of whether the decisions regarding her credentialing and privileges at East Cooper Hospital were reasonable and in compliance with the Hospital’s Bylaws. Specifically, she requests the Court to review whether the failure to process and consider her application for associate status and surgical privileges, her reappointment to the consulting staff, and the denial of an administrative hearing were reasonable decisions made in accordance with the Bylaws. The Plaintiff’s claims all arise out of the peer review process at East Cooper Hospital and, as such, are not subject to judicial review. 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.

Summ. J. Order filed 05/23/2007 in 2005-CP-10-5113, p.4 (double emphasis added).

The present lawsuit restates the Plaintiff’s allegations and arguments in her 2005 lawsuit. The Plaintiff alleges, as she did in 2005, that the Defendants breached the Settlement Agreement in reviewing her applications for medical staff privileges. **Compl.** In the 2005 lawsuit, Judge Dennis considered this argument and rejected it in two separate orders. In one of those orders, he sanctioned the Plaintiff for making the argument. With the Plaintiff being sanctioned in 2005 for making the argument, no reasonable attorney could contend that the argument is not frivolous in this action.



The Plaintiff contends that the present lawsuit was filed under a good faith argument for the extension of Lee v. Chesterfield Gen. Hosp., Inc., 289 S.C. 6, 344 S.E.2d 379 (Ct. App. 1986). This argument has no merit. Initially, Judge Dennis considered and rejected this exact same argument in his order sanctioning the Plaintiff in the 2005 case:

Plaintiff's interpretation and reliance on *Lee v. Chesterfield General Hospital*, 289 S.C. 6, 344 S.E.2d 379 (Ct. App. 1986), in an effort to justify her quest to have the Court review the decisions regarding her credentialing is without merit. In *Lee* the Court confirmed the decision reached 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. *Lee* at 10. Here the Plaintiff asked the Court to review the basis for the credentialing decisions and substitute its judgment for the Hospital and its review committees by determining that the credentialing decisions were made inappropriately. This is precisely the type of intervention that *Strauss*, *Gowan*, and *Wood* decisions sought to prevent.

Sanctions Order filed 08/06/2009 in 2005-CP-10-5113, pp.15-16.

While the Plaintiff contends that this previous circuit court order is not binding precedent and that Judge Dennis's decision in this instance was incorrect, the Plaintiff ignores that, "[u]nder the doctrine of collateral estoppel, when an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim." Carman v. S.C. Alcoholic Beverage Control Comm'n, 317 S.C. 1, 6, 451 S.E.2d 383, 386 (1994). Plaintiff failed to offer any argument as to why Judge Dennis's decision does not



collaterally estop her in this action. Moreover, the Plaintiff's argument on this point emphasizes her intention to re-litigate the case she lost in 2005.

In addition, by its express terms, the Lee decision was limited to civil conspiracy claims and has no application to the actions alleged by the Plaintiff in this case. The Plaintiff cites no cases or authority from South Carolina or any other jurisdiction purporting to extend the Lee decision to her breach of contract claim asserted in this case. The Plaintiff also fails to distinguish the well-settled rule in South Carolina that the parties may not, by agreement or otherwise, consent to confer subject matter jurisdiction on the court. See Eldridge v. City of Greenwood, 331 S.C. 398, 408, 503 S.E.2d 191, 196 (Ct. App. 1998) ("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.").

Based on the ample case law on this issue, a reasonable attorney in the same circumstances would believe that under the facts herein, the Plaintiff's claim was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law. As such, Defendants are entitled to sanctions under the Act.

III. Defendants are entitled to sanctions under the Act because the Plaintiff initiated and continued the present action despite the Defendants' compliance with the plain language of the Bylaws.

Even if this Court had subject matter jurisdiction to review the privileging decisions of the Hospital, there is absolutely no evidence that the Defendants failed to comply with the Settlement Agreement or the Medical Staff Bylaws in reviewing the Plaintiff's application.

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The Settlement Agreement provides, in pertinent part: "Dr. Holmes shall have the right to apply for a change in status in accordance with the Bylaws." **Settlement Agreement, pp.1-2.** The construction of a clear and unambiguous contract is a question of law for the court. Gardner v. Mozingo, 293 S.C. 23, 25, 358 S.E.2d 390, 392 (1987).

The record in this case shows that the Plaintiff failed to produce any evidence in support of her allegations that the subject Settlement Agreement was breached. Indeed, the affidavit of her expert witness failed to even mention the Settlement Agreement and only addressed whether the Hospital's Bylaws were followed. Defendants produced testimony from relevant committee and board members involved in the Plaintiff's credentialing process, who all testified that the Plaintiff's reappointments were conducted in compliance with the Bylaws.

Notwithstanding the foregoing, the Plaintiff failed to conduct *any* discovery on these allegations (or otherwise) until the eve of the summary judgment hearing, when she noticed and took the deposition of Janie Sinacore-Jaberg, the Hospital's former CEO. In the 2005 lawsuit, the circuit court looked to the Plaintiff's failure to conduct any discovery as supporting its award of sanctions: "[Plaintiff] failed to conduct any discovery, written or otherwise, on this or any other claim pled in her Complaint."

Sanctions Order, p.13.

In this case, after the hearing on Defendants' motion for summary judgment was set, Plaintiff noticed and took the deposition of Sinacore-Jaberg. **Ex. 3 to Plt.'s Response to Defs.' Mot. for Sanctions.** While the Plaintiff points to Sinacore-Jaberg's deposition transcript to show that she conducted discovery in the present case, it is

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telling that the Plaintiff did not cite to Sinacore-Jaberg's substantive testimony in either her response to Defendants' motion for summary judgment or her response to Defendants' motion for sanctions. Moreover, the Plaintiff's expert witness never even mentioned Sinacore-Jaberg's testimony in his affidavit, and Sinacore-Jaberg was never asked about the Settlement Agreement. Defendants never designated Sinacore-Jaberg as a witness or submitted an affidavit from her in support of their motions.

The Plaintiff produced absolutely no evidence that Defendants failed to comply with the Settlement Agreement or the Bylaws in considering her 2006 or 2008 reappointment applications. The lack of any factual basis for the Plaintiff's claim and the Plaintiff's failure to conduct substantive discovery relating to the Settlement Agreement also support sanctions against her.

IV. The factors in section 15-36-10(E) of the Act support an award of sanctions.

This Court has considered each of the factors in section 15-36-10(E) of the Act in determining whether the Plaintiff violated the Act. Neither the number of parties nor the complexity of the legal issues involved in this case appears to have confused the Plaintiff in any manner. It is the Plaintiff's continued refusal to consider applicable case law and prior court orders which caused her to file this frivolous lawsuit, not the complexity of the issues involved. If the Plaintiff had even cursorily reviewed her previous filings, prior Court orders, the Settlement Agreement, and the Bylaws prior to filing this lawsuit, it would have shown her the unreasonableness of her actions.

The Plaintiff has been in possession of or had access to the dispositive facts of this action—the 1999 federal suit complaint, the 2000 state court complaint, the Settlement Agreement, the 2005 filings, the prior Court orders, and the Bylaws—since

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before she filed this action. As the Court's records reflect, she also had roughly four (4) months to reconsider the filing of this lawsuit before she served it.

Factor five requires this Court to consider previous violations of this section in determining whether the Plaintiff violated the Act. This factor weighs strongly in favor of sanctions against the Plaintiff. Two separate circuit court judges have sanctioned the Plaintiff under the Act. In addition, the Supreme Court of South Carolina has emphasized the Plaintiff's vexatious litigation activities involving the Defendants in two separate orders. Judge Dennis in the instant case warned the Plaintiff that she might be sanctioned during a hearing on Defendants' motion to dismiss. Despite these sanctions and warnings, the Plaintiff has continued her litigation against the Defendants. This factor also strongly supports the injunctive relief provided herein.

With respect to the sixth factor, while the Plaintiff has asserted several procedural reasons as to why she believes she should not be sanctioned, the only substantive argument she offered was her apparent belief that the Lee decision supported this lawsuit. As previously discussed, the Plaintiff was placed on notice in her 2005 lawsuit that Lee afforded her no relief.

V. Pursuant to section 15-36-10(G)(1) of the South Carolina Code, Defendants are entitled to their attorneys' fees and other litigation expenses incurred in defending this lawsuit against the Plaintiff.

Section 15-36-10(G)(1) of the South Carolina Code provides that sanctions under the Act may include: "[A]n order for the party represented by an attorney . . . to pay the reasonable costs and attorney's fees of the prevailing party under a motion pursuant to this section." "Costs shall include, but not be limited to, the following: the time required of the prevailing party by the frivolous proceeding, and travel expenses, mileage,

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parking, costs of reports, and any additional reasonable consequential expenses of the prevailing party resulting from the frivolous proceeding" Id.

In Glasscock v. Glasscock, 304 S.C. 158, 161, 403 S.E.2d 313, 315 (1991), the Supreme Court of South Carolina set forth the six (6) factors a court should use in determining a reasonable attorney's fee: "(1) the nature, extent, and difficulty of the case; (2) the time necessarily devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) beneficial results obtained; (6) customary legal fees for similar services."

In support of their request for attorneys' fees, Defendants submitted an affidavit setting forth the actual fees incurred in the defense of this action and a detailed itemization of said fees. Defendants request costs and attorneys' fees in the amount of \$53,447.15 (Fifty-Three Thousand Four Hundred Forty-Seven and 15/100ths Dollars).

In considering the factors set forth in Glasscock, the Court finds that the time and charges submitted for defending this action is comparable to the compensation charged by and paid to other attorneys with comparable legal ability, experience, success and standing within the South Carolina Bar in connection with healthcare litigation throughout the State of South Carolina; that the services set forth in the record for defending this matter were reasonable under the circumstances; that Defendants' requirement to pay for the defense of this case was not contingent on the outcome; and that counsel for Defendants obtained beneficial results in this action through the granting of summary judgment of the remaining claims and the successful prosecution of the present motion.



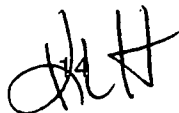
Based on the foregoing, I hereby order judgment entered in favor of Defendants against the Plaintiff in the amount of \$53,447.15 (Fifty-Three Thousand Four Hundred Forty-Seven and 15/100ths Dollars), with said judgment to be enrolled against the Plaintiff Cynthia Holmes, as well as against her alias, Cynthia Elaine Collie.

VI. Pursuant to section 15-36-10(G)(3) of the South Carolina Code, Defendants are entitled to injunctive relief.

Section 15-36-10(G)(3) of the South Carolina Code provides that sanctions may include "a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith." "The court has the discretion and the power to restrict a litigant who abuses the judicial system, and has authority to enjoin persons engaged in a manifest abuse of judicial process." 43A C.J.S. Injunctions § 96. "A court has both the duty and the power to protect the courts, citizens, and opposing parties from the abuse of a party who uses the judicial process not to vindicate his or her rights, but to harass and intimidate his or her adversaries by repeatedly filing groundless and vexatious claims against them." Id. "In order to preserve court resources, courts may place reasonable limits on the filings of litigants who abuse the judicial system, although such a sanction should be drawn narrowly." Id.

"A court's equity jurisdiction may properly be invoked to enjoin a multiplicity of successive suits at law by the same plaintiffs." 43A C.J.S. Injunctions § 99. "A party litigant who brings successive law suits involving the same issues against the same parties that are vexatious in nature may be enjoined from continuing such actions." Id.

"The power of the court to grant an injunction is in equity." Strategic Res. Co. v. BCS Life Ins. Co., 367 S.C. 540, 544, 627 S.E.2d 687, 689 (2006). "The court will reserve its equitable powers for situations when there is no adequate remedy at law."



Id. "The party seeking an injunction has the burden of demonstrating facts and circumstances warranting an injunction." Id. "In deciding whether to grant an injunction, the court must balance the benefit of an injunction to the plaintiff against the inconvenience and damage to the defendant, and grant an injunction which seems most consistent with justice and equity under the circumstances of the case." Id.

In this case, the Defendants have made a detailed showing of the Plaintiff's pattern of filing abusive and frivolous litigation. The Plaintiff has filed several lawsuits against Defendants, as well as two separate lawsuits against her former attorneys, all arising from a medical privileging dispute which began in 1997.

It is also clear that the Defendants have no adequate remedy at law. Defendants have already been awarded their attorneys' fees and costs under the Act in the 2005 lawsuit, and this judgment had no impact on the Plaintiff's desire to file the current frivolous lawsuit. The Honorable Thomas L. Hughston, Jr., has also sanctioned the Plaintiff in another lawsuit, against her former attorneys, awarding those former attorneys \$200,000.00 in attorneys' fees and costs in an order filed on November 18, 2009. This Order had no impact on the Plaintiff's decision to file the present lawsuit, and the Plaintiff has shown that she is unwilling to be deterred by judgments against her. Simply put, the Defendants have no other avenue of relief short of an injunction.

This Court also notes that Judge Hughston and the Supreme Court of South Carolina have already enjoined the Plaintiff from filing lawsuits in South Carolina courts without a licensed attorney signing on her behalf. These injunctions also provided no relief to Defendants.

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This Court hereby enjoins the Plaintiff, or anyone on her behalf, filing a lawsuit against East Cooper Community Hospital, Inc.; Tenet HealthSystem Medical, Inc.; or their directors, officers, agents, servants, employees, attorneys, or related entities without such filing being accompanied by a bond or letter of credit, paid into the Clerk of Court at the time of filing, in the amount of \$50,000.00. Such bond or letter of credit will be applied to pay the attorneys' fees and other litigation expenses of any of the foregoing if they are the prevailing party in the action and if they are entitled to such attorneys' fees and other litigation expenses through the imposition of sanctions or otherwise. Furthermore, if the Plaintiff, or anyone on her behalf, files a lawsuit without such a bond or letter of credit, the Defendants may present a certified copy of this Order to the Clerk of Court and, upon presentation, the action should be summarily dismissed by the Clerk.

This Court has carefully considered this relief in an attempt to issue an injunction which is no more comprehensive than required by the facts of this case and the long history of the Plaintiff's litigation activities. The Plaintiff has been sanctioned or warned multiple times by multiple courts. She has been given every opportunity to conform her conduct to the standards of a reasonable attorney.

VII. Plaintiff's procedural arguments for denying Defendants' motion are without merit.

Most of the Plaintiff's arguments for denying the Plaintiff's motion are procedural in nature. This Court rejects these arguments for the following reasons:

1. Plaintiff contends the pending appeal of this Court's summary judgment order warrants a stay of this motion. In Hudson v. Hudson, 290 S.C. 215, 216, 349 S.E.2d 341, 341-42 (1986), the Supreme Court of South Carolina held that a notice of appeal

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does not deprive the circuit court of jurisdiction to consider a timely post-trial motion, which includes a motion for sanctions under the Act.

2. Plaintiff contends that Defendants failed to comply with Rule 59(g), SCRPC, which requires a party to provide a copy of a motion to alter or amend to the judge within ten (10) days after the filing of the motion. In Gallagher v. Evert, 353 S.C. 59, 63-64, 577 S.E.2d 217, 219 (Ct. App. 2002), the South Carolina Court of Appeals held that Rule 59(g) does not affect the timeliness of a post-trial motion, nor does it impact the circuit court's jurisdiction.

3. Plaintiff contends that Hanahan v. Simpson, 326 S.C. 140, 485 S.E.2d 903 (1997), compels this Court to deny the Defendants' motion. In Hanahan, the Supreme Court of South Carolina recognized: "Other courts . . . hold that a party who survives pre-trial motions to dismiss and for summary judgment are not subject to sanctions after a trial on the surviving claims." Id. at 157, 485 S.E.2d at 912. "The theory behind these cases is that if a case is submitted to the jury, it cannot be deemed frivolous." Id. Hanahan has no applicability to the facts of the case because this case was not submitted to the jury, and the Plaintiff did not survive pre-trial motions to dismiss or for summary judgment. While the Plaintiff points to the consideration by Judge Dennis of a previous motion to dismiss in this matter as supporting a finding that she survived a pre-trial motion, Judge Dennis clearly stated at the hearing of that motion that he deemed the motion premature and was not ruling on its merits. He never denied the motion. The motion was renewed after a sufficient time to conduct discovery, and summary judgment was entered against the Plaintiff.

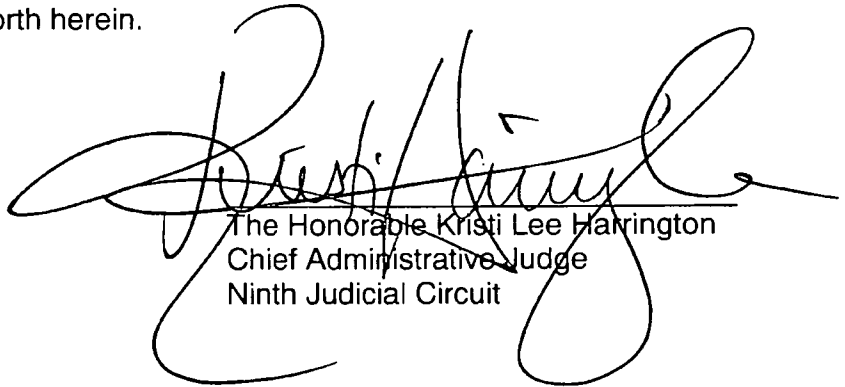


Conclusion

Defendants have shown that this lawsuit was a renewal of the Plaintiff's 2005 lawsuit against them. The allegations and arguments were the same, and the Plaintiff fails to explain how they are different.

The Plaintiff has shown a long history of ignoring plain facts, clear legal precedent, and previous warnings and sanctions of other Courts.

Under the circumstances, this Court hereby sanctions the Plaintiff pursuant to the Act, awards Defendants their requested attorneys' fees and other litigation expenses, and enjoins the Plaintiff from filing further lawsuits against the Defendants without a bond or letter of credit as set forth herein.



The Honorable Kristi Lee Harrington
Chief Administrative Judge
Ninth Judicial Circuit

January 27, 2012
Charleston, South Carolina

WA 98405



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