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**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

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Appellate Case No. 2020-000719

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Nancy Morris, as Personal Representative of the Estate of David Allan Woods.....Appellant

vs.

State Fiscal Accountability Authority, at al.....Respondent

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**SUPPLEMENTAL RECORD ON APPEAL**

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STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
) )  
Nancy Morris, as personal representative )  
of the Estate of David Allan Woods, )  
) )  
Plaintiff(s) )  
) )  
vs. )  
) )  
South Carolina State Budget and Control )  
Board; South Carolina Insurance Reserve )  
Fund; Andrew J. Bland; Richard T. )  
Burkholder; Leemon E. Carner; Priscilla )  
Bland; Jerry Speissegger, Jr., )  
) )  
Defendant(s). )

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

CASE NO: 2015-CP-40-619

PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT

Plaintiff, by and through undersigned counsel, hereby moves this Court for summary judgment under South Carolina Rule of Civil Procedure 56(a) on the grounds that there is no genuine issue of material fact and that she is entitled to judgment as a matter of law.

INTRODUCTION

The following facts are undisputed. On or about September 2, 2010, Decedent David Woods was tried and convicted in absentia by way of bench trial on charges of Shoplifting Merchandise/Less than \$2,000 and Animal Nuisance. On October 12, a bench warrant was issued for his arrest, and he was booked and taken into custody at Hill-Finklea Detention Center. (Exhibit C, p. 442). Over the course of the next several weeks, Mr. Woods complained to jail and medical personnel of health problems including but not limited to liver disease, intestinal pain, and blood in his stool. (Exhibit C, pp. 168-174).

On the night of Friday, November 5, 2010, Mr. Woods was reported to be lying down on the floor of his cell and shaking. (Exhibit C, p. 485). Sergeant Priscilla Bland (then Priscilla Garrett) transferred him to a medical observation cell. (Exhibit C, pp. 488-489). This occurred at

approximately 10:30 p.m. (Exhibit C, p. 488). While the jail had medical personnel on-call 24 hours a day, 7 days a week, there were no medical personnel on site at that time. (Exhibit C, p. 106, 440). Neither were any medical personnel scheduled to work at the detention center during the weekend. (Exhibit C, p. 440).

Over the next sixty hours, surveillance footage from the observation cell shows Mr. Woods soiling himself, lying in his own feces, shaking, trembling, and repeatedly falling. (Pl. Ex. 5(a)(1)-(21)). During this time, Defendants PFC Andrew Bland; Sgt Richard T. Burkholder; PFC Leemon E. Carner; Sgt Priscilla Bland (Garrett); and PFC Jerry Speissegger, Jr. (hereinafter collectively “the County Defendants”) each had multiple interactions with Mr. Woods. (Exhibit C, pp. 485, 502, 531, 543, 547, 621, 632, 650, 728, 731; Pl. Ex. 5(a)(1), (4), (5), (14), (18), (19)). None of them called for medical personnel or recommended that medical personnel be called. (Exhibit C, pp. 494, 502, 532, 553, 626, 659).

At approximately 10:00 a.m. on Monday, November 8, Mr. Woods was found lying naked on the floor of his cell. (Exhibit C, pp. 1420-1422). EMS was called, and he was taken to Trident Medical Center. (Exhibit C, pp. 1420-1422). There, his hemoglobin was measured at 4, and his prognosis was felt to be “bleak.” (Exhibit C, pp. 1257-1258). On November 11, Mr. Woods died of gastrointestinal bleeding from duodenal ulcer. (Exhibit C, pp. 1162, 1257).

#### PROCEDURAL POSTURE

Mr. Woods’s sister, Nancy Morris, was duly appointed personal representative of his estate, and brought suit against the detention center correctional officers and medical personnel pursuant to 42 U.S.C. § 1983 and the South Carolina Tort Claims Act. (Exhibit C, p. 36). The case was removed to the South Carolina District Court, Charleston Division. (Exhibit C, p. 11). The medical defendants entered into a settlement agreement, and the SCTCA claims were

dismissed. (Exhibit C, p. 184). The District Court granted summary judgment to certain county defendants. (Exhibit C, p. 201).

Trial proceeded against the remaining five defendants—Andrew Bland; Richard Burkholder; Leemon Carner; Priscilla Bland (Garrett); and Jerry Speisseger, Jr.—solely on the 42 U.S.C. § 1983 claims, on October 14, 2014. On October 17, 2014, the jury returned a verdict of \$500,000 in actual damages, and punitive damages of \$150,000 against Andrew Bland; \$1,000,000 against Richard Burkholder; \$150,000 against Leemon Carner; \$1,000,000 against Priscilla Bland (Garrett); and \$150,000 against Jerry Speisseger, Jr. (Exhibit C, p. 1127).

The District Court later granted Defendants an offset, reducing the amount of the actual damages award to \$171,875. (Exhibit C, p. 1128). Plaintiff was granted attorneys' fees in the amount of \$354,923 and costs totaling \$31,820.62. Defendants appealed to the Fourth Circuit, which upheld the District Court on November 16, 2016. Independent of a court order, both sides stipulated that Plaintiff's attorneys' fees for the appeal totaled \$25,768.75.

At the time of the Mr. Woods's death, and of the events complained of in the underlying action, all five County Defendants were employees of Berkeley County. This point was conceded at trial, as was the fact that they were acting under color of state law. (Exhibit C, p. 1103). During this time period, Berkeley County maintained General Tort Liability Insurance through a policy issued by the South Carolina Budget and Control Board (B&CB) and Insurance Reserve Fund (IRF), Policy Number T130080011. (Exhibit A). This policy extended coverage to "any employee of the entity designated in the declarations as named insured... but only while the employee is acting in the scope of his or her official duties." (Exhibit A). Defendants are thus afforded liability coverage under the terms of the policy.

The liability limits of this policy were, at the time of the underlying events, \$600,000.00 per occurrence. The policy additionally provided coverage for “All expenses incurred by the Fund, all costs taxed against the insured in any suit defended by the Fund, and all interest on the entire amount of any judgement [sic] therein.” Pursuant to their interpretation of this policy, Defendant IRF tendered \$992,013.63 in partial satisfaction of the judgment entered. This partial satisfaction was intended to cover Plaintiff’s attorneys’ fees, costs, and post-judgment interest in the amount of \$5,900.00 in full, for a total of \$392,013.63. (Exhibit D). The partial satisfaction also included the purported \$600,000.00 liability policy limit. Defendant IRF separately tendered an additional \$25,768.75 in satisfaction of attorneys’ fees associated with the appeal. Plaintiff filed this Declaratory Judgment action to resolve the parties’ dispute regarding the amount of available coverage under the policy.

#### STANDARD

Under Rule 56(c), SCRCP, summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party. Zurich Am. Ins. Co. v. Tolbert, 387 S.C. 280, 283, 692 S.E.2d 523, 524 (2010); Medical Univ. of South Carolina v. Arnaud, 360 S.C. 615, 602 S.E.2d 747 (2004). However, when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. Hedgepath v. American Tel. & Tel. Co., 348 S.C. 340, 559 S.E.2d 327 (Ct.App.2001), cert. dismissed as improvidently granted, 356 S.C. 256588 S.E.2d 598 (2003). The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder. Dawkins v. Fields, 354 S.C. 58, 580 S.E.2d 433 (2003).

ARGUMENT

- I. DEFENDANTS SOUTH CAROLINA BUDGET AND CONTROL BOARD AND INSURANCE RESERVE FUND ARE REQUIRED TO PROVIDE EXCESS COVERAGE.

This Court should find that Defendants SCB&CB and IRF are required to provide excess coverage for verdicts under 42 U.S.C. § 1983, including the verdicts in the underlying action.

Applicability

South Carolina Code Section 1-11-460 is titled “Payment of judgments against governmental employees and officials in excess of one million dollars; limitations; recovery of amount paid by assessment against entities purchasing tort liability insurance.” The statute provides that:

The State Fiscal Accountability Authority, through the Division of Insurance Services, is authorized to pay judgments against individual governmental employees and officials, in excess of one million dollars, subject to a maximum of four million dollars in excess of one million dollars for one employee and a maximum of twenty million dollars in excess of five million dollars in one fiscal year. These payments are limited to judgments rendered under 42 U.S.C. Section 1983 against governmental employees or officials who are covered by a tort liability policy issued by the Insurance Reserve Fund. These payments are also limited to judgments against governmental employees and officials for acts committed within the scope of employment. If a judgment is paid, the payment must be recovered by assessments against all governmental entities purchasing tort liability insurance from the Insurance Reserve Fund.

S.C. Code Ann. § 1-11-460 (1992).<sup>1</sup>

This language controls the situation at hand. As stated above, all five County Defendants were governmental employees at the time of and leading up to Mr. Woods’s death. All five were acting under color of state law. The defense conceded both of these facts at trial. All five were

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<sup>1</sup> In July of 2015, the board members that comprised Defendant South Carolina Budget and Control Board formed a new board, called the State Fiscal Accountability Authority. Defendant Insurance Reserve Fund now reports to the SFAA.

employees of Berkeley County. During that time period, Berkeley County was insured through a General Tort Liability policy issued by Defendants SCB&CB and IRF, policy number T130080011. This policy provides coverage for “any employee of the entity designated in the declarations as named insured... but only while the employee is acting in the scope of his or her official duties.”

Additionally, the verdicts were entered against the County Defendants in their individual capacities pursuant to 42 U.S.C. 1983. Below is a breakdown of the various judgments:

1. Actual damages award of \$500,000.00, later reduced by the judge to \$171,875.00 to reflect the offset from the settling medical defendants;
2. Punitive damages of \$150,000.00 against Bland; \$1,000,000.00 against Burkholder; \$150,000.00 against Carner; \$1,000,000.00 against Bland (Garrett); and \$150,000.00 against Speissegger, Jr.
3. Attorneys’ fees in the amount of \$354,293.00.
4. Costs in the amount of \$31,280.62.
5. Post-judgment interest at the rate of 0.10%.

The aggregate judgment amounts to \$2,976,168.00, independent of the interest.

#### Purpose

Finding coverage under § 1-11-460 promotes the legislative purposes for which it was adopted. First, the code section ensures that plaintiffs and their families who have suffered egregious wrongs and injuries will be compensated for the violation of their constitutional rights pursuant to 42 U.S.C. 1983. Second the code section was intended to provide insurance coverage and financial protection for governmental employees working in the course and scope of their employment who were exposed to large jury verdicts that could be rendered against them in their individual capacities.

This policy of protecting governmental employees is evident in other statutes, most notably the South Carolina Tort Claims Act (“SCTCA”), S.C. Code Ann. § 15-78-10 (2005 & Supp. 2014), et seq. The SCTCA prohibits governmental employees from being sued in their individual capacity. (“In the event that the employee is individually named, the agency or political subdivision for which the employee was acting must be substituted as the party defendant.” S.C. Code Ann. § 15-78-70(c)). The Act also places a cap on the damages that may be recovered against such governmental entities. The intent and application is to protect government employees from being held personally liable for massive verdicts.

Because § 1983 requires suit to be filed against defendants in their individual capacity, however, a gap was left in this protection. The legislature filled this gap by passing § 1-11-460, which extends coverage to verdicts rendered against government employees acting color of state law pursuant to 42 U.S.C. § 1983. Thus, the purpose of this section is to protect both injured plaintiffs and governmental employees.

This legislative purpose of protecting governmental employees is further supported by the Policyholder’s Manual the Defendants SCBCB and IRF provided to their insureds. (Exhibit B). The manual specifically mentions that primary tort liability coverage is available in one of two amounts: \$600,000.00 or \$1,000,000.000 per occurrence. It then goes on, under a section labeled “Excess,” to state that “The Fund is authorized to pay judgements [sic] rendered pursuant to 42 U.S.C. Section 1983 (civil rights) against individual government employees and officials subject to a maximum of four million dollars in excess of one million dollars...” (Exhibit B, p. 9). The language of this provision effectively mirrors that of § 1-11-460.

The verdicts rendered in the underlying case perfectly reflect the language of the statute. This Court should find that § 1-11-460 applies and that Defendants SCB&CB and IRF are

responsible for paying the excess coverage. Defendants are liable for \$600,000.00 pursuant to the primary liability limit provided for in the policy. A gap exists for the next \$400,000.00 before Defendants' responsibility to cover the verdicts "in excess of \$1,000,000.00" is triggered. Defendants' total liability is thus \$2,576,168.00—the \$600,000.00 in satisfaction of the liability limit, and then the remaining amount of the verdicts to the extent they exceed \$1,000,000.00.

## II. THE COUNTY DEFENDANTS' ACTIONS CONSTITUTED MULTIPLE OCCURRENCES UNDER THE TERMS OF THE POLICY.

Defendants SCB&CB and IRF claim that coverage is capped at the \$600,000 per-occurrence limit provided for in the policy. However, the wrongdoing of the County Defendants stretched over multiple days, persons, and interactions, and therefore constitutes multiple occurrences.

Section V of the policy, "Limit of Liability," provides that "The total liability of the Fund for all damages as the result of any occurrence... because of personal injury sustained by one or more persons... shall not exceed the limit of liability stated in the declarations as applicable to each occurrence." (Exhibit A). This limit of liability is \$600,000.00 "per occurrence." (Exhibit A). "Occurrence" is defined under Section III of the policy as "an accident, including continuous or repeated exposure to conditions, which results in personal injury or property damage neither expected nor intended from the standpoint of the insured." (Exhibit A). Section V adds that "For the purpose of determining the limit of the Fund's liability, all personal injury and property damage arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one occurrence." (Exhibit A).

The South Carolina Supreme Court has also examined the meaning of "occurrence," though within the context of the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, et seq. The most prominent of these decisions was Boiter v. S.C. DOT, 393 S.C. 123, 712 S.E.2d

401 (2011). In that case, the plaintiffs were injured in a motorcycle accident, and alleged negligence on behalf of the SC Department of Transportation and Department of Public Safety for failing to implement an appropriate lighting policy and for failing to promptly replace a light that had burnt out, respectively. Id. at 126. The circuit court found that, because the Boiters only suffered one injury, there was only one occurrence. Id. at 133.

The Supreme Court explicitly overruled this approach. Id. at 134. While declining to adopt a bright-line test, the Court examined whether the actions of the two defendants “combined to form a single act of negligence” or whether they were “separate and independent.” Id. In arriving at its determination, the Court took note of the fact that the case involved “two separate and distinct acts of negligence involving two separate and distinct entities with separate verdicts against each of them.” Id. There was no causal connection between the negligent acts of the two defendants, and “had the jury not found SCDOT negligent, the verdict against SCDPS could still stand, and the converse is also true.” Id. Ultimately, the Court found that “each [defendant’s] act of negligence was a separate occurrence entitling the Boiters to a combined verdict of 1.2 million dollars.” Id. at 134-35.

In Boiter, the Court cited to two other decisions which found multiple occurrences. In Williamson v. South Carolina Insurance Reserve Fund, 355 S.C. 420, 586 S.E.2d 115 (2003), two different physicians within the same hospital allegedly failed to take the necessary steps to prevent a child from being born with birth defects. The circuit court found that the plaintiff had established two separate occurrences. Id. at 422. On appeal, the Supreme Court declined to address that particular issue.

The Boiter Court also cited to a Tennessee case which reached a similar decision. In Brooks v. Memphis & Shelby County Hospital Authority, 717 S.W.2d 292 (Tenn. Ct. App. 1986), a

hospital patient was injured by one hospital employee who allowed him to fall off a stretcher, then by another who gave him an overdose of medication. Id. at 293-94. The court found that because “there were two separate and distinct acts of negligence by two different individuals that occurred on two different dates, albeit that the two negligent actors were employed by the same defendant hospital, and the acts of negligence were perpetrated on a single person rather than on two persons,” the acts constituted two separate occurrences. Id. at 297.

The current case is very similar to the factual situation in Boiter. The conduct of the County Defendants did not “combine to form a single act of negligence.” Rather, their actions were separate and distinct in terms of actors, causal connection, timing, and verdicts. That is, even if no verdict had been returned against Andrew Bland, for instance, the jury could have still return verdicts again Richard Burkholder, Leemon Carner, Priscilla Bland (Garrett), or Jerry Speisseger, Jr.

Actors: As a preliminary matter, it is important to note that, due to the dismissal of the SCTCA causes of action, the County Defendants were sued in their individual capacity alone. While Plaintiff was required to prove that they were acting under color of state law during the events complained of, no governmental agency or entity was a defendant in the case brought before the jury.

Each of these individual County Defendants had multiple encounters with Mr. Woods during his time in the medical observation cell. Priscilla Bland (Garrett) interacted with him three times, while each of the rest saw him twice. Only one of these encounters involved more than one of the County Defendants, that of 1:00 a.m. on November 7 when Priscilla Bland (Garrett), Carner, and Speisseger, Jr. took Mr. Woods out of his cell to give him a shower. (Pl. Ex. 5(a)(12)). The remaining eight interactions all involved one County Defendant and one County Defendant only.

Bland and only Bland interacted with Mr. Woods on November 7 at 10:19 p.m. and on November 8 at 2:15 a.m. (Pl. Ex. 5(a)(18), (19)). Burkholder and only Burkholder interacted with Mr. Woods at unspecified times on November 6 and November 7. (Exhibit C, pp. 630, 654, 659). Carner and only Carner interacted with Mr. Woods on November 7 at 4:18 a.m. (Pl. Ex. 5(a)(14)). Bland (Garrett) and only Bland (Garrett) interacted with Mr. Woods on November 5 at 10:30 p.m. and during an unspecified time during the morning of November 7. (Pl. Ex. 5(a)(2), (4); JA, p. 503). Speissegger and only Speissegger interacted with Mr. Woods on November 6 at 4:28 a.m. (Pl. Ex. 5(a)(5)).

These interactions provided each and every one of the County Defendants a separate opportunity to observe Mr. Woods's serious medical need first-hand. During this time, Mr. Woods was shaking, trembling, unsteady on his feet, and clearly disoriented. (Pl. Ex. 5(a)(2), (5), (12), (14), (18), (19)). Several times while the County Defendants were on shift, Mr. Woods fell in his cell. (Pl. Ex. 5(a)(8), (16), (17)). What's more, the undisputed medical evidence at trial was that if Mr. Woods had received proper medical treatment at the time of any of these interactions, he would have survived. (Exhibit C, pp. 765-781). Thus, each County Defendant's conduct comprised a separate and independent act by a separate and independent actor, each of which caused and contributed to Mr. Woods's death. See, e.g., Gause v. Smithers, 403 S.C. 140, 742 S.E.2d 644 (plaintiff need not prove a defendant's actions was the sole proximate cause of the injury; rather, it is sufficient if the defendant's act is a cause of the harm).

Causal Connection: There was no causal connection among these interactions; each act was carried out independently of and largely without input from any of the other actors or events. Bland interacted with Mr. Woods first while he was monitoring the medical pod surveillance feed and next when he was trying to give Mr. Woods his medication. (Exhibit C, pp. 727, 731).

Burkholder saw Mr. Woods under uncertain circumstances on November 6, and on November 7 because a subordinate—not one of the County Defendants—reported to him that Mr. Woods appeared to be dehydrated and disoriented. (Exhibit C, pp. 630, 654, 659, 1171). Carner was bringing Mr. Woods breakfast on the morning of the 7<sup>th</sup>. (Exhibit C, p. 550). Bland (Garrett) was called to Mr. Woods’s cell by central control on the night of the 5<sup>th</sup>, and then independently decided to check on him on the morning of November 7. (Exhibit C, pp. 485, 503). Speissegger was administering Mr. Woods his medication. (Exhibit C, p. 531).

None of these actions depend on any other nor do they proximately flow from a single cause of negligence. They are causally separate and distinct.

Timing: The first of the interactions listed above occurred at 10:32 p.m. on Friday, November 5. (Pl. Ex. 5(a)(1)). The last was on Monday, November 8 at 2:15 a.m. (Pl. Ex. 5(a)(19)). The individual actions thus occurred over a span of almost 52 hours, typically with long stretches of time between them. In fact, none of the reported encounters with Mr. Woods with reliable timestamps occurred within three hours of each other. Each County Defendant interacted with Mr. Woods on at least two different days. The timing of their tortious conduct is therefore also separate and independent.

Verdicts: The actions and omissions of the County Defendants were separate and distinct enough to allow the jury to award separate punitive damages verdicts against each of them, \$1,000,000 apiece against Burkholder and Bland (Garrett), and \$150,000 apiece against Bland, Carner, and Speissegger. (Exhibit C, p. 1127). As in Boiter, these awards were wholly independent of each other; the jury could easily have found Speissegger liable and not Burkholder, or Bland and not Carner. The differing verdicts reflect separate occurrences.

The factual background here is thus even more favorable than that in Boiter. Rather than “two separate and distinct acts of negligence,” the County Defendants had eleven separate interactions, including eight individual interactions, with Mr. Woods. Rather than two separate and distinct entities, we have five separate and distinct individuals all named in their individual capacity rather than merely under the umbrella of Berkeley County or of the Sheriff’s Department. None of the County Defendants’ tortious conduct was causally dependent upon or related to that of another. Following trial, the jury issued separate verdicts against each of the County Defendants.

Plaintiff anticipates that Defendants will point out that Boiter construes the meaning of “occurrence” within the context of the South Carolina Tort Claims Act, while the issue before the Court in the present case involves the interpretation of a contract provision. While this is true, the contract provides little meaningful guidance in clarifying the term, which it defines as “an accident, including continuous or repeated exposure to conditions, which results in personal injury or property damage neither expected nor intended from the standpoint of the insured.” As with any insurance policy, the terms of the contract “must be construed most liberally in favor of the insured and where the words of the policy are ambiguous, or where they are capable of two reasonable interpretations that construction will be adopted which is most favorable to the insured.” Kingman v. Nationwide Mut. Ins. Co., 243 S.C. 405, 411, 134 S.E.2d 217, 220 (1964).

Mr. Woods’s death was not the result of “an accident.” If one of the County Defendants had spilled coffee on him, or if he had slipped and fallen on the way to the shower, that would be “an accident.” The term itself is clearly and unequivocally given in the singular. Eleven different interactions with five different County Defendants over the course of 52 hours is a far cry from one single accident. Likewise, Mr. Woods did not suffer from “repeated exposure to conditions,”

such as asbestos or hazardous work conditions. Rather, he was left to slowly bleed to death while time after time, hour after hour, five separate individuals saw him, spoke to him, observed his suffering, and did nothing. That is not exposure to conditions. That is wanton deliberate indifference, as found by the jury separately against each of the County Defendants.

Under the facts and circumstances of this case, the conduct of each individual County Defendant constituted a separate and distinct occurrence. This is the reasonable interpretation regardless of whether one looks to the language of the policy, which must be construed liberally in favor of the insured, or that of the South Carolina Tort Claims Act, as clarified by Boiter. The jury rendered five separate verdicts against five separate defendants who had eight separate encounters with Mr. Woods. Their tortious conduct was separate and distinct, and each represented a separate occurrence. Each stands on its own footing.

Each County Defendant is thus individually entitled to \$600,000.00 in liability coverage. Each side agrees that the attorneys' fees and costs have been satisfied, leaving each Defendant's aggregate liability as the total of their punitive damages and an equal share of the actual damages. This results in individual liability of:

Bland:	\$184,375.00
Burkholder:	\$1,034,375.00
Carner:	\$184,375.00
Bland (Garrett):	\$1,034,375.00
Speissegger:	\$184,375.00

With \$600,000.00 in coverage as to each Defendant and their individual occurrences, Defendant IRF would be liable for the entire amount of the verdicts against Bland, Carner, and Speissegger, and \$600,000.00 of the verdicts against Burkholder and Bland (Garrett), with their remaining liability totaling \$1,753,125.00

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that her motion for summary judgment be GRANTED.

Respectfully submitted,



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November 2, 2017

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS )  
FIFTH JUDICIAL CIRCUIT )

Nancy Morris, as personal representative )  
of the Estate of David Allan Woods, )  
 )  
Plaintiff(s) )

CASE NO: 2015-CP-40-619 )

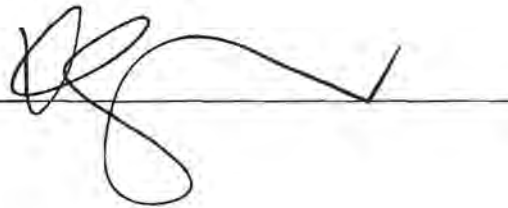
CERTIFICATE OF SERVICE )

vs. )

South Carolina State Budget and Control )  
Board; South Carolina Insurance Reserve )  
Fund; Andrew J. Bland; Richard T. )  
Burkholder; Leemon E. Carner; Priscilla )  
Bland; Jerry Speissegger, Jr., )  
 )  
Defendant(s). )

The undersigned hereby certifies that a true and correct copy of the Plaintiff's Motion for Summary Judgment has been served upon opposing counsel by depositing same in the United States Mail with sufficient postage affixed thereto this 3 day of November, 2017, using the following addresses:

Andrew Lindemann, Esq.  
Davidson and Lindemann  
P.O. Box 8568  
Columbia, SC 29202



DLSCN 11/07/17

# EXHIBIT A

Duplicate - See Record on Appeal - Vol. 1 at pp. 92-99

# EXHIBIT B

## PART 1

Duplicate - See Record on Appeal Vol. 1 pp. 103-143

# EXHIBIT B

## PART 2

Paradigm Management

- Inbox 0
- Sent Items 0
- Deleted Items 0

- 
- 
- Paradigm Management
- 



- 

Compose

- Inbox 0
- Sent Items 0
- Deleted Items 0
- 

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- Morrison-M-Karunaker-10-31-17.pdf (2.3 MB) Download
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Hello to all~~

On October 31, 2017, I met with Mr. Morrison at the office of Dr. Madhav Karunaker, trauma orthopedic surgeon. The purpose of appointment was to address need for further physical therapy and discuss current prosthesis and ankle brace.

Mr. Morrison presented wearing left above the knee Genium microprocessor prosthesis and Exo Sym right ankle brace. He reported wearing prosthetic 8-12 hours a day and was very pleased with new double wall socket system. He had a private examination with Dr. Karunaker and then I was called back to the examination room for a meeting to discuss the medical treatment plan. Mr. Morrison has no skin breakdown on residual limb. He has some excess skin and significant loss of muscle mass on residual limb but was able to flex, extend , abduct easily.

Mr. Karunaker wrote orders for physical therapy for CORE strengthening. Paradigm's Network Manager and Mr. Morrison informed Dr. Karunaker of Mary Drazie, physical therapist plan to target building his CORE for one month and have him work on strengthening in physical therapy, now that socket was fitting well. He would then be progressed to continue at the local gym and physical therapy would be discontinued. Dr. Karunaker agreed with plan of treatment proposed by physical therapy. Dr. Karunaker agreed for a meeting at Hanger to address needed adjustments for Exo Sym ankle brace.

Mr. Morrison had cracking dry skin on the plantar aspect of his right foot. He had tried several over the counter lotions recommended by his primary care physician with no improvement of skin. Dr. Karunaker requested a dermatology consult.

Mr. Morrison brought in six pairs of his long pants and showed Dr. Karunaker and Paradigm's Network Manager several holes in left leg on back of pants due to prosthetic use. A plan was made for Mr. Morrison to address with Mr. Tripp Rice, prosthetics specialist, at his next appointment on November 7, 2017 to assess what could be done to avoid catching of prosthetic on his pants.

At the request of Mr. Morrison, Dr. Karunaker wrote an order for pants alteration for his left prosthesis and right leg for ankle brace.

A return appointment with Dr. Karunaker would be set up after physical therapy had been completed and as needed.

Mr. Morrison has follow up appointments--

Dr Wickes, psychologist on November 2, 2017

Tripp at AOPI for assessment of new socket on November 7, 2017

Hanger follow up on ankle brace November 16, 2017

Terry Sims PCP office on November 16, 2017  
Dr Kennelly, urologist on January 24, 2018

ATTACHED are orders- report and photos of foot.  
Please let me know if you have any questions

Terre Michelle RN BSN CCM QRP

Paradigm Network Manager | Paradigm Outcomes

CELL : 909-816-7134 | FAX 925 278 7334

terre.michelle @paradigmcorp.com

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# EXHIBIT C

11/02/2012	<u>1</u>	NOTICE OF REMOVAL from Berkeley County Court of Common Pleas, case number 2012-CP-08-2751 (filing fee \$ 350, receipt number 0420-4391747), filed by John Does, H Wayne DeWitt, PFC Daaf, Patricia D Collins, Temisan Etikerentse, James M Brophy, Charles A Desanto, Andrew J Bland, Priscilla Scheetz, Kendra B Habersham, Ashley A Harber, Sue Brabham, Richard T Burkholder, Clifford L McElvogue, Leemon E Carner, Jerry Speissegger, Jr, The Hope Clinic LLC (Attachments: # <u>1</u> State Court Documents, # <u>2</u> Certificate of Service).(mcot, ) (Entered: 11/05/2012)
11/02/2012	<u>3</u>	Local Rule 26.01 Answers to Interrogatories with jury demand by Sue Brabham, Temisan Etikerentse, The Hope Clinic LLC.(mcot, ) (Entered: 11/05/2012)
11/02/2012	<u>4</u>	Local Rule 26.01 Answers to Interrogatories with jury demand by Andrew J Bland, James M Brophy, Richard T Burkholder, Leemon E Carner, Patricia D Collins, PFC Daaf, H Wayne DeWitt, Charles A Desanto, John Does, Kendra B Habersham, Ashley A Harber, Clifford L McElvogue, Priscilla Scheetz, Jerry Speissegger, Jr.(mcot, ) (Entered: 11/05/2012)
11/02/2012	<u>5</u>	Corporate Disclosure Statement by The Hope Clinic LLC. (mcot, ) (Entered: 11/05/2012)
11/08/2012	<u>6</u>	ANSWER to Complaint by Sue Brabham, Temisan Etikerentse, Hope Clinic LLC, The.(Canipe, Jeremy) (Entered: 11/08/2012)
11/09/2012	<u>7</u>	ANSWER to Complaint by James M Brophy, Leemon E Carner, H Wayne DeWitt, Charles A Desanto, Kendra B Habersham, Clifford L McElvogue, Priscilla Scheetz, Jerry Speissegger, Jr.(Senn, Sandra) (Entered: 11/09/2012)
11/13/2012	<u>9</u>	Local Rule 26.01 Answers to Interrogatories with jury demand by Nancy Morris.(Staley, Harold) Modified on 11/14/2012 to edit text and to correct filing date(mcot, ). (Entered: 11/14/2012)
11/14/2012	<u>10</u>	DELETION OF DOCKET ENTRY NUMBER 8 Reason: attorney refiled. Corrected Filing Document Number <u>9</u> ; Modified filing date to that of original filing: 11/13/2012. (mcot, ) (Entered: 11/14/2012)
11/16/2012	<u>11</u>	<b>CONFERENCE AND SCHEDULING ORDER: Rule 26(f) Conference Deadline 12/7/2012, 26(a) Initial Disclosures due by 12/21/2012, Rule 26 Report due by 12/21/2012, Motions to Amend Pleadings due by 2/14/2013, Plaintiffs ID of Expert Witness due by 3/18/2013, Defendants ID of Expert Witnesses Due by 4/15/2013, Records Custodian Affidavit due by 4/22/2013, Discovery due by 5/15/2013, Motion in Limine due by 5/22/2013, Motions due by 5/29/2013, Rule 26(a)(3) Disclosures due by 8/2/2013, Jury Selection Deadline 9/3/2013. Parties shall file and serve pretrial briefs five (5) business days prior to the date set for jury selection. Signed by Magistrate Judge Kaymani D West on 11/16/2012. (mcot, ) Modified on 11/19/2012 to edit text (mcot, ). (Entered: 11/16/2012)</b>
12/03/2012	<u>14</u>	TRUE DIVISION FOR TRIAL: Charleston. (mcot, ) (Entered: 12/03/2012)
12/06/2012	<u>15</u>	Rule 26(f) Report by Nancy Morris, Jerry Speissegger, Jr., Priscilla Scheetz, Clifford L McElvogue, Hope Clinic LLC, The, Ashley A Harber, Kendra B Habersham, Temisan Etikerentse, John Does, Charles A Desanto, H Wayne DeWitt, PFC Daaf, Patricia D

DLS:CN 11/07/15

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

NANCY MORRIS, as personal representative )  
of the estate of DAVID ALLAN WOODS, )

C.A. No.: 5:12-cv-3177

Plaintiff, )

vs. )

SECOND AMENDED COMPLAINT  
(JURY TRIAL DEMANDED)

HOPE CLINIC, LLC, officially and )  
individually; TEMISAN ETIKERENTSE, M.D., )  
officially and individually; SUE BRABHAM, )  
R.N., officially and individually; Berkeley County )  
Sheriff H. WAYNE DEWITT, officially and )  
individually; ANDREW J. BLAND, PFC, )  
officially and individually; RICHARD T. )  
BURKHOLDER, SGT, officially and individually; )  
JAMES M. BROPHY, PFC, officially and )  
individually; LEMON E. CARNER, PFC, )  
officially and individually; PATRICIA D. )  
COLLINS, SGT, officially and individually, )  
CHARLES A. DESANTO, CPL, officially and )  
individually, KENDRA MOORE, Staff )  
SGT, officially and individually, ASHLEY A. )  
HARBER, PFC, officially and individually, )  
PRISCILLA GARRETT, SGT, officially and )  
individually; JERRY SPEISSEGER, JR, PFC, )  
officially and individually; PFC KANSAS DAAB, )  
officially and individually; JOHN DOE(S), )  
officially and individually; CLIFFORD L. )  
McELVOGUE, Director, officially and )  
individually, )

Defendants. )

The Plaintiff respectfully asserts the following allegations against the Defendants:

1. This is an action for monetary damages pursuant to 42 U.S.C.A. §1983, et seq., and the



02/28/2011 03:54 8437134552

HFDC CLINIC

PAGE 28/28

# HILL-FINKLEA DETENTION CENTER SICK CALL REQUEST

1000 10:28 AM

Print Name: DAVID A WOODS Inmate #: 101012058

Location: C-2 Date of Birth: \_\_\_\_\_ Date of Request: 10-17-10

Nature of Problem or Request: now only speak to doctor  
it relates to my liver. also my medication  
I am requesting to be transferred to a  
psychiatric unit of the hospital (TRU-POINT)

I understand that I will be charged a five-dollar co-payment for all non-emergency medical care initiated by me.

David A Woods  
Inmate Signature

10-17-10  
Date

**DO NOT WRITE BELOW THIS LINE!**

Date: 10/18/10

Time: 1300 am/pm

Allergies: \_\_\_\_\_

Inmate Sex: \_\_\_\_\_ Age: \_\_\_\_\_ Weight: \_\_\_\_\_ Height: \_\_\_\_\_ SSN: \_\_\_\_\_

I have faxed a referral to mental health to come see you. You are currently receiving your Atendol and Prozac. The Ambien for sleep, Zovran "as needed" for nausea & Succinyl are not medications that are given in jail.  
S. Sablita

Referral: MD/PA Mental Health Dental Daily Treatment Return to Clinic RN

Check One: ROUTINE ( ) EMERGENCY ( )

Follow up & Date: \_\_\_\_\_

Doctor: \_\_\_\_\_



DISCN 11/07/11

# EXHIBIT I

## SICK CALL REQUEST DATED 10-22-10

82/28/2011 03:54 8:37194552

MFDC CLINIC

PAGE 09/20

10 OCT 11 11:25 AM

# HILL-FINKLEA DETENTION CENTER SICK CALL REQUEST

Print Name: Wood, David A Inmate #: 1A101268

Location: C2 Date of Birth: \_\_\_\_\_ Date of Request: 10-22-10

Nature of Problem or Request: please let me go to the hospital (inpatient). I believe my prostate is bad. my intestines are in so much pain but is so bad just like before. I am really sick

I understand that I will be charged a five-dollar co-payment for all non-emergency medical care initiated by me.

David A. Wood  
Inmate Signature

10-22-10  
Date

## DO NOT WRITE BELOW THIS LINE!

Date: 10/25/10 Time: 1515 am/pm

Allergies: B/p 126/72 P-68 R-20 T-9.7.8

Inmate Sex: \_\_\_\_\_ Age: \_\_\_\_\_ Weight: \_\_\_\_\_ Height: \_\_\_\_\_ SSN: 1 1

It's seen in sick call by RD - mental health referral made to doctor RD pain @ this time but instructed to notify CO. as nurse of any ds / 8300000

Referral: MD/PA Mental Health Dental Daily Treatment Return to Clinic RN

Check One: ROUTINE ( ) EMERGENCY ( )

Follow up & Date: \_\_\_\_\_

Doctor: \_\_\_\_\_



# EXHIBIT J

## SICK CALL REQUEST DATED 11-4-10

22/28/2011 03:54 3437194552

HFCO CLINIC

PAGE 16/28

11:50  
11-4-10

### HILL-FINKLEA DETENTION CENTER SICK CALL REQUEST

Print Name: WOODS DAVID Inmate #: 101002208

Location: B-12 Date of Birth: \_\_\_\_\_ Date of Request: 11-4-10

Nature of Problem or Request: IS IT POSSIBLE TO GET  
A LAXATIVE & PART OF MY PROBLEM  
IS THAT I HAVE A STOPPAGE IN MY  
INTERESTS?

I understand that I will be charged a five-dollar co-payment for all non-emergency medical care initiated by me.

David Woods  
Inmate Signature

11-4-10  
Date

**DO NOT WRITE BELOW THIS LINE!**

Date: 11/4/10 Time: 1300 am/pm

Allergies: \_\_\_\_\_

Inmate Sex: \_\_\_\_\_ Age: \_\_\_\_\_ Weight: \_\_\_\_\_ Height: \_\_\_\_\_ SSN: 1 1

Increase your water and increase  
your activity to increase bowel function  
7/11 in 2 days, by stool no relief & flu (Bible)  
& no further treatment.

Referral: MD/PA Mental Health Dental Daily Treatment Return to Clinic RN

Check One: ROUTINE ( ) EMERGENCY ( )

Follow up & Date: \_\_\_\_\_

Doctor: \_\_\_\_\_

11/6/10 - 7/11 - I/m reports @ Rowel

DISCN 11/07/17

# EXHIBIT K

## INMATE REQUEST DATED 11-4-10

02/28/2011 03:54 8437194552

HFDC CLINIC

PAGE 17/28

11:50  
11:10

### HILL-FINKLEA DETENTION CENTER INMATE REQUEST FORM

NAME (Last, First): WOODS DAVID #: 10101208

HOUSING UNIT: B ROOM #: 072 DATE: 11-4-10

- 1.  DISCIPLINARY HEARING REVIEW
- 2.  CLASSIFICATION INFORMATION
- 3.  INDIGENT STATUS
- 4.  INMATE WORKER / DETAIL PROGRAM
- 5.  RECORDS
- 6.  PUBLIC DEFENDER / BOND MODIFICATION
- 7.  TELEPHONE ACCOUNT
- 8.  PROPERTY CLERK
- OTHER: \_\_\_\_\_

INMATE REQUEST: Kitchen

Dear Sir I need to be put  
on a low protein diet I have  
I have liver disease and hepatitis  
C. I am in so much pain and  
this food wont digest

Thank you  
 STAFF OFFICER'S NAME DATE RECEIVED

David A Woods  
 STAFF OFFICER'S RESPONSE: \_\_\_\_\_

copy to dietary dept 11/4/10

DISCN 11/07/17

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Nancy Morris as Personal Representative of )  
the Estate of David Allan Woods, )

C.A. No.: 5:12-cv-3177-RMG-KDW

Plaintiff, )

Versus )

**AMENDED PETITION FOR  
SETTLEMENT APPROVAL AS TO  
DEFENDANT HOPE CLINIC, LLC AND  
DISMISSAL OF TEMISAN  
ETIKERENTSE, M.D., AND SUE  
BRABHAM, R.N.**

Hope Clinic LLC, officially and individually; )  
Temisan Etikerentse, M.D., officially and )  
individually; Sue Brabham, R.N., officially and )  
individually; Berkeley County Sheriff H. )  
Wayne Dewitt, officially and individually; )  
Andrew J. Bland, PFC, officially and )  
individually; Richard T. Burkholder, SGT, )  
officially and individually; James M. Brophy, )  
PFC, officially and individually; Leemon E. )  
Carter, PFC, officially and individually; )  
Patricia D. Collins, SGT, officially and )  
individually, Charles A. Desanto, CPL, )  
officially and individually, Kendra B. )  
Habersham, Staff SGT, officially and )  
individually, Ashley A. Harber, PFC, officially )  
and individually, Priscilla Scheetz, SGT, )  
officially and individually; Jerry Speissegger, )  
Jr., PFC, officially and individually; PFC )  
DAAF, officially and individually; John )  
Doe(s), officially and individually; Clifford L. )  
McElvogue, Director, officially and )  
individually, )

Defendants. )

The Petition of Nancy Morris, as Personal Representative of the Estate of David Allan Woods, respectfully shows:

1. That the Petitioner, Nancy Morris, is the Personal Representative of the Estate of David Allan Woods, and the Petitioner is a resident of York County, State of South Carolina and was appointed Personal Representative of the Estate by the Probate Court of Berkeley County on February 8, 2011.

DLSN 11/07/17

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Nancy Morris, *as Personal Representative of* )  
*the Estate of David Allan Woods,* )

Plaintiff. )

v. )

H. Wayne Dewitt, *Berkeley County Sheriff,* )  
*officially and individually; Andrew J. Bland,* )  
*PFC, officially and individually; Richard T.* )  
*Burkholder, SGT, officially and individually;* )  
*James M. Brophy, PFC, officially and* )  
*individually; Leemon E. Carner, PFC,* )  
*officially and individually; Charles A. Desanto,* )  
*CPL, officially and individually; Ashley A.* )  
*Harber, PFC, officially and individually; Jerry* )  
*Speissegger, Jr., PFC, officially and* )  
*individually; PFC Kansas Duab, officially and* )  
*individually; Clifford L. McElvogue, Director,* )  
*officially and individually; Kendra Moore,* )  
*Staff SGT, officially and individually; Priscilla* )  
*Garret, SGT, officially and individually; John* )  
*Doe(s), officially and individually; Berkeley* )  
*County; Berkeley County Sheriff's* )  
*Department.* )

Defendants. )

C.A. No.: 5:12-cv-3177-RMG

**ORDER**

The matter is before the Court on Defendants' motions for summary judgment. (Dkt. Nos. 149, 150). For the reasons stated below, the motions are granted in part and denied in part.

**I. FACTS<sup>1</sup>**

David Woods was incarcerated at Hill-Finklea Detention Center ("Hill-Finklea") on October 12, 2010, for failure to appear on two charges: shoplifting and animal nuisance. (Dkt. No. 149-2). He was to serve 60 days in jail, 30 days for each offense. (*id.*; Dkt. No. 149-26 at

<sup>1</sup> For the purposes of these motions, the facts are viewed in the light most favorable to Plaintiff.

DLSCN 11/07/17

TONY RILEY - DIRECT EXAMINATION

1 A. Okay. The nurse and the nurse assistant worked like  
2 Monday through Friday 9:00 to 5:00 or 8:00 to 5:00 or  
3 somewhere in that neighborhood. The doctor was around four to  
4 six hours a week, just doing physicals and stuff around the  
5 detention facility.

6 Q. Okay. And so then is it kind of similar to the upper  
7 management staff we talked about, which I consider you, but  
8 the upper management staff, they would kind of have a day job  
9 during the week, they would be off at night, but would they be  
10 on call?

11 A. Yes, sir.

12 Q. Okay. And likewise, into the weekend, day and night, they  
13 wouldn't be there, but they would be on call again?

14 A. Yes, sir.

15 Q. Thank you. So if an issue arose that required medical  
16 consideration or medical attention, what is the mechanics of  
17 who makes that call of whether the nurse or doctor needs to be  
18 notified?

19 A. Usually the shift sergeant would be the one making that  
20 phone call to the medical staff.

21 Q. Okay. And that would be true if -- even as simple as  
22 whether you're going to call somebody that's on call, that  
23 would go through the shift sergeant? Is that correct?

24 A. Yes, sir.

25 Q. Okay. And so on -- again, the jury's going to be hearing

TONY RILEY - DIRECT EXAMINATION

1 Exhibit 3B, ask if you'd take a look at that and tell me if  
2 you could identify that, please, sir.

3 A. This is inmate David Woods' check-in/check-out sheet.

4 Q. And could you tell the jury when he booked into  
5 Hill-Finklea?

6 A. Twelve -- at 4:15 in the afternoon.

7 Q. And it doesn't indicate on that form, it was because of  
8 your understanding a fraudulent or bad check?

9 A. A misdemeanor, yes, sir.

10 Q. Okay.

11 MR. POPE: Your Honor, these are --

12 THE COURT: Already into evidence.

13 MR. POPE: Thank you.

14 BY MR. POPE:

15 Q. I'm going to call your attention now to the weekend  
16 beginning Friday November 5th, 2010. After quitting time on  
17 Friday, going into the weekend, were you actually at  
18 Hill-Finklea that weekend?

19 A. No, sir.

20 Q. Okay. And so that weekend you would have had shifts that  
21 would have worked from kind of quitting time Friday up until  
22 the next morning, and then daytime Saturday, and then somebody  
23 else would come -- 12-hour shifts going through the weekend,  
24 is that correct?

25 A. Yes, sir.

PRISCILLA BLAND - DIRECT EXAMINATION

1 something that's concerning.

2 A. Yes, sir.

3 Q. Now, on Friday, November 5th, 2010, you were notified by  
4 the central tower that a man was on the floor, shaking, in C  
5 pod.

6 A. Yes, sir.

7 Q. You personally, when you were told that, went to check on  
8 this inmate in C1, didn't you?

9 A. Yes, sir.

10 Q. And the inmate you went to check on was David Allan Woods.

11 A. Yes, sir.

12 Q. You found Mr. Woods on the floor, shaking and trembling.

13 A. He was shaking, yes, sir.

14 Q. Isn't it true, in your deposition under oath, you  
15 testified that he was shaking and trembling?

16 A. I remember saying shaking, I don't remember --

17 THE COURT: Now do it properly. Show her the  
18 deposition, if you intend to impeach her.

19 MR. STALEY: Just one second. Beg the Court's  
20 indulgence.

21 THE COURT: Take your time.

22 BY MR. STALEY:

23 Q. And it was a question on page 41, I'll ask you, you were  
24 asked --

25 THE COURT: You want to show it to her.

PRISCILLA BLAND - DIRECT EXAMINATION

- 1 Q. And he said he didn't know.
- 2 A. Yes, sir.
- 3 Q. And you had to help Mr. Woods to his feet.
- 4 A. I believe so.
- 5 Q. You believe so, or that's true?
- 6 A. Yes, sir.
- 7 Q. You gave a voluntary statement in this case, didn't you?
- 8 A. Yes, sir.
- 9 Q. And you agree with me, in your voluntary statement you
- 10 said you helped him to his feet.
- 11 A. Yes, sir, I helped him to his feet, and he walked up front
- 12 on his own.
- 13 Q. Thank you, ma'am.
- 14 A. Um-hum.
- 15 Q. You escorted Mr. Woods to observation, which is M6.
- 16 A. Yes, sir.
- 17 Q. Sergeant Garrett, you made the call on your own to move
- 18 Mr. Woods to the observation cell?
- 19 A. Yes, sir.
- 20 Q. And at that time that you made that call to move him to
- 21 observation, you did not call the nurse, did you?
- 22 A. No, sir.
- 23 Q. All right. I'm now going to show you Friday, 11/5, at
- 24 10:32 p.m. Would you please watch this.
- 25 Can you tell the jury what we're looking at?

DLSN 11/07/11

PRISCILLA BLAND - DIRECT EXAMINATION

1 A. You're looking at him being placed in M6. There's a stool  
2 right there, I'm advising him he can have a seat there. There  
3 was another individual in the room handing him the cup off of  
4 the stool. Asked him to have a seat, while I retrieved a mat  
5 for him to lay down on.

6 Q. There's a blurred part over here, and I think that's  
7 blurring out the toilet area?

8 A. Yes, sir.

9 Q. That's natural; I didn't do that, did I?

10 A. No, sir, that's automatic with our cameras.

11 Q. Okay. So and is that the only part in this video that's  
12 blurred out just naturally when the video is being taken?

13 A. Yes, sir, I believe so.

14 Q. And this is an actual recording, what we just looked at,  
15 that was you?

16 A. Yes, sir.

17 Q. Bringing him to M6.

18 A. Yes, sir.

19 Q. And his cellmate was Freeman Ingram?

20 A. I believe so.

21 Q. All right. I want to show you now Friday, November 5th,  
22 at 10:46. This is approximately 15 minutes after he's in  
23 observation. You agree with me that it appears that Mr. Woods  
24 needs help having his uniform taken off?

25 A. It appears to me Mr. Ingram was helping him.

PRISCILLA BLAND - DIRECT EXAMINATION

1 MR. CORRIGAN: Objection, Your Honor.

2 THE COURT: It's a fair question. Overruled.

3 A. I didn't believe that they possibly were lying, but  
4 Mr. Ingram said he wasn't for sure if it was blood either. So  
5 for me, not to be able to see it, I couldn't verify if it was  
6 blood or if it wasn't.

7 Q. Yes, ma'am. Sergeant Garrett, at this time you didn't  
8 pick the phone up and call the nurse --

9 A. No, sir.

10 Q. -- and report that, did you?

11 A. No, sir.

12 Q. After observing David Woods shaking on the floor in C1,  
13 you've already observed that at this point?

14 A. Yes, sir, that's why I escorted him up front.

15 Q. You had to help him stand up.

16 A. Yes, sir.

17 MR. CORRIGAN: Objection, Your Honor, this is  
18 repetitive. She's already testified to each one of these.

19 THE COURT: Overruled.

20 BY MR. STALEY:

21 Q. And now you're told by Freeman Ingram that he has blood,  
22 he believes he saw blood in David Woods' stool.

23 A. Yes, sir.

24 Q. You didn't call the nurse?

25 A. No, sir.

PRISCILLA BLAND - DIRECT EXAMINATION

1 A. Yes, sir.

2 Q. Before I get there, let's back up and play one more.

3 Sunday 11/7 at 1:20 a.m. You'll agree this is right after the  
4 cell's been cleaned?

5 A. Yes, sir.

6 Q. So this is right after he was given a shower, 11/7 at  
7 1:20 a.m.?

8 A. Yes, sir.

9 Q. And after interacting with him at this time, you didn't  
10 call a nurse, did you?

11 A. No, sir.

12 Q. Now, jumping back to where I was a moment ago. So Sunday,  
13 Sunday morning at approximately 5:30 a.m., your shift's coming  
14 to a close, to an end.

15 A. Yes, sir.

16 Q. And you're going to pass that facility off to Sergeant  
17 Burkholder, all right? And you told Sergeant Burkholder  
18 before you left that he may want to call the nurse on David  
19 Woods, didn't you?

20 A. Yes, sir.

21 Q. And Sergeant Burkholder tells you he would call the nurse  
22 later on in his shift.

23 A. Yes, sir.

24 Q. Now, you come back on shift Sunday afternoon at 5:30 p.m.,  
25 correct?

PRISCILLA BLAND - DIRECT EXAMINATION

1 A. Correct.

2 Q. And you're told that Sergeant Burkholder did not call the  
3 nurse.

4 A. Yes, sir.

5 Q. When you got back at work at 5:30 and found out he did not  
6 call the nurse as you said he may want to, you didn't pick the  
7 phone up and call the nurse at that time.

8 A. Yes, sir.

9 Q. Now, in your statement, your voluntary statement on Sunday  
10 at 11/7, you actually went after head count and went and  
11 checked on David Woods.

12 A. Yes, sir, I stepped up there.

13 Q. And David Woods, according to your statement, he was  
14 sitting naked in his cell.

15 A. Yes, sir.

16 Q. You asked David Woods to put on his uniform so he wouldn't  
17 be cold.

18 A. Yes, sir.

19 Q. He grunted.

20 A. Yes, sir.

21 Q. You asked David Woods was he in pain or have any  
22 complaints; he grunted again.

23 A. Yes, sir.

24 Q. And after this interaction, you didn't call the nurse?

25 A. No, sir. I didn't feel him grunting at me was a medical

JERRY SPEISSEGGER, JR. - DIRECT EXAMINATION

1 is that correct?

2 A. Yeah, it could be. I might have been the one that wrote  
3 it there, or sometimes at the front desk I have the person  
4 that's right there write it himself also. And I don't  
5 remember who that was or anything.

6 Q. Do you recall giving a voluntary statement a few days  
7 after Mr. Woods died?

8 A. Yes.

9 MR. CREECH: Your Honor, may I approach the witness  
10 to refresh his memory?

11 THE COURT: Well, why don't ask you him the question  
12 first, whether he remembers, and then if his memory needs to  
13 be refreshed.

14 BY MR. CREECH:

15 Q. In your voluntary statement do you recall writing, "On  
16 Saturday morning I was giving out medication up front. When I  
17 went to M6 to give Mr. Woods his meds, he sat up, he did not  
18 take his meds. I asked him if he was going to take his meds,  
19 and he would not say anything. I then went up front and noted  
20 in medical log, refused."

21 A. Yes.

22 Q. Do you recall writing that?

23 A. Yeah, I remember writing that statement there.

24 Q. Okay. So on November 6th you filled out this medical log  
25 and noted that Mr. Woods refused his medication, correct?

JERRY SPEISSEGGER, JR. - DIRECT EXAMINATION

1 A. Yes.

2 Q. Mr. Speissegger, I'd like to play this clip for you,  
3 please, sir.

4 And is that you right there, Mr. Speissegger?

5 A. Yes, that's me.

6 Q. Mr. Speissegger, is it your testimony that Mr. Woods was  
7 refusing his medication right there?

8 A. Yes. Because he did not take his medicine.

9 Q. Nothing about Mr. Woods at that time concerned you?

10 A. I don't remember that. Only thing I know is I was trying  
11 to give him his medicine, and he would not take his medicine.

12 Q. What was the cellmate telling you?

13 A. I don't remember. I can not even remember him being in  
14 the room. I don't know why, but I just can not remember that.

15 Q. Did you call the nurse when you left, or recommend that  
16 the nurse be called?

17 A. No.

18 Q. I believe again the next night, and we've watched the  
19 video earlier on Sunday, you were part of the group that  
20 helped Mr. Woods take a shower, is that right?

21 A. I was up there when they was helping him take a shower, I  
22 was holding the bag so that they could put the laundry in and  
23 that was it.

24 Q. So you --

25 A. And stayed up there while they was cleaning.

LEEMON CARNER - DIRECT EXAMINATION

1 Q. And so over the course of that weekend as a private, you  
2 also would have spent a rotation at the front desk, is that  
3 correct?

4 A. At this specific weekend I did not. Because I was the  
5 booking officer. I was the one that was doing intakes. We do  
6 not participate in the rotation, because of the amount of  
7 intakes that we will get throughout the night.

8 Q. So is it your testimony at no time over the course of that  
9 weekend you worked the front desk?

10 A. To my recollection, negative, I did not.

11 Q. I want to call your attention to -- I believe it was  
12 Saturday night -- you were called to help David Woods shower  
13 off, is that right?

14 A. Correct. That night I was given the order to ask  
15 Mr. Woods if he would participate in a shower, again, because  
16 I guess earlier that day he refused one. So I went back there  
17 and asked him, and he complied.

18 Q. So it was your understanding that previously he had been  
19 refusing to shower.

20 A. Not at that time, no, I'm just stating what I've heard  
21 from here, I'm sorry. Yes. So at that time, no, I did not  
22 know that he had previously been offered a shower.

23 Q. We previously watched that video of Mr. Woods when he was  
24 lying in his feces, and then I believe an individual came and  
25 began to hose out the cell.

LEEMON CARNER - DIRECT EXAMINATION

1 Q. Okay. I'd like to play a clip, it's dated November 7th at  
2 1:49 a.m. I believe this is about 30 minutes after he's been  
3 placed back in the cell from the shower.

4 A. Okay.

5 Q. What's he doing right there, Officer Carner?

6 A. Seems like he's trying to attempt to put on his uniform,  
7 but I'd also like to state that at this time I'm nowhere  
8 near -- this is the first time I've seen this footage myself.  
9 At that time I had no recollection that he was trying to do  
10 this or attempt this. Like I said, the next intervention that  
11 I had with him, he was still laying on the floor naked.

12 Q. It was your testimony a moment ago, this is 30 minutes  
13 after the shower.

14 A. Correct.

15 Q. Thirty minutes prior, he was fine?

16 A. Thirty minutes prior he -- like I said, he had gotten up  
17 on his own out of the bed, he had walked over there, he had  
18 taken off his clothes perfectly fine by himself. He had  
19 washed himself off, no one attempted or helped him wash  
20 himself off. And he had gotten back in the room compliantly.  
21 And again, he said no -- nothing to me, or as y'all have said,  
22 no further testimony as to any of the officers around saying  
23 that he was hurt, injured, that he was feeling ill, that he  
24 needed help.

25 Q. This video you're watching right now, is this a man that

LEEMON CARNER - DIRECT EXAMINATION

1 the second interaction that you personally had with him, he  
2 was again fine. Is that right?

3 A. No. He was fine, in my sense that the only thing I saw  
4 was he was an old man that was cold. Like I said, it had been  
5 almost two to three hours after I returned. I don't know how  
6 long he was laying on that concrete floor naked. Because like  
7 I said, that was the only second interaction I had with him.  
8 And when I asked him to put on his uniform, he attempted to  
9 try it by himself, and he just seemed like he was too cold and  
10 too -- to do it. So I helped him out.

11 Q. At that time nothing concerned you enough to recommend  
12 that medical be called?

13 A. Again, at that time I helped him out, he was cold, he was  
14 shivering. From my perspective of what I saw this time, he --  
15 when the video plays you'll see like I thought that he was  
16 just cold and shivering, so I helped him out. And at the same  
17 time we're trying to feed at the same time, so you know, I  
18 wanted to make sure that he got fed on time, I wanted to make  
19 sure that he was not laying on the floor naked freezing. And  
20 again, he never told me, again, at that time, that he needed  
21 help or that he was in pain.

22 Q. Let's play the next clip. This clip is November 7th at  
23 4:18 a.m. That's you in the video, is that right?

24 A. Correct, sir, that's me.

25 Q. I believe you testified at this time he was completely

LEEMON CARNER - DIRECT EXAMINATION

1 A. I'm 28 and I feel 50, sir. Yeah -- I've done a lot of  
2 stuff, I mean, I'm not saying that to disrespect that 50 is  
3 old, I was taught to respect your elders, and he's cold, he  
4 needed help.

5 Q. As you sit here today, and you're watching this --

6 A. Right.

7 Q. -- if you had it to do over again, would you call --

8 MR. CORRIGAN: Objection, Your Honor.

9 THE COURT: Sustained.

10 Q. At any point in that time over that weekend, Friday,  
11 Saturday, Sunday, did you ever recommend medical be called?

12 A. Again, the only times that whole entire weekend that I  
13 ever had any contact with Mr. Woods were the two times you  
14 just saw. One where I helped clean out his room and he took a  
15 shower, and the other one whenever he -- I helped him put on  
16 his uniform so he doesn't freeze. And at no time in that time  
17 did he ever ask me for help. I didn't know anything about  
18 Mr. Woods at that time, all I knew is that he was up front in  
19 the cells.

20 Q. The man that we just watched who was so sick and so  
21 disoriented he couldn't even put on a uniform, caused you no  
22 concern?

23 MR. CORRIGAN: Objection, Your Honor, he's arguing  
24 with the witness now.

25 THE COURT: Overruled.

RICHARD BURKHOLDER - DIRECT EXAMINATION

1 THE CLERK: State your full name for the record.

2 A. Richard Tracy Burkholder.

3 RICHARD BURKHOLDER, a witness called by the plaintiff,  
4 first having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. POPE:

7 Q. Mr. Burkholder, if you would, state your name, spell your  
8 last name for the court reporter.

9 A. Richard Tracy Burkholder, B-U-R-K-H-O-L-D-E-R.

10 Q. Could you tell the jury where you're employed, Mr.  
11 Burkholder?

12 A. I work at Hunter Panels in Smithfield, Pennsylvania, it's  
13 a Carlisle manufacturing company.

14 Q. Is that where you actually live at this point, in  
15 Pennsylvania?

16 A. Yes, sir.

17 Q. Okay. Did you previously work at the Hill-Finklea  
18 detention center in Moncks Corner?

19 A. Yes, sir.

20 Q. And what dates did you work there?

21 A. From 2007 to 2011.

22 Q. I'm going to call your attention now to the weekend  
23 beginning Friday, November 5th, 2010. And were you working  
24 there at Hill-Finklea during that time period?

25 A. Yes, sir.

RICHARD BURKHOLDER - DIRECT EXAMINATION

1 weekend, unless she gets called in, is that correct?

2 A. Correct.

3 Q. And she was not called in during your shift that weekend,  
4 was she?

5 A. No, sir.

6 Q. Okay. And so if Mr. Woods had been in a position to, A,  
7 fill out a slip, he would have turned it over to you or one of  
8 your officers, and it would have gone in a box till Monday?

9 A. Yes.

10 Q. Okay. If he had been too sick to do it, and a cellmate  
11 had done it, if Freeman Ingram, the gentleman that was in the  
12 cell with him had done it, it would have still just gone in a  
13 box till Monday?

14 A. Yes.

15 Q. Okay. What if Freeman Ingram would call on the  
16 observation cell buzzer and tell you the same things that  
17 would be on a sick call slip, what would you do with that?  
18 Would you turn that in to sick call slip and turn it in?

19 A. I would have Ingram -- whatever his name is -- Mr. Freeman  
20 do it. He was the one observing it.

21 Q. So whoever observes the problem ought to fill out the  
22 slip, if the person can't fill it out?

23 A. Yes, sir.

24 Q. Okay. So what if you -- if you've got an inmate that  
25 doesn't care about his cellmate, then who fills it out if the

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RICHARD BURKHOLDER - DIRECT EXAMINATION

1 Q. Okay. Now, previously, and I was not present, but with  
2 your deposition you said you don't agree with that. So now  
3 you do agree that it's better to be safe than sorry?

4 A. In certain circumstances.

5 Q. Okay. If a man's passing blood and disoriented and dying  
6 in the jail cell, is that a good time to be safe and call a  
7 nurse?

8 A. Passing blood --

9 MR. CORRIGAN: Objection, Your Honor.

10 Q. Sir?

11 THE COURT: Hold on just a second. What's the --

12 MR. CORRIGAN: Stating matters that are not in  
13 evidence within his questions, which is misleading and  
14 irrelevant.

15 THE COURT: Overruled. Proceed.

16 BY MR. POPE:

17 Q. You were put on notice by a shift Sergeant Garrett that  
18 the cellmate, Freeman Ingram, indicated he thought he saw  
19 blood in Mr. Woods' stool, is that correct?

20 A. Yes.

21 Q. But you said you'd have to see it yourself?

22 A. Yes, sir.

23 Q. Okay. Did you go in his cell and look at his fecal matter  
24 and try to determine if there was blood?

25 A. No, sir, no one ever called and said he actually used the

RICHARD BURKHOLDER - DIRECT EXAMINATION

1 health and inmate safety, the medical staff needs to make that  
2 call.

3 A. Yes, sir.

4 Q. And on the weekend, they can't do it unless you call them,  
5 can they?

6 A. Correct.

7 Q. And you didn't call them, did you?

8 A. No, I did not.

9 Q. You had indicated in your deposition that when you have  
10 somebody in observation, one thing you're doing is observing  
11 to make sure they're not faking. What do you mean by that?

12 A. A lot of the inmates will do anything to pass the time of  
13 day, fake a sickness, fake a fall, fake anything, fake  
14 whatever they want, or -- anything to get out of the jail to  
15 pass the time, to bother the people that actually have stuff  
16 to do that bother taking care of the other inmates that  
17 actually need help. That's their daily job. That helps them  
18 pass the time.

19 Q. All right. In the hierarchy of needs for taking care of  
20 inmates, what ranks above a man that's bleeding to death and  
21 dying in his cell?

22 A. Nothing, if I had known he was bleeding to death.

23 Q. Did you go and check him out?

24 A. I went by one time. I have no idea what time it was.

25 When I went, he was standing up. I have no idea what time it

RICHARD BURKHOLDER - DIRECT EXAMINATION

1 is 5:25 p.m., you're about to do your passdown, right, to move  
2 at the end of a shift, is that correct?

3 A. Correct.

4 Q. I'd ask you to observe this, please.

5 We saw where he's laying, there's a dark substance  
6 apparently on his clothing and on the bed. Do you know what  
7 that is?

8 A. No, sir.

9 Q. Did you attempt, during your duty, during your watch, to  
10 verify what that was?

11 A. No, sir.

12 Q. Okay. So do you have any idea that that is or is not  
13 fecal matter?

14 A. I do not know at this time.

15 Q. Okay. You said at this time. I'm going to show you  
16 Plaintiff's Exhibit 3F, as in Frank. That would be your  
17 passdown log. This will be when you're going off duty, and  
18 Sergeant Scheetz/Sergeant Garrett is coming back on duty.

19 A. Correct.

20 Q. Ask you to take a look at that and tell the jury what  
21 notation you made as to Mr. Woods.

22 A. Just to Mr. Woods?

23 Q. Yes, sir.

24 A. "David Woods M6 lying in own feces and refused to shower.  
25 Ingram moved to M3."

RICHARD BURKHOLDER - DIRECT EXAMINATION

1 A. Yes.

2 Q. Okay. And I'll show you what appears to be 3G, as in  
3 George, and again, ask if you could look at that and tell me  
4 what that indicates as far as David Woods.

5 A. David Woods took a shower and M6 washed out.

6 Q. Okay. So their shift was able to accomplish what your  
7 shift was not.

8 A. Yes. That's the way it seems.

9 Q. Okay. And so now this is Sunday morning. During that  
10 time Garrett told you also that you may want to notify the  
11 nurse about inmate Woods, didn't she?

12 A. Verbally, yes. Verbally, yes, she told me.

13 Q. Yes, sir. And you recall that, is that correct?

14 A. I recall that.

15 Q. Yes. And you told her that you would contact the nurse  
16 later in the shift, did you not?

17 A. Yes.

18 Q. Okay. But you didn't, did you?

19 A. No, sir, I didn't.

20 Q. Okay. And why didn't you?

21 A. I still didn't think it was a medical emergency to call  
22 the nurse.

23 Q. Okay. So that passdown sheet is at 5:30 a.m. roughly, is  
24 that right?

25 A. Yes.

RICHARD BURKHOLDER - DIRECT EXAMINATION

1 A. You said line ten?

2 Q. Yes, sir.

3 A. "Because when Corporal DeSanto was up front feeding lunch,  
4 he called me up on the radios to come up front and check  
5 Mr. Woods. And he was -- he was up walking around, coherent,  
6 talking. He was having a good old time like he was out at  
7 play time. There was nothing wrong with Mr. Woods at that  
8 time. I was not calling the nurse."

9 Q. So that is what you made your decision on, that  
10 observation that he was up walking around having a good old  
11 time?

12 A. That he was up walking, yes, sir.

13 Q. What do they do when they're out at play time?

14 A. Walk around, talk, exercise.

15 Q. Have a good time. That's what he was doing then?

16 A. He was up walking and talking.

17 Q. What time do you feed him lunch?

18 A. 10:30, 11:00 o'clock.

19 Q. Okay. So this is Sunday, 10:30, 11:00 o'clock, he's -- so  
20 10:30, 11:00 o'clock, Sunday the 17th, here in the blue says  
21 we move down the timeline, 10:26 is fairly close to the  
22 lunchtime, give or take 30 minutes one way or the other?

23 A. Right.

24 Q. If we could watch this video, please.

25 Is that the toilet he's at now?

ANDREW BLAND - DIRECT EXAMINATION

1 that shift. Okay?

2 A. Okay.

3 Q. But it's my understanding that night, which is Sunday  
4 night, leading into early Monday morning, is that right?

5 A. That's right.

6 Q. Okay? That you were working the front desk, is that  
7 right?

8 A. That's right.

9 Q. Okay. And as you were working the front desk, you were  
10 charged with monitoring those observation cells, is that  
11 right?

12 A. That's right, along with a lot of other things. Opening  
13 and closing doors, watching sally port, answering phone calls,  
14 listening to radio traffic.

15 Q. But it was your responsibility to watch the monitors.

16 A. It was.

17 Q. Okay. And I believe that night you had a couple  
18 interactions with Mr. Woods, is that right?

19 A. I had one.

20 Q. You had one.

21 A. One over the intercom and then one at 2:15.

22 Q. Tell me about the intercom incident.

23 A. When I came on post I noticed he was laying on the floor,  
24 wasn't wearing his uniform. I asked him over the intercom to  
25 put on his uniform. He walked over, urinated on the uniform

ANDREW BLAND - DIRECT EXAMINATION

1 and went back and laid back down.

2 Q. Okay. And you were -- I mean, you were watching him  
3 obviously, is that right?

4 A. That's right.

5 Q. Because you were at the front desk?

6 A. Correct.

7 Q. And it's your job to monitor the observation cells?

8 A. Correct.

9 Q. Let's play that clip, please.

10 What's he doing right there?

11 A. Leaning against the wall, urinating on his uniform.

12 Q. That's all you see?

13 A. I see him shaking a little bit.

14 Q. That's a little bit to you?

15 A. Yes.

16 Q. Nothing about -- You were watching this, correct?

17 A. Correct.

18 Q. That doesn't concern you at all?

19 A. No, he had just gotten up from laying on the floor for I  
20 don't know how long before I got to the desk.

21 Q. And we've talked about it before, but -- wait just a  
22 second. Now, I mean, we've talked about this in depth, but  
23 the jail actually pays a nurse and a doctor to be on call. Is  
24 that right? Over the weekends?

25 A. That's my understanding.

ANDREW BLAND - DIRECT EXAMINATION

1 him how to hold his hand so I can give him his medicine.

2 Q. That man was being defiant?

3 A. He was not cooperating.

4 Q. He reached his hand out four different times to try to  
5 take the medication, and every time you withdrew your hand  
6 back.

7 A. He was holding his hand -- when he held his hand out in a  
8 way that I couldn't put it in his hand without it falling on  
9 floor, and I explained to him, and when I'm talking, I talk  
10 with my hands. I move my hands as I'm talking to him, not  
11 pulling away from him.

12 Q. Let's play it again.

13 Was he being defiant when he scoots closer to you to try  
14 to grab the medication?

15 A. It was not a matter of him scooting closer to me, it was a  
16 matter of how he's holding his hand to take the medicine.

17 Q. So your common sense told you that was a man being  
18 defiant?

19 A. My common sense told me that earlier I was trying to get  
20 him to put his uniform on so he wouldn't be cold; he went and  
21 urinated on it. I felt like he was being difficult. He  
22 didn't want to be in the situation. And I felt like this was  
23 just adding to what he did earlier.

24 Q. That didn't answer my question. Your common sense told  
25 you in that scenario, that was a man being defiant?

JOHN RABA - DIRECT EXAMINATION

1 was walked to the M6 observation cell.

2 As I recall, when he walked in he looked -- was very  
3 sluggish, moved very slowly, somewhat lethargic, seemed to be  
4 somewhat disconnected to the environment. He didn't make eye  
5 contact.

6 Q. Medically, what is going on at this point?

7 A. I can't tell you right at this very moment, but I think,  
8 as we see further slides, at that point --

9 Q. It's a little too early right now?

10 A. All we know is he's had a change in mental status, based  
11 on his previous status within the prior weeks at the jail.

12 Q. Okay. And do you have an opinion most probably and to a  
13 reasonable degree of medical certainty, if David Woods would  
14 have received proper medical attention on Friday, November 5th  
15 at 10:32 p.m., would he have lived?

16 A. Without question. If this -- if his condition was related  
17 to a medical provider and he was moved to receive proper  
18 treatment, he would have absolutely survived.

19 Q. Okay. Let's move on. Let's now talk about Friday,  
20 November 5th at 10:46 p.m. Let's play this clip.

21 A. So we're viewing Mr. Woods, he's -- not sure what -- the  
22 cellmate is somewhat trying to assist him. It looks like they  
23 may be having a conversation. Looks as if the cellmate is  
24 actually assisting him to move over toward the toilet. He  
25 moved Mr. Woods slowly. He seems a little bit confused.

JOHN RABA - DIRECT EXAMINATION

1 MR. CORRIGAN: Objection, Your Honor, I don't believe  
2 this was within the scope of what you said as far as the  
3 doctor giving medical opinions, he's just walking us through  
4 the video.

5 THE COURT: He is providing -- I overrule the  
6 objection.

7 MR. CORRIGAN: Thank you, sir.

8 A. Clearly needs assistance removing his jumpsuit, provided  
9 to him by the cellmate.

10 Q. Now, knowing, Doctor -- you've testified you know why he  
11 eventually died.

12 A. Yes.

13 Q. You know what he eventually dies from.

14 A. I can tell you it's almost the first time I saw this  
15 videotape, and I knew a little bit about Mr. Woods' diagnosis  
16 of having cirrhosis and portal hypertension, I saw this, and  
17 it was very clear that this is a metabolic encephalopathy or  
18 hepatic encephalopathy. He's sluggish, he's mentally slowed,  
19 he has a condition called apraxia. He can't do simple tasks.  
20 Just too complicated for him to do. He wants to do it, but he  
21 just can't -- the signal going from the brain to the muscles  
22 just are so delayed. You can see him struggling, he's going  
23 to try to take off that uniform, but he can't quite do it.  
24 This is absolutely hallmark for hepatic encephalopathy.

25 Q. And what causes that?

JOHN RABA - DIRECT EXAMINATION

1 A. It's -- I alluded to it before, so it's the liver, which  
2 is hardened, can't filter toxic materials coming from the  
3 stomach. Those toxic materials, generally the culprit is  
4 claimed to be ammonia, accumulates in the body, it gets to  
5 brain, it slows down the functioning of the brain. This can  
6 be precipitated by a number of things. One of the ones we see  
7 more commonly is a loss of blood into the gut.

8 Q. Okay. So a loss of blood in the gut can cause --

9 A. It's thought to be that it's a combination of the blood  
10 itself breaking down, and some impact on the bacteria in the  
11 gut that results in more ammonia being absorbed, is one of it.  
12 Another one is if you loose blood, you might decrease the  
13 oxygenation of the brain, and that may contribute to this  
14 also. So it's usually more than just one factor, and it's not  
15 always clear. But definitely the ammonia is almost always  
16 elevated in people who have this condition.

17 Q. Okay. Do you have an opinion most probably and to a  
18 reasonable degree of medical certainty that on that Friday,  
19 November 5th at 10:46, if Mr. Woods receives proper medical  
20 attention, would he have survived?

21 A. Yes, if this was related to a medical provider and the  
22 medical provider took the appropriate interventions, or  
23 referred the person for proper care, this is both a treatable  
24 and reversible condition.

25 Q. Let's now, if we can, let's go to Saturday 11/6 at

JOHN RABA - DIRECT EXAMINATION

1 4:28 a.m.

2 A. So you see we're watching an officer come in, and looks  
3 like he has medications in his hand.

4 Q. At this point in time can you tell the jury just a little  
5 bit about the mental difficulties David Woods would be having  
6 following instructions?

7 A. Following -- because of -- I'm sorry.

8 Q. His medical condition, how that impacts his ability to  
9 follow instructions.

10 A. Yes. He is -- metabolic encephalopathy has stages from  
11 one to four. Four is coma, three is more or less stupor,  
12 stuporous conditions. In the middle there's a ground where  
13 you're sluggish, you think slowly, you can't communicate well,  
14 you can't comprehend orders well. You will see that he also  
15 is at high risk for losing balance, both of his trunk and his  
16 ability to walk. And he's got this apraxia, he just can't  
17 figure out how do things. You will see him trying to do  
18 things, he just can't do it. If we had watched the tape  
19 before, you know, that toilet paper, he couldn't figure out  
20 what to do with the toilet paper. He got it, but he just  
21 didn't know what to do with it. So I think we're going to see  
22 this here, and that's why we're showing this.

23 Q. Right. Well, let me ask you this, Doctor. On Saturday at  
24 11/6, 4:28 a.m., if David Woods receives proper medical  
25 attention, would he have survived? At this time.

JOHN RABA - DIRECT EXAMINATION

1 A. Yes, as I said before, if it had been relayed to a  
2 provider and they made appropriate referral, this is  
3 absolutely treatable and he would have survived.

4 Q. Okay.

5 A. I think -- I don't know how long you have to watch this, I  
6 think the jury has seen it, but you'll see him eventually  
7 trying to put his hand out, but he's not quite sure what he's  
8 doing with it, he's just trying to figure out how to take that  
9 pill. And that's what that really shows. It's classic  
10 apraxia.

11 Q. How about the shaking?

12 A. Yeah, people with hepatic encephalopathy, you'll see some  
13 variation of this, if we had watched all the videotape, where  
14 you develop certain types of tremors. The classic one that  
15 I'm sure Dr. Sanders knows as well as I do, is extend your  
16 hands, you start flapping, and you may see sometimes if we see  
17 it again where his hands are on the wall and he kind of jerks  
18 when his hand's up there. And it has a name called asterixis,  
19 and one of the components of the middle stage of hepatic  
20 encephalopathy or hepatic confusion.

21 Q. All right. Let's take a look at the next one, Saturday  
22 11/6. I think that's 5:10.

23 A. This is, I think, one that was just discussed. I think  
24 this is where we see Mr. -- the cellmate is now covering his  
25 nose, he's obviously being offended by an odor that's in the

JOHN RABA - DIRECT EXAMINATION

1 room. And --

2 Q. You and I have talked, you know, in this case. Will you  
3 explain to the jury about your -- if you're bleeding from your  
4 upper GI tract, will you explain to the jury how that can  
5 impact the smell of your feces?

6 A. That's correct. So if you've -- patients who are bleeding  
7 in the gut, and as the blood passes down through the stomach  
8 down through the intestines to the colon, it turns dark. But  
9 as it exits, it gives off a really noxious pungent odor,  
10 different than even the normal odors that one might see in a  
11 toilet. So it's particularly noxious to people when they  
12 smell it. This is the way Mr. -- the cellmate is reacting is  
13 consistent with that, but not absolutely diagnostic.

14 Q. On Saturday 11/6 at 5:10 a.m., most probably and to a  
15 reasonable degree of medical certainty, if Mr. Woods gets  
16 appropriate medical attention at this point, would he have  
17 survived?

18 A. Yes, without question. He would have -- if this had been  
19 conveyed to a medical provider and they made the proper steps  
20 referring him for the proper treatment, he would have  
21 absolutely survived.

22 Q. And what is it about -- Why is time so important? Why  
23 does that impact Mr. Woods' chances of survival, Doctor?

24 A. Well, we know -- I know -- we know the history, where  
25 we're going here, obviously. And as I look at him now, I see

JOHN RABA - DIRECT EXAMINATION

1 he's able to move, he's trying to interact, he's -- so he's  
2 still -- isn't at the sickest moment of this next few days.  
3 And but the faster you treat hepatic encephalopathy, the less  
4 likely to proceed to stupor and coma. If he has  
5 gastrointestinal bleed, the faster you address that, the less  
6 likely he will develop profound anemia and hypotension. So  
7 time is important in how Mr. Woods receives this care.

8 Q. All right. Let's go ahead, if we can, go to 11/6,  
9 3:58 p.m. Is there any other clips there, Doctor, I'm going  
10 to skip ahead because this jury has seen a lot and we've been  
11 here awhile.

12 A. I think that's fine.

13 Q. November 6th, 3:58 p.m.

14 A. We still see Mr. Woods somewhat quietly, almost  
15 indifferently laying on the ground. His cellmate gets up and  
16 is exiting now, and he still seems to be off and on covering  
17 his nose. And I think that's about all we can see in this. I  
18 can't see much else.

19 Q. On Saturday, November 6th, at 3:58 --

20 A. I might add at this point, if one looks carefully, it's  
21 very likely there's a stain on Mr. Woods' jumpsuit at this  
22 point that you can see on his left buttock. It's a little  
23 difficult to see, but I think it's clear on my smaller  
24 videotape that there is a dark stain right there.

25 Q. Is it common for a person who is suffering from the

JOHN RABA - DIRECT EXAMINATION

1 conditions you've now identified, to have trouble with their  
2 bowel movement?

3 A. Yes, they are -- they're confused, they can't identify  
4 normal body urges. And the other issue is if you're bleeding  
5 from your gut, it can pass very quickly through your gut and  
6 catch you off guard. So it might just -- it's a sense of  
7 urgency to defecate. One may, who is mentally impaired, may  
8 not be able to control that urge.

9 Q. On -- if I have to ask this, I apologize, I just want to  
10 make sure we're covering everything. On Saturday,  
11 November 6th, 3:58 p.m., Mr. Woods most probably, to a  
12 reasonable degree of medical certainty, could he have been  
13 saved at this point?

14 A. Oh, yes, I still feel at this point, as far as we know  
15 Mr. Woods, if this was conveyed to a medical provider and he  
16 was properly treated, he would have absolutely survived.

17 Q. Okay. Let's take a look at 11, Saturday November 6th at  
18 5:13 p.m. real quick. Do you remember what you identified in  
19 that clip?

20 A. If I recall right, Mr. Woods stumbles and falls at this  
21 time.

22 Q. Okay.

23 A. So I -- again, he looks very sluggish, he looks dis --  
24 disoriented or disconnected to his environment. This is not  
25 someone who has a normal state of mind. He's got -- see that

JOHN RABA - DIRECT EXAMINATION

1 truncal ataxia, he's wobbling, this is all part of hepatic  
2 encephalopathy, he staggers backwards. He -- and this is  
3 extremely dangerous, and nearly falls. And that -- watch that  
4 movement there, I'm not trying to use Mr. Woods as a teaching  
5 model, but that's decerebate posturing, and that's an  
6 indicator of a higher level of stage of hepatic  
7 encephalopathy, where his arms stick out and his feet stick  
8 out. That is a serious warning sign for hepatic  
9 encephalopathy.

10 Q. Dr. Raba, on Saturday, November 6th at 5:13 p.m., if  
11 Mr. Woods receives proper medical attention, can he be saved?

12 A. I believe so. He's still -- I've seen patients in this  
13 exact condition who have done quite well. But when you see  
14 decerebate posturing, you're really starting to get worried  
15 that you're losing time. But if this was related to a medical  
16 provider and they made the right choice of sending him for  
17 proper care, I would -- all degree of medical certainty, he is  
18 salvageable at this point still.

19 Q. Okay. Let's look at 11/6, 8:19 p.m. Well, go back to  
20 that one. Let's go back. My first hiccup.

21 A. So I'm looking at Mr. Woods laying in a metal bunk bed  
22 without a mat, he's -- there's a thick stain on the bottom of  
23 the bed. I have to admit, it may be my eyes, but I look and  
24 see it and every once in awhile it looks like it has a reddish  
25 tinge there. And I'm not totally confident of the colors on

JOHN RABA - DIRECT EXAMINATION

1 this video, but that's worrisome that it might be indicative  
2 of blood. Right now we know he's got stained pants on, and  
3 we'll see that more effectively in a second. And he sits up,  
4 he's clumsy, he's moving slowly. He doesn't seem to mind at  
5 all the fact that he's sitting on fecal material or a moist  
6 bed. It looks like the mat also that's on the floor has the  
7 stain in the central part of it.

8 Q. On Saturday, November 6th at 5:25 p.m., most probably to a  
9 reasonable degree of medical certainty, in your opinion can  
10 Mr. Woods be saved, if he receives proper medical attention?

11 A. He seems to be able to move okay at this point, he seems  
12 to have muscle strength. And I would say yes, there's a  
13 reasonable probability that he would be saved, if the medical  
14 providers were notified and they took their proper steps.

15 Q. I want you to explain a little bit to this jury, because  
16 you've mentioned a few times about he still has motor  
17 strength, he's still able to get around. How does that impact  
18 your overall opinion that at this point he's still  
19 salvageable?

20 A. If he was unable to move, if he was unable to get up off  
21 the ground, if every time he got up, he fainted and fell down,  
22 his prognosis would be worsening. When I see someone who is  
23 at least capable of getting up, and they still have some  
24 tissue muscle strength, it gives -- increases the chances that  
25 he could be saved and he could be treated.

JOHN RABA - DIRECT EXAMINATION

1 Q. Let's take a look now, if we can, at 11/6 at 8:19 p.m.

2 What notes do you have on that clip?

3 A. Says Woods in stained uniform. I think it's obvious to  
4 all of us that his buttocks and gluteal area is stained, and  
5 it's pretty extensive. There's still -- still seems to be  
6 some stain on the metal bed also. He's in this unusual  
7 posturing, and he's moving very slowly.

8 Q. And of all the things we're seeing, this jury's watching  
9 and you're describing, is that consistent with the symptoms  
10 that end up leading to his death?

11 A. Yes, at this point we have someone who is mentally  
12 sluggish, physically sluggish, who appears to have passed a  
13 fair amount of blood through his gut.

14 Q. And when he presented to the hospital with a hemoglobin of  
15 four, that's consistent as well?

16 A. This would be a contributing factor to that. There's  
17 probably -- this may not be the only bleed that he's had, but  
18 this -- if this is what we think it is, it is clearly a fair  
19 amount of blood.

20 Q. On Saturday, November 6th at 8:19 p.m., Dr. Raba, most  
21 probably, to a reasonable degree of medical certainty, can  
22 Mr. Woods be saved at that point?

23 A. Yes, I still believe he could be, if the medical providers  
24 were notified, and if they took the steps to get proper  
25 treatment. That's correct.

JOHN RABA - DIRECT EXAMINATION

1 Q. Let's look at 11/7, 12:20. Now, in preparing for your  
2 medical testimony, in addition to the medical records, you  
3 also reviewed all the statements and depositions of the  
4 officers, is that correct?

5 A. That's correct. So we're seeing Mr. Woods in a similar  
6 position as he was in the last slide. A number of hours later  
7 he is still moving around on a stained mat -- mat -- bed.

8 I did review the statements, and I believe -- I think this  
9 is the slide where they take him out to get a shower. I  
10 believe. In fact, that's what it says, so I know it's going  
11 to happen.

12 But I think what I'd like to comment on is when he was  
13 taken out to shower, it was commented by, I believe Sergeant  
14 Garrett or one of the officers, that there was hard black  
15 material on his uniform. And that is consistent with melena,  
16 which is blood that has started in the upper stomach, and as  
17 it's been digested and moved down the gut, it turns black.  
18 It's the generally thought to be the iron inside the blood  
19 that's been released. When one sees melena, that means bleed  
20 from the upper stomach, and it's considered in the medical  
21 world a medical emergency that should be addressed, because  
22 you're not sure how much blood they've lost, you just know  
23 they've bled from the upper part of the stomach.

24 Q. And as of Sunday, November 7th --

25 A. Again, he's in a position of great danger here. We know

JOHN RABA - DIRECT EXAMINATION

1 he has bad balance, we know he's confused. Looks like he's  
2 just trying to figure out what to do here. He's struggling to  
3 just -- this is an extremely dangerous moment. It's just  
4 predictable in somebody with ataxic hepatic encephalopathy  
5 this will happen, could happen again and again.

6 Not to comment what the jury already sees, but you can  
7 tell that he's truly sluggish, confused, lethargic, and  
8 doesn't appear to be fully oriented to what's happening around  
9 him. And now he exits for the shower.

10 Q. And I think that's when you testified that the uniform, I  
11 think Sergeant Garrett, you were here when she testified in  
12 court, she saw the hard black dark substance?

13 A. That's correct. And I explained what that indicated.

14 Q. Right. As of 11/7, November 7th at 12:20 a.m., at this  
15 time, can Mr. Woods be saved?

16 A. Yes. Provided medical provider's called, and if they take  
17 the proper steps to refer him to an emergency room, Mr. Woods  
18 could be saved.

19 THE COURT: The question would be not could he be  
20 saved, but more likely than not could he be saved.

21 Q. Most probably and to a reasonable degree of medical  
22 certainty, if Mr. Woods would have received proper medical  
23 attention, would he have been saved?

24 A. That's correct. I will try to use that phrase, thank you.

25 THE COURT: Could you answer it now, doctor?

JOHN RABA - DIRECT EXAMINATION

1 A. Sure. It's my opinion that to a reasonable degree of  
2 medical certainty, that at this time Mr. Woods could be saved.  
3 Would be saved.

4 Q. All right. Let's look at Sunday, 11/7, 1:49. I'm going  
5 to skip one. They've seen all that. Let's speed it up a  
6 little bit. If you will, tell the jury what you're watching.

7 A. Sure. We're watching Mr. Woods. He is back in the cell  
8 after his shower. He's been given a uniform. It looks like  
9 he's trying to figure out how to put it on. He's struggling  
10 to sort out how to do it. He's trying though. Again, he just  
11 comes across as confused. I mean, these simple tasks just are  
12 difficult for someone who has the condition he has. He just  
13 keeps struggling, he knows what he wants to do, he just can't  
14 figure out how to do it. And this is consistent with hepatic  
15 encephalopathy. I mean, this is all purposeless movement,  
16 he's confused, he's not sure what he's doing, he's -- It's  
17 amazing; you start treatment and they get better within 24  
18 hours, quite a significant improvement, if the proper  
19 medications were given to him.

20 Q. What time was this, Doctor?

21 A. I think you have me on 11/7, 12:20 -- no, this is --  
22 excuse me.

23 Q. One forty-nine?

24 A. After shower, 1:49.

25 Q. Saturday, 11/7?

JOHN RABA - DIRECT EXAMINATION

1 A. One forty-nine. Thank you.

2 THE COURT: Sunday.

3 MR. STALEY: Thank you, Judge.

4 BY MR. STALEY:

5 Q. Sunday, 11/7 at 1:49 a.m., if Mr. Woods would have  
6 received proper medical attention at this time, is it more  
7 likely that he would have survived?

8 A. It's my opinion that to a reasonable degree of medical  
9 certainty, that yes, if he had received -- if the provider had  
10 been notified and he had been referred for proper treatment,  
11 he would have survived.

12 Q. Okay. Let's look at, if we may, Sunday, 11/7 at  
13 10:26 a.m.

14 A. So Mr. Woods is naked, stands from the floor, looks like  
15 he sits, he could possibly be thinking that that table is a  
16 toilet. He turns, and indeed he does think it's a toilet, and  
17 looks like he's urinating on the table. Again, he's confused.  
18 He isn't thinking right, he's misinterpreting what his  
19 surroundings are. You can see his ataxic movements, he is  
20 losing balance right now. He is at great risk for serious  
21 fall.

22 So this is just -- this is, again, hallmark of what you  
23 would expect for somebody with untreated hepatic  
24 encephalopathy. And you can see his feet moving down, that's  
25 a little disturbed, but posturing we talked about before,

JOHN RABA - DIRECT EXAMINATION

1 that's in the later stages of encephalopathy.

2 Q. Doctor, on Sunday, November 7th at 10:26 a.m., if  
3 Mr. Woods receives proper medical attention, would he more  
4 likely have survive?

5 A. Yes, increasingly concerned about seeing decerebrate  
6 posturing, but yes, to a reasonable degree of medical  
7 certainty he is still -- he's still -- if referred for  
8 medical -- to the medical provider and sent for medical  
9 treatment at a hospital, there's -- he could survive. He  
10 will -- he would survive.

11 Q. Let's play the next one, Sunday, November 7th at 4:00 p.m.

12 A. Again, I think we've seen this. Mr. Woods is confused,  
13 he's doing nonpurposeful movements, he stands up. And this is  
14 not someone trying to get attention, this is a man who is just  
15 confused. He is starting to urinate, looks like on his bed or  
16 near his bed. You can see his ataxia, or loss of balance  
17 again. I mean, I'm sorry, you have to watch that again.

18 Q. On Sunday, November 7th at 4:00 p.m., at this time, more  
19 likely, could he have been saved if proper --

20 A. Still to a reasonable degree of medical certainty I  
21 believe he still could be saved, if he was referred for -- if  
22 he was referred for treatment and a medical provider had been  
23 notified to do that.

24 I'm increasingly worried that these falls are -- he's  
25 falling more frequently, looks like his ataxia is increasing,

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JOHN RABA - DIRECT EXAMINATION

1 so his condition could be worsening at this point. Appears to  
2 be worsening at this point.

3 Q. If we could play, let's play Monday, 11/8 at 2:15 a.m.

4 A. We can see Mr. Woods on the floor without a uniform. He  
5 appears to be -- an officer is offering him medication. He  
6 appears to be attempting to reach for it. Seems like there's  
7 an effort on his part to cooperate. He's reaching out to get  
8 what's offered to him. I can't quite tell if the pill is in  
9 his hand or not. It looks like it isn't. He just doesn't  
10 know how to use his hand. He's trying, he -- you know, he's  
11 trying to cooperate, he's just incapable of cooperating.

12 Q. On Monday, November 8th at 2:15 a.m., more likely that  
13 Mr. Woods could have been saved, had he received proper  
14 medical attention?

15 A. I have increasing concerns. Doesn't appear to be able to  
16 get up at this point. I'm not sure if we -- I still have to a  
17 degree of medical certainty that if he was -- medical provider  
18 was called then and there and he was sent to the hospital, he  
19 could -- he would survive.

20 Q. All right. Now, I've heard, you know, I've handled other  
21 cases, and oftentimes I hear doctors say time of is of the  
22 essence. Could you explain that concept?

23 A. It's very difficult to sort out, when you look at a video,  
24 when is it too late, when is it -- do you have enough time.

25 I -- but we know where this is going, we know that he's going

1 serious medical need of the inmate, the correctional officer  
2 has violated the inmate's EighthEighth Amendment rights.

3 To establish this element, the plaintiff must show the  
4 following. First, that Mr. Woods had a serious medical need;  
5 secondly, that the defendants were deliberately indifferent to  
6 Mr. Woods' serious medical needs.

7 Now, two points. Both of those points. Number one, the  
8 serious medical need, and secondly, deliberately indifferent  
9 to Mr. Woods' serious medical need.

10 A serious medical need is one that has been diagnosed by a  
11 physician as requiring treatment, or one that is so obvious  
12 that even a layperson would easily recognize the necessity for  
13 a doctor's attention.

14 An officer is deliberately indifferent if he or she  
15 actually knew of a substantial risk of serious harm to an  
16 inmate but consciously disregarded that risk by failing to  
17 take reasonable steps to respond to the risk. Whether an  
18 officer actually knew of a substantial risk can be proven by  
19 circumstantial evidence, including the very fact that the risk  
20 was obvious.

21 In this case the parties have stipulated or agreed that  
22 the defendants acted under color of state law. You must,  
23 therefore, accept the second element as proven.

24 To establish the third element, the plaintiff must prove  
25 by a preponderance of the evidence that the constitutional

AO 450 (SCD 04/2010) Judgment in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of South Carolina

Nancy Morris, as personal representative of the Estate of David Allan Woods,

Plaintiff

v.

Andrew J. Bland, PFC; Richard T. Burkholder, SGT; Leemon E. Carner, PFC; Jerry Speissegger, Jr., PFC; Priscilla Garrett, SGT,

Defendants

Civil Action No. 5:12-cv-03177-RMG

JUDGMENT IN A CIVIL ACTION

The court has ordered that (check one):

the plaintiff Nancy Morris, as personal representative of the Estate of David Allan Woods, recover from the defendants, Andrew J. Bland, Richard T. Burkholder, Leemon E. Carner, Jerry Speissegger, Jr., and Priscilla Garrett actual damages in the amount of Five Hundred Thousand dollars (\$500,000.00), and punitive damages against defendant Andrew J. Bland in the amount of One Hundred Fifty Thousand dollars (\$150,000.00); against defendant Richard T. Burkholder in the amount of One Million dollars (\$1,000,000.00); against defendant Leemon E. Carner in the amount of One Hundred Fifty Thousand dollars (\$150,000.00); against defendant Jerry Speissegger in the amount of One Hundred Fifty Thousand dollars (\$150,000.00); against defendant Priscilla Garrett in the amount of One Million dollars (\$1,000,000.00), plus postjudgment interest at the rate of 0.10 %, along with costs.

the plaintiff recover nothing, the action be dismissed on the merits, and the defendant (name) recover costs from the plaintiff (name).

other:

This action was (check one):

tried by a jury, the Honorable Richard M. Gergel, U.S. District Judge presiding, and the jury has rendered a verdict.

tried by the Honorable presiding, without a jury and the above decision was reached.

decided by the Honorable

Date: October 21, 2014

CLERK OF COURT

s/Eunice Ravenel-Bright

Signature of Clerk or Deputy Clerk

DLSCN 11/07/17

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

2014 DEC 31 A 9 11

Nancy Morris, as Personal Representative  
of the Estate of David Allan Woods,

Plaintiff,

vs.

Andrew J. Bland, PFC; Richard T.  
Burkholder, SGT; Leemon E. Carnet, PFC;  
Jerry Speissegger, Jr., PFC; Priscilla Garret,  
SGT;

Defendants.

No. 5:12-cv-3177-RMG

This matter is before the Court on Defendants' Motions for Judgment as a Matter of Law. Motions for a New Trial, Motions for New Trial Nisi Remittitur, and Motions for Setoff (Dkt. Nos. 242, 243, 244, 245, 246). The Court addresses each type of motion in turn.

**I. Motions for Judgment as a Matter of Law**

**A. Legal Standard**

The Defendants' have filed renewed motions for judgment as a matter of law under Fed. R. Civ. P. 50(b). On a Rule 50(b) motion, the Court must view the evidence "in the light most favorable to the prevailing party," and must deny the motion "unless the jury lacked a legally sufficient evidentiary basis for its verdict." *Gregg v. Ham*, 678 F.3d 333, 341 (4th Cir. 2012). In other words, the motion should be denied if "giving the non-movant the benefit of every legitimate inference in his favor, there was evidence upon which a jury could reasonably return a verdict for him." *Pitt Ohio Exp., LLC v. Pat Salmon & Sons, Inc.*, 532 F. App'x 439, 441 (4th Cir. 2013) (quotations omitted).

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STATE OF SOUTH CAROLINA  
**CERTIFICATION OF VITAL RECORD**

**PLAINTIFF'S EXHIBIT**  
 2

State of South Carolina  
 Department of Health and Environmental Control  
**CERTIFICATE OF DEATH**

DECEASED'S BIRTH NUMBER: \_\_\_\_\_ STATE FILE NUMBER: **10 035644**

1. DECEDENT'S LEGAL NAME (include AKA's, if any) (First, Middle, Last): **David Alan Woods**

2. SEX: **Male** 3. SOCIAL SECURITY NUMBER: **5830**

4a. AGE-Last Birthday (Years): **50** 4b. UNDER 1 YEAR: Months \_\_\_\_\_ Days \_\_\_\_\_ 4c. UNDER 1 DAY: Hours \_\_\_\_\_ Minutes \_\_\_\_\_ 5. DATE OF BIRTH (MM/DD/YYYY): **1960** 6. BIRTHPLACE (City and State or Foreign Country): **Daytona Beach, FL**

7a. RESIDENCE-STATE: **South Carolina** 7b. COUNTY: **Berkeley** 7c. CITY OR TOWN: **Goose Creek**

7d. STREET AND NUMBER: **302 Callison Drive** 7e. APT. NO.: \_\_\_\_\_ 7f. ZIP CODE: **29445** 7g. INSIDE CITY LIMITS?  Yes  No

8. EVER IN US ARMED FORCES?  Yes  No 9. MARITAL STATUS AT TIME OF DEATH:  Married  Married, but separated  Widowed  Divorced  Never Married  Unknown 10. SURVIVING SPOUSE'S NAME (If wife, give name prior to first marriage): **N/A**

11. FATHER'S NAME (First, Middle, Last): **Talmadge Woods** 12. MOTHER'S NAME PRIOR TO FIRST MARRIAGE (First, Middle, Last): **Margaret Kingsler**

13a. INFORMANT'S NAME: **Nancy Morris** 13b. RELATIONSHIP TO DECEDENT: **Sister** 13c. MAILING ADDRESS (Street and Number, City, State, Zip Code): **2047 Parkwood Drive Rock Hill, SC 29732**

14. PLACE OF DEATH (Check only one; see instructions):  
 DEATH OCCURRED IN A HOSPITAL:  Inpatient  Emergency Room/Outpatient  Dead on Arrival  Nursing home/long term care facility  Decedent's home  Other (Specify): \_\_\_\_\_  
 DEATH OCCURRED SOMEWHERE OTHER THAN A HOSPITAL:  Hospice facility

15. FACILITY NAME (If not institution, give street and number): **Trident Medical Center** 16. CITY OR TOWN, STATE AND ZIP CODE: **Charleston, SC 29406** 17. COUNTY OF DEATH: **Charleston**

18. METHOD OF DISPOSITION:  Burial  Cremation  Donation  Entombment  Removal from state  Other (Specify): \_\_\_\_\_ 19. PLACE OF DISPOSITION (Name of cemetery, crematory, other place): **McAlister-Smith Crematory**

20. LOCATION-CITY, TOWN, AND STATE: **Goose Creek, SC** 21. NAME AND ADDRESS OF FUNERAL FACILITY: **McAlister-Smith Funeral Home, 869 St. James Avenue PO Box 247**

22. SIGNATURE OF FUNERAL SERVICE LICENSEE OR OTHER AGENT: **Greg A. Nlice** 23. LICENSE NUMBER (Of Licensee): **3462** 24. GOOSE CREEK, SC 29445

25. EMBALMER (Signature): \_\_\_\_\_ 26. EMBALMER LICENSE NUMBER: \_\_\_\_\_ 27. LICENSE NUMBER (Of Facility): **768**

ITEMS 24-28 MUST BE COMPLETED BY PERSON WHO PRONOUNCES OR CERTIFIES DEATH

24. DATE PRONOUNCED DEAD (MM/DD/YYYY): **11/11/10** 25. TIME PRONOUNCED DEAD: **11:40 PM**

26. SIGNATURE OF PERSON PRONOUNCING DEATH (Only when applicable): \_\_\_\_\_ 27. LICENSE NUMBER: \_\_\_\_\_ 28. DATE SIGNED (MM/DD/YYYY): \_\_\_\_\_

29. ACTUAL OR PRESUMED DATE OF DEATH (Specify Month): **11 November 2010** 30. ACTUAL OR PRESUMED TIME OF DEATH: **11:40 PM** 31. WAS CORONER OR MEDICAL EXAMINER CONTACTED?  Yes  No

32. PART I. Enter the chain of events, diseases, injuries, or conditions that directly caused the death. DO NOT enter terminal events such as cardiac arrest, respiratory arrest, or ventricular fibrillation without showing the etiology. DO NOT abbreviate. Enter only one cause on a line. Add additional lines if necessary.  
 IMMEDIATE CAUSE (First disease or condition resulting in death): **Gastrointestinal bleeding**  
 Due to (or as a consequence of): **Dissecting aortic aneurysm of the thorax**  
 Due to (or as a consequence of): **Cirrhosis of the liver**  
 Due to (or as a consequence of): **Hepatitis C chronic active**

33. WAS AN AUTOPSY PERFORMED?  Yes  No 34. WERE AUTOPSY FINDINGS AVAILABLE TO COMPLETE THE CAUSE OF DEATH?  Yes  No

35. DID TOBACCO USE CONTRIBUTE TO DEATH?  Yes  Probably  No  Unknown 36. IF FEMALE:  Not pregnant within past year  Pregnant at time of death  Not pregnant, but pregnant within 42 days of death  Not pregnant, but pregnant 43 days to one year before death  Unknown if pregnant within the past year 37. MANNER OF DEATH:  Natural  Homicide  Accident  Pending investigation  Suicide  Could not be determined

38. DATE OF INJURY (Specify Month): \_\_\_\_\_ 39. TIME OF INJURY: \_\_\_\_\_ 40. PLACE OF INJURY (e.g., Decedent's home, construction site, restaurant, wooded area): \_\_\_\_\_ 41. INJURY AT WORK?  Yes  No

42. LOCATION OF INJURY, State: \_\_\_\_\_ City or Town: \_\_\_\_\_ County: \_\_\_\_\_ Street & Number: \_\_\_\_\_ Apartment Number: \_\_\_\_\_ Zip Code: \_\_\_\_\_

43. DESCRIBE HOW INJURY OCCURRED: \_\_\_\_\_ 44. IF TRANSPORTATION INJURY, SPECIFY:  Driver/Operator  Pedestrian  Passenger  Other (Specify): \_\_\_\_\_

45. CERTIFIER (Check only one):  
 Certifying physician-To the best of my knowledge, death occurred due to the cause(s) and manner stated.  
 Pronouncing and Certifying physician-To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner stated.  
 Coroner/Medical Examiner-On the basis of examination and investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner stated.

Signature of certifier: **M. D. Hunter**

46. NAME, ADDRESS, AND ZIP CODE OF PERSON COMPLETING CAUSE OF DEATH (Item 32): **Paul D. Sanders 92706 Medical Plaza, Berkeley, SC 29406** 47. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER: \_\_\_\_\_

47. TITLE OF CERTIFIER: **M.D.** 48. LICENSE NUMBER: **367176** 49. DATE CERTIFIED (MM/DD/YYYY): **11/11/10** 50. FOR REGISTRAR ONLY-DATE FILED (MM/DD/YYYY): **NOVEMBER 24 2010**

SC 01313044

ISSUED NOV 24 2010

This is a true certification of the facts on file in the Division of Vital Records, SC Department of Health and Environmental Control.

**C. Earl Hunter**  
 C. Earl Hunter  
 Commissioner and State Registrar

**Guang Zhao**  
 Guang Zhao  
 Assistant State Registrar

This copy is not valid unless prepared on an engraved border displaying the state seal and issuing agency logo.

Revision Date: 08/01/2009



ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

DISCN 11/07/17



Hill-Finklea Detention Center  
Incident / Discipline Report

Incident Type:	FYI Medical
Date / Time:	11-7-10 0600hrs
Incident Location:	M6
Weapon Type:	N/A
Victim Name:	N/A
Visible Injury:	N/A
Suspect(s) Name(s):	Woods David

Description of Incident:

On 11-7-10 at 0600 hrs Officer Daab and myself Officer Brophy had taken a clean uniform to inmate David Woods. Upon entering M6 inmate Woods appeared to be disorient and was not able to stand but for a short period of time. After a closer check inmate Woods appeared to be dehydrated. Inmate Woods did not respond to any question I asked him, Woods also at this time didn't know where he was or why he was here. End of Report. JB

Reporting Officer: Brophy James Date: 11-7-10  
 Approving Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_  
 Deputy Director: \_\_\_\_\_ Date: \_\_\_\_\_

DISCN 11/07/17

TRIDENT MEDICAL CENTER  
9330 MEDICAL PLAZA DRIVE  
CHARLESTON, SC 29406

NAME: WOODS, DAVID A  
UNIT #: D000456529

ROOM #: D.CC26-1  
ACCT #: D00035380284

DATE OF ADMISSION: 11/08/2010 DATE OF EXPIRATION: 11/11/2010

CAUSE OF DEATH:

1. Gastrointestinal bleeding from duodenal ulcer.
2. Bleeding esophageal ulcers.
3. Other related cause of death is cirrhosis of the liver with esophageal varices.
4. Cardiac arrest secondary to gastrointestinal bleeding.

HISTORY: This 50-year-old white male was brought to the Emergency Room from jail, where he had been incarcerated for period of time. While in the jail, the patient had contacted me and expressed concern that he was having bleeding. I have spoken to the people at the jail on several occasions and was assured the patient was not bleeding and had no evidence of bleeding or signs. At the time of the patient's arrival in the Emergency Room, he was stuporous and had a hemoglobin of 4 and was hypotensive. The past history as stated above, the patient had bleeding in the past from esophageal varices and had a hepatic insufficiency. In the Emergency Room, the patient's blood pressure was 60/40. He was given several liters of saline bolus and 2 L units of blood. He was admitted to ICU. In ICU, he underwent emergency endoscopy, where he was noted to have a large duodenal ulcer and also some bleeding around his esophagus. The patient received an injection of epinephrine, which failed to stop the bleeding. While undergoing endoscopy, the patient went into ventricular tachycardia and was resuscitating. At the time of the initial dictation on the history and physical, the patient was on ventilator and was being evaluated for emergency embolization to stop his continued GI bleeding. Past history the patient had multiple episodes of GI bleeding in the past, a long history of alcohol ingestion, has continued to drink. The patient is bipolar. He has had 4 to 5 suicidal episodes. He has been under the care of a psychiatrist in the past, Dr. Constance Alexander. Last time, I talked to him he had a back injury in 1987 and hepatitis C.

MEDICATION: At the time of admission he had been on Seroquel, unknown dose, lactulose 30 mg 3 times a day.

ALLERGIES: NO KNOWN ALLERGIES.

PHYSICAL EXAMINATION: GENERAL: In the Emergency Room, the patient was 50-year-old male, who opens his eyes and could speak but only in a weak voice and not in sentences. He was receiving blood at the time, had bright red blood and dark red blood around his rectum.

HEAD, EARS, EYES, NOSE AND THROAT: Tongue was slightly dry.

CHEST: Clear.

HEART: No murmurs, gallops or lifts.

ABDOMEN: Relatively unremarkable.

Trident Medical Center  
0591

Page 1 of 3

DISCN 11/07/17

*11/11/10*

Death Summary - Anterior copy

TRIDENT MEDICAL CENTER  
9330 MEDICAL PLAZA DRIVE  
CHARLESTON, SC 29406

NAME: WOODS, DAVID A  
UNIT #: D000456529

ROOM #: D.CC26-1  
ACCT #: D00035380284

SKIN: Turgor was slightly decreased.

In the Emergency Room, the patient received several units of blood. Dr. David McCance, the gastroenterologist was called, a consult was also placed with Dr. Sola Kim, an intensivist. At the time of the cardiac arrest, Dr. McCance was doing emergency endoscopy in ICU. At the time of initial dictation had a history and physical as stated above, the patient was preparing to go for embolization. The prognosis at the time of admission was bleed.

LABORATORY DATA: Sodium 143, potassium 5.1, chloride 112, CO2 7, sugar 108, creatinine 2, albumin 2.2, SGPT 319, magnesium 3.3, ammonia 170, CK 685. After 2 units of blood, the hemoglobin was 5.5, white count 19.9. The patient was started on levagquin at the recommendation of Dr. McCance prior to being taken to ICU. The patient also received an Nexium bolus and drip.

HOSPITAL COURSE: After the patient's arrest, the patient's hospital course was progressively downhill. The patient's blood pressure dropped and in spite of multiple units of blood and large amounts of fluid and maximum pressors. The patient blood pressure could not be maintained. Toward the end of his life, he began to have bleeding again and it was felt that no further volume of pressors could be of any benefit. The patient developed acute renal failure and a renal consult was placed. The patient was dialyzed in the Emergency Room with 300 cc per minute dialysate. The prognosis was felt to be bleak by the nephrologist. An echocardiogram was done. The left ventricular function and size appeared to be grossly normal with no wall motion abnormalities. The remainder of the echo was relatively unremarkable. There was no pericardial effusion. In summary, in spite of maximum medical treatment with presser agents, volume expanders, dialysis, antibiotics, the patient expired. The cause of death was felt to be severe blood loss with total body failure. The patient did undergo an autopsy and the case was discussed with the Berkeley County Coroner.

JDS/MedQ  
DD: 11/23/2010 05:52 PM

Trident Medical Center  
0592

DISCN 11/07/17

**BERKELEY COUNTY EMS**

- MONCKS CORNER, SC 29461  
 EMERGENCY NUMBER -  
 Business Number - FAX -

PCR: 10-11392-M3 Date: 11/08/2010 Shift: A Unit: 03105 Callsgn: M-3 Station: M-3 Wkcatid: 1  
 MCN: Name: WOODS, DAVID A

Name: DAVID WOODS SSN: 1-5830 Alien ID:  
 Address: 302 CALLISON DR DOB: 1960 Age: 50 Years  
 City: GOOSE CREEK State: SC Zip: 29445- Sex: Male  
 Phone: (843)573-7233 Race: White  
 History: CIRRHOSIS,  
 Allergies: WHITE  
 Current Meds:  
 Chief Complaint: ALTERED MENTAL STATUS  
 Sec. Complaint:  
 Medical Necess.

Incident / Scene  
 Location: BERKELEY CO DETENTION CENTER Dept: Facility ID:  
 Address: 300 CALIFORNIA AVE Grid / Zone:  
 City: MONCKS CORNER State: SC Zip 29461  
 Dispatch Complaint: Sick Person  
 Dispatch Priority: Emergency  
 Resp. Mode: Lights and Sirens

Outcome / Destination  
 Disposition: Treated And Transported By EMS Transport Mode: No Lights or Sirens  
 Dest. Type: Hospital Referring MD:  
 Reason: Patient Choice Family Notif:  
 Dest. Name: TRIDENT REGIONAL MEDICAL Dept: ER  
 Address: 9330 MEDICAL PLAZA DRIVE Facility ID: 4013  
 City: CHARLESTON State: SC Zip 29406 Treating Phys: ER Physician

Call Times and Mileage

Times		Odometer Readings	
Onset:	11/08/2010 09:43	Transferred:	11/08/2010 09:48
Received:	11/08/2010 09:43	Left Scene:	11/08/2010 10:15
Dispatch Notif:	11/08/2010 09:43	Arrive Dest:	11/08/2010 10:42
Unit Notif:	11/08/2010 09:43	In Service:	11/08/2010 10:53
Enroute:	11/08/2010 09:44	Cancelled:	// ::
Arrive Scene:	11/08/2010 09:48	Back Home:	// ::
Arrive Pat:	11/08/2010 09:48		
		<u>Total Miles</u>	
		To Scene:	0.00
		Loaded:	18.30



Berkeley County EMS  
 0001

DISCN 11/07/17

PCR: 10-11082-M3 Date: 11/08/2010 Shift: A Unit: 03106 Callsign: M-3 Station: M-3 Worksheet: 1  
 MCN: Name: WOODS, DAVID A

**Assessment**

Airway:		Breathing:		Circulation:	
Condition:	Patent	Chest:	Normal	Periph Pulse:	Weak
Obstructed By:	None	Breath Sounds:		Cap Refill:	3
Trachea:	Midline	Left:	Clear	Jugular Vein:	Normal
Upper Airway:	Normal	Right:	Clear	Skin:	Cold, Dry, Pale
<b>Eyes:</b>					
Left:	Non-reactive	3.0 mm			
Right:	Sluggish	3.0 mm			

**Vital Signs**

Time	PTA	EKG	BP	Pulse	Resp	O2	Gluc.	Temp	GCH
11/08/2010 09:48	No	Not Recorded	/	88	16	96	50	0.0	9
11/08/2010 10:15	No	Normal Sinus	70 /50	90	18	98	52	0.0	10
11/08/2010 10:20	No	Normal Sinus	78 /52	82	16	96		0.0	9
11/08/2010 10:25	No	Normal Sinus	80 /45	84	16	99	145	0.0	9
11/08/2010 10:30	No	Normal Sinus	76 /40	82	14	99		0.0	9
11/08/2010 10:35	No	Normal Sinus	92 /	84	16	97		0.0	8

**Treatment**

Time	PTA	Treatment Given	Medic
11/08/2010 09:48	No	OXYGEN 3 l/min Nasal Cannula	SC008399
11/08/2010 09:48	No	GLUCAGON 1 mg Intramuscular	SC008399
11/08/2010 10:20	No	DEXTROSE 50% 12.50 mg Intravenous	SC008399
11/08/2010 09:48	No	Blood Glucose Analysis	SC008399
11/08/2010 10:15	No	Cardiac Monitor	SC008399
11/08/2010 09:48	No	Assessment - Adult	SC008399
11/08/2010 09:48	No	Pulse Oximetry	SC008399
11/08/2010 09:48	No	IV-Extremity	SC007793
11/08/2010 10:20	No	IV-Extremity	SC008399

**Narrative**

BERKELEY COUNTY EMS M-3 WAS DISPATCHED BY 911 TO A 50 YEARS WHITE MALE WITH A COMPLAINT OF ALTERED MENTAL STATUS AT 300 CALIFORNIA AVE. UPON ARRIVAL TO PATIENT WHO WAS IN THE CARE OF THE STAFF AT THE BERKELEY COUNTY DETENTION CENTER WHO STATED THAT "OVER THE PAST FEW DAYS PATIENT HAS BEEN COMPLAINING OF HAVING BLOOD IN HIS STOOL AND VOMITING HOWEVER THEY HAVE NOT WITNESSED ANY". UPON ASSESSMENT PATIENT WAS RESPONSIVE TO VERBAL STIMULUS. PATIENT AIRWAY WAS SPONTANEOUSLY PATENT WHILE BREATHING AT A RATE OF 16 BREATHS/MIN WITH CLEAR LUNG SOUNDS. RADIAL PULSE COULD NOT BE LOCATED INITIALLY AND SKIN PRESENTED COLD, PALE, BUT DRY. PATIENT PRESENTED NEUROLOGICALLY DEPRESSED WITH PUPILS BEING EQUAL AND ROUND HOWEVER NOT REACTIVE TO LIGHT. PATIENT WAS PLACED ON THE STRETCHER IN TRENDELENBURG AND OXYGEN VIA NASAL CANNULA AT A FLOW RATE OF 4 L/MIN. PATIENT'S BGL WAS REVEALED TO BE 50 MG/DL AT WHICH POINT IV ACCESS WAS ATTEMPTED WITHOUT SUCCESS AND PATIENT WAS ADMINISTERED 1 MG OF GLUCAGON IN THE RIGHT DELTOID. PATIENT WAS RELOCATED TO THE MEDIC UNIT WHERE BGL WAS RECHECKED AND 52 MG/DL WAS OBTAINED. PATIENT WAS PLACED ON CARDIAC MONITOR WHICH DISPLAYED NORMAL SINUS RHYTHM. IV ACCESS WAS ATTEMPTED AGAIN AND OBTAINED IN THE LEFT AC WITH A 20 GAUGE AND NORMAL SALINE BOLUS OF 250 WAS ADMINISTERED. PATIENT WAS ADMINISTERED 12.5 G OF DEXTROSE 50% WHICH HELP OBTAIN A BGL OF 145 MG/DL. DUE TO PATIENT HAVING A STATED GI PROBLEM OVER SEVERAL DAYS HE WAS CONTINUOUSLY FLUID CHALLENGED ENROUTE TO ER. PATIENT WAS CONTINUOUSLY MONITORED ENROUTE WITH SLIGHT CHANGES PRESENTING IN BP AND CIRCULATION. TRNG WAS ENCODED WITHOUT QUESTIONS OR DOCTORS ORDERS. PATIENT TURNED OVER TO ER STAFF IN ROOM 11.

Completed By:  
 SC008399

Berkeley County EMS  
 0007

PCR: 10-11392-M3 MCN:	Date: 11/08/2010 Name: WOODS, DAVID A	Shift: A	Unit: 03105	Callign: M-3	Station: M-3	Wkctd: 1
Driver:	Richard Smalls SC007793 EMT-Paramedic	<i>Richard Smalls</i>				
1st Att:	MONTY JENKINS SC008399 EMT-Paramedic	<i>Monty Jenkins</i>				
2nd Att:	N/A					
3rd Att:	N/A					
Physician Giving Orders / Receiving Patient	Date	Received By	Date			

Berkeley County EMS  
nnn

# EXHIBIT D

EXHIBIT D

RECEIPT AND RELEASE

This Release is made by Nancy Morris, as Personal Representative of the Estate of David Allan Woods, and the Elrod Pope Law Firm as her counsel.

The South Carolina Insurance Reserve Fund has agreed to pay the amount of Twenty-Five Thousand Seven Hundred Sixty-Eight and 75/100 Dollars (\$25,768.75), the receipt and adequacy of which is hereby acknowledged, in exchange for a full and final settlement and release of any and all claims for attorney's fees and costs incurred for the appeal to the Fourth Circuit Court of Appeals against those parties released herein.

Nancy Morris, as Personal Representative of the Estate of David Allan Woods, and the Elrod Pope Law Firm as her counsel, for themselves and for their heirs, successors and assigns, release and forever discharge Andrew J. Bland, Richard T. Burkholder, Leemon E. Carner, Jerry Speissegger, Jr., Priscilla Garrett, the South Carolina Insurance Reserve Fund, and their employees, agents, servants, former employees, employers and former employers, and their heirs, successors and assigns, of and from any claims for attorney's fees and costs pursuant to 42 U.S.C. § 1988 and Rule 54, FRCP, and arising out of or in any way related to the appeal bearing Fourth Circuit Docket Number 15-1115.

By accepting the sum of \$25,768.75 in payment of appellate attorney's fees and costs, Nancy Morris, as Personal Representative of the Estate of David Allan Woods, expressly reserves and does not waive her claims as asserted in the pending action captioned *Morris v. South Carolina State Budget and Control Board*, Civil Action No. 2015-CP-40-0619. Likewise, Nancy Morris, as Personal Representative of the Estate of David Allan Woods, acknowledges that in agreeing to tender the amount stated herein, the South Carolina Insurance Reserve Fund, as a division of the State Fiscal Accountability Authority, expressly reserves and does not waive any defenses as asserted in the pending action captioned *Morris v. South Carolina State Budget and Control Board*, Civil Action No. 2015-CP-40-0619.

Nancy Morris, as Personal Representative of the Estate of David Allan Woods, and the Elrod Pope Law Firm as her counsel further state that they signed this Release as their own free will and acts.



*Teresa M Stout*  
Teresa M Stout  
Exp Apr 5, 2019

*Nancy Morris* (SEAL)  
NANCY MORRIS, as Personal Representative  
of the Estate of David Allan Woods  
Date: 3-14-2017

\_\_\_\_\_(SEAL)  
ELROD POPE LAW FIRM

By its: \_\_\_\_\_  
Date: \_\_\_\_\_

DISCN 11/07/17

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ORANGEBURG DIVISION

Nancy Morris, as Personal Representative )  
of the Estate of David Allan Woods, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
Andrew J. Bland, PFC; )  
Richard T. Burkholder, SGT; )  
Leemon E. Carner, PFC; )  
Jerry Speissegger, Jr., PFC; and )  
Priscilla Garrett, SGT, )  
 )  
Defendants. )  
\_\_\_\_\_ )

Civil Action No. 5:12-3177-RMG

**PARTIAL SATISFACTION OF  
JUDGMENT**

The Plaintiff Nancy Morris, as Personal Representative of the Estate of David Allan Woods, and her counsel of record hereby acknowledge receipt of the sum of Nine Hundred Ninety-Two Thousand Thirteen and 63/100 Dollars (\$992,013.63) and agree to the partial satisfaction of the judgment entered in this action on or about October 21, 2014 (Dkt. #238), as follows:

1. The verdict in the amount of \$171,875.00 for compensatory damages (as reduced in the Order filed December 31, 2014) is satisfied in full;
2. The award of attorney's fees in the amount of \$354,293.00 is satisfied in full;
3. The award of costs in the amount of \$31,820.62 is satisfied in full;
4. The accrual of post-judgment interest in the amount of \$5,900.00 is satisfied in full; and
5. The award of punitive damages is partially satisfied by the payment of \$428,125.00 as follows:

DLSCN 11/07/17

- (a) Andrew Bland: the amount of \$26,211.73 of the \$150,000 awarded is satisfied, leaving a remaining partial judgment in the amount of \$123,788.27.
- (b) Richard T. Burkholder: the amount of \$174,744.90 of the \$1,000,000 awarded is satisfied, leaving a remaining partial judgment in the amount of \$825,255.10.
- (c) Leemon E. Carner: the amount of \$26,211.73 of the \$150,000 awarded is satisfied, leaving a remaining partial judgment in the amount of \$123,788.
- (d) Jerry Speissegger, Jr.: the amount of \$26,211.73 of the \$150,000 awarded is satisfied, leaving a remaining partial judgment in the amount of \$123,788.
- (e) Priscilla Garrett: the amount of \$174,744.90 of the \$1,000,000 awarded is satisfied, leaving a remaining partial judgment in the amount of \$825,255.10.

The Plaintiff and her counsel of record hereby authorize and direct the Clerk of Court for the United States District Court to enter partial satisfaction of record of said judgment as stated herein.

The Plaintiff and her counsel of record further represent and confirm that the judgment has not been enrolled in any other court or with any other Clerk of Court.

By accepting the sum of Nine Hundred Ninety-Two Thousand Thirteen and 63/100 Dollars (\$992,013.63) in partial satisfaction of the judgment entered in this action on or about October 21, 2014, the Plaintiff expressly reserves and does not waive her claims as asserted in the pending action captioned *Morris v. South Carolina State Budget and Control Board*, Civil Action No. 2015-CP-40-0619. Likewise, the Plaintiff acknowledges that in agreeing to tender the amounts stated herein, the South Carolina Insurance Reserve Fund, as a division of the State Fiscal Accountability Authority, expressly reserves and does not waive any defenses as asserted in the pending action captioned *Morris v. South Carolina State Budget and Control Board*, Civil

Action No. 2015-CP-40-0619.



*Teresa M Stout*  
*Teresa M Stout*  
*Exp Apr 5, 2019*

*Nancy Morris*  
NANCY MORRIS, as Personal Representative  
of the Estate of David Allan Woods

---

ANDREW W. CREECH  
HAROLD C. STALEY  
GARRETT JOHNSON

*Counsel for Plaintiff*

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

---

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

---

Appellate Case No. 2020-000719

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Nancy Morris, as Personal Representative of the Estate of David Allan Woods.....Appellant

vs.

State Fiscal Accountability Authority, at al.....Respondent

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**CERTIFICATE OF COUNSEL**

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The undersigned hereby certifies the Supplemental Record on Appeal contains all material proposed to be included therein, excepting partial duplication, the same contains no other material.

Respectfully submitted,

*s/ Thomas J. Rode*

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*Attorneys for the Appellant*

**RECEIVED**

**Jul 06 2021**

**SC Court of Appeals**