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SC Court of Appeals

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

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
T. Scott Beck, Commissioner

Workers' Compensation File No. 2118696.

**Serge R. Wandji,
Appellant/Claimant,**

v.

**The Regional Medical Center, Self-Insured Employer, Through Antum Risk,
Respondent/Defendant.**

**PLAINTIFF'S RESPONSE OPPOSING DEFENDANTS' MOTION TO
EXCLUDE CERTAIN MATTERS FROM THE RECORD ON APPEAL**

Appellate Case No. 2024-001935

**TO: THE COURT OF APPEALS OF SOUTH CAROLINA AND ATTORNEYS FOR THE
RESPONDENTS:**

The Claimant/Appellant, **Serge Wandji**, appearing pro se, respectfully submits this Response opposing the Respondents' Motion to Exclude Certain Matters from the Record on Appeal. For the reasons outlined below, the Claimant/Appellant urges the Court to deny the Motion and retain the designated matters in the Record on Appeal.

I. Legal Standard for the Record on Appeal

Under **Rule 210, S.C.A.C.R.**, the Record on Appeal must include all materials relevant to the appellate court's review and necessary for determining whether the lower tribunal erred in its rulings. Excluding significant documents designated by the Claimant/Appellant would prejudice his ability to present his case fully and deprive the Court of essential context for its review.

II. Relevance of Designated Matters

Each item designated by the Claimant/Appellant is directly connected to the issues raised on appeal. These materials are critical to providing a comprehensive understanding of the procedural and substantive errors that occurred in the Workers' Compensation Commission proceedings.

A. Claimant/Appellant's Reply to Respondents' Return

This document directly responds to the Respondents' arguments and highlights both procedural and substantive errors in the Commission's decision-making process. It includes critical exhibits that are part of the official record in this workers' compensation case. Excluding this document would deprive the appellate court of important context essential for a fair review.

B. Dr. Samies' Deposition Provides Critical New Evidence

Respondents argue that the deposition of Dr. Samies should be excluded; however, this deposition introduces **newly discovered evidence** that could not have been obtained during the initial hearings despite due diligence. This evidence is pivotal to the appeal, as it impacts the integrity and fairness of the decision-making process.

1. Evidence of Bias and Conflict of Interest

- Dr. Samies' deposition reveals substantial evidence of bias, conflict of interest, and **fraudulent misrepresentation**. At the hearing, Dr. Samies' 'expert' letter was presented by the Defendant as being generated by an independent infectious diseases physician. In his deposition, when asked what kind of additional role he had at TRMC beside practicing medicine there? Dr. Samies answered "*I've been on a variety of committees, chaired a variety committees, have served on Board of*

*Trustees. I've served on the Medical Executive Committee” (Exhibit # 1: Deposition Transcript Pg. 5, Lines 11-16). As a Board of Trustees member and Executive Medical Officer aligned with The Regional Medical Center (TRMC), Dr. Samies was in a position of inherent conflict that was neither disclosed in his written testimony nor adequately addressed during the initial hearings, since he (Dr. Samies) failed to show up to be cross-examined by the Claimant at the hearing. His written testimony (See **Exhibit #2**: Dr. Samies’ Expert letter) which was admitted as evidence during the proceedings, and which was heavily relied upon by the Commission, is now shown to have been compromised by this bias.*

2. Acknowledgment of Workplace Exposure to COVID-19

- In his deposition Dr. Samies admitted that the Claimant, a nurse employed at TRMC, was exposed to COVID-19 during August 2021 in his workplace. Dr. Samies himself acknowledged, “*any employee at the hospital (including Claimant) can be exposed when there are patients with COVID-19” (Exhibit # 1 Deposition Transcript Pg. 31, Lines 22-23). This acknowledgment contradicts prior assertions in his written testimony (See Exhibit # 2) and provides compelling evidence supporting the Claimant’s case. This new evidence is directly relevant to the appeal and must be included in the Record for the Court’s consideration.*

C. HIPAA-Related Letters Are Part of the Record and Highly Relevant

Respondents incorrectly claim that the HIPAA-related letters were not presented to the Workers’ Compensation Commission. In fact, these letters are part of the official record, as they were formally sent by the Claimant to Commissioner T. Scott Beck and the Respondents, addressing

significant HIPAA violations (**See Exhibit # 3**). By the way Mr. Roy Howell III, attorney for the Defendants was copied to these email.

1. The First HIPAA Letter

- Sent on November 28, 2022, this letter formally complained of HIPAA violations involving the Claimant’s medical records. It highlights procedural irregularities and demonstrates the Claimant’s good-faith efforts to address these violations during the proceedings.

2. The Second HIPAA Letters

- Sent on February 2 and February 5, 2023, to TRMC’s CEO and their attorney, this letter documented ongoing HIPAA violations and the Respondents’ failure to address them. These letters underscore procedural errors and breaches that affected the fairness of the process.

Both letters are relevant to the Claimant’s case and their exclusion would unfairly limit the Court’s understanding of the procedural and substantive issues involved.

D. Claimant/Appellant APA Documents

The APA documents provide essential legal and procedural context agreed upon by both parties throughout the proceedings. Their exclusion would significantly hinder the Claimant’s ability to present his case, especially since they are integral to understanding the broader legal issues in dispute.

E. Defendant’s Email Exchange with Labor’s Attorneys

This correspondence reflects Respondents' handling of key issues in the Workers' Compensation claim. It provides insight into procedural inconsistencies and is necessary for a full understanding of the case.

F. Settlement Offer Letter

While settlement negotiations are typically inadmissible for proving liability, the settlement offer letter is not included for this purpose. Instead, it demonstrates the Respondents' acknowledgment of relevant disputes, making it pertinent to procedural fairness and justifying its inclusion in the Record.

III. Importance of a Complete Record

The South Carolina Appellate Rules emphasize the necessity of a comprehensive record to facilitate meaningful appellate review. Arbitrarily excluding relevant materials, such as those designated by the Claimant/Appellant, would result in an imbalanced presentation of the case and hinder the Court's ability to assess the Workers' Compensation Commission's rulings fully.

IV. Procedural Justice

In the interest of fairness and justice, the designated matters should remain part of the Record on Appeal. Their exclusion risks obscuring critical elements of the decision-making process, undermining procedural integrity, and prejudicing the Claimant's appeal.

CONCLUSION

For the foregoing reasons, the Claimant/Appellant respectfully requests that the Court deny the Respondents' Motion to Exclude Certain Matters from the Record on Appeal. Retaining these materials will ensure a thorough and just appellate review.

Respectfully submitted,

s/Serge Wandji

Pro Se Appellant

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Dated: January 17, 2025

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF ORANGEBURG) CASE NO.: 2023-CP-38-00331

Serge R. Wandji,)
)
Plaintiff,)
)
v.)
)
The Regional Medical Center)
and Dr. John H. Samies,)
)
Defendants.)
)
)
-----)

DEPOSITION OF
DR. JOHN H. SAMIES

Tuesday, September 17, 2024
4:00 p.m. - 4:38 p.m.

The deposition of DR. JOHN H. SAMIES was taken on behalf of the Plaintiff on the 17th day of September, 2024 at the Orangeburg County Administrative Offices, 1437 Amelia Street, 3rd Floor Training Room, Orangeburg, South Carolina before Amber Scarborough, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.



CREEL COURT REPORTING, INC.
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EXHIBITS

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(Letter from Dr. Samies to Roy A. Howell, III, dated 12/5/2022)	
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STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the South Carolina Rules of Civil Procedure.

It is stipulated by and between counsel and the witness that the reading and signing of the following deposition be, and the same are, hereby waived.



1 DR. JOHN H. SAMIES, having been duly sworn, deposes
2 and testifies as follows:

3 **DR. SAMIES - EXAMINATION BY MR. WANDJI:**

4 Q: All right. Dr. John Samies, will you please
5 state your name and title for the record?

6 A: John Hunter Samies, M.D., Medical Doctor.

7 Q: All right. You are under oath, Dr. Samies, and
8 I'm going to ask you some questions and I
9 expect an answer to each of my questions. Your
10 lawyer cannot help you outside any of those
11 questions. If you don't understand any
12 question, please just say so and I will repeat
13 the question. Do you understand, sir?

14 A: Yes.

15 Q: Okay. Dr. Samies, do you practice medicine at
16 the Regional Medical Center?

17 A: The Regional Medical Center no longer exists.
18 I practice at the institution that took over
19 for it.

20 Q: Did you practice when it was still the Regional
21 Medical Center?

22 A: Yes.

23 Q: How long did you practice medicine there?

24 A: Since 1997.

25 Q: How many days a week on average are you at the



1 Regional Medical Center?

2 A: Probably six.

3 Q: So, when you practice medicine there, do you
4 get paid for your services?

5 A: I bill for my services, yes.

6 Q: Beside practicing medicine, do you have any
7 additional role at the Regional Medical Center?

8 A: At present, no.

9 Q: Did you? Whe- ---

10 A: Yes.

11 Q: What kind of additional role did you have
12 beside practicing medicine?

13 A: I've been on a variety of committees, chaired
14 a variety committees, have served on the Board
15 of Trustees. I've served on the Medical
16 Executive Committee.

17 Q: Did you get paid in those leadership roles that
18 you were part of?

19 A: I was paid a stipend for hours practiced. So,
20 I billed as a contractor, basically.

21 Q: This is Exhibit Number 1. I'm gonna give a
22 copy to Dr. Samies.

23 **MS. WILLIAMS:** Do you have an extra copy for me?

24 **MR. WANDJI:** That's another one. You -- you can
25 have this one.



1 **MS. WILLIAMS:** Thank you.

2 **(Plaintiff's Exhibit Number 1 was marked for**
3 **identification purposes.)**

4 Q: This is a one-page letter, Dr. Samies. Your
5 name is written at the bottom of it. Do you
6 recognize that letter?

7 A: Yes.

8 Q: Did you personally type the entirety of that
9 letter?

10 A: (No audible response.)

11 Q: Did you type it yourself?

12 A: Yes.

13 Q: Every single thing on that letter?

14 A: Yes.

15 Q: Why did you write that letter?

16 A: I was requested to do a review of information.

17 Q: Who requested you?

18 A: It was initially requested by the Infection
19 Control Department ---

20 Q: Okay.

21 A: --- which I served as a consultant for.

22 Q: Okay. Who asked -- requested you to do it?
23 You said initially.

24 A: Well, and then they wanted me to speak to the
25 attorney that's on the letter.



1 Q: Who is they?

2 A: Infection Control Department at the hospital.

3 Q: Okay. How much did you get paid for writing
4 that letter?

5 A: Nothing.

6 Q: Why would the Infection Control ask you to
7 write a letter?

8 A: I served as the Hospital Infection Control
9 Consulting and Hospital Epidemiologist and they
10 had asked me to review information pertinent to
11 the epidemiology.

12 Q: The letter was written and signed on December
13 2022; is that correct?

14 A: Yes.

15 Q: Okay. How many of such a letter for your
16 Infection Disease expertise have you written
17 that year, 2022?

18 A: I don't know.

19 Q: Have you written any?

20 A: Yes.

21 Q: Beside this one?

22 A: Yes.

23 Q: That was put into the judicial system of any
24 kind?

25 A: Not that I'm aware of, no.



1 Q: But you knew this one had to do with some kind
2 of lawsuit, right?

3 A: I knew that it was information requested.

4 Q: But you knew it was ...

5 A: I did not specifically know what precisely it
6 would be used for. I did an epidemiologic
7 review at the request.

8 Q: Okay. So, you didn't know how I was the
9 Claimant or didn't know ---

10 A: Oh, I knew -- I knew the subject was you in the
11 letter, yes.

12 Q: But you didn't know that it had to do with some
13 kind of judicial process?

14 A: I understood that there was Workers'
15 Compensation questions.

16 Q: So, how many letter after you written like that
17 that in year 2022? How many?

18 **MS. WILLIAMS:** Object to the form. You can answer
19 the question.

20 A: The -- well, you asked whether or not it was
21 for judicial things. No other for judicial
22 things. I wrote multiple other letters over
23 time about a variety of infection control and
24 epidemiology issues.

25 Q: Okay. Have you ever testified for anybody or



1 through a letter like this in some kind of
2 judicial process?

3 A: I've never testified, no.

4 Q: So, this was the very first one?

5 A: I ---

6 **MS. WILLIAMS:** Object ---

7 A: --- did not ---

8 **MS. WILLIAMS:** --- to form.

9 A: --- testify. I wrote a review at the re- -- at
10 the request of information they provided.

11 Q: In the second sentence of that letter that you
12 wrote, Dr. Samie, you claim that the materials
13 you reviewed to prepare the letter were a
14 COVID-19 Questionnaire from Mr. Wandji -- I'm
15 quoting what you wrote -- and two, additional
16 employees, a log of Behavioral Health Employees
17 and a series of emails; is that correct?

18 A: That's correct.

19 Q: Okay. Beside the material I just read from
20 your letter, did you get any other information
21 from anyone to help you prepare for your
22 letter?

23 A: No.

24 Q: Did you discuss about this assignment you
25 received from the Infection Disease Committee,



1 did you discuss about that with anyone before
2 preparing your letter?

3 A: No.

4 Q: The last sentence in the last paragraph in your
5 letter, and I'm quoting, you wrote, giving that
6 he, talking about me, had concern about non-
7 employment exposure, which prompted testing
8 only a short time prior to his illness, I must
9 wonder how much other potential non-employment
10 exposure he had. Is that correct what you
11 wrote?

12 A: That's correct.

13 Q: And you say you wrote this entire letter?

14 A: Yes.

15 Q: Who told you that I had concern about non-
16 employment exposure?

17 A: It merely states, given that he had concerns
18 about non-employment exposure, which prompted
19 testing only a short time prior to his illness,
20 I must wonder how much other potential non-
21 employment exposure he had.

22 Q: That's what I read. My question is, who told
23 you that I had concern about non-employment
24 exposure? Who told you that?

25 A: I can't re- -- let's see. Of more importance



1 in this case is his self-reported exposure and
2 request for testing on 8/16/2021.

3 Q: What is the non-employment exposure there?

4 A: That's what was -- I reviewed the records and
5 that was gleaned from the records of Employee
6 Health.

7 Q: Oh. Employee Health told you that I had non-
8 employment ---

9 A: They did not tell me. They -- they forwarded
10 their documents.

11 Q: Where are those documents?

12 A: I don't have them.

13 Q: You reviewed them and then you gave it back to
14 them?

15 A: No. I reviewed them and they would have been
16 in email, which is no longer existent at the
17 Regional Medical Center. And probably I
18 deleted them at that time.

19 Q: And on those email that said I had non-
20 employment exposure to COVID-19?

21 A: That's what I gleaned from it.

22 Q: What's where you took it?

23 A: That's what I gleaned from.

24 Q: What do you mean gleaned? Can you explain?

25 A: Gleaned means understood from that materials.



1 Q: Oh, okay. From the materials you got from
2 whom?

3 A: From Employee Health.

4 Q: Oh. Employee Health at the Regional Medical
5 Center at that time ---

6 A: Correct.

7 Q: --- right?

8 A: Correct.

9 Q: Is it possible that you read wrong?

10 A: Certainly.

11 Q: I'm gonna give you a copy. This is Exhibit
12 Number 2.

13 **(Plaintiff's Exhibit Number 2 was marked for**
14 **identification purposes.)**

15 Q: This is the testimony of both Employee Health,
16 the only people I talked to about my COVID at
17 the Regional Medical Center and the people you
18 received email and information from. Kelci
19 Caruso, she was the head of the Employee
20 Health. Do you remember her?

21 A: Yes.

22 Q: Good. And then Katie Evans, she's just a staff
23 there. Do you remember her?

24 A: I do not remember her specifically.

25 Q: I know it.



1 A: Okay.

2 Q: Now, under oath, the position, this is what
3 Kelci Caruso, the head of Employee Health, said
4 when asked if I told her that I was exposed to
5 COVID-19, this is what she says, no, sir, I
6 don't recall you telling me where you were
7 exposed. That's page 108, line 124.

8 A: Okay.

9 Q: Just look at this ---

10 A: I got it.

11 Q: --- page -- part here (indicating). So, let me
12 ask you again, based on what I just told you.
13 Who told you that I had concern about non-
14 employment exposure?

15 A: It is what I gleaned from the records that were
16 provided to me by Employee Health.

17 Q: Employee Health just said I've never told him
18 that.

19 A: I see that.

20 Q: So, why did you write that in your letter that
21 I got non- ---

22 A: It ---

23 Q: --- -employment exposure?

24 A: --- it is what I gleaned ---

25 **MS. WILLIAMS:** Object to the form.



1 A: --- it is what I gleaned from the records
2 provided to me by Employee Health.

3 Q: Gleaned for your truth; is that correct?

4 **MS. WILLIAMS:** Object to the form.

5 A: It is what I understood from those records.

6 Q: So, did you understand that -- did you
7 understood that wrong?

8 **MS. WILLIAMS:** Object to ---

9 A: I don't ---

10 **MS. WILLIAMS:** --- the form.

11 A: --- know.

12 Q: You don't know?

13 A: I don't know. No.

14 Q: Ms. Kelly [sp], those are the only two people
15 working at Employee Health during my tenure
16 there and when I had COVID. On page 115, line
17 68, and I'm quoting, I stated that you talking
18 about Wandji, me, were exposed, I did not say
19 that you stated you were exposed outside of the
20 hospital. That's what she says. That's her
21 testimony. I was exposed to COVID, but not
22 outside of the hospital. She didn't say that.
23 So, let me ask you for the third time, where
24 did you get that I was exposed to COVID ---

25 **MS. WILLIAMS:** Object ---



1 Q: --- out of the hospital?

2 **MS. WILLIAMS:** Object to the form.

3 A: Once again, it is what I gleaned from the
4 information that was provided to me.

5 Q: The head of the Employee Health, Ms. Caruso,
6 that you said you know, also testified that
7 October 16, when I first requested to be tested
8 for COVID-19, it already had several patients
9 and employees at the hospital who had tested
10 for COVID-19. That's the testimony on line --
11 on page 108, line 9 to 10. So, as the
12 infection disease expert, is it possible that
13 me, working as a nurse, between all the up and
14 down with patients, is it possible that, as a
15 full-time nurse there, I was exposed to COVID-
16 19 on or before August 16? Is it at all
17 possible?

18 **MS. WILLIAMS:** Object to the form.

19 A: I'd have to review the record of your
20 employment dates and your working hours in
21 order to make that determination.

22 Q: I'm telling you I was a full-time employee
23 working there full-time as a nurse. I'm
24 telling you that as I just read, according to
25 Employee Health, before August 18, there were



1 already both employees and patient who tested
2 positive at that hospital. Is it possible at
3 all as a -- as a nurse at that hospital that I
4 could have been exposed to COVID-19?

5 A: Again ---

6 **MS. WILLIAMS:** Object to form.

7 A: --- I would need to know your hours of work,
8 where you worked during that time period. That
9 information is not available to me.

10 Q: But you were able to write in your letter that
11 it's unlikely that I got COVID at that
12 hospital. How did you come up with that kind
13 of scientific expertise?

14 A: Of more importance in this case, is his self-
15 reported exposure and request for testing on
16 8/16. This was negative. The details of this
17 exposure are unclear. Certainly, a positive
18 test on 8/27 and symptoms beginning on 8/23 as
19 he initially reported on 8/25 or 8/26, which he
20 subsequently stated, would be consistent with
21 exposure on or near the 8/16 date. Generally,
22 COVID incubation is 2 to 14 days, with onset
23 for most being about 5 to 10 days from
24 exposure. It is highly unlikely that 8/22 was
25 the date of exposure if his symptoms began on



1 8/23 and not possible that 8/24 was the date of
2 exposure for exposure on 8/23. The exposure
3 of 8/22 with onset 8/25 is unlikely being the
4 shortest end of the incubation period and the
5 exposure of 8/24 with onset of 8/25 is highly
6 unlikely being shorter than the incubation
7 period of the virus.

8 Q: What you just read justified the fact that, as
9 you said, I didn't get -- I got COVID not at
10 the hospital. What you just read justified
11 that I didn't get COVID at the hospital?

12 A: I wasn't justifying anything. I ---

13 Q: You said ---

14 A: --- was merely discussing the epidemiology ---

15 Q: Okay.

16 A: --- and the reports that I reviewed from
17 Employee Health.

18 Q: Okay. The last paragraph, you said, it is my
19 opinion that a link to employment exposure is
20 here is unlikely.

21 A: Based on the information presented to me.

22 Q: How did you come up with that?

23 A: Of more importance in this case, is his self-
24 reported exposure ---

25 Q: You already read that.



1 A: --- and request for testing ---

2 Q: You already read that.

3 A: --- on 8/16/- ---

4 **MS. WILLIAMS:** Let him answer the question.

5 A: --- -2021. This was negative. The details of
6 this exposure are unclear. Certainly, a
7 positive test on 8/27 and symptoms beginning on
8 8/23 as he initially reported on 8/25 or 8/26,
9 which he subsequently stated, would be
10 consistent with exposure on or near the 8/16
11 date. Generally, COVID incubation is 2 to 14
12 days, with the onset for most being five to ten
13 days from exposure.

14 Q: You already ---

15 A: It is ---

16 Q: --- read that ---

17 A: --- highly ---

18 Q: --- Dr. Samies.

19 A: --- unlikely that 8/22 is a date of exposure if
20 his symptoms began on 8/23 ---

21 Q: Dr. Samies, you ---

22 A: --- and not ---

23 Q: --- already ---

24 A: --- possible ---

25 Q: --- you already read that for the record. I



1 don't want you to repeat that. The question
2 is, the -- the question is, how did you come up
3 with the fact that it is unlikely that I got
4 COVID out of the hospital? That's the
5 question.

6 **MS. WILLIAMS:** Object to the form.

7 A: I did not come to any conclusion. I merely
8 stated that it was unlikely. There is no
9 conclusion there.

10 Q: Okay.

11 A: Of more importance in this case, is the self-
12 reported exposure and request for testing on
13 8/16. I'll read the rest, if necessary.

14 Q: Have you been the Medical Director of the
15 Regional Medical Center?

16 A: Medical Director?

17 Q: Yeah.

18 A: There is no Medical Director.

19 Q: Oh. Have you ever been the Chief of Medical
20 Staff at the Regional Med- ---

21 A: I've been the Chief of Staff.

22 Q: For how long?

23 A: I believe it was two years.

24 Q: Okay. Did you get paid for that?

25 A: I was a contract employee, meaning that I got



1 paid by the hour for that as a contracted
2 service. Much like if you brought an
3 conditioning specialist over to fix your air
4 conditioner, you would pay him for the time
5 that he spent.

6 Q: This is another Exhibit. This -- this is your
7 Affidavit, Dr. Davis -- Dr. Sammies.

8 **(Plaintiff's Exhibit Number 3 was marked for**
9 **identification purposes.)**

10 Q: Did you prepare, you wrote and signed that?
11 Did you do that on that one?

12 A: Yes.

13 Q: On number five of your Affidavit, you said
14 you've never been an employee of the Regional
15 Medical Center.

16 A: That's correct.

17 Q: That's correct?

18 A: That's correct.

19 Q: You've been a member of the Board of Trustee--
20 -- of Trustees; is that correct?

21 A: That's correct.

22 Q: Since when?

23 A: I have the dates on my thing, but at -- at any
24 point when I was the Chief of Staff or the
25 Chairman of Medical Executive Committee, I was



1 automatically a Board Member.

2 Q: And you were also the member of the Finance
3 Committee Board of Trustees at the Regional
4 Medical Center; is that correct?

5 A: That's correct.

6 Q: For how long?

7 A: I don't recall.

8 Q: So, you practice medicine there for
9 compensation and you were on the Board of
10 Trustees at that hospital?

11 A: That's correct. It's an elected position.

12 Q: So, with all these financial ties and
13 employment ties with the Regional Medical
14 Center, why did you agree to be a witness in
15 this litigation ---

16 **MS. WILLIAMS:** Object to the form.

17 Q: --- against the Regional Medical Center?

18 A: I am not financially tied to the Regional
19 Medical Center. I practice medicine there. I
20 am privileged there. I was appointed by
21 election to a position of leadership on the
22 medical staff, but not an employment position.

23 Q: Since you practice there and whatever your
24 company gets paid for your services, why did
25 you agree to be a witness in the litigation



1 where the Regional Medical Center is the party?

2 A: I agreed to do ---

3 **MS. WILLIAMS:** Objection to form.

4 A: --- I agreed to do a review, as I stated
5 previously ---

6 Q: And you know ---

7 A: --- on information presented to me.

8 Q: --- and you know it was for the Worker
9 Compensation case?

10 A: I knew that it was going to the Workers'
11 Compensation attorney, yes.

12 Q: Don't you see a conflict of interest in there?

13 A: I ---

14 **MS. WILLIAMS:** Object to form.

15 A: --- do not.

16 Q: You don't?

17 A: I do not.

18 Q: So, you think that's lawful?

19 **MS. WILLIAMS:** Object to the form.

20 Q: To be on the Board of Directors of the Trustees
21 of your hospital and still write an expert
22 letter for them in the litigation. You think
23 that's lawful?

24 **MS. WILLIAMS:** Object to the form.

25 A: I wrote -- I opined on the information that I



1 was presented for the epidemiology and
2 infectious disease portion of what was
3 submitted to me.

4 Q: So, you give your expertise in the litigation
5 case that the Regional Medical Center is
6 involved in; is that correct?

7 **MS. WILLIAMS:** Object to the form.

8 A: Again, I opined on the information that was
9 presented to me at the request of the
10 institution.

11 Q: And you knew it's liti- -- that it is a legal
12 case, but still you decided to give your
13 expertise?

14 **MS. WILLIAMS:** Object to the form.

15 A: I provided what my request was, which was to
16 review and opine on the epidemiology and
17 infectious disease aspects of the information
18 that I was presented with.

19 Q: Knowing that it was a legal case that the
20 Regional Medical Center was involved in; isn't
21 that correct? You knew that. Did you?

22 A: I knew that there was a Workman's Compensation
23 case, but I did not know that it was in
24 litigation.

25 Q: Thank you. On point Number 6 of your



1 Affidavit, you stated that, and you've been
2 saying that all along, you provide infectious
3 control services to the Regional Medical Center
4 pursuant to a contract with them for those
5 services?

6 A: Yes. I've had a contract ---

7 Q: That's correct.

8 A: --- I've had a contract since 1997.

9 Q: Why didn't you disclose in your Affidavit that
10 you have leadership position at that
11 organization in the past? Like the Chief
12 Medical Officer, like being on the board?

13 A: I was not Chief Medical Officer.

14 Q: Like ---

15 A: I was Chief of Staff.

16 Q: Yeah.

17 A: An elected position for the medical staff.

18 Q: Why didn't you disclose that in your Affidavit?

19 A: The Affidavit said what I thought it needed to
20 say.

21 Q: Okay. And why didn't you disclose that you are
22 on the Board of Trustees in your Affidavit?

23 A: That was a -- again, a leadership position that
24 I was voted to, not a employment issue. And
25 this is describing employment relationships.



1 Q: Thank you. So, I want to understand here. I
2 want to follow that with a question. You said
3 you are like a contractor for medical services
4 at the Regional Medical Center; is that
5 correct?

6 A: Correct.

7 Q: And you are also a member of the Finance
8 Committee Board of Trustees; is that correct?

9 **MS. WILLIAMS:** Object to the form.

10 A: At a period of time, I was on the Finance
11 Committee of the Board of Trustees.

12 Q: Is that ethical business practice ---

13 **MS. WILLIAMS:** Object to the form.

14 Q: --- to be a contractor and in the Board of
15 Finance of the same organization?

16 A: It was a ---

17 Q: Is that ethical?

18 A: --- position I was elected to and among the
19 things that you're required to do is disclose
20 any conflicts of interest when you're a Board
21 member.

22 Q: Is that lawful to be a contract to an
23 organization and still be on the Board of
24 Financial Trustees? Is that legal?

25 **MS. WILLIAMS:** Object to the form.



1 A: I believe, yes.

2 Q: Okay.

3 A: I am not aware it's not.

4 Q: Back to Exhibit Number 1, Dr. Sammie.

5 **(Plaintiff's Exhibit Number 1 was referenced at this**
6 **time.)**

7 Q: The material which you reviewed before writing
8 that letter, from those material, can you tell
9 when I was exposed to COVID-19?

10 A: I did not opine on that.

11 Q: So you don't even know when I was exposed to
12 COVID-19?

13 A: I do not.

14 Q: Okay. But you know and you wrote in your
15 letter that it is unlikely that I got it at the
16 Regional Medical Center; is that correct?

17 A: In my opinion a link to employment exposure is
18 unlikely based on the information presented to
19 me.

20 Q: So you don't know when I was exposed, but you
21 know that it is unlikely that I got it at the
22 Regional Medical Center; is that correct?

23 A: Of more importance in this case is hi a self-
24 reported exposure and request for testing on
25 8/16/21. This was negative. The details of



1 this ---

2 Q: We already ---

3 A: --- exposure ---

4 Q: --- we already -- we already had that. I don't
5 want you ---

6 A: --- are unclear ---

7 Q: --- to repeat it.

8 A: --- and that is how this opinion is generated.

9 Q: I'm gonna repeat that question. You don't know
10 when I was exposed to COVID-19?

11 A: That's correct.

12 Q: But you know that it is unlikely that I got it
13 from the hospital?

14 **MS. WILLIAMS:** Object to the form. Asked and
15 answered.

16 Q: Is that correct?

17 A: That is correct, based on the information ---

18 Q: Okay.

19 A: --- presented.

20 Q: On page 107, line 16 to 18, Exhibit -- on
21 Exhibit 2.

22 **(Plaintiff's Exhibit Number 2 was referenced at this**
23 **time.)**

24 Q: This is the head of the Employee Health, Ms.
25 Caruso, RN. She stated, and I quote, we did



1 not ask you what -- when you were exposed in
2 the Questionnaires. They don't ask when you
3 were exposed. We didn't need to know
4 specifically when you were exposed. So, even
5 the hospital don't know when I was exposed.
6 But you knew for sure I didn't -- I was at --
7 unlikely got it from the hospital. Is that
8 correct?

9 A: What I stated ---

10 **MS. WILLIAMS:** Object to the form.

11 A: --- again is, in my opinion, that a link to
12 employment exposure here is unlikely based on
13 the information presented to me.

14 Q: So, you didn't know when I was exposed?

15 A: That's correct.

16 **MS. WILLIAMS:** Object to the form.

17 Q: Okay. Do you regret writing that letter?

18 A: No.

19 Q: You would write it the same as it is today?

20 A: (No audible response.)

21 Q: You need to ---

22 A: I don't know -- I don't know that I can answer
23 that. I don't know.

24 Q: Would you change anything on that letter, given
25 the information you have now?



1 A: I don't know.

2 Q: You mentioned a series of emails that you
3 received. How many emails did you received?

4 A: I do not know.

5 Q: Who wrote those emails?

6 A: It would've been information coming from
7 Employee Health and from Infection Control.

8 Q: Where are those emails?

9 A: I don't have them.

10 Q: What happened to them?

11 A: The informa- -- the -- the email system of the
12 ho- -- Regional Medical Center sunsetted a
13 fairly long time ago and no longer exists.

14 Q: Have you discussed this Worker Compensation
15 case with any other executive in any of your
16 executive letters?

17 A: No.

18 Q: Have you discussed this Worker Compensation
19 case with any of your Board of Trustees
20 meeting?

21 A: No.

22 Q: Are you sure?

23 A: Yes.

24 Q: Did you discuss this Worker Compensation case
25 with anyone at all?



1 A: No. My attorney.

2 Q: Did you personally hire Ms. Williams to
3 represent you in this case?

4 A: I did not.

5 Q: Who hired her to represent you?

6 A: Medical University of South Carolina.

7 Q: Do you mean the previous Regional Medical
8 Center?

9 A: The organization that took over the Regional
10 Medical Center.

11 Q: Yeah. Okay. This is Exhibit Number 4.

12 **(Plaintiff's Exhibit Number 4 was marked for**
13 **identification purposes.)**

14 Q: This is a letter where Dr. Samies was called
15 among the staff of the Regional Medical Center,
16 as witnessed, for the January -- I'm sorry.
17 This is your copy -- January hearing. So, you
18 were called here in page number -- second page
19 ---

20 **MS. WILLIAMS:** Mr. Wandji, can I interrupt you for
21 just one second?

22 **MR. WANDJI:** Yeah.

23 **MS. WILLIAMS:** Have these documents been produced in
24 discovery? I don't recall this being produced.

25 **MR. WANDJI:** Yeah. I'll send you everything that I



1 have.

2 Q: So, this is -- is the list of the -- the staff
3 and your name is right there as one of the
4 staff that were called to wait for -- for the
5 hearing. Why didn't you show up?

6 A: I wasn't asked, to my knowledge.

7 Q: Oh. Okay. That's why you didn't show up?

8 A: Correct.

9 Q: Okay. This is another, Exhibit Number 5. Let
10 me see, here's your copy.

11 **(Plaintiff's Exhibit Number 5 was marked for**
12 **identification purposes.)**

13 Q: That's just a letter from the Reg- -- Regional
14 Medical Center. That's ---

15 A: Uh-huh.

16 Q: --- back to August 6th. There were already
17 patients all over the hospital with COVID-19.
18 As a nurse working there, is it possible that
19 I could have been exposed to COVID-19 at that
20 hospital?

21 **MS. WILLIAMS:** Object to the form.

22 A: It's possible that any employee can be exposed
23 when there are patients with COVID-19.

24 Q: Thank you. This is the -- another Exhibit,
25 Number 6.



1 (Plaintiff's Exhibit Number 6 and 7 were marked for
2 identification purposes.)

3 Q: It's actually two. One for the patients and
4 one for the employees. This is one for the
5 patient and one for the employees. Both are
6 Exhibits. I got it from the Regional Medical
7 Center. Dr. Samie, those are the August
8 infected people in the unit that cared for
9 patients who had COVID-19. Is it possible that
10 I was exposed to COVID-19 at the hospital?

11 A: It's possible.

12 **MS. WILLIAMS:** Object to the form.

13 Q: It's possible, okay.

14 **MR. WANDJI:** Dr. Samies, you're a busy and good man.
15 I don't want to waste your time. I'm gonna end
16 this deposition at this point. I want to thank
17 you for your time, sir.

18 **DR. SAMIES:** Thank you.

19 **MS. WILLIAMS:** I don't have any questions.

20 (Off the record from 4:34 p.m. - 4:37 p.m.)

21 **MS. WILLIAMS:** We're back on the record. Exhibits 6
22 and 7, we've noted include patient names that
23 the -- the facility would have concerns about
24 confidentiality and HIPPA violations, so these
25 -- we would maintain these should be protected



1 and the confidentiality of them maintained.

2 **MR. WANDJI:** And I want to add that those
3 communication was provided by the facility via
4 email ---

5 **MS. WILLIAMS:** They ---

6 **MR. WANDJI:** --- to me.

7 **MS. WILLIAMS:** --- they were not produced by the
8 facility in the context of this litigation.
9 These are not documents I'm familiar with.

10 **MR. WANDJI:** They were provided in the Worker
11 Compensation phase of this same case by the
12 Regional Medical Center via email to me.

13 **MS. WILLIAMS:** Okay. Let me ---

14 **MR. WANDJI:** I didn't produce this communication.

15 **MS. WILLIAMS:** I understand that. I just want to
16 confirm, Mr. Wandji, do you have any objection
17 to maintaining the confidentiality of these
18 names if they are produced ---

19 **MR. WANDJI:** I am saying ---

20 **MS. WILLIAMS:** --- in the context ---

21 **MR. WANDJI:** --- it's gonna be blacked out, the name
22 I'm gonna be blacked out before it is publicly
23 exposed.

24 **MS. WILLIAMS:** Okay. Thank you.

25 **(There being no further questions, the deposition**



1 concluded at 4:38 p.m.)

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CERTIFICATE

This is to certify that the deposition of **DR. JOHN H SAMIES**, consisting of thirty-four (34) pages, is a true and correct transcript of the testimony given by said deponent after being duly sworn; said deposition was reported by the method of Stenomask with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on October 2, 2024.



Amber Scarborough
Court Reporter

Notary Public for South Carolina
My Commission Expires: June 13, 2033



Palmetto Infectious Disease Physicians, LLC

1097 B Cook Road
Orangeburg, SC 29118

John H. Samies, MD, FSHEA
Marie L. Gehling, NP-C, CWOCN

803-539-0505
fax 803-539-0410

Roy A. Howel III
PO Box 2167
Mt Pleasant, SC 29465

December 5, 2022

Dear Mr Howell,

I am writing this letter to you in response to your request for review of materials concerning claimant Serge Wandji. Reviewed were COVID19 Questionnaires from Mr Wandji and two additional employees, a testing log for Behavioral Health Employees and a series of emails. Mr Wandji is claiming work related injury resultant from COVID 19 infection diagnosed 8/27/2021. He reports this as a result of exposure on 8/22/2021 and 8/24/2021 while working at the Behavioral Health Unit of the Regional Medical Center of Orangeburg and Calhoun Counties.

Clearly there were patients on the Behavioral Health Unit who tested positive for COVID 19 in that time period. While the hospital policy required use of protective attire, it is unclear if this was followed by the claimant.

Of more importance in this case is his self reported exposure and request for testing on 8/16/2021. This was negative. The details of this exposure are unclear. Certainly a positive test on 8/27 and symptoms beginning on 8/23 as he initially reported or 8/25 or 8/26 (which he subsequently stated) would be consistent with exposure on or near the 8/16 date. Generally covid incubation is 2-14 days with onset for most being about 5-10 days from exposure. It is highly unlikely that 8/22 was the date of exposure if his symptoms began on 8/23 and not possible that 8/24 was the date of exposure for onset 8/23. The exposure of 8/22 with onset 8/25 is unlikely being at the shortest end of incubation period and the exposure of 8/24 with onset 8/25 is highly unlikely being shorter than the incubation period of the virus.

The recanting of the 8/16 exposure by the claimant and the confusion about date of onset of symptoms puts doubt on all claimant statements in this case. Since the reporting by Employee Health of RMC appears to be a real time event, it would seem that the timing of onset of symptoms should have been quite clear to the claimant.

It is my opinion that a link to employment exposure here is unlikely based on the information presented to me. Given that he had concern about non-employment exposure which prompted testing only a short time prior to his illness, I must wonder how much other potential non-employment exposure he had.

If I may be of further assistance in this case, please feel free to contact me.

Sincerely,



John H. Samies, MD FSHEA

HIPPA Privacy Rule Violation



Serge Wandji <sergewandji@gmail.com>

Mon, Nov 28,
2022, 6:24 PM

to sdebruhl, Amy, Roy

November 28, 2022

To: Commissioner T. Scott Beck
S.C. Workers' Compensation
133 Main Street, Suite 500
Columbia, SC 29202-1715

Re: Serge Wandji v. The Regional Medical Center
W.C.C. File No.: 2118696
Carrier File No.: WC2021098080

Subject: HIPPA Privacy Rule Violations

Dear Commissioner Beck,

It is with sadness that I am writing to inform you that Mr. Howell and his Law Firm "Trask & Howell LLC", acting as a Business Associate in representing the Defendant The Regional Medical Center (TRMC), in the above-referred case, purposely disclosed the Protected Health Information (PHI) of not only the claimant but also of many other innocent citizens out there who are not even involved in this workers' compensation case, in direct violation of the HIPAA Privacy law.

In fact, on November 23, 2022 at 4:05 pm, Trask & Howell LLC law Firm sent me an unencrypted email with an attachment document which contained Claimant's full name, date of birth, address, medical record number, insurance information, age, sex, current health history, past medical history, social history, family history, lab and radiology text results, doctor's medical notes, etc....

That unencrypted email attachment also contained Protected Health Information of claimant's former co-workers at TRMC, as well as many patients' of TRMC, including their names, sex, date of birth, symptoms, labs results, diagnoses, and even the date of death (where it applied).

This Data breach is clearly a Tier-Four HIPAA law violation in which the unlawful disclosure of innocent citizens' PHI was caused by willful neglect and was not corrected promptly.

I have been asking myself the following question: "Why would a trained attorney, licensed to practice law in America, willfully engage in this kind of neglect by disclosing via an unencrypted email into the open internet (gmail), the PHI of innocent citizens out

there? Especially when we all know that it costs very little to send mail via the United States Postal Service from Mt. Pleasant where Mr. Howell's law firm is located in Columbia where the Claimant is located?

As a nurse, it breaks my heart to see innocent citizens' PHI being unlawfully violated, especially by professionals who should have known better.

Yours very truly,

Serge Wandji, RN



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

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
T. Scott Beck, Commissioner

Workers' Compensation File No. 2118696.

**Serge R. Wandji,
Appellant/Claimant,
v.
The Regional Medical Center, Self-Insured Employer, Through Antum Risk,
Respondent/Defendant.**

CERTIFICATE OF SERVICE

Appellate Case No. 2024-001935

I hereby certify that on this January 17, 2025, a true and correct copy of the **PLAINTIFF'S RESPONSE OPPOSING DEFENDANTS' MOTION TO EXCLUDE CERTAIN MATTERS FROM THE RECORD ON APPEAL** was served upon the following party via certified mail, and email to the Defendant Attorney in file as followed:

Mr. Roy A. Howell, III
Trask & Howell, L.L.C.
Attorneys for Defendants
763 Johnnie Dodds Blvd
P.O. Box 2167 Mt. Pleasant, SC 29465
rhowell@trask-howell.com

s/Serge Wandji
579 Folly Rd. P.O. Box 12112,
Charleston SC, 29422
sergewandji@gmail.com

RECEIVED

Jan 17 2025

SC Court of Appeals

Cover Letter

Serge Wandji
579 Folly Road
P.O. Box 12112
Charleston, SC 29422
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(678) 612-9649

January 17, 2025

South Carolina Court of Appeals

Re: Opposition to Defendant's Motion to Exclude Certain Matters from the Record on Appeal
Appellate Case No. 2024-001935

Dear Judges of the Court of Appeals,

Enclosed please find the **Plaintiff's Response Opposing Defendants' Motion to Exclude Certain Matters from the Record on Appeal** in connection with the above-referenced case. This response is filed to address and refute the Defendants' motion, which seeks to exclude critical evidence and documents essential to a fair and comprehensive review of this case.

The designated matters challenged by the Defendants, including the deposition of Dr. John H. Samies, HIPAA-related correspondence, and other key evidence, are integral to understanding the procedural and substantive errors made during the proceedings. Exclusion of these materials would not only prejudice the Appellant but also undermine the integrity of the appellate process.

I respectfully urge the Court to deny the Defendants' motion and retain all designated materials in the Record on Appeal to ensure a thorough and just evaluation of the issues raised. Thank you for your attention and consideration of this matter. Should the Court require any additional clarification, I am available at your convenience.

Respectfully submitted,

s/Serge Wandji
Appellant (Pro Se)