

April 19, 2024

Via E-mail

The Honorable Catherine S. Harrison
Chief Deputy Clerk
SC Court of Appeals
1220 Senate Street
Columbia, SC 29201

RE: Crystal Goodwin and James Goodwin v. Midlands Orthopedics and
Neurosurgery and Dr. Thomas J. Holbrook, M.D.
Civil Action No. 2019-CP-40-04185
Appellate Case No. 2024-000548
NMRS File No. 002157/01523

Dear Ms. Harrison:

I am in receipt of this Court's letter dated April 17, 2024. Please be advised that the Notice of Appeal was electronically filed with the Richland County Clerk in the above matter on April 17, 2024. A copy of the filed Notice of Appeal is attached. Please contact me if you have any questions or need more information.

With kind regards, I remain

Sincerely yours,

s/ C. Mitchell Brown

C. Mitchell Brown

CMB:eh

Attachment

cc: Robert F. Goings, Esquire
Jessica L. Gooding, Esquire
Francis M. "Brink" Hinson, IV, Esquire
Andrew K. Heitman, Esquire
Ashby W. Davis, Esquire
Mitchell D. Appleby, Esquire
A. Mattison Bogan, Esquire
Morgan E. Spires, Esquire

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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jocelyn Newman
Circuit Court Judge

2019-CP-40-04185

CRYSTAL GOODWIN AND
JAMES GOODWIN.....Plaintiffs - Respondents,

v.

MIDLANDS ORTHOPEDICS AND
NEUROSURGERY AND
DR. THOMAS J. HOLBROOK, M.D.....Appellants.

NOTICE OF APPEAL

Pursuant to Rule 203, SCACR, Appellants Midlands Orthopedics and Neurosurgery and Dr. Thomas J. Holbrook, M.D., hereby timely appeal from the trial court’s March 22, 2024 Order Granting Plaintiff’s April 26, 2023 Motion for a New Trial Based on the Thirteenth Juror Doctrine following a defense verdict on April 21, 2023. The appealed order granting Respondents’ Motion for a New Trial Based on the Thirteenth Juror Doctrine is attached. Appellants received written notice of the Order granting Respondents’ Motion for a New Trial Based on the Thirteenth Juror Doctrine on March 22, 2023. Appellants believe that this Order is in error and does not comply with the Thirteenth Juror Doctrine, and is further immediately appealable. *See* S.C. Code. Ann. §§ 14-3-330(2), 14-8-200; *Bailey v. Peacock*, 318 S.C. 13, 15 n.2, 455 S.E.2d 690, 692 n.2 (1995) (the granting of a new trial affects a substantial right and is immediately appealable); *Pocisk v. Sea*

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SC Court of Appeals

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SC Court of Appeals

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Coast Constr. of Beaufort, 380 S.C. 584, 589, 671 S.E.2d 98, 101 (Ct. App. 2008) (an order meeting the requirements of section 14-3-330(2) is immediately appealable).

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ C. Mitchell Brown

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April 4, 2024

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Attorneys for Respondents

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SC Court of Appeals

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STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jocelyn Newman
Circuit Court Judge

2019-CP-40-04185

CRYSTAL GOODWIN AND
JAMES GOODWIN.....Plaintiffs - Respondents,

v.

MIDLANDS ORTHOPEDICS AND
NEUROSURGERY AND
DR. THOMAS J. HOLBROOK, M.D.....Appellants.

PROOF OF SERVICE

I, the undersigned Associate of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Midlands Orthopedics and Neurosurgery and Dr. Thomas J. Holbrook, M.D., do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified, pursuant to the Supreme Court Order 2022-05-06-04, and a copy of that electronic mail is attached to this certificate.

Pleading(s): **Notice of Appeal**

Served:

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By: /s/ Morgan E. Spires

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April 4, 2024

Morgan Spires

From: Morgan Spires
Sent: Thursday, April 4, 2024 2:44 PM
To: rgoings@goingslawfirm.com; jgooding@goingslawfirm.com; brink@hhplawgroup.com
Cc: Mitch Brown; Matt Bogan; Roxanne Englin; Eileen Hindman
Subject: Goodwin v. Midlands Orthopedics & Neurosurgery - Case No. 2019-CP-40-04185
Attachments: Notice of Appeal (Goodwin).pdf; Proof of Service - Goodwin.pdf

Good afternoon,

Attached for service upon you in the above matter is a Notice of Appeal and Proof of Service.

Thank you,
Morgan



MORGAN E. SPIRES [ASSOCIATE](#)

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Crystal Goodwin and James Goodwin,

Plaintiffs,

v.

Midlands Orthopedics and Neurosurgery and
Dr. Thomas J. Holbrook, M.D.,

Defendants.

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

Civil Action No. 2019CP4004185

**ORDER GRANTING NEW TRIAL BASED ON
THE THIRTEENTH JUROR DOCTRINE**

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Apr 04 2024

SC Court of Appeals

This matter comes before the Court for consideration of “Plaintiffs’ Motion for a New Trial Based on the Thirteenth Juror Doctrine,” which was filed on April 26, 2023. Defendants filed their “Response in Opposition to Plaintiffs’ Motion for New Trial Based on the Thirteenth Juror Doctrine” on May 5, 2023. A hearing was held on this matter on June 1, 2023.

For the reasons set forth below, Plaintiff’s motion is GRANTED.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiffs Crystal Goodwin (“Crystal”) and James Goodwin (“James”) filed this medical malpractice action July 29, 2019.¹ They amended their Complaint on January 27, 2021, alleging that Crystal was permanently injured when Defendant Dr. Thomas J. Holbrook, M.D. (“Dr. Holbrook”) performed a decompressive thoracic laminectomy (“the surgery”) on her on July 28, 2016. Plaintiffs also allege that as a result of the surgery, which was performed in a negligent manner, James has been deprived of the services, society, and companionship of his wife, Crystal, and has spent many hours providing care and therapeutic treatment for her. The Amended

¹ This is the date of filing of the Summons and Complaint. The Notice of Intent to File Suit was filed on April 29, 2019.

Complaint sets forth claims for medical malpractice, loss of consortium and ordinary negligence/negligent training against Dr. Holbrook and Defendant Midlands Orthopedics and Neurosurgery.

This case was tried before a jury from April 11 to April 20, 2023. At trial, Plaintiffs presented significant evidence of medical negligence and loss of consortium. Witness testimony established the appropriate standard of care and that Defendants breached the standard of care. Further, the evidence demonstrated that as a proximate result of Defendants' conduct, Crystal (and, therefore, James) was obviously permanently injured – she is effectively paralyzed from the waist down, having lost all control of her lower body.

Despite the evidence presented, the jury returned a verdict in favor of Defendants.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The South Carolina Court of Appeals described the thirteenth juror doctrine in *Youmans v. S.C. Dept. of Transp.*, 380 S.C. 263, 670 S.E.2d 1 (Ct. App. 2008).

The thirteenth juror doctrine is a vehicle by which the trial court may grant a new trial absolute when he² finds that the evidence does not justify the verdict. This ruling has also been termed granting a new trial upon the facts. The effect is the same as if the jury failed to reach a verdict. The judge as the thirteenth juror “hangs” the jury.

Id. at 272, 670 S.E.2d at 5 (citing *Folkens v. Hunt*, 300 S.C. 251, 387 S.E.2d 265 (1990)). “The doctrine entitles the judge ... to grant a new trial based solely upon the facts.” *Lane v. Gilbert Constr. Co., LTD*, 383 S.C. 590, 597, 681 S.E.2d 879, 883 (2009) (internal quotations and citations omitted). “[A] trial judge may grant a new trial upon the facts if the judge determines the verdict ‘is contrary to the fair preponderance of the evidence.’” *McEntire v. Mooregard Exterminating*

² Or she

Serv., Inc., 353 S.C. 629, 633, 578 S.E.2d 746, 748 (Ct. App. 2003) (quoting *Dent v. Redd*, 270 S.C. 585, 586, 243 S.E.2d 460, 460 (1978)).

Here, the Court finds that the evidence presently at trial simply does not support the jury's verdict. The Court, having heard all of the testimony and reviewed all of the evidence (and, of course, having an intimate knowledge of the applicable law), the Court is "convinced that a new trial is necessitated on the basis of the facts in the case." *Graham v. Whitaker*, 282 S.C. 393, 401, 321 S.E.2d 40, 45 (1984). Because the Court "is obligated to see that justice is done – it is duty-bound to grant a new trial" where, as here, the evidence does not support the verdict. *Ex parte Travelers Home & Marine Ins. Co. v. Stringfellow*, 427 S.C. 238, 244, 830 S.E.2d 718, 721 (Ct. App. 2019) (citing *Folkens*, 300 S.C. at 254-55, 387 S.E.2d at 267).

IT IS, THEREFORE, ORDERED that "Plaintiffs' Motion for a New Trial Based on the Thirteenth Juror Doctrine" is GRANTED, and that this case is REOPENED.

IT IS FURTHER ORDERED that this case not be placed on the Jury Trial Roster until a status conference is held to determine an appropriate trial date.

AND IT IS SO ORDERED.



Richland Common Pleas

Case Caption: Crystal Goodwin , plaintiff, et al vs Midlands Orthopaedics And
Neurosurgery , defendant, et al
Case Number: 2019CP4004185
Type: Order/Other

So Ordered

Jocelyn Newman