

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas
Honorable Grace Gilchrist Knie, Circuit Court Judge

Civil Action No. 2020-CP-42-02169

105681
RECEIVED
AUG 29 2025
SC Court of Appeals

Andrea Allen, as the Personal Representative of the Estate
of Albert Charles Jefferies, deceased, Respondent,
v.
Chi Hun Lim, M.D., Megan Nicholas, P.A., and Carolina
Orthopaedic and Neurological Associates, PA Appellants.

NOTICE OF APPEAL

Defendant Chi Hun Lim, M.D. (hereinafter "Appellant") appeals: (1) the jury verdict and judgment entered thereon; (2) the evidentiary and other rulings adverse to Appellant before and during trial; (3) the Form 4 Order filed May 9, 2025, ruling on the Motion To Amend Answer, and (4) the Order filed July 28, 2025, ruling on post-trial motions. Copies of the Orders are attached hereto. Appellant received written notice of the order denying the post-trial motions on July 28, 2025.

[Signature Page Follows]

Respectfully submitted,

MURPHY & GRANTLAND, P.A.

By: s/Wesley B. Sawyer

Wesley B. Sawyer (S.C. Bar No. 100229)

John Grantland (S.C. Bar no. 64158)

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Columbia, SC 29260

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Attorneys for Appellant Chi Hun Lim, M.D.

Columbia, South Carolina
August 27, 2025

THE STATE OF SOUTH CAROLINA
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APPEAL FROM SPARTANBURG COUNTY
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Honorable Grace Gilchrist Knie, Circuit Court Judge

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Andrea Allen, as the Personal Representative of the Estate
of Albert Charles Jefferies, deceased,

Respondent,

v.

Chi Hun Lim, M.D., Megan Nicholas, P.A., and Carolina
Orthopaedic and Neurological Associates, PA

Appellants.

PROOF OF SERVICE

This is to certify that the undersigned counsel has caused to be served this day the original **Notice of Appeal** via electronic mail to the address stated in the Supreme Court Order 2022-05-06-03 and in accordance with Rule 262, SCACR, and additionally via electronic mail to the following counsel of record in this matter as set forth below on the following page:

<p>Gerald Drayton Jowers, Jr., Esq. Kenneth M. Suggs, Esq. Janet, Janet & Suggs, LLC 801 Gervais Street, Suite B Columbia, SC 29201 gjowers@jjsjustice.com ksuggs@jjsjustice.com</p> <p>Luther J. Battiste, III, Esq. Johnson, Toal & Battiste, P.A. 1615 Barnwell Street Columbia, SC 29202 bat@jtbpa.com</p> <p><i>Attorneys for Plaintiff/Respondent Andrea Allen, as the Personal Representative of the Estate of Albert Charles Jeffries</i></p>	<p>Ashby W. Davis, Esq. Ryan Justin Ginty, Esq. Davis and Snyder, P.A. 5 Hawthorne Park Court Greenville, SC 29615 adavis@davissnyder.com rginty@davissnyder.com</p> <p><i>Attorneys for All Defendants</i></p>
<p>Patrick James McLaughlin, Esq. Wukela Law Office Post Office Box 13057 Florence, SC 29504 patrick@wukelalaw.com</p> <p><i>Attorneys for Defendant Chi Hun Lim, M.D.</i></p>	<p>C. Mitchell Brown, Esq. William C. Wood, Jr., Esq. Nelson Mullins Riley & Scarborough, LLP PO Box 11070 Columbia, SC 29211 mitch.brown@nelsonmullins.com bill.wood@nelsonmullins.com</p> <p><i>Attorneys for Defendant Meghan Nicholas, P.A.</i></p>
<p>Gregory Brown, Esq. Louise Aponte, Esq. Lowe Yeager Brown, PLLC 920 Volunteer Landing, Suite 200 Knoxville, TN 37915</p> <p>Adam Crittenden Bach, Esq. Emily R. Godwin, Esq. Tonnsen Bach, LLC 1306 S. Church Street Greenville, SC 29605 abach@tonnsenbach.com egodwin@tonnsenbach.com</p> <p><i>Attorneys for Defendants Carolina Orthopedic and Neurological Associates, ASC, LLC and Carolina Orthopedic and Neurological Associates, P.A.</i></p>	<p>Vordman Carlisle "Lyle" Traywick, III, Esq. Rebecca Laffitte, Esq. Robinson Gray Stepp & Laffitte, LLC PO Box 11449 Columbia, SC 29211 ltraywick@robinsongray.com blaffitte@robinsongray.com</p> <p><i>Attorneys for Defendant Carolina Orthopedic and Neurological Associates, ASC, LLC</i></p>

<p>Gray T. Culbreath Jessica W. Laffitte Gallivan White & Boyd, P.A. Post Office Box 7368 1201 Main Street, Suite 1200 Columbia, South Carolina 29201 Gculbreath@gwblawfirm.com JLaffitte@gwblawfirm.com</p>	
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***Attorneys for Defendant
Carolina Orthopedic and
Neurological Associates, P.A.***

MURPHY & GRANTLAND, P.A.

By: s/Wesley B. Sawyer

Wesley B. Sawyer (S.C. Bar No. 100229)

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Attorneys for Appellant Chi Hun Lim, M.D.

Columbia, South Carolina
August 27, 2025



Wesley B. Sawyer
Phone: (803) 454-1233
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August 27, 2025

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED
AUG 29 2025
SC Court of Appeals

Re: Jefferies, Albert C., Estate of v. Lim, Chi Hun, MD; Nicholas, Megan.
Civil Action No.: 2020-CP-42-02169
Our File No.: 1950-0330

Dear Ms. Kitchings:

Please find enclosed the Notice of Appeal by Chi Hun Lim, M.D., as well as our firm's check in the amount of \$250.00 for the filing fee.

By copy of this letter, I am serving same on all counsel. Thank you for your gracious consideration of this request.

Yours truly,

A handwritten signature in blue ink, appearing to read 'WBS', written over a horizontal line.

Wesley B. Sawyer

WBS/aep
Enclosure



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Columbia, SC 29260

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AUG 29 2025

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

**2025-06-10 Form 4 Order Entering
Judgment & Verdict Form dated June 6,
2025**

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2020CP4202169

Andrea Allen et al
PLAINTIFF(S)

Spartanburg Regional Health Services District, Inc. 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:

In this medical negligence jury trial that commenced on June 2nd, 2025, and concluded on June 6th, 2025, the jury unanimously found for the Plaintiff and awarded damages in the total amount of six million dollars. Further the jury found that Defendants Lim and Nicholas were grossly negligent.

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 06/10/2025 .

As Pr Of The Estate Of Albert Jefferies

RECEIVED
AUG 29 2025
SC Court of Appeals

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.



Spartanburg Common Pleas

Case Caption: Andrea Allen , plaintiff, et al VS Spartanburg Regional Health Services District, Inc. , defendant, et al
Case Number: 2020CP4202169
Type: Order/Electronic Form 4

IT IS SO ORDERED.

S/GRACE GILCHRIST KNIE - 2760

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Andrea Allen, as Personal Representative of)
the Estate of Albert Charles Jefferies,)
deceased,)

Civil Action No.: 2020-CP-42-2169

Plaintiff,)

VERDICT

vs.)

Chi Hun Lim, M.D., Megan Nicholas, P.A.,)
and Carolina Orthopaedic and Neurological)
Associates ASC, LLC,)

Defendants.)
_____)

We the jury unanimously find as follows:

1. Did Chi Hun Lim, M.D., deviate from the standard of care in the treatment of Albert Jefferies? (circle one)

YES

NO

- 1a. Was Chi Hun Lim, M.D.'s deviation from the standard of care a proximate cause of the death of Albert Jefferies? (if you answered "YES" to question 1, circle one)

YES

NO

2. Did Megan Nicholas, P.A., deviate from the standard of care in the treatment of Albert Jefferies? (circle one)

YES

NO

2a. Was Megan Nicholas, P.A.'s deviation from the standard of care a proximate cause of the death of Albert Jefferies? (if you answered "YES" to question 2, circle one)

YES

NO

If you answered "YES" to questions 1a and/or 2a, complete the following:

3. We the jury award damages for the wrongful death of Albert Jefferies as follows:

Andrea Allen 3 million

Michelle Hemphill 3 million

If you awarded damages in question 3, please answer the following:

4. Was Chi Hun Lim, M.D., grossly negligent with respect to his care of Albert Jefferies?
(circle one)

YES

NO

5. Was Megan Nicholas, P.A., grossly negligent with respect to her care of Albert Jefferies?
(circle one)

YES

NO

Quiana Matheson
Jury Foreperson

Date: June 6, 2025

**2025-07-28 Order Denying Post-Trial
Motions**

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Andrea Allen, as the Personal Representative)
of the Estate of Albert Charles Jefferies,)
deceased,)

Case No.: 2020-CP-42-02169

Plaintiff,)

vs.)

Order Regarding Post-Trial
Motions Not Addressed in
Orders Issued on July 3, 2025

Chi Hun Lim, M.D., Megan Nicholas, P.A.,)
and Carolina Orthopaedic and Neurological)
Associates, PA,)

Defendants.)

RECEIVED
AUG 29 2025
SC Court of Appeals

Hearing Date: July 2, 2025, 10:00 a.m.
Hearing Judge: Grace Gilchrist Knie
Counsel for Plaintiff(s): Gerald D. Jowers, Jr., & Luther J. Battiste, III
Counsel for Defendant(s): Ryan Justin Ginty
Observing: Patrick J. McLaughlin
Court Reporter: Webex Record Function

This matter is before the Court based upon Plaintiff's post-trial motion for Assessment of Pre-Judgment Interest made pursuant to Rule 68, SCRCP and S.C. Code Ann. §15-35-400(Supp. 2024), filed with the Court on June 16, 2025. This matter is also before the Court upon Defendants' post-trial motions for the Court to Alter or Amend the Judgment, for an Order for Judgment Notwithstanding the Verdict (hereinafter "JNOV"), for the Court to Apply the Noneconomic Damages Cap, for a New Trial Absolute or in the alternative a New Trial *nisi remittitur*, and for the Court to act as the Thirteenth Juror or in the Alternative for Reduction of Noneconomic Damages, made pursuant to Rules 50 and 59 of the SCRCP, and S.C. Code Ann. §15-32-200 (Supp. 2024), all filed with the Court on June 17, 2025. Gerald D. Jowers, Jr., Esq., and Luther J. Battiste, III, Esq., appeared on behalf of Plaintiff. Ryan Justin Ginty, Esq., appeared on behalf of Defendants. Patrick J. McLaughlin, Esq., observed on behalf of Defendant Chi Hun Lim, M.D. The hearing was conducted and recorded via Webex.

PROCEDURAL HISTORY:

Plaintiff, Andrea Allen as personal representative of the estate of Albert Jefferies, (hereinafter "Plaintiff") filed the initial Summons and Complaint on July 9, 2020, commencing this medical negligence action seeking damages arising from the death of her father, Albert Charles Jefferies. Plaintiff filed the Second Amended Complaint on June 29, 2021, and alleged that Defendants Dr. Lim and Megan Nicholas, P.A. (hereinafter "Defendants") were negligent and grossly negligent in their care of Albert Jefferies and that their negligence caused injuries leading to his death. Plaintiff sought actual damages from the Defendants. Defendants answered the Second Amended Complaint denying the allegations of Plaintiff's Complaint. The Defendants admitted that they were treating physician and physician assistant for Mr. Jefferies but denied that they were negligent and denied that they committed malpractice. They asserted they were not at fault and were not negligent in providing care and treatment. They contended that they complied with the applicable standard of care that is applicable to all physicians operating or providing treatment under the same or similar circumstances as alleged in the facts relating to this case. The action was tried before a jury from June 2, 2025, through June 6, 2025. On June 6, 2025, the jury returned its verdict and found that Defendants deviated from the standard of care in their treatment of Mr. Jefferies and that deviation from the standard of care was a proximate cause of Mr. Jefferies' death. The verdict was in favor of the Plaintiff in the amount of Six Million dollars. The jury also found that the Defendants were grossly negligent with respect to their care of Mr. Jefferies.

At issue before the Court is Plaintiff's post-trial motion filed on June 16, 2025, for the assessment of prejudgment interest. Also at issue are Defendants' post-trial motions filed with the Court on June 17, 2025, specifically Defendants' Motions for JNOV, for a new trial based on the Thirteenth Juror Doctrine or in the Alternative for Reduction of Noneconomic Damages, for a New Trial Absolute or a New Trial *nisi remittitur*, and for the Court to Apply the Noneconomic Damages Cap. The Court previously issued Orders on July 3rd, 2025, regarding Defendants' post-trial motions for Setoff and for the Disclosure of Settlement Agreements and for the Substitution of CONA, PA, for CONA, ASC, LLC, as a named Defendant in this action.

MOTIONS BEFORE THE COURT:**Motion #1: Plaintiff's Motion for Assessment of Pre-Judgment Interest.**

Plaintiff argues in support of Plaintiff's motion for assessment of pre-judgment interest pursuant to Rule 68, SCRCP, and S.C. Code Ann. §15-35-400(Supp. 2024) that on April 25, 2024, Plaintiff filed an Offer of Judgment as to Defendants in the amount of \$500,000.00. Defendants rejected the Offer of Judgment. Consequently, this action proceeded to a jury trial commencing on June 2, 2025. On June 6, 2025, the jury returned a verdict in favor of the Plaintiff in the amount of \$6,000,000.00. The Court entered judgment on the jury's verdict on June 10, 2025. Rule 68(b)(2) provides that if the offeror obtains a verdict at least as favorable as the rejected offer, the offeror shall recover from the offeree eight percent interest computed on the amount of the verdict from the date of the offer to the entry of judgment. There were 411 days between the date of the offer and the date on which judgment was entered. Eight percent interest on \$6,000,000.00 amounts to \$480,000.00 annually, or \$1,315.06 per day. At 411 days, the total interest amounts to \$540,489.66. Accordingly, Plaintiff is due prejudgment interest pursuant to Rule 68(b), SCRCP, in the amount of \$540,489.66.

Defendants do not contest that the Offer of Judgment was made and rejected, nor the calculations made by Plaintiff. Defendants, as outlined in their motions below, contest the verdict as being excessive and not supported by the evidence presented.

The applicable law:

Rule 68, SCRCP, provides in pertinent part as follows:

Offer of Judgment

(a) Offer of Judgment. Any party in a civil action, except a domestic relations action, may file, no later than twenty days before the trial date, a written offer of judgment signed by the offeror or his attorney, directed to the opposing party, offering to take judgment in the offeror's favor, or to allow judgment to be taken against the offeror for a sum stated therein, or to the effect specified in the offer. Service of the offer of judgment shall be made as provided in these rules. Within twenty days after service of the offer of judgment or at least ten days prior to the trial date, whichever date is earlier, the offeree or his attorney may file a written acceptance of the offer of judgment. Upon the filing, the court shall immediately issue the judgment and the clerk shall enter the judgment as provided in the offer of judgment. If the offer of judgment is not accepted within twenty days after notification, or prior to or on the tenth day before the actual trial date, whichever date occurs first, the offer shall be considered rejected and evidence thereof is not admissible except in a proceeding after trial to fix costs, interest, attorney's fees, and other recoverable monies... All offers of judgment and any acceptance of offers of judgment must be included by the clerk in the record of the case.

(b) Consequences of Non-Acceptance. If an offer of judgment is not accepted and the offeror obtains a verdict or determination at least as favorable as the rejected offer, the offeror shall recover from the offeree: (1) any administrative, filing, or other court costs from the date of the offer until the entry of the judgment; (2) if the offeror is a plaintiff, eight percent interest computed on the amount of the verdict or award from the date of the offer to the entry of judgment; ...

(c) This rule shall not abrogate the contractual rights of any party concerning the recovery of attorney's fees or other monies in accordance with the provision of any written contract between the parties to the action.

S.C. Code Ann. §15-35-400 (Supp. 2024), provides as follows:

(A) Offer of Judgment. Except in domestic relations actions, after commencement of any civil action based upon contract or seeking the recovery of money damages, whether or not other relief is sought, any party may, at any time more than twenty days before the actual trial date, file with the clerk of the court a written offer of judgment signed by the offeror or his attorney, directed to the opposing party, offering to take judgment in the offeror's favor, or as the case may be, to allow judgment to be taken against the offeror, for a sum stated therein, for property, or to the effect specified in the offer. The offeror shall give notice of the offer of judgment to the offeree's attorney, or if the offeree is not represented by an attorney, to the offeree himself, in accordance with the service rules for motions and other pleadings set forth in the South Carolina Rules of Civil Procedure. Within twenty days after notification, or at least ten days prior to the trial date, whichever date is earlier, the offeree or his attorney may file with the clerk of the court a written acceptance of the offer of judgment. Upon the filing, the clerk shall enter immediately judgment of the stipulation. If the offer of judgment is not accepted within twenty days after notification or prior to or on the tenth day before the actual trial date, whichever date occurs first, the offer shall be considered rejected and evidence thereof is not to be admissible except in a proceeding after the trial to fix costs, interests, attorney's fees, and other recoverable monies. Any offeror may withdraw an offer of judgment prior to its acceptance or prior to the date on which it would be considered rejected by giving notice to the offeree or his attorney in accordance with the service rules for motions and other pleadings outlined in the South Carolina Rules of Civil Procedure. Any offeror may file a subsequent offer of judgment in any amount provided that the subsequent offer supersedes any earlier offer that was rejected by the offeree or withdrawn by the offeror, and, on filing, terminates any rights of interest or costs that may have been applicable to the superseded offer. Notwithstanding this provision, an offer is not considered rejected upon the making of a counteroffer by the offeree, but shall remain effective until accepted, rejected, or withdrawn as provided in this subsection. Any and all offers of judgment and any acceptance of offers of judgment must be included by the clerk in the record of the case.

(B) Consequences of NonAcceptance. If an offer of judgment is not accepted and the offeror obtains a verdict or determination at least as favorable as the rejected offer, the offeror shall be allowed to recover from the offeree: (1) any administrative, filing, or other court costs from the date of the offer until judgment; (2) if the offeror is a plaintiff, eight percent interest computed on the amount of the verdict or award from the date of the offer; or (3) if the offeror is a defendant, a reduction from the judgment or award of eight percent interest computed on the amount of the verdict or award from the date of the offer.

(C) This section shall not be interpreted to abrogate the contractual rights of any party concerning the recovery of attorney's fees or other monies in accordance with the provisions of any written contract between the parties to the action.

The award of prejudgment interest will not be disturbed on appeal unless the trial court committed an abuse of discretion. Historic Charleston Holdings, LLC v. Mallon, 381 S.C. 417, 435, 673 S.E.2d 448, 457-58 (2009).

Motion #2: Defendants' Motion for JNOV.

Regarding the Motion for JNOV, Defendants allege that the Plaintiff failed to prove a deviation from the standard of care and causation of damages, and that the Plaintiff failed to prove a failure to exercise even slight care, or alternatively, failed to prove a conscious and intentional failure to act when one ought to or doing something one ought not to do. Defendants argue that the Plaintiff failed to prove the necessary elements of negligence and that the Plaintiff failed to prove the necessary elements of gross negligence. Defendants argue that because the evidence in this case failed to support the elements of both negligence and gross negligence, the Court should have granted one, if not both, of the Defendants' Motions for Directed Verdict presented after the close of the Plaintiff's case and again after the close of evidence. Defendants request that the Court grant Defendants' Motion for JNOV or in the alternative and failing JNOV, Defendants request a new trial.

In response, Plaintiff argues that in ruling on a motion for JNOV, the trial court is required to view the evidence and the inferences that reasonably can be drawn therefrom in the light most favorable to the party opposing the motion. That Plaintiff's expert witness was qualified to testify as to the applicable standard of care. Plaintiff introduced evidence to support the jury's finding of gross negligence. Gross negligence is the absence of care necessary under the circumstances. It connotes the failure to exercise a slight degree of care. There was ample evidence in this case from which the jury could conclude that Defendants knew what the standard of care required but intentionally or recklessly failed to meet the standard of care. There was ample evidence from which the jury could conclude that Defendants failed to exercise slight care with respect to the discontinuation of Mr. Jefferies' VTE prophylaxis and in the absence of communications with the rehab center regarding his ongoing need for it. Further Plaintiff's expert witness was well qualified to testify as to the standard of care for any medical professional who undertakes to manage a patient on VTE prophylaxis. Defendants did not object to Plaintiff's expert witness's qualifications at trial

and the Court properly qualified him as an expert in VTE prophylaxis. The Plaintiff's expert witness's testimony covered in detail all necessary elements of Plaintiff's cause of action and provided a sufficient basis from which the jury could determine that the Defendants were not only negligent but grossly negligent. In deciding such motions, the trial court nor the appellate court has the authority to decide the credibility issues or to resolve conflicts in the testimony or the evidence. Therefore, Plaintiff introduced ample evidence on which a jury could base its verdict and Defendants' motion for Judgment Notwithstanding the Verdict should be denied.

The applicable law:

Rule 50, SCRPC, provides as follows:

Motion For A Directed Verdict and For Judgment Notwithstanding the Verdict

(a) Motion for Directed Verdict: When Made: Effect. When upon a trial the case presents only questions of law the judge may direct a verdict. A party who moves for a directed verdict at the close of the evidence offered by an opponent may offer evidence in the event that the motion is not granted, without having reserved the right so to do and to the same extent as if the motion had not been made. A motion for a directed verdict which is not granted is not a waiver of trial by jury even though all parties to the action have moved for directed verdicts. A motion for a directed verdict shall state the specific grounds therefor. The order of the court granting a motion for a directed verdict is effective without any assent of the jury.

(b) Motion for Judgment Notwithstanding the Verdict. Whenever a motion for a directed verdict made at the close of all the evidence is denied or for any reason is not granted, the court is deemed to have submitted the action to the jury subject to a later determination of the legal questions raised by the motion. A party who has moved for a directed verdict may move to have the verdict and any judgment entered thereon set aside and to have judgment entered in accordance with his motion for a directed verdict; or if a verdict was not returned, such party may move for judgment in accordance with his motion for a directed verdict. A motion for a new trial may be joined with this motion, or a new trial may be prayed for in the alternative. If a verdict was returned the court may allow the judgment to stand or may reopen the judgment and either order a new trial or direct the entry of judgment as if the requested verdict had been directed. If no verdict was returned the court may direct the entry of judgment as if the requested verdict had been directed or may order a new trial....

In ruling on a motion for judgment notwithstanding the verdict, the trial court is required to view the evidence and the inferences that reasonably can be drawn therefrom in the light most favorable to the party opposing the motion. Strange v. South Carolina Dep't of Highways and Pub. Transp., 314 S.C. 427, 429–30, 445 S.E.2d 439, 440 (1994). The motion should be denied where either the evidence yields more than one inference or its inference is in doubt. *Id.* Moreover, “[a] motion for JNOV may be granted only if no reasonable jury could have reached the challenged verdict.” Gastineau v. Murphy, 331 S.C. 565, 568, 503 S.E.2d 712, 713 (1998). An appellate court

will reverse the trial court's ruling only if no evidence supports the ruling below. Welch v. Epstein, 342 S.C. 279, 536 S.E.2d 408 (Ct. App. 2000). In deciding such motions, neither the trial court nor the appellate court has the authority to decide credibility issues or to resolve conflicts in the testimony or the evidence. *Id.* at 300, 536 S.E.2d at 419. RFT Mgmt. Co. v. Tinsley & Adams L.L.P., 399 S.C. 322, 332, 732 S.E.2d 166, 171 (2012). When considering a motion for JNOV, the trial court is concerned with the existence of evidence, not its weight." Chakrabarti v. City of Orangeburg, 403 S.C. 308, 313, 743 S.E.2d 109, 112 (Ct. App. 2013). "[T]he jury's verdict must be upheld unless no evidence reasonably supports the jury's findings." *Id.* The jury's verdict will not be overturned if any evidence exists that sustains the factual findings implicit in its decision. Smalls v. South Carolina Dep't of Educ., 339 S.C. 208, 528 S.E.2d 682 (Ct. App. 2000); Hunter v. Staples, 335 S.C. 93, 515 S.E.2d 261 (Ct. App. 1999).

Motion #3: Defendants' Motion for New Trial Based Upon the Thirteenth Juror Doctrine or for Reduction in Noneconomic Damages.

The Defendants request, pursuant to Rule 59, SCRPC, for an Order granting a new trial pursuant to the Thirteenth Juror Doctrine. Specifically, Defendants argue they are entitled to a new trial because the verdict form erroneously listed beneficiary Michelle Hemphill. Further that the Court (a different judge) prejudicially erred by denying Defendants leave to amend their affirmative defenses approximately one month before trial. The Defendants argue that the testimony and evidence presented at trial supported a finding that the standard of care was met by the Defendants. Further that, based on the evidence presented, this Court can conclude that justice has not prevailed and Defendants set forth evidence during the trial of this case that would support a verdict in their favor, both on the issues of standard of care and on the issue of proximate cause. Because the verdict was contrary to a fair preponderance of the evidence, Defendants contend that under the Thirteenth Juror Doctrine, this Court can and should order a new trial absolute because the evidence does not justify the verdict and that the Defendants are entitled to a new trial.

Plaintiff argues in response to Defendants' motion for a new trial based on the Thirteenth Juror Doctrine that the jury heard the evidence, judged the credibility of the witnesses, and arrived at a verdict that is well-supported by the evidence presented. It would be an extraordinary step for the Court to hang the unanimous jury in this case and order a new trial. The court was correct to include a separate line on the verdict form for each wrongful death beneficiary. Whether the verdict form included one line or two, the jury was entitled to consider the damages to each beneficiary

separately. Defendants voluntarily withdrew their designations of the testimony supporting that defense and made no effort to introduce such evidence at trial. This was a decision made by Defendants, not the consequence of any court order. Defendants have failed to provide sufficient reasons for the court to exercise its authority to hang a unanimous jury. The evidence presented at trial provided a sound basis for the jury's verdict. That verdict should not be disturbed. A new trial under the Thirteenth Juror Doctrine is not warranted and the Court should decline to invoke it. Defendants' motion should be denied.

The applicable law:

The Thirteenth Juror Doctrine is a vehicle by which the trial court may grant a new trial absolute when the trial court finds that the evidence does not justify the verdict. Vinson v. Hartley, 477 S.E.2d 715, 324 S.C. 389(Ct. App. 1996). While South Carolina law permits a trial judge to grant a new trial under the Thirteenth Juror Doctrine, there is no reason to do so in this case. The jury heard the evidence, judged the credibility of the witnesses, and arrived at a verdict that is well-supported by the evidence presented. It would be an extraordinary step for the court to vote to hang the unanimous jury in this case and order a new trial. The trial judge as the thirteenth juror hangs the jury. The effect is the same as if the jury failed to reach a verdict. For this reason, the trial judge is not required to give specific factual reasons for granting the motion for new trial. Folkens v. Hunt, 300 S.C. 251, 387 S.E.2d 265 (1990).

Motion #4: Defendants' Motion for a New Trial Absolute or New Trial nisi remittitur.

The Defendants made a motion pursuant to Rule 59, SCRPC for an Order granting a new trial absolute as a result of the verdict of the jury and the evidence of damages before it, or, a new trial *nisi remittitur*. Defendants argue in support of the motion that failing the ordering of a new trial absolute, this Court, at a minimum, should exercise its power to order a new trial *nisi remittitur*. The Court should consider the large verdict and the lack of evidence supporting it. Based on the evidence presented, this Court can conclude that justice has not prevailed, and the parties should be entitled to try this case before another jury via the granting of a new trial absolute. Because the evidence in this case drastically failed to justify the jury awards or comport with prior awards, the damages can safely be identified as the result of passion, caprice, prejudice, partiality, corruption, or some other improper motives.

In response to Defendants' motion for a new trial absolute on the verdict awards and evidence, Plaintiff argues that in this case the verdict is not grossly excessive. There is no basis to suggest an improper motive on the part of the jury. An award of \$250,000 per daughter for each year taken from them is not excessive, and also not grossly excessive. A new trial absolute is not warranted on these facts and should be denied. Further as to the Defendants' alternative request for a new trial *nisi remittitur*, the evidence of the two daughter's damages under the wrongful death act was compelling and uncontroverted. The verdict is not excessive and there is no reason to invade the jury's province and that motion should also be denied.

The applicable law:

Grant or denial of new trial motions rests within the discretion of the circuit court. This decision will not be disturbed on appeal unless it is unsupported by the evidence or is controlled by an error of law. Brinkley v. South Carolina Dept. of Corrections, 386 S.C.182, 687 S.E.2d 54 (Ct. App. 2009). When deciding a motion for new trial absolute on the ground that the verdict was contrary to the evidence presented at trial and to the law charged by the Court, the Court cannot pass upon the credibility of witnesses or the weight of the testimony; these are matters for the jury. . . . Dickson v. Girard Fire and Marine Ins. Co., 144 S.C. 183, 187 142 S.E. 348, 349 (1928) and neither an appellate court nor the trial court has the authority to decide credibility issues or to resolve conflicts in the testimony or the evidence. Bass v. S.C. Dep't of Soc. Servs., 414 S.C. 558, 570, 780 S.E.2d 252, 258 (2015). Circuit court should grant a new trial absolute on the excessiveness or inadequacy of the jury verdict only if the amount is so excessive or so grossly inadequate as to shock the conscience of the court and clearly indicates the figure reached was the result of passion, caprice, prejudice, partiality, corruption, or some other improper motives. Brinkley v. South Carolina Dept. of Corrections, 386 S.C. 182, 687 S.E.2d 54 (Ct. App. 2009).

Motion #5: Defendants' Motion To Apply the Noneconomic Damages Cap.

Defendants request per their motion for an order applying the cap on noneconomic damages set forth in the South Carolina Noneconomic Damages Awards Act of 2005, S.C. Code Ann. § 15-32-200 et seq. The caps mandate a reduction of the jury's noneconomic damages award to the current inflation adjusted cap of \$1,160,922 (\$580,461 for a single healthcare provider for two providers). The noneconomic damages cap for medical malpractice actions applies in any

action asserting malpractice against a "health care provider". S.C. Code Ann § 15-32-220(a). Defendants argue in support of the motion that the jury found that Dr. Lim deviated from the standard of care, this deviation was a proximate cause of Mr. Jefferies' death, and his conduct constitutes gross negligence. The jury also found that Ms. Nicholas, P.A., deviated from the standard of care, this deviation was a proximate cause of Mr. Jefferies' death, and her conduct constitutes gross negligence. There is no evidence that Dr. Lim or Ms. Nicholas were grossly negligent in their care and treatment of Mr. Jefferies. Therefore, absent sufficient proof of gross negligence, the statutory noneconomic damages cap is applicable under S.C. Code Ann. § 15-32-220(C). The Plaintiff is entitled to a total award of \$1,160,922 if the Court does not remit the award below this amount.

Plaintiff argues in response to the Defendants' motion to apply the noneconomic damages cap that the South Carolina Noneconomic Damages Awards Act of 2005, does not apply if the jury determines that the defendant was grossly negligent, willful, wanton, or reckless pursuant to S.C. Code Ann. §15-32-220(E)(Supp. 2024). In this case the jury determined that both Defendants Dr. Lim and Megan Nicholas, P.A., were grossly negligent. Further, the only charge on the law that the jury requested to hear a second time during their deliberations was the Judge's charge on gross negligence.

The applicable law:

S.C. Code Ann. §15-32-220 (Supp. 2024) provides as follows:

Noneconomic damages limit; exceptions; annual adjustment based on Consumer Price Index.

(A) In an action on a medical malpractice claim when final judgment is rendered against a single health care provider, the limit of civil liability for noneconomic damages of the health care provider is limited to an amount not to exceed three hundred fifty thousand dollars for each claimant, regardless of the number of separate causes of action on which the claim is based, except as provided in subsection (E).

(B) In an action on a medical malpractice claim when final judgment is rendered against a single health care institution, the limit of civil liability for noneconomic damages is limited to an amount not to exceed three hundred fifty thousand dollars for each claimant, regardless of the number of separate causes of action on which the claim is based, except as provided in subsection (E).

(C) In an action on a medical malpractice claim when final judgment is rendered against more than one health care institution, or more than one health care provider, or any combination thereof, the limit of civil liability for noneconomic damages for each health care institution and each health care provider is limited to an amount not to exceed three hundred fifty thousand dollars for each claimant, and the limit of civil liability for noneconomic damages for all health care institutions and health care providers is limited

to an amount not to exceed one million fifty thousand dollars for each claimant, except as provided in subsection (E)....

(E) The limitations for noneconomic damages rendered against any health care provider or health care institution do not apply if the jury or court determines that the defendant was grossly negligent, wilful, wanton, or reckless, and such conduct was the proximate cause of the claimant's noneconomic damages, or if the defendant has engaged in fraud or misrepresentation related to the claim, or if the defendant altered or destroyed medical records with the purpose of avoiding a claim or liability to the claimant.

(F) At the end of each calendar year, the Revenue and Fiscal Affairs Office, Board of Economic Advisors must determine the increase or decrease in the ratio of the Consumer Price Index to the index as of December 31 of the previous year, and the limitation on compensation for noneconomic damages pursuant to subsection (A), (B), or (C) must be increased or decreased accordingly. As soon as practicable after this adjustment is calculated, the Director of the Revenue and Fiscal Affairs Office shall submit the revised limitation on compensation to the State Register for publication pursuant to Section 1-23-40(2), and the revised limitation becomes effective upon publication in the State Register. For purposes of this subsection, "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the United States Department of Labor, Bureau of Labor Statistics.

CONCLUSION:

The Court acknowledges and appreciates the amount of research and preparation for the hearing before the Court by Counsel. After consideration of the record, arguments of Counsel, and the applicable law, the Court, after careful consideration of the able arguments and filings of Counsel and review of the record, grants Plaintiff's motion for the Assessment of Pre-Judgment Interest made pursuant to Rule 68, SCRCP, and S.C. Code Ann. §15-35-400(Supp. 2024), filed with the Court on June 16, 2025.

Further, as to Defendants' motions, the Court, after careful consideration of the able arguments and filings of Counsel and review of the record, is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered. Accordingly, the Court finds that there exists no basis to grant Defendants' Motions for the Court to Alter or Amend the Judgment, for an Order for JNOV, for the Court to Apply the Noneconomic Damages Cap, for a New Trial Absolute or in the alternative a New Trial *nisi remittitur*, and for the Court to act as the Thirteenth Juror or in the Alternative for Reduction of Noneconomic Damages, all filed with the Court on June 17, 2025, made pursuant to Rules 50 and 59, SCRCP, and S.C. Code Ann. §15-32-200 (Supp. 2024), and the motions should be and are therefore respectfully denied.

IT IS SO ORDERED.



Honorable Grace Gilchrist Knie
Resident Judge, Seventh Judicial Circuit

Dated: July 25, 2025
Spartanburg, South Carolina

**2025-05-09 Order Denying Motion for Leave
to Amend Answer**

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2020CP4202169

Andrea Allen et al
PLAINTIFF(S)

Spartanburg Regional Health Services District, Inc. 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:

This matter came before the Court on the Motion of Defendants' Chi Hun Lim, M.D., Megan Nicholas, PA, and Carolina Orthopaedic and Neurological Associates ASC, LLC (the "Defendants") to amend their answer to assert a new defense of independent/intervening/superseding causation.

Ashby W. Davis, Esq. appeared on behalf of the moving Defendants. Gerald D. Jowers, Jr. appeared for Plaintiff.

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 05/09/2025 .

As Pr Of The Estate Of Albert Jefferies

RECEIVED
AUG 29 2025
SC Court of Appeals

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.

Having reviewed the motion before the Court, the parties' memoranda pertaining thereto, and having heard arguments of counsel at the hearing, the Court DENIES the Defendants' motion. This matter has been pending against Defendants for almost four years and is set as a date certain trial the week of June 2, 2025.

Rule 15(a), SCRCP, provides in pertinent part that "leave (to amend a pleading) shall be freely given when justice so requires and does not prejudice the other party." In this case, given the length of time the action has been pending and the fact that it is only approximately three weeks until a date-certain trial, the Court finds that allowing the amendment of Defendants' Answer to assert an additional defense would not permit Plaintiff adequate time to conduct any additional discovery needed regarding the new defense and would serve to prejudice Plaintiff. Therefore, Defendants' motion is DENIED.



Spartanburg Common Pleas

Case Caption: Andrea Allen , plaintiff, et al VS Spartanburg Regional Health Services District, Inc. , defendant, et al
Case Number: 2020CP4202169
Type: Order/Electronic Form 4

IT IS SO ORDERED!

s/ J. Derham Cole, Jr. 2789