

18843

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Case No. 2008-CP-22-1496
Case No. 2009-CP-22-810

RECEIVED

JAN 14 2011

SC Court of Appeals

John Thomas Ross,.....Appellant,

v.

Waccamaw Community Hospital, Dr. Webster N. Jones, III, and Dr. David R. Anderson,

OF WHOM Dr. Webster N. Jones, III and Dr. David R. Anderson are.....Respondents.

SUPPLEMENTAL RECORD ON APPEAL

Karl S. Brehmer
L. Darby Plexico, III
BROWN & BREHMER
Post Office Box 7966
1720 Main Street, Suite 201
Columbia, South Carolina 29202
(803) 771-6600
Attorneys for Appellant

John B. McCutcheon, Jr.
Lisa A. Thomas
THOMPSON & HENRY, PA
Post Office Box 1740
Conway, South Carolina 29526
(843) 248-5741
Attorneys for Respondent Dr. David R.
Anderson

Darren K. Sanders
BUYCK & SANDERS LAW FIRM, LLC
Post Office Box 2424
Mount Pleasant, South Carolina 29465
(843) 377-1400
Attorneys for Respondent Dr. Webster N.
Jones, III

Andrew F. Lindemann
DAVIDSON & LINDEMANN. P.A.
Post Office Box 8568
Columbia, South Carolina 29202
(803) 806-8222
Attorneys for Respondent Dr. Webster N.
Jones, III

INDEX

Plaintiff's Notice of Intent to File Suit for 08 case, filed October 27, 2008.....	1
Exhibit A.....	2
Exhibit B.....	9
Exhibit C.....	20
 Plaintiff's Notice of Intent to File Suit for 09 case, filed June 2, 2009.....	 24
Exhibit A.....	26
Exhibit B.....	34
Exhibit C.....	45
 Plaintiff's Notice of Intent to File Suit, filed August 31, 2009.....	 49
Exhibit A.....	51
Exhibit B.....	59
Exhibit C.....	70
 Certificate of Appellant.....	 75

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GEORGETOWN)

C/A No: 2008-CP-22-01496

John Thomas Ross)

Plaintiff,)

NOTICE OF INTENT TO FILE SUIT

vs.)

Waccamaw Community)

Hospital, Dr. Webster N. Jones,)

III and Dr. David R. Anderson,)

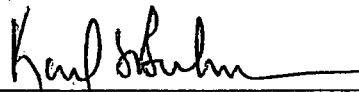
Defendants.)

FILED
GEORGETOWN COUNTY, S.C.
2008 OCT 27 AM 8:33
ALMA Y. WHITE
CLERK OF COURT

Pursuant to S.C. Code Ann. 15-79-125, Plaintiff above named files this Notice of Intent to File Suit. Attached hereto as Exhibit A, and incorporated herein by reference, is a Complaint that lays out to the factual allegations and legal claims. Exhibit A is the Plaintiff's "short and plain statement of the facts showing the parties are entitled to relief." Attached as Exhibit B is an affidavit from an expert delineating at least one negligent act or omission giving rise to this case. Attached as Exhibit C are answers to the Standard Interrogatories as set forth in S.C.R.C.P. 33 (b).

BROWN & BREHMER

By:



Karl S. Brehmer
1720 Main Street, Suite 201
Post Office Box 7966
Columbia, South Carolina 29202
(803) 771-6600
Attorneys for Plaintiff

Columbia, South Carolina
October 14, 2008

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

John Thomas Ross

Plaintiff(s)

vs.

Dr. Webster N. Jones, III and David R. Anderson

Defendants

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

____ - CP - ____ - ____

(Please Print)

Submitted By: Karl S. Brehmer

Address: Post Office Box 7966, Columbia,
SC 29202

SC Bar #: 12849

Telephone #: 803-771-6600

Fax #: 803-252-1620

E-mail: karl.brehmer@brownandbrehmer.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check one box below)

- ☒ JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR (certificate attached).

NATURE OF ACTION

(Check One Box Below)

- | | | | |
|--|---|--|--|
| Contracts
☐ Construction (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Wrongful Breach (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☒ Medical Malpractice (220)
☐ Other Malpractice (299) | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Other (499) |
| Inmate Petitions
☐ PCR (500)
☐ Sexual Predator (510)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)**
☐ Other (799) | Administrative Law/Relief
☐ Driver License Reinstatement (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture (840)
☐ Other (899) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | | | |

** Check only if Summons & Complaint to follow in 20 days

Submitting Party Signature: Karl Brehmer

Date: 10/9/08

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.



STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GEORGETOWN)

John Thomas Ross)

Plaintiff,)

vs.)

Dr. Webster N. Jones,)

III and Dr. David R. Anderson,)

Defendants.)

C/A No:

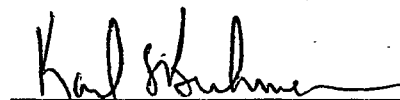
SUMMONS

TO: THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action (the original of which has been filed with the Clerk of Court for Georgetown County) and to serve a copy of your Answer or other responsive pleading to the said Complaint on the subscriber at his office at 1720 Main Street, Suite 201, Post Office Box 7966, Columbia, South Carolina 29202, within thirty (30) days after the service thereof, exclusive of the date of such service, and if you fail to appear, answer or defend the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

BROWN & BREHMER

By:



Karl S. Brehmer
1720 Main Street, Suite 201
Post Office Box 7966
Columbia, South Carolina 29202
(803) 771-6600
Attorneys for Plaintiff

October 13, 2008

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)
)
John Thomas Ross)
)
Plaintiff,)
)
vs.)
)
Dr. Webster N. Jones,)
III and Dr. David R. Anderson,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS

C/A No:

COMPLAINT
(Jury Trial Demanded)

The Plaintiff, complaining of the Defendants herein would respectfully show unto the Court the following:

FACTS

1. The Plaintiff is a citizen and resident of the County of Horry, State of South Carolina.
2. Upon information and belief, Dr. Webster N. Jones, III is a citizen and resident of the County of Georgetown, State of South Carolina.
3. Upon information and belief, Dr. David R. Anderson is a citizen and resident of the County of Georgetown, State of South Carolina.
4. On or about February 5, 2006, the Plaintiff reported to Waccamaw Community Hospital with abdominal pain in the left lower quadrant. A CT scan was performed and read by Dr. Webster N. Jones, III, a radiologist. Dr. Jones reported an abnormal thickening of the descending colon in the left lower quadrant of the abdomen and opined that the thickening of the descending colon could be secondary to diverticulitis or a focal area of colitis. There was not a large number of diverticuli in the

descending colon. There was no recommendation by Dr. Webster N. Jones, III for a colonoscopy.

5. On or about February 14, 2007, the Plaintiff was seen by Dr. Mark Gauthier of Doctor's Care, who referred the Plaintiff to Waccamaw Community Hospital for a CT scan, which was performed and read by Dr. David R. Anderson. Dr. Anderson's review of the CT scan revealed that the Plaintiff had a probable benign right hepatic cyst but the remainder of the study was normal.

6. On or about May 1, 2007, the Plaintiff reported to Conway Medical Center with abdominal pain. Dr. John Cacace ordered A CT scan. Dr. Scott Mencke, a radiologist, opined that the Plaintiff's CT scan dated May 1, 2007, showed a thickening of the colonic wall in the descending and sigmoid junction. Dr. Mencke prescribed a close follow up to exclude a mass process as the source for the adjacent lymphadenopathy.

7. On or about October 23, 2007, the Plaintiff was treated at the Veteran's Affairs Hospital located in Charleston, South Carolina. Dr. Donald Garrow ordered a CT scan that was conducted on October 23, 2007 and read by Dr. Peter A. Rosenthal.

8. Dr. Rosenthal compared the February 5, 2006 CT scan, February 14, 2007 CT scan and the May 1, 2007 abdominal and pelvic CT scan. Dr. Rosenthal opined that the distal large bowel lesion present on October 23, 2007 had been present since at least February 5, 2006, at which time it measured approximately five centimeters in length. The comparison exam of February 14, 2007 showed that the lesion was approximately eight centimeters in length and there was regional lymphadenopathy. As

of May of 2007, the pre-posas lymph nodes measured 2.2 x 1.3 centimeters. The pre-posas lymph nodes had increased in size at the time of the October 23, 2007 examine.

FOR A FIRST CAUSE OF ACTION
(Negligence)

9. The Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 8 above as fully as if set forth verbatim herein.

10. The Defendants Dr. Webster N. Jones, III and Dr. David R. Anderson owed a duty of care to the Plaintiff to provide adequate patient care. Dr. Jones and Dr. Anderson breached this duty of care by failing to discover the distal large bowel lesion, which measure approximately five (5) centimeters in length as of February 5, 2006, and eight (8) centimeters in length, respectively, which was subsequently discovered by Dr. Peter Rosenthal and in failing to recommend that the Plaintiff have a colonoscopy to determine the source of the abnormal thickening of the descending colon in the left lower quadrant of the abdomen when Dr. Jones diagnosed the condition as diverticulitis or colitis but acknowledged that there was not a large number of diverticuli in the area of abnormal thickening.

11. The injuries sustained by the Plaintiff were the direct and proximate result of and were caused and occasioned by the negligence, carelessness, recklessness, willful and wanton acts on the part of Dr. Webster N. Jones, III and Dr. David R. Anderson in failing to possess and exercise that degree of medical training, competency and skill ordinarily a accustomed and possessed and exercised by physicians under the same or similar circumstances and thereby rendering inappropriate medical care to the

Plaintiff, John Ross by deviating from, failing and falling below the prevailing and acceptable standards of care in one or more of the following particulars:

- a. in failing to perform an accurate assessment of the Plaintiff's condition;
- b. in failing to recognize and identify potential problems and risks for the Plaintiff;
- c. in failing to protect the Plaintiff from avoidable injury;
- d. in failing to exercise the degree of care that is required when performing diagnostic studies on patients;
- e. in failing to discover the mass that other physicians discovered reviewing the same diagnostic studies;
- f. in acting with reckless disregard for the Plaintiff's health, well-being and rights; and
- g. such other particulars as shall be shown at trial.

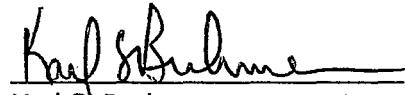
all of which acts and/or omissions, separately or together, were the direct and proximate cause of the damages injuries claimed herein.

12. As a direct, foreseeable and proximate result of the aforesaid negligence, gross negligence, reckless, wanton and willful acts and/or omissions of the Defendants Dr. Webster N. Jones, III and Dr. David R. Anderson, the Plaintiff has endured conscious pain and suffering, physical harm and injury, mental and emotional suffering, medical expenses and the Plaintiff will continue to suffer permanent physical, mental and emotional injuries.

13. Due to the negligent, grossly negligent, reckless, wanton and willful acts and/or omissions of the Defendant Dr. Webster N. Jones, III and Dr. David R. Anderson, the Plaintiff is entitled to actual and punitive damages from the Defendant Dr. Webster N. Jones, III and Dr. David R. Anderson in an amount to be determined by the trier of fact and punitive damages in such an amount that would deter the Defendant Dr. Webster N. Jones, III and Dr. David R. Anderson from such activities in the future.

BROWN & BREHMER

By:



Karl S. Brehmer
1720 Main Street, Suite 201
Post Office Box 7966
Columbia, South Carolina 29202
(803) 771-6600
Attorneys for Plaintiff

October 14, 2008

STATE OF TEXAS

COUNTY OF

DALLAS

) AFFIDAVIT OF
) DR. THOMAS FROEHLICH
)

Personally appeared before the undersigned officer duly authorized by law to administer oath, Thomas W. Froehlich, M.D., M.S.H.A., who being first duly sworn, deposes and states the following:

1. My name is Thomas W. Froehlich, M.D. I am over twenty-one years of age and I am competent to make and give this Affidavit.
2. I am a licensed physician in the States of Texas and Missouri. I received my bachelor's degree from the University of Texas in 1970. I received my M.D. in 1975 from the University of Texas Southwestern Medical School, Dallas, Texas. In 1995, I received my M.S.H.A. from the University of Colorado, Executive Program in Health Administration, Denver, Colorado. I am currently a member of the faculty as an associate professor at Southwestern Medical School in Dallas, Texas. A true and current copy of my professional curriculum vitae has been attached hereto and incorporated herein by reference.
3. The opinions set forth in this Affidavit are based upon my personal knowledge, education, training and experience in the practice of internal medicine, hematology and oncology, my review of medical records and documents hereinafter referenced and the factual situation described in said records and set forth within this Affidavit.
4. As used within the context of this Affidavit, the term "standard of care" refers to the degree of care and skill ordinarily employed by members of the medical



profession in general under the same or similar conditions and like surrounding circumstances.

5. By virtue of my education, training and experience as a physician, I am familiar with the standard of care exercised by physicians under the circumstances reflected in the records hereinafter referenced and the factual situation set forth within this Affidavit.

6. In formulating my opinions as set forth in this Affidavit, I have reviewed the following materials that formed the factual basis for my opinions:

- a. medical records of John Ross from Waccamaw Community Hospital beginning February 5, 2006 through October 3, 2007.
- b. medical records of John Ross from The Department of Veteran's Affairs beginning March 1, 2007 through July 11, 2008.
- c. medical records of John Ross from Conway Medical Center beginning September 17, 2005 through May 1, 2007.
- d. CT scans of John Ross from Waccamaw Hospital dated February 5, 2006 and February 14, 2007.
- e. Radiology Report for John Ross dated October 23, 2007 and authored by Dr. Peter A. Rosenthal.

7. My review of the materials described above reveals that John Ross was born on January 29, 1971. On or about February 5, 2006, he reported to the Waccamaw Community Hospital with abdominal pain in the left lower quadrant with no remarkable diarrhea or fever but with a significant amount of discomfort. He was treated and diagnosed with Colitis/Diverticulitis and discharged home. Dr. Webster N. Jones, III, a radiologist, noted on a CT scan dated February 5, 2006, an abnormal thickening of the descending colon in the lower left quadrant of the abdomen. Dr.

Jones noted that the thickening of the descending colon could be secondary to Diverticulitis or a focal area of Colitis. There was not a large number of diverticuli in the descending colon. There was no recommendation from Dr. Webster N. Jones, III for a colonoscopy.

8. On February 14, 2007, John Ross returned to the Waccamaw Community Hospital for a CT of the abdomen and pelvis ordered by Dr. Mark Gauthier. The radiologist that read the CT scan that was performed on February 14, 2007 was Dr. David R. Anderson. Dr. Anderson's conclusions were a probable benign right hepatic cyst. The remainder of the study was normal.

9. On March 1, 2007, John Ross was seen by Dr. Rajan Gupta, of Gastroenterology & Liver Disease Beach Medical Specialists, PA. Dr. Gupta prescribed a colonoscopy to rule out colon polyps, malignancy and diverticulosis and discussed and actually scheduled the procedure for John Ross.

10. On May 1, 2007, John Ross reported to Conway Medical Center with abdominal pains for a month. A CT scan was ordered by Dr. John Cacace. Dr. G. Scott Mencken opined that John Ross's CT scan dated May 1, 2007 showed a thickening of the colonic wall in the descending and sigmoid junction. Dr. Mencken prescribed a close follow up to exclude a mass process as the source for the adjacent lymphadenopathy.

11. On or about October 23, 2007, the Plaintiff saw Dr. Donald Garraway with the Veteran's Affairs Hospital located in Charleston, South Carolina. Dr. Garraway ordered a CT scan that was conducted on October 23, 2007 and read by Dr. Peter A.

Rosenthal. Dr. Rosenthal compared the February 5, 2006, February 14, 2007 and May 1, 2007 abdominal and pelvic CT scans. Dr. Rosenthal opined that the distal large bowel lesion present on October 23, 2007 had been present since at least February 5, 2006, at which time it measured approximately five centimeters in length. The comparison exam of February 14, 2007 showed that the lesion was approximately eight centimeters and there was regional lymphadenopathy. As of May 2007, the pre-psoas lymph node measured 2.2 x 1.3 centimeters. The pre-psoas lymph node had increased in size at the time of the October 23, 2007 exam.

12. In my opinion, Dr. Webster N. Jones, III deviated from the standard of care as previously defined in this Affidavit as follows:

- a. in failing to recommend that John Ross have a colonoscopy to determine the source of the abnormal thickening of the descending colon in the left lower quadrant of the abdomen when Dr. Jones diagnosed the condition as Diverticulitis or Colitis but acknowledged that there were not a large number of diverticuli in the area of abnormal thickening. What Dr. Jones should have done is make the same recommendations that Dr. Scott Mencken made on May 1, 2007 for a close follow up to exclude a mass process.

13. In my opinion, Dr. David R. Anderson, who reviewed John Ross's CT scan of February 12, 2007, deviated from the standard of care as previously defined in this Affidavit as follows:

- a. in failing to discover the eight-centimeter lesion and the regional lymphadenopathy as determined by Dr. Peter A. Rosenthal on or about October 23, 2007.
- b. in failing to recommend a close follow up to exclude a mass as Dr. Scott Mencken did on May 1, 2007.

14. In my opinion, Dr. Mark Gauthier deviated from the standard of care as previously defined in this Affidavit as follows:

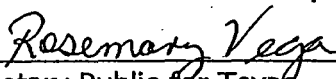
- a. in failing to recommend further testing of John Ross's lower abdominal complaints after receiving the report that John Ross had lost approximately fifty pounds over a twelve-month period and had had at least a twelve-month period of complaints prior to coming into the emergency room on February 14, 2007.

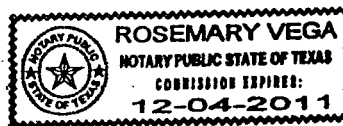
15. The standards stated herein are based on the facts and information as contained in the above-referenced medical records. I have not set forth each and every opinion I hold with respect to the care rendered to John Ross. I reserve the right to modify or supplement the opinions in this Affidavit upon being presented with additional factual information.

Further Affiant saith not.


Dr. Thomas W. Froehlich

Sworn to and subscribed before me
this 26 day of September, 2008


Notary Public for Texas
My Commission Expires 12/04/2011



September, 2008

Curriculum Vitae

Thomas W. Froehlich, M.D., M.S.H.A.

Personal Data

Date and Place of Birth	August 27, 1949 Minneapolis, Minnesota
Office Address	UT Southwestern Medical Center 5323 Harry Hines Blvd. Dallas, TX 75390
Home Address	5707 Watson Circle Dallas, TX 75225
Marital Status	Married to Susan Godfrey
Children	Anna K., Aaron T.

Education

<u>Year</u>	<u>Degree</u>	<u>Institution</u>
1967 - 1969		Loyola University New Orleans, LA
1969 - 1970	B.A. cum laude	University of Texas Austin, TX
1971 - 1975	M.D.	University of Texas Southwestern Medical School Dallas, TX
1993 - 1995	M.S.H.A.	University of Colorado Executive Program in Health Administration Denver, CO

Hospital, Clinic and Academic Appointments

<u>Year</u>	<u>Position</u>	<u>Institution</u>
1973 - 1975	Psychiatric Extern	Timberlawn Hospital Dallas, TX

Thomas W. Froehlich, M.D., M.S.H.A.

Hospital, Clinic and Academic Appointments (continued)

<u>Year</u>	<u>Position</u>	<u>Institution</u>
1975 -1976	Intern, Internal Medicine	Albany Medical Center Albany, NY
1976 -1978	Resident, Internal Medicine	Albany Medical Center Albany, NY
1977 -1978	Chief Resident, Internal Medicine	Albany Veterans Administration Hospital
1976 -1978	Instructor	Department of Medicine Albany Medical College
1978 -1980	Fellow, Hematology-Oncology	University of Texas Health Science Center - Dallas (Southwestern Medical School) Dallas, TX
1979 -1980	Physician, Student Health Service	University of Texas Health Science Center - Dallas
1981 -1986	Assistant Clinical Professor	Department of Medicine University of Missouri Medical Center Columbia, MO
1980 - 2007	Attending Physician on active Medical Staff	St. John's Regional Health Center Springfield, MO
1980 - 2006	Attending and Consulting Physician on Medical Staff	Lester E. Cox Hospitals Springfield, MO
1980 - 1995	Member and Partner	Oncology Hematology Associates Springfield, MO
1995 -2007	Physician	St. John's Health System Cancer & Hematology Center, Springfield, MO

Thomas W. Froehlich, M.D., M.S.H.A.

<u>Year</u>	<u>Position</u>	<u>Institution</u>
2008	Associate Professor and Medical Director of the Simmons Cancer Clinics	University of Texas Southwestern Medical Center Dallas, TX

Administrative Positions

1992-1998	Medical Director	Mid-America Cancer Center St. John's Regional Health Center, Springfield, MO
1994-1998	Medical Director	Springfield Clinic St. John's Health System Springfield, MO
1995-1998	Vice President of Medical Management	St. John's Health System Springfield, MO
2001-2007	Co-Chair, Section of Oncology & Hematology; Department of Medical Specialties	St. John's Clinic Springfield, MO
2005-2007	Member, Board of Directors	St. John's Clinic Springfield, MO
2008	Medical Director, Cancer Clinics	Harold C. Simmons Compre- hensive Cancer Center UT Southwestern Medical Center; Dallas, TX

Licensure

New York, 1976 (Inactive)
Missouri, 1980
Arkansas, 1985 (Inactive)
Texas, reactivated 2008

Board Certification

National Board of Medical Examiners, 1976
American Board of Internal Medicine, 1978
American Board of Internal Medicine, Subspecialty of Medical Oncology,
1981

Thomas W. Froehlich, M.D., M.S.H.A.

Honors and Awards

Dean's Scholarship to Loyola University, 1967-1969
American Cancer Society Research Fellowship, 1979 – 1980
Guide to America's Top Doctors, 2003-present
Best Doctors in America, 2005-2006, 2007-2008

Professional Society Membership

American College of Physicians
American Society of Clinical Oncology
Greene County Medical Society
Missouri State Medical Association
American Medical Association

Publications

Froehlich, T.W. et al. Terminal Deoxynucleotidyl Transferase: Presence in Peripheral Blood of Patients with Acute Lymphoblastic Leukemia and Lymphoma in Remission, Proceedings American Society of Clinical Oncology, 1980.

Froehlich, T.W. et al. Terminal Deoxynucleotidyl Transferase-Containing Cells in Peripheral Blood: Implications for the Surveillance of Patients with Lymphoblastic Leukemia or Lymphoma in Remission. Blood, 58:214, 1981.

Froehlich, T.W. End of Life Care; Relief of Symptoms other than Pain. Journal of the Greene County Medical Society, 65, No.3:12. March, 2007

Thomas W. Froehlich, M.D., M.S.H.A.

Committee Leadership

Cancer Committee LE Cox Medical Center Chairman, 1982-84, 1990-91
 Cancer Committee St. John's Regional Health Center, Chairman 1992-1998
 Professional Committee Hospice of Southwest Missouri, Chairman 1982-84
 Professional Education Committee American Cancer Society, Greene County
 Chairman, 1984-87
 Public Issues Committee American Cancer Society, Missouri Division
 Vice-Chairman 1991-92, Chairman 1992-1998
 Greene County Medical Society Committees
 Cancer Committee, Chairman 1987-88
 Van Smith Hematology Lectureship Committee, Member 1985-90,
 Chairman, 1990-94
 Continuing Medical Education Committee, Member 1994-Present
 St. John's Regional Health Center Medical Education Committee, Chairman
 1992-2007

Medical Staff Positions

Secretary of the Medical Staff, St. John's Regional Health Center, 1992-94
 Vice-Chairman, Department of Medicine, St. John's Regional Health Center,
 1991-92
 Vice-Chief of Medicine, St. John's Regional Health Center, 1992-94
 Member, Board of Directors, St. John's Physicians and Clinics, 2004-2007
 Member, St. John's Health System Credentialing Committee, 2005-2007
 Member, Ambulatory Practice Committee, UT Southwestern Medical
 Center, June, 2008-present
 Member, IRB, UT Southwestern Medical Center, begin August 2008

Volunteer Positions

Carter Blood Care, Board of Directors, Member, May 2008 - present
 Breast Cancer Foundation of the Ozarks, Member Board of
 Directors, 2003-2007
 EPEC trainer, Greene County Alliance for Compassionate Care of the Dying,
 March 2001-present
 American Cancer Society, Greene County Unit
 Board of Directors, 1981-1998
 President, 1987-88
 Chairman of the Board, 1989-90
 American Cancer Society, Missouri Division
 Board of Directors, 1989-1998

Thomas W. Froehlich, M.D., M.S.H.A.

Volunteer Positions, continued

Hospice of Southwest Missouri

Board of Directors, 1981-86

Springfield Catholic Schools Development Board

Member, 1981-87

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GEORGETOWN	)	
	)	
	)	C/A No:
John Thomas Ross	)	
Plaintiff,	)	
	)	STANDARD RULE 33 INTERROGATORIES
	)	
vs.	)	
	)	
Dr. Webster N. Jones,	)	
III and Dr. David R. Anderson,	)	
	)	
Defendants.	)	

YOU ARE HEREBY SERVED the following written Answers to standard Rule 33 Interrogatories on behalf of the Plaintiff.

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

ANSWER: John Ross
8681 Laurel Woods Drive
Myrtle Beach, South Carolina 29588

Tricia Eiland
8681 Laurel Woods Drive
Myrtle Beach, South Carolina 29588

2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

ANSWER: Medical records of John Ross from Waccamaw Community Hospital beginning February 5, 2006 through October 3, 2007.



Medical records of John Ross from The Department of Veteran's Affairs beginning March 1, 2007 through July 11, 2008.

Medical records of John Ross from Conway Medical Center beginning September 17, 2005 through May 1, 2007.

CT scans of John Ross from Waccamaw Hospital dated February 5, 2006 and February 14, 2007.

Radiology Report for John Ross dated October 23, 2007 and authored by Dr. Peter A. Rosenthal.

3. Set forth the names and addresses of all physicians who have treated the party and all hospitals to which the party has been committed in connection with the said injuries and also set forth a statement of all medical costs involved.

ANSWER: Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Doctor's Care
Dr. Mark Gauthier
1600 Highway 17 N.
Surfside Beach, South Carolina

Conway Medical Center
P.O. Box 829
Conway, South Carolina 29528

Dr. Webster N. Jones, III
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Dr. David R. Anderson
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Dr. Scott K. King
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Eugene V. Mayeaux
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Dr. Joseph N. Ratliffe
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Veteran's Affairs Hospital
109 Bee Street
Charleston, South Carolina 29401

Dr. Rajan Gupta
241 Singleton Road, Suite A
Conway, South Carolina 29526

* See attached itemization of John Ross's medical bills.

4. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

ANSWER: Not applicable.

5. Set forth a statement of all other damages claimed to have been sustained by the party.

ANSWER: See Answer to Interrogatory #3.

6. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case.

ANSWER: Dr. Thomas Froehlich
UT Southwestern Medical Center at Dallas
5323 Harry Hines Blvd.
Dallas, TX 75390

Dr. Peter Rosenthal
Charleston VAMC
109 Bee Street
Charleston, South Carolina 29401

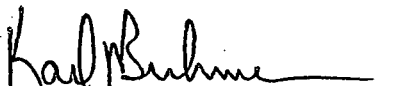
Donald A. Garrow
Charleston VAMC
109 Bee Street
Charleston, South Carolina 29401

7. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

ANSWER: John Ross and Trisha Eiland will testify regarding the Plaintiff's condition prior to going to Waccamaw Community Hospital and his condition after going to Waccamaw Community Hospital.

The remaining witnesses listed in Answer to Interrogatory #3 are doctors and are expected to testify consistently with their medical reports.

BROWN & BREHMER

By: 
Karl S. Brehmer
1720 Main Street, Suite 201
Post Office Box 7966
Columbia, South Carolina 29202
(803) 771-6600
Attorneys for Plaintiff

October 14, 2008

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)
)
John Thomas Ross)
)
Plaintiff,)
)
vs.)
)
Dr. Webster N. Jones,)
)
III and Dr. David R. Anderson,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS

C/A No: 2009-CP-22-00810

NOTICE OF INTENT TO FILE SUIT

FILED
GEORGETOWN COUNTY, S.C.
2009 JUN -2 PM 4:14
ALMA Y. WHITE
CLERK OF COURT

Pursuant to S.C. Code Ann. 15-79-125, Plaintiff above named files this Notice of Intent to File Suit. Attached hereto as Exhibit A, and incorporated herein by reference, is a Complaint that lays out the factual allegations and legal claims. Exhibit A is the Plaintiff's "short and plain statement of the facts showing the parties are entitled to relief." Attached as Exhibit B is an affidavit from an expert delineating at least one negligent act or omission giving rise to this case. Attached as Exhibit C are answers to the Standard Interrogatories as set forth in S.C.R.C.P. 33 (b).

BROWN & BREHMER

By: Karl S. Brehmer
Karl S. Brehmer
1720 Main Street, Suite 201
Post Office Box 7966
Columbia, South Carolina 29202
(803) 771-6600
Attorneys for Plaintiff

Columbia, South Carolina
May 22, 2009

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GEORGETOWN)

John Thomas Ross)

Plaintiff,)

vs.)

Dr. Webster N. Jones,)

III and Dr. David R. Anderson,)

Defendants.)

C/A No:

2009-CP-22-00810

CERTIFICATE OF MAILING

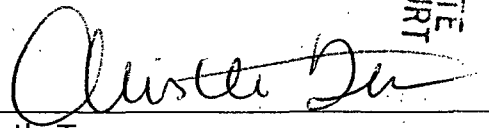
I, the undersigned employee of Brown & Brehmer, hereby certify that copies of the following documents have been served on the following individual(s) by depositing same in the United States Postal Service with the proper amount of first-class postage duly affixed:

Pleadings: Notice of Intent to File Suit

Served On: Lisa Thomas, Esq.
Post Office Box 1003
Conway, South Carolina 29528

Darren K. Sanders, Esq.
Post Office Box 2424
Mt. Pleasant, South Carolina 29465

FILED
GEORGETOWN COUNTY, S.C.
2009 JUN -2 PM 4: 14
ALMA Y. WHITE
CLERK OF COURT



Christie Turner

Columbia, South Carolina
May 22, 2009

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

John Thomas Ross

Plaintiff(s)

vs.

Dr. Webster N. Jones, III and David R. Anderson

Defendants

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

(Please Print)

Submitted By: Karl S. Brehmer

Address: Post Office Box 7966, Columbia,
SC 29202

SC Bar #: 12849

Telephone #: 803-771-6600

Fax #: 803-252-1620

E-mail: karl.brehmer@brownandbrehmer.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check one box below)

- ☒ **JURY TRIAL** demanded in complaint.
☐ This case is subject to **ARBITRATION** pursuant to the Circuit Court Alternative Dispute Resolution Rules.
☐ This case is subject to **MEDIATION** pursuant to the Circuit Court Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR (certificate attached).

NATURE OF ACTION

(Check One Box Below)

- | | | | |
|--|---|---|---|
| Contracts | Torts - Professional Malpractice | Torts - Personal Injury | Real Property |
| ☐ Construction (100) | ☐ Dental Malpractice (200) | ☐ Assault/Slander/Libel (300) | ☐ Claim & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Conversion (310) | ☐ Condemnation (410) |
| ☐ Employment (120) | ☒ Medical Malpractice (220) | ☐ Motor Vehicle Accident (320) | ☐ Foreclosure (420) |
| ☐ General (130) | ☐ Other Malpractice (299) | ☐ Premises Liability (330) | ☐ Mechanic's Lien (430) |
| ☐ Wrongful Breach (140) | | ☐ Products Liability (340) | ☐ Partition (440) |
| ☐ Other (199) | | ☐ Other (399) | ☐ Possession (450) |
| | | | ☐ Other (499) |
-
- | | | | |
|--|--|---|--|
| Inmate Petitions | Judgments/Settlements | Administrative Law/Relief | Appeals |
| ☐ PCR (500) | ☐ Death Settlement (700) | ☐ Driver License Reinstatement (800) | ☐ Arbitration (900) |
| ☐ Sexual Predator (510) | ☐ Foreign Judgment (710) | ☐ Judicial Review (810) | ☐ Magistrate-Civil (910) |
| ☐ Mandamus (520) | ☐ Magistrate's Judgment (720) | ☐ Relief (820) | ☐ Magistrate-Criminal (920) |
| ☐ Habeas Corpus (530) | ☐ Minor Settlement (730) | ☐ Permanent Injunction (830) | ☐ Municipal (930) |
| ☐ Other (599) | ☐ Transcript Judgment (740) | ☐ Forfeiture (840) | ☐ Probate Court (940) |
| | ☐ Lis Pendens (750)** | ☐ Other (899) | ☐ SCDOT (950) |
| | ☐ Other (799) | | ☐ Worker's Comp (960) |
| | | | ☐ Zoning Board (970) |
| | | | ☐ Other (999) |
-
- | | |
|--|--|
| Special/Complex /Other | |
| ☐ Environmental (600) | |
| ☐ Automobile Arb. (610) | |
| ☐ Medical (620) | |
| ☐ Other (699) | |

** Check only if Summons & Complaint to follow in 20 days

Submitting Party Signature:

Karl S. Brehmer

Date: 5/22/09

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GEORGETOWN	)	
	)	
John Thomas Ross	)	C/A No:
Plaintiff,	)	
	)	SUMMONS
vs.	)	
	)	
Dr. Webster N. Jones,	)	
III and Dr. David R. Anderson,	)	
	)	
Defendants.	)	

TO: THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action (the original of which has been filed with the Clerk of Court for Georgetown County) and to serve a copy of your Answer or other responsive pleading to the said Complaint on the subscriber at his office at 1720 Main Street, Suite 201, Post Office Box 7966, Columbia, South Carolina 29202, within thirty (30) days after the service thereof, exclusive of the date of such service, and if you fail to appear, answer or defend the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

BROWN & BREHMER

By: Karl S. Brehmer
 Karl S. Brehmer
 1720 Main Street, Suite 201
 Post Office Box 7966
 Columbia, South Carolina 29202
 (803) 771-6600
 Attorneys for Plaintiff

May 22, 2009

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GEORGETOWN	)	
	)	
	)	C/A No:
John Thomas Ross	)	
Plaintiff,	)	
	)	
vs.	)	COMPLAINT
	)	(Jury Trial Demanded)
	)	
Dr. Webster N. Jones,	)	
III and Dr. David R. Anderson,	)	
	)	
Defendants.	)	

The Plaintiff, complaining of the Defendants herein would respectfully show unto the Court the following:

FACTS

1. The Plaintiff is a citizen and resident of the County of Horry, State of South Carolina.
2. Upon information and belief, Dr. Webster N. Jones, III is a citizen and resident of the County of Georgetown, State of South Carolina.
3. Upon information and belief, Dr. David R. Anderson is a citizen and resident of the County of Georgetown, State of South Carolina.
4. On or about February 5, 2006, the Plaintiff reported to Waccamaw Community Hospital with abdominal pain in the left lower quadrant. A CT scan was performed and read by Dr. Webster N. Jones, III, a radiologist. Dr. Jones reported an abnormal thickening of the descending colon in the left lower quadrant of the abdomen and opined that the thickening of the descending colon could be secondary to diverticulitis or a focal area of colitis. There was not a large number of diverticuli in the

descending colon. There was no recommendation by Dr. Webster N. Jones, III for a colonoscopy.

5. On or about February 14, 2007, the Plaintiff was seen by Dr. Mark Gauthier of Doctor's Care, who referred the Plaintiff to Waccamaw Community Hospital for a CT scan, which was performed and read by Dr. David R. Anderson. Dr. Anderson's review of the CT scan revealed that the Plaintiff had a probable benign right hepatic cyst but the remainder of the study was normal.

6. On or about May 1, 2007, the Plaintiff reported to Conway Medical Center with abdominal pain. Dr. John Cacace ordered A CT scan. Dr. Scott Mencke, a radiologist, opined that the Plaintiff's CT scan dated May 1, 2007, showed a thickening of the colonic wall in the descending and sigmoid junction. Dr. Mencke prescribed a close follow up to exclude a mass process as the source for the adjacent lymphadenopathy.

7. On or about October 23, 2007, the Plaintiff was treated at the Veteran's Affairs Hospital located in Charleston, South Carolina. Dr. Donald Garrow ordered a CT scan that was conducted on October 23, 2007 and read by Dr. Peter A. Rosenthal.

8. Dr. Rosenthal compared the February 5, 2006 CT scan, February 14, 2007 CT scan and the May 1, 2007 abdominal and pelvic CT scan. Dr. Rosenthal opined that the distal large bowel lesion present on October 23, 2007 had been present since at least February 5, 2006, at which time it measured approximately five centimeters in length. The comparison exam of February 14, 2007 showed that the lesion was approximately eight centimeters in length and there was regional lymphadenopathy. As

of May of 2007, the pre-posas lymph nodes measured 2.2 x 1.3 centimeters. The pre-posas lymph nodes had increased in size at the time of the October 23, 2007 examine.

FOR A FIRST CAUSE OF ACTION
(Negligence)

9. The Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 8 above as fully as if set forth verbatim herein.

10. The Defendants Dr. Webster N. Jones, III and Dr. David R. Anderson owed a duty of care to the Plaintiff to provide adequate patient care. Dr. Jones and Dr. Anderson breached this duty of care by failing to discover the distal large bowel lesion, which measure approximately five (5) centimeters in length as of February 5, 2006, and eight (8) centimeters in length, respectively, which was subsequently discovered by Dr. Peter Rosenthal and in failing to recommend that the Plaintiff have a colonoscopy to determine the source of the abnormal thickening of the descending colon in the left lower quadrant of the abdomen when Dr. Jones diagnosed the condition as diverticulitis or colitis but acknowledged that there was not a large number of diverticuli in the area of abnormal thickening.

11. The injuries sustained by the Plaintiff were the direct and proximate result of and were caused and occasioned by the negligence, carelessness, recklessness, willful and wanton acts on the part of Dr. Webster N. Jones, III and Dr. David R. Anderson in failing to possess and exercise that degree of medical training, competency and skill ordinarily a accustomed and possessed and exercised by physicians under the same or similar circumstances and thereby rendering inappropriate medical care to the

Plaintiff, John Ross by deviating from, failing and falling below the prevailing and acceptable standards of care in one or more of the following particulars:

- a. in failing to perform an accurate assessment of the Plaintiff's condition;
- b. in failing to recognize and identify potential problems and risks for the Plaintiff;
- c. in failing to protect the Plaintiff from avoidable injury;
- d. in failing to exercise the degree of care that is required when performing diagnostic studies on patients;
- e. in failing to discover the mass that other physicians discovered reviewing the same diagnostic studies;
- f. in acting with reckless disregard for the Plaintiff's health, well-being and rights; and
- g. such other particulars as shall be shown at trial.

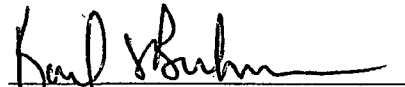
all of which acts and/or omissions, separately or together, were the direct and proximate cause of the damages injuries claimed herein.

12. As a direct, foreseeable and proximate result of the aforesaid negligence, gross negligence, reckless, wanton and willful acts and/or omissions of the Defendants Dr. Webster N. Jones, III and Dr. David R. Anderson, the Plaintiff has endured conscious pain and suffering, physical harm and injury, mental and emotional suffering, medical expenses and the Plaintiff will continue to suffer permanent physical, mental and emotional injuries.

13. Due to the negligent, grossly negligent, reckless, wanton and willful acts and/or omissions of the Defendant Dr. Webster N. Jones, III and Dr. David R. Anderson, the Plaintiff is entitled to actual and punitive damages from the Defendant Dr. Webster N. Jones, III and Dr. David R. Anderson in an amount to be determined by the trier of fact and punitive damages in such an amount that would deter the Defendant Dr. Webster N. Jones, III and Dr. David R. Anderson from such activities in the future.

BROWN & BREHMER

By:



Karl S. Brehmer
1720 Main Street, Suite 201
Post Office Box 7966
Columbia, South Carolina 29202
(803) 771-6600
Attorneys for Plaintiff

May 22, 2009

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)
)
John Thomas Ross)
)
Plaintiff,)
)
vs.)
)
Dr. Webster N. Jones,)
III and Dr. David R. Anderson,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS

C/A No:

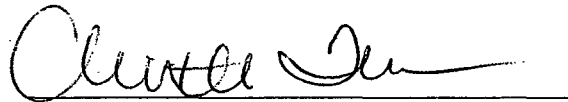
CERTIFICATE OF MAILING

I, the undersigned employee of Brown & Brehmer, hereby certify that copies of the following documents have been served on the following individual(s) by depositing same in the United States Postal Service with the proper amount of first-class postage duly affixed:

Pleadings: Summons and Complaint

Served On: Lisa Thomas, Esq.
Post Office Box 1003
Conway, South Carolina 29528

Darren K. Sanders, Esq.
Post Office Box 2424
Mt. Pleasant, South Carolina 29465


Christle Turner

Columbia, South Carolina
May 22, 2009

STATE OF TEXAS

COUNTY OF DALLAS

)
)
)
AFFIDAVIT OF
DR. THOMAS FROEHLICH

Personally appeared before the undersigned officer duly authorized by law to administer oath, Thomas W. Froehlich, M.D., M.S.H.A., who being first duly sworn, deposes and states the following:

1. My name is Thomas W. Froehlich, M.D. I am over twenty-one years of age and I am competent to make and give this Affidavit.
2. I am a licensed physician in the States of Texas and Missouri. I received my bachelor's degree from the University of Texas in 1970. I received my M.D. in 1975 from the University of Texas Southwestern Medical School, Dallas, Texas. In 1995, I received my M.S.H.A. from the University of Colorado, Executive Program in Health Administration, Denver, Colorado. I am currently a member of the faculty as an associate professor at Southwestern Medical School in Dallas, Texas. A true and current copy of my professional curriculum vitae has been attached hereto and incorporated herein by reference.
3. The opinions set forth in this Affidavit are based upon my personal knowledge, education, training and experience in the practice of internal medicine, hematology and oncology, my review of medical records and documents hereinafter referenced and the factual situation described in said records and set forth within this Affidavit.
4. As used within the context of this Affidavit, the term "standard of care" refers to the degree of care and skill ordinarily employed by members of the medical



profession in general under the same or similar conditions and like surrounding circumstances.

5. By virtue of my education, training and experience as a physician, I am familiar with the standard of care exercised by physicians under the circumstances reflected in the records hereinafter referenced and the factual situation set forth within this Affidavit.

6. In formulating my opinions as set forth in this Affidavit, I have reviewed the following materials that formed the factual basis for my opinions:

- a. medical records of John Ross from Waccamaw Community Hospital beginning February 5, 2006 through October 3, 2007.
- b. medical records of John Ross from The Department of Veteran's Affairs beginning March 1, 2007 through July 11, 2008.
- c. medical records of John Ross from Conway Medical Center beginning September 17, 2005 through May 1, 2007.
- d. CT scans of John Ross from Waccamaw Hospital dated February 5, 2006 and February 14, 2007.
- e. Radiology Report for John Ross dated October 23, 2007 and authored by Dr. Peter A. Rosenthal.

7. My review of the materials described above reveals that John Ross was born on January 29, 1971. On or about February 5, 2006, he reported to the Waccamaw Community Hospital with abdominal pain in the left lower quadrant with no remarkable diarrhea or fever but with a significant amount of discomfort. He was treated and diagnosed with Colitis/Diverticulitis and discharged home. Dr. Webster N. Jones, III, a radiologist, noted on a CT scan dated February 5, 2006, an abnormal thickening of the descending colon in the lower left quadrant of the abdomen. Dr.

Jones noted that the thickening of the descending colon could be secondary to Diverticulitis or a focal area of Colitis. There was not a large number of diverticuli in the descending colon. There was no recommendation from Dr. Webster N. Jones, III for a colonoscopy.

8. On February 14, 2007, John Ross returned to the Waccamaw Community Hospital for a CT of the abdomen and pelvis ordered by Dr. Mark Gauthier. The radiologist that read the CT scan that was performed on February 14, 2007 was Dr. David R. Anderson. Dr. Anderson's conclusions were a probable benign right hepatic cyst. The remainder of the study was normal.

9. On March 1, 2007, John Ross was seen by Dr. Rajan Gupta, of Gastroenterology & Liver Disease Beach Medical Specialists, PA. Dr. Gupta prescribed a colonoscopy to rule out colon polyps, malignancy and diverticulosis and discussed and actually scheduled the procedure for John Ross.

10. On May 1, 2007, John Ross reported to Conway Medical Center with abdominal pains for a month. A CT scan was ordered by Dr. John Cacace. Dr. G. Scott Mencken opined that John Ross's CT scan dated May 1, 2007 showed a thickening of the colonic wall in the descending and sigmoid junction. Dr. Mencken prescribed a close follow up to exclude a mass process as the source for the adjacent lymphadenopathy.

11. On or about October 23, 2007, the Plaintiff saw Dr. Donald Garraway with the Veteran's Affairs Hospital located in Charleston, South Carolina. Dr. Garraway ordered a CT scan that was conducted on October 23, 2007 and read by Dr. Peter A.

Rosenthal. Dr. Rosenthal compared the February 5, 2006, February 14, 2007 and May 1, 2007 abdominal and pelvic CT scans. Dr. Rosenthal opined that the distal large bowel lesion present on October 23, 2007 had been present since at least February 5, 2006, at which time it measured approximately five centimeters in length. The comparison exam of February 14, 2007 showed that the lesion was approximately eight centimeters and there was regional lymphadenopathy. As of May 2007, the pre-psoas lymph node measured 2.2 x 1.3 centimeters. The pre-psoas lymph node had increased in size at the time of the October 23, 2007 exam.

12. In my opinion, Dr. Webster N. Jones, III deviated from the standard of care as previously defined in this Affidavit as follows:

- a. in failing to recommend that John Ross have a colonoscopy to determine the source of the abnormal thickening of the descending colon in the left lower quadrant of the abdomen when Dr. Jones diagnosed the condition as Diverticulitis or Colitis but acknowledged that there were not a large number of diverticuli in the area of abnormal thickening. What Dr. Jones should have done is make the same recommendations that Dr. Scott Mencken made on May 1, 2007 for a close follow up to exclude a mass process.

13. In my opinion, Dr. David R. Anderson, who reviewed John Ross's CT scan of February 12, 2007, deviated from the standard of care as previously defined in this Affidavit as follows:

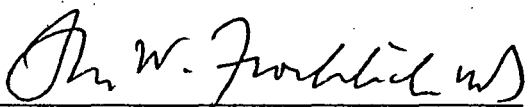
- a. in failing to discover the eight-centimeter lesion and the regional lymphadenopathy as determined by Dr. Peter A. Rosenthal on or about October 23, 2007.
- b. in failing to recommend a close follow up to exclude a mass as Dr. Scott Mencken did on May 1, 2007.

14. In my opinion, Dr. Mark Gauthier deviated from the standard of care as previously defined in this Affidavit as follows:

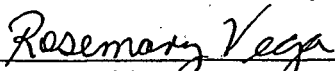
- a. in failing to recommend further testing of John Ross's lower abdominal complaints after receiving the report that John Ross had lost approximately fifty pounds over a twelve-month period and had had at least a twelve-month period of complaints prior to coming into the emergency room on February 14, 2007.

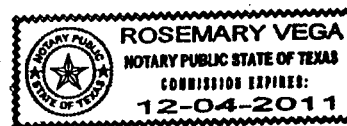
15. The standards stated herein are based on the facts and information as contained in the above-referenced medical records. I have not set forth each and every opinion I hold with respect to the care rendered to John Ross. I reserve the right to modify or supplement the opinions in this Affidavit upon being presented with additional factual information.

Further Affiant saith not.


Dr. Thomas W. Froehlich

Sworn to and subscribed before me
this 26 day of September, 2008


Notary Public for Texas
My Commission Expires 12/04/2011



September, 2008

Curriculum Vitae

Thomas W. Froehlich, M.D., M.S.H.A.

Personal Data

Date and Place of Birth	August 27, 1949 Minneapolis, Minnesota
Office Address	UT Southwestern Medical Center 5323 Harry Hines Blvd. Dallas, TX 75390
Home Address	5707 Watson Circle Dallas, TX 75225
Marital Status	Married to Susan Godfrey
Children	Anna K., Aaron T.

Education

<u>Year</u>	<u>Degree</u>	<u>Institution</u>
1967 - 1969		Loyola University New Orleans, LA
1969 - 1970	B.A. cum laude	University of Texas Austin, TX
1971 - 1975	M.D.	University of Texas Southwestern Medical School Dallas, TX
1993 - 1995	M.S.H.A.	University of Colorado Executive Program in Health Administration Denver, CO

Hospital, Clinic and Academic Appointments

<u>Year</u>	<u>Position</u>	<u>Institution</u>
1973 - 1975	Psychiatric Extern	Timberlawn Hospital Dallas, TX

Thomas W. Froehlich, M.D., M.S.H.A.

Hospital, Clinic and Academic Appointments (continued)

<u>Year</u>	<u>Position</u>	<u>Institution</u>
1975 -1976	Intern, Internal Medicine	Albany Medical Center Albany, NY
1976 -1978	Resident, Internal Medicine	Albany Medical Center Albany, NY
1977 -1978	Chief Resident, Internal Medicine	Albany Veterans Administration Hospital
1976 -1978	Instructor	Department of Medicine Albany Medical College
1978 -1980	Fellow, Hematology-Oncology	University of Texas Health Science Center - Dallas (Southwestern Medical School) Dallas, TX
1979 -1980	Physician, Student Health Service	University of Texas Health Science Center - Dallas
1981 -1986	Assistant Clinical Professor	Department of Medicine University of Missouri Medical Center Columbia, MO
1980 - 2007	Attending Physician on active Medical Staff	St. John's Regional Health Center Springfield, MO
1980 - 2006	Attending and Consulting Physician on Medical Staff	Lester E. Cox Hospitals Springfield, MO
1980 - 1995	Member and Partner	Oncology Hematology Associates Springfield, MO
1995 -2007	Physician	St. John's Health System Cancer & Hematology Center, Springfield, MO

Thomas W. Froehlich, M.D., M.S.H.A.

<u>Year</u>	<u>Position</u>	<u>Institution</u>
2008	Associate Professor and Medical Director of the Simmons Cancer Clinics	University of Texas Southwestern Medical Center Dallas, TX

Administrative Positions

1992-1998	Medical Director	Mid-America Cancer Center St. John's Regional Health Center, Springfield, MO
1994-1998	Medical Director	Springfield Clinic St. John's Health System Springfield, MO
1995-1998	Vice President of Medical Management	St. John's Health System Springfield, MO
2001-2007	Co-Chair, Section of Oncology & Hematology; Department of Medical Specialties	St. John's Clinic Springfield, MO
2005-2007	Member, Board of Directors	St. John's Clinic Springfield, MO
2008	Medical Director, Cancer Clinics	Harold C. Simmons Compre- hensive Cancer Center UT Southwestern Medical Center; Dallas, TX

Licensure

New York, 1976 (Inactive)
Missouri, 1980
Arkansas, 1985 (Inactive)
Texas, reactivated 2008

Board Certification

National Board of Medical Examiners, 1976
American Board of Internal Medicine, 1978
American Board of Internal Medicine, Subspecialty of Medical Oncology,
1981

Thomas W. Froehlich, M.D., M.S.H.A.

Honors and Awards

Dean's Scholarship to Loyola University, 1967-1969
American Cancer Society Research Fellowship, 1979 – 1980
Guide to America's Top Doctors, 2003-present
Best Doctors in America, 2005-2006, 2007-2008

Professional Society Membership

American College of Physicians
American Society of Clinical Oncology
Greene County Medical Society
Missouri State Medical Association
American Medical Association

Publications

Froehlich, T.W. et al. Terminal Deoxynucleotidyl Transferase: Presence in Peripheral Blood of Patients with Acute Lymphoblastic Leukemia and Lymphoma in Remission, Proceedings American Society of Clinical Oncology, 1980.

Froehlich, T.W. et al. Terminal Deoxynucleotidyl Transferase-Containing Cells in Peripheral Blood: Implications for the Surveillance of Patients with Lymphoblastic Leukemia or Lymphoma in Remission. Blood, 58:214, 1981.

Froehlich, T.W. End of Life Care; Relief of Symptoms other than Pain. Journal of the Greene County Medical Society, 65, No.3:12. March, 2007

Thomas W. Froehlich, M.D., M.S.H.A.

Committee Leadership

Cancer Committee LE Cox Medical Center Chairman, 1982-84, 1990-91
 Cancer Committee St. John's Regional Health Center, Chairman 1992-1998
 Professional Committee Hospice of Southwest Missouri, Chairman 1982-84
 Professional Education Committee American Cancer Society, Greene County
 Chairman, 1984-87
 Public Issues Committee American Cancer Society, Missouri Division
 Vice-Chairman 1991-92; Chairman 1992-1998
 Greene County Medical Society Committees
 Cancer Committee, Chairman 1987-88
 Van Smith Hematology Lectureship Committee, Member 1985-90,
 Chairman, 1990-94
 Continuing Medical Education Committee, Member 1994-Present
 St. John's Regional Health Center Medical Education Committee, Chairman
 1992-2007

Medical Staff Positions

Secretary of the Medical Staff, St. John's Regional Health Center, 1992-94
 Vice-Chairman, Department of Medicine, St. John's Regional Health Center,
 1991-92
 Vice-Chief of Medicine, St. John's Regional Health Center, 1992-94
 Member, Board of Directors, St. John's Physicians and Clinics, 2004-2007
 Member, St. John's Health System Credentialing Committee, 2005-2007
 Member, Ambulatory Practice Committee, UT Southwestern Medical
 Center, June, 2008-present
 Member, IRB, UT Southwestern Medical Center, begin August 2008

Volunteer Positions

Carter Blood Care, Board of Directors, Member, May 2008 - present
 Breast Cancer Foundation of the Ozarks, Member Board of
 Directors, 2003-2007
 EPEC trainer, Greene County Alliance for Compassionate Care of the Dying,
 March 2001-present
 American Cancer Society, Greene County Unit
 Board of Directors, 1981-1998
 President, 1987-88
 Chairman of the Board, 1989-90
 American Cancer Society, Missouri Division
 Board of Directors, 1989-1998

Thomas W. Froehlich, M.D., M.S.H.A.

Volunteer Positions, continued

Hospice of Southwest Missouri
Board of Directors, 1981-86
Springfield Catholic Schools Development Board
Member, 1981-87

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GEORGETOWN	)	
	)	
	)	C/A No:
John Thomas Ross	)	
Plaintiff,	)	
	)	STANDARD RULE 33 INTERROGATORIES
	)	
vs.	)	
	)	
Dr. Webster N. Jones,	)	
III and Dr. David R. Anderson,	)	
	)	
Defendants.	)	

YOU ARE HEREBY SERVED the following written Answers to standard Rule 33 Interrogatories on behalf of the Plaintiff.

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

ANSWER: John Ross
8681 Laurel Woods Drive
Myrtle Beach, South Carolina 29588

Tricia Eiland
8681 Laurel Woods Drive
Myrtle Beach, South Carolina 29588

2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

ANSWER: Medical records of John Ross from Waccamaw Community Hospital beginning February 5, 2006 through October 3, 2007.



Medical records of John Ross from The Department of Veteran's Affairs beginning March 1, 2007 through July 11, 2008.

Medical records of John Ross from Conway Medical Center beginning September 17, 2005 through May 1, 2007.

CT scans of John Ross from Waccamaw Hospital dated February 5, 2006 and February 14, 2007.

Radiology Report for John Ross dated October 23, 2007 and authored by Dr. Peter A. Rosenthal.

3. Set forth the names and addresses of all physicians who have treated the party and all hospitals to which the party has been committed in connection with the said injuries and also set forth a statement of all medical costs involved.

ANSWER: Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Doctor's Care
Dr. Mark Gauthier
1600 Highway 17 N.
Surfside Beach, South Carolina

Conway Medical Center
P.O. Box 829
Conway, South Carolina 29528

Dr. Webster N. Jones, III
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Dr. David R. Anderson
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Dr. Scott K. King
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Eugene V. Mayeaux
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Dr. Joseph N. Ratliffe
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Veteran's Affairs Hospital
109 Bee Street
Charleston, South Carolina 29401

Dr. Rajan Gupta
241 Singleton Road, Suite A
Conway, South Carolina 29526

* See attached itemization of John Ross's medical bills.

4. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

ANSWER: Not applicable.

5. Set forth a statement of all other damages claimed to have been sustained by the party.

ANSWER: See Answer to Interrogatory #3.

6. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case.

ANSWER: Dr. Thomas Froehlich
UT Southwestern Medical Center at Dallas
5323 Harry Hines Blvd.
Dallas, TX 75390

Dr. Peter Rosenthal
Charleston VAMC
109 Bee Street
Charleston, South Carolina 29401

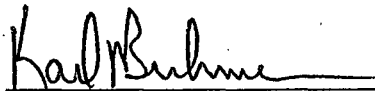
Donald A. Garrow
Charleston VAMC
109 Bee Street
Charleston, South Carolina 29401

7. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

ANSWER: John Ross and Trisha Eiland will testify regarding the Plaintiff's condition prior to going to Waccamaw Community Hospital and his condition after going to Waccamaw Community Hospital.

The remaining witnesses listed in Answer to Interrogatory #3 are doctors and are expected to testify consistently with their medical reports.

BROWN & BREHMER

By: 
Karl S. Brehmer
1720 Main Street, Suite 201
Post Office Box 7966
Columbia, South Carolina 29202
(803) 771-6600
Attorneys for Plaintiff

October 14, 2008

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GEORGETOWN)

C/A No:

2009-CP-22-01366

John Thomas Ross)

Plaintiff,)

vs.)

Dr. Webster N. Jones,)

III and Dr. David R. Anderson,)

Defendants.)

NOTICE OF INTENT TO FILE SUIT

ALMA Y. WHITE
CLERK OF COURT

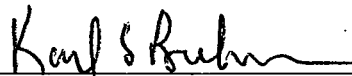
2009 AUG 31 AM 9:30

FILED
GEORGETOWN COUNTY, S.C.

Pursuant to S.C. Code Ann. 15-79-125, Plaintiff above named files this Notice of Intent to File Suit. Attached hereto as Exhibit A, and incorporated herein by reference, is a Complaint that lays out to the factual allegations and legal claims. Exhibit A is the Plaintiff's "short and plain statement of the facts showing the parties are entitled to relief." Attached as Exhibit B is an affidavit from an expert delineating at least one negligent act or omission giving rise to this case. Attached as Exhibit C are answers to the Standard Interrogatories as set forth in S.C.R.C.P. 33 (b).

BROWN & BREHMER

By:



Karl S. Brehmer

1720 Main Street, Suite 201

Post Office Box 7966

Columbia, South Carolina 29202

(803) 771-6600

Attorneys for Plaintiff

Columbia, South Carolina
August 25, 2009

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)
)
John Thomas Ross)
)
Plaintiff,)
)
vs.)
)
Dr. Webster N. Jones,)
)
III and Dr. David R. Anderson,)
)

Defendants.)

IN THE COURT OF COMMON PLEAS

C/A No: 2009-CP-22-01366

CERTIFICATE OF MAILING

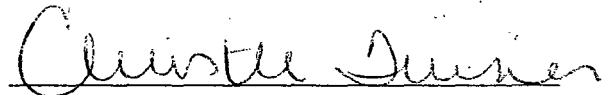
FILED
GEORGETOWN COUNTY, S.C.
2009 AUG 31 AM 9:30
ALMA Y. WHITE
CLERK OF COURT

I, the undersigned employee of Brown & Brehmer, hereby certify that copies of the following documents have been served on the following individual(s) by depositing same in the United States Postal Service with the proper amount of first-class postage duly affixed:

Pleadings: Notice of Intent to File Suit

Served On: Lisa Thomas, Esq.
Post Office Box 1003
Conway, South Carolina 29528

Darren K. Sanders, Esq.
Post Office Box 2424
Mt. Pleasant, South Carolina 29465


Christie Turner

Columbia, South Carolina
August 25, 2009

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

John Thomas Ross

Plaintiff(s)

vs.

Dr. Webster N. Jones, III and David R. Anderson

Defendants

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

(Please Print)

Submitted By: Karl S. Brehmer

Address: Post Office Box 7966, Columbia,
SC 29202

SC Bar #: 12849

Telephone #: 803-771-6600

Fax #: 803-252-1620

E-mail: karl.brehmer@brownandbrehmer.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check one box below)

- ☒ JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR (certificate attached).

NATURE OF ACTION

(Check One Box Below)

- | | | | |
|--|---|--|--|
| Contracts
☐ Construction (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Wrongful Breach (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☒ Medical Malpractice (220)
☐ Other Malpractice (299) | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Other (499) |
| Inmate Petitions
☐ PCR (500)
☐ Sexual Predator (510)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)**
☐ Other (799) | Administrative Law/Relief
☐ Driver License Reinstatement (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture (840)
☐ Other (899) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | | | |

** Check only if Summons & Complaint to follow in 20 days

Submitting Party Signature:

Karl S. Brehmer

Date: 8/25/09

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.



STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GEORGETOWN)

John Thomas Ross)

Plaintiff,)

vs.)

Dr. Webster N. Jones,)

III and Dr. David R. Anderson,)

Defendants.)

C/A No:

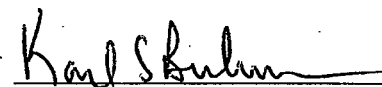
SUMMONS

TO: THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action (the original of which has been filed with the Clerk of Court for Georgetown County) and to serve a copy of your Answer or other responsive pleading to the said Complaint on the subscriber at his office at 1720 Main Street, Suite 201, Post Office Box 7966, Columbia, South Carolina 29202, within thirty (30) days after the service thereof, exclusive of the date of such service, and if you fail to appear, answer or defend the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

BROWN & BREHMER

By:



Karl S. Brehmer

1720 Main Street, Suite 201

Post Office Box 7966

Columbia, South Carolina 29202

(803) 771-6600

Attorneys for Plaintiff

August 25, 2009

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GEORGETOWN	)	
	)	
John Thomas Ross	)	C/A No:
Plaintiff,	)	
	)	
vs.	)	COMPLAINT
	)	(Jury Trial Demanded)
	)	
Dr. Webster N. Jones,	)	
III and Dr. David R. Anderson,	)	
	)	
Defendants.	)	

The Plaintiff, complaining of the Defendants herein would respectfully show unto the Court the following:

FACTS

1. The Plaintiff is a citizen and resident of the County of Horry, State of South Carolina.
2. Upon information and belief, Dr. Webster N. Jones, III is a citizen and resident of the County of Georgetown, State of South Carolina.
3. Upon information and belief, Dr. David R. Anderson is a citizen and resident of the County of Georgetown, State of South Carolina.
4. On or about February 5, 2006, the Plaintiff reported to Waccamaw Community Hospital with abdominal pain in the left lower quadrant. A CT scan was performed and read by Dr. Webster N. Jones, III, a radiologist. Dr. Jones reported an abnormal thickening of the descending colon in the left lower quadrant of the abdomen and opined that the thickening of the descending colon could be secondary to diverticulitis or a focal area of colitis. There was not a large number of diverticuli in the

descending colon. There was no recommendation by Dr. Webster N. Jones, III for a colonoscopy.

5. On or about February 14, 2007, the Plaintiff was seen by Dr. Mark Gauthier of Doctor's Care, who referred the Plaintiff to Waccamaw Community Hospital for a CT scan, which was performed and read by Dr. David R. Anderson. Dr. Anderson's review of the CT scan revealed that the Plaintiff had a probable benign right hepatic cyst but the remainder of the study was normal.

6. On or about May 1, 2007, the Plaintiff reported to Conway Medical Center with abdominal pain. Dr. John Cacace ordered A CT scan. Dr. Scott Mencke, a radiologist, opined that the Plaintiff's CT scan dated May 1, 2007, showed a thickening of the colonic wall in the descending and sigmoid junction. Dr. Mencke prescribed a close follow up to exclude a mass process as the source for the adjacent lymphadenopathy.

7. On or about October 23, 2007, the Plaintiff was treated at the Veteran's Affairs Hospital located in Charleston, South Carolina. Dr. Donald Garrow ordered a CT scan that was conducted on October 23, 2007 and read by Dr. Peter A. Rosenthal.

8. Dr. Rosenthal compared the February 5, 2006 CT scan, February 14, 2007 CT scan and the May 1, 2007 abdominal and pelvic CT scan. Dr. Rosenthal opined that the distal large bowel lesion present on October 23, 2007 had been present since at least February 5, 2006, at which time it measured approximately five centimeters in length. The comparison exam of February 14, 2007 showed that the lesion was approximately eight centimeters in length and there was regional lymphadenopathy. As

of May of 2007, the pre-posas lymph nodes measured 2.2 x 1.3 centimeters. The pre-posas lymph nodes had increased in size at the time of the October 23, 2007 examine.

FOR A FIRST CAUSE OF ACTION
(Negligence)

9. The Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 8 above as fully as if set forth verbatim herein.

10. The Defendants Dr. Webster N. Jones, III and Dr. David R. Anderson owed a duty of care to the Plaintiff to provide adequate patient care. Dr. Jones and Dr. Anderson breached this duty of care by failing to discover the distal large bowel lesion, which measure approximately five (5) centimeters in length as of February 5, 2006, and eight (8) centimeters in length, respectively, which was subsequently discovered by Dr. Peter Rosenthal and in failing to recommend that the Plaintiff have a colonoscopy to determine the source of the abnormal thickening of the descending colon in the left lower quadrant of the abdomen when Dr. Jones diagnosed the condition as diverticulitis or colitis but acknowledged that there was not a large number of diverticuli in the area of abnormal thickening.

11. The injuries sustained by the Plaintiff were the direct and proximate result of and were caused and occasioned by the negligence, carelessness, recklessness, willful and wanton acts on the part of Dr. Webster N. Jones, III and Dr. David R. Anderson in failing to possess and exercise that degree of medical training, competency and skill ordinarily accustomed and possessed and exercised by physicians under the same or similar circumstances and thereby rendering inappropriate medical care to the

Plaintiff, John Ross by deviating from, failing and falling below the prevailing and acceptable standards of care in one or more of the following particulars:

- a. in failing to perform an accurate assessment of the Plaintiff's condition;
- b. in failing to recognize and identify potential problems and risks for the Plaintiff;
- c. in failing to protect the Plaintiff from avoidable injury;
- d. in failing to exercise the degree of care that is required when performing diagnostic studies on patients;
- e. in failing to discover the mass that other physicians discovered reviewing the same diagnostic studies;
- f. in acting with reckless disregard for the Plaintiff's health, well-being and rights; and
- g. such other particulars as shall be shown at trial.

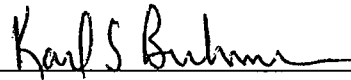
all of which acts and/or omissions, separately or together, were the direct and proximate cause of the damages injuries claimed herein.

12. As a direct, foreseeable and proximate result of the aforesaid negligence, gross negligence, reckless, wanton and willful acts and/or omissions of the Defendants Dr. Webster N. Jones, III and Dr. David R. Anderson, the Plaintiff has endured conscious pain and suffering, physical harm and injury, mental and emotional suffering, medical expenses and the Plaintiff will continue to suffer permanent physical, mental and emotional injuries.

13. Due to the negligent, grossly negligent, reckless, wanton and willful acts and/or omissions of the Defendant Dr. Webster N. Jones, III and Dr. David R. Anderson, the Plaintiff is entitled to actual and punitive damages from the Defendant Dr. Webster N. Jones, III and Dr. David R. Anderson in an amount to be determined by the trier of fact and punitive damages in such an amount that would deter the Defendant Dr. Webster N. Jones, III and Dr. David R. Anderson from such activities in the future.

BROWN & BREHMER

By:



Karl S. Brehmer
1720 Main Street, Suite 201
Post Office Box 7966
Columbia, South Carolina 29202
(803) 771-6600
Attorneys for Plaintiff

August 25, 2009

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GEORGETOWN)

John Thomas Ross)

Plaintiff,)

vs.)

Dr. Webster N. Jones,)

III and Dr. David R. Anderson,)

Defendants.)

C/A No:

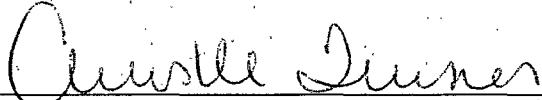
CERTIFICATE OF MAILING

I, the undersigned employee of Brown & Brehmer, hereby certify that copies of the following documents have been served on the following individual(s) by depositing same in the United States Postal Service with the proper amount of first-class postage duly affixed:

Pleadings: Summons and Complaint

Served On: Lisa Thomas, Esq.
Post Office Box 1003
Conway, South Carolina 29528

Darren K. Sanders, Esq.
Post Office Box 2424
Mt. Pleasant, South Carolina 29465


Christie Turner

Columbia, South Carolina
August 25, 2009

STATE OF TEXAS

COUNTY OF

DALLAS

) AFFIDAVIT OF
) DR. THOMAS FROEHLICH
)

Personally appeared before the undersigned officer duly authorized by law to administer oath, Thomas W. Froehlich, M.D., M.S.H.A., who being first duly sworn, deposes and states the following:

1. My name is Thomas W. Froehlich, M.D. I am over twenty-one years of age and I am competent to make and give this Affidavit.
2. I am a licensed physician in the States of Texas and Missouri. I received my bachelor's degree from the University of Texas in 1970. I received my M.D. in 1975 from the University of Texas Southwestern Medical School, Dallas, Texas. In 1995, I received my M.S.H.A. from the University of Colorado, Executive Program in Health Administration, Denver, Colorado. I am currently a member of the faculty as an associate professor at Southwestern Medical School in Dallas, Texas. A true and current copy of my professional curriculum vitae has been attached hereto and incorporated herein by reference.
3. The opinions set forth in this Affidavit are based upon my personal knowledge, education, training and experience in the practice of internal medicine, hematology and oncology, my review of medical records and documents hereinafter referenced and the factual situation described in said records and set forth within this Affidavit.
4. As used within the context of this Affidavit, the term "standard of care" refers to the degree of care and skill ordinarily employed by members of the medical



profession in general under the same or similar conditions and like surrounding circumstances.

5. By virtue of my education, training and experience as a physician, I am familiar with the standard of care exercised by physicians under the circumstances reflected in the records hereinafter referenced and the factual situation set forth within this Affidavit.

6. In formulating my opinions as set forth in this Affidavit, I have reviewed the following materials that formed the factual basis for my opinions:

- a. medical records of John Ross from Waccamaw Community Hospital beginning February 5, 2006 through October 3, 2007.
- b. medical records of John Ross from The Department of Veteran's Affairs beginning March 1, 2007 through July 11, 2008.
- c. medical records of John Ross from Conway Medical Center beginning September 17, 2005 through May 1, 2007.
- d. CT scans of John Ross from Waccamaw Hospital dated February 5, 2006 and February 14, 2007.
- e. Radiology Report for John Ross dated October 23, 2007 and authored by Dr. Peter A. Rosenthal.

7. My review of the materials described above reveals that John Ross was born on January 29, 1971. On or about February 5, 2006, he reported to the Waccamaw Community Hospital with abdominal pain in the left lower quadrant with no remarkable diarrhea or fever but with a significant amount of discomfort. He was treated and diagnosed with Colitis/Diverticulitis and discharged home. Dr. Webster N. Jones, III, a radiologist, noted on a CT scan dated February 5, 2006, an abnormal thickening of the descending colon in the lower left quadrant of the abdomen. Dr.

Jones noted that the thickening of the descending colon could be secondary to Diverticulitis or a focal area of Colitis. There was not a large number of diverticuli in the descending colon. There was no recommendation from Dr. Webster N. Jones, III for a colonoscopy.

8. On February 14, 2007, John Ross returned to the Waccamaw Community Hospital for a CT of the abdomen and pelvis ordered by Dr. Mark Gauthier. The radiologist that read the CT scan that was performed on February 14, 2007 was Dr. David R. Anderson. Dr. Anderson's conclusions were a probable benign right hepatic cyst. The remainder of the study was normal.

9. On March 1, 2007, John Ross was seen by Dr. Rajan Gupta, of Gastroenterology & Liver Disease Beach Medical Specialists, PA. Dr. Gupta prescribed a colonoscopy to rule out colon polyps, malignancy and diverticulosis and discussed and actually scheduled the procedure for John Ross.

10. On May 1, 2007, John Ross reported to Conway Medical Center with abdominal pains for a month. A CT scan was ordered by Dr. John Cacace. Dr. G. Scott Mencken opined that John Ross's CT scan dated May 1, 2007 showed a thickening of the colonic wall in the descending and sigmoid junction. Dr. Mencken prescribed a close follow up to exclude a mass process as the source for the adjacent lymphadenopathy.

11. On or about October 23, 2007, the Plaintiff saw Dr. Donald Garraway with the Veteran's Affairs Hospital located in Charleston, South Carolina. Dr. Garraway ordered a CT scan that was conducted on October 23, 2007 and read by Dr. Peter A.

Rosenthal. Dr. Rosenthal compared the February 5, 2006, February 14, 2007 and May 1, 2007 abdominal and pelvic CT scans. Dr. Rosenthal opined that the distal large bowel lesion present on October 23, 2007 had been present since at least February 5, 2006, at which time it measured approximately five centimeters in length. The comparison exam of February 14, 2007 showed that the lesion was approximately eight centimeters and there was regional lymphadenopathy. As of May 2007, the pre-psoas lymph node measured 2.2 x 1.3 centimeters. The pre-psoas lymph node had increased in size at the time of the October 23, 2007 exam.

12. In my opinion, Dr. Webster N. Jones, III deviated from the standard of care as previously defined in this Affidavit as follows:

- a. in failing to recommend that John Ross have a colonoscopy to determine the source of the abnormal thickening of the descending colon in the left lower quadrant of the abdomen when Dr. Jones diagnosed the condition as Diverticulitis or Colitis but acknowledged that there were not a large number of diverticuli in the area of abnormal thickening. What Dr. Jones should have done is make the same recommendations that Dr. Scott Mencken made on May 1, 2007 for a close follow up to exclude a mass process.

13. In my opinion, Dr. David R. Anderson, who reviewed John Ross's CT scan of February 12, 2007, deviated from the standard of care as previously defined in this Affidavit as follows:

- a. in failing to discover the eight-centimeter lesion and the regional lymphadenopathy as determined by Dr. Peter A. Rosenthal on or about October 23, 2007.
- b. in failing to recommend a close follow up to exclude a mass as Dr. Scott Mencken did on May 1, 2007.

14. In my opinion, Dr. Mark Gauthier deviated from the standard of care as previously defined in this Affidavit as follows:

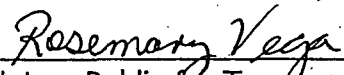
- a. in failing to recommend further testing of John Ross's lower abdominal complaints after receiving the report that John Ross had lost approximately fifty pounds over a twelve-month period and had had at least a twelve-month period of complaints prior to coming into the emergency room on February 14, 2007.

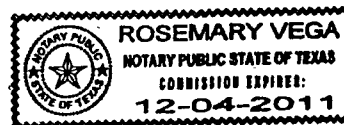
15. The standards stated herein are based on the facts and information as contained in the above-referenced medical records. I have not set forth each and every opinion I hold with respect to the care rendered to John Ross. I reserve the right to modify or supplement the opinions in this Affidavit upon being presented with additional factual information.

Further Affiant saith not.


Dr. Thomas W. Froehlich

Sworn to and subscribed before me
this 26 day of September, 2008


Notary Public for Texas
My Commission Expires 12/04/2011



September, 2008

Curriculum Vitae

Thomas W. Froehlich, M.D., M.S.H.A.

Personal Data

Date and Place of Birth	August 27, 1949 Minneapolis, Minnesota
Office Address	UT Southwestern Medical Center 5323 Harry Hines Blvd. Dallas, TX 75390
Home Address	5707 Watson Circle Dallas, TX 75225
Marital Status	Married to Susan Godfrey
Children	Anna K., Aaron T.

Education

<u>Year</u>	<u>Degree</u>	<u>Institution</u>
1967 - 1969		Loyola University New Orleans, LA
1969 - 1970	B.A. cum laude	University of Texas Austin, TX
1971 - 1975	M.D.	University of Texas Southwestern Medical School Dallas, TX
1993 - 1995	M.S.H.A.	University of Colorado Executive Program in Health Administration Denver, CO

Hospital, Clinic and Academic Appointments

<u>Year</u>	<u>Position</u>	<u>Institution</u>
1973 - 1975	Psychiatric Extern	Timberlawn Hospital Dallas, TX

Thomas W. Froehlich, M.D., M.S.H.A.

Hospital, Clinic and Academic Appointments (continued)

<u>Year</u>	<u>Position</u>	<u>Institution</u>
1975 -1976	Intern, Internal Medicine	Albany Medical Center Albany, NY
1976 -1978	Resident, Internal Medicine	Albany Medical Center Albany, NY
1977 -1978	Chief Resident, Internal Medicine	Albany Veterans Administration Hospital
1976 -1978	Instructor	Department of Medicine Albany Medical College
1978 -1980	Fellow, Hematology-Oncology	University of Texas Health Science Center - Dallas (Southwestern Medical School) Dallas, TX
1979 -1980	Physician, Student Health Service	University of Texas Health Science Center - Dallas
1981 -1986	Assistant Clinical Professor	Department of Medicine University of Missouri Medical Center Columbia, MO
1980 - 2007	Attending Physician on active Medical Staff	St. John's Regional Health Center Springfield, MO
1980 - 2006	Attending and Consulting Physician on Medical Staff	Lester E. Cox Hospitals Springfield, MO
1980 - 1995	Member and Partner	Oncology Hematology Associates Springfield, MO
1995 -2007	Physician	St. John's Health System Cancer & Hematology Center, Springfield, MO

Thomas W. Froehlich, M.D., M.S.H.A.

<u>Year</u>	<u>Position</u>	<u>Institution</u>
2008	Associate Professor and Medical Director of the Simmons Cancer Clinics	University of Texas Southwestern Medical Center Dallas, TX

Administrative Positions

1992-1998	Medical Director	Mid-America Cancer Center St. John's Regional Health Center, Springfield, MO
1994-1998	Medical Director	Springfield Clinic St. John's Health System Springfield, MO
1995-1998	Vice President of Medical Management	St. John's Health System Springfield, MO
2001-2007	Co-Chair, Section of Oncology & Hematology; Department of Medical Specialties	St. John's Clinic Springfield, MO
2005-2007	Member, Board of Directors	St. John's Clinic Springfield, MO
2008	Medical Director, Cancer Clinics	Harold C. Simmons Compre- hensive Cancer Center UT Southwestern Medical Center; Dallas, TX

Licensure

New York, 1976 (Inactive)
Missouri, 1980
Arkansas, 1985 (Inactive)
Texas, reactivated 2008

Board Certification

National Board of Medical Examiners, 1976
American Board of Internal Medicine, 1978
American Board of Internal Medicine, Subspecialty of Medical Oncology,
1981

Thomas W. Froehlich, M.D., M.S.H.A.

Honors and Awards

Dean's Scholarship to Loyola University, 1967-1969
American Cancer Society Research Fellowship, 1979 – 1980
Guide to America's Top Doctors, 2003-present
Best Doctors in America, 2005-2006, 2007-2008

Professional Society Membership

American College of Physicians
American Society of Clinical Oncology
Greene County Medical Society
Missouri State Medical Association
American Medical Association

Publications

Froehlich, T.W. et al. Terminal Deoxynucleotidyl Transferase: Presence in Peripheral Blood of Patients with Acute Lymphoblastic Leukemia and Lymphoma in Remission, Proceedings American Society of Clinical Oncology, 1980.

Froehlich, T.W. et al. Terminal Deoxynucleotidyl Transferase-Containing Cells in Peripheral Blood: Implications for the Surveillance of Patients with Lymphoblastic Leukemia or Lymphoma in Remission. Blood, 58:214, 1981.

Froehlich, T.W. End of Life Care; Relief of Symptoms other than Pain. Journal of the Greene County Medical Society, 65, No.3:12. March, 2007

Thomas W. Froehlich, M.D., M.S.H.A.

Committee Leadership

Cancer Committee LE Cox Medical Center Chairman, 1982-84, 1990-91
 Cancer Committee St. John's Regional Health Center, Chairman 1992-1998
 Professional Committee Hospice of Southwest Missouri, Chairman 1982-84
 Professional Education Committee American Cancer Society, Greene County
 Chairman, 1984-87
 Public Issues Committee American Cancer Society, Missouri Division
 Vice-Chairman 1991-92, Chairman 1992-1998
 Greene County Medical Society Committees
 Cancer Committee, Chairman 1987-88
 Van Smith Hematology Lectureship Committee, Member 1985-90,
 Chairman, 1990-94
 Continuing Medical Education Committee, Member 1994-Present
 St. John's Regional Health Center Medical Education Committee, Chairman
 1992-2007

Medical Staff Positions

Secretary of the Medical Staff, St. John's Regional Health Center, 1992-94
 Vice-Chairman, Department of Medicine, St. John's Regional Health Center,
 1991-92
 Vice-Chief of Medicine, St. John's Regional Health Center, 1992-94
 Member, Board of Directors, St. John's Physicians and Clinics, 2004-2007
 Member, St. John's Health System Credentialing Committee, 2005-2007
 Member, Ambulatory Practice Committee, UT Southwestern Medical
 Center, June, 2008-present
 Member, IRB, UT Southwestern Medical Center, begin August 2008

Volunteer Positions

Carter Blood Care, Board of Directors, Member, May 2008 - present
 Breast Cancer Foundation of the Ozarks, Member Board of
 Directors, 2003-2007
 EPEC trainer, Greene County Alliance for Compassionate Care of the Dying,
 March 2001-present
 American Cancer Society, Greene County Unit
 Board of Directors, 1981-1998
 President, 1987-88
 Chairman of the Board, 1989-90
 American Cancer Society, Missouri Division
 Board of Directors, 1989-1998

Thomas W. Froehlich, M.D., M.S.H.A.

Volunteer Positions, continued

Hospice of Southwest Missouri

Board of Directors, 1981-86

Springfield Catholic Schools Development Board

Member, 1981-87

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GEORGETOWN	)	
	)	
	)	C/A No:
John Thomas Ross	)	
Plaintiff,	)	
	)	STANDARD RULE 33 INTERROGATORIES
	)	
vs.	)	
	)	
Dr. Webster N. Jones,	)	
III and Dr. David R. Anderson,	)	
	)	
Defendants.	)	

YOU ARE HEREBY SERVED the following written Answers to standard Rule 33 Interrogatories on behalf of the Plaintiff.

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

ANSWER: John Ross
8681 Laurel Woods Drive
Myrtle Beach, South Carolina 29588

Tricia Eiland
8681 Laurel Woods Drive
Myrtle Beach, South Carolina 29588

2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

ANSWER: Medical records of John Ross from Waccamaw Community Hospital beginning February 5, 2006 through October 3, 2007.



Medical records of John Ross from The Department of Veteran's Affairs beginning March 1, 2007 through July 11, 2008.

Medical records of John Ross from Conway Medical Center beginning September 17, 2005 through May 1, 2007.

CT scans of John Ross from Waccamaw Hospital dated February 5, 2006 and February 14, 2007.

Radiology Report for John Ross dated October 23, 2007 and authored by Dr. Peter A. Rosenthal.

3. Set forth the names and addresses of all physicians who have treated the party and all hospitals to which the party has been committed in connection with the said injuries and also set forth a statement of all medical costs involved.

ANSWER: Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Doctor's Care
Dr. Mark Gauthier
1600 Highway 17 N.
Surfside Beach, South Carolina

Conway Medical Center
P.O. Box 829
Conway, South Carolina 29528

Dr. Webster N. Jones, III
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Dr. David R. Anderson
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Dr. Scott K. King
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Eugene V. Mayeaux
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Dr. Joseph N. Ratliffe
Waccamaw Community Hospital
P.O. Drawer 3350
Murrells Inlet, South Carolina 29576

Veteran's Affairs Hospital
109 Bee Street
Charleston, South Carolina 29401

Dr. Rajan Gupta
241 Singleton Road, Suite A
Conway, South Carolina 29526

* See attached itemization of John Ross's medical bills.

4. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

ANSWER: Not applicable.

5. Set forth a statement of all other damages claimed to have been sustained by the party.

ANSWER: See Answer to Interrogatory #3.

6. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case.

ANSWER: Dr. Thomas Froehlich
UT Southwestern Medical Center at Dallas
5323 Harry Hines Blvd.
Dallas, TX 75390

Dr. Peter Rosenthal
Charleston VAMC
109 Bee Street
Charleston, South Carolina 29401

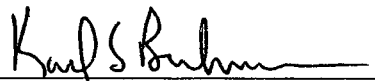
Donald A. Garrow
Charleston VAMC
109 Bee Street
Charleston, South Carolina 29401

7. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

ANSWER: John Ross and Trisha Eiland will testify regarding the Plaintiff's condition prior to going to Waccamaw Community Hospital and his condition after going to Waccamaw Community Hospital.

The remaining witnesses listed in Answer to Interrogatory #3 are doctors and are expected to testify consistently with their medical reports.

BROWN & BREHMER

By: 
Karl S. Brehmer
1720 Main Street, Suite 201
Post Office Box 7966
Columbia, South Carolina 29202
(803) 771-6600
Attorneys for Plaintiff

August 25, 2009

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GEORGETOWN)

John Thomas Ross)

C/A No:

Plaintiff,)

CERTIFICATE OF MAILING

vs.)

Dr. Webster N. Jones,)

III and Dr. David R. Anderson,)

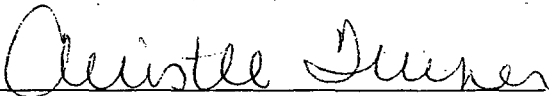
Defendants.)

I, the undersigned employee of Brown & Brehmer, hereby certify that copies of the following documents have been served on the following individual(s) by depositing same in the United States Postal Service with the proper amount of first-class postage duly affixed:

Pleadings: Standard Rule 33 Interrogatories

Served On: Lisa Thomas, Esq.
Post Office Box 1003
Conway, South Carolina 29528

Darren K. Sanders, Esq.
Post Office Box 2424
Mt. Pleasant, South Carolina 29465


Christle Turner

Columbia, South Carolina
August 25, 2009

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Supplemental Record on Appeal contains all the additional materials proposed to be included by Respondent Dr. Webster N. Jones, III with written consent of all parties and not any other material.

January 14, 2011


Karl S. Brehmer
L. Darby Plexico, III
BROWN & BREHMER
Post Office Box 7966
1720 Main Street, Suite 201
Columbia, South Carolina 29202
(803) 771-6600
Attorneys for Appellant

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Case No. 2008-CP-22-1496
Case No. 2009-CP-22-810

RECEIVED
JAN 14 2011
SC Court of Appeals

John Thomas Ross,.....Appellant,

v.

Waccamaw Community Hospital, Dr. Webster N. Jones, III, and Dr. David R. Anderson,
OF WHOM Dr. Webster N. Jones, III and Dr. David R. Anderson are.....Respondents.

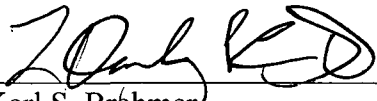
PROOF OF SERVICE

I certify that I have served the Supplemental Record on Appeal on Dr. David R. Anderson by depositing a copy of it in the United States Mail, postage prepaid, on January 14, 2011, addressed to his attorneys of record, John B. McCutcheon, Jr. and Lisa A. Thomas, THOMPSON & HENRY, PA, Post Office Box 1740, Conway, South Carolina 29526.

I certify that I have served the Supplemental Record on Appeal on Dr. Webster N. Jones, III by depositing a copy of it in the United States Mail, postage prepaid, on January 14, 2011, addressed to his attorneys of record, Darren K. Sanders, BUYCK & SANDERS LAW FIRM, LLC, Post Office Box 2424, Mount Pleasant, South Carolina 29465 and Andrew F. Lindemann, DAVIDSON & LINDEMANN, P.A., Post Office Box 8568, Columbia, South Carolina 29202.

[SIGNATURE BLOCK ON FOLLOWING PAGE]

January 14, 2011


Karl S. Brehmer
L. Darby Plexico, III
BROWN & BREHMER
Post Office Box 7966
Columbia, South Carolina 29201
(803) 771-6600
Attorneys for Appellant