

From: [DONNA ARD](#)
To: [Court Of Appeals Filings](#)
Subject: Notice of appeal case #2024-CP-21-00406
Date: Friday, July 19, 2024 4:51:48 PM
Attachments: [notice of appeal 7 18 2024 SCACRIIFORM01 \(2\)-3.pdf](#)

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. *******

Donna Ard Appellate

VS

Willie S. Edwards/McLeod Spine Center

RECEIVED

Jul 19 2024

SC Court of Appeals

**FORM 7
PROOF OF SERVICE OF A NOTICE OF APPEAL**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

Robert J. Bonds, Circuit Court Judge

Case No. 2024-CP-21-00406

Willie S. Edwards /
McLeod Spine Center,

Respondent,

v.

Donna S. Ard,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Willie S. Edwards / McLeod Spine Center by depositing a copy of it in the United States Mail, postage prepaid, on July 18, 2024, addressed to his attorney of record, J. David Banner, Post Office Drawer 1931, Florence, South Carolina 29503 and via electronic Email delivery of a copy of it to his attorney of record, J. David Banner, at the following email address of record jdb@aikenbridges.com, as well as Darline Leach at the following email address of record dal@aikenbridges.com on July 18, 2024.

July 18, 2024

s/ Donna S. Ard
Donna S. Ard
2460 Cicero Lane
Florence, South Carolina 29501-0826
(843) 472-1298
Pro Se Appellant



FLORENCE
 1901 W EVANS ST
 FLORENCE, SC 29501-0998
 (800)275-8777

07/13/2024 02:38 PM

Product	Qty	Unit Price	Price
Garden Delights	1	\$14.00	\$14.00
First-Class Mail Letter	1		<u>\$0.73</u>

Florence, SC 29503
 Weight: 6 lb 0.40 oz
 Estimated Delivery Date
 Sat 07/20/2024

Grand Total: \$15.33

Credit Card Remit \$15.33

Card Name: VISA
 Account #: XXXXXX0000004278
 Approval #: 012533
 Transaction #: 257
 AID: A0000000001010 Chip
 AL: VISA CREDIT
 PIN: Not Required

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UFN: #52940-0501
 Receipt #: 840-52900188-4-7006694-1
 Clerk: 12

Notice Of Appeal Donna Ard VS Willie S. Edwards/Mcleod Spine Center 2024-CP-21-00406

From: DONNA ARD (donnaard001@aol.com)
To: jdb@aikenbridges.com; dal@aikenbridges.com
Cc: donnaard001@aol.com
Bcc: alvinardis1@gmail.com
Date: Thursday, July 18, 2024 at 12:49 PM EDT

Good Afternoon Mr. Banner and Ms. Leach

You will find attached two PDF documents, one of which will be the Notice of Appeal in the case # 2024-CP-21-00406 Willie S. Edwards / McLeod Spine Center Respondent VS Donna S. Ard Appellant, also the proof of service.

Thank you

Donna Ard

Donna Ard
Electronic Email Signature



notice of appeal 7.18.2024 SCACRIIFORM01 (2).pdf
7.8kB



proof of delivery of notice of appeal 7.18.2024 SCACRIIFORM07 (1).pdf
8.1kB

RECEIVED

Jul 19 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF FLORENCE)	C/A NO.: 2024-CP-21-00406
)	
Donna S. Ard,)	
)	
Plaintiff,)	ORDER GRANTING DEFENDENTS'
vs.)	MOTION TO DISMISS AND DISMISSAL
)	OF PLAINTIFF'S COMPLAINT WITH
Willie S. Edwards and McLeod Spine Center,)	PREJUDICE
)	
Defendants.)	
_____)	

THIS MATTER WAS BEFORE THE COURT upon motion by Defendants Willie S. Edwards ("Edwards") and McLeod Spine Center ("McLeod") on June 18, 2024. The Defendants moved the Court for a dismissal, with prejudice, for the Plaintiff's failure to submit an Affidavit of an Expert Witness with the filing of her Complaint pursuant to § 15-36-100(B) of the *Code of Laws of the State of South Carolina* (2005). Present at the hearing was counsel for the Defendants, J. David Banner and Pro Se Plaintiff Donna S. Ard. The Court heard from both counsel for the Defendants as well Ms. Ard at the Motion hearing.

I. FACTUAL AND PROCEDURAL BACKGROUND

Edwards is a licensed medical doctor and orthopedic spine specialist associated with McLeod. McLeod is a licensed healthcare facility.

On February 16, 2024, Pro Se Plaintiff Donna Ard ("Ard") filed a Summons and Complaint against these Defendants, in summary, alleging "failure to properly diagnose, treat and/or perform corrective spinal surgical measures in a timely manner, being inadequately prepared for the third spinal surgery." As the Plaintiff's Complaint alleges, Edwards performed a second spinal surgery on Ard on October 28, 2019. According to Ard's Complaint, a third spinal surgery was performed on October 14, 2020. Upon information and belief, it is these two

procedures the Plaintiff alleges are the basis of her medical malpractice Complaint against Edwards, a medical doctor and McLeod, a licensed health care facility.

The Summons and Complaint were served upon the Defendants on February 28, 2024.

On March 20, 2024, the Defendants filed a responsive pleading to Ard's Complaint and contemporaneously filed a Motion to Dismiss the Complaint, with prejudice, pursuant to Rules 12(b)(4), (6) and (c) of the *South Carolina Rules of Civil Procedure*. In particular, as stated in the Defendants' responsive pleading and Motion, the Plaintiff failed to comply with § 15-36-100, *et. seq.* (2005) of the *Code of Laws of the State of South Carolina*. Specifically, the Pro Se Plaintiff failed to file an Affidavit of an expert witness with her Complaint.

II. APPLICABLE LAW

§ 15-36-100. Complaint in actions for damages alleging professional negligence; Contemporaneous Affidavit of Expert specifying negligent act or omission.

Subpart (B) of the aforementioned code provides as follows:

Except as provided in § 15-79-125, in an action for damages alleging professional negligence against a professional licensed by or registered with the State of South Carolina and listed in Subsection (G) or against any licensed health care facility alleged to be liable based upon the action or inaction of a health care professional licensed by the State of South Carolina and listed in Subsection (G), the Plaintiff must file as part of a Complaint an affidavit of an expert witness which must specify at least one negligent act or omission claimed to exist and the factual basis for each claim based on the available evidence at the time of the filing of the affidavit...

(F) If a Plaintiff fails to file an affidavit as required by this section, and the Defendant raises the failure to file an affidavit by motion to dismiss filed contemporaneously with its initial responsive pleading, the Complaint is not subject to renewal after the expiration of the applicable period of limitation unless a court determines that the Plaintiff had the requisite affidavit within the time required pursuant to this section and the failure to file the affidavit is a result of a mistake...

(G) This section applies to the following professions:

...

(7) Medical doctors;

...

III. FINDING

Ard has alleged medical negligence in her Complaint against Edwards and McLeod. Ard seeks damages alleging professional negligence based upon the allegations of actions and/or inactions of a health care professional and has failed to file, as required, an affidavit of an expert witness specifying a negligent act or omission claimed to exist and the factual basis for each claim based on the available evidence at the time of the filing of the affidavit as required by Section (B) of the applicable statute. In further response to Ard's Complaint, the Defendants assert the applicable statute of limitations as a complete bar to Ard's Complaint.

Ard alleges a second surgical procedure was performed in October of 2019 and then a third and final surgical procedure was performed on October 14, 2020. Ard's Complaint has been pending in excess of forty-five (45) days and Ard has not filed a Motion seeking an extension of time nor has Ard filed the required affidavit subsequent to the filing of the original Summons and Complaint. Pursuant to Section (F), the Defendants assert Ard's Complaint is not subject to renewal since the expiration of the applicable period on limitation has now expired.

The Court questioned Ard at the hearing to determine if she understood the basis of the Defendants' Motion to which she confirmed. The Court understands Ard is proceeding Pro Se but the Court is obligated to treat a Pro Se Plaintiff in the same manner as an attorney when a Pro Se party chooses to proceed without representation. "A party has a duty to monitor the progress of the case. Lack of familiarity with legal proceedings is unacceptable and the Court will not

hold a layman to any lesser standard than is applied to an attorney.” *Cohen v. Cohen*, 881 S.E.2d 650 (Ct. App. 2022).

Therefore, IT IS HEREBY ORDERED, that based upon § 15-36-100(B) of the *Code of Laws of the State of South Carolina* (2005) Ard’s failure to file, as part of her Complaint, an Affidavit of an Expert Witness, the Defendants’ Motion to Dismiss is granted.

IT IS FURTHER ORDERED, pursuant to Section (F), that due to Ard’s failure to file an Affidavit, coupled with the Defendants’ Motion to Dismiss filed contemporaneously with its initial responsive pleading, the Complaint is not subject to renewal since the applicable statute of limitations has expired and thus Ard’s Complaint is dismissed, with prejudice.

IT IS HEREBY ORDERED that counsel for the Defendants shall serve an executed and filed copy of this Order upon the Plaintiff at the address she provided to defense counsel at the hearing, 2460 Cicero Lane, Florence, SC 29501.

AND IT IS HEREBY ORDERED!

HONORABLE ROBERT J. BONDS
PRESIDING JUDGE

June ____, 2024
Florence, South Carolina



Florence Common Pleas

Case Caption: Donna Ard VS Willie S Edwards , defendant, et al
Case Number: 2024CP2100406
Type: Order/Dismissal

So Ordered

s/ Robert Bonds, 2770

FILED

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2024CP2100406

2024 JUN 20 PM 2:00

Donna Ard

LOUIS FOLLOS O'HARA
CCCP & CS
FLORENCE COUNTY SC

Willie S Edwards

McLeod Spine Center

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

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

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

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

6/20/2024

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on June 20, 2024, and a copy mailed first class or placed in the appropriate attorney's box on June 21, 2024, to attorneys of record or to parties (when appearing pro se) as follows:

CPFORM4Cm
SCCA SCRPC Form 4C (Revised 2/17)

Donna Ard 2460 Cicero Lane Florence, SC 29501

J. David Banner PO Drawer 1931 Florence, SC 29503

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Doris P. O'Hara

Court Reporter

Doris Poulos O'Hara - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Donna Ard