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**Oct 31 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

Heath P. Taylor, Circuit Court Judge

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Appellate Case No. 2024-000910

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Beverly Calloway,  
as Personal Representative of the Estate of Hattie Admore, ..... Respondent,

v.

Oakbrook Healthcare, LLC d/b/a Oak Brook Health and  
Rehabilitation Center and Patricia Castle, ..... Appellants.

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**RESPONDENT’S MOTION TO DISMISS APPEAL AND FOR SANCTIONS**

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Respondent Beverly Calloway as Personal Representative of the Estate of Hattie Admore respectfully moves the Court pursuant to Rule 269, SCACR, for an Order imposing sanctions on Appellant Oakbrook Healthcare, LLC d/b/a Oak Brook Health and Rehabilitation Center (“Appellant”) because this Appeal is frivolous, has been taken solely for the purpose of delay, and is entirely unsupported by any South Carolina precedent substantiating Appellant’s arguments concerning the purported merger of Appellant’s Arbitration and Admission Agreements.<sup>1</sup> For these and the following reasons, the Court should dismiss the Appeal, impose a fee on Appellant,

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<sup>1</sup> Respondent does not believe that Appellant’s conduct should be imputed to Appellant Patricia Castle, nor should she be sanctioned for Appellant’s conduct.

and award costs and attorney's fees to Respondent as a sanction for filing this Appeal when Appellant knows that it has no likelihood of success.

### **FACTUAL/PROCEDURAL BACKGROUND**

Appellant filed its Notice of Appeal on June 3, 2024, appealing Orders of the Circuit Court filed on November 2, 2023, and May 2, 2024. (Ex. 1, Notice of Appeal). The Orders denied Appellant's Motion to Compel Arbitration and Motion to Reconsider, which sought to dismiss and compel the arbitration of Respondent's wrongful death and survival claims arising from injuries the decedent, an 82-year old woman suffering from diabetes and severe vascular dementia, received while in Appellant's care before she passed away. (Ex. 2, Orders; Ex. 3, Compl.). Appellant is part of a constellation of entities that operate, own, and profit from scores of skilled nursing, assisted living, and rehabilitation facilities located in a number of states, including South Carolina, Indiana, Maryland, Nevada, New Mexico, Texas, and Wisconsin.<sup>2</sup> This Appeal, and all of the related appeals discussed below and included in Exhibit 4, essentially revolve around a single focused, dispositive issue: whether Appellant's and the other Fundamental entities' Admission Agreement and

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<sup>2</sup> This group ("the Fundamental entities"), includes Appellant as well as Fundamental Long Term Care, Inc., Fundamental Clinical and Operational Services, LLC, Fundamental Administrative Services, LLC, THI of South Carolina, LLC, THI of South Carolina at Columbia, LLC, THI of South Carolina at Charleston, LLC, THI of South Carolina at Magnolia Manor-Inman, LLC, THI of South Carolina at Spartanburg, LLC, THI of South Carolina at Magnolia Manor-Spartanburg, LLC, THI of South Carolina at Greenville, LLC, THI of Baltimore, Inc., Lake Emory Post Acute Care, St. George Health Care, LLC, Palmetto Prince George Operating, LLC, Palmetto Health Care, LLC, Palmetto Lake City-Scranton Operating, LLC, Palmetto Hallmark Operating, LLC, Hallmark Longterm Care, LLC, and Hunt Valley Holdings, LLC, amongst others. See *Healthcare Facility Locator*, Fundamental, [https://fundltc.com/Healthcare%20Facility%20Locator/Facility\\_Locator.aspx](https://fundltc.com/Healthcare%20Facility%20Locator/Facility_Locator.aspx). The Fundamental entities are believed to own and/or operate at least 20 facilities within South Carolina. For a brief review of the Fundamental entities and their origins, see *In re Fundamental Long Term Care, Inc.*, 569 B.R. 904 (Bankr. M.D. Fla. 2016).

Arbitration Agreement, which have remained identical since at least 2019, merge such that Appellant may avail itself of an equitable estoppel argument to preclude Respondent, and other individuals representing the interests of vulnerable, elderly residents of the Fundamental entities' facilities, from denying that the subject Arbitration Agreement was signed by someone with actual or apparent authority at the time of admission.<sup>3</sup>

Astoundingly, at the time Appellant filed the instant Notice of Appeal, its position and argument regarding the merger of these Agreements had been previously reviewed and rejected by this Court *fourteen times*, in thirteen unpublished decisions and one published opinion, *Estate of Solesbee by Bayne v. Fundamental Clinical and Operational Servs., LLC*, 438 S.C. 638, 885 S.E.2d 144 (Ct. App. 2023). (Ex. 4, Spreadsheet of Appeals). These decisions reviewed the exact same Admission Agreement and Arbitration Agreement that are currently before the Court and entailed an analysis of the exact same applicable South Carolina law and general contract principles.<sup>4</sup> More importantly, at the time Appellant filed the instant Notice of Appeal, the Supreme Court of South Carolina had denied petitions

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<sup>3</sup> A review of the related appeals shows that it is not uncommon during the Fundamental entities' admissions process for the admissions paperwork and Arbitration Agreement to be signed by a family member or caregiver who is not the resident's attorney-in-fact, conservator, or guardian at the time of admission. It is a foregone legal conclusion that the authority bestowed upon a family member to act on the resident's behalf under the Adult Health Care Consent Act does not include authority to enter an arbitration agreement. *See Coleman v. Mariner Health Care, Inc.*, 407 S.C. 346, 755 S.E.2d 450 (2014).

<sup>4</sup> The merger analysis solely focuses on the language of the agreements that have purportedly merged. *See Solesbee*, 438 S.C. at 648, 885 S.E.2d at 149 (“[B]y their own terms, the contracts between these parties indicated an intent that the common law doctrine of merger not apply.”)

seeking certiorari to review those decisions four times, including a denial of certiorari to review this Court's binding decision in *Solesbee*.

All told, at the time of the filing of their Notice of Appeal in this action, the Fundamental entities had previously asked this Court and the Supreme Court to review the subject Agreements *thirty-three times* to determine whether they merge such that a plaintiff would be estopped from denying their validity, all without a single successful result. The Court has since filed three more unpublished decisions affirming that the subject Agreements do not merge, and the Supreme Court has denied certiorari on the exact same issue ten more times, including nine times on October 30, 2024. Previous to the date of the filing of this Motion, the Fundamental entities, on the other hand, had gone on to file three more petitions for a writ of certiorari to the Supreme Court, totaling *thirty-seven* requests over five years (not including petitions for rehearing) for the appellate courts of this State to review a factually identical argument. These protracted appeals, which to a legal certainty are destined for failure, typically delay the underlying litigation for multiple years, and needlessly consume the parties', the Court's, and the Supreme Court's resources and time.

### ARGUMENT

Rule 269, SCACR, sets forth the Court's discretionary authority to impose sanctions for frivolous appeals:

Where an appeal, petition, motion or return is frivolous or taken solely for the purposes of delay, or is not in compliance with these Rules, the appellate court may upon its own motion or that of a party, after ten (10) days notice, impose upon offending attorneys or parties such

sanctions as the circumstances of the case *and discouragement of like conduct in the future may require.*

Rule 269, SCACR (emphasis added). “An appeal is frivolous *if the result is obvious* or the arguments of error are wholly without merit.” *Coghlan v. Starkey*, 852 F.2d 806, 811 (5th Cir. 1988) (emphasis added). The dispositive argument that is being raised to the Court in this Appeal is whether the Circuit Court erred in finding that the subject Agreements did not merge pursuant to *Solesbee* as well as the numerous other unpublished decisions of this Court affirming *Solesbee*.

Appellant is likely to take the position that until the Supreme Court publishes an opinion affirming the reasoning of *Solesbee* that any repetitive appeals of the merger issue are not frivolous and have some chance of succeeding on their merits. This ignores that by repeatedly denying certiorari to review the outcome of *Solesbee* (a binding, published Opinion), the Supreme Court has essentially conveyed that under these identical facts and Agreements, it does not see a clear legal error that necessitates reversal or an issue of sufficient importance to grant judicial review. After denying certiorari fourteen times, it is no longer reasonable or realistic to expect that things might be different with the Supreme Court on the next go-round.

Additionally, while Appellant’s arguments may also incorporate the doctrine of equitable estoppel, which would generally require the Court in each appeal to weigh all the attendant circumstances and equities unique to each case, here, the threshold, dispositive issue is whether the Agreements merged in the first place. Without merger, the Fundamental entities are deprived of the ability to use the

estoppel doctrine offensively as a sword against their residents, and the merger analysis in this Appeal and all twenty-one other matters that are or have been before the Courts has been identical in every respect in every appeal and is solely predicated on the contents of the same two documents. *Solesbee*, 438 S.C. at 646-48, 885 S.E.2d at 148-49.

As to the merger argument, Appellant cannot factually distinguish between the issue's presentation in this Appeal and the twenty-one others that have come before it. It should be patently obvious to Appellant, the Court, and any other observer of these matters over the past five years that the Fundamental entities' perpetual appeals of the merger issue are entirely without merit or any hope of success. The inescapable conclusion is that at this point, Appellant's efforts are not made with a good faith belief in a favorable outcome, but are only designed to delay, frustrate, and hopefully demoralize any resident who commences a tort claim against it in circuit court into submission, without any consideration for the accompanying waste of judicial resources.

Appellate courts have inherent power to dismiss appeals that are "manifestly and palpably frivolous and without merit." *Johnson v. St. Paul City Ry. Co.*, 68 Minn. 408, 409, 71 N.W. 619 (Minn. 1897); *Buckner v. Jenkins*, 122 Okla. 105, 251 P. 81 (Okla. 1926); *MacArthur v. San Juan Cnty.*, 495 F.3d 1157, 1161 (10th Cir. 2007). Rule 269, SCACR grants the Court broad and sweeping authority to impose any sanctions called for by the circumstances of the case and necessary to act as a deterrent to further frivolous appeals. *See also Walker v. Health Int'l Corp.*, 845

F.3d 1148, 1157 (Fed. Cir. 2017) (“Sanctions are awarded to compensate the victimized party for the burden of continued litigation in what long ago [was] a settled matter, as well as to discourage frivolous appeals which unnecessarily clog our docket.”).

Under these circumstances, dismissal of this Appeal is clearly an appropriate sanction. There is no need for further briefing on a dispositive issue that has already been ruled upon by this Court seventeen times under factually identical circumstances. *See McKinzy v. Kansas City Power & Light Co.*, 367 Fed. App’x 912, 913 (10th Cir. 2010) (“Mr. McKinzy’s appeal meets this standard. Not only have we considered and rejected his arguments on two occasions within the last six months, Mr. McKinzy never mentions these decisions, and thus, makes no attempt to distinguish them.”). The Supreme Court should not be required to set aside its limited resources, grant certiorari, require the parties to further brief an issue that has already been argued dozens of times, hold oral arguments, and draft its own published opinion to put an end to Appellant’s and the Fundamental entities’ willful abuse of the Court and its Rules.

While dismissal is called for in this instance, Respondent expects it will not be enough to deter the Appellant’s and the Fundamental entities’ future conduct. All respondents in the related appeals have thus far been eligible to ask for attorney’s fees and costs pursuant to Rule 222, SCACR, after remittitur. However, the looming taxing of costs against Appellant and the Fundamental entities under Rule 222 has done nothing to faze them or discourage their abuse of the

appealability statutes and Appellate Court Rules, and in the meantime, the respondents impacted by Appellant's and the Fundamental entities' manipulation of the appellate process have collectively had their right to a speedy resolution of their claims delayed by dozens of years.

A stronger sanction is warranted. The Court should award attorney's fees and costs to Respondent, without the cap imposed by Rule 222, to compensate Respondent for the burden of participating in this frivolous Appeal. Additionally, the Court should treble the attorney's fees and costs to serve as a deterrent to any further, vexatious appeals that are certain to follow if Appellant and the remaining Fundamental entities are permitted to continue to appeal from every order filed by a circuit court in this State denying their motions to compel arbitration based on the merger issue, which has already been adequately addressed by *Solesbee*.

Lastly, the Court should order Appellant to pay a reasonable fine to the Court. These appeals have likely cost the Court itself hundreds of hours of unnecessary work that could have and should have been devoted to appeals that had some likelihood of success, and they surely have added considerable strain to the Court's and Supreme Court's busy appellate docket. Thus, not only has Respondent's and the Court's time and resources been wasted, but also the parties to the numerous other unrelated appeals pending before the Court have had the resolution of their cases unreasonably delayed by the burden placed on the Court by Appellant and the remaining Fundamental entities.

## **CONCLUSION**

The Appellant and other Fundamental entities' continuous pattern of appealing the dispositive merger issue is in reality no different than if a losing party petitioned the Court for rehearing on the same legal issue, based on the same facts, over thirty times in a row. For the foregoing reasons, Respondent respectfully requests that the Court dismiss this Appeal and impose pecuniary sanctions on Appellant. Respondent also requests that the Court hold the remaining briefing deadlines in abeyance until the Court has ruled on Respondent's Motion.

Respectfully submitted,

By: 

October 31, 2024  
Hampton, South Carolina

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ATTORNEYS FOR RESPONDENT



**THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

---

Appeal from Dorchester County  
Court of Common Pleas

Heath P. Taylor, Circuit Court Judge

---

Case No. 2023-CP-18-00722

---

Beverly Calloway,  
as Personal Representative of the Estate of Hattie Admore,

Respondent,

v.

Oakbrook Healthcare, LLC d/b/a Oakbrook Health and Rehabilitation Center and  
Patricia Castle,

Appellants.

---

**NOTICE OF APPEAL**

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*Attorneys for Respondent*

Defendants/Appellants, Oakbrook Healthcare, LLC d/b/a Oakbrook Health and Rehabilitation Center and Patricia Castle (“Appellants”), hereby appeal the following orders of the Honorable Heath P. Taylor, Circuit Court Judge:

- **Order Denying Appellants’ Motion to Compel Arbitration**, filed November 2, 2023; and
- **Order Denying Appellants’ Motion to Reconsider the Denial of their Motion to Compel Arbitration**, filed May 2, 2024.

Copies of the appealed orders are attached hereto and incorporated herein by reference. Appellants received written notice of entry of the most recent order on May 2, 2024.

Respectfully submitted,  
CLEMENT RIVERS, LLP

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Charleston, South Carolina

June 3, 2024

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2023CP1800722

Beverly Calloway et al  
PLAINTIFF(S)

Oakbrook Healthcare Llc et al  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), 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:

Based upon the Court of Appeals decision in Estate of Solesbee by Bayne v. Fundamental and Operational Services, LLC, 438 S.C. 638, 885 S.E. 2d 144 (Ct. App. 2023), the Court finds and concludes that the Arbitration Agreement and Admission Agreement did not merge and Defendants Oakbrook Healthcare and Patricia Castle's motions to compel arbitration based on equitable estoppel are denied.

**ORDER INFORMATION**

This order  ends  does not end the case.  See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 11/02/2023 .

Hattie Admore Est  
Beverly Calloway  
Hattie Admore Estate

**NAMES OF TRADITIONAL FILERS SERVED BY MAIL**

**Court Reporter:**

**E-Filing Note:** 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 judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Dorchester Common Pleas

**Case Caption:** Beverly Calloway , plaintiff, et al VS Oakbrook Healthcare Llc ,  
defendant, et al

**Case Number:** 2023CP1800722

**Type:** Order/Electronic Form 4

IT IS SO ORDERED.

Heath P. Taylor

Beverly Calloway et al  
PLAINTIFF(S)

Oakbrook Healthcare Llc et al  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (*CHECK REASON*):**  Rule 12(b), 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:

The Defendant's motion to alter, amend and/or reconsider is hereby denied. Counsel for Appellant is reminded of the requirement to provide a copy of the motion to alter or amend to the undersigned pursuant to Rule 59(g) to ensure timely and efficient disposition of the motion.

**ORDER INFORMATION**

This order  ends  does not end the case.  See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 05/02/2024 .

Hattie Admore Est  
Beverly Calloway  
Hattie Admore Estate

**NAMES OF TRADITIONAL FILERS SERVED BY MAIL**

**Court Reporter:**

**E-Filing Note:** 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 judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Dorchester Common Pleas

**Case Caption:** Beverly Calloway , plaintiff, et al VS Oakbrook Healthcare Llc ,  
defendant, et al  
**Case Number:** 2023CP1800722  
**Type:** Order/Electronic Form 4

IT IS SO ORDERED.

Heath P. Taylor

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF DORCHESTER	)	CIVIL ACTION NO.: 2023-CP-18-
	)	
BEVERLY CALLOWAY, AS	)	
PERSONAL REPRESENTATIVE OF	)	
THE ESTATE OF HATTIE ADMORE.,	)	
	)	
	)	
	)	<b>Summons</b>
	)	<i>(Jury Trial Requested)</i>
	)	
v.	)	
	)	
OAKBROOK HEALTHCARE, LLC, d/b/a	)	
OAKBROOK HEALTH AND	)	
REHABILITATION CENTER AND	)	
PATRICIA CASTLE	)	
	)	

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to said Complaint on the subscribed at their office, 101 Mulberry Street East, Hampton, South Carolina, within thirty (30) days after the service hereof; exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in this Complaint.

*-Signature Page to Follow-*

PARKER LAW GROUP, LLP

BY: s/Lee D. Cope

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AND

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ATTORNEYS FOR THE PLAINTIFF

May 8, 2023.  
Hampton, South Carolina

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
COUNTY OF DORCHESTER ) CIVIL ACTION NO.: 2023-CP-18-

BEVERLY CALLOWAY, AS )  
PERSONAL REPRESENTATIVE OF )  
THE ESTATE OF HATTIE ADMORE., )

**Complaint**  
***(Jury Trial Requested)***

v. )

OAKBROOK HEALTHCARE, LLC, d/b/a )  
OAKBROOK HEALTH AND )  
REHABILITATION CENTER AND )  
PATRICIA CASTLE )

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COMES NOW Plaintiff above named, and complaining of Defendants, alleges and says as follows:

1. That the Plaintiff is a citizen and resident of Colleton County State of South Carolina, and brings this action as the Personal Representative of the Estate of Hattie Admore pursuant to the S.C. Code Ann. 15-5-90, the Survival Action Act, on behalf of the statutory beneficiaries of the deceased for all damages authorized by said statute and pursuant to the S.C. Code Ann. 15-51-10, the Wrongful Death Act, and other applicable statutory and/or common law.

2. That upon information and belief, Defendant Oakbrook Healthcare, LLC, d/b/a Oakbrook Health and Rehabilitation Center is a Delaware corporation with its principal place of business in Dorchester County, South Carolina. At the time of the acts complained of, Oakbrook Health and Rehabilitation Center was a skilled nursing home facility.

3. That upon information and belief, Defendant Patricia Castle is upon information and belief a resident of Dorchester County State of South Carolina and was the administrator of the Defendant Oakbrook Health and Rehabilitation Center.

4. That on September 3, 2020, Mrs. Admore was admitted to Oakbrook Health & Rehabilitation Center. She required total care for all daily living activities as well as monitoring her blood sugar.

5. That on admission Mrs. Admore was assessed as being at high risk for pressure injuries and had a Stage II pressure injury to her sacrum measuring .2cm x .2cm.

6. That on September 8, 2020, Mrs. Admore's blood sugar was elevated and she was given insulin. She was rechecked an hour later and it was still elevated. The nurse gave additional units of insulin and was told to continue to monitor every hour.

7. That on September 10, 2020, Mrs. Admore was found non-responsive to verbal stimuli and she was transferred to the hospital.

8. That on September 10, 2020, Mrs. Admore was admitted to Summerville Medical Center with a Stage III pressure sore on her sacrum and hyperkalemia.

9. That on September 17, 2020, Mrs. Admore was readmitted to Oakbrook.

10. That on September 21, 2020, Mrs. Admore's wound on her sacrum was unstageable.

11. That on September 22, 2020, Mrs. Admore's blood sugar was elevated again. She began to vomit and suddenly collapsed. She was sent to Summerville Medical Center.

12. That on admission to the hospital her blood sugar was >600. Shortly after arriving at the hospital, Mrs. Admore went into cardiac arrest.

13. That on September 22, 2020, Mrs. Admore passed away.

**FOR A FIRST CAUSE OF ACTION**  
**(Negligence/Gross Negligence)**

14. While in the Defendants care, custody and control, Ms. Admore did suffer grave and severe injuries and humiliation at the facility as a direct and proximate result of the

following negligent, reckless, willful, careless, negligent per se and grossly negligent acts of the Defendants, combining and concurring:

- a. In failing to provide oversight of Mrs. Admore' safety and dignity;
- b. In failing to exercise due care, including without limitation, failing to care for Mrs. Admore;
- c. In failing to provide appropriate administrative oversight and management to assure Mrs. Admore was appropriately cared for;
- d. In failing to implement appropriate skin prevention measures;
- e. In failing to accurately assess Mrs. Admore's risk for development and deterioration of pressure injuries;
- f. In failing to treat Mrs. Admore's pressure sore;
- g. In failing to properly monitor and treat Mrs. Admore's diabetes;
- h. In failing to exercise reasonable care for the safety and well-being of Mrs. Admore under the circumstances;
- i. In failing to have sufficient and properly trained staff to care for its residents;
- j. In failing to have sufficient nursing and nursing assist time to provide the care that was needed for Mrs. Admore;
- k. In failing to manage its revenue and income such that appropriate care may be rendered to Mrs. Admore;
- l. In failing to implement an appropriate care plan;
- m. In failing to exercise that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances; and
- n. In such other particulars as the evidence may establish.

15. That as a direct and proximate result of the aforesaid negligent, reckless, willful, careless, negligent per se and grossly negligent acts of the Defendants, the deceased Plaintiff's beneficiaries have suffered grief, sorrow, mental anguish and all of the damages which accompany the loss of a loved one; the beneficiaries have suffered pecuniary loss, all to the Plaintiff's actual and punitive damages.

16. That as a direct and proximate result of the aforesaid negligent, reckless, willful, careless, negligent per se and grossly negligent acts of the Defendants, the deceased Plaintiff suffered grave and severe injuries prior to her death; she was hospitalized; she incurred medical expenses; she suffered conscious pain and suffering and mental anguish prior to her death; she suffered a loss of her dignity and individuality; she suffered a diminished quality of life prior to her death; her estate has incurred funeral expenses.

17. That by reason of the foregoing, the Plaintiff is informed and believes that she is entitled to judgment against the Defendants on behalf of the Estate of the deceased Plaintiff, for both actual and punitive damages; all of which damages were proximately caused by the Defendants' acts and/or omissions as are more fully set forth above, in an amount as may be set and determined by the trier of fact in this matter.

WHEREFORE, Plaintiff prays this Honorable Court for a Judgment against the Defendants for actual and punitive damages in an amount to be determined by a trier of fact, and any other and further relief as this Honorable Court deems just, proper, and equitable.

*-Signature Page to Follow-*

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ATTORNEYS FOR THE PLAINTIFF

May 8, 2023.  
Hampton, South Carolina

Case Name	Appellate Case No.	NOA Date	COA Decision	Decision Date	Cert Petition/Extension Date	Cert Denied	P Attorney
<i>Ladson</i>	2019-001413	8/22/2019	2022-UP-169	4/6/2022	9/15/2022	4/18/2023	Pierce Sloan
<i>Solesbee</i>	2019-001731	10/14/2019	885 S.E.2d 144	1/25/2023	5/15/2023	4/16/2024	Matt Christian
<i>Nanney</i>	2020-000500	3/18/2020	2023-UP-299	8/23/2023	11/21/2023	9/11/2024	Ray Mullman
<i>Daniels</i>	2020-000501	3/18/2020	2022-UP-313	7/27/2022	10/24/2022	5/24/2023	Hughey Law Firm
<i>Estate of Owens</i>	2020-001107	8/12/2020	2023-UP-272	7/19/2023	10/13/2023	4/16/2024	Ray Mullman
<i>Greene</i>	2020-001167	8/19/2020	2023-UP-396	12/13/2023	3/5/2024	10/30/2024	Pro Se
<i>Tisdale</i>	2021-000586	6/2/2021	2024-UP-005	1/3/2024	4/17/2024	10/30/2024	McGowan Hood
<i>Walker</i>	2021-000594	6/4/2021	2023-UP-400	12/13/2023	3/5/2024	10/30/2024	McGowan Hood
<i>White</i>	2021-000700	7/1/2021	2023-UP-393	12/13/2023	3/5/2024	10/30/2024	Strom Law Firm
<i>Dawkins</i>	2021-000707	7/1/2021	2023-UP-392	12/13/2023	3/5/2024	10/30/2024	Jordan Law Center
<i>Stroud</i>	2022-000398	3/30/2022	2024-UP-084	3/20/2024	6/20/2024	10/30/2024	Dan Pruitt
<i>Pace</i>	2022-001059	7/27/2022	2024-UP-261	7/17/2024	10/17/2024	PENDING	Harbin & Burnett
<i>Rahn</i>	2022-001242	9/2/2022	2023-UP-397	12/13/2023	3/5/2024	10/30/2024	PLG
<i>China</i>	2022-001807	12/29/2022	2023-UP-394	12/13/2023	3/5/2024	10/30/2024	Strom Law Firm
<i>Estate of Rice</i>	2023-000432	3/14/2023	2024-UP-083	3/20/2024	6/20/2024	10/30/2024	Matt Christian
<i>Washington</i>	2023-001282	8/10/2023	2024-UP-319	9/25/2024	Pet. for Rehearing	N/A	PLG
<i>McCarson</i>	2023-001371	8/28/2023	2024-UP-320	9/25/2024	Pet. for Rehearing	N/A	PLG
<i>Hutley</i>	2023-001612	10/12/2023	PENDING	N/A	N/A	N/A	Dan Pruitt
<i>Hagood</i>	2023-001712	11/1/2023	PENDING	N/A	N/A	N/A	Kip McAlister
<i>Kilpatrick</i>	2024-000596	4/12/2024	PENDING	N/A	N/A	N/A	PLG
<i>White</i>	2024-000914	6/3/2024	PENDING	N/A	N/A	N/A	PLG
<i>Calloway</i>	2024-000910	6/3/2024	PENDING	N/A	N/A	N/A	PLG

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**Oct 31 2024**  
**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

Heath P. Taylor, Circuit Court Judge

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Appellate Case No. 2024-000910

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Beverly Calloway,  
as Personal Representative of the Estate of Hattie Admore, ..... Respondent,

v.

Oakbrook Healthcare, LLC d/b/a Oak Brook Health and  
Rehabilitation Center and Patricia Castle, ..... Appellants.

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**PROOF OF SERVICE**

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The undersigned certifies that a copy of the foregoing Respondent's Motion to Dismiss has been served upon the following counsel of record by emailing a copy of the same, this 31st day of October 2024.

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