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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of
Appeals

APPEAL FROM ORANGEBURG
COUNTY in the Court of Common Pleas
Judge Maite Murphy

Case No.: 2023-CP-38-00331

Serge R. Wandji, Plaintiff/Appellant
v.
The Regional Medical Center, Defendant/Respondent

RECORD ON APPEAL
Volume I (Pages 1-314)

Appellate Case No.2025-000108

s/Serge Wandji
Pro se Appellant

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STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

2023CP3800331
FILED FOR RECORD
WILLIAM B. CLARK
CLERK OF COURT
ORANGEBURG, SC
2023 MAR -3 AM 10:46

Serge R. Wandji,

Civil Action No.

Plaintiff

COMPLAINT

(Jury Trial Requested)

Vs

The Regional Medical Center,
and Dr. John H. Samies,

Defendants

Plaintiff Serge R. Wandji brings this action against Defendants The Regional Medical Center and Dr. John H. Samies based on the allegations set forth below.

PARTIES

1. Plaintiff is a citizen and resident of Columbia, South Carolina
2. Defendant, The Regional Medical Center is a hospital located in Orangeburg South Carolina.
3. Dr. John H. Samies is a Board of Trustee and a practicing physician at The Regional Medical Center and is also a resident of Orangeburg South Carolina.

JURISDICTION

4. The Court has subject-matter jurisdiction over the claims in this lawsuit under article V section 11 of the South Carolina Constitution and South Carolina Code section 14-5-350.

5. The Court has personal jurisdiction over the defendants because they all reside and transact business in South Carolina.

VENUE

6. Venue is proper in this Circuit under South Carolina Code section 15-7-30 because the Defendants live, reside, or do business in Orangeburg, South Carolina, and the acts and omissions that are the subject of this action occurred in Charleston, South Carolina.

FACTS

7. Plaintiff started working as a full-time staff nurse at the Regional Medical Center (TRMC) in Orangeburg, South Carolina on March 8, 2021.
8. Defendant described Plaintiff's work environment in his job description as being "*Regularly exposed to infection, contagious diseases, in contact with patients under a wide variety of circumstances, exposed to injuries and illnesses*".
9. Defendants also acknowledged that throughout the entire month of August 2021, COVID-19 outbreak was already spread throughout the entire hospital in both the patients and employees population.
10. Following widespread outbreak of COVID-19 on Plaintiff's unit, Plaintiff tested positive for COVID-19 on August 27, 2021 and was medically removed from work by his employer (TRMC).
11. Plaintiff filed an electronic workers' compensation claim with his employer TRMC followed by an incident report submitted to his employer on August 31, 2021.

12. Plaintiff's health condition deteriorated really fast following his infection and was rushed via ambulance to the hospital (TRMC) on September 6, 2021 where he was officially diagnosed with Pneumonia due to COVID-19 with acute hypoxemic Respiratory failure.
13. Following his discharge from The Regional Medical Center Hospital on September 9, 2021, Plaintiff started receiving hospital charges beyond his insurance coverage from the Defendant.
14. Three months after he initially submitted a workers' compensation claim with his employer, Plaintiff officially filed a Form 50- Employee's Notice of Claim and request for Hearing with the South Carolina Workers' Compensation Commission on November 29, 2021, due to the fact that TRMC has stop responding to Plaintiff's workers' compensation related emails.
15. On January 17, 2022 Plaintiff was medically cleared by his primary care provider to return to work at TRMC with some few temporary restrictions. Prior to that time Plaintiff was written out of any work by his physician.
16. Defendants refused to allow Plaintiff to resume work, and shortly after that, Defendants officially terminated Plaintiff's employment with for no disciplinary reasons what so ever.
17. During the workers' compensation legal proceedings, Plaintiff's Protected Health Information (PHI) which he had entrusted to the Defendants as both an employee and as a patient were recklessly, willfully, and repeatedly violated by the Defendants.

18. Plaintiff reached out to Defendants requesting corrective actions being taken to address the breach of Plaintiff's PHI, but Defendant refused and referred it to a lawyer.

19. Defendants also enrolled one of their Board of Trustee, Dr. John H. Samies, to write an "expect" letter in which false and misleading statements against the Plaintiff were made, and then introduced that letter as evidence in the workers' compensation proceedings.

FIRST CAUSE OF ACTION

(Workers' Compensation Retaliatory Discharge : SC Code § 41-1-80 (2013))

20. To the extent they are not inconsistent with this cause of action, Plaintiff incorporates the allegations of the paragraphs above into this cause of action.

21. Plaintiff had instituted in good faith, a proceeding under the South Carolina Workers' Compensation Law (Title 42 of the 1976 Code) for a hearing on November 29, 2021

22. Shortly after Plaintiff filed for a hearing with the South Carolina workers' compensation Commission, Defendants started consulting in private with a lawyer to strategized on how to terminate Plaintiff's employment.

23. Defendants effectively terminated Plaintiff's employment on March 15, 2022 shortly after he was medically cleared to return to work, following his COVID-19 occupational disease treatment that he contracted while working as a staff nurse at the Regional Medical Center in Orangeburg.

24. Defendants' unlawful termination of Plaintiff's employment has caused substantial financial, emotional and psychological damages to Plaintiff, including credit ruin.

SECOND CAUSE OF ACTION

(Negligence)

25. To the extent they are not inconsistent with this cause of action, Plaintiff incorporates the allegations of the paragraphs above into this cause of action.

26. Defendants, as healthcare facility in the business of providing healthcare services to the general public, own a duty to protect all patients' Protected Health Information (PHI) as well as all their employees' PHI. Plaintiff entrusted the Regional Medical Center Hospital with his PHI as both an employee and as a patient.

27. Defendants breached their duty to Plaintiff by recklessly, willfully, and repeatedly exposing Plaintiff's PHI in the open internet via multiples unencrypted emails they sent out which included Plaintiff's PHI, in direct violation of the Federal HIPAA law. Other person were copied to these emails.

28. Defendants on November 10, 2022 sent Plaintiff an unencrypted email with an attachment document containing the Plaintiff's Personal Health Information (PHI), as well as others patients and staff members of TRMC's PHI as collateral victims.

29. Defendants on November 23, 2022 at 4:05 pm, sent again another unencrypted email to Plaintiff with an attachment document which contained Plaintiff's full name, date of birth, address, medical records number, insurance information, age,

sex, current health history, past medical history, social history, family history, lab and radiology, medical tests results, doctor's medical notes.....

30. Defendants' willful and reckless neglect was not corrected promptly despite Plaintiff's repeated denunciation of Defendant's unlawful behavior.

31. Plaintiff sent an email to the Defendants' leadership including President and CEO Mr. David Southerland on February 2, 2023 to take immediate corrective action in regards to breach of Plaintiff's PHI by the Regional Medical Center. Still nothing was done to correct that breach of Plaintiff's PHI, and Plaintiff was simply ignored by the Defendants.

32. Defendants' acts and omissions as set forth above, show willful misconduct, malice, wantonness, and entire want of care, raising a presumption of the Defendants' conscious indifference to the consequences of such acts and omissions.

33. Defendants' breach of Plaintiff's PHI caused Plaintiff substantial emotional and psychological damages, as well as incalculable future damages.

THIRD CAUSE OF ACTION

(Fraud)

34. To the extent they are not inconsistent with this cause of action, Plaintiff incorporates the allegations of the paragraphs above into this cause of action.

35. The Regional Medical Center (TRMC) of Orangeburg charged and directly billed Plaintiff's COVID-19 hospital care beyond his insurance coverage starting September 2021.

36. Defendants (TRMC) received 'Special COVID-19 Pandemic' Federal funding from the Coronavirus and Aid Relief and Economic Security (CARES) Act of March 2020.

37. As a recipient of the 'Special COVID-19 Pandemic' Federal funding, Defendants (TRMC) should not have charged Plaintiff beyond his insurance coverage in September of 2021.

38. Defendants furthermore used those illegal COVID-19 hospital charges as a bargaining leverage to negotiate in their advantage a settlement in the workers' compensation case opposing them to Plaintiff.

39. Defendant also reported those illegal charges to debt collectors companies who have repeatedly harassed Plaintiff.

40. Plaintiff was consequently and proximately injured by those fraudulent hospital charges, debt collection reporting, credit ruin, mental and psychological distress and loss of reputation.

FOURTH CAUSE OF ACTION

(Fraud/Bad Faith)

41. During the workers' compensation case proceedings against Plaintiff, The Regional Medical Center had one of their Board of Trustees member, namely Dr. John H. Samies to write an 'expect' letter which was introduced as evidence by the Defendants.

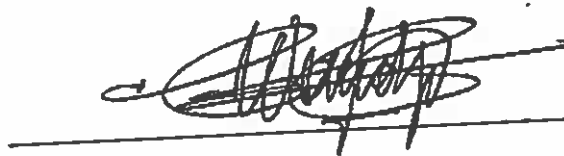
42. Defendants and Dr. Samies did not explicitly mention in their 'expect' letter that Dr. Samies is a Board of Trustees member in good standing at TRMC, thus dishonestly, concealing Dr. Samies' Conflict of Interest in the case.

43. Defendants and Dr. Samies furthermore made intentional misrepresentations of facts, false and misleading statements about Plaintiff in their 'expect' letter.

44. Plaintiff was consequently and proximately injured by Defendants' and Dr. Samies' false representations, and their non-disclosure of the self-evidenced 'Conflict of Interest', including loss of reputation, negative impact on Plaintiff's workers' compensation claim, mental and psychological distress.

WHEREFORE, Plaintiff request that judgment be entered against the Defendants on all causes of action and that Plaintiff be awarded; (1) actual damages; (2) consequential damages; (3) Punitive damages; (4) pre-judgment interest; (5) eventual attorneys' fees and costs and (6) such other and further relief as the court and jury deem just and appropriate.

Serge R. Wandji



03/03/2023

sergewandji@gmail.com

P.O. Box 523
Columbia SC, 29202
678-612-9649

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
	)	
Serge R. Wandji,	)	Case No.: 2023-CP-38-00331
	)	
Plaintiff,	)	
	)	DEFENDANTS' MOTION FOR
vs.	)	PARTIAL DISMISSAL
	)	
The Regional Medical Center and Dr. John H.	)	
Samies,	)	
	)	
Defendants.	)	

Defendants The Regional Medical Center ("TRMC") and Dr. John H. Samies ("Samies") (collectively referred to herein as "Defendants"), by and through their undersigned counsel, respectfully move the Court, pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, for an Order dismissing, with prejudice, certain of Plaintiffs' claims on the grounds that:

(1) Plaintiff has failed to plead sufficient facts to support any claim against Dr. Samies for negligence, fraud, or worker's comp retaliation. In addition, Plaintiff's claims against Dr. Samies are barred pursuant to the witness immunity doctrine.

(2) Plaintiff has failed to plead sufficient facts to support a valid claim against TRMC for negligence.

(3) Plaintiff has failed to plead all the requisite elements of a fraud or fraud/bad faith claim and has failed to plead sufficient facts to support any claim of fraud or fraud/bad faith against TRMC.

This motion is based upon the pleadings, the applicable law, and any memorandum of law or other material that may be submitted to the Court before or at the hearing on this Motion.

WHEREFORE, Defendants respectfully request that the Court enter an Order dismissing with prejudice all four causes of action against Dr. Samies and dismissing with prejudice the negligence claim and the two fraud claims against TRMC.

Respectfully submitted,

s/Amanda C. Williams

Amanda C. Williams (SC Bar No.: 76588)

Email: amandawilliams@parkerpoe.com

PARKER POE ADAMS & BERNSTEIN LLP

850 Morrison Drive, Suite 400

Charleston, SC 29403

Phone: 843-727-2650

Fax: 843-727-2680

ATTORNEY FOR DEFENDANTS

April 5, 2023
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
	)	
Serge R. Wandji,	)	Case No.: 2023-CP-38-00331
	)	
Plaintiff,	)	
	)	CERTIFICATE OF SERVICE
vs.	)	
	)	
The Regional Medical Center and Dr. John H.	)	
Samies,	)	
	)	
Defendants.	)	

I hereby certify that a copy of **DEFENDANTS' MOTION FOR PARTIAL DISMISSAL** has been served upon the following *Pro Se Plaintiff* by Certified Mail and U.S. Mail addressed as shown below this 5th day of April, 2023:

Serge Wandji
P.O. Box 523
Columbia, SC 29202
Pro Se Plaintiff


PARKER POE ADAMS & BERNSTEIN LLP
Post Office Box 160
Charleston, South Carolina 29402-0160
Phone: (843) 727-2650

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
	)	
Serge R. Wandji,	)	Case No.: 2023-CP-38-00331
	)	
Plaintiff,	)	
	)	DEFENDANTS' MOTION TO QUASH
vs.	)	AND FOR PROTECTIVE ORDER
	)	
The Regional Medical Center and Dr. John H. Samies,	)	
	)	
Defendants.	)	

Defendants The Regional Medical Center ("TRMC") and Dr. John H. Samies ("Dr. Samies") (collectively referred to herein as "Defendants"), by and through their undersigned counsel, respectfully move the Court, pursuant to Rules 26(c) and 45(c)(3)(A) of the South Carolina Rules of Civil Procedure (hereinafter "SCRCP"), for an Order quashing the subpoena for the deposition of Defendant Dr. John H. Samies served by *Pro Se* Plaintiff Serge R. Wandji ("Plaintiff") and an order staying all discovery in this matter until such time as Defendants' Motion for Partial Dismissal, filed on April 5, 2023 and set for hearing on May 15, 2023 has been resolved. The Subpoena is attached hereto as **Exhibit A**.

A. Motion to Quash Subpoena for the Deposition of Defendant Dr. John H. Samies

On May 5, 2023, Plaintiff emailed defense counsel a copy of the attached subpoena for the deposition of Dr. Samies. Defendants move to quash the subpoena for the following reasons:

1. On May 4, 2023, instead of serving the subpoena on defense counsel as required, Plaintiff directed the sheriff's deputy to serve the subpoena directly on Dr. Samies via hand delivery. *See* Rule 5(b)(1), SCRCP (stating "service shall be made upon [an] attorney unless service upon the party himself is ordered by the court."). No copy of the subpoena was hand delivered to defense counsel on May 4. Plaintiff did not notify defense counsel of the subpoena

for deposition until Friday, May 5 when Plaintiff emailed a copy of the subpoena to the undersigned counsel at 8:27 pm. Defense counsel subsequently received a copy of the subpoena via mail on May 8, 2022, just four days prior to the noticed date for the deposition.

2. The subpoena fails to provide reasonable time for compliance in violation of Rule 45(c)(3)(a)(i), SCRCPP. Defense counsel received the subpoena from Plaintiff via email on Friday, May 5 for a deposition scheduled to take place on Friday, May 12. Not only was the subpoena improperly served, but it also fails to provide the requisite 10 days' written notice. *See* Rule 30(b)(1), SCRCPP ("A party desiring to take the deposition of any person upon oral examination shall give ten (10) days notice in writing to every other party to the action.") Neither Dr. Samies, nor defense counsel, are available for the deposition on May 12.

3. Plaintiff seeks to take a virtual deposition of Dr. Samies. Defendants object to the taking of this deposition in a virtual format. Any future, properly noticed deposition of Dr. Samies, must take place in person.

4. Pursuant to Rule 45(c)(1), "[a] party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena." *See also* Rule 45(c)(3)(A)(iv) (stating a court shall quash or modify a subpoena if it "subjects a person to undue burden."). The subpoena for deposition at this stage of the litigation imposes undue burden and expense on Dr. Samies in light of Defendants' pending Motion for Partial Dismissal which is scheduled for hearing on Monday, May 15, 2023. If Defendants prevail on all or part of the Motion, it could eliminate the need for the requested deposition.

B. Motion for Protective Order Pending a Ruling on Defendants' Motion for Partial Dismissal

In addition to the motion to quash Plaintiff's subpoena, Defendants seek an order staying all discovery pending the Court's ruling on Defendant's Motion for Partial Dismissal.

Rule 26(c) of the South Carolina Rules of Civil Procedure provides that “[u]pon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court...may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense.” Rule 26(c), SCRCPP. Additionally, courts have broad discretion in limiting discovery. *See, e.g., Hamm v. S.C. Pub. Serv. Comm’n*, 312 S.C. 238, 241, 439 S.E.2d 852, 853-54 (1994); *Gattison v. S.C. State College*, 318 S.C. 148, 150, 456 S.E.2d 414, 415 (Ct. App. 1995). A party shows good cause where disposition of a motion could entirely eliminate the need for such discovery. *See Evans v. Accent Manufactured Homes, Inc.*, 352 S.C. 544, 551, 575 S.E.2d 74, 77 (Ct. App. 2003) (noting that a party may seek protection from discovery while a motion that would thoroughly dispose of the claims in the complaint is pending).

In the subject action, the deposition of Dr. Samies and any other broad-based discovery would be a needless expenditure of time, money, and resources until the court rules on Defendants’ motion to dismiss. Defendants seek to dismiss all claims against Dr. Samies and some of the claims against Defendant TRMC. If Defendants’ motion to dismiss is granted, all of the claims against Dr. Samies may be dismissed, as well as some of the claims against TRMC. Therefore, any discovery that may be conducted at this time, including Plaintiff’s request for Dr. Samies’ deposition, would constitute an undue burden and expense on Defendants. Accordingly, a protective order is appropriate here. *See, e.g., Chaudhry v. Mobil Oil Corp.*, 186 F.3d 502, 505 (4th Cir. 1999) (holding that district court did not abuse its discretion by staying discovery pending resolution of defendant’s motion to dismiss); *Cobin v. U.S.*, No. 6:04-2455-HFF-BHH, 2005 WL 2200550, *6 (D.S.C. June 22, 2005) (granting motion to stay discovery pending disposition of defendant’s motion to dismiss).

CONCLUSION

WHEREFORE, Defendants respectfully request that the Court grant its motion to quash the subpoena for deposition and grant its motion for protective order and thereby stay all discovery in this matter as to Defendants, including but not limited to Plaintiff's request for the deposition of Dr. John H. Samies, until such time as the Court rules on Defendants' pending motion to dismiss.

Respectfully submitted,

s/Amanda C. Williams

Amanda C. Williams (SC Bar No.: 76588)

Email: amandawilliams@parkerpoe.com

PARKER POE ADAMS & BERNSTEIN LLP

850 Morrison Drive, Suite 400

Charleston, SC 29403

Phone: 843-727-2650

Fax: 843-727-2680

ATTORNEY FOR DEFENDANTS

May 9, 2023

Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
	)	
Serge R. Wandji,	)	Case No.: 2023-CP-38-00331
	)	
Plaintiff,	)	
	)	CERTIFICATE OF SERVICE
vs.	)	
	)	
The Regional Medical Center and Dr. John H.	)	
Samies,	)	
	)	
Defendants.	)	

I hereby certify that a copy of **DEFENDANTS' MOTION TO QUASH AND FOR PROTECTIVE ORDER** has been served upon the following *Pro Se Plaintiff* by U.S. Mail and email addressed as shown below this 9th day of May, 2023:

Serge Wandji
P.O. Box 523
Columbia, SC 29202
sergewandji@gmail.com
Pro Se Plaintiff


PARKER POE ADAMS & BERNSTEIN LLP
Post Office Box 160
Charleston, South Carolina 29402-0160
Phone: (843) 727-2650

Exhibit A

Easter, Claire L.

From: Serge Wandji <sergewandji@gmail.com>
Sent: Friday, May 5, 2023 8:27 PM
To: Williams, Amanda C.
Subject: Subpoena for Dr. Samies' Deposition
Attachments: Dr. Samies' subpoena.pdf; Proof of service- Dr.Samie deposition to Mrs. Williams.pdf

Caution: External email

Mrs. Williams,
Please find attached a Copy of Dr. Samies' Subpoena for his Virtual deposition of Friday May 12, 2023 at 11:00 A.M., as well as a copy of the Proof of Service.
Thank you
Wandji, RN

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF ORANGEBURG

Serge R. Wandji, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

The Regional Medical Center and

Case Number: 2023-CP-38-00331

Dr. John H. Samies, Defendants

Pending in Orangeburg County

TO: Dr. John H. Samies and Amanda C. Williams, Attorney for the Defendants

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME, AM

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION Virtual	DATE AND TIME: May12, 2023, 11:00 AM

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

PLACE	DATE AND TIME, AM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME, AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

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Attorney/Issuing Officer's Signature
Indicate if Attorney for Plaintiff or Defendant
Attorney's Address and Telephone Number :

Date

Print Name

Winnita B. Clark
Clerk of Court/Issuing Officer's Signature
Pro Se Litigant's Name, Address and Telephone Number :
Serge Wandji, P.O. Box 523 Columbia SC, 29202

Telephone: 678-612-9649

5/3/23
Date

Winnita B. Clark
ATTEST: TRUE COPY
Winnita B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

PROOF OF SERVICE *to Amanda C. Williams*

SERVED	DATE <i>May 3, 2023</i>	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE <i>Columbia, SC</i>	
SERVED ON	<i>May 3, 2023</i>	MANNER OF SERVICE <i>Certified Mail USA</i>
SERVED BY	<i>Serge WANDJI</i>	TITLE <i>Pro se Plaintiff</i>

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on *May 3, 2023*SIGNATURE OF SERVER ADDRESS OF SERVER *P.O. Box 523 Columbia SC 29202*Case Number: *2023-CP-38-00331*

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG) C/A #: 2023-CP-38-00331

Serge R. Wandji,

Plaintiff,

v.

The Regional Medical Center
and Dr. John H. Samies,

Defendants.

CLERK OF COURT
ORANGEBURG, SC

2023 MAY 12 PM 2:45

FILED FOR RECORD
WINNIFAB. CLARK

STATEMENT OF NON-APPEARANCE FOR
THE DEPOSITION OF

DR. JOHN H. SAMIES

Friday, May 12, 2023
11: a.m. - 11: a.m.

The deposition of DR. JOHN H. SAMMIES was scheduled to take place via Zoom video conference, on the 12th day of May, 2023 before Amber Scarborough, Court Reporter and Notary Public in and for the State of South Carolina.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / contact@creelreporting.com

APPEARANCES

Serge R. Wanji
P.O. BOX 523
Columbia, SC 29202
Pro Se Plaintiff

INDEX

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MR. WANDJI	1
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EXHIBITS

(No Exhibits were marked at this deposition.)



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MR. WANDJI - STATEMENT OF NON-APPEARANCE:

MR. WANJI: This is Serge Wandji, the Plaintiff on the case.

I am pro se, representing myself. I just want to make a statement of non-appearance for the subpoena for the deposition of Dr. John Samie, who was properly served on May the 3rd, 2023 and with the attorney of the Defendant, Ms. Amanda Williams, a copy of that subpoena for deposition was properly served for Dr. John Samie on May the 4th. Also, a link to connect to the deposition was sent to both, Ms. Williams, the attorney of the Defendant, and Dr. John Samie yesterday. Today is Friday, May the 12th. The deposition was supposed to start at 11:00 a.m. It is now 11:21 a.m. on May the 12th and neither, Dr. Samie nor the attorney of the Defendant, Ms. Amanda Williams, have shown up. Thank you.

(There being nothing further, the statement of non-appearance concluded at 11:21 a.m.)



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**CREEL COURT REPORTING, INC.**

1230 Richland Street
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5/11/2023

Tax ID: 57-1016805

INVOICE NO. 23-2998

Serge Wandji
P.O. BOX 523
Columbia, SC 29202
sergewandji@gmail.com
678-612-9649, SC 29202 USA

We accept:



RE: Serge Wandji v. The Regional Medical Center	0.00
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Non-Appearance on 5/12/23	57.50
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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG) FIRST JUDICIAL CIRCUIT
Serge R. Wandji,) Case No.: 2023-CP-38-00331
Plaintiff,)
vs.) **ORDER GRANTING DEFENDANTS'**
The Regional Medical Center and Dr. John H.) **MOTION FOR PARTIAL DISMISSAL**
Samies,) **OF PLAINTIFF'S COMPLAINT**
Defendants.)

THIS MATTER CAME BEFORE THE COURT by way of Motion for Partial Dismissal of Plaintiff's Complaint filed by Defendants The Regional Medical Center ("TRMC") and Dr. John H. Samies ("Samies") (collectively, "the Defendants"). After due notice, a virtual hearing was held on May 15, 2023. Present at the hearing were *Pro se* Plaintiff Serge R. Wandji and Amanda C. Williams, Esq., counsel for Defendants.

The Court has carefully considered the motions, arguments of counsel and the *Pro se* Plaintiff, memoranda submitted in support of the parties' respective positions, and the law. This Court finds that Defendants' Motion for Partial Dismissal of Plaintiff's Complaint should be GRANTED on the grounds that Plaintiff has failed to state a claim for relief against Defendant Samies for negligence, fraud, fraud/bad faith, or workers' compensation retaliation and has failed to state a claim for relief against Defendant TRMC for negligence, fraud, or fraud/bad faith.

LEGAL STANDARD

A motion under Rule 12(b)(6), SCRCP, tests the legal sufficiency of the complaint. *Charleston Cty. Sch. Dist. v. Harrell*, 393 S.C. 552, 557, 713 S.E.2d 604, 607 (2011). In considering a motion to dismiss pursuant to Rule 12(b)(6), SCRCP, the court must base its ruling solely upon the allegations set forth on the face of the complaint." *Id.* Under Rule 12(b)(6), "[v]iewing the evidence in favor of the plaintiff, the motion must be granted if facts alleged in the

complaint and inferences reasonably deducible therefrom do not entitle the plaintiff to relief on any theory of the case.” *Chewning v. Ford Motor Co.*, 346 S.C. 28, 32–33, 550 S.E.2d 584, 586 (Ct. App. 2001), *aff’d*, 354 S.C. 72, 579 S.E.2d 605 (2003) (quoting *Jarrell v. Petoseed Co.*, 331 S.C. 207, 209, 500 S.E.2d 793, 794 (Ct. App. 1998)). Allegations in a complaint which are conclusory rather than factual are not to be taken as true and should be disregarded. *See Charleston Cty. Sch. Dist. v. Laidlaw Transit, Inc.*, 348 S.C. 420, 426, 559 S.E.2d 362, 365 (Ct. App. 2001) (citing cases); *see also Harper v. United States*, 423 F. Supp. 192, 196 (D.S.C. 1976) (“[C]onclusory allegations unsupported by facts are insufficient to constitute a cause of action, and where the claims in a complaint are insufficiently supported by factual allegations, these claims may properly be disposed of by summary dismissal.”); *Builder Mart of Am., Inc. v. First Union Corp.*, 349 S.C. 500, 512, 563 S.E.2d 352, 358 (Ct. App. 2002), overruled on other grounds by *Farmer v. Monsanto Corp.*, 353 S.C. 553, 579 S.E.2d 325 (2003) (quoting *Papasan v. Allain*, 478 U.S. 265, 286, 106 S. Ct. 2932, 2944, 92 L. Ed. 2d 209 (1986)) (“we are not bound to accept as true a legal conclusion couched as a factual allegation”).

“A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.” *State v. Burton*, 356 S.C. 259, 265, 589 S.E.2d 6, 9 (2003).

FACTS

Pursuant to the allegations in Plaintiff’s Complaint, Plaintiff began working as a staff nurse at TRMC in Orangeburg, South Carolina on March 8, 2021. (Compl. ¶ 7.) He tested positive for COVID-19 on August 27, 2021, and subsequently filed an electronic workers’ compensation claim with TRMC on August 31, 2021 contending that his illness was an occupational disease contracted while working at TRMC. (Compl. ¶¶ 10, 11, 23.) Plaintiff alleges his health condition

deteriorated quickly, and he was diagnosed with pneumonia due to COVID-19 with acute hypoxemic respiratory failure. (Compl. ¶ 12.)

On November 29, 2021, he filed a Form 50 – Employee’s Notice of Claim and Request for Hearing with the South Carolina Workers’ Compensation Commission. (Compl. ¶ 14.) On January 17, 2022, after almost five months of leave, Plaintiff claims he was cleared to return to work with restrictions. (Compl. ¶ 15.) Plaintiff alleges that Defendants refused to allow Plaintiff to resume work, and on March 15, 2022, Defendants terminated his employment. (Compl. ¶¶ 16, 23.)

Plaintiff now claims in the subject action that during the course of the workers’ compensation proceedings, Defendants “breach[ed] Plaintiff’s PHI [Protected Health Information]” and “enrolled one of their Board of Trustee[s], Dr. John H. Samies, to write an ‘expect’ [sic] letter in which false and misleading statements against the Plaintiff were made.” (Compl. ¶ 19.) Plaintiff also claims that following his medical treatment at TRMC, Plaintiff received hospital charges beyond his insurance coverage from the Defendant. (Compl. ¶ 13.)

DISCUSSION

This Court finds that Plaintiff has failed to state a claim for relief against Dr. Samies for workers compensation retaliation, negligence, fraud, or fraud/bad faith. Plaintiff has also failed to state a claim for relief against TRMC for negligence, fraud, or fraud/bad faith.

A. Plaintiff Fails to Allege a Plausible Claim for Workers’ Compensation Retaliation Against Dr. Samies.

Though Plaintiff’s Complaint purports to assert a claim against both TRMC and Dr. Samies for workers’ compensation retaliation, Plaintiff noted at the hearing that he seeks recovery for this cause of action against TRMC only. To the extent, Plaintiff did seek to assert a claim against Dr. Samies for workers’ compensation retaliation, such a claim is not viable under the South Carolina workers’ compensation retaliation statute. Pursuant to S.C. Code Ann. § 41-1-80, “[n]o **employer**

may discharge or demote any employee because the employee has instituted or caused to be instituted, in good faith, any proceeding under the South Carolina Workers' Compensation Law....” (emphasis added). Plaintiff was employed by TRMC, not Dr. Samies. (Compl. ¶ 7.) Because Dr. Samies was not Plaintiff’s employer, any purported claim against Dr. Samies for workers’ compensation retaliation is not viable under S.C. Code Ann. § 41-1-80 and must be dismissed as a matter of law.

B. Plaintiff Fails to Allege a Plausible Claim for Negligence against Defendants.

In Plaintiff’s second cause of action, he asserts Defendants were negligent when they “repeatedly expos[ed] Plaintiff’s PHI in the open internet via multiple unencrypted emails they sent out which included Plaintiff’s PHI, in direct violation of the Federal HIPAA law.” (Compl. ¶ 27.) Plaintiff’s claim fails as a matter of law because there is no private right of action under HIPAA. “Every circuit court to consider whether HIPAA created a private right to sue has found that it does not.” *Payne v. Taslimi*, 998 F.3d 648, 660 (4th Cir. 2021). Accordingly, Plaintiff’s negligence claim against both Defendants must be dismissed as a matter of law.

C. Plaintiff’s Fraud Claim Fails to Allege Sufficient Facts to Support Such a Claim Against Defendants.¹

Plaintiff’s fraud claim also fails as a matter of law because Plaintiff has not alleged sufficient facts to support a valid and actionable fraud claim. A fraud claim requires pleading with particularity the essential nine elements of (1) a representation; (2) its falsity; (3) its materiality; (4) either knowledge of its falsity or a reckless disregard of its truth or falsity; (5) intent that the representation be acted upon; (6) the hearer’s ignorance of its falsity; (7) the hearer’s reliance on its truth; (8) the hearer’s right to rely thereon; and (9) the hearer’s consequent and proximate injury.

¹ Plaintiff appears to be asserting his third cause of action for fraud against TRMC only. To the extent this third cause of action is directed to Dr. Samies as well, Plaintiff has pled no facts to support a claim against Dr. Samies for this alleged fraud claim.

King v. Oxford, 282 S.C. 307, 311, 318 S.E.2d 125, 127 (Ct. App. 1984). If a complaint fails to allege all nine elements, then it is fatally defective. *Inman v. Ken Hyatt Chrysler Plymouth, Inc.*, 294 S.C. 240, 242, 363 S.E.2d 691, 692 (1988); *see also Ardis v. Cox*, 314 S.C. 512, 515, 431 S.E.2d 267, 269 (Ct. App. 1993).

As recognized under the law, “[f]raud is an intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to [that person] or to surrender a legal right.” *Regions Bank v. Schmauch*, 354 S.C. 648, 672, 582 S.E.2d 432, 444 (Ct. App. 2003) (citation omitted) (emphasis added). Stated otherwise, two of the essential elements of any fraud claim are that the defendant made the material misrepresentation in issue “with the intention that it should be acted upon by plaintiff” and “that plaintiff acted in reliance upon it,” suffering injury by such reliance. *Gomillion v. Forsythe*, 218 S.C. 211, 223, 62 S.E.2d 297, 302 (1950) (citation omitted); *see also, Halsey v. Minnesota-S.C. Land & Timber Co.*, 174 S.C. 97, 177 S.E. 29, 37 (1934) (the material representation must have been made with the intention that it should be acted upon by plaintiff and plaintiff must have acted in reliance upon it). Thus, South Carolina requires a plaintiff to allege and prove a false representation that was relied upon by the plaintiff and ultimately resulted in damages. Plaintiff’s Complaint fails to assert the necessary facts to support a fraud claim.

In this case, Plaintiff bases his fraud claim on the allegation that TRMC charged and billed him for his COVID-19 hospital care beyond his insurance coverage. However, Plaintiff has failed to allege with particularity all the necessary elements of a fraud claim. Instead, his Complaint generally alleges the following:

35. The Regional Medical Center (TRMC) of Orangeburg charged and directly billed Plaintiff’s COVID-19 hospital care beyond his insurance coverage starting September 2021.
36. Defendants (TRMC) received ‘Special COVID-19 Pandemic’ federal funding from the Coronavirus and Aid Relief and Economic Security (CARES) Act of March 2020.

37. As a recipient of the 'Special COVID-19 Pandemic' Federal funding, Defendants (TRMC) should not have charged Plaintiff beyond his insurance coverage in September of 2021.
38. Defendants furthermore used those illegal COVID-19 hospital charges as a bargaining leverage to negotiate in their advantage a settlement in the workers' compensation case opposing them to Plaintiff.²
39. Defendant also reported those illegal charges to debt collectors companies who have repeatedly harassed Plaintiff.

(Compl. ¶¶ 35-39.)

Plaintiff has failed to allege any of the required elements of fraud. Despite the fact that a fraud claim must be pled with specificity, Plaintiff's Complaint does not clearly articulate the false representation allegedly made by TRMC to Plaintiff. In addition, Plaintiff's fraud claim contains no assertion that he relied upon any alleged misrepresentation or that he acted upon (or changed his position detrimentally in reliance upon) those purported misrepresentations. Instead, Plaintiff's third cause of action for fraud centers entirely upon his assertion that TRMC charged and billed him for COVID-19 hospital care beyond his insurance coverage which was allegedly improper due to TRMC's receipt of "Special COVID-19 Pandemic federal funding" from the CARES Act. Plaintiff cannot and has not alleged that he relied upon or changed his position in reliance on any alleged false statement made by TRMC that he believed to be true. A claim for fraud fails on its face if a plaintiff cannot show that he himself relied on the alleged misrepresentation. *See Moore v. Dew*, 208 S.C. 355, 362, 38 S.E.2d 258, 261 (1946) (holding that the duty to bring an action for fraud is held by the party who was defrauded or its agents); *see also Kahn v. Burman*, 673 F. Supp. 210 (E.D. Mich. 1987) (granting motion to dismiss fraudulent misrepresentation claim because the plaintiff could not justifiably argue that he "relied" upon any statement made by the adverse expert

² Plaintiff's reference to the substance of any settlement discussions that may have occurred in the workers' compensation case, runs afoul of Rule 408 of the South Carolina Rules of Evidence. "The courts favor compromise; accordingly, evidence relating to settlements is generally not admissible to prove liability." *Com. Ctr. of Greenville, Inc. v. W. Powers McElveen & Assocs., Inc.*, 347 S.C. 545, 558, 556 S.E.2d 718, 725 (Ct. App. 2001).

witness in the underlying medical practice case). When a complaint omits allegations on any element of fraud, the trial court should grant a motion to dismiss. *Ardis*, 314 S.C. at 515, 431 S.E.2d at 269.

Because the allegations in the Complaint fail to set forth facts sufficient to allege the required elements or to state an actionable claim for fraud against Defendants, the third cause of action for fraud must be dismissed pursuant to Rule 12(b)(6).

D. Plaintiff Fails to Allege a Viable Claim for Fraud/Bad Faith (Fourth Cause of Action) against Defendants.

Plaintiff's fourth cause of action for fraud/bad faith arises from a letter written by Dr. Samies and submitted as evidence during Plaintiff's workers' compensation proceedings. Plaintiff's claim fails for several reasons. First, Dr. Samies is immune from liability for statements made during the workers' compensation proceedings pursuant to well-established law regarding witness immunity. Second, Plaintiff fails to allege the facts and legal elements necessary to maintain a fraud claim. Third, to the extent Plaintiff's fraud/bad faith claim is an attempt to challenge evidence he contends was improperly admitted in his workers' compensation proceedings, such an attack is not properly before this Court.

1. Dr. Samies is Immune From Liability for Plaintiff's Claims Arising From His Statements as an Adverse Witness.

It is well-established that witnesses enjoy absolute privilege from civil suit for statements made during judicial proceedings. *Briscoe v. LaHue*, 460 U.S. 325 (1983); *Woodward v. Weiss*, 932 F. Supp. 723 (D.S.C. 1996); *Crowell v. Herring*, 301 S.C. 424, 392 S.E.2d 464 (Ct. App. 1990). The rationale behind this rule rests upon the need to encourage witnesses to testify, to prevent witness self-censorship (i.e., altering or distorting testimony due to potential fear of liability exposure), and to protect witnesses from the fear of harassment or intimidation. *Briscoe*, 460 U.S. at 333.

The seminal case on witness immunity is *Briscoe v. LaHue*, 460 U.S. 325 (1983). In that case, the United States Supreme Court acknowledged and adopted common-law immunity for witnesses. *Id.* at 346. In so holding, the Court recognized that:

A witness' apprehension of subsequent damages liability might induce two forms of self-censorship. First, witnesses may be reluctant to come forward to testify. And once a witness is on the stand, his testimony might be distorted by the fear of subsequent liability.

Id. at 333 (internal citations omitted). The Court then noted that "the truth-finding process is better served if the witness's testimony is submitted to the 'crucible of the judicial process so that the factfinder may consider it, after cross-examination, together with the other evidence in the case to determine where the truth lies.'" *Id.* at 333-34.

Since the *Briscoe* case, state and federal courts have expanded the witness immunity rule to cover pre-trial statements made by expert witnesses, as well as statements made in affidavits and declarations. *See e.g., Woodward*, 932 F. Supp. at 727-28. "[C]ommunications uttered or published in the course of judicial proceedings are absolutely privileged so long as they are in some way pertinent to the subject of the controversy....The privilege applies also to statements made in pleadings or other documents prepared in connection with a court proceeding." *Alexandru v. Strong*, 81 Conn. App. 68, 83, 837 A.2d 875, 884-85 (Conn. App. 2004); *see also Woodward*, 932 F. Supp. at 728; *Crowell*, 301 S.C. at 432, 392 S.E.2d at 468.

In the subject action, Plaintiff's claims against Dr. Samies arise from the "expect [sic] letter" prepared by Dr. Samies in the workers' compensation proceedings. (Compl. ¶¶ 41-44.) None of Plaintiff's allegations in this claim are based on any alleged misrepresentations made by Dr. Samies or TRMC outside the context of the workers' compensation proceeding. Because Plaintiff's allegations against Dr. Samies arise from his alleged role as an expert witness in the workers' compensation proceeding, Plaintiff's allegation of fraud against Dr. Samies for statements made in a letter filed in a workers' compensation proceeding are barred under the well-

recognized witness immunity rule. *See Briscoe*, 460 U.S. 325, 331-32; *Woodward*, 932 F. Supp. at 728; *Kahn*, 673 F. Supp. 210; *Crowell*, 301 S.C. at 432, 392 S.E.2d at 468.

Not only has South Carolina recognized the witness immunity rule, but courts in numerous jurisdictions have dismissed fraud claims, as well as other claims against expert witnesses on witness immunity grounds. *See Kim v. Hosenev*, 545 Fed. Appx. 521 (7th Cir. Oct. 30, 2013) (affirming motion to dismiss fraud and perjury claims asserted against expert witness who testified in patent infringement suit on witness immunity grounds); *MacGregor v. Ruthberg*, 478 F.3d 790 (7th Cir. 2007) (affirming motion to dismiss defamation and breach of contract claims against doctor who testified as an adverse expert witness in underlying medical malpractice case on witness immunity grounds); *Kahn*, 673 F. Supp. 210 (granting motion to dismiss claims for negligence, defamation, and intentional infliction of emotional distress asserted against an expert witness who provided adverse testimony against doctor in underlying medical practice case on witness immunity grounds); *McNall v. Frus*, 336 Ill. App. 3d 904, 784 N.E.2d 238 (Ill. App. Ct. 2002) (affirming grant of motion to dismiss negligence claim brought against social worker who testified as an expert in child custody proceeding on witness immunity grounds); *Provencher v. Buzzell-Plourde Assocs.*, 142 N.H. 848, 711 A.2d 251 (N.H. 1998) (affirming grant of motion to dismiss claims of negligence, negligent misrepresentation, fraud, breach of contract, and negligent infliction of emotional distress asserted against appraiser on the grounds that expert was shielded from liability on the basis of witness immunity); *Riemers v. O'Halloran*, 678 N.W.2d 547 (N.D. 2004) (affirming motion to dismiss fraud claim asserted against accountant who served as expert witness in divorce action on witness immunity grounds); *Bruce v. Byrne-Stevens & Assocs. Engineers*, 113 Wash. 2d 123, 776 P.2d 666 (Wash. 1989) (granting motion to dismiss negligence claim asserted against engineer who served as an expert witness in underlying case on witness immunity grounds).

Because Plaintiff's claims against Dr. Samies are based entirely on statements made by Dr. Samies in a letter filed as part of the workers' compensation proceeding, the witness immunity rule clearly affords Dr. Samies absolute protection against civil liability, and all claims against him must be dismissed as a matter of law.

2. Plaintiff's Fraud/Bad Faith Claim Fails to Allege the Necessary Facts and Elements to Maintain Such a Claim.

As an initial matter, though Plaintiff's Complaint purports to assert a "bad faith" claim against Defendants, there is no such recognized cause of action in South Carolina for "bad faith" against a doctor or medical facility. Rather, bad faith claims apply to insurance carriers who refuse to pay benefits under a contract of insurance. *See Mixson, Inc. v. Am. Loyalty Ins. Co.*, 349 S.C. 394, 398, 562 S.E.2d 659, 661 (Ct. App. 2002) (outlining the elements of a bad faith insurance claim, which include: (1) the existence of a mutually binding contract of insurance between the plaintiff and defendant; (2) refusal by the insurer to pay benefits due under the contract; (3) resulting from the insurer's bad faith or unreasonable action in breach of an implied covenant of good faith and fair dealing arising on the contract; (4) causing damage to the insured). Because there is no recognized cause of action for bad faith under the facts and circumstances alleged in Plaintiff's Complaint, any such claim against Defendants must be dismissed.

To the extent Plaintiff's fourth cause of action seeks to allege a second claim for fraud against Defendants, a fraud claim requires pleading with particularity the essential nine elements of (1) a representation; (2) its falsity; (3) its materiality; (4) either knowledge of its falsity or a reckless disregard of its truth or falsity; (5) intent that the representation be acted upon; (6) the hearer's ignorance of its falsity; (7) the hearer's reliance on its truth; (8) the hearer's right to rely thereon; and (9) the hearer's consequent and proximate injury. *King*, 282 S.C. at 311, 318 S.E.2d at 127. If a complaint fails to allege all nine elements, then it is fatally defective. *Imman v. Ken*

Hyatt Chrysler Plymouth, Inc., 294 S.C. at 242, 363 S.E.2d at 692. Plaintiff's fourth cause of action fails to assert the necessary facts to support a fraud claim.

In this cause of action, Plaintiff seeks to base his fraud claim on alleged false statements made by Dr. Samies in an "expert letter" filed by TRMC in connection with the underlying workers' compensation proceeding. He generally alleges that Dr. Samies "made intentional misrepresentations of facts, false and misleading statements about Plaintiff in their 'expert' [sic] letter." (Compl. ¶ 43.) He further alleges that Defendants failed to disclose Dr. Samies' alleged conflict of interest as a Board of Trustees member at TRMC. (Compl. ¶ 42.) These allegations are insufficient to maintain a claim of fraud. As an initial matter, Plaintiff fails to articulate what false representations were allegedly made by Defendants in the letter of Dr. Samies. Instead, he generally asserts that "false statements" were made. Because South Carolina law requires fraud claims to be pled with specificity, Plaintiff's fourth cause of action for fraud fails on its face and must be dismissed. *Ardis*, 314 S.C. at 515, 431 S.E.2d at 269 (noting that when a complaint omits allegations on any element of fraud, the trial court should grant a motion to dismiss).

Not only are there insufficient facts to support Plaintiff's fraud claim, but there are also no allegations to establish and no basis to conclude that either TRMC or Dr. Samies submitted Dr. Samies' letter to the Commissioner (let alone any alleged misrepresentations in it) with the intention that Plaintiff act in reliance upon it. The submission was made in an existing legal proceeding as part of the adversarial process in that proceeding. Specifically, the letter of Dr. Samies was submitted as evidence in the workers' compensation proceedings pursuant to the South Carolina Administrative Procedures Act, S.C. Code Ann. § 1-23-330, which notably, provides an opposing party with the opportunity to object to the evidence presented and gives the right of cross-examination. (See Compl. ¶ 19.); see also S.C. Code Ann. § 1-23-320 (stating "[a] party to [workers' compensation] proceedings may cause to be taken the depositions of witnesses.").

Similarly, there is no basis for a finding that Plaintiff justifiably relied upon or changed his position in reliance upon any statements made by Dr. Samies in the letter filed with the Commissioner. *See Kahn*, 673 F. Supp. 210 (granting motion to dismiss fraudulent misrepresentation claim because the plaintiff could not justifiably argue that he “relied” upon any statement made by the adverse expert witness in the underlying medical practice case). A claim for fraud fails on its face if a plaintiff cannot show that he himself relied on the alleged misrepresentation. *See Moore*, 208 S.C. at 362, 38 S.E.2d at 261 (holding that the duty to bring an action for fraud is held by the party who was defrauded or its agents).

Accordingly, Plaintiff, as an individual, had no right to rely on an “expert letter” that was submitted by the opposing party’s witness in the context of an adversarial proceeding. Because Plaintiff has not properly alleged he had a right to rely on the alleged misrepresentations of Defendants, Plaintiff’s fraud claim fails as a matter of law.

3. Any Challenge to Evidence That Plaintiff Contends was Improperly Admitted in the Workers’ Compensation Proceeding is Not Properly Before this Court.

Plaintiff’s purported fraud claim appears to contend that Dr. Samies’ letter was improperly admitted as evidence in his workers’ compensation proceeding. However, the filing of a separate legal action to collaterally challenge the Commission’s rulings is improper. *Capone v. City of Columbia*, No. 3:19-cv-2490-CMC-PJG, 2020 WL 633739, *4-5 (D.S.C. Feb. 11, 2020). During the workers’ compensation proceedings, Plaintiff could have challenged the admission of the letter into evidence pursuant to S.C. Code § 1-23-330. There is also an appeal process available to the parties in a workers’ compensation proceeding. *See* S.C. Code §§ 1-23-380, 1-23-390, 42-17-50; S.C. Reg. 67-701, *et seq.* Plaintiff’s attempt to challenge this evidence in this independent legal action is procedurally improper.

Because Plaintiff has failed to allege a legally cognizable claim of fraud, and because there are no allegations in Plaintiff’s fourth cause of action which suggest any facts or legal theory that

might support recovery through an independent legal action, this fraud claim must also be dismissed as a matter of law.

CONCLUSION

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that all four causes of action asserted against Dr. Samies -- claims for workers' compensation retaliation, negligence, fraud, and fraud/bad faith -- are dismissed with prejudice. It is further ordered, adjudged and decreed that the negligence, fraud, and fraud/bad faith causes of action asserted against TRMC are also dismissed with prejudice. The only remaining cause of action in Plaintiff's Complaint is the claim for workers' compensation retaliation against Defendant TRMC.

AND IT SO ORDERED.

THE HONORABLE GEORGE M. McFADDIN, JR.

June __, 2023

_____, South Carolina



Orangeburg Common Pleas

Case Caption: Serge R Wandji VS The Regional Medical Center

Case Number: 2023CP3800331

Type: Order/Dismissal

So Ordered

S/George M. McFaddin, Jr., #2759

Electronically signed on 2023-06-22 09:22:48 page 14 of 14

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2023CP3800331

Official File Stamp: 06-22-2023 11:14:35 AM

Court: CIRCUIT COURT
Common Pleas
Orangeburg

Case Caption: Serge R Wandji VS The Regional Medical Center

Document(s) Submitted: ORDER GRANTING DEFENDANTS' MOTION
FOR PARTIAL DISMISSAL OF P
Order/Dismissal

Filed by or on behalf of: George Mcfaddin

This notice was automatically generated by the Court's auto-notification system.

The following people were served electronically:

Amanda Coney Williams for The Regional
Medical Center

The following people have not been served electronically by the Court. Therefore, they must
be served by traditional means:

Amanda Coney Williams for The Regional
Medical Center

Serge R Wandji for Serge R Wandji

The Regional Medical Center for The Regional
Medical Center

The Regional Medical Center for The Regional
Medical Center

Serge R Wandji for Serge R Wandji

Certificate of Electronic Notification

Recipients

Amanda Williams - Notification transmitted on 06-22-2023 11:14:39 AM.

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

#6
FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2023 CP-38-00331

Serge R. Wandji

The Regional Medical Center and Dr. John H. Samles

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 40(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 Defendant Regional Medical Center's motion to Quash and for a Protective order on June 15, 2023 via WebEx. The pro-se Plaintiff was present and Defendants were represented by counsel. After hearing fully from all parties, this court grants Defendant's motion for a Protective Order. This order is not intended to conflict with Judge McFaddin's order entitled "ORDER GRANTING DEFENDANTS' MOTION FOR PARTIAL DISMISSAL OF PLAINTIFF'S COMPLAINT" signed on June 22, 2023. In the event this order does conflict with Judge McFaddin's order, this order shall yield.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

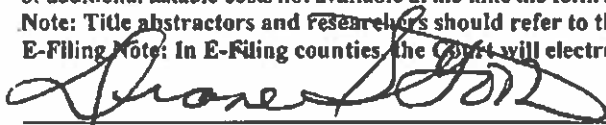
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

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

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

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

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


Circuit Court Judge

2112
Judge Code

7/31/2023
Date

For Clerk of Court Office Use Only

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

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

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

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

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

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE
 (Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The "Information for the Judgment Index" section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the "Judgment in Favor of" column, enter the name of the party to whom the judgment is awarded. In the "Judgment Against" column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the "Judgment Amount" column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate "N/A" in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section "For the Clerk of Court Office Use Only" should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through "Circuit Court Judge" and indicate "Arbitrator" in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title "Circuit Court Judge" below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the "Judgment Amount To Be Enrolled" box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.

#7

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
	)	
Serge R. Wandji,	)	Case No.: 2023-CP-38-00331
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANT'S MOTION TO
	)	COMPEL PLAINTIFF'S WRITTEN
	)	RESPONSES TO FIRST SET OF
The Regional Medical Center and Dr. John H. Samies,	)	INTERROGATORIES AND
	)	REQUESTS FOR PRODUCTION
	)	
Defendants.	)	

Defendant The Regional Medical Center ("Defendant"), by and through its undersigned counsel, hereby moves the Court for an Order compelling Plaintiff Serge R. Wandji ("Plaintiff") to provide written responses to Defendant's First Set of Interrogatories and Requests for Production of Documents (the "First Set of Discovery Requests"). In support of its Motion, Defendant shows the following:

1. On July 28, 2023, Defendant served Plaintiff with Defendant's First Set of Discovery Requests. Copies of the First Set of Discovery Requests are attached hereto as Exhibit A. Plaintiff's responses were due on or before August 25, 2023.
2. On August 25, 2023, Plaintiff produced some documents via E-mail and US Mail. However, Plaintiff failed to provide any written responses to Defendants' First Set of Discovery Requests.
3. Counsel for Defendants has inquired into the status of Plaintiff's written responses on several occasions, including on September 20, 2023 and April 22, 2024. (9/20/23 Email Correspondence Between A. Williams and S. Wandji, Exhibit B; 4/22/24 Email Correspondence Between A. Williams and S. Wandji, Exhibit C.)

4. To date, Plaintiff has failed to provide any written responses to Defendant's First Set of Discovery Requests, nor has Plaintiff provided any indication as to when responses will be produced.

5. Though there is no duty to consult pro se litigants under Rule 11, the undersigned counsel testifies that she has consulted in good faith with Plaintiff in an effort to resolve this matter.

WHEREFORE, Defendant respectfully requests an Order compelling Plaintiff to provide full and immediate responses to Defendant's First Set of Interrogatories and Requests for Production of Documents, award Defendant its attorney's fees and costs incurred in pursuing this motion, and for such further relief as the Court deems just.

Respectfully submitted,

s/Amanda C. Williams

Amanda C. Williams (SC Bar No.: 76588)

Email: amandawilliams@parkerpoe.com

Megan M. Feltham (SC Bar No.: 105473)

Email: meganfeltham@parkerpoe.com

PARKER POE ADAMS & BERNSTEIN LLP

850 Morrison Drive, Suite 400

Charleston, SC 29403

Phone: 843-727-2650

Fax: 843-727-2680

ATTORNEYS FOR DEFENDANT

May 7, 2024
Charleston, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

Serge R. Wandji,
Plaintiff

Civil Action No.: 2023-CP-38-00331

**PLAINTIFF'S MOTION TO COMPEL
DISCOVERY**

Vs

The Regional Medical Center,
Defendants

FILED FOR RECORD
WYNIFA B. CLARK
2024 MAY 10 P 1:04
CLERK OF COURT
ORANGEBURG, SC

Comes now the Plaintiff, Serge R. Wandji, represented pro se, pursuant to RULE 37 of the SOUTH CAROLINA RULES OF CIVIL PROCEDURE in the above captioned action, and files onto this Honorable Court his Motion to Compel the Defendant 'The Regional Medical Center' to comply with its discovery obligations, and in support thereof, states as follows:

I- BACKGROUND

This is a Workers' Compensation Retaliatory Discharge case, alleging violation of SC Code § 41-1-80 (2013), file on March 3, 2023.

A- Deposition of Dr. John Samies

1- Plaintiff initially contacted the Defendants' attorney (Mrs. Williams) via email on April 27, 2023, respectfully requesting "available dates for Dr. Samies for his deposition" (See Exhibit 1, p.1)

- 2- The fifth day following that initial contact, on May 1, 2023 to be more precise, the Defendant had not still responded to plaintiff's email, not even a courtesy reply acknowledging Plaintiff email request.
- 3- Plaintiff then, that same May 1, 2023 sent a second email to Mr. Williams pleading for the second time for Dr. Samies' availability days for his deposition.
- 4- That is when the Defendants responded to Plaintiff's email (the second one) by unilaterally deciding that "*Dr. Samies deposition is premature*" (See Exhibit 1, p. 1) and that the defendants' self-determined "*threshold issues MUST first take place before the request deposition goes forward*" (See Exhibit 1, p.2).
- 5- Plaintiff then reminded Mrs. Williams that "*South Carolina Courts allow discovery to move along even when dispositive Motions are pending*" (See Exhibit 1, p. 2), and that "*Dr. Samies involvement in this case extends beyond the Cause of Action (4) where his name was mentioned in the Complaint*" (See Exhibit 1, p. 2). The defendants responded on May 3, 2023 to Plaintiff's 'reminder' email, with more stalling and misleading statements such as "*The rules also allow for the parties to first engage in written discovery prior to depositions....*" (See Exhibit 1, p. 3).
- 6- Following all the misleading statements, the lack of cooperation and the delay tactics demonstrated by the Defendants, Plaintiff made the decision to move along with the discovery process by obtaining a duly signed and authorized subpoena for deposition from the Orangeburg County Court on May 3, 2023, exactly two month after this civil case was filed (March 3, 2023) (See Exhibit 2).

- 7- Dr. John H. Sammies and his attorney Mrs. Amanda Williams, who were subpoenaed to appear for a deposition on Friday May 12, 2023, intentionally refused to show up. (See Exhibit 3: Statement of Non-Appearance).
- 8- Again, Plaintiff contacted the Defendants' attorney (Mrs. Williams) via email on July 20, 2023, respectfully requesting "*available dates for Dr. Sammies for his deposition*". The Defendant used the usually stalling and evasive tactics and refused to collaborate in this discovery process by failing to provide Dr. Sammies available dates/times for his deposition (See exhibit 4).
- 9- Finally, on April 23, 2024 and May 3, 2024, Plaintiff contacted the Defendants' attorney (Mrs. Williams) via email, respectfully requesting "*available dates for Dr. Sammies for his deposition*" (Exhibit 5). The Defendant simply refused to comply.

B- Production of Document and Interrogatories requests

- 1- Pro Se Plaintiff Serge R. Wandji pursuant to Rules 26 and 34 of the South Carolina Rules of Civil Procedure, served upon Defendant, on July 28, 2023, his First Set of Requests for Production, expected to be received within thirty (30) days from the date of service hereof. (See Exhibit 6).
- 2- The same on July 28, 2023, the Plaintiff pursuant to Rules 26 and 33 of the South Carolina Rules of Civil Procedure, serves upon Defendant The Regional Medical Center, his First Set of Interrogatories, to which written answers must be served within thirty (30) days from the date of service hereof. (Exhibit 7)
- 3- On September 5, 2023, more than thirty five (35) days since the Defendant have been served, Plaintiff emailed the Defendant to remind them that he has not still

received any response/documents from the Defendant with no prior notification/reasons, which is a violation of the South Carolina Rules of Civil Procedure. (See Exhibit # 8)

4- I wasn't until October 10, 2023 more than two months after been served that the Defendant mailed in its response to the Plaintiff. (See attached Exhibit # 10)

5- Plaintiff send Defendant multiple emails outlining various discovery deficiencies related to Defendant objections to produce requested document, and reached out to offer an opportunity to for both sides to resolve this important discovery deficiencies matter. Defendant did not even bothered to respond to Plaintiff's last email, and ultimately did not produce many core documents that Plaintiff need to support his case. (Exhibit # 9).

II- ARGUMENTS

A- Deposition of Dr. John Sammies

The Discovery Requests are the initial requests sent and seek information relevant to the case in question. They include "*taking the testimony of **any person**, including a party by deposition*" as provided by RULE 30 of the SOUTH CAROLINA RULES OF CIVIL PROCEDURE.

Dr. John H. Sammies is a practicing physician at TRMC who was directly involved in this case by reviewed important document relevant to this case. He is also in the top leadership team at TRMC in both the medical and administrative departments, with relevant information to this discovery process.

B- Production of Document and Interrogatories requests

The Discovery Requests are the initial requests sent and seek information relevant to the case in question. They include the standard interrogatories provided by RULE 33 of the SOUTH CAROLINA RULES OF CIVIL PROCEDURE, additional relevant interrogatories pursuant to RULE 33, and requests for the production of documents pursuant to RULE 34.

In response to Plaintiff's Request for production of document #4; #6; #15; #16; #17; #18; #19; #20; #21; #25; #26, the Defendant wrote the same statement: "*Defendant objects to this request on the grounds that it is overbroad, unduly, burdensome and not reasonable calculated to lead to the discovery of admissible evidence*" (Exhibit # 10). Relevancy is broadly construed under the rules, and C.R.C.P. 26(b)(1) states that, "*For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action*". Finally, and ironically, in their 'Request for Production of Document', the Defendant made almost all of those same requests **verbatim** to the Plaintiff (See Exhibit # 11). In his response, Plaintiff produced 91 pages of documents to the Defendant.

In response to Plaintiff's Request for production of document #13, the Defendant wrote the following statement: "*Defendant objects to this request on grounds that it is vague in that it is unclear what document Plaintiff seek in response to this request*" (Exhibit # 10). Again, it ironic that in their 'Request for Production of Document', the Defendant made the same request to the Plaintiff **verbatim** (See Request #13 on page 5 of the Defendant's "Request for Production to Plaintiff" (see Exhibit # 11)).

In response to Plaintiff's Request for production of document #8; #14; #15; #26; the Defendant wrote the same statement: "*Defendant objects to this request to the*

extent it seek information, documents or other communication that are protected from discovery by the Attorney-Client privilege, work-product doctrine or any other privilege or doctrine' .(Exhibit 10) Again, it ironic that in their 'Request for Production of Document', the Defendant made almost all of those same requests to the Plaintiff **verbatim (see Exhibit # 11)**. In his response, Plaintiff produced 91 pages of documents to the Defendant.

In response to Plaintiff's Request for production of document: #1; #2; #5; #7; #9; #10; #22; #23; #24 the Defendant wrote the same statement: '*See documents attached hereto*' (Exhibit # 10). This is a misleading statement because the Defendant produced **zero document** in response to Plaintiff's request for Production. There were no document attached to the Defendant's response.

Finally, the Defendant use the same stalling and deceptive tactics in objecting to Plaintiff legitime Requests for Interrogatories. Using deceptive statement such as: *Defendant objects to this request to the extent it seek information, documents or other communication that are protected from discovery by the Attorney-Client privilege, work-product doctrine or any other privilege or doctrine' .(Exhibit 10)* or statements as:

"Defendant objects to this request on the grounds that it is overbroad, unduly, burdensome and not reasonable calculated to lead to the discovery of admissible evidence" (Exhibit # 10). The Defendant is objecting to provide answers to the same question he requested from the Plaintiff (Exhibit # 11)

In accordance with RULE 11 of the SOUTH CAROLINA RULES OF CIVIL PROCEDURE, Plaintiff has attempted and written multiple letters/emails in attempts to resolve this Motion. Counsel for the Defendant has repeatedly used stalling, misleading

and evasive tactics to deny Plaintiff a fair discovery. Additional efforts on behalf of Plaintiff would serve no useful purpose. Plaintiff currently does not have and has not received anything from the Defendant to support and prepare for his case. **No document produced, and no deposition allowed to be completed.** The Defendant in the other hand received from Plaintiff, a huge package of 91 pages of document and has (the Plaintiff) been scheduled for a deposition already. As such, Plaintiff is left with no choice but to file this Motion to resolve this discovery dispute.

The Motion is based on the attached Discovery Requests, correspondence in support of the Motion, memorandum of law, as well as any such hearing the Court may see fit to grant.

III-CONCLUSION

After engaging unsuccessfully in good faith efforts to resolve this matter with the defendant, Plaintiff seeks an order from this Honorable Court overruling numerous objections lodged in response to Plaintiff's discovery requests, as set forth above. It is critical that Plaintiff obtain all documents supporting his case, to be able to move forward with this case.

WHEREFORE, these and other premises considered, Plaintiff moves this Honorable Court for an order overruling all Defendant's discovery objections, as outlined above. The Plaintiff respectfully request this Court to compel the Defendant to provide prompt and complete responses to both the discovery 'Interrogatories requests' and the 'Production of all requested documents', on a date the Court believes is appropriate, cost, and such further relief the Court may find just and reasonable.

The Plaintiff respectfully request this Court to compel the Defendant to collaborate with the Plaintiff and provide him with available dates for the deposition of Dr. John H. Sammies.

Respectfully submitted,

s/Serge Wandji

Serge Wandji, Plaintiff

P.O. Box 523

Columbia 29202

678-612-9649

May 10, 2024,

Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
	)	
Serge R. Wandji,	)	Case No.: 2023-CP-38-00331
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANT'S OPPOSITION TO
	)	PLAINTIFF'S MOTION TO COMPEL
The Regional Medical Center,	)	AND MOTION FOR PROTECTIVE
	)	ORDER
Defendants.	)	
	)	

Defendant The Regional Medical Center ("RMC"), by and through its undersigned counsel, hereby submits this Opposition to Plaintiff's Motion to Compel Discovery¹ and respectfully moves the Court, pursuant to Rule 26(c) of the South Carolina Rules of Civil Procedure ("SCRCP"), for the entry of a protective order prohibiting Plaintiff from taking the deposition of Dr. John H. Samies ("Dr. Samies").

A. Opposition to Plaintiff's Motion to Compel the Deposition of Dr. John Samies and Motion for Protective Order.

Plaintiff's Motion to Compel the deposition of Dr. John Samies should be denied because: (1) the Court ruled on many of the issues raised by Plaintiff in its August 3, 2023 Order Granting RMC's Motion to Quash the subpoena for Dr. Samies' deposition and its Motion for Protective Order; and (2) Dr. Samies has no factual knowledge relating to Plaintiff's sole remaining claim for worker's compensation retaliation.

¹ Though it appears that *Pro Se* Plaintiff Serge Wandji filed his Motion to Compel on or about May 10, 2024, Defendant was never served with a copy of the Motion to Compel at Defendant's correct address located at 850 Morrison Dr., Suite 400, Charleston, SC 29403. When Plaintiff advised defense counsel that certain mail he sent to Defendant was returned as undeliverable, defense counsel clarified the correct address for service and asked Plaintiff to serve the returned documents at the correct address and also gave Plaintiff the option of emailing the documents. To date, Defendant has never been served with Plaintiff's Motion to Compel.

1. Plaintiff's Inclusion of Discovery Issues Already Ruled Upon by This Court Must be Stricken from Plaintiff's Motion.

Plaintiff's Motion contains numerous allegations relating to his alleged attempts to notice and subpoena Dr. Samies for a deposition in May 2023, shortly after Plaintiff filed his Complaint dated March 3, 2023. Due to its pending Motion to Dismiss all claims asserted against Dr. Samies, on May 9, 2023, RMC filed a Motion to Quash and for Protective Order. On June 22, 2023, the Court granted Defendant's Motion to Dismiss Dr. Samies from the lawsuit. (6/22/23 Order Granting Motion to Dismiss, **Exhibit 1**.) On August 3, 2023, the Court also granted Defendant's Motion to Quash and for Protective Order. (8/3/23 Order Granting Motion to Quash and for Protective Order, **Exhibit 2**.) Because the Court has already addressed the issues relating to Plaintiff's prior attempts to depose Dr. Samies in May 2023, any references to the prior subpoena or attempts to depose Dr. Samies in May 2023 (paragraphs 1 through 8 of Plaintiff's Motion at pages 2 through 3) must be stricken from Plaintiff's Motion and should not be considered by the Court in ruling on Plaintiff's Motion.

2. Dr. Samies Has No Factual Knowledge Relating to Plaintiff's Remaining Cause of Action for Worker's Compensation Retaliation.

Rule 26(b)(1), SCRCP, states that the "[p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action." Plaintiff seeks to depose Dr. John Samies. However, Dr. Samies has no factual knowledge relating to Plaintiff's sole remaining claim against RMC for worker's compensation retaliation. In his Complaint, Plaintiff alleges that he "instituted in good faith, a proceeding under the South Carolina Workers' Compensation Law...for a hearing on November 26, 2021." (Compl. ¶ 21.) On March 15, 2022, Plaintiff alleges Defendant terminated his employment as a staff nurse at the Regional Medical Center in Orangeburg. (Compl. ¶ 23.) Plaintiff alleges the termination of his employment violated S.C. Code Ann. § 41-1-80, which provides:

No employer may discharge or demote any employee because the employee has instituted or caused to be instituted, in good faith, any proceeding under the South Carolina Workers' Compensation Law (Title 42 of the 1976 Code), or has testified or is about to testify in any such proceeding.

Plaintiff must establish that he would not have been discharged “but for” the filing of the workers' compensation claim. *Hinton v. Designer Ensembles, Inc.*, 343 S.C. 236, 242, 540 S.E.2d 94, 97 (2000).

On April 23, 2024, Plaintiff began requesting the deposition of Dr. Samies. In response, defense counsel asked Plaintiff to identify what knowledge Dr. Samies allegedly has regarding the facts and claims in Plaintiff's Complaint and how his testimony is relevant to Plaintiff's one remaining cause of action.² (4/23/24 Email, **Exhibit 3**.) In response, Plaintiff asserted that Dr. Samies is “in the top leadership team at TRMC” and allegedly reviewed “important document [sic] relevant to this case.” (Pl.'s Motion to Compel at p. 4; 4/25/24 Email, **Exhibit 4**.) Despite several follow-up emails seeking further clarification on the relevance of Dr. Samies' testimony, Plaintiff has failed to provide the requested information. (5/7/24 Email, **Exhibit 5**; 5/28/24 Email, **Exhibit 6**; 6/21/24 Email, **Exhibit 7**.)

Plaintiff's sole remaining cause of action in this case presents one narrow issue – whether RMC terminated Plaintiff in retaliation for filing a worker's compensation claim. Dr. Samies has no knowledge of the facts surrounding Mr. Wandji's employment or the termination of his employment and in fact, did not learn of the termination of Mr. Wandji's employment from RMC until he was served with a subpoena for his deposition in May 2023. (Affidavit of Dr. Samies ¶¶ 9-13, **Exhibit 8**.)

² To date, Plaintiff has failed to serve written responses to RMC's Interrogatories and Requests for Production. Thus, Defendant has no information on Plaintiff's alleged witnesses or their alleged factual knowledge or anticipated testimony.

Dr. Samies operates his own private practice, is not employed by RMC, has never been employed by RMC, had no involvement in the decision to grant or deny any worker's compensation claims submitted by an employee of RMC (including Mr. Wandji), had no supervisory authority over Mr. Wandji or any nurse employed by RMC, had no authority to hire or fire employees at RMC, and has never had any involvement or input into the decision to terminate any employee at RMC (including Mr. Wandji). (Affidavit of Dr. Samies ¶¶ 4-5, 9-13, **Exhibit 8**.) Dr. Samies is no longer a party to this case, nor does he have any relevant knowledge or information related to Plaintiff's remaining claim against RMC for workers compensation retaliation. The deposition of Dr. Samies would be a needless expenditure of time, money, and resources and would constitute an undue burden and expense on Defendant. Because Plaintiff has failed to provide any basis for how Dr. Samies' testimony is relevant to the subject matter of this lawsuit, including Plaintiff's claim and Defendant's defenses, Plaintiff's Motion to Compel Dr. Samies' deposition should be denied and Defendant's Motion for Protective Order should be granted.

B. Opposition To Plaintiff's Motion To Compel the Production of Documents and Written Responses to Plaintiff's Interrogatories.

In addition to Plaintiff's Motion to Compel the deposition of Dr. Samies, Plaintiff also seeks to compel Defendant to respond to his written discovery requests. On July 28, 2023, Plaintiff served Defendant with Plaintiff's First Set of Interrogatories and Plaintiff's First Set of Requests for Production. On October 10, 2023, Defendant served Plaintiff with Defendant's responses to Plaintiff's Interrogatories and Requests Production and also produced 113 pages of responsive documents. (Def.'s Answers to Plaintiff's Written Discovery Requests, **Exhibit 9**.) In addition, Defendant supplemented its discovery responses several times with additional documents received pursuant to various subpoenas. (Supplemental Letters Serving Discovery, **Exhibit 10**.)

On April 23, 2024, six months after Defendant served responses to Plaintiff's written discovery requests, Plaintiff alleged that Defendant failed to serve responses to his discovery requests. (4/23/24 Email, **Exhibit 3**.) Defense counsel informed Plaintiff that Defendant served responses to Plaintiff's discovery requests on October 10, 2023 by both U.S. Mail and email and attached copies of the relevant correspondence and discovery responses. (4/23/24 Email, **Exhibit 3**.) Defense counsel further inquired into what additional information or documents Plaintiff was seeking. (4/23/24 Email, **Exhibit 3**.) Plaintiff responded that "Every question in my interrogatory and every document in my request for production is relevant to this case." (4/25/24 Email, **Exhibit 4**.) Defense counsel offered to work with Plaintiff to resolve any alleged issues with the discovery responses, but noted that Plaintiff needed to identify the specific response or responses that Plaintiff alleged was deficient. (5/7/24 Email, **Exhibit 5**.) To date, Plaintiff has not provided Defendant with notice of any specific alleged deficiencies with Defendant's discovery responses. Defendant has fully responded to Plaintiff's Interrogatories and Requests for Production and properly asserted various objections to those requests. Based on the foregoing, Plaintiff's Motion to Compel should be denied.

CONCLUSION

For the foregoing reasons, Defendant RMC respectfully requests that the Court issue an Order DENYING Plaintiff's Motion to Compel Discovery and granting Defendant's Motion for Protective Order.

Respectfully submitted,

s/Amanda C. Williams

Amanda C. Williams (SC Bar No.: 76588)

Email: amandawilliams@parkerpoe.com

Megan M. Feltham (SC Bar No.: 105473)

Email: meganfeltham@parkerpoe.com

PARKER POE ADAMS & BERNSTEIN LLP

850 Morrison Drive, Suite 400

Charleston, SC 29403

Phone: 843-727-2650

Fax: 843-727-2680

ATTORNEYS FOR DEFENDANT

August 7, 2024
Charleston, South Carolina

Exhibit 3

From: [Williams, Amanda C.](#)
To: [Serge Wandji](#)
Cc: [Easter, Claire L.](#); [Feltham, Megan M.](#)
Subject: RE: Wandji v. The Regional Medical Center
Date: Tuesday, April 23, 2024 2:10:59 PM
Attachments: [S. Wandji vs. The Regional Medical Center and J. H.msg.msg](#)

Mr. Wandji,

We produced both documents and written responses to your Interrogatories and Requests for Production on October 10, 2023. Please see the attached email. Thus, it is unclear to me what else you are seeking.

In regards to depositions, your only remaining claim is for worker's comp retaliation and Dr. Samies is no longer a party to this case. Can you please advise what facts and knowledge you contend that Dr. Samies has that is relevant to your remaining cause of action?

As to the deposition of the "Director of Human Resources," are you seeking to depose the human resources director who was employed by RMC when you were an employee?

Best Regards, Amanda

From: Serge Wandji <sergewandji@gmail.com>
Sent: Tuesday, April 23, 2024 12:42 PM
To: Williams, Amanda C. <amandawilliams@parkerpoe.com>
Subject: Re: Wandji v. The Regional Medical Center

Caution: External email

Mrs. Willams,

It is finally good to hear from you again.

It has been several months already since I sent you an email, I still have not received your written responses to my Interrogatories and Requests for Production initially served on July 28, 2023 (see attached). After missing several times the lawful deadline for providing what I requested, stating that "Your Client is still working on them", you ended up sending a letter rejecting every single thing that I requested. So for the third time, Please provide those (your written responses to our Interrogatories and Requests for Production) no later than May 1 so I may avoid filing a motion with the Court. Also, I would like to schedule the deposition of Dr. John H. Samies. Please let me know his availability some day/time in the month of May, 2024.

Finally (for now), I would also like to schedule the deposition of The Director of Human Resources. Please let me know his availability as well.

Thank you for your attention to these matters.

Best regards

Wandji

On Mon, Apr 22, 2024 at 12:04 PM Williams, Amanda C. <amandawilliams@parkerpoe.com> wrote:

Mr. Wandji,

I am writing to follow-up with you on several items in this case:

- I would like to schedule your deposition. Please let me know if you have availability on May 29 or 30.
- I still have not received your written responses to our Interrogatories and Requests for Production (see attached). Please provide those by no later than May 1 so I may avoid filing a motion with the Court.

Thank you for your attention to this matter.

Best Regards, Amanda

Amanda Williams
Partner



850 Morrison Drive | Suite 400 | Charleston, SC 29403
Office: 843.727.6309 | Fax: 843.727.2680 | [map](#)

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www.parkerpoe.com

Exhibit 4

From: Serge Wandji
To: Williams, Amanda C.
Subject: Re: Wandji v. The Regional Medical Center
Date: Thursday, April 25, 2024 10:22:50 AM

Caution: External email

Mrs. Williams,

You do not produce a single document requested the same so most of my interrogatories were rejected by you. Every question in my interrogatory and every document in my request for production is relevant to this case. For the third time, please provide those by no later than May 1 so I may avoid filing a motion with the Court.

Doctor Sammies is an employee at the RMC involved in this case, he is also in the top leadership in both the clinical and the administrative department with relevant information to the cause of action in this case. Please provide his availability for his deposition in the month of May, 2024.

Best regards
Wandji, RN

On Tue, Apr 23, 2024 at 2:11 PM Williams, Amanda C. <amandawilliams@parkerpoe.com> wrote:

Mr. Wandji,

We produced both documents and written responses to your Interrogatories and Requests for Production on October 10, 2023. Please see the attached email. Thus, it is unclear to me what else you are seeking.

In regards to depositions, your only remaining claim is for worker's comp retaliation and Dr. Samies is no longer a party to this case. Can you please advise what facts and knowledge you contend that Dr. Samies has that is relevant to your remaining cause of action?

As to the deposition of the "Director of Human Resources," are you seeking to depose the human resources director who was employed by RMC when you were an employee?

Best Regards, Amanda

Amanda Williams

Partner



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Office: 843.727.6309 | Fax: 843.727.2680 | [map](#)

Visit our website at
www.parkerpoe.com

From: Serge Wandji <sergewandji@gmail.com>
Sent: Tuesday, April 23, 2024 12:42 PM
To: Williams, Amanda C. <amandawilliams@parkerpoe.com>
Subject: Re: Wandji v. The Regional Medical Center

Caution: External email

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It is finally good to hear from you again.

It has been several months already since I sent you an email, I still have not received your written responses to my Interrogatories and Requests for Production initially served on July 28, 2023 (see attached). After missing several times the lawful deadline for providing what I requested, stating that "Your Client is still working on them", you ended up sending a letter rejecting every single thing that I requested. So for the third time, Please provide those (your written responses to our Interrogatories and Requests for Production) no later than May 1 so I may avoid filing a motion with the Court.

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Finally (for now), I would also like to schedule the deposition of The Director of Human Resources. Please let me know his availability as well.

Thank you for your attention to these matters.

Best regards

Wandji

On Mon, Apr 22, 2024 at 12:04 PM Williams, Amanda C.
<amandawilliams@parkerpoe.com> wrote:

Mr. Wandji,

I am writing to follow-up with you on several items in this case:

- I would like to schedule your deposition. Please let me know if you have availability on May 29 or 30.
- I still have not received your written responses to our Interrogatories and Requests for Production (see attached). Please provide those by no later than May 1 so I may avoid filing a motion with the Court.

Thank you for your attention to this matter.

Best Regards, Amanda

Amanda Williams

Partner



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Serge Wandji <sergewandji@gmail.com>

Serge R Wandji VS The Regional Medical Center 2023CP3800331

10 messages

McGee, Thomas W., III Law Clerk (Paisleigh Price) <tmcgeelc@sccourts.org>

Fri, Oct 4, 2024 at 2:59 PM

To: "amandawilliams@parkerpoe.com" <amandawilliams@parkerpoe.com>, "sergewandji@gmail.com" <sergewandji@gmail.com>

Cc: "McGee, Thomas W., III Secretary (Jessica Dominick)" <tmcgeesc@sccourts.org>

Good afternoon,

I hope everyone is faring alright in the aftermath of the storm. I'm reaching out with Judge McGee's decision regarding the hearing that occurred on 9/4/24.

- Plaintiffs's Motion to Compel Deposition: *GRANTED*. Plaintiff is granted 1 hour to depose Dr. Samies. A Form 4 will be entered for this motion.
- Defendant's Motion to Compel Written Responses: *GRANTED*. Plaintiff has 20 days to serve supplemental written responses and to produce documents to the extent that documents relate to the specific discovery requests of Defendant.
- Defendant's Motion to Amend Scheduling Order – It is our understanding that requests should be directed to Chief Administration Judge Taylor.

Have a great day,

Paisleigh Price

Law Clerk to The Honorable T. W. McGee, III

Circuit Judge At-Large

1701 Main Street

Columbia, SC 29201

Office: (803) 576-1511

Cell: (803) 360-2198

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Serge Wandji &lt;sergewandji@gmail.com&gt;

Sat, Oct 5, 2024 at 9:06 AM

To: "McGee, Thomas W., III Law Clerk (Paisleigh Price)" &lt;tmcgeelc@sccourts.org&gt;

Cc: "amandawilliams@parkerpoe.com" &lt;amandawilliams@parkerpoe.com&gt;, "McGee, Thomas W., III Secretary (Jessica Dominick)" &lt;tmcgeesc@sccourts.org&gt;

Dear Paisleigh,

Thank you for reaching out with Judge McGee's decision regarding the hearing on September 4, 2024. After reviewing the decision, I believe there may be some errors.

In the second point of the Judge's decision, it states, "Plaintiff has 20 days to serve supplemental written responses and to produce documents to the extent that documents relate to the specific discovery requests of the Defendant." However, the production of documents by the Plaintiff was not part of the hearing. The Defendant's motion at that hearing was solely about compelling answers to their set of interrogatories. There was no discussion or request for document production by the Plaintiff during that hearing.

On the contrary, the Plaintiff's motion discussed at the hearing was to overrule the Defendant's objections to Plaintiff's First Set of Interrogatories and Plaintiff's First Request for Production of Documents, and to compel the Defendant to fully respond and produce the requested documents. Judge McGee's decision did not address these specific issues raised in Plaintiff's motion, which are critical for Plaintiff not only in preparation for trial but also in preparing a response to the Defendant's pending Motion for Summary Judgment.

Could you please clarify whether I should expect Judge McGee's decision on the entirety of my motion discussed at the hearing, or if I should file a separate motion to specifically address the unanswered requests?

Thank you for your time and assistance.

Sincerely,  
Serge Wandji  
Pro Se Plaintiff  
[Quoted text hidden]

---

**Williams, Amanda C.** <amandawilliams@parkerpoe.com>

Mon, Oct 7, 2024 at 10:40 AM

To: Serge Wandji <sergewandji@gmail.com>, "McGee, Thomas W., III Law Clerk (Paisleigh Price)" <tmcgeelc@sccourts.org>  
Cc: "McGee, Thomas W., III Secretary (Jessica Dominick)" <tmcgeesc@sccourts.org>

Paisleigh,

I am writing to briefly respond to Mr. Wandji's below email as it relates to Defendant's Motion to Compel. Defendant disagrees with Mr. Wandji's characterization. Defendant's motion seeks to compel from Plaintiff written responses to both the Interrogatories and Requests for Production that Defendant served on Plaintiff. Plaintiff did not provide written responses to either the Interrogatories or the Requests for Production as required by the rules. Thus, it's unclear whether or not all documents responsive to Defendant's requests have been produced. Accordingly, the Court's ruling as it relates to Defendant's Motion to Compel appropriately addresses the issues raised in the Motion and at the hearing.

By way of update, I am confirming that the Motion to Amend Scheduling Order was directed to Judge Taylor, and that Motion has been resolved.

Thank you and please let me know if you need anything further.

Best Regards, Amanda Williams

---

**Amanda Williams**  
Partner



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---

**From:** Serge Wandji <[sergewandji@gmail.com](mailto:sergewandji@gmail.com)>  
**Sent:** Saturday, October 5, 2024 9:07 AM  
**To:** McGee, Thomas W., III Law Clerk (Paisleigh Price) <[tmcgeelc@sccourts.org](mailto:tmcgeelc@sccourts.org)>  
**Cc:** Williams, Amanda C. <[amandawilliams@parkerpoe.com](mailto:amandawilliams@parkerpoe.com)>; McGee, Thomas W., III Secretary (Jessica Dominick) <[tmcgeesc@sccourts.org](mailto:tmcgeesc@sccourts.org)>  
**Subject:** Re: Serge R Wandji VS The Regional Medical Center 2023CP3800331

\*\*\*Caution: External email\*\*\*

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[Quoted text hidden]

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**Serge Wandji** <[sergewandji@gmail.com](mailto:sergewandji@gmail.com)> Mon, Oct 7, 2024 at 12:04 PM  
**To:** "Williams, Amanda C." <[amandawilliams@parkerpoe.com](mailto:amandawilliams@parkerpoe.com)>  
**Cc:** "McGee, Thomas W., III Law Clerk (Paisleigh Price)" <[tmcgeelc@sccourts.org](mailto:tmcgeelc@sccourts.org)>, "McGee, Thomas W., III Secretary (Jessica Dominick)" <[tmcgeesc@sccourts.org](mailto:tmcgeesc@sccourts.org)>

Dear Mrs Price,

I am writing to briefly respond to Mrs. Williams' reply to my initial email.

Mrs. Williams does not dispute the fact that Plaintiff's Motion discussed at the Hearing was partly (in addition to Dr. Sammies deposition), to overrule the Defendant objections to Plaintiff's First Request for Production of Documents and first set of Interrogatories, and to compel the Defendant to fully respond all questions and produce the requested documents.

Judge McGee's Decision did not address these specific issues raised in Plaintiff's Motion, which are critical for Plaintiff not only in preparation for trial but also in preparing a response to Defendant's pending Motion for Summary Judgment.

Thank you very much and please let me know if you have any questions .

Best regards

Wandji, RN

[Quoted text hidden]

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**McGee, Thomas W., III Law Clerk (Paisleigh Price)** <[tmcgeelc@sccourts.org](mailto:tmcgeelc@sccourts.org)> Wed, Oct 9, 2024 at 1:10 PM  
**To:** Serge Wandji <[sergewandji@gmail.com](mailto:sergewandji@gmail.com)>, "Williams, Amanda C." <[amandawilliams@parkerpoe.com](mailto:amandawilliams@parkerpoe.com)>  
**Cc:** "McGee, Thomas W., III Secretary (Jessica Dominick)" <[tmcgeesc@sccourts.org](mailto:tmcgeesc@sccourts.org)>

All,

I apologize for my failure to include the judge's ruling on the Defendant's objection's to Plaintiff's request for documents. Judge McGee orders that the Plaintiff must re-write the general requests for production to more specifically indicate the documents requested. The requests must be for documents specifically related to the issues within the case.



**Paisleigh Price**

Law Clerk to The Honorable T. W. McGee, III

Circuit Judge At-Large

1701 Main Street

Columbia, SC 29201

Office: (803) 576-1511

Cell: (803) 360-2198

---

**From:** Serge Wandji <sergewandji@gmail.com>

**Sent:** Monday, October 7, 2024 12:05 PM

**To:** Williams, Amanda C. <amandawilliams@parkerpoe.com>

**Cc:** McGee, Thomas W., III Law Clerk (Paisleigh Price) <tmcgeelc@sccourts.org>; McGee, Thomas W., III Secretary (Jessica Dominick) <tmcgeesc@sccourts.org>

**Subject:** Re: Serge R Wandji VS The Regional Medical Center 2023CP3800331

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

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**Serge Wandji** <sergewandji@gmail.com>

Fri, Oct 11, 2024 at 3:00 PM

**To:** "McGee, Thomas W., III Law Clerk (Paisleigh Price)" <tmcgeelc@sccourts.org>

**Cc:** "Williams, Amanda C." <amandawilliams@parkerpoe.com>, "McGee, Thomas W., III Secretary (Jessica Dominick)" <tmcgeesc@sccourts.org>

Dear Mrs. Price,

Please find attached to this email my "Rewritten general Requests" as ORDERED by Judge McGee. III.

Mrs. Amanda Williams, Attorney for Defendant is copied to this email.

Best regards

Wandji, RN

[Quoted text hidden]



**revised Requests for Production and Interrogatories.docx**

19K

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**Serge Wandji** <sergewandji@gmail.com>

Fri, Oct 25, 2024 at 5:08 AM

**To:** "McGee, Thomas W., III Law Clerk (Paisleigh Price)" <tmcgeelc@sccourts.org>

**Cc:** "Williams, Amanda C." <amandawilliams@parkerpoe.com>, "McGee, Thomas W., III Secretary (Jessica Dominick)" <tmcgeesc@sccourts.org>

Dear Mrs. Price,

This is just a kindly reminder that I still have not received anything in regard to the « Rewritten General Requests » I submitted on October 11, as ordered by Judge McGee.

This case is currently scheduled for a hearing on the Defendant submitted Motion for Summary Judgment, on November 14, 2024. I critically need those documents requested to prepare for that important hearing.

Best regards

Serge Wandji, pro see plaintiff

[Quoted text hidden]

Williams, Amanda C. <amandawilliams@parkerpoe.com>

Mon, Nov 4, 2024 at 11:44 AM

To: "McGee, Thomas W., III Law Clerk (Paisleigh Price)" <tmcgeelc@sccourts.org>

Cc: "McGee, Thomas W., III Secretary (Jessica Dominick)" <tmcgeesc@sccourts.org>, Serge Wandji <sergewandji@gmail.com>

Paisleigh,

We represent Defendant Regional Medical Center in the above-referenced matter and wanted to follow-up on Judge McGee's rulings as it relates to the following two motions that were heard on September 4, 2024:

- Defendant's Motion to Compel Plaintiff's Written Responses to First Set of Interrogatories and Requests for Production (filed 5/7/24)
- Pro Se Plaintiff's Motion to Compel Discovery (filed 5/10/24), which seeks to:
  - Compel the Deposition of Dr. John Samies
  - Compel Defendant to provide complete responses to Plaintiff's discovery requests and for the Court to overrule the objections made by Defendant in response to Pro Se Plaintiff's discovery requests

There is a little confusion regarding the Orders that have been issued in this matter, and I am seeking clarification. Following the hearing on September 4, the Court issued two Orders:

- Order dated 10/7/2024 (attached) granting Pro Se Plaintiff's Motion to Compel the Deposition of Dr. Samies
  - This Order allows Pro Se Plaintiff up to one hour to depose Dr. Samies (this deposition has already occurred).
- Order dated 10/29/2024 (attached) granting Plaintiff's two Motions to Compel Deposition
  - This Order grants Pro Se Plaintiff's two Motions to Compel Deposition, including the right to depose Dr. Samies for up to one hour. However, the Pro Se Plaintiff only filed one Motion to Compel Deposition, and the Court ruled on this portion of Plaintiff's Motion to Compel in its 10/7/2024 Order.

In regards to the other two Motions that were heard on September 4 -- Defendant's Motion to Compel and the second part of Plaintiff's Motion to Compel Written Discovery -- the Court notified the parties of its ruling in the attached emails, but no Form 4 Orders have been issued on those Motions.

- As it relates to Defendant's Motion to Compel, Plaintiff served responses to the requests on October 23, and we will evaluate those responses and determine if any additional motion is necessary. Unless a Form 4 Order needs to be filed memorializing the ruling set forth in the attached email, no further clarification is needed on the Court's ruling as it relates to this Motion.
- As it relates to Pro Se Plaintiff's Motion to Compel Defendant to fully respond to Plaintiff's Written Discovery, there is some confusion on the Court's ruling. As set forth below, the Court ordered Pro Se Plaintiff to rewrite his discovery requests, which he did (see attached). Though they were not formally served on Defendant, and they appear to seek additional relief from the Court even though no motion was filed, Defendant is prepared to respond to these revised requests. However, Defendant objects to Plaintiff's assertion that Defendant should be precluded from making any objections to the revised requests. The revised discovery requests still contain many of the same requests for documents and information in the prior written discovery requests and seek documents and information that are completely unrelated to Pro Se Plaintiff's sole remaining cause of action for worker's comp retaliation.

## **CONCLUSION**

-

In order to avoid any dispute between Pro Se Plaintiff and Defendant as it relates to the Court's ruling on Plaintiff's Motion to Compel Written Discovery and the attached revised discovery requests, we would request clarification from the Court regarding Defendant's obligations as it relates to responding to the Plaintiff's Revised Discovery Requests. Specifically:

- Since the requests served by Pro Se Plaintiff are not very different than what was originally served, we want to confirm that Defendant is still permitted to raise objections, where appropriate and in accordance with the Rules of Civil Procedure.
- If the Court's intent is for Defendant to respond to the attached revised discovery requests, may we have until November 8 to do so? This date falls before Defendant's Motion for Summary Judgment hearing on November 14.
- Is the Court's 10/29/24 Order intended to solely address Plaintiff's Motion to Compel the Deposition of Dr. Samies?

If Judge McGee prefers that we address these issues in a different manner or if a status conference would be more appropriate, please let me know.

[Quoted text hidden]

----- Forwarded message -----

From: "McGee, Thomas W., III Law Clerk (Paisleigh Price)" <tmcgeelc@sccourts.org>  
To: Serge Wandji <sergewandji@gmail.com>, "Williams, Amanda C." <amandawilliams@parkerpoe.com>  
Cc: "McGee, Thomas W., III Secretary (Jessica Dominick)" <tmcgeesc@sccourts.org>  
Bcc:  
Date: Wed, 9 Oct 2024 17:10:46 +0000  
Subject: RE: Serge R Wandji VS The Regional Medical Center 2023CP3800331  
\*\*\*Caution: External email\*\*\*

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All,

I apologize for my failure to include the judge's ruling on the Defendant's objection's to Plaintiff's request for documents. Judge McGee orders that the Plaintiff must re-write the general requests for production to more specifically indicate the documents requested. The requests must be for documents specifically related to the issues within the case.

## Paisleigh Price

Law Clerk to The Honorable T. W. McGee, III

Circuit Judge At-Large

1701 Main Street

Columbia, SC 29201

Office: (803) 576-1511

Cell: (803) 360-2198

---

**From:** Serge Wandji <sergewandji@gmail.com>  
**Sent:** Monday, October 7, 2024 12:05 PM  
**To:** Williams, Amanda C. <amandawilliams@parkerpoe.com>  
**Cc:** McGee, Thomas W., III Law Clerk (Paisleigh Price) <tmcgeelc@sccourts.org>; McGee, Thomas W., III Secretary (Jessica Dominick) <tmcgeesc@sccourts.org>  
**Subject:** Re: Serge R Wandji VS The Regional Medical Center 2023CP3800331

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Dear Mrs Price,

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Mrs. Williams does not dispute the fact that Plaintiff's Motion discussed at the Hearing was partly (in addition to Dr. Sammies deposition), to overrule the Defendant objections to Plaintiff's First Request for Production of Documents and first set of Interrogatories, and to compel the Defendant to fully respond all questions and produce the requested documents.

Judge McGee's Decision did not address these specific issues raised in Plaintiff's Motion, which are critical for Plaintiff not only in preparation for trial but also in preparing a response to Defendant's pending Motion for Summary Judgment.

Thank you very much and please let me know if you have any questions .

Best regards

Wandji, RN

On Mon, Oct 7, 2024 at 10:40AM Williams, Amanda C. <amandawilliams@parkerpoe.com> wrote:

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By way of update, I am confirming that the Motion to Amend Scheduling Order was directed to Judge Taylor, and that Motion has been resolved.

Thank you and please let me know if you need anything further.

Best Regards, Amanda Williams

---

**Amanda Williams**

Partner



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Office: 843.727.6309 | Fax: 843.727.2680 | map

Visit our website at

[www.parkerpoe.com](http://www.parkerpoe.com)

---

**From:** Serge Wandji <[sergewandji@gmail.com](mailto:sergewandji@gmail.com)>

**Sent:** Saturday, October 5, 2024 9:07 AM

**To:** McGee, Thomas W., III Law Clerk (Paisleigh Price) <[tmcgeelc@sccourts.org](mailto:tmcgeelc@sccourts.org)>

**Cc:** Williams, Amanda C. <[amandawilliams@parkerpoe.com](mailto:amandawilliams@parkerpoe.com)>; McGee, Thomas W., III Secretary (Jessica Dominick) <[tmcgeesc@sccourts.org](mailto:tmcgeesc@sccourts.org)>

**Subject:** Re: Serge R Wandji VS The Regional Medical Center 2023CP3800331

\*\*\*Caution: External email\*\*\*

---

**Dear Paisleigh,**

Thank you for reaching out with Judge McGee's decision regarding the hearing on September 4, 2024. After reviewing the decision, I believe there may be some errors.

In the second point of the Judge's decision, it states, "Plaintiff has 20 days to serve supplemental written responses and to produce documents to the extent that documents relate to the specific discovery requests of the Defendant." However, the production of documents by the Plaintiff was not part of the hearing. The Defendant's motion at that hearing was solely about compelling answers to their set of interrogatories. There was no discussion or request for document production by the Plaintiff during that hearing.

On the contrary, the Plaintiff's motion discussed at the hearing was to overrule the Defendant's objections to Plaintiff's First Set of Interrogatories and Plaintiff's First Request for Production of Documents, and to compel the Defendant to fully respond and produce the requested documents. Judge McGee's decision did not address these specific issues raised in Plaintiff's motion, which are critical for Plaintiff not only in preparation for trial but also in preparing a response to the Defendant's pending Motion for Summary Judgment.

Could you please clarify whether I should expect Judge McGee's decision on the entirety of my motion discussed at the hearing, or if I should file a separate motion to specifically address the unanswered requests?

Thank you for your time and assistance.

Sincerely,  
Serge Wandji  
Pro Se Plaintiff

On Fri, Oct 4, 2024 at 3:07 PM McGee, Thomas W., III Law Clerk (Paisleigh Price) <[tmcgeelc@sccourts.org](mailto:tmcgeelc@sccourts.org)> wrote:

Good afternoon,

I hope everyone is faring alright in the aftermath of the storm. I'm reaching out with Judge McGee's decision regarding the hearing that occurred on 9/4/24.

- Plaintiffs's Motion to Compel Deposition: **GRANTED**. Plaintiff is granted 1 hour to depose Dr. Samies. A Form 4 will be entered for this motion.
- Defendant's Motion to Compel Written Responses: **GRANTED**. Plaintiff has 20 days to serve supplemental written responses and to produce documents to the extent that documents relate to the specific discovery requests of Defendant.
- Defendant's Motion to Amend Scheduling Order – It is our understanding that requests should be directed to Chief Administration Judge Taylor.

Have a great day,

## Paisleigh Price

Law Clerk to The Honorable T. W. McGee, III

Circuit Judge At-Large

1701 Main Street

Columbia, SC 29201

Office: (803) 576-1511

Cell: (803) 360-2198

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

4 attachments

 **2024-10-07 Order.pdf**
239K

 **2024-10-29 RMC-Wandji Order.pdf**
239K

 **revised Requests for Production and Interrogatories.docx**
19K

 **RE: Serge R Wandji VS The Regional Medical Center 2023CP3800331.eml**
63K

McGee, Thomas W., III Secretary (Jessica Dominick) <tmcgeesc@sccourts.org>

Mon, Nov 4, 2024 at 3:46 PM

To: "Williams, Amanda C." <amandawilliams@parkerpoe.com>

Cc: Serge Wandji <sergewandji@gmail.com>, "McGee, Thomas W., III Law Clerk (Paisleigh Price)" <tmcgeelc@sccourts.org>

Good afternoon Ms. Williams,

We will issue a Form 4 shortly granting Defendant's motion to compel written discovery responses from Plaintiff. We understand Plaintiff has already complied with this ruling and we are just putting this ruling on the record.

As to Plaintiff's motion to compel, Judge McGee is reviewing this issue and we will be in touch shortly.

Thank you,

Jessica

Jessica Dominick

Administrative Assistant

Honorable Thomas W. McGee III

Circuit Court Judge

Post Office Box 192

1701 Main Street, Room 215 (29201)

Columbia, S.C. 29202-0192

Phone: 803.576.1746

Fax: 803.576.1777

[Quoted text hidden]

McGee, Thomas W., III <tmcgeej@sccourts.org>

Tue, Nov 5, 2024 at 11:26 AM

To: "amandawilliams@parkerpoe.com" <amandawilliams@parkerpoe.com>

Cc: "McGee, Thomas W., III Secretary (Jessica Dominick)" <tmcgeesc@sccourts.org>, "sergewandji@gmail.com" <sergewandji@gmail.com>, "McGee, Thomas W., III Law Clerk (Paisleigh Price)" <tmcgeelc@sccourts.org>

Ms. Williams and Mr. Wandji,

I have reviewed the below emails and attachments, specifically the revised discovery requests from the Plaintiff to Defendant. I have also reviewed the initial discovery responses and my prior Order on the Plaintiff's Motion to Compel. In light of the issues with compliance with my prior Order, I will issue a Form 4 Amended Order limiting the Plaintiff's amended discovery requests – and the Defendant's required responses – to the following:

Interrogatories:

1. This Interrogatory will be limited to require the identification of cases involving wrongful termination claims filed against the Defendant within 2 years prior to Plaintiff's separation from his former position with Defendant;
2. No response to this interrogatory is needed – Plaintiff's Motion to Compel ("MTC") is denied as to this request;
3. This interrogatory will be limited to require the identification of the number of Workers' Compensation claims filed by Defendant's employees based on their contracting COVID within 2 years prior to Plaintiff's separation from his former position with Defendant. No names will be identified – just the number of claims filed and whether each claimant was terminated from Defendant's employment after the filing of the claims;
4. No response to this interrogatory is needed – Plaintiff's MTC is denied as to this request;
5. No response to this interrogatory is needed – Plaintiff's MTC is denied as to this request;
6. No response to this interrogatory is needed – Plaintiff's MTC is denied as to this request;
7. No response to this interrogatory is needed – Plaintiff's MTC is denied as to this request.

Requests for Production:

As to Request Nos. 1, 2, 3, and 4: Defendant shall produce any documents it has possession, custody, or control over that relate to Plaintiff's employment, insurance claim, and

Workers' Compensation claim. The production shall be limited to documents that relate to Plaintiff only. It may be that these documents have already been produced, but to the extent they have not – i.e., if there are specific employment, claims, or WCC case files – they shall be produced.

Defendant shall have until November 12 to serve its written responses to the above amended interrogatories/requests for production. In its responses, Defendant may assert objections on the basis of privilege, if any; however, if there are any documents that are redacted or withheld on any privilege, Defendant will contemporaneously serve a privilege log pursuant to Rule 26(b)(5)(A).

Again, I will enter a Form 4 with the above ruling shortly, but wanted to notify you via email to avoid further delay. I believe this is the final matter before me from the earlier hearing. Thank you for your patience and hope all is well.

Best,

Billy McGee

Circuit Court Judge

Richland County Courthouse

P.O. Box 192

1701 Main St., Ste. 215

Columbia, SC 29202-0192

(803) 576-1746

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

Paisleigh,

We represent Defendant Regional Medical Center in the above-referenced matter and wanted to follow-up on Judge McGee's rulings as it relates to the following two motions that were heard on September 4, 2024:

- Defendant's Motion to Compel Plaintiff Plaintiff's Written Responses to First Set of Interrogatories and Requests for Production (filed 5/7/24)
- Pro Se Plaintiff's Motion to Compel Discovery (filed 5/10/24), which seeks to:
 - Compel the Deposition of Dr. John Samies
 - Compel Defendant to provide complete responses to Plaintiff's discovery requests and for the Court to overrule the objections made by Defendant in response to Pro Se Plaintiff's discovery requests

There is a little confusion regarding the Orders that have been issued in this matter, and I am seeking clarification. Following the hearing on September 4, the Court issued two Orders:

- Order dated 10/7/2024 (attached) granting Pro Se Plaintiff's Motion to Compel the Deposition of Dr. Samies
 - This Order allows Pro Se Plaintiff up to one hour to depose Dr. Samies (this deposition has already occurred).
- Order dated 10/29/2024 (attached) granting Plaintiff's two Motions to Compel Deposition
 - This Order grants Pro Se Plaintiff's two Motions to Compel Deposition, including the right to depose Dr. Samies for up to one hour. However, the Pro Se Plaintiff only filed one Motion to Compel Deposition, and the Court ruled on this portion of Plaintiff's Motion to Compel in its 10/7/2024 Order.

In regards to the other two Motions that were heard on September 4 -- Defendant's Motion to Compel and the second part of Plaintiff's Motion to Compel Written Discovery -- the Court notified the parties of its ruling in the attached emails, but no Form 4 Orders have been issued on those Motions.

- As it relates to Defendant's Motion to Compel, Plaintiff served responses to the requests on October 23, and we will evaluate those responses and determine if any additional motion is necessary. Unless a Form 4 Order needs to be filed memorializing the ruling set forth in the attached email, no further clarification is needed on the Court's ruling as it relates to this Motion.
- As it relates to Pro Se Plaintiff's Motion to Compel Defendant to fully respond to Plaintiff's Written Discovery, there is some confusion on the Court's ruling. As set forth below, the Court ordered Pro Se Plaintiff to rewrite his discovery requests, which he did (see attached). Though they were not formally served on Defendant, and they appear to seek additional relief from the Court even though no motion was filed, Defendant is prepared to respond to these revised requests. However, Defendant objects to Plaintiff's assertion that Defendant should be precluded from making any objections to the revised requests. The revised discovery requests still contain many of the same requests for documents and information in the prior written discovery requests and seek documents and information that are completely unrelated to Pro Se Plaintiff's sole remaining cause of action for worker's comp retaliation.

CONCLUSION

-

In order to avoid any dispute between Pro Se Plaintiff and Defendant as it relates to the Court's ruling on Plaintiff's Motion to Compel Written Discovery and the attached revised discovery requests, we would request clarification from the Court regarding Defendant's obligations as it relates to responding to the Plaintiff's Revised Discovery Requests. Specifically:

- Since the requests served by Pro Se Plaintiff are not very different than what was originally served, we want to confirm that Defendant is still permitted to raise objections, where appropriate and in accordance with the Rules of Civil Procedure.
- If the Court's intent is for Defendant to respond to the attached revised discovery requests, may we have until November 8 to do so? This date falls before Defendant's Motion for Summary Judgment hearing on November 14.
- Is the Court's 10/29/24 Order intended to solely address Plaintiff's Motion to Compel the Deposition of Dr. Samies?

If Judge McGee prefers that we address these issues in a different manner or if a status conference would be more appropriate, please let me know.

Best Regards, Amanda Williams

Amanda Williams

Partner

850 Morrison Drive | Suite 400 | Charleston, SC 29403

Office: 843.727.6309 | Fax: 843.727.2680 | [map](#)

Visit our website at

www.parkerpoe.com

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{Quoted text hidden}

{Quoted text hidden}
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{Quoted text hidden}

{Quoted text hidden}

Amanda Williams

Partner

Serge R Wandji
PLAINTIFF(S)

The Regional Medical Center
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), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRCP; ☐ 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:

Plaintiff's Motion to Compel Deposition was heard on 9/4/24. After hearing from all parties and reviewing all filings and other evidence properly before the Court, Plaintiff's Motion is granted. Plaintiff is granted 1 hour to depose Dr. Samies.

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 10/04/2024 .

Serge R Wandji for Serge R Wandji
Serge R Wandji for Serge R Wandji

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.



Orangeburg Common Pleas

Case Caption: Serge R Wandji VS The Regional Medical Center

Case Number: 2023CP3800331

Type: Order/Electronic Form 4

So Ordered

s/ Thomas W. McGee III, Judge Code 2786

Electronically signed on 2024-10-04 18:20:38 page 3 of 3

***** IMPORTANT NOTICE - READ THIS INFORMATION *****

NOTICE OF ELECTRONIC FILING [NEF]

-

A filing has been submitted to the court RE: 2023CP3800331

Official File Stamp: 10-07-2024 10:07:25 AM

Court: CIRCUIT COURT

Common Pleas

Orangeburg

Case Caption: Serge R Wandji VS The Regional Medical Center

Document(s) Submitted: Order/Electronic Form 4 Order/Electronic Form 4

Filed by or on behalf of: Thomas McGee, III

This notice was automatically generated by the Court's auto-notification system.

-

The following people were served electronically:

Amanda Coney Williams for The Regional
Medical Center

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

Amanda Coney Williams for The Regional
Medical Center

Serge R Wandji for Serge R Wandji

Serge R Wandji for Serge R Wandji

*12

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
	)	
Serge R. Wandji,	)	Case No.: 2023-CP-38-00331
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANT'S MOTION FOR
	)	SUMMARY JUDGMENT
	)	
The Regional Medical Center and Dr. John H. Samies,	)	
	)	
Defendants.	)	
	)	

Defendant The Regional Medical Center ("Defendant"), by and through its undersigned counsel, hereby moves the Court, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, for an order dismissing the sole remaining cause of action asserted by *Pro Se* Plaintiff Serge R. Wandji ("Plaintiff") on the grounds that there is no genuine dispute as to any material fact and Defendant is entitled to judgment as a matter of law.

Plaintiff's sole remaining claim against Defendant is for workers' compensation retaliation pursuant to S.C. Code § 41-1-80. Specifically, Plaintiff contends that Defendant terminated his employment in retaliation for his pursuit of workers' compensation benefits following his COVID-19 diagnosis. Plaintiff is unable to put forth evidence that would create a triable issue as to his workers' compensation retaliation claim because Plaintiff was unable to meet Defendant's established work standards. *See* S.C. Code § 41-1-80. As such, Plaintiff's retaliation claim fails as a matter of law.

This motion is based on and will be supported by the pleadings in this action, the controlling statutes and rules, applicable case law, discovery, any appropriate memoranda of law or affidavits filed in support of this motion, and such supporting arguments as may be submitted before or at the hearing on this Motion.

WHEREFORE, Defendant respectfully requests that the Court enter an Order granting Defendant's Motion for Summary Judgment and dismissing Plaintiff's Complaint in its entirety, with prejudice.

Respectfully submitted,

s/Amanda C. Williams

Amanda C. Williams (SC Bar No.: 76588)

Email: amandawilliams@parkerpoe.com

Megan M. Feltham (SC Bar No.: 105473)

Email: meganfeltham@parkerpoe.com

PARKER POE ADAMS & BERNSTEIN LLP

850 Morrison Drive, Suite 400

Charleston, SC 29403

Phone: 843-727-2650

Fax: 843-727-2680

ATTORNEYS FOR DEFENDANT

September 24, 2024
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
	)	
Serge R. Wandji,	)	Case No.: 2023-CP-38-00331
	)	
Plaintiff,	)	
	)	CERTIFICATE OF SERVICE
vs.	)	
	)	
The Regional Medical Center and Dr. John H. Samies,	)	
	)	
Defendants.	)	
	)	

I hereby certify that a copy of Defendant The Regional Medical Center's **DEFENDANT'S MOTION FOR SUMMARY JUDGMENT** has been served upon the following *Pro Se Plaintiff* by U.S. Mail and email addressed as shown below this 24th day of September, 2024:

Serge Wandji
P.O. Box 523
Columbia, SC 29202
sergewandji@gmail.com
Pro Se Plaintiff

s/Claire Easter
PARKER POE ADAMS & BERNSTEIN LLP
Post Office Box 160
Charleston, South Carolina 29402-0160
Phone: (843) 727-2650

13
STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

Serge R. Wandji,

Civil Action No.: 2023-CP-38-00331

Plaintiff

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

Vs

The Regional Medical Center,

Defendants

FILED FOR RECORD
VINCENT A. R. CLARK
2024 SEP 26 A 10:44
CLERK OF COURT
ORANGE COUNTY, SC

I. Introduction

Plaintiff Serge R. Wandji opposes Defendant The Regional Medical Center's (TRMC) Motion for Summary Judgment regarding the claim of workers' compensation retaliation under S.C. Code § 41-1-80. The Defendant asserts there is no genuine dispute of material fact and that Plaintiff has not provided sufficient evidence of retaliation. However, Plaintiff respectfully contends that genuine disputes of material fact exist concerning the termination, making summary judgment inappropriate.

II. Standard of Review

Under Rule 56 of the South Carolina Rules of Civil Procedure, summary judgment is only appropriate when "there is no genuine issue as to any material fact and the moving party is

entitled to judgment as a matter of law." The evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party, in this case, Plaintiff.

III. Factual Background

Plaintiff contends that his termination was in retaliation for seeking workers' compensation benefits following his COVID-19 diagnosis, which he contracted while working as a staff nurse at TRMC. Plaintiff can present evidence showing a temporal connection between his workers' compensation claim and subsequent termination, which raises an inference of retaliatory intent under S.C. Code § 41-1-80. Furthermore, Plaintiff can present evidence showing the Defendant (TRMC) failed to accommodate post-injury work restrictions and instead took adverse actions, including termination, based on those restrictions.

IV. Legal Argument

A. Plaintiff Presents Sufficient Evidence of Retaliation

To establish a claim under S.C. Code § 41-1-80, the Plaintiff must show: (1) engagement in protected activity (filing for workers' compensation benefits); (2) an adverse employment action (termination); and (3) a causal connection between the protected activity and the adverse action.

1. **Protected Activity:** It is undisputed that Plaintiff filed for workers' compensation benefits due to COVID-19. This clearly constitutes protected activity under the statute.
2. **Adverse Action:** The Defendant terminated Plaintiff's employment, which is an adverse employment action.

3. **Causal Connection:** Plaintiff can show a temporal proximity between the workers' compensation claim and the termination. This timing supports an inference of retaliation. South Carolina courts recognize that "close temporal proximity between an employee's protected activity and an adverse employment action may give rise to an inference of retaliation" (see *Floyd v. Laidlaw Transit, Inc.*, 321 S.C. 271, 275 (Ct. App. 1996)).

B. Defendant's Stated Reason for Termination is Pretextual

The Defendant argues that Plaintiff's termination was based on his inability to meet work standards, not retaliation. However, Plaintiff disputes this reasoning and can provide evidence showing that his job performance was consistent with the Defendant's expectations. Moreover, any alleged performance issues arose only after Plaintiff filed for workers' compensation, further suggesting that the Defendant's reasoning is pretext for retaliation.

According to South Carolina law, "[i]f the employer provides a legitimate, non-retaliatory reason for the termination, the employee must then demonstrate that the reason was pretextual" (*Hines v. Blue Cross Blue Shield of South Carolina*, 411 S.C. 108, 119 (2014)). Plaintiff can present evidence that the work performance rationale offered by Defendant is a pretext to cover retaliatory motives.

V. Conclusion

Plaintiff has provided sufficient evidence to create genuine disputes of material fact regarding the causal link between his workers' compensation claim and the termination. This precludes the entry of summary judgment in Defendant's favor. Plaintiff respectfully requests that the Court deny Defendant's Motion for Summary Judgment and allow the case to proceed to trial.

Respectfully submitted,

s/Serge Wandji

Serge Wandji, Plaintiff

P.O. Box 523

Columbia 29202

September 26, 2024,

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

Serge R. Wandji,
Plaintiff

Civil Action No.: 2023-CP-38-00331

CERTIFICATE OF SERVICE

Vs

The Regional Medical Center,
Defendants

FILED FOR RECORD
WINNIEA P. CLARK
2024 SEP 26 A 10:44
CLERK OF COURT
ORANGE COUNTY, SC

I hereby certify that a copy of the Pro see Plaintiff's OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT has been served upon the attorney of the Defendant, The Regional Medical Center, by U.S. Mail and email addressed as shown below this 26th day of September, 2024:

Amanda Williams, Attorney of the Defendant
PARKER POE ADAMS & BERNSTEIN LLP
Post Office Box 160
Charleston, S.C. 29402-0160
amandawilliams@parkerpoe.com

s/Serge Wandji
Serge Wandji, Plaintiff
P.O. Box 523
Columbia 29202

STATE OF SOUTH CAROLINA

COUNTY OF Orangeburg

Serge R. WAND Plaintiff,

vs.
The Regional Medical Center Defendant.

IN THE COURT OF COMMON PLEAS
JUDICIAL CIRCUIT

CASE NO.: 2023-CP-38-00331

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Plaintiff's Attorney: <u>Pro Se</u> , Bar No. _____ Address: _____ Phone: <u>618-6129649</u> Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: <u>In opposition to Defendant's Motion for the Summary Judgment</u> Estimated Time Needed: _____ Court Reporter Needed: ☐ YES ☐ NO	
SECTION II: Motion/Order Type ☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. <u>[Signature]</u> Signature of Attorney for ☒ Plaintiff / ☐ Defendant <u>Pro Se</u> Date submitted <u>November 4</u>, 20<u>24</u>	
SECTION III: Motion Fee ☐ PAID - AMOUNT: \$ _____ ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____, 20____
CLERK'S VERIFICATION Collected by: _____ Date Filed: _____, 20____ ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____	

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

Serge R. Wandji,
Plaintiff

Civil Action No.: 2023-CP-38-00331

**PLAINTIFF'S MOTION IN OPPOSITION TO
DEFENDANT'S MOTION FOR THE
SUMMARY JUDGMENT**

Vs

The Regional Medical Center,
Defendants

INTRODUCTION

Pro see Plaintiff, Serge Wandji, respectfully submits this Motion in Opposition to Defendant's Motion for Summary Judgment which is currently scheduled for a hearing on November 14, 2024 at 9:30 a.m. This opposition is grounded on the fact that Defendant's motion is premature due to the ongoing, incomplete discovery process, which significantly limits Plaintiff's ability to present evidence essential to contesting Defendant's claims.

ARGUMENT

I. Incomplete Discovery Process Justifies Denial or Deferral of Summary Judgment

Pursuant to Rule 56(f) of the South Carolina Rules of Civil Procedure, summary judgment should be denied or deferred if the non-moving party has not had an adequate opportunity to

complete discovery that is essential to its opposition. In this matter, Plaintiff submitted requests for production of documents and interrogatories to Defendant seeking critical evidence necessary to address the claims and defenses central to this workers' compensation Retaliation case. Defendant, however, objected to the majority of Plaintiff's discovery requests, effectively withholding key documents and information needed to build a comprehensive record and adequately respond to the summary judgment motion.

II. Pending Motion to Compel and Procedural Fairness

Recognizing the critical nature of this evidence, Plaintiff filed a Motion to Compel, seeking the court's intervention to overrule Defendant's objections and compel the production of the requested documents. On October 9, 2024, Judge McGee, via email, directed Plaintiff to revise the general requests for production to more specifically identify the documents sought. In compliance with the court's directive, Plaintiff submitted a revised Requests for Production and Interrogatories on October 11, 2024, detailing the documents being sought and demonstrating their relevance to the key issues in this case (See Exhibit #1).

As of this filing, Plaintiff's Motion to Compel remains unresolved, and the court has not yet ruled on the revised Requests for Production and Interrogatories. This pending status highlights the premature nature of Defendant's Motion for Summary Judgment.

Courts in South Carolina have consistently emphasized that summary judgment should not be granted when pertinent discovery remains outstanding. In *Lanham v. Blue Cross and Blue Shield of South Carolina*, 349 S.C. 356, 362 (2002), the court stated that summary judgment is inappropriate when relevant discovery has been requested but not completed. Granting summary

judgment at this stage would deny Plaintiff the opportunity to access and present critical evidence necessary for refuting Defendant's arguments.

III. Prejudice to Plaintiff if Summary Judgment is Granted Prematurely

Granting Defendant's Motion for Summary Judgment while discovery remains incomplete would be prejudicial to Plaintiff. Defendant's objections to Plaintiff's discovery requests and the outstanding Motion to Compel hinder Plaintiff's ability to uncover evidence that is vital to disputing Defendant's motion. Rule 56(f) serves to prevent such prejudicial outcomes by allowing a party the opportunity to conduct discovery before a summary judgment ruling is made.

Defendant's submission of a Motion for Summary Judgment while these discovery issues remain unresolved undermines the fairness of the legal process and contravenes established principles designed to ensure that all parties have a fair opportunity to present their case. Without access to the documents and responses sought through the discovery process, Plaintiff's ability to mount an effective opposition to the motion is severely compromised.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court deny Defendant's Motion for Summary Judgment or, at the very least, defer ruling on the motion until Plaintiff's Motion to Compel has been resolved and Defendant's full compliance with discovery obligations has been ensured. Such action is necessary to preserve the fairness and integrity of the judicial process and to ensure that Plaintiff has an adequate opportunity to present evidence in opposition to Defendant's motion.

Respectfully submitted,

**Serge R. Wandji
Pro see Plaintiff
P.O. Box 523, Columbia SC, 29202
678-612-9649
sergewandji@gmail.com**

Dated: November 4, 2024

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

Serge R. Wandji,
Plaintiff

Civil Action No.: 2023-CP-38-00331

CERTIFICATE OF SERVICE

Vs

The Regional Medical Center,
Defendants

FILED
2023 NOV 14 PM 3:03
CLERK OF COURT

I certify that a copy of the foregoing PLAINTIFF'S MOTION IN OPPOSITION TO
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT have been served upon the
following Attorney for Defendant by emailing and mailing a copy of the same to her
address as shown below this November 4, 2024:

Amanda C. Williams
PARKER POE ADAMS & BERNSTEIN LLP
850 Morrison Drive, Suite 400
Charleston, SC 29403
amandawilliams@parkerpoe.com
ATTORNEY FOR DEFENDANT

s/Serge R. Wandji
P.O. Box 523
Columbia SC 29202

**STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG
FIRST JUDICIAL CIRCUIT**

**Serge R. Wandji,
Plaintiff**

v.

**The Regional Medical Center and Dr. John H. Samies,
Defendants**

Civil Action No.: 2023-CP-38-00331

**PLAINTIFF'S RE-WITTEN REQUESTS FOR PRODUCTION AND
INTERROGATORIES PER JUDGE MCGEE'S ORDER**

INTRODUCTION

Pursuant to the Order issued by Judge McGee, Plaintiff submits the following revised Requests for Production and Interrogatories. The requests have been refined to more explicitly identify the documents sought and to ensure their relevance to the issues central to this case.

INTERROGATORIES

1. **Litigation History:** Please provide a complete list of all litigation involving The Regional Medical Center (TRMC) as a defendant, including any Equal Employment Opportunity Commission (EEOC) charges or Department of Labor claims related to employment issues. Each entry must include:
 - o Civil action number or other identifying number
 - o Jurisdiction and forum in which the action was filed
 - o Nature of the claim or action
 - o Final resolution of the claim or action.
2. **Workers' compensation Complaints:** Provide a full list of all Workers' Compensation complaints filed with TRMC workers' compensation insurance (Antum Risk) by any of your employees who contracted the COVID-19 virus from January 1, 2021 to Present. The list must include:
 - o Employee's name (if permissible)
 - o Department or working unit
 - o Final resolution of each complaint

3. **Workers' Compensation Complaints:** Provide a full list of all Workers' Compensation complaints filed with the **South Carolina Workers' Compensation Commission** against TRMC by employees who contracted COVID-19 from January 1, 2021, to the present. The list must include:
 - o Employee's name (if permissible)
 - o Department or working unit
 - o Final resolution of each complaint.
4. **COVID-19 Reporting:** Identify all TRMC employees who contracted COVID-19, as reported to the Centers for Disease Control and Prevention (CDC) and other federal and state agencies, from January 1, 2021, to the present. Each entry must specify:
 - o Employee's working unit/department.
5. **Financial Reports:** Produce all COVID-19-related financial reports prepared for insurance reimbursement or government funding, including but not limited to funds received from the CARES Act.
6. **CDC Reports:** Provide a detailed account of all CDC reports submitted by TRMC regarding staff infections with COVID-19 for the year 2021, broken down by month and identifying the working unit/department of each infected employee.
7. **Criminal Charges:** Describe any criminal charges brought against TRMC or its representatives from January 1, 2020, to the present. Include the date, jurisdiction, and type of charge.

Defendant previously objected to these Interrogatories, claiming they were overly broad and unduly burdensome. However, the requested documents are readily available at TRMC and are required to be maintained for regulatory and audit purposes. The objections appear to be tactical measures to obstruct discovery and prevent Plaintiff from obtaining essential information for his case.

REQUESTS FOR PRODUCTION

1. **Communications:** Produce all documents reflecting communications between TRMC and any third parties, including government agencies, regarding:
 - o Plaintiff's employment
 - o Plaintiff's illness
 - o Allegations set forth in the Complaint.
2. **Statements or Comments:** Produce any documents indicating any statement or representation made by Defendant (or others on Defendant's behalf) that constitutes an objection or denial concerning the facts of this case or any allegations in the Complaint.
3. **Notes and Writings:** Provide all notes, emails, writings, or other documents created by or for TRMC (or others on Defendant's behalf) that pertain to Plaintiff's employment, illness, or any related matters. Including but not limited to emails and communications made by then **Director of Human Resources Mrs. Tina Norris** to any person other than the two attorneys who worked on this case, about Plaintiff's employment, illness, or any related matters.

4. **Personal Records:** Produce all diaries, reports, internal emails, calendars, journals, social media postings, text messages, and any other personal or business records maintained by TRMC that relate to Plaintiff's employment or this case. Including but not limited to emails and communications made by then Director of Human Resources Mrs. Tina Norris to any person other than the two attorneys who worked on this case, about Plaintiff's employment, illness, or any related matters.

Defendant has objected to these Requests for Production, claiming attorney-client privilege and work-product protection. However, Plaintiff is not seeking any communications with the two attorneys involved in this entire matter (Mrs. Amanda Williams and Mr. Roy Howell III) and asserts that there are no applicable privileges that would shield these documents from discovery.

5. **Employee Health Records:** Produce all documents and information provided to Dr. John H. Samies from TRMC's Employee Health and Infection Control Department regarding Plaintiff's exposure and infection with COVID-19.

The requested documents are necessary to ensure compliance with labor and healthcare regulations.

CONCLUSION

WHEREFORE, Plaintiff respectfully moves this Honorable Court to overrule all of Defendant's objections to these re-written Requests for Production and Interrogatories. Plaintiff further requests that the Court compel the Defendant to provide prompt and complete responses to all discovery requests by a date deemed appropriate by the Court.

Respectfully submitted,

Serge Wandji
Pro se Plaintiff
sergewandji@gmail.com
Date: October 11, 2024

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Serge R. Wandji,

Plaintiff,

vs.

The Regional Medical Center,

Defendant.

IN THE COURT OF COMMON PLEAS

FIRST JUDICIAL CIRCUIT

Case No.: 2023-CP-38-00331

**DEFENDANT'S MEMORANDUM IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

Defendant The Regional Medical Center ("TRMC" or the "Defendant") by and through its undersigned counsel, submits this Memorandum in Support of its Motion for Summary Judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure.

I. INTRODUCTION

Approximately five months after TRMC hired Plaintiff as a floor nurse, Plaintiff contracted COVID-19. Several days after his COVID-19 diagnosis, Plaintiff submitted a claim for workers' compensation benefits and asserted his COVID-19 diagnosis was a work-related injury. TRMC submitted Plaintiff's worker's compensation claim to its workers' compensation insurance carrier and also granted Plaintiff twelve weeks of leave while he recovered from COVID-19 related complications. After the twelve weeks of leave expired, Plaintiff was still unable to return to work. Nevertheless, TRMC granted Plaintiff several months of additional leave. In March 2022, seven months after his initial COVID-19 diagnosis and approximately seven months after the filing of his worker's compensation claim, Plaintiff was still unable to return to his duties as a nurse. Accordingly, TRMC terminated Plaintiff's employment but invited him to reapply for a job when he was released to return to work. Notwithstanding the foregoing, Plaintiff contends that the real reason for his termination was that he filed a workers' compensation claim for an alleged work injury (COVID-19 illness) that occurred seven months before the

termination of his employment. As set forth more fully below, Plaintiff has no evidence linking the termination of his employment to his worker's compensation claim. Instead, the evidence unequivocally demonstrates that Plaintiff was terminated from his position because he could not (and still cannot) meet the established work standards for the job -- one of the applicable affirmative defenses to a workers' compensation retaliation claim under S.C. Code Ann. § 41-1-80. Accordingly, Plaintiff's claim against TRMC fails as a matter of law and must be dismissed.

II. PROCEDURAL BACKGROUND

On March 3, 2023, Plaintiff filed a Complaint against Defendants TRMC and Dr. John H. Samies ("Dr. Samies") purporting to assert claims for workers' compensation retaliation, negligence, fraud, and fraud/bad faith. On April 5, 2023, TRMC filed a partial motion to dismiss seeking dismissal of all claims against Dr. Samies, as well as the claims against all Defendants for negligence, fraud, and fraud/bad faith. On June 22, 2023, the Court granted Defendants' Motion for Partial Dismissal. Accordingly, Plaintiff's sole remaining claim is for worker's compensation retaliation against TRMC. The parties have exchanged written discovery and documents and taken depositions.¹ As set forth below, Plaintiff cannot, as a matter of law, prove his claim against TRMC for worker's compensation retaliation, and thus, TRMC is entitled to summary judgment as a matter of law.

III. STATEMENT OF FACTS

A. Plaintiff's Nursing Position at TRMC.

Plaintiff began working as a bedside nurse at TRMC in Orangeburg, South Carolina on or about March 8, 2021. (Compl. ¶ 7). The nursing position required Plaintiff to have the ability to

¹ Though Plaintiff claims in his Opposition dated November 4, 2024 that there are unresolved discovery issues that must be addressed before proceeding with Defendant's motion for summary judgment, those discovery issues are now resolved. The Court issued a ruling on the outstanding discovery issues on November 5, 2024. On November 12, 2024, Defendant served supplemental discovery responses in accordance with the Court's November 5, 2024 Order.

“stand up to twelve (12) hours, walk, sit, use hands, reach, stoop, kneel, talk, hear and smell.” (Job Description, Ex. 1.) In addition, the position also required Plaintiff to perform certain mental functions such as “deal[ing] with concrete and abstract concepts and interpret[ing] verbal, nonverbal and written instructions.” (*Id.*) Plaintiff worked in the behavioral health unit and performed various duties as a nurse, including conducting nursing assessments for patients, administering patients medication as needed, changing sheets, and taking urine samples. (Pl. Dep. pp. 33:20-25 - 35:21, Ex. 2.)

B. Plaintiff's COVID-19 Diagnosis and Medical Leave.

On August 27, 2021, Plaintiff tested positive for COVID-19. (Pl. Dep. p. 37:13-19, Ex. 2.) On August 31, 2021, Plaintiff filed a workers' compensation claim with TRMC contending that his illness was an occupational disease contracted while working at TRMC. (Compl. ¶¶ 11.) Plaintiff subsequently filed a Form 50 - Employee's Notice of Claim and Request for Hearing with the South Carolina Workers' Compensation Commission on November 29, 2021. (Compl. ¶ 14.)

Following his COVID-19 diagnosis, Plaintiff alleges his health condition deteriorated quickly, and he was diagnosed with pneumonia due to COVID-19 with acute hypoxemic respiratory failure. (Compl. ¶ 12). On September 7, 2021, TRMC provided Plaintiff with Family and Medical Leave Act (“FMLA”) paperwork. (9/7/21 FMLA Correspondence, Ex. 3.) On September 22, 2021, Plaintiff's doctor signed the FMLA paperwork and noted Plaintiff would be incapacitated until October 22, 2021. (FMLA Paperwork, Ex. 4; Pl. Dep. at p. 51:16 - 52:1, Ex. 2.) On September 24, 2021, TRMC informed Plaintiff that he was not eligible for protected leave under the FMLA because he had only worked for TRMC for five months. (9/24/21 Letter re: Leave of Absence, Ex. 5.) However, TRMC granted Plaintiff a leave of absence that would allow him to take up to twelve weeks of medical leave beginning on August 28, 2021. (*Id.*)

On October 22, 2021, Plaintiff was unable to return to work and his doctor recommended that he continue to convalesce at home from October 22, 2021 through November 22, 2021. (October 2021 Doctor's Note, Ex. 6; Pl. Dep. p. 57:1-9, Ex. 2.)

As of November 20, 2021, Plaintiff had been on leave for twelve weeks, and his doctor submitted another note stating Plaintiff should continue to convalesce at home through January 1, 2022. (November 2021 Doctor's Note, Ex. 7; Pl. Dep. p. 57:15-22, Ex. 2.) On January 13, 2022, Plaintiff had not yet returned to work, and thus, TRMC sent Plaintiff a letter noting that TRMC had not received any updated information on an expected return to work date or notice of additional leave needed. (1/13/22 Letter from TRMC, Ex. 8.) TRMC requested that Plaintiff submit an updated physician's note. (*Id.*) On January 17, 2022, Plaintiff provided TRMC with a doctor's note that stated Plaintiff "could not currently return to work full time floor nursing for numerous reasons." (1/17/2022 Doctor's Note, Ex. 9.) Plaintiff testified that his doctor told him, "you cannot lift, you are forgetful, you can give the wrong medication and kill patient...." (Pl. Dep. pp. 62:15 - 63:5, Ex. 2.) Plaintiff was not cleared to work as a floor nurse and no return to work date was provided. (*Id.*; Pl. Dep. pp. 63:20 - 64:8, 64:22-25, Ex. 2.)

C. Plaintiff's Ongoing Medical Restrictions as it Relates to His Nursing Duties.

Plaintiff remained on medical leave, and on March 11, 2022, Plaintiff provided TRMC with a doctor's note stating there were "still concerns that could mildly limit [Plaintiff's] functionality at bedside nursing (physical - still waiting to gain back his smell, mental/emotional - acute stress due to COVID-19 experience and hospitalization)." (3/11/2022 Doctor's Note, Ex. 10; Pl.'s Dep. pp. 68:18 - 69:24, Ex. 2.) Plaintiff's provider did not clear him to work in his position as a nurse and noted he could only return to work if it was in an administrative, part-time role. (*Id.*)

On March 15, 2022, TRMC communicated to Plaintiff that he exhausted his twelve week maximum period of available leave under TRMC's Leave of Absence policy over three months ago (December 2021) and was being separated from employment due to his physical inability to return to his position as a bedside nurse. (Separation Email, Ex. 11; Separation Letter, Ex. 12.) Both the email and the letter from TRMC made clear that the decision to separate Plaintiff from employment was not punitive, and informed him that he was eligible for rehire. (*Id.*)

Since Plaintiff's separation from his employment at TRMC, he has been unable to work as a nurse. Though he obtained a position as a nurse at Tri-County Commission on Alcohol and Drug Abuse in May 2022, he resigned a month after his hire due to "personal health and personal safety reasons." (6/16/22 Resignation Letter, Ex. 13.) Specifically, Plaintiff testified that after administering the wrong medication to a patient, which Plaintiff attributed to his long COVID, forgetfulness, and confusion, his doctor told him to quit before he hurt somebody else and himself. (Pl. Dep. pp. 79:17 - 84:18, Ex. 2.) To date, Plaintiff has not held any other positions as a nurse and testified he continues to suffer from long COVID and has ongoing memory issues. (Pl. Dep. pp. 5:14-22, 84:8-11, Ex. 2.) In fact, in his deposition, Plaintiff could not remember where he was born, where he has lived, whether he has any criminal history, what educational degrees he has received, his employment history, the medications he takes, and whether he has been a party to any other legal actions or complaints (Pl.'s Dep. pp. 5, 11, 13-14, 19, 22-26, Ex. 2.) As a result of his long COVID issues, Plaintiff testified when he looks for employment, he is not seeking floor nurse positions, but rather "[s]omething that the life of somebody is not going to be on the line. Something academic." (Pl. Dep. p. 86:1-9, Ex. 2.)

IV. STANDARD OF REVIEW

Rule 56, SCRCP, requires the entry of summary judgment when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *See Fleming*

v. Rose, 350 S.C. 488, 494, 567 S.E.2d 857, 860 (2002). Although the moving party bears the initial burden of demonstrating the absence of a genuine issue of material fact, “this initial responsibility may be discharged by ‘showing’ – that is, pointing out to the trial court – that there is an absence of evidence to support the nonmoving party’s case.” *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991). Once the moving party makes this demonstration, the opposing party “must, under Rule 56(e), do more than simply show some metaphysical doubt as to the material facts but must come forward with specific facts showing that there is a *genuine issue for trial*.” *Id.* (emphasis in original); *Midland Mut. Life Ins. Co. v. Harrell*, 331 S.C. 394, 397, 503 S.E.2d 189, 190 (Ct. App. 1998). The nonmoving party must specifically set forth such facts, “as would be admissible in evidence,” to show that a true jury issue exists. *See* S.C. R. Civ. P. 56(e).

The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder. *Dawkins v. Fields*, 354 S.C. 58, 580 S.E.2d 433 (2003); *George v. Fabri*, 345 S.C. 440, 548 S.E.2d 868 (2001). Under South Carolina law, where “plain, palpable and indisputable facts exist on which reasonable minds cannot differ,” summary judgment in favor of the moving party is proper. *Williams v. Chesterfield Lumber Co.*, 267 S.C. 607, 610, 230 S.E.2d 447, 448 (1976).

V. ARGUMENT

In order to prevail on a workers’ compensation retaliation claim under S.C. Code § 41-1-80, Plaintiff bears the burden of proving the following: “1) institution of workers’ compensation proceedings, 2) discharge or demotion, and 3) a causal connection between the first two elements.” *Hinton v. Designer Ensembles, Inc.*, 343 S.C. 236, 242, 540 S.E.2d 94, 97 (2000) (citing *Hines v. United Parcel Serv., Inc.*, 736 F. Supp. 675, 677 (D.S.C. 1990)). In order to prove causation, Plaintiff must provide that the filing of the workers’ compensation claim was the “determinative

factor” in his termination. *Id.* Specifically, he must show that “he would not have been discharged ‘but for’ the filing of the workers’ compensation claim.” *Id.* (citation omitted). Plaintiff bears the ultimate burden of proof under Section 41-1-80. *Horn v. Davis Elec. Constructors, Inc.*, 307 S.C. 559, 564, 416 S.E.2d 634, 636 (1992).

A. Plaintiff’s Failure to Meet Established Work Standards is Sufficient to Defeat His Claim as a Matter of Law.

The workers’ compensation retaliation statute sets forth several affirmative defenses, including the employee’s “failure to meet established employer work standards.” S.C. Code Ann. § 41-1-80; *see also Horn v. Davis Elec. Constructors, Inc.*, 302 S.C. 484, 489, 395 S.E.2d 724, 727 (Ct. App. 1990), *aff’d as modified*, 307 S.C. 559, 416 S.E.2d 634 (1992) (“An employer may prove as an affirmative defense [to S.C. Code § 41-1-80] that an employee failed to meet established work standards because he could not perform the physical requirements of the job.”). Though “the employer has the burden of proving its affirmative defenses, the employer does not have the burden of establishing the affirmative defenses are causally related to the discharge.” *Hinton*, 343 S.C. at 242, 540 S.E.2d at 97. Here, Plaintiff’s inability to perform the duties of a floor nurse (even as of the date of his deposition on September 18, 2024) clearly satisfies this affirmative defense, and thus, TRMC is entitled to judgment as a matter of law.

In *Varner v. Serco Inc.*, plaintiff, who worked as a warehouse associate for the defendant employer, initiated workers’ compensation proceedings on July 14, 2014, after sustaining a job-related back injury. *Varner*, No. 2:16-CV-02340-DCN, 2018 WL 4052447, at *1 (D.S.C. Aug. 24, 2018). On July 11, 2015, while the workers’ compensation proceedings were ongoing, plaintiff was terminated by defendant after defendant received notice of a new 35 pound lifting restriction imposed on plaintiff by his doctor. *Id.* The court granted defendant’s summary judgment motion, holding that because plaintiff’s restrictions prevented him from performing his job duties, which

required that plaintiff lift 50 pounds, plaintiff was unable to prove a “but for” causal link between his workers’ compensation proceedings and his termination. *Id.* at *4.

Here, like in *Varner*, Plaintiff’s employment with Defendant was terminated after Plaintiff provided Defendant with multiple doctor’s notes, which not only imposed restrictions preventing Plaintiff from performing certain job duties, but which stated Plaintiff was unable to perform the duties of a full-time nurse. (3/11/2022 Doctor’s Note, Ex. 10; Pl.’s Dep. pp. 68:18 - 69:24, 79:17 - 84:18, Ex. 2.) Because Plaintiff was unable to return to his position as a nurse and had no return to work date, TRMC separated his employment but noted he was eligible for rehire. (Separation Email, Ex. 11; Separation Letter, Ex. 12.) Plaintiff does not dispute the fact that his doctor instructed him not to return to work as a full-time floor nurse with TRMC, and Plaintiff affirmed that he followed his doctor’s recommendation. (Pl.’s Dep. pp. 68:18 - 69:24, Ex. 2.)

“Section 41-1-80 and statutes like it do not [] require an employer to retain an employee who can no longer perform the duties of her job simply because her inability to perform the duties results from an on-the-job injury.” *Varner v. Serco Inc.*, No. 2:16-CV-02340-DCN, 2018 WL 4052447, at *3 (D.S.C. Aug. 24, 2018) (quoting *Hines v. United Parcel Serv., Inc.*, 736 F. Supp. 675, 677 (D.S.C. 1990)) (granting defendant’s motion for summary judgment on plaintiff’s workers’ compensation retaliation claim because plaintiff was unable to meet the requirements of her job as a result of a lifting restriction imposed on her by her physician.). Because Defendant has established an affirmative defense to Plaintiff’s claim as afforded to it by S.C. Code § 41-1-80, Plaintiff’s claim fails as a matter of law.

B. Temporal Proximity is Insufficient to Prove Causation When Defendant Has Provided a Legitimate, Non-Retaliatory Reason for Plaintiff’s Termination.

Plaintiff alleges in his Opposition that the alleged temporal proximity between his workers’ compensation claim and subsequent termination raises an inference of retaliatory intent. (Pl. Opp. dated 9.26.24 at p. 2.) As an initial matter, Plaintiff submitted a workers’ compensation claim

sometime in September 2021. (Compl. ¶¶ 11.) TRMC did not terminate Plaintiff's employment until seven months later -- after Plaintiff's doctor issued a note stating that Plaintiff could not return to work as bedside nurse, nor could he return to any position on a full-time basis. (3/11/2022 Doctor's Note, Ex. 10; Pl.'s Dep. pp. 68:18 - 69:24, 79:17 - 84:18, Ex. 2.) Thus, there is no temporal proximity between the filing of Plaintiff's workers' compensation claim and his subsequent termination.

Even if Plaintiff could prove temporal proximity, where, as here, the employer proffers a "legitimate, non-retaliatory reason" for the termination, any temporal proximity between the filing of the workers' compensation claim and the termination is insufficient as a matter of law to defeat summary judgment. *Hinton*, 343 S.C. at 243, 540 S.E.2d at 97; *see also Johnson v. J.P. Stevens & Co., Inc.*, 308 S.C. 116, 118, 417 S.E.2d 527, 529 (1992) ("[i]n light of the conceded legitimate, nonretaliatory motives for the termination, [the] proximity in time does not meet the employee's burden of proof"); *Marr v. City of Columbia*, 307 S.C. 545, 548, 416 S.E.2d 615, 617 (1992) (rejecting retaliatory discharge claim where only evidence suggesting retaliatory motive for discharge was temporal proximity of claim to discharge). In *Hinton*, plaintiff initiated workers' compensation proceedings in or around September 1994, following a job-related injury. 343 S.C. at 241, 540 S.E.2d at 96. On October 28, 1994, plaintiff was released to return to work with restrictions which were accommodated by defendant. *Id.* at 239, 540 S.E.2d at 95. In November 1994, following numerous unexcused absences related to plaintiff's job-related injury, plaintiff was terminated for violation of defendant's absentee policy. *Id.* at 240, 540 S.E.2d at 96. In granting defendant's motion for summary judgment, the court held that because plaintiff offered no evidence that his employer's reason for terminating him was pretextual other than the fact that his termination occurred in temporal proximity with his work-related injury, his claim failed as a matter of law. *Id.* at 246, 540 S.E.2d at 99.

To survive summary judgment, Plaintiff must come forward with evidence sufficient to raise an inference that the employer's stated reasons were a mere pretext for illegitimate retaliation. *Porter v. U.S. Alumoweld Co., Inc.*, 125 F.3d 243, 248 (4th Cir. 1997) (“[T]he plaintiff must provide evidence sufficient to support the conclusion that the employer's proffered reason for discharging the employee was pretext for retaliation.”). Here, no such evidence exists. Plaintiff's inability to perform the duties of his job and to meet established work standards for a seven month period constitutes a “legitimate, non-retaliatory reason” for Plaintiff's termination. *Hinton*, 343 S.C. at 243, 540 S.E.2d at 97. There is no evidence that this reason is pretextual.

C. An Employer's Failure to Accommodate an Employee's Medical-Related Job Restrictions is Not Evidence that the Employer's Proffered Reason for a Termination is Pretextual.

Plaintiff appears to assert that Defendant's alleged failure to accommodate his post-injury work restrictions is evidence that Defendant's proffered reason for his termination is pretextual. (Pl. Opp. dated 9.26.24 at p. 2.) Plaintiff's argument is unsupported by the facts and the law. South Carolina's workers' compensation laws do not require an employer to accommodate restrictions stemming from a work-related injury, and Plaintiff has presented no legal authority to the contrary. TRMC hired Plaintiff for a full-time nursing position. Plaintiff was no longer able to perform this role. (3/11/2022 Doctor's Note, Ex. 10; Pl.'s Dep. pp. 68:18 - 69:24, 79:17 - 84:18, Ex. 2.) Notwithstanding the foregoing, Defendant accommodated Plaintiff by providing him with seven months of medical leave. When Plaintiff was still unable to return to his position after seven months, TRMC separated his employment because Plaintiff could not meet TRMC's established work standards. Plaintiff's conclusory assertion that TRMC's stated reason for the termination is pretextual is insufficient to defeat TRMC's motion for summary judgment. Rule 56, SCRCP, requires Plaintiff to support any factual assertions with actual evidence. He “must, under Rule 56(e), ‘do more than simply show that there is some metaphysical doubt as to the material facts,’

but must come forward with ‘specific facts showing that there is a *genuine issue for trial.*’” *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991) (emphasis in original); *Midland Mut. Life Ins. Co. v. Harrell*, 331 S.C. 394, 397-98, 503 S.E.2d 189, 190-91 (Ct. App. 1998).

Plaintiff has failed to cite to any evidence or material dispute of facts linking the termination of his employment to his worker’s compensation claim. Instead, the evidence unequivocally demonstrates that Plaintiff was terminated from his position because he could not meet the established work standards for the job -- one of the applicable affirmative defenses to a workers’ compensation retaliation claim under S.C. Code Ann. § 41-1-80. Thus, Plaintiff’s claim against TRMC fails as a matter of law and must be dismissed.

VI. CONCLUSION

For all of the foregoing reasons, and any others that this Court may find just and proper, Defendant respectfully requests that the Court GRANT Defendant’s Motion for Summary Judgment and DISMISS Plaintiff’s Complaint in its entirety, with prejudice.

Respectfully submitted,

s/Amanda C. Williams

Amanda C. Williams (SC Bar No.: 76588)

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Megan M. Feltham (SC Bar No.: 105473)

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PARKER POE ADAMS & BERNSTEIN LLP

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ATTORNEYS FOR DEFENDANT

November 13, 2024
Charleston, South Carolina

EXHIBIT 1

**THE REGIONAL MEDICAL CENTER
3000 St. Matthews Road
Orangeburg, SC 29118**

JOB TITLE: Staff RN
DEPARTMENT: Nursing
Classification: 123
Reports to: Service Line Director

I. Job Summary

Provide professional nursing care within an assigned unit and coordinate care planning with other disciplines.

II. Minimum Qualifications

Current RN license in the state of South Carolina or compact state. CPR certification must be obtained within 6 months of hire. Some clinical or hospital experience is preferred but not required.

III. Work Environment

Regularly exposed to infectious, contagious and blood borne diseases. Contact with patients under a wide variety of circumstances. Exposed to unpleasant elements including accidents, injuries and illnesses. Subject to varying and unpredictable situations. Must be able to handle emergency or crisis situations. Must be able to handle emergency or crisis situations. Is occasionally subject to irregular hours. Occasional exposure to radiation.

IV. Supervisory Responsibilities

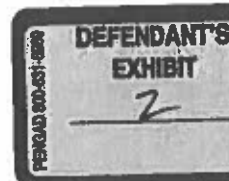
LPN, CNA, WS, Tech, MOA

V. Financial Responsibilities

Financial stewardship of supplies and resources.

VI. Essential Functions

1. Documents initial nursing histories, assesses patients' conditions per policy requirements and develops individual care plans for patients taking into consideration their physical, psycho-social, environmental, cultural, and spiritual needs.
2. Assists physicians with examinations, procedures and other processes related to direct patient care according to established policies and procedures.
3. Evaluates outcomes of patient care, consult with other specialists as required and revises nursing care processes as necessary to obtain optimal patient care.
4. Coordinates discharge planning.
5. Monitors and records patients' condition. Maintains confidentiality.
6. Using an interdisciplinary approach, formulates a teaching plan based on identified learning needs and evaluates effectiveness of learning [including family teaching] as appropriate.



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7. Coordinates patients' ordered diagnostic and therapeutic services. Communicates patients' condition during hand-offs.
8. Performs other miscellaneous and related duties as assigned by the director of nursing, charge nurse and/or medical staff.
9. Performs charge duties as requested by director, after six (6) months nursing experience and appropriate training as required.
10. Rounds on patients per policy to improve clinical outcome.
11. Orients or mentors new staff members.
12. Listens effectively to the patient to facilitate care requirements.
13. Provides first line customer service response.
14. Follows the RMC Standards of Behaviors.
15. Other duties as assigned.

VII. Physical Requirements

Physical requirements are primarily related to the essential functions of any job. In order to perform the essential functions of this position, you must be able to stand up to twelve (12) hours, walk, sit, use hands, reach, stoop, kneel, talk, hear and smell. Must be able to lift or exert energy up to 35 pounds. The Regional Medical Center has purchased patient transfer/lift devices to reduce the physical lifting of patients. Safe patient handling equipment is to be utilized for the transfer and lifting of patients greater than 35 pounds.

Close vision (clear vision at 20 inches or less), distance vision (clear vision at 20 feet or more) color vision (ability to identify and distinguish colors), peripheral vision (ability to observe area that can be seen move up/down or left/right) and depth perception (three-dimensional vision, ability to judge distances).

VIII. Mental Requirements

Must possess the ability to read and interpret business or safety manuals, clinical or technical procedures or regulations. Ability to write reports, correspondence and/or manuals. Ability to effectively present information and respond to questions from groups, patients, families, other employees and medical staff. Ability to perform more complex math functions (add, subtract, multiply and divide) to include calculating percentages, averages, volume, ratio and interpreting graphs - using numbers and units of measure. Ability to define problems, collect data, establish facts, and draw valid conclusions. Ability to deal with concrete and abstract concepts and interpret verbal, nonverbal and written instructions. Ability to multitask and prioritize assigned and assumed responsibilities to complete patient care as necessary.

IX. Population Served

This position primarily interacts with all age groups and provides direct patient care. All staff members must be able to demonstrate the knowledge and skill necessary to meet the physical, psycho/social, educational, safety, and related needs of the persons in the assigned work area. Staff members must be able to understand and respond to the expectations and needs of patients, family members and visitors from diverse cultural backgrounds.


Employee's Signature

02/24/2021
Date

Revised 05/2020

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EXHIBIT 2

State of South Carolina

Common Pleas Court

County of Orangeburg

Serge R. Wandji,
plaintiff,

V.

2023-CP-38-00331

The Regional Medical Center and
Dr. John H. Samies,
defendants.

Deposition of: Serge R. Wandji
Location: 1221 Main Street, 11th Floor,
Columbia, South Carolina

Date: Wednesday, September 18, 2024

Time: 10:08 a.m. - 11:51 a.m.

Court Reporter: Roger R. Williamson

The deposition is taken pursuant to notice and/or agreement, in the above-entitled cause pending in the above-named court and pursuant to the South Carolina Rules of Civil Procedure.

A P P E A R A N C E S

For the Plaintiff:
Pro Se

For the Defendant:
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I N D E X

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** Uh-huh = Affirmative
Huh-uh = Negative

1 A Yes.

2 Q Okay. And when have you been
3 deposed before?

4 A I -- I don't remember.

5 Q Was it in other litigation that you
6 filed against someone?

7 A I don't remember.

8 Q Okay. Have you previously filed a
9 lawsuit against a prior employer?

10 A I don't remember that.

11 Q You don't remember? Okay. Do you
12 remember filing -- you don't remember filing any
13 other litigation?

14 A For the record, I have Long COVID,
15 so I am good with when I have documentation in
16 my hands.

17 Q Okay.

18 A I -- I have a problem with my
19 memory. I'm -- I am still going through
20 therapy. I have Long COVID and I have a problem
21 with my memory. Short and Longterm. Long
22 COVID.

23 Q Okay. Do you understand you're
24 under oath today?

25 A Oh, yeah.

1 Q What are you taking your medications
2 for? What illnesses?

3 A I don't know. I just take the
4 medication that I take every day.

5 Q You don't know what you're taking it
6 for?

7 A I don't remember right now. I think
8 I have something for blood pressure and then for
9 COVID -- Long COVID. Some vitamins. I don't
10 really know the -- the whole spectrum of it.

11 Q Okay. So you -- you think you're
12 taking something for blood pressure, some
13 vitamins and some medicines for your Long COVID.
14 Anything else?

15 A No. That's what I think. I don't
16 know for sure.

17 Q Is there any reason you cannot
18 provide me with your most complete and truthful
19 testimony today?

20 A No. There's no reason.

21 Q Okay. Did you do anything to
22 prepare today for your deposition?

23 A Did I did what?

24 Q Did you do anything today to prepare
25 for your deposition?

1 matter?

2 A I don't know.

3 Q Have you reviewed your journals to
4 see if there's anything in there regarding this
5 matter?

6 A No. I didn't review it this
7 morning.

8 Q Do you still have all of your
9 journals?

10 A They're all over the place. Yeah.
11 I write a piece of paper. I write everywhere.

12 Q Okay. Where did you -- where were
13 you born?

14 A I don't remember. Objection. It
15 has nothing to do with the case. I am a
16 U.S. Citizen.

17 Q Mr. Wandji, I'm not questioning your
18 citizenship. This is a -- a standard -- let me
19 finish my question. This is a standard question
20 that I ask in every single deposition. The
21 rules of discovery are broad and I'm entitled to
22 ask this question. Are you refusing to answer
23 it?

24 A No. I don't know.

25 Q I will ask you again. You don't

1 know where you were born?

2 A Yeah. I don't remember.

3 Q Okay. Where did you grow up?

4 A Everywhere. I don't remember
5 specifically. You have to give me like, some
6 kind of range. I've been traveling a lot.

7 Q Okay. Well, when -- when you were
8 young, where did you live?

9 A Everywhere.

10 Q In the United States? Did you live
11 abroad?

12 A Yeah, in the United States and
13 abroad. Yeah.

14 Q Okay. Where in the United States
15 have you lived?

16 A I don't remember.

17 Q You don't remember anywhere you've
18 lived in the United States?

19 A Well, I live in South Carolina. I
20 live in Atlanta.

21 Q Anywhere else?

22 A Well, I remember living in New
23 Jersey too.

24 Q Any other places?

25 A No. I don't remember.

1 college graduate?

2 A Yes.

3 Q Okay. What was -- after you
4 graduated from high school, what additional
5 education did you receive?

6 A I remember going to nursing school.
7 I am a nurse.

8 Q Okay. Where did you go to nursing
9 school?

10 A I went to Seton Hall University in
11 New Jersey.

12 Q Okay. And when did you graduate?

13 A I don't remember.

14 Q Does 2012 sound familiar, roughly?

15 A I don't know.

16 Q Okay. And did you receive any other
17 degrees other than from Seton Hall?

18 A I think so.

19 Q What other degrees have you
20 received?

21 A I -- right now I don't remember.

22 Q You don't remember what other
23 degrees you have?

24 A Yes.

25 Q Did you go to a university -- did

1 school at Seton?

2 A I don't remember going anywhere
3 else.

4 Q Okay. And you have a nursing
5 license?

6 A I do, madam.

7 Q Do you have any other licenses or
8 certifications?

9 A No, I don't remember. I'm just
10 licensed as a nurse.

11 Q Okay. Have you ever been convicted
12 of any crimes?

13 A No, I don't remember being convicted
14 at all of any crimes.

15 Q Any prior arrests?

16 A I don't remember being arrested
17 ever.

18 Q Any military experience?

19 A No, madam.

20 Q And we talked about this a little
21 bit before, but have you been involved in any
22 other lawsuits?

23 A No, I don't remember.

24 Q Do you recall filing a workers' comp
25 action against Regional Medical Center?

1 A This is the worker compensation
2 con--- some kind of continuation of it. Yes.

3 Q Well, a separate action, not this
4 one, a separate workers' comp action against
5 Regional Medical Center?

6 A This is a continuation of my worker
7 compensation that I filed against the Regional
8 Medical Center. It was just one.

9 Q This is a different -- this is a
10 different matter than the -- the workers' comp
11 claim that you have filed.

12 A Okay.

13 Q Have you filed any other lawsuits
14 against companies that you can recall?

15 A No, I don't remember.

16 Q Do you recall filing a lawsuit
17 against the V.A.?

18 A I don't remember that. Maybe I did.
19 I don't remember.

20 Q Did you used to work for the V.A.?

21 A I don't remember.

22 Q You don't remember being involved in
23 an employment lawsuit filed against the
24 V.A. relating to your employment for them?

25 A It's possible. I don't remember.

1 Like I said, I suffer from Long COVID. It comes
2 and it goes. Sometimes my memory comes,
3 sometimes it goes. It's called Long COVID. I'm
4 diagnosed with that officially and I'm taking
5 treatment for that.

6 Q Have you ever --

7 A I have a problem with my memory.

8 Q Have you ever filed for bankruptcy?

9 A I don't remember doing that.

10 Q Have you ever filed for disability
11 benefits?

12 A I don't remember doing something
13 like that.

14 Q Have you ever filed for
15 unemployment?

16 A I don't remember doing something
17 like that.

18 Q Have you ever filed a charge of
19 discrimination with the Equal Employment
20 Opportunity Commission?

21 A I don't really remember.

22 Q Okay. After you graduated from high
23 school, did you go straight to -- was it Western
24 Kentucky or did you work after high school?

25 A I don't remember. That's a Longtime

1 ago. I don't remember that.

2 Q What jobs do you recall having
3 either after high school or after you graduated
4 from Western Kentucky?

5 A I don't know. I've worked
6 everywhere. I've done a lot of jobs. I don't
7 remember. I've taught judo.

8 Q I'm sorry. You did what?

9 A Taught.

10 Q Taught.

11 A Teaching.

12 Q You taught what?

13 A Judo.

14 Q Judo. Where did you teach judo?

15 A All over the place.

16 Q Could you be more specific?

17 A When I was in Kentucky.

18 Q In Kentucky, you taught judo?

19 A Yeah.

20 Q Was there a specific location like
21 a -- that you -- where you taught?

22 A I don't remember. A Longtime ago.

23 Q Okay. What other jobs have you
24 held?

25 A I don't know. A nurse.

1 Q A nurse. Okay. Where have you
2 practiced nursing?

3 A South Carolina.

4 Q Okay. At Regional Medical Center?

5 A Yes, ma'am.

6 Q Okay. Where else?

7 A I don't remember.

8 Q The V.A.?

9 A It's possible. I don't remember.

10 Q Can you recall work -- practicing as
11 a nurse anywhere other than R.M.C. or the V.A.?

12 A Right now off my head, no.

13 Q Okay.

14 A But I think I've worked as a nurse
15 somewhere else.

16 Q Do you have a means of looking up
17 that information, your employment history?

18 A Do I have what?

19 Q Do you have a way to look up your
20 employment history to tell me where you have
21 worked in the past?

22 A No.

23 Q No. You have no way to look back?
24 You don't have any records of where you have
25 worked?

1 Q So do you have any reason to believe
2 that this is not the job description for your
3 staff R.N. position at the Regional Medical
4 Center?

5 A I didn't say that. I said I don't
6 know.

7 Q I'm asking you, do have any reason
8 to -- to -- to believe this is not your job
9 description, yes or no?

10 A I don't believe anything. I just
11 said I don't know.

12 Q Do you doubt that this is the
13 description of your job at the Regional Medical
14 Center?

15 A No, I don't doubt.

16 Q Okay.

17 A I don't just know.

18 Q Okay. Tell me about what your
19 typical day was when you worked as a staff
20 R.N. at the Regional Medical Center. What are
21 some of the things that you -- what does your
22 typical day look like? What are some of the
23 things that you would do as a staff R.N.?

24 A I would do the nursing assessment to
25 the patient. I would take them to other floors.

1 When they get transferred, I work in the
2 behavioral health unit, psychiatric and mental
3 health. Sometimes they get transferred in the
4 medical field if they get something with their
5 pancreas or whatever. That has nothing to do
6 with mental health. We send them to the unit
7 specifically. So I would take them there in
8 other floors, including the I.C.U. where there
9 were COVID-19 patients. I would get them at the
10 E.R. when they came in and then they go through
11 the triage and then they decide this is a psych
12 patient. We do the phone call with the nurse at
13 the E.R. to get some information and I would get
14 down there at the E.R. where there were tons of
15 COVID-19 patients waiting to bring them on my
16 unit.

17 At discharge, I would take them out
18 and then bring them down, so they can take their
19 van or whatever is -- whoever is coming to pick
20 them up. I would take patients from my unit and
21 take them to the -- for procedures like x-ray,
22 scan, where other COVID patients went there to
23 do the same thing. I will -- I'm not finished.

24 I will give them medication. I will
25 change their bedsheets. I will clean them up

1 when they poo on themselves. They will spit on
2 me -- this is psych patient. This is not
3 ordinary folks. They don't know what they are
4 doing. They will throw urine on you. I will
5 clean them up. They will fall. I will pick
6 them up. That's what we do. We are nurses. We
7 don't take it personal, especially with psych
8 patients. I will give them their medication. I
9 will go to the pharmacy when the doctor give the
10 order to pick up their meds. I will take sample
11 of their urine or whatever that the doctor
12 order, take it to the lab. Yeah. It's -- it's
13 hard work. It's 12 hours a day.

14 Q So you would typically -- what was
15 your typical work schedule? Did you work
16 12-hour shifts was --

17 A Yes, madam.

18 Q -- your assignment? Okay. And how
19 many days a week?

20 A I work an average of four days a
21 week.

22 Q Okay. And that was a requirement of
23 the job to work 12-hour shifts?

24 A No. It was three hours, but you
25 know, we were shortage -- we had shortage of

1 marked for identification.)

2 By Ms. Williams:

3 Q Okay. These are two COVID test
4 results. One dated 8/16, one dated 8/27.
5 These -- do these appear to be the COVID results
6 for the tests you took on 8/16 and 8/27?

7 A I don't know. I see my name on it.
8 It's the Regional Medical Center.

9 Q Okay. So the -- the test taken on
10 8/16 for COVID, that one is showing it's
11 negative, correct?

12 A It is showing negative, yeah.

13 Q Okay. And then the one on 8/27
14 shows that you tested positive for COVID,
15 correct?

16 A Yeah. It says positive, yeah.

17 Q Okay. So on or about August 27th,
18 you tested positive for COVID. Is that right?

19 A Yes.

20 Q Okay. I believe at some point you
21 had asserted that the August 16th test that you
22 took was for school. Is that right? That you
23 took -- went to -- to the employee health unit
24 at R.M -- Regional Medical Center to take a test
25 that you needed to submit for school. Is that

1 number, RMC Wandji 48, signature of healthcare
2 provider. Page before -- right here. Signature
3 of healthcare provider, Dr. Fayssoux signed that
4 on September 22nd, 2021. This is the
5 F.M.L.A. paperwork they had required, so that
6 they could evaluate if you qualified for family
7 medical leave while you were absent from work.
8 Is that right?

9 A I was not absent from work.

10 Q When you were out of work due to
11 COVID.

12 A When I was put out of work by my
13 employer -- told me not to come because I got
14 COVID at the hospital. They said, don't show up
15 until you get clearance from a doctor.

16 Q Okay. And in this paperwork, your
17 doctor is saying his best estimate is that you
18 would need to be out until at least October 22nd
19 of 2021. Is that correct?

20 A I think that was his first estimate.

21 Q Okay. Yeah. This -- we'll get to
22 the next ones in a minute. And here he says you
23 cannot stand for 12 hours and you cannot lift.
24 Is that right?

25 A If my doctor signed this, then it is

1 correct.

2 Q Okay. All right. I'm going to hand
3 you what I'm going to mark this defendant's
4 exhibit 7.

5 (Defendant's exhibit number 7
6 marked for identification.)

7 By Ms. Williams:

8 Q All right. Here's a letter dated
9 9/24/2021 to Serge Wandji from Ginger Swartz.
10 You had noted a minute ago that the address on
11 the September 7th letter was incorrect. It
12 looks like they've now changed or updated the
13 address, 951 Edisto Avenue. Was that your
14 address during the time you worked at R.M.C.?

15 A This is my address.

16 Q Okay.

17 A Edis--- Edisto, when I was working
18 as a nurse at the Regional Medical Center. I
19 remember this address.

20 Q Okay. And so in this -- in this
21 letter, Ms. Swartz notes, unfortunately, you
22 are not eligible for F.M.L.A. because you have
23 not been employed with the company for 12
24 months. However, she notes that you are
25 approved for a leave of absence starting on

1 Q This appears to be a note from your
2 doctor, Dr. Fayssoux. He -- if you look toward
3 the end of this note, he says that he would
4 recommend that you continue to convalesce at
5 home from October 22nd, 2021 through November
6 22nd, 2021. That at this time, you cannot
7 tolerate a return to work at a full-time
8 capacity. Is that correct?

9 A That's my doctor. Yes.

10 Q Okay. I'm going to hand you what
11 I'm going to mark as defendant's exhibit 9.
12 (Defendant's exhibit number 9
13 marked for identification.)

14 By Ms. Williams:

15 Q This is another note from your
16 doctor. This one also says at this time you
17 cannot tolerate a return to work at a full-time
18 capacity and he recommends that you continue to
19 convalesce at home from November 18th, 2021
20 through January 1st of 2022. Is that correct?

21 A If it's signed by my doctor, then
22 it's correct.

23 Q Okay. All right. I'm going to hand
24 you what I'm going to mark as defendant's
25 exhibit 10.

1 work full-time for a nurse -- sorry. Could not
2 currently return to work full-time for nursing
3 for numerous reasons and that an administrative
4 position would be most appropriate at this
5 juncture. Is that what he says in this note?
6 Exhibit 11.

7 A Well, if you read it from -- from
8 here and you read right, then that's what it is.

9 Q Okay.

10 A But I want it for the record. This
11 exhibit 10, I don't recognize it. I've never
12 received it. I don't know who wrote it.
13 Exhibit 10.

14 Q Okay. So in January -- around
15 January 17th of 2022, the doctor's note from
16 Dr. Fayssoux, he had noted that, I guess you had
17 gone to see him and he said at that point in
18 time, you couldn't tolerate a -- a return to
19 work at a full-time capacity. Is that right?
20 Do you recall that?

21 A It's been so long, madam. I -- I
22 don't -- if it is written by my doctor, I trust
23 it.

24 Q Okay. All right. And so also in
25 that note, he was saying that you could only

1 work eight hours a day and you couldn't return
2 to floor nursing, right?

3 A Yes. I remember him telling me you
4 cannot lift, you are forgetful, you can give the
5 wrong medication and kill patient, you know,
6 stuff like that.

7 Q Okay.

8 A Because of -- because of -- because
9 of the brain fog and -- and memory. And we take
10 decision like this as staff nurse. Like, I can
11 give you the wrong injection and you die right
12 away. And it happens. Some statistic I read
13 last time was 100,000 patients die in the
14 U.S. from medication error. Nursing is a
15 serious business. It's not paperwork that, oh,
16 I'm sorry, I wrote it wrong. No. Once you give
17 the injection, it's gone. We don't play.

18 We deal with people, real life, real
19 time. Wrong move, a person dies. That's what
20 nurses do. So he thought because of my Long
21 COVID because of my forgetfulness, because of my
22 physical ability, I'm going to return to work,
23 but not at the nursing capacity first. I think
24 that's what he wrote on that last paper.

25 Q Okay. So you -- you did not -- you

1 did not and could not return as a floor nurse at
2 that time in January of 2022, right?

3 A According to my doctor.

4 Q Okay. And so let's see. The -- the
5 position that you had held with R.M.C. at that
6 time was as a floor nurse, right?

7 A I was a nurse. That's what I was
8 hired.

9 Q Okay. And so did you -- were you
10 seeking some different role in returning to
11 work?

12 A I remember driving back at the
13 original medical center and said, I'm cleared
14 for work with some restriction from my doctor.

15 Q Correct.

16 A And they wouldn't -- they wouldn't
17 give me anything to do.

18 Q Were you cleared to work as a floor
19 nurse?

20 A I was cleared to go back to work
21 with some restriction described by the doctor.

22 Q Okay. But -- but in there he says
23 you can't work as a floor nurse, correct?

24 A That's what he says.

25 Q Okay.

1 what do you think that -- at that point in time,
2 are you saying you could have gone back to work
3 as a floor nurse?

4 A I don't think anything. I'm reading
5 what the doctor is telling me.

6 Q Okay. And I'm asking you, as of
7 March 11th of 2022, were you able to go back to
8 work full-time as a floor nurse?

9 A My doctor said what he says here and
10 I follow my physicians.

11 Q Okay. Were you able to -- it's a
12 yes or no question. Were you able to return to
13 work on March -- on March --

14 A My doctor assessed me and told me --

15 Q Let me finish the question, so that
16 he can get a clear record.

17 A Okay.

18 Q On March 1st of -- March 11th of
19 2022, when your doctor -- I'm sorry, your
20 counselor or therapist wrote this note, were you
21 able to return to R -- Regional Medical Center
22 as a floor nurse working full-time?

23 A My doctor said I couldn't.

24 Q Okay.

25 A My doctor says -- recommended that I

1 couldn't because of smell. By the way, we do a
2 lot of assessment as a nurse for the record. If
3 you have ever been hospitalized, you better have
4 a nurse that can smell. Because we smell poop,
5 we smell urine, we smell everything and it's
6 part of our assessment. By the smell of your
7 urine, I can do some nursing assessment and
8 nursing diagnosis to help the doctor come out
9 with a medical diagnosis. So smell is crucial
10 for our assessment. You cannot smell, you are a
11 useless nurse. You're going to give the wrong
12 smell in your note and the doctor is going to
13 prescribe the wrong medication. We do serious
14 business, madam. We care about people. If we
15 don't do, people die. This is no joke. We are
16 dealing with human beings here.

17 Q Uh-huh. So this is about -- in --
18 in March, this is about -- I think about seven
19 months after your August COVID diagnosis. Is
20 that right? At that point, you were still -- as
21 you just testified, unable to perform the duties
22 of a floor nurse. Is that right?

23 A I didn't say that. I said the
24 doctor wrote that I cannot.

25 Q Okay. Well, did you think that you

1 Q Did you ever apply -- physically
2 fill out an application for any other positions
3 after your floor nurse position was ended?

4 A I went there twice asking for a job.

5 Q Did you ever --

6 A From where I was living in Columbia,
7 South Carolina, I drove there twice asking for a
8 job.

9 Q Okay. My question is, did you ever
10 fill out an application for an open position
11 that was posted by Regional Medical Center
12 seeking to fill a position at Regional Medical
13 Center?

14 A They have no posting for me. I went
15 there to ask for the job, any job for me. I'm
16 eligible to work here.

17 Q Were you able to work as a floor
18 nurse?

19 A I don't remember.

20 Q Well, did your doctor ever clear you
21 to work as a floor nurse?

22 A No.

23 Q Okay. When your employment with
24 Regional Medical Center ended in March of 2022,
25 did you look for other work?

1 A I remember later on when I was
2 feeling better -- of course, I needed money. I
3 went to a substance use disorder place in
4 Orangeburg, South Carolina. They take care of
5 teenagers. It's still psych-related type of
6 job, which is my specialty.

7 Q The Tri-County Commission on Alcohol
8 and Drug Abuse?

9 A Yes, madam. And then -- and then I
10 started working. I remember this story. It
11 scared me to death. The next day, I went to my
12 doctor. I gave the medication to this young
13 teenager who was just been prescribed. She
14 looked at it. I mean, these are psych kids, but
15 they are not stupid. They are, oh, nurse,
16 nurse, this is not my medication, she said. And
17 I remember freaking out, like, oh, my God. What
18 happened? I took the medication and then I
19 double-checked with the tech and it wasn't her
20 medication. And I thought to myself, I better
21 get out of this place before I hurt somebody.

22 The next day, I went to the doctor,
23 said, get out of there and I resigned. I
24 tried -- and I almost killed a patient. I was
25 lucky, that's a psych place. Now, if you was,

1 like, in the hospital -- acute, where you
2 actually give injections because medication is a
3 different ballgame. Injection, it goes straight
4 to the -- to the -- to the -- to the
5 bloodstream. Goes straight to your heart. You
6 can kill a patient like that. And that was the
7 result of my Long COVID, forgetfulness,
8 confusion.

9 Q Okay. So you -- you tried to get a
10 position -- or you did get a position as a
11 nurse, but --

12 A I didn't try. I got --

13 Q Right.

14 A -- the position.

15 Q I corrected myself.

16 A And I worked.

17 Q You got a position at Tri-County
18 Commission on Alcohol and Drug Abuse on or about
19 May 14th of 2022. Does that sound right?

20 A I don't remember the exact date.

21 Q Okay. Let me see if I can
22 refresh --

23 A I don't -- I don't remember --

24 Q -- your memory.

25 A -- the dates.

1 Q Okay. Let me see if I can refresh
2 your memory.

3 A Yeah, I want to finish my answer. I
4 want to finish my answer. It wasn't just the
5 confusion, it was also -- and I sent you all the
6 documentation. It was also heart palpitation
7 from my Long COVID. And I went to my doctor and
8 he put me on a monitor for a week, like I would
9 take a shower with it, sleep with it, go
10 everywhere with it, just capture my heart rhythm
11 and everything. And he told me to get the hell
12 out of there. Because doing that was
13 interfering with my Long COVID recovery. So I
14 tried and I actually got a job, but my doctor
15 told me to quit that really quick before I hurt
16 somebody and before I hurt myself.

17 Q Okay. So you -- you got a position
18 as a nurse and determined that you could not do
19 that position. Is that right, based on your
20 discussions with your doctor?

21 A And I resigned.
22 (Defendant's exhibit number 14
23 marked for identification.)

24 By Ms. Williams:

25 Q Okay. So I'm going to hand you what

1 I've marked as defendant's exhibit 14. Is that
2 a copy of your resignation letter to Tri-County
3 Commission on Alcohol and Drug Abuse?

4 A Yeah.

5 Q Okay. And here it -- it looks like
6 you resigned on June 16th of 2022. Is that
7 right?

8 A Yes, madam.

9 Q And the second document in there
10 is --

11 A On this resignation, I specifically
12 said -- let me read here, for personal health
13 and personal safety reasons, I've made the
14 decision to resign in order to take better care
15 of myself and my health situation. That's what
16 I wrote here. That was the reason I left that
17 good job.

18 Q Okay. Yeah. So at that point --

19 A Yeah. For health purposes and for
20 safety purposes.

21 Q Okay.

22 A Safety for me, safety for my
23 patients.

24 Q So at that point, you felt like you
25 couldn't work as a nurse because of your medical

1 issues?

2 A Because of my Long COVID that I got
3 at your client place, the Regional Medical
4 Center.

5 Q Have you looked for any other
6 nursing positions since that point in time?

7 A I don't remember.

8 Q Have you ever worked as a nurse
9 again in any other positions other than Tri---
10 Tri-County Commission on Alcohol and Drug Abuse?

11 A No.

12 Q That's the only other nursing
13 position that you've held since leaving Regional
14 Medical Center?

15 A Yes, madam.

16 Q Okay. Have you applied for any
17 other positions as a nurse?

18 A I don't remember.

19 Q As you sit here today, would --
20 would you be able to perform the duties of a
21 floor nurse position?

22 A I am a licensed nurse, still
23 licensed nurse.

24 Q I understand. You may still be
25 licensed, but are you able to do the job

1 Q When you look for jobs, where do you
2 look for positions typically?

3 A Something that the life of somebody
4 is not going to be on the line. Something
5 academic. Something that I have to write.
6 Paperwork can always be reviewed by a peer. But
7 when you put that injection in somebody's body,
8 you don't take it back. It's already in his
9 blood. If the wrong medication, they die.

10 Q So -- so because of that, you're not
11 looking for any floor nurse positions anymore.
12 You're looking for something more academic. Is
13 that what I understand from your testimony? Is
14 that right?

15 A That's not what -- that's not what
16 I'm saying. I said when you put that injection
17 in the blood, if it's the wrong one, they die.
18 You are interpreting it. Just leave my
19 statement the way it is. Don't interpret it for
20 me.

21 Q I'm just trying to understand what
22 kind of jobs you've been looking for,
23 Mr. Wandji.

24 A I just told you.

25 Q And so you said you've been looking

EXHIBIT 3

+rmc
Regional Medical Center

September 7, 2021

Serge Wandji
2038 Lake Murray Blvd
Apt #11-307
Columbia, SC 29212

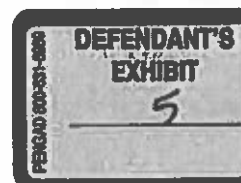
Dear Serge,

Please have your provider fill out the attached FMLA paperwork and fax it back to 803-395-4022. The paperwork must be filled out within 15 days of the date on the top of this letter, in your case this date would be September 22, 2021.

If you have any questions regarding FMLA please feel free to contact me at (803) 395-2063.

Sincerely,

Ginger Swartz
HR Business Partner



RMC-Wandji 0003

[illegible]

Employee Name: Serge Wandji

- ☐ You are an airline flight crew employee and you have not met the special hours of service eligibility requirements for airline flight crew employees as of the first date of requested leave (i.e., worked or been paid for at least 60% of your applicable monthly guarantee, and worked or been paid for at least 504 duty hours.)
- ☐ You do not work at and/or report to a site with 50 or more employees within 75-miles as of the date of your request.

If you have any questions, please contact: Ginger Swartz (Name of employer representative)
at (803) 395-2063 (Contact information).

SECTION II – ADDITIONAL INFORMATION NEEDED

As explained in Section I, you meet the eligibility requirements for taking FMLA leave. Please review the information below to determine if additional information is needed in order for us to determine whether your absence qualifies as FMLA leave. Once we obtain any additional information specified below we will inform you, **within 5 business days**, whether your leave will be designated as FMLA leave and count towards the FMLA leave you have available. **If complete and sufficient information is not provided in a timely manner, your leave may be denied.**

(Select as appropriate)

- ☐ No additional information requested. If no additional information requested, go to Section III.
- ☐ We request that the leave be supported by a certification, as identified below.
- ☐ Health Care Provider for the Employee ☐ Health Care Provider for the Employee's Family Member
- ☐ Qualifying Exigency ☐ Serious Illness or Injury (Military Caregiver Leave)

Selected certification form is ☐ attached / ☐ not attached.

If requested, medical certification must be returned by _____ (mm/dd/yyyy) (Must allow at least 15 calendar days from the date the employer requested the employee to provide certification, unless it is not feasible despite the employee's diligent, good faith efforts.)

- ☐ We request that you provide reasonable documentation or a statement to establish the relationship between you and your family member, including *in loco parentis* relationships (as explained on page one). The information requested must be returned to us by _____ (mm/dd/yyyy). You may choose to provide a simple statement of the relationship or provide documentation such as a child's birth certificate, a court document, or documents regarding foster care or adoption-related activities. Official documents submitted for this purpose will be returned to you after examination.
- ☐ Other information needed (e.g. documentation for military family leave): _____
The information requested must be returned to us by _____ (mm/dd/yyyy).

If you have any questions, please contact: _____ (Name of employer representative)
at _____ (Contact information).

SECTION III – NOTICE OF RIGHTS AND RESPONSIBILITIES

Part A: FMLA Leave Entitlement

You have a right under the FMLA to take unpaid, job-protected FMLA leave in a 12-month period for certain family and medical reasons, including up to 12 weeks of unpaid leave in a 12-month period for the birth of a child or placement of a child for adoption or foster care, for leave related to your own or a family member's serious health condition, or for certain qualifying exigencies related to the deployment of a military member to covered active duty. You also have a right

Employee Name: Serge Wandji

under the FMLA to take up to 26 weeks of unpaid, job-protected FMLA leave in a single 12-month period to care for a covered servicemember with a serious injury or illness (*Military Caregiver Leave*).

The 12-month period for FMLA leave is calculated as: *(Select as appropriate)*

- ☐ The calendar year (January 1st - December 31st)
- ☐ A fixed leave year based on _____
(e.g., a fiscal year beginning on July 1 and ending on June 30)
- ☐ The 12-month period measured forward from the date of your first FMLA leave usage.
- ☐ A "rolling" 12-month period measured backward from the date of any FMLA leave usage. *(Each time an employee takes FMLA leave, the remaining leave is the balance of the 12 weeks not used during the 12 months immediately before the FMLA leave is to start.)*

If applicable, the single 12-month period for *Military Caregiver Leave* started on _____ (mm/dd/yyyy).

You ☐ are / ☐ are not considered a key employee as defined under the FMLA. Your FMLA leave cannot be denied for this reason; however, we may not restore you to employment following FMLA leave if such restoration will cause substantial and grievous economic injury to us.

We ☐ have / ☐ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. Additional information will be provided separately concerning your status as key employee and restoration.

Part B: Substitution of Paid Leave – When Paid Leave is Used at the Same Time as FMLA Leave

You have a right under the FMLA to request that your accrued paid leave be substituted for your FMLA leave. This means that you can request that your accrued paid leave run concurrently with some or all of your unpaid FMLA leave, provided you meet any applicable requirements of our leave policy. Concurrent leave use means the absence will count against both the designated paid leave and unpaid FMLA leave at the same time. If you do not meet the requirements for taking paid leave, you remain entitled to take available unpaid FMLA leave in the applicable 12-month period. Even if you do not request it, the FMLA allows us to require you to use your available sick, vacation, or other paid leave during your FMLA absence.

(Check all that apply)

- ☐ Some or all of your FMLA leave will not be paid. Any unpaid FMLA leave taken will be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.
- ☐ You have requested to use some or all of your available paid leave (e.g., sick, vacation, PTO) during your FMLA leave. Any paid leave taken for this reason will also be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.
- ☐ We are requiring you to use some or all of your available paid leave (e.g., sick, vacation, PTO) during your FMLA leave. Any paid leave taken for this reason will also be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.
- ☐ Other: (e.g., short- or long-term disability, workers' compensation, state medical leave law, etc.) _____
Any time taken for this reason will also be designated as FMLA leave and counted against the amount of FMLA leave you have available to use in the applicable 12-month period.

The applicable conditions for use of paid leave include: _____.

For more information about conditions applicable to sick/vacation/other paid leave usage please refer to _____
Merlin _____ available at: Intranet _____.

Employee Name: Serge Wandji

Part C: Maintain Health Benefits

Your health benefits must be maintained during any period of FMLA leave under the same conditions as if you continued to work. During any paid portion of FMLA leave, your share of any premiums will be paid by the method normally used during any paid leave. During any unpaid portion of FMLA leave, you must continue to make any normal contributions to the cost of the health insurance premiums. To make arrangements to continue to make your share of the premium payments on your health insurance while you are on any unpaid FMLA leave, contact _____ at _____.

You have a minimum grace period of (☐ 30-days or ☐ _____ indicate longer period, if applicable) in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work.

You may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave if you do not return to work following unpaid FMLA leave for a reason other than: the continuation, recurrence, or onset of your or your family member's serious health condition which would entitle you to FMLA leave; or the continuation, recurrence, or onset of a covered servicemember's serious injury or illness which would entitle you to FMLA leave; or other circumstances beyond your control.

Part D: Other Employee Benefits

Upon your return from FMLA leave, your other employee benefits, such as pensions or life insurance, must be resumed in the same manner and at the same levels as provided when your FMLA leave began. To make arrangements to continue your employee benefits while you are on FMLA leave, contact _____ at _____.

Part E: Return-to-Work Requirements

You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. An equivalent position is one that is virtually identical to your former position in terms of pay, benefits, and working conditions. At the end of your FMLA leave, all benefits must also be resumed in the same manner and at the same level provided when the leave began. You do not have return-to-work rights under the FMLA if you need leave beyond the amount of FMLA leave you have available to use.

Part F: Other Requirements While on FMLA Leave

While on leave you (☐ will be / ☐ will not be) required to furnish us with periodic reports of your status and intent to return to work every _____.

(Indicate interval of periodic reports, as appropriate for the FMLA leave situation).

If the circumstances of your leave change and you are able to return to work earlier than expected, you will be required to notify us at least two workdays prior to the date you intend to report for work.

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

It is mandatory for employers to provide employees with notice of their eligibility for FMLA protection and their rights and responsibilities. 29 U.S.C. § 2617; 29 C.F.R. § 825.300(b), (c). It is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 10 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

DO NOT SEND THE COMPLETED FORM TO THE DEPARTMENT OF LABOR. EMPLOYEE INFORMATION.

**Certification of Health Care Provider for
Employee's Serious Health Condition
under the Family and Medical Leave Act**

**U.S. Department of Labor
Wage and Hour Division**

DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR.
RETURN TO THE PATIENT.

OMB Control Number: 1235-0003
Expires: 6/30/2023

The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. 29 U.S.C. §§ 2613, 2614(c)(3); 29 C.F.R. § 825.305. The employer must give the employee at least **15 calendar days** to provide the certification. If the employee fails to provide complete and sufficient medical certification, his or her FMLA leave request may be denied. 29 C.F.R. § 825.313. Information about the FMLA may be found on the WHD website at www.dol.gov/agencies/whd/fmla.

SECTION I – EMPLOYER

Either the employee or the employer may complete Section I. While use of this form is optional, this form asks the health care provider for the information necessary for a complete and sufficient medical certification, which is set out at 29 C.F.R. § 825.306. You may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Additionally, you may not request a certification for FMLA leave to bond with a healthy newborn child or a child placed for adoption or foster care.

Employers must generally maintain records and documents relating to medical information, medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

- (1) Employee name: Serge Wandji
First Middle Last
- (2) Employer name: The Regional Medical Center (Fax) 803-395-4022 Date: 09/14/21 (mm/dd/yyyy)
(List date certification requested)
- (3) The medical certification must be returned by 09/29/21 (mm/dd/yyyy)
(Must allow at least 15 calendar days from the date requested, unless it is not feasible despite the employee's diligent, good faith efforts.)
- (4) Employee's job title: Staff RN Job description (☒ is / ☐ is not) attached.
Employee's regular work schedule: _____
Statement of the employee's essential job functions: See job description

(The essential functions of the employee's position are determined with reference to the position the employee held at the time the employee notified the employer of the need for leave or the leave started, whichever is earlier.)

SECTION II - HEALTH CARE PROVIDER

Please provide your contact information, complete all relevant parts of this Section, and sign the form. Your patient has requested leave under the FMLA. The FMLA allows an employer to require that the employee submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to the serious health condition of the employee. For FMLA purposes, a "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves *inpatient care* or *continuing treatment* by a health care provider. For more information about the definitions of a serious health condition under the FMLA, see the chart on page 4.

You may, but are not required to, provide other appropriate medical facts including symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment. Please note that some state or local laws may not allow disclosure of private medical information about the patient's serious health condition, such as providing the diagnosis and/or course of treatment.

Employee Name: SergeWandji

- (4) If needed, briefly describe other appropriate medical facts related to the condition(s) for which the employee seeks FMLA leave. (e.g., use of nebulizer, dialysis) _____

PART B: Amount of Leave Needed

For the medical condition(s) checked in Part A, complete all that apply. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage.

- (5) Due to the condition, the patient (☐ had / ☒ will have) planned medical treatment(s) (scheduled medical visits) (e.g. psychotherapy, prenatal appointments) on the following date(s): 9/22/2021

10/14/2021 (3 weeks from today's visit)

- (6) Due to the condition, the patient (☐ was / ☐ will be) referred to other health care provider(s) for evaluation or treatment(s).

State the nature of such treatments: (e.g. cardiologist, physical therapy) _____

Provide your best estimate of the beginning date _____ (mm/dd/yyyy) and end date _____ (mm/dd/yyyy) for the treatment(s).

Provide your best estimate of the duration of the treatment(s), including any period(s) of recovery (e.g. 3 days/week) _____

- (7) Due to the condition, it is medically necessary for the employee to work a reduced schedule.

Provide your best estimate of the reduced schedule the employee is able to work. From _____ (mm/dd/yyyy) to _____ (mm/dd/yyyy) the employee is able to work: (e.g., 5 hours/day, up to 25 hours a week)

- (8) Due to the condition, the patient (☐ was / ☒ will be) incapacitated for a continuous period of time, including any time for treatment(s) and/or recovery.

Provide your best estimate of the beginning date 09/22/2021 (mm/dd/yyyy) and end date 10/22/2021 (mm/dd/yyyy) for the period of incapacity.

- (9) Due to the condition, it (☐ was / ☐ is / ☐ will be) medically necessary for the employee to be absent from work on an intermittent basis (periodically), including for any episodes of incapacity i.e., episodic flare-ups. Provide your best estimate of how often (frequency) and how long (duration) the episodes of incapacity will likely last.

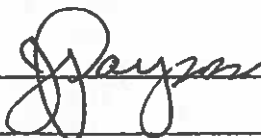
Over the next 6 months, episodes of incapacity are estimated to occur _____ times per (☐ day / ☐ week / ☐ month) and are likely to last approximately _____ (☐ hours / ☐ days) per episode.

Employee Name: Serge Wandji**PART C: Essential Job Functions**

If provided, the information in Section I question #4 may be used to answer this question. If the employer fails to provide a statement of the employee's essential functions or a job description, answer these questions based upon the employee's own description of the essential job functions. An employee who must be absent from work to receive medical treatment(s), such as scheduled medical visits, for a serious health condition is considered to be *not able* to perform the essential job functions of the position during the absence for treatment(s).

- (10) Due to the condition, the employee (☐ was not able / ☒ is not able / ☐ will not be able) to perform one or more of the essential job function(s). Identify at least one essential job function the employee is not able to perform:

Cannot stand for 12 hours; Cannot lift

Signature of
Health Care Provider

Date 9/22/2021 (mm/dd/yyyy)

Definitions of a Serious Health Condition (See 29 C.F.R. §§ 825.113-.115)
Inpatient Care
- An overnight stay in a hospital, hospice, or residential medical care facility. - Inpatient care includes any period of incapacity or any subsequent treatment in connection with the overnight stay.
Continuing Treatment by a Health Care Provider (any one or more of the following)
Incapacity Plus Treatment: A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves either: - Two or more in-person visits to a health care provider for treatment within 30 days of the first day of incapacity unless extenuating circumstances exist. The first visit must be within seven days of the first day of incapacity; or, - At least one in-person visit to a health care provider for treatment within seven days of the first day of incapacity, which results in a regimen of continuing treatment under the supervision of the health care provider. For example, the health provider might prescribe a course of prescription medication or therapy requiring special equipment.
Pregnancy: Any period of incapacity due to pregnancy or for prenatal care.
Chronic Conditions: Any period of incapacity due to or treatment for a chronic serious health condition, such as diabetes, asthma, migraine headaches. A chronic serious health condition is one which requires visits to a health care provider (or nurse supervised by the provider) at least twice a year and recurs over an extended period of time. A chronic condition may cause episodic rather than a continuing period of incapacity.
Permanent or Long-term Conditions: A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective, but which requires the continuing supervision of a health care provider, such as Alzheimer's disease or the terminal stages of cancer.
Conditions Requiring Multiple Treatments: Restorative surgery after an accident or other injury; or, a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days if the patient did not receive the treatment.

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 15 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR. RETURN TO THE PATIENT.

Employee Name: Serge Wandji
 Health Care Provider's name: (Print) JAMES FAYSSOUX, M.D.
 Health Care Provider's business address: 615 Wesley Dr. Suite 200, Charleston SC 29405
 Type of practice / Medical specialty: Internal Medicine
 Telephone: 843.571.6880 Fax: () _____ E-mail: _____

PART A: Medical Information

Limit your response to the medical condition(s) for which the employee is seeking FMLA leave. Your answers should be your best estimate based upon your medical knowledge, experience, and examination of the patient. After completing Part A, complete Part B to provide information about the amount of leave needed. Note: For FMLA purposes, "incapacity" means the inability to work, attend school, or perform regular daily activities due to the condition, treatment of the condition, or recovery from the condition. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), genetic services, as defined in 29 C.F.R. § 1635.3(e), or the manifestation of disease or disorder in the employee's family members, 29 C.F.R. § 1635.3(b).

- (1) State the approximate date the condition started or will start: 09/06/2021 (mm/dd/yyyy)
 (2) Provide your best estimate of how long the condition lasted or will last: 3-4 weeks
 (3) Check the box(es) for the questions below, as applicable. For all box(es) checked, the amount of leave needed must be provided in Part B.

☒ **Inpatient Care:** The patient (☒ has been / ☐ is expected to be) admitted for an overnight stay in a hospital, hospice, or residential medical care facility on the following date(s): 9/6-9/9/2021

☒ **Incapacity plus Treatment:** (e.g. outpatient surgery, strep throat)

Due to the condition, the patient (☐ has been / ☐ is expected to be) incapacitated for more than three consecutive, full calendar days from _____ (mm/dd/yyyy) to _____ (mm/dd/yyyy).

The patient (☐ was / ☐ will be) seen on the following date(s): _____

The condition (☐ has / ☐ has not) also resulted in a course of continuing treatment under the supervision of a health care provider (e.g. prescription medication (other than over-the-counter) or therapy requiring special equipment)

- ☐ **Pregnancy:** The condition is pregnancy. List the expected delivery date: _____ (mm/dd/yyyy).
- ☐ **Chronic Conditions:** (e.g. asthma, migraine headaches) Due to the condition, it is medically necessary for the patient to have treatment visits at least twice per year.
- ☐ **Permanent or Long Term Conditions:** (e.g. Alzheimer's, terminal stages of cancer) Due to the condition, incapacity is permanent or long term and requires the continuing supervision of a health care provider (even if active treatment is not being provided).
- ☐ **Conditions requiring Multiple Treatments:** (e.g. chemotherapy treatments, restorative surgery) Due to the condition, it is medically necessary for the patient to receive multiple treatments.
- ☐ **None of the above:** If none of the above condition(s) were checked, (i.e., inpatient care, pregnancy) no additional information is needed. Go to page 4 to sign and date the form.

EXHIBIT 5



the Regional Medical Center

September 24, 2021

Serge Wandji
951 Edisto Avenue
Orangeburg, SC 29115

Re: Leave of Absence

Dear Serge,

This letter is to confirm that we have received paperwork regarding your request for leave. Unfortunately, you are not eligible for FMLA. FMLA (Family Medical Leave Act) provides employees who have been employed for twelve months and have worked 1250 hours, up to twelve workweeks of job-related leave.

You are approved for a leave of absence (LOA) starting 8/28/2021. A leave of absence is available up to 12 weeks. Keep in mind, a leave of absence does not protect your job and your position may be filled at any time. If your position is filled, you may apply for positions that you have the skills, knowledge and abilities to complete. If your position remains open, you would simply return to your position. Prior to returning to work, you will need to provide HR with a notice from the physician that you may return to work without restrictions.

While you are out, you will continue to pay for your benefits. You will be requested to use PTO and extended illness while you are out, which may cover your benefits. If your PTO and extended illness runs out while you are still out, you will need to work with Pranali Nabb in HR to pay for any benefits outstanding. You may contact her at (803) 395-2388.

If you have any questions, please contact me at (803) 395-2063.

Sincerely,

Ginger Swartz
HR Business Partner



RMC-Wandji 0002

EXHIBIT 6



ASSOCIATES IN INTERNAL MEDICINE

ROPER ST. FRANCIS PHYSICIANS

615 Wesley Drive, Suite 200
Charleston, SC 29407
(843) 571-6880p
www.associatesim.com

*Cary Stanley Hickman, M.D. William Huston Snyder III, M.D.
Charles Leon Smith, M.D. Christopher P. McLain, M.D.
Hugh Edward Thompson, M.D. Nicholas H. Noblet, M.D.
James E. Fayssoux, M.D. James Anola, M.D.*

To Whom It May Concern,

Serge Wandji (d.o.b. [REDACTED]) is a patient in this internal medicine practice. As you well know he contracted Covid-19 at his place of employment during an outbreak that occurred in one of your inpatient units. He was diagnosed with Covid-19 pneumonia and hypoxemic respiratory failure despite the fact that he was fully vaccinated. He was hospitalized briefly and required supportive treatment including supplemental oxygen. When he was first evaluated in the office he had extreme fatigue and exercise intolerance as well as persistent cognitive changes typical in this patient population. He was reevaluated today via a telehealth visit. He is apparently out on sick leave approved through 3 months. He is continuing to recover gradually as expected based on his diagnosis. He has had some improvement in his exercise tolerance and has been able to gradually increase his activity level at home. It is clear from talking with him today that he could not tolerate a return to work at a full-time capacity. We have recommended that he continue to convalesce at home from 10/22/2021 through 11/22/2021. At that time we will reevaluate his progress and hopefully he will be fit to return to work at that time. Thank you for your time and consideration in this matter.

Respectfully submitted,

James Fayssoux, M.D.



RMC-Wandji 0040

EXHIBIT 7



ASSOCIATES IN INTERNAL MEDICINE

ROPER ST. FRANCIS PHYSICIANS

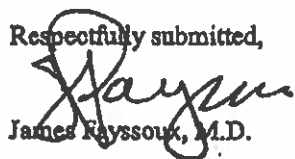
615 Wesley Drive, Suite 200
Charleston, SC 29407
(843) 371-6880p
www.associatesim.com

*Cary Stanley Hickman, M.D. William Huston Snyder III, M.D.
Charles Leon Smith, M.D. Christopher P. McLain, M.D.
Hugh Edward Thompson, M.D. Nicholas H. Noblet, M.D.
James E. Fayssoux, M.D. James Anola, M.D.*

To Whom It May Concern,

Serge Wandji (d.o.b. [REDACTED]) is a patient in this internal medicine practice. As you well know he contracted Covid-19 at his place of employment during an outbreak that occurred in one of your inpatient units. He was diagnosed with Covid-19 pneumonia and hypoxemic respiratory failure despite the fact that he was fully vaccinated. He was hospitalized briefly and required supportive treatment including supplemental oxygen. When he was first evaluated in the office he had extreme fatigue and exercise intolerance as well as persistent cognitive changes typical in this patient population. He was reevaluated today in person. He is apparently out on sick leave approved through 3 months. He is continuing to recover gradually as expected based on his diagnosis. He has had some improvement in his exercise tolerance and has been able to gradually increase his activity level at home. It is clear from talking with him today that he could not tolerate a return to work at a full-time capacity. We have recommended that he continue to convalesce at home from 11/18/2021 through 1/1/2022. At that time we will reevaluate his progress and hopefully he will be fit to return to work at that time. Thank you for your time and consideration in this matter.

Respectfully submitted,


James Fayssoux, M.D.



RMC-Wandji 0038

EXHIBIT 8

+rmc
Regional Medical Center

January 13, 2022

Serge Wandji
951 Edisto Avenue
Orangeburg, SC 29115

Dear Serge,

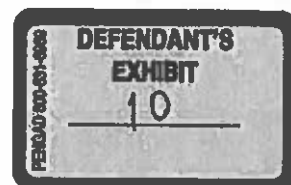
Our records indicate that you were approved for leave of absence (LOA) effective **August 28, 2021** for up to 12 weeks. At that time, you were not eligible for FMLA due to not meeting the requirements of working 12 consecutive months and working a minimum of 1250 hours. We received an updated physician's note stating that you will remain out from 11/18/2021 to 1/1/2022. The 12-week leave of absence (LOA) exhausted as **December 21, 2021**. We have yet to receive any updated information on your expected return to work date or notice of any other time that was needed for leave. We would need to receive an updated physician's note so that your file can be documented as such.

Please submit updated documentation from your physician. Enclosed you will find the physicians certification that must be returned to Human Resources by 1/28/2022.

If you have any questions regarding these leave issues please feel free to contact me at (803) 395-2543.

Sincerely,


Nicole Brown
HR Manager



RMC-Wandji 0036

EXHIBIT 9



ASSOCIATES IN INTERNAL MEDICINE

ROPER ST. FRANCIS PHYSICIANS

615 Wesley Drive, Suite 200
Charleston, SC 29407
(843) 571-6880p
www.associatesim.com

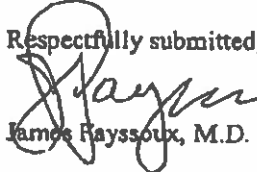
*Cary Stanley Hickman, M.D. William Huston Snyder III, M.D.
Charles Leon Smith, M.D. Christopher P. McLain, M.D.
Hugh Edward Thompson, M.D. Nicholas H. Noblet, M.D.
James E. Fayssoux, M.D. James Anoa, M.D.*

Date: January 17, 2022

To Whom It May Concern,

Serge Wandji (d.o.b. [REDACTED]) is a patient in this internal medicine practice. As you well know he contracted Covid-19 at his place of employment during an outbreak that occurred in one of your inpatient units. He was diagnosed with Covid-19 pneumonia and hypoxemic respiratory failure despite the fact that he was fully vaccinated. He was hospitalized briefly and required supportive treatment including supplemental oxygen. When he was first evaluated in the office he had extreme fatigue and exercise intolerance as well as persistent cognitive changes typical in this patient population. He was reevaluated today via a telehealth visit. He is continuing to recover gradually as expected based on his diagnosis. He has had some improvement in his exercise tolerance and has been able to gradually increase his activity level at home. It is clear from talking with him today that he could not tolerate a return to work at a full-time capacity. I believe he could return to work on a schedule of eight hours a day but could not currently return to work full time floor nursing for numerous reasons. An administrative position would be most appropriate at this juncture. Thank you for your time and consideration in this matter.

Respectfully submitted,


James Fayssoux, M.D.



RMC-Wandji 0025

EXHIBIT 10



Roots Psychological Associates
1531 Laurel St. Columbia, SC 29201
Phone: (803) 764-1010

Re: Serge Wandji, DOB: [REDACTED]
Date: 03/11/2022

To Whom It May Concern,

Mr. Wandji has been a client at our practice since 02/10/2022. During that time, we have been working through his complications since contracting COVID-19 in the fall of 2021 and being admitted to the hospital. He has made some progress, but there are still concerns that could mildly limit his functionality at bedside nursing (physical- still waiting to gain back his smell, mental/emotional- acute stress due to COVID-19 experience and hospitalization).

It is my clinical recommendation that he be cleared to start back at the hospital but at part-time hours and starting out in an administrative role. The goal will be to ease him back into his previous role, but in small increments at a time.

Sincerely,

A handwritten signature in black ink, appearing to read "James Stewart Courtney".

James Stewart Courtney, MA, LPC-A
Licensed Therapist
803-764-1010 (Phone)
803-764-0193 (Fax)
Jscourtney.therapy@gmail.com

Date: 03/11/2022



RMC-Wandji 0024

EXHIBIT 11

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Serge Wendi <sergewendi@gmail.com>

Tina L. Morris <lhmorris@regmed.com>

Tue, Mar 15, 2022 at 7:14 PM

Tina L. Morris <lhmorris@regmed.com>

To: Serge Wandji <sergewandji@gmail.com>

CC: "Nicole B. Brown" <nbrown@regimed.com> Tina L. Morris" <tlmorris@regimed.com>

URGENT: LOA Exhausted

Tina L. Norris <tlorris@regmed.com>

Tue, Mar 15, 2022 at 7:14 PM

To: Serge Wandji <sergewandji@gmail.com>

Cc: "Nicole B. Brown" <nbbrown@regmed.com>, "Tina L. Norris" <tlorris@regmed.com>

Mr. Wandji,

I received your email dated Saturday, March 12, 2022 (see attached) providing another medical update from a different physician than the original treating physician when your leave of absence began in August 28, 2021.

Unfortunately, the organization doesn't have a part-time administrative position available at this time per your request.

At this time we have no choice but to end your employment effective 3/15/2022 due to leave exhaustion. (see term letter attached) Please understand that a separation under these circumstances is in no way punitive and you are eligible for rehire. Please continue to review RMC career postings, and if you see a job that meets your qualifications and experience we welcome you to apply. Your benefits will be active through March 31, 2022 as long as you have continued to pay your benefit premiums. If you have Medical Flexible Spending or Dependent Flexible Spending those benefits will terminate at mid-night.

We wish you all the best.

EXHIBIT 12



the Regional Medical Center

March 15, 2022

Serge Wandji
951 Edisto Avenue
Orangeburg, SC 29115

RE: Leave of Absence

Dear Serge:

The purpose of this letter is to formally advise you that you have exhausted the twelve weeks' maximum period of available leave under RMC's Leave of Absence policy. You exhausted your leave on **December 21, 2021**. Please understand that a separation under these circumstances is in no way punitive and you are eligible for rehire.

Please arrange to return your photo I.D. badge and parking permit as well as any other hospital property to Human Resources Department. If you have any questions, please contact me at 803-395-2543.

Sincerely,

Tina Norris,
Director, Human Resources

3000 St. Matthews Road ▪ Orangeburg, South Carolina 29118-1498
p 803-395-2863 ▪ f 803-395-2200 ▪ www.trmchealth.org

RMC-Wandji 0001

EXHIBIT 13

To: Mrs. Kayla Jenkins
Director of Nursing

Date: June 16, 2022

Dear Mrs. Jenkins,

Please accept this as my formal resignation from my position as a registered nurse (RN) at the Tri-County Commission on Alcohol and Drug Abuse (TCCADA), William J. McCord Adolescent Treatment Facility in Orangeburg South Carolina.

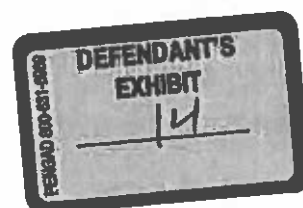
For personal health and personal safety reasons, I have made the decision to resign in order to take better care of myself and my health situation.

Should you have a need for coverage this weekend, then I am willing to put in extra effort despite my condition, to help out until Monday morning June 20, 2022 at 7:00 A.M. If you do not need my help, then I will either mail in my keys, or drive to the office in Orangeburg, on Friday 17, 2022 to return my keys in person.

I would like to thank you for the opportunity to provide nursing care to your vulnerable patients population, and I truly wish your treatment center continued growth and success in the future.

Sincerely,

Serge Wandji, RN



RMC - Tri-County Subp Response 0021

1 STATE OF SOUTH CAROLINA) IN THE SOUTH CAROLINA CIRCUIT COURT 1
2 COUNTY OF ORANGEBURG) COURT C.A NO. 2023-CP-38-00331
3
4 Serge R. Wandji,)
5 Plaintiff,)
6 Versus)
7 The Regional Medical Centre,)
8 Defendant.)
9
10 H E A R I N G
11
12 DATE: November 14, 2024
13
14 LOCATION: South Carolina Circuit Court 1
15
16 JUDGE: Maite Murphy
17
18 TRANSCRIBED BY: ERIN REILLY
19
20 LEGAL EAGLE
21 Post Office Box 5682
22 Greenville, South Carolina 29606
23 864-467-1373
24 depos@legaleagleinc.com
25

1 APPEARANCES:
2 Attorney for Plaintiff.
3 Serge R. Wandji (Pro Se)
4
5 Attorney for Defendant.
6 Amanda Coney Williams, Esquire
7 Parker Poe Adams & Bernstein, LLP
8 850 Morrison Drive, Suite 400
9 Charleston, SC 29403
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[EXHIBITS]

6

[None Marked]

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12 (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH IS
13 REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

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PROCEEDINGS

THE CLERK: 2023CP38331 Serge Wandji versus The Regional Medical Center and it is Defendant's motion for summary judgment.

MS. WILLIAMS: Good morning, Your Honor, Amanda Williams representing the Defendant, Regional Medical Center. We have the pending motion for summary judgment before the Court this morning.

THE COURT: Ms. Williams, do you have anyone on the other side?

MS. WILLIAMS: Yes. Mr. Wandji is a pro se Plaintiff. He's not represented, I see him here today as well.

THE COURT: Good morning, Mr. Wandji?

MR. WANDJI: Good morning, Your Honor. Good morning.

THE COURT: Good morning. All right. Ms. Williams, you ready to proceed?

MS. WILLIAMS: Yes, Your Honor. May I please the Court, we're here today on Defendant Regional Medical Center's motion for summary judgment for ease of reference I'll refer to them as RMC throughout my argument. Plaintiff filed a complaint against RMC and another Defendant back in March of 2023 asserting various claims. We filed a motion to dismiss all of those except for the workers' comp retaliation claim. The Court granted our motion.

So, the only pending cause of action now remaining is the

1 workers' comp retaliation claim under South Carolina Statute
2 41-1-80.

3 Plaintiff's argument is that he was terminated by RMC
4 in retaliation for filing a workers' comp claim. We submitted
5 our summary judgment brief yesterday as set forth in that
6 brief. The only evidence is that RMC separated Plaintiff's
7 employment because he was unable to return to his position as a
8 nurse after RMC allowed him seven months of medical leave.
9 Under the South Carolina Workers' Comp statute failure to meet
10 established work standards is an affirmative defense.

11 The parties have exchanged written discovery, taken
12 depositions, and Plaintiff had filed two opposition briefs. In
13 one of those he noted there were some unresolved discovery
14 issues. Judge McGee has since ruled on those issues and
15 Defendant has complied with that order. So, it's our position
16 this matter is right for the Court's consideration.

17 By way of brief background, RMC hired Plaintiff as a
18 nurse in March of 2021. A few months later in August, he
19 tested positive for Covid-19. Several days after his diagnosis
20 he contacted RMC to submit a claim for workers' comp benefits
21 and asserted his COVID-19 diagnosis was a work-related injury.
22 RMC assisted him in getting his claim submitted to the workers'
23 comp carrier. Thereafter, he unfortunately experienced some
24 complications from his COVID-19 illness. He was hospitalized
25 and continued to receive treatment from his doctor. He didn't

1 qualify for Family Medical and Leave Act but RMC granted him 12
2 weeks of leave while he recovered from his illness. That leave
3 began on August 28th, 2021. Over the next seven months so
4 that's from August 28th, 2021 to March 11th, 2022, Plaintiff
5 submitted five doctor's notes, those are all attached as
6 exhibits to RMCs briefs. Those notes the ones through January
7 of '22 provide that Plaintiff was unable to return to work and
8 needed to continue to convalesce at home and recover from his
9 complications from Covid. In January, 2022, five months after
10 he had gone out on leave, he testified in his deposition that
11 his doctor told him, "You cannot lift, you are forgetful, you
12 can give the wrong medication and kill a patient."

13 His doctor issued a doctor's note, again, this is
14 attached to our summary judgment brief stating that the
15 Plaintiff could not return to work as a full-time floor nurse.
16 Even though he had exhausted his full weeks of leave allowed by
17 RMCs policy, RMC continued to accommodate him with additional
18 leave. A few months later on March 11th, 2022 the Plaintiff
19 provided RMC with another note from his treating provider
20 stating that he had physical and mental issues that limited his
21 functionality at bedside nursing. His doctor noted he could
22 only return if it was a part-time administrative position which
23 was not a position for which he was hired. He was a full-time
24 floor nurse. On March 15th of '22, RMC notified him that due
25 to his physical inability to return to his position as a nurse,

1 they were separating his employment. He was advised in that
2 same letter that he was eligible for rehire.

3 He was invited to review any of RMCs open job
4 postings and to apply for any that met his qualifications and
5 experience. Plaintiff is claiming that the real reason first
6 termination was because he filed this workers' comp claim.
7 Even though that was seven months before he was separated from
8 employment. He bears the burden of proving that the filing of
9 his workers' comp claim was the determinative factor in his
10 termination. The Court held in Hinton versus Designer
11 Ensembles and I referenced this case in my brief. The
12 Plaintiff must show he would not have been discharged but for
13 the filing of the workers' comp claim. At this point, the
14 Plaintiff has presented no evidence linking the termination of
15 his employment to the filing of that workers' comp claim. He's
16 asserted that the -- this alleged temporal proximity between
17 the filing of his claim and the separation raises an inference
18 of retaliatory intent.

19 As an initial matter, we would first argue there's no
20 temporal proximity given the seven-month timeframe between the
21 filing, filing of the workers' comp claim and the separation of
22 his employment. But even if he could prove there was some kind
23 of temporal proximity, the courts have held that if an employer
24 proffers a legitimate non-retaliatory reason for the
25 termination, any temporal proximity between the filing of the

1 claim and the termination is insufficient as a matter of law to
2 defeat summary judgment and that was held by the Hinton case.
3 In that case, which I think is instructive here for the Court,
4 the Court there granted summary judgment when the Plaintiff
5 initiated workers' comp proceedings following a job-related
6 injury. The Plaintiff returned to work two months later. He
7 was terminated for numerous unexcused absences. The Court held
8 that because the temporal proximity was the only reason that
9 was offered by the Plaintiff that his termination was a result
10 of the filing of the workers' comp claim his claim failed as a
11 matter of law.

12 Here Plaintiff hasn't presented any evidence that the
13 reason provided for the separation of his employment that is,
14 that he couldn't work anymore as a floor nurse was protectual.
15 Under the workers' comp retaliation statute, a failure to meet
16 established work standards for the job is specifically
17 delineated as an affirmative defense. And the undisputed
18 evidence shows that Plaintiff was separated from his position
19 as a nurse because he couldn't meet those established work
20 standards for the job. We've attached the job description as
21 an exhibit to our brief. There are also attached there
22 numerous doctor's notes stating he could not perform the duties
23 of a full-time floor nurse. I've got excerpts from Plaintiff's
24 deposition where he testifies, he suffers from long covid,
25 ongoing memory issues and that his doctor told him he could not

1 return to work as a full-time floor nurse for numerous reasons,
2 including that he was forgetful and could give the wrong
3 medication and kill a patient.

4 Plaintiff testified he continues to suffer from long
5 Covid and ongoing memory issues and during his deposition, he
6 couldn't even recall basic information such as where he was
7 born or where he lived. Currently, Plaintiff testified he's
8 not seeking floor nurse position but rather and I quote from
9 his deposition, "something that the life of somebody is not
10 going to be on the line, something academic." His inability to
11 meet these established work standards and to perform the duties
12 of the floor nurse position satisfies the applicable
13 affirmative defense under 41-1-80. I wanted to reference under
14 Your Honor's attention to the Varner case which I've cited in
15 my brief. Those facts are similar to our case.

16 In that case, the Plaintiff initiated the workers'
17 comp proceedings after he sustained a back injury. While those
18 proceedings were ongoing, the Plaintiff was terminated from his
19 position because he notified and submitted a doctor's note
20 stating that he could not lift 35 pounds. That restriction
21 prevented him from performing his job duties, which required
22 him to lift 50 pounds. In that case, the Court granted summary
23 judgment because the Plaintiff's restrictions prevented him
24 from performing his job duties and the Plaintiff couldn't prove
25 for causal link between his workers' comp proceedings and the

1 termination. The Plaintiff is arguing that RMCs failure to
2 accommodate his restriction to give him a part-time
3 administrative job, which was a totally different position than
4 he had, is, you know, somehow evidence that our proffered
5 reason was protectual. The Court in Varner is clear that the
6 law does not require an employer to retain an employee can no
7 longer perform his duties the duties of his job because of an
8 on-the-job injury. The evidence is overwhelming as reflected
9 in all the exhibits attached to our brief, that he could not
10 perform the duties of a floor nurse position.

11 RMC accommodated him for seven months of -- with
12 seven months of medical leave, more than the 12 allowed by its
13 policy and more than required by the law. It's our position
14 that the Defendant is entitled to summary judgment in this
15 case. Because the only evidence is that the Plaintiff was
16 unable to meet the established work standards for a floor nurse
17 and has failed to present any evidence that RMC would not have
18 separated his employment but for the filing of his workers comp
19 claim, we would request that the Court grant its motion and
20 dismiss Plaintiff's claims as a matter of law. Thank you, Your
21 Honor.

22 THE COURT: Thank you Ms. Williams. Sir, your
23 response?

24 MR. WANDJI: Good morning again, Your Honor. My name
25 is Serge Wandji, I am a pro se Plaintiff in this case. I would

1 like to start by giving a quick background on this case before
2 I give my oral argument and my oral argument, by the way, is
3 also going to be partial and my brief background is going to
4 tell you why it's going to be partial. Sometime last year, I
5 filed -- during the discovery process I filed a motion to --
6 for the discovery to get production of documentation and
7 interrogatory answers from the Defendant. However, the
8 Defendant objected to the majority of the Plaintiff discovery
9 request. So, the Plaintiff I -- I filed a motion to compel
10 seeking the Court to intervene to overrule the Defendant's
11 objections and compel with the production of the document
12 requested by me. I did that on May 10th, 2024. While we were
13 still waiting for my motion to compel, the Defendant filed in a
14 motion of summary judgment in the middle of the discovery
15 process. The Defendant did that on September 24th, 2024.

16 So, in the meantime on October 9th, 2024 Judge McGee,
17 the Court via an email sent to both me and the Defendant
18 directed the Plaintiff to revise the general request for
19 production from the Defendant. That revised request for
20 production was submitted by myself on October 11th, 2024.
21 Since the Defendant had already filed in a motion for a summary
22 judgment in the middle of the discovery process, I made the
23 decision to file in a motion in opposition to this motion of
24 summary judgment. I did that on November 4th because I have
25 not yet received the answer from the Defendant. I needed those

1 documentation to prepare my brief to defend myself against this
2 summary judgment. So, I filed that motion on November the 4th.
3 Now on November the 5th, the Court ordered the Defendant to
4 produce a list of documentation to me and also to answer a few
5 question on the interrogatory that I resubmitted.

6 So, it wasn't until yesterday, Your Honor, it wasn't
7 until yesterday that I received from Ms. Williams, the attorney
8 for the Defendant, that I received the response, the
9 documentation that I required. It wasn't until yesterday that
10 I received that and when I read -- I received that via email.
11 And when I read the email, it appears that Ms. Williams sent
12 that email on November the 12th that's two days ago like around
13 6:30. So, I didn't see that email until yesterday. So, it
14 wasn't until yesterday that I got the documentation that I need
15 to actually prepare a brief for this hearing. So, that's why I
16 don't have a brief prepared for this hearing and I am willing
17 to submit a brief any day next week that you -- whatever date
18 you decide me to prepare that brief for. But the reason I
19 haven't submitted one until today is because it wasn't until
20 yesterday that I got the documentation that I've been trying
21 for more than a year to get from the Defendant.

22 THE COURT: Ms. Williams, do you have any objection
23 to him submitting a brief by next week for the Court's
24 consideration?

25 MS. WILLIAMS: I don't. I would -- I don't have an

1 objection, Your Honor. I mean, I would just say that the Court
2 ruled -- Judge McGee ruled on our motion to compel and ordered
3 us to provide everything by November 12th. It's our position
4 there's nothing new in there that changes anything. I produced
5 one additional document. Everything else was produced long ago
6 and should -- you know, it's our position it has no impact on
7 the arguments in this case.

8 Again, it was produced two days ago and there was one
9 additional document that was provided to Mr. Wandji. He's had
10 all the information and our summary judgment just to clarify
11 the record was produced or filed at the close of, of discovery
12 after depositions had been taken, and after Judge McGee had
13 heard our motions to compel and ruled on those orally. So,
14 it's our position again, it's ripe for review but if Your Honor
15 would like to give Mr. Wandji an opportunity to submit a brief,
16 you know, I certainly understand that. But, you know, he's had
17 an opportunity to present his evidence and there's no
18 additional documentation other than one email that was produced
19 on Tuesday.

20 THE COURT: Thank you. What I'll do is Mr. Wandji,
21 I'll allow you to submit a brief for the Court's consideration
22 and then I'll issue an opinion.

23 MR. WANDJI: Okay. Do I still have to -- I have like
24 a partial oral brief that I prepared that it doesn't include
25 the answer to the interrogatory and the documentation that I

1 just received yesterday. So, I don't know whether you want to
2 do that.

3 THE COURT: Well, sir, I'll consider the brief
4 whatever you filed to see if there's a question of fact for the
5 jury to determine or whether the Defense is entitled to a
6 judgment as a matter of law. So, if you put in your brief,
7 what you would like for me to consider I'll be happy to give
8 you that additional time to submit that next week. Okay?

9 MR. WANDJI: Okay.

10 MS. WILLIAMS: Your Honor, can you clarify what the
11 deadline is for that -- for the submission of that brief?

12 THE COURT: Sir, you must -- we'll give you through
13 next week. So, by next Friday at 5:00 p.m. you must file it by
14 next Friday. Okay?

15 MR. WANDJI: Yeah, Your Honor

16 THE COURT: All right. Thank you.

17 MS. WILLIAMS: Thank you, Your Honor.

18 THE COURT: Have a good day.

19 MR. WANDJI: Thank you.

20 [END OF HEARING]

21

22

23

24

25

CERTIFICATE OF TRANSCRIBER

I, ERIN REILLY, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 1, South Carolina, on the 14th day of, November 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

April 1st, 2025

ERIN REILLY

TRANSCRIBER

A rectangular stamp containing a handwritten signature in cursive script that reads "erinreilly".

From: Sarah Plouff <Sarah@cromerbabb.com>
Sent: Wednesday, April 24, 2024 2:13 PM
To: Williams, Amanda C. <amandawilliams@parkerpoe.com>
Cc: Beth Bowen <Beth@cromerbabb.com>
Subject: RE: Wandji v. The Regional Medical Center

Caution: External email

Hi Amanda,

I'm reaching out regarding the Settlement Demand that Beth had sent to you previously. Did your client ever give you a response? And do you have an update on scheduling Mediation in this matter?

Please advise.

Thanks!
-Sarah

Sarah Plouff
Operations Manager/ Paralegal
(803) 799-9530 | sarah@cromerbabb.com
www.cromerbabb.com
1418 Laurel St., Ste. A, Columbia, SC 29201
P.O. Box 11675, Columbia, SC 29211

From: Williams, Amanda C. <amandawilliams@parkerpoe.com>
Sent: Wednesday, April 24, 2024 2:59 PM
To: Sarah Plouff <Sarah@cromerbabb.com>

Cc: Beth Bowen <Beth@cromerbabb.com>
Subject: RE: Wandji v. The Regional Medical Center

Hi Sarah,

I presented the settlement demand to my client and they are not interested in responding at this time. They feel strongly about their defenses and their ability to succeed on a motion for summary judgment.

We have not yet scheduled mediation. Currently, we are in the process of obtaining dates for the deposition of Mr. Wandji which we plan to schedule prior to mediation. It's likely mediation will need to be scheduled in last week of May/first week of June. Will someone in your office be making an appearance and participating in mediation or depositions?

Best, Amanda

Amanda Williams

Partner



850 Morrison Drive | Suite 400 | Charleston, SC 29403
Office: 843.727.6309 | Fax: 843.727.2680 | [map](#)

Visit our website at

Beth Bowen

8:55 PM (6
minutes ago)

to Sarah, me

Hi Serge,

Please see the email exchange below with opposing counsel. TRMC has decided not to respond to your \$30k demand, and I informed her that your demand will be off the table after tomorrow, as you told me in your email last week.

Beth Bowen

Attorney

(803) 799-9530 | beth@cromerbabb.com

www.cromerbabb.com

1418 Laurel St., Ste. A, Columbia, SC 29201

P.O. Box 11675, Columbia, SC 29211

This electronic mail may be attorney/client privileged and may contain confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify me by email or telephone (803) 799-9530 and delete the message immediately. Thank you.

Please note effective 11/01/23 that our firm name, website, and email addresses have changed.

From: Beth Bowen <Beth@cromerbabb.com>

Date: Monday, April 29, 2024 at 8:52 PM

To: Sarah Plouff <Sarah@cromerbabb.com>, Williams, Amanda C. <amandawilliams@parkerpoe.com>

Subject: Re: Wandji v. The Regional Medical Center

Hi Amanda,

I won't be attending depositions or mediation. Given that Mr. Wandji will have to spend additional time and money on depositions and mediation, his \$30,000 demand will be off the table after tomorrow, April 30, 2024.

I'm still on maternity leave, but Sarah and I will be monitoring my email while I'm out, and you can still correspond directly with Mr. Wandji regarding his case.

Sincerely,
Beth

Beth Bowen

Attorney

(803) 799-9530 | beth@cromerbabb.com

NOTICE OF ADR

Serge R Wandji

2023CP3800331

PLAINTIFF(S)

Filing Date: March 3, 2023

Vs

The Regional Medical Center

DEFENDANT(S)

Pursuant to the South Carolina Alternative Dispute Resolution Rules (SCADR), you are required to participate in the following methods of Alternative Dispute Resolution (ADR): mediation or arbitration (binding or non-binding); on or before 300 days from the date of filing of this action. The parties have a right to mutually agree upon the form of ADR and a neutral person(s) to conduct that ADR process. In the event the parties are unable to agree upon the form of ADR, the court hereby designates mediation as the default process of ADR. In the event the parties are unable to agree upon a mediator, the court hereby appoints

Jesse Ronald Jones Jr., 171 Church Street, Suite 120C, Charleston, SC 29401, Phone (843) 714-2535

to serve as mediator. In the event the aforementioned mediator has a conflict of interest or is unable to serve, the alternate mediator is

Jenny Costa Honeycutt, PO Box 13466, , Charleston, SC 29422, Phone (843) 793-4744

The parties and/or their lawyers shall contact the court-appointed mediator directly regarding scheduling and payment of the court-mandated fee.

A Rule to Show Cause why sanctions should not be imposed may be issued in all cases that fail to file a Proof of ADR or Exemption form indicating evidence of participation in or exemption from an ADR process within 300 days from the date of filing of the action or 90 days from the date of this notice.

Date: February 7, 2024

Notice of this Order was given by First Class Mail, E-mail, Fax or by the E-Filing Notice of Electronic Filing (NEF). Pro-Se parties were notified by first class mail on 02/07/2024

Plaintiff Attorney:

Serge R Wandji
Po Box 523
Columbia, SC 29202

Defendant Attorney:

Amanda Coney Williams
850 Morrison Drive
Suite 400
Charleston, SC 29403

ADR Coordinator
Naudia Cunningham
(803) 533-5886
NCunningham@orangeburgcounty.org



Orangeburg Common Pleas

Case Caption: Serge R Wandji VS The Regional Medical Center
Case Number: 2023CP3800331
Type: ADR/Notice of ADR

And It is So Ordered

S/Winnifa B. Clark

Electronically signed on 2024-02-07 14:55:20 page 2 of 2

18

Murphy, Maite Law Clerk (Ashley Errett) <mmurphylc@sccourts.org> Mon, Dec 16, 2024, 2:36 PM

to Amanda, me, Megan

Thank you, Ms. Williams.

Mr. Wandji, Judge Murphy has decided to Grant the Motion for the Defendant, as outlined in the correspondence below.

Please let me know if you have any questions.

From: Williams, Amanda C. <amandawilliams@parkerpoe.com>
Sent: Monday, December 16, 2024 2:13 PM
To: Murphy, Maite Law Clerk (Ashley Errett) <mmurphylc@sccourts.org>
Cc: sergewandji@gmail.com; Feltham, Megan M. <meganfeltham@parkerpoe.com>
Subject: RE: 2023CP3800331 - Serge R Wandji VS The Regional Medical Center

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

Ms. Errett,

Thank you for your email. I have copied Pro Se Plaintiff, Serge Wandji, to this email. We will work on preparing the proposed Order and will submit it by no later than December 30. Please let us know if you need anything further in the meantime.

Best Regards, Amanda

Amanda Williams

Partner

850 Morrison Drive | Suite 400 | Charleston, SC 29403
Office: 843.727.6309 | Fax: 843.727.2680 | [map](#)

Visit our website at
www.parkerpoe.com

From: Murphy, Maite Law Clerk (Ashley Errett) <mmurphylc@sccourts.org>
Sent: Monday, December 16, 2024 1:59 PM
To: Williams, Amanda C. <amandawilliams@parkerpoe.com>
Subject: 2023CP3800331 - Serge R Wandji VS The Regional Medical Center

From: Murphy, Maite Law Clerk (Ashley Errett) <mmurphylc@sccourts.org>
Sent: Monday, December 16, 2024 1:59 PM
To: Williams, Amanda C. <amandawilliams@parkerpoe.com>
Subject: 2023CP3800331 - Serge R Wandji VS The Regional Medical Center

Caution: External email

Good afternoon,

Upon review of the record and the arguments before her, Judge Murphy has decided to GRANT this motion. Counsel for the Defendant, please draft a proposed order, to be submitted via efilng by Monday, December 30, for Her Honor's consideration. As I do not have contact for the Plaintiff, please inform them of the Court's decision and give them my contact.

Please let me know if there are further questions here,
Ashley

Ashley F. Errett

Law Clerk for the Honorable Maité Murphy
Circuit Court Judge At-Large, Seat 15
5200 East Jim Bilton Boulevard
St. George, South Carolina 29477

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.



**Amanda C. Williams**

**Partner**

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Atlanta, GA

Charleston, SC

Charlotte, NC

Columbia, SC

Greenville, SC

Raleigh, NC

Spartanburg, SC

Washington, DC

December 30, 2024

**VIA US MAIL AND E-MAIL**

Serge Wandji

579 Folly Road

PO Box 12112

Charleston, SC 29422

sergewandji@gmail.com

**RE: *Serge R. Wandji v. The Regional Medical Center and Dr. John H. Samies***  
**Case No. 2023-CP-38-00331**

Dear Mr. Wandji:

Enclosed please find a copy of the proposed Order Granting Defendant's Motion for Summary Judgment. This proposed Order was e-filed today for Judge Murphy's consideration in accordance with the instructions provided by Judge Murphy's law clerk on December 16, 2024.

Thank you and with kinds regards, I am

Sincerely,

Amanda C. Williams

---

ACW/cle  
Enclosures

---

PPAB 11838395v1

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Serge R. Wandji,

Plaintiff,

vs.

The Regional Medical Center,

Defendant.

) IN THE COURT OF COMMON PLEAS

) FIRST JUDICIAL CIRCUIT

) Case No.: 2023-CP-38-00331

) **ORDER GRANTING DEFENDANT'S**  
) **MOTION FOR SUMMARY**  
) **JUDGMENT**

THIS MATTER CAME BEFORE THE COURT by way of a Motion for Summary Judgment filed by Defendant The Regional Medical Center ("TRMC" or "Defendant"). A virtual hearing was held on November 14, 2024. Present at the hearing were *Pro Se* Plaintiff Serge R. Wandji and Amanda C. Williams, Esq., counsel for Defendant.

The Court has carefully considered the motions, arguments of counsel and the *Pro Se* Plaintiff, memoranda submitted in support of the parties' respective positions, and the law. This Court finds that Defendant TRMC's Motion for Summary Judgment should be **GRANTED** for the reasons set forth herein.

**PROCEDURAL BACKGROUND**

On March 3, 2023, Plaintiff filed a Complaint against Defendants TRMC and Dr. John H. Samies ("Dr. Samies") purporting to assert claims for workers' compensation retaliation, negligence, fraud, and fraud/bad faith. On April 5, 2023, TRMC filed a partial motion to dismiss seeking dismissal of all claims against Dr. Samies, as well as the claims against all Defendants for negligence, fraud, and fraud/bad faith. On June 22, 2023, the Court granted Defendants' Motion for Partial Dismissal, and Plaintiff's sole remaining claim was against TRMC for worker's compensation retaliation. After the parties exchanged written discovery and documents and took depositions, TRMC filed a Motion for Summary Judgment seeking dismissal of Plaintiff's

Complaint and the sole remaining claim for worker's compensation retaliation. On November 14, 2024, a hearing was held before this Court.

### **FACTS**

#### **A. Plaintiff's Nursing Position at TRMC.**

Plaintiff began working as a bedside nurse at TRMC in Orangeburg, South Carolina on or about March 8, 2021. The nursing position required Plaintiff to have the ability to "stand up to twelve (12) hours, walk, sit, use hands, reach, stoop, kneel, talk, hear and smell." In addition, the position also required Plaintiff to perform certain mental functions such as "deal[ing] with concrete and abstract concepts and interpret[ing] verbal, nonverbal and written instructions." Plaintiff worked in the behavioral health unit and performed various duties as a nurse, including conducting nursing assessments for patients, administering patients medication as needed, changing sheets, and taking urine samples.

#### **B. Plaintiff's COVID-19 Diagnosis and Medical Leave.**

On August 27, 2021, Plaintiff tested positive for COVID-19. On August 31, 2021, Plaintiff filed a workers' compensation claim with TRMC contending that his illness was an occupational disease contracted while working at TRMC. Plaintiff subsequently filed a Form 50 - Employee's Notice of Claim and Request for Hearing with the South Carolina Workers' Compensation Commission on November 29, 2021.

Following his COVID-19 diagnosis, Plaintiff alleges his health condition deteriorated quickly, and he was diagnosed with pneumonia due to COVID-19 with acute hypoxemic respiratory failure. On September 7, 2021, TRMC provided Plaintiff with Family and Medical Leave Act ("FMLA") paperwork. On September 22, 2021, Plaintiff's doctor signed the FMLA paperwork and noted Plaintiff would be incapacitated until October 22, 2021. On September 24, 2021, TRMC informed Plaintiff that he was not eligible for protected leave under the FMLA

because he had only worked for TRMC for five months. However, TRMC granted Plaintiff a leave of absence that would allow him to take up to twelve weeks of medical leave beginning on August 28, 2021.

On October 22, 2021, Plaintiff was unable to return to work and his doctor recommended that he continue to convalesce at home from October 22, 2021 through November 22, 2021.

As of November 20, 2021, Plaintiff had been on leave for twelve weeks, and his doctor submitted another note stating Plaintiff should continue to convalesce at home through January 1, 2022. On January 13, 2022, Plaintiff had not yet returned to work, and thus, TRMC sent Plaintiff a letter noting that TRMC had not received any updated information on an expected return to work date or notice of additional leave needed. TRMC requested that Plaintiff submit an updated physician's note. On January 17, 2022, Plaintiff provided TRMC with a doctor's note that stated Plaintiff "could not currently return to work full time floor nursing for numerous reasons." Plaintiff testified that his doctor told him, "you cannot lift, you are forgetful, you can give the wrong medication and kill patient...." Plaintiff was not cleared to work as a floor nurse and no return to work date was provided.

**C. Plaintiff's Ongoing Medical Restrictions as it Relates to His Nursing Duties.**

Plaintiff remained on medical leave, and on March 11, 2022, Plaintiff provided TRMC with a doctor's note stating there were "still concerns that could mildly limit [Plaintiff's] functionality at bedside nursing (physical - still waiting to gain back his smell, mental/emotional - acute stress due to COVID-19 experience and hospitalization)." Plaintiff's provider did not clear him to work in his position as a nurse and noted he could only return to work if it was in an administrative, part-time role.

On March 15, 2022, TRMC communicated to Plaintiff that he exhausted his twelve week maximum period of available leave under TRMC's Leave of Absence policy over three months

ago (December 2021), and was being separated from employment due to his physical inability to return to his position as a bedside nurse. Both the email and the letter from TRMC made clear that the decision to separate Plaintiff from employment was not punitive, and informed him that he was eligible for rehire.

Since Plaintiff's separation from his employment at TRMC, he has been unable to work as a nurse. Though he obtained a position as a nurse at Tri-County Commission on Alcohol and Drug Abuse in May 2022, he resigned a month after his hire due to "personal health and personal safety reasons." Specifically, Plaintiff testified that after administering the wrong medication to a patient, which Plaintiff attributed to his long COVID, forgetfulness, and confusion, his doctor told him to quit before he hurt somebody else and himself. To date, Plaintiff has not held any other positions as a nurse and testified he continues to suffer from long COVID and has ongoing memory issues. In fact, in his deposition, Plaintiff could not remember where he was born, where he has lived, whether he has any criminal history, what educational degrees he has received, his employment history, the medications he takes, and whether he has been a party to any other legal actions or complaints. As a result of his long COVID issues, Plaintiff testified when he looks for employment, he is not seeking floor nurse positions, but rather "[s]omething that the life of somebody is not going to be on the line. Something academic."

#### **STANDARD OF REVIEW**

Rule 56, SCRCP, requires the entry of summary judgment when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *See Fleming v. Rose*, 350 S.C. 488, 494, 567 S.E.2d 857, 860 (2002). Although the moving party bears the initial burden of demonstrating the absence of a genuine issue of material fact, "this initial responsibility may be discharged by 'showing' – that is, pointing out to the trial court – that there is an absence of evidence to support the nonmoving party's case." *Baughman v. American Tel.*

*and Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991). Once the moving party makes this demonstration, the opposing party “must, under Rule 56(e), do more than simply show some metaphysical doubt as to the material facts but must come forward with specific facts showing that there is a *genuine issue for trial*.” *Id.* (emphasis in original); *Midland Mut. Life Ins. Co. v. Harrell*, 331 S.C. 394, 397, 503 S.E.2d 189, 190 (Ct. App. 1998). The nonmoving party must specifically set forth such facts, “as would be admissible in evidence,” to show that a true jury issue exists. *See* S.C. R. Civ. P. 56(e).

The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder. *Dawkins v. Fields*, 354 S.C. 58, 580 S.E.2d 433 (2003); *George v. Fabri*, 345 S.C. 440, 548 S.E.2d 868 (2001). Under South Carolina law, where “plain, palpable and indisputable facts exist on which reasonable minds cannot differ,” summary judgment in favor of the moving party is proper. *Williams v. Chesterfield Lumber Co.*, 267 S.C. 607, 610, 230 S.E.2d 447, 448 (1976).

### **DISCUSSION**

This Court finds that there is no genuine issue of material fact, and Defendant is entitled to judgment as a matter of law on Plaintiff’s sole remaining claim for workers’ compensation retaliation.

In order to prevail on a workers’ compensation retaliation claim under S.C. Code § 41-1-80, Plaintiff bears the burden of proving the following: “1) institution of workers’ compensation proceedings, 2) discharge or demotion, and 3) a causal connection between the first two elements.” *Hinton v. Designer Ensembles, Inc.*, 343 S.C. 236, 242, 540 S.E.2d 94, 97 (2000) (citing *Hines v. United Parcel Serv., Inc.*, 736 F. Supp. 675, 677 (D.S.C. 1990)). In order to prove causation, Plaintiff must provide that the filing of the workers’ compensation claim was the “determinative factor” in his termination. *Id.* Specifically, he must show that “he would not have been discharged

‘but for’ the filing of the workers’ compensation claim.” *Id.* (citation omitted). Plaintiff bears the ultimate burden of proof under Section 41–1–80. *Horn v. Davis Elec. Constructors, Inc.*, 307 S.C. 559, 564, 416 S.E.2d 634, 636 (1992).

**A. Plaintiff’s Failure to Meet Established Work Standards Defeats His Claim as a Matter of Law.**

The workers’ compensation retaliation statute sets forth several affirmative defenses that may defeat a claim for workers’ compensation retaliation, including an employee’s “failure to meet established employer work standards.” S.C. Code Ann. § 41-1-80; *see also Horn v. Davis Elec. Constructors, Inc.*, 302 S.C. 484, 489, 395 S.E.2d 724, 727 (Ct. App. 1990), *aff’d as modified*, 307 S.C. 559, 416 S.E.2d 634 (1992) (“An employer may prove as an affirmative defense [to S.C. Code § 41-1-80] that an employee failed to meet established work standards because he could not perform the physical requirements of the job.”). Though “the employer has the burden of proving its affirmative defenses, the employer does not have the burden of establishing the affirmative defenses are causally related to the discharge.” *Hinton*, 343 S.C. at 242, 540 S.E.2d at 97. Here, Plaintiff’s inability to perform the duties of a floor nurse (even as of the date of his deposition on September 18, 2024) clearly satisfies this affirmative defense.

In *Varner v. Serco Inc.*, plaintiff, who worked as a warehouse associate for the defendant employer, initiated workers’ compensation proceedings on July 14, 2014, after sustaining a job-related back injury. *Varner*, No. 2:16-CV-02340-DCN, 2018 WL 4052447, at \*1 (D.S.C. Aug. 24, 2018). On July 11, 2015, while the workers’ compensation proceedings were ongoing, plaintiff was terminated by defendant after defendant received notice of a new 35 pound lifting restriction imposed on plaintiff by his doctor. *Id.* The court granted defendant’s summary judgment motion, holding that because plaintiff’s restrictions prevented him from performing his job duties, which required that plaintiff lift 50 pounds, plaintiff was unable to prove a “but for” causal link between his workers’ compensation proceedings and his termination. *Id.* at \*4.



Here, like in *Varner*, Plaintiff's employment with Defendant was terminated after Plaintiff provided Defendant with multiple doctor's notes, which not only imposed restrictions preventing Plaintiff from performing certain job duties, but which stated Plaintiff was unable to perform the duties of a full-time nurse. Because Plaintiff was unable to return to his position as a nurse and had no return to work date, TRMC separated his employment but noted he was eligible for rehire. Plaintiff does not dispute the fact that his doctor instructed him not to return to work as a full-time floor nurse with TRMC, and Plaintiff affirmed that he followed his doctor's recommendation.

"Section 41-1-80 and statutes like it do not [ ] require an employer to retain an employee who can no longer perform the duties of her job simply because her inability to perform the duties results from an on-the-job injury." *Varner v. Serco Inc.*, No. 2:16-CV-02340-DCN, 2018 WL 4052447, at \*3 (D.S.C. Aug. 24, 2018) (quoting *Hines v. United Parcel Serv., Inc.*, 736 F. Supp. 675, 677 (D.S.C. 1990)) (granting defendant's motion for summary judgment on plaintiff's workers' compensation retaliation claim because plaintiff was unable to meet the requirements of her job as a result of a lifting restriction imposed on her by her physician.). Based on the undisputed facts before it, the Court finds that Defendant has established an affirmative defense to Plaintiff's claim under S.C. Code § 41-1-80, and Plaintiff's claim fails as a matter of law.

**B. Temporal Proximity is Insufficient to Prove Causation When Defendant Provided a Legitimate, Non-Retaliatory Reason for Plaintiff's Termination.**

Plaintiff alleges in his Opposition that the alleged temporal proximity between his workers' compensation claim and subsequent termination raises an inference of retaliatory intent. As an initial matter, Plaintiff submitted a workers' compensation claim sometime in September 2021. TRMC did not terminate Plaintiff's employment until seven months later -- after Plaintiff's doctor issued a note stating that Plaintiff could not return to work as bedside nurse, nor could he return to any position on a full-time basis. Thus, there is no temporal proximity between the filing of Plaintiff's workers' compensation claim and his subsequent termination.

Even if Plaintiff could prove temporal proximity, where, as here, the employer proffers a “legitimate, non-retaliatory reason” for the termination, any temporal proximity between the filing of the workers’ compensation claim and the termination is insufficient as a matter of law to defeat summary judgment. *Hinton*, 343 S.C. at 243, 540 S.E.2d at 97; *see also Johnson v. J.P. Stevens & Co., Inc.*, 308 S.C. 116, 118, 417 S.E.2d 527, 529 (1992) (“[i]n light of the conceded legitimate, nonretaliatory motives for the termination, [the] proximity in time does not meet the employee’s burden of proof”); *Marr v. City of Columbia*, 307 S.C. 545, 548, 416 S.E.2d 615, 617 (1992) (rejecting retaliatory discharge claim where only evidence suggesting retaliatory motive for discharge was temporal proximity of claim to discharge). In *Hinton*, plaintiff initiated workers’ compensation proceedings in or around September 1994, following a job-related injury. 343 S.C. at 241, 540 S.E.2d at 96. On October 28, 1994, plaintiff was released to return to work with restrictions which were accommodated by defendant. *Id.* at 239, 540 S.E.2d at 95. In November 1994, following numerous unexcused absences related to plaintiff’s job-related injury, plaintiff was terminated for violation of defendant’s absentee policy. *Id.* at 240, 540 S.E.2d at 96. In granting defendant’s motion for summary judgment, the court held that because plaintiff offered no evidence that his employer’s reason for terminating him was pretextual other than the fact that his termination occurred in temporal proximity with his work-related injury, his claim failed as a matter of law. *Id.* at 246, 540 S.E.2d at 99.

To survive summary judgment, Plaintiff must come forward with evidence sufficient to raise an inference that the employer’s stated reasons were a mere pretext for illegitimate retaliation. *Porter v. U.S. Alumoweld Co., Inc.*, 125 F.3d 243, 248 (4th Cir. 1997) (“[T]he plaintiff must provide evidence sufficient to support the conclusion that the employer’s proffered reason for discharging the employee was pretext for retaliation.”). Here, no such evidence exists. Defendant argues, and the Court agrees, that Plaintiff’s inability to perform the duties of his job and to meet

established work standards for a seven month period constitutes a “legitimate, non-retaliatory reason” for Plaintiff’s termination. *Hinton*, 343 S.C. at 243, 540 S.E.2d at 97. Plaintiff has not presented any evidence showing that the provided reason for termination is pretextual.

**C. An Employer’s Failure to Accommodate an Employee’s Medical-Related Job Restrictions is Not Evidence that the Employer’s Proffered Reason for a Termination is Pretextual.**

Plaintiff appears to assert that Defendant’s alleged failure to accommodate his post-injury work restrictions is evidence that Defendant’s proffered reason for his termination is pretextual. This Court finds Plaintiff’s argument is unsupported by the facts and the law. South Carolina’s workers’ compensation laws do not require an employer to accommodate restrictions stemming from a work-related injury, and Plaintiff has presented no legal authority to the contrary. TRMC hired Plaintiff for a full-time nursing position. Plaintiff was no longer able to perform this role. Notwithstanding the foregoing, Defendant granted Plaintiff seven months of medical leave. When Plaintiff was still unable to return to his position after seven months, TRMC separated his employment because Plaintiff could not meet TRMC’s established work standards. Plaintiff’s conclusory assertion that TRMC’s stated reason for the termination is pretextual is insufficient to defeat TRMC’s motion for summary judgment. Rule 56, SCRPC, requires Plaintiff to support any factual assertions with actual evidence. He “must, under Rule 56(e), ‘do more than simply show that there is some metaphysical doubt as to the material facts,’ but must come forward with ‘specific facts showing that there is a *genuine issue for trial*.’” *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991) (emphasis in original); *Midland Mut. Life Ins. Co. v. Harrell*, 331 S.C. 394, 397-98, 503 S.E.2d 189, 190-91 (Ct. App. 1998). Plaintiff has failed to do so.

Based on the record before it, this Court concludes that Plaintiff has failed to cite to any evidence or material dispute of facts showing that Plaintiff would not have been discharged ‘but

for' the filing of his workers' compensation claim. Instead, the undisputed facts demonstrate that Plaintiff was terminated from his position because he could not meet the established work standards for the job -- one of the applicable affirmative defenses to a workers' compensation retaliation claim under S.C. Code Ann. § 41-1-80. Thus, Plaintiff's claim against TRMC fails as a matter of law.

**CONCLUSION**

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that Defendant's Motion for Summary Judgment is GRANTED, and the case is dismissed, with prejudice.

**AND IT SO ORDERED.**

\_\_\_\_\_  
THE HONORABLE MAITE MURPHY

December \_\_\_, 2024

\* 20

|                              |   |                                   |
|------------------------------|---|-----------------------------------|
| STATE OF SOUTH CAROLINA      | ) | IN THE COURT OF COMMON PLEAS      |
|                              | ) |                                   |
| COUNTY OF ORANGEBURG         | ) | FIRST JUDICIAL CIRCUIT            |
|                              | ) |                                   |
| Serge R. Wandji,             | ) | Case No.: 2023-CP-38-00331        |
|                              | ) |                                   |
| Plaintiff,                   | ) |                                   |
|                              | ) | <b>ORDER GRANTING DEFENDANT'S</b> |
| vs.                          | ) | <b>MOTION FOR SUMMARY</b>         |
|                              | ) | <b>JUDGMENT</b>                   |
| The Regional Medical Center, | ) |                                   |
|                              | ) |                                   |
| Defendant.                   | ) |                                   |

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The Court has carefully considered the motions, arguments of counsel and the *Pro Se* Plaintiff, memoranda submitted in support of the parties' respective positions, and the law. This Court finds that Defendant TRMC's Motion for Summary Judgment should be **GRANTED** for the reasons set forth herein.

#### **PROCEDURAL BACKGROUND**

On March 3, 2023, Plaintiff filed a Complaint against Defendants TRMC and Dr. John H. Samies ("Dr. Samies") purporting to assert claims for workers' compensation retaliation, negligence, fraud, and fraud/bad faith. On April 5, 2023, TRMC filed a partial motion to dismiss seeking dismissal of all claims against Dr. Samies, as well as the claims against all Defendants for negligence, fraud, and fraud/bad faith. On June 22, 2023, the Court granted Defendants' Motion for Partial Dismissal, and Plaintiff's sole remaining claim was against TRMC for worker's compensation retaliation. After the parties exchanged written discovery and documents and took depositions, TRMC filed a Motion for Summary Judgment seeking dismissal of Plaintiff's

Complaint and the sole remaining claim for worker's compensation retaliation. On November 14, 2024, a hearing was held before this Court.

### **FACTS**

#### **A. Plaintiff's Nursing Position at TRMC.**

Plaintiff began working as a bedside nurse at TRMC in Orangeburg, South Carolina on or about March 8, 2021. The nursing position required Plaintiff to have the ability to "stand up to twelve (12) hours, walk, sit, use hands, reach, stoop, kneel, talk, hear and smell." In addition, the position also required Plaintiff to perform certain mental functions such as "deal[ing] with concrete and abstract concepts and interpret[ing] verbal, nonverbal and written instructions." Plaintiff worked in the behavioral health unit and performed various duties as a nurse, including conducting nursing assessments for patients, administering patients medication as needed, changing sheets, and taking urine samples.

#### **B. Plaintiff's COVID-19 Diagnosis and Medical Leave.**

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**C. Plaintiff's Ongoing Medical Restrictions as it Relates to His Nursing Duties.**

Plaintiff remained on medical leave, and on March 11, 2022, Plaintiff provided TRMC with a doctor's note stating there were "still concerns that could mildly limit [Plaintiff's] functionality at bedside nursing (physical - still waiting to gain back his smell, mental/emotional - acute stress due to COVID-19 experience and hospitalization)." Plaintiff's provider did not clear him to work in his position as a nurse and noted he could only return to work if it was in an administrative, part-time role.

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### **DISCUSSION**

This Court finds that there is no genuine issue of material fact, and Defendant is entitled to judgment as a matter of law on Plaintiff’s sole remaining claim for workers’ compensation retaliation.

In order to prevail on a workers’ compensation retaliation claim under S.C. Code § 41-1-80, Plaintiff bears the burden of proving the following: “1) institution of workers’ compensation proceedings, 2) discharge or demotion, and 3) a causal connection between the first two elements.” *Hinton v. Designer Ensembles, Inc.*, 343 S.C. 236, 242, 540 S.E.2d 94, 97 (2000) (citing *Hines v. United Parcel Serv., Inc.*, 736 F. Supp. 675, 677 (D.S.C. 1990)). In order to prove causation, Plaintiff must provide that the filing of the workers’ compensation claim was the “determinative factor” in his termination. *Id.* Specifically, he must show that “he would not have been discharged

‘but for’ the filing of the workers’ compensation claim.” *Id.* (citation omitted). Plaintiff bears the ultimate burden of proof under Section 41-1-80. *Horn v. Davis Elec. Constructors, Inc.*, 307 S.C. 559, 564, 416 S.E.2d 634, 636 (1992).

**A. Plaintiff’s Failure to Meet Established Work Standards Defeats His Claim as a Matter of Law.**

The workers’ compensation retaliation statute sets forth several affirmative defenses that may defeat a claim for workers’ compensation retaliation, including an employee’s “failure to meet established employer work standards.” S.C. Code Ann. § 41-1-80; *see also Horn v. Davis Elec. Constructors, Inc.*, 302 S.C. 484, 489, 395 S.E.2d 724, 727 (Ct. App. 1990), *aff’d as modified*, 307 S.C. 559, 416 S.E.2d 634 (1992) (“An employer may prove as an affirmative defense [to S.C. Code § 41-1-80] that an employee failed to meet established work standards because he could not perform the physical requirements of the job.”). Though “the employer has the burden of proving its affirmative defenses, the employer does not have the burden of establishing the affirmative defenses are causally related to the discharge.” *Hinton*, 343 S.C. at 242, 540 S.E.2d at 97. Here, Plaintiff’s inability to perform the duties of a floor nurse (even as of the date of his deposition on September 18, 2024) clearly satisfies this affirmative defense.

In *Varner v. Serco Inc.*, plaintiff, who worked as a warehouse associate for the defendant employer, initiated workers’ compensation proceedings on July 14, 2014, after sustaining a job-related back injury. *Varner*, No. 2:16-CV-02340-DCN, 2018 WL 4052447, at \*1 (D.S.C. Aug. 24, 2018). On July 11, 2015, while the workers’ compensation proceedings were ongoing, plaintiff was terminated by defendant after defendant received notice of a new 35 pound lifting restriction imposed on plaintiff by his doctor. *Id.* The court granted defendant’s summary judgment motion, holding that because plaintiff’s restrictions prevented him from performing his job duties, which required that plaintiff lift 50 pounds, plaintiff was unable to prove a “but for” causal link between his workers’ compensation proceedings and his termination. *Id.* at \*4.

Here, like in *Varner*, Plaintiff's employment with Defendant was terminated after Plaintiff provided Defendant with multiple doctor's notes, which not only imposed restrictions preventing Plaintiff from performing certain job duties, but which stated Plaintiff was unable to perform the duties of a full-time nurse. Because Plaintiff was unable to return to his position as a nurse and had no return to work date, TRMC separated his employment but noted he was eligible for rehire. Plaintiff does not dispute the fact that his doctor instructed him not to return to work as a full-time floor nurse with TRMC, and Plaintiff affirmed that he followed his doctor's recommendation.

"Section 41-1-80 and statutes like it do not [ ] require an employer to retain an employee who can no longer perform the duties of her job simply because her inability to perform the duties results from an on-the-job injury." *Varner v. Serco Inc.*, No. 2:16-CV-02340-DCN, 2018 WL 4052447, at \*3 (D.S.C. Aug. 24, 2018) (quoting *Hines v. United Parcel Serv., Inc.*, 736 F. Supp. 675, 677 (D.S.C. 1990)) (granting defendant's motion for summary judgment on plaintiff's workers' compensation retaliation claim because plaintiff was unable to meet the requirements of her job as a result of a lifting restriction imposed on her by her physician.). Based on the undisputed facts before it, the Court finds that Defendant has established an affirmative defense to Plaintiff's claim under S.C. Code § 41-1-80, and Plaintiff's claim fails as a matter of law.

**B. Temporal Proximity is Insufficient to Prove Causation When Defendant Provided a Legitimate, Non-Retaliatory Reason for Plaintiff's Termination.**

Plaintiff alleges in his Opposition that the alleged temporal proximity between his workers' compensation claim and subsequent termination raises an inference of retaliatory intent. As an initial matter, Plaintiff submitted a workers' compensation claim sometime in September 2021. TRMC did not terminate Plaintiff's employment until seven months later -- after Plaintiff's doctor issued a note stating that Plaintiff could not return to work as bedside nurse, nor could he return to any position on a full-time basis. Thus, there is no temporal proximity between the filing of Plaintiff's workers' compensation claim and his subsequent termination.

Even if Plaintiff could prove temporal proximity, where, as here, the employer proffers a “legitimate, non-retaliatory reason” for the termination, any temporal proximity between the filing of the workers’ compensation claim and the termination is insufficient as a matter of law to defeat summary judgment. *Hinton*, 343 S.C. at 243, 540 S.E.2d at 97; *see also Johnson v. J.P. Stevens & Co., Inc.*, 308 S.C. 116, 118, 417 S.E.2d 527, 529 (1992) (“[i]n light of the conceded legitimate, nonretaliatory motives for the termination, [the] proximity in time does not meet the employee’s burden of proof”); *Marr v. City of Columbia*, 307 S.C. 545, 548, 416 S.E.2d 615, 617 (1992) (rejecting retaliatory discharge claim where only evidence suggesting retaliatory motive for discharge was temporal proximity of claim to discharge). In *Hinton*, plaintiff initiated workers’ compensation proceedings in or around September 1994, following a job-related injury. 343 S.C. at 241, 540 S.E.2d at 96. On October 28, 1994, plaintiff was released to return to work with restrictions which were accommodated by defendant. *Id.* at 239, 540 S.E.2d at 95. In November 1994, following numerous unexcused absences related to plaintiff’s job-related injury, plaintiff was terminated for violation of defendant’s absentee policy. *Id.* at 240, 540 S.E.2d at 96. In granting defendant’s motion for summary judgment, the court held that because plaintiff offered no evidence that his employer’s reason for terminating him was pretextual other than the fact that his termination occurred in temporal proximity with his work-related injury, his claim failed as a matter of law. *Id.* at 246, 540 S.E.2d at 99.

To survive summary judgment, Plaintiff must come forward with evidence sufficient to raise an inference that the employer’s stated reasons were a mere pretext for illegitimate retaliation. *Porter v. U.S. Alumoweld Co., Inc.*, 125 F.3d 243, 248 (4th Cir. 1997) (“[T]he plaintiff must provide evidence sufficient to support the conclusion that the employer’s proffered reason for discharging the employee was pretext for retaliation.”). Here, no such evidence exists. Defendant argues, and the Court agrees, that Plaintiff’s inability to perform the duties of his job and to meet

established work standards for a seven month period constitutes a “legitimate, non-retaliatory reason” for Plaintiff’s termination. *Hinton*, 343 S.C. at 243, 540 S.E.2d at 97. Plaintiff has not presented any evidence showing that the provided reason for termination is pretextual.

**C. An Employer’s Failure to Accommodate an Employee’s Medical-Related Job Restrictions is Not Evidence that the Employer’s Proffered Reason for a Termination is Pretextual.**

Plaintiff appears to assert that Defendant’s alleged failure to accommodate his post-injury work restrictions is evidence that Defendant’s proffered reason for his termination is pretextual. This Court finds Plaintiff’s argument is unsupported by the facts and the law. South Carolina’s workers’ compensation laws do not require an employer to accommodate restrictions stemming from a work-related injury, and Plaintiff has presented no legal authority to the contrary. TRMC hired Plaintiff for a full-time nursing position. Plaintiff was no longer able to perform this role. Notwithstanding the foregoing, Defendant granted Plaintiff seven months of medical leave. When Plaintiff was still unable to return to his position after seven months, TRMC separated his employment because Plaintiff could not meet TRMC’s established work standards. Plaintiff’s conclusory assertion that TRMC’s stated reason for the termination is pretextual is insufficient to defeat TRMC’s motion for summary judgment. Rule 56, SCRPC, requires Plaintiff to support any factual assertions with actual evidence. He “must, under Rule 56(e), ‘do more than simply show that there is some metaphysical doubt as to the material facts,’ but must come forward with ‘specific facts showing that there is a *genuine issue for trial*.’” *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991) (emphasis in original); *Midland Mut. Life Ins. Co. v. Harrell*, 331 S.C. 394, 397-98, 503 S.E.2d 189, 190-91 (Ct. App. 1998). Plaintiff has failed to do so.

Based on the record before it, this Court concludes that Plaintiff has failed to cite to any evidence or material dispute of facts showing that Plaintiff would not have been discharged ‘but

for' the filing of his workers' compensation claim. Instead, the undisputed facts demonstrate that Plaintiff was terminated from his position because he could not meet the established work standards for the job -- one of the applicable affirmative defenses to a workers' compensation retaliation claim under S.C. Code Ann. § 41-1-80. Thus, Plaintiff's claim against TRMC fails as a matter of law.

**CONCLUSION**

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that Defendant's Motion for Summary Judgment is GRANTED, and the case is dismissed, with prejudice.

**AND IT SO ORDERED.**

\_\_\_\_\_  
THE HONORABLE MAITE MURPHY

December \_\_, 2024



Orangeburg Common Pleas

**Case Caption:** Serge R Wandji VS The Regional Medical Center  
**Case Number:** 2023CP3800331  
**Type:** Order/Summary Judgment

So Ordered

s/ Maite Murphy 2166

Electronically signed on 2025-01-14 16:42:27 page 11 of 11

## Certificate of Electronic Notification

### Recipients

**Amanda Williams** - Notification transmitted on 01-15-2025 10:03:30 AM.



\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2023CP3800331

Official File Stamp: 01-15-2025 10:03:23 AM

Court: CIRCUIT COURT  
Common Pleas  
Orangeburg

Case Caption: Serge R Wandji VS The Regional Medical Center

Document(s) Submitted: ORDER GRANTING DEFENDANT'S MOTION  
FOR SUMMARY JUDGMENT Order/Summary  
Judgment

Filed by or on behalf of: Maite Murphy

This notice was automatically generated by the Court's auto-notification system.

The following people were served electronically:

Amanda Coney Williams for The Regional  
Medical Center

The following people have not been served electronically by the Court. Therefore, they must  
be served by traditional means:

Amanda Coney Williams for The Regional  
Medical Center

Serge R Wandji for Serge R Wandji

Serge R Wandji for Serge R Wandji

## FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2023CP3800331

Serge R Wandji  
PLAINTIFF(S)

The Regional Medical Center  
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:

Plaintiff's Motion to Compel was heard on 9/4/24. After hearing from the pro se Plaintiff and counsel of record for Defendant and reviewing all filings and other evidence properly before the Court, Plaintiff's Motion is granted in part and denied in part. See page 2.

## 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 11/05/2024 .

Amanda Coney Williams for The Regional Medical Center  
Amanda Coney Williams for The Regional Medical Center  
Serge R Wandji for Serge R Wandji  
Serge R Wandji for Serge R Wandji

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), SCRPC.

**Interrogatories:**

1. This Interrogatory will be limited to require the identification of cases involving wrongful termination claims filed against the Defendant within 2 years prior to Plaintiff's separation from his former position with Defendant;
2. No response to this interrogatory is needed – Plaintiff's Motion to Compel ("MTC") is denied as to this request;
3. This interrogatory will be limited to require the identification of the number of Workers' Compensation claims filed by Defendant's employees based on their contracting COVID within 2 years prior to Plaintiff's separation from his former position with Defendant. No names will be identified – just the number of claims filed and whether each claimant was terminated from Defendant's employment after the filing of the claims;
4. No response to this interrogatory is needed – Plaintiff's MTC is denied as to this request;
5. No response to this interrogatory is needed – Plaintiff's MTC is denied as to this request;
6. No response to this interrogatory is needed – Plaintiff's MTC is denied as to this request;
7. No response to this interrogatory is needed – Plaintiff's MTC is denied as to this request.

**Requests for Production:**

As to Request Nos. 1, 2, 3, 4 and 5: Defendant shall produce any documents it has possession, custody, or control over that relate to Plaintiff's employment, insurance claim, and Workers' Compensation claim. The production shall be limited to documents that relate to Plaintiff only.

Defendant shall have until November 12 to serve its written responses to the above amended Interrogatories and Requests for Production. In its responses, Defendant may assert objections on the basis of privilege, if any; however, if there are any documents that are redacted or withheld on any privilege, Defendant will contemporaneously serve a privilege log pursuant to Rule 26(b)(5)(A).



Orangeburg Common Pleas

**Case Caption:** Serge R Wandji VS The Regional Medical Center

**Case Number:** 2023CP3800331

**Type:** Order/Electronic Form 4

So Ordered

s/ Thomas W. McGee III, Judge Code 2786

Electronically signed on 2024-11-05 13:07:54 page 3 of 3

**STATE OF SOUTH CAROLINA  
IN THE COURT OF COMMON PLEAS  
COUNTY OF ORANGEBURG  
FIRST JUDICIAL CIRCUIT**

**Serge R. Wandji,  
Plaintiff**

**v.**

**The Regional Medical Center and Dr. John H. Samies,  
Defendants**

**Civil Action No.: 2023-CP-38-00331**

**PLAINTIFF'S RE-WITTEN REQUESTS FOR PRODUCTION AND  
INTERROGATORIES PER JUDGE MCGEE'S ORDER**

---

**INTRODUCTION**

Pursuant to the Order issued by Judge McGee, Plaintiff submits the following revised Requests for Production and Interrogatories. The requests have been refined to more explicitly identify the documents sought and to ensure their relevance to the issues central to this case.

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**INTERROGATORIES**

1. **Litigation History:** Please provide a complete list of all litigation involving The Regional Medical Center (TRMC) as a defendant, including any Equal Employment Opportunity Commission (EEOC) charges or Department of Labor claims related to employment issues. Each entry must include:
  - Civil action number or other identifying number
  - Jurisdiction and forum in which the action was filed
  - Nature of the claim or action
  - Final resolution of the claim or action.
2. **Workers' compensation Complaints:** Provide a full list of all Workers' Compensation complaints filed with **TRMC workers' compensation insurance (Antum Risk)** by any of your employees who contracted the COVID-19 virus from January 1, 2021 to Present. The list must include:
  - Employee's name (if permissible)
  - Department or working unit
  - Final resolution of each complaint

3. **Workers' Compensation Complaints:** Provide a full list of all Workers' Compensation complaints filed with the **South Carolina Workers' Compensation Commission** against TRMC by employees who contracted COVID-19 from January 1, 2021, to the present. The list must include:
  - Employee's name (if permissible)
  - Department or working unit
  - Final resolution of each complaint.
4. **COVID-19 Reporting:** Identify all TRMC employees who contracted COVID-19, as reported to the Centers for Disease Control and Prevention (CDC) and other federal and state agencies, from January 1, 2021, to the present. Each entry must specify:
  - Employee's working unit/department.
5. **Financial Reports:** Produce all COVID-19-related financial reports prepared for insurance reimbursement or government funding, including but not limited to funds received from the CARES Act.
6. **CDC Reports:** Provide a detailed account of all CDC reports submitted by TRMC regarding staff infections with COVID-19 for the year 2021, broken down by month and identifying the working unit/department of each infected employee.
7. **Criminal Charges:** Describe any criminal charges brought against TRMC or its representatives from January 1, 2020, to the present. Include the date, jurisdiction, and type of charge.

*Defendant previously objected to these Interrogatories, claiming they were overly broad and unduly burdensome. However, the requested documents are readily available at TRMC and are required to be maintained for regulatory and audit purposes. The objections appear to be tactical measures to obstruct discovery and prevent Plaintiff from obtaining essential information for his case.*

---

## REQUESTS FOR PRODUCTION

1. **Communications:** Produce all documents reflecting communications between TRMC and any third parties, including government agencies, regarding:
  - Plaintiff's employment
  - Plaintiff's illness
  - Allegations set forth in the Complaint.
2. **Statements or Comments:** Produce any documents indicating any statement or representation made by Defendant (or others on Defendant's behalf) that constitutes an objection or denial concerning the facts of this case or any allegations in the Complaint.
3. **Notes and Writings:** Provide all notes, emails, writings, or other documents created by or for TRMC (or others on Defendant's behalf) that pertain to Plaintiff's employment, illness, or any related matters. Including but not limited to emails and communications made by then **Director of Human Recourses Mrs. Tina Norris** to any person other than the two attorneys who worked on this case, about Plaintiff's employment, illness, or any related matters.

4. **Personal Records:** Produce all diaries, reports, internal emails, calendars, journals, social media postings, text messages, and any other personal or business records maintained by TRMC that relate to Plaintiff's employment or this case. Including but not limited to emails and communications made by then Director of Human Resources Mrs. Tina Norris to any person other than the two attorneys who worked on this case, about Plaintiff's employment, illness, or any related matters.

*Defendant has objected to these Requests for Production, claiming attorney-client privilege and work-product protection. However, Plaintiff is not seeking any communications with the two attorneys involved in this entire matter (Mrs. Amanda Williams and Mr. Roy Howell III) and asserts that there are no applicable privileges that would shield these documents from discovery.*

5. **Employee Health Records:** Produce all documents and information provided to Dr. John H. Samies from TRMC's Employee Health and Infection Control Department regarding Plaintiff's exposure and infection with COVID-19.

*The requested documents are necessary to ensure compliance with labor and healthcare regulations.*

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## CONCLUSION

WHEREFORE, Plaintiff respectfully moves this Honorable Court to overrule all of Defendant's objections to these re-written Requests for Production and Interrogatories. Plaintiff further requests that the Court compel the Defendant to provide prompt and complete responses to all discovery requests by a date deemed appropriate by the Court.

---

**Respectfully submitted,**

**Serge Wandji**  
**Pro se Plaintiff**  
**sergewandji@gmail.com**  
**Date: October 11, 2024**

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF

ORANGEBURG

JUDICIAL CIRCUIT

FILED FOR RECORD  
WINNIFA B. CLARK

2023-CP-38-00331

Serge R. WANDJI

Plaintiff

MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET

vs.

The Regional Medical Center

CLERK OF COURT  
ORANGEBURG, SC

Defendant.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |                                                                                                                                                                                                                                                  |  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Plaintiff's Attorney: <u>Serge WANDJI</u> , Bar No. _____<br>Address: <u>P.O. Box 523 Columbia SC</u><br>Phone: <u>678 612 9649</u> Fax: <u>29202</u><br>E-mail: <u>SergeWandji@gmail.com</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  | Defendant's Attorney: <u>Amanda Williams</u> , Bar No. _____<br>Address: <u>850 Morrison Drive Suite 400</u><br><u>Charleston SC 29403</u><br>Phone: <u>843 727 6309</u> Fax: <u>843 727 7680</u><br>E-mail: <u>amandawilliams@parkerpai.com</u> |  |
| <input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)<br><input checked="" type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)<br><input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |                                                                                                                                                                                                                                                  |  |
| <b>SECTION I: Hearing Information</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |                                                                                                                                                                                                                                                  |  |
| Nature of Motion: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |  | Court Reporter Needed: <input type="checkbox"/> YES/ <input type="checkbox"/> NO                                                                                                                                                                 |  |
| Estimated Time Needed: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |                                                                                                                                                                                                                                                  |  |
| <b>SECTION II: Motion/Order Type</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |                                                                                                                                                                                                                                                  |  |
| <input type="checkbox"/> Written motion attached<br><input type="checkbox"/> Form Motion/Order<br>I hereby move for relief or action by the court as set forth in the attached proposed order.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |                                                                                                                                                                                                                                                  |  |
| Signature of Attorney for <input type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |  | Date submitted: <u>2024 MAY 10 P 1:04</u>                                                                                                                                                                                                        |  |
| <b>SECTION III: Motion Fee</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |                                                                                                                                                                                                                                                  |  |
| <input type="checkbox"/> PAID - AMOUNT: \$ <u>25.00</u><br><input type="checkbox"/> EXEMPT: (check reason)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  |                                                                                                                                                                                                                                                  |  |
| <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support<br><input type="checkbox"/> Domestic Abuse or Abuse and Neglect<br><input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party<br><input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief<br><input type="checkbox"/> Motion for Stay in Bankruptcy<br><input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)<br><input type="checkbox"/> Proposed order submitted at request of the court; or,<br>reduced to writing from motion made in open court per judge's instructions<br>Name of Court Reporter: _____<br><input type="checkbox"/> Other: _____ |  |                                                                                                                                                                                                                                                  |  |
| <b>JUDGE'S SECTION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  | <b>JUDGE CODE</b>                                                                                                                                                                                                                                |  |
| <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order.<br><input type="checkbox"/> Other: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  | Date: _____, 20__                                                                                                                                                                                                                                |  |
| <b>CLERK'S VERIFICATION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |                                                                                                                                                                                                                                                  |  |
| Collected by: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  | Date Filed: _____, 20__                                                                                                                                                                                                                          |  |
| <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____<br><input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |                                                                                                                                                                                                                                                  |  |

SCCA 233 (11/2003)



STATE OF SOUTH CAROLINA )  
COUNTY OF ORANGEBURG )

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT

Serge R. Wandji,  
Plaintiff

Civil Action No.: 2023-CP-38-00031

PLAINTIFF'S MOTION TO COMPEL  
DISCOVERY

Vs

The Regional Medical Center,

Defendants

FILED FOR RECORD  
WINNIE B. CLARK  
2024 MAY 10 P 1:04  
CLERK OF COURT  
ORANGEBURG, SC

Comes now the Plaintiff, Serge R. Wandji, represented pro se, pursuant to RULE 37 of the SOUTH CAROLINA RULES OF CIVIL PROCEDURE in the above captioned action, and files onto this Honorable Court his Motion to Compel the Defendant 'The Regional Medical Center' to comply with its discovery obligations, and in support thereof, states as follows:

I- BACKGROUND

This is a Workers' Compensation Retaliatory Discharge case, alleging violation of SC Code § 41-1-80 (2013), file on March 3, 2023.

A- Deposition of Dr. John Samies

1- Plaintiff initially contacted the Defendants' attorney (Mrs. Williams) via email on April 27, 2023, respectfully requesting "*available dates for Dr. Samies for his deposition*" (See Exhibit 1, p.1)

- 2- The fifth day following that initial contact, on May 1, 2023 to be more precise, the Defendant had not still responded to plaintiff's email, not even a courtesy reply acknowledging Plaintiff email request.
- 3- Plaintiff then, that same May 1, 2023 sent a second email to Mr. Williams pleading for the second time for Dr. Samies' availability days for his deposition.
- 4- That is when the Defendants responded to Plaintiff's email (the second one) by unilaterally deciding that "*Dr. Samies deposition is premature*" (See Exhibit 1, p. 1) and that the defendants' self-determined "*threshold issues MUST first take place before the request deposition goes forward*" (See Exhibit 1, p.2).
- 5- Plaintiff then reminded Mrs. Williams that "*South Carolina Courts allow discovery to move along even when dispositive Motions are pending*" (See Exhibit 1, p. 2), and that "*Dr. Samies involvement in this case extends beyond the Cause of Action (4) where his name was mentioned in the Complaint*" (See Exhibit 1, p. 2). The defendants responded on May 3, 2023 to Plaintiff's 'reminder' email, with more stalling and misleading statements such as "*The rules also allow for the parties to first engage in written discovery prior to depositions....*" (See Exhibit 1, p. 3).
- 6- Following all the misleading statements, the lack of cooperation and the delay tactics demonstrated by the Defendants, Plaintiff made the decision to move along with the discovery process by obtaining a duly signed and authorized subpoena for deposition from the Orangeburg County Court on May 3, 2023, exactly two month after this civil case was filed (March 3, 2023) (See Exhibit 2).

- 7- Dr. John H. Sammies and his attorney Mrs. Amanda Williams, who were subpoenaed to appear for a deposition on Friday May 12, 2023, intentionally refused to show up. (See Exhibit 3: Statement of Non-Appearance).
- 8- Again, Plaintiff contacted the Defendants' attorney (Mrs. Williams) via email on July 20, 2023, respectfully requesting "*available dates for Dr. Sammies for his deposition*". The Defendant used the usually stalling and evasive tactics and refused to collaborate in this discovery process by failing to provide Dr. Sammies available dates/times for his deposition (See exhibit 4).
- 9- Finally, on April 23, 2024 and May 3, 2024, Plaintiff contacted the Defendants' attorney (Mrs. Williams) via email, respectfully requesting "*available dates for Dr. Sammies for his deposition*" (Exhibit 5). The Defendant simply refused to comply.

**B- Production of Document and Interrogatories requests**

- 1- Pro Se Plaintiff Serge R. Wandji pursuant to Rules 26 and 34 of the South Carolina Rules of Civil Procedure, served upon Defendant, on July 28, 2023, his First Set of Requests for Production, expected to be received within thirty (30) days from the date of service hereof. (See Exhibit 6).
- 2- The same on July 28, 2023, the Plaintiff pursuant to Rules 26 and 33 of the South Carolina Rules of Civil Procedure, serves upon Defendant The Regional Medical Center, his First Set of Interrogatories, to which written answers must be served within thirty (30) days from the date of service hereof. (Exhibit 7)
- 3- On September 5, 2023, more than thirty five (35) days since the Defendant have been served, Plaintiff emailed the Defendant to remind them that he has not still

received any response/documents from the Defendant with no prior notification/reasons, which is a violation of the South Carolina Rules of Civil Procedure. (See Exhibit # 8)

4- I wasn't until October 10, 2023 more than two months after been served that the Defendant mailed in its response to the Plaintiff. (See attached Exhibit # 10)

5- Plaintiff send Defendant multiple emails outlining various discovery deficiencies related to Defendant objections to produce requested document, and reached out to offer an opportunity to for both sides to resolve this important discovery deficiencies matter. Defendant did not even bothered to respond to Plaintiff's last email, and ultimately did not produce many core documents that Plaintiff need to support his case. (Exhibit # 9).

## II- ARGUMENTS

### A- Deposition of Dr. John Sammies

The Discovery Requests are the initial requests sent and seek information relevant to the case in question. They include "*taking the testimony of any person, including a party by deposition*" as provided by RULE 30 of the SOUTH CAROLINA RULES OF CIVIL PROCEDURE.

Dr. John H. Sammies is a practicing physician at TRMC who was directly involved in this case by reviewed important document relevant to this case. He is also in the top leadership team at TRMC in both the medical and administrative departments, with relevant information to this discovery process.

### B- Production of Document and Interrogatories requests

The Discovery Requests are the initial requests sent and seek information relevant to the case in question. They include the standard interrogatories provided by RULE 33 of the SOUTH CAROLINA RULES OF CIVIL PROCEDURE, additional relevant interrogatories pursuant to RULE 33, and requests for the production of documents pursuant to RULE 34.

In response to Plaintiff's Request for production of document #4; #6; #15; #16; #17; #18; #19; #20; #21; #25; #26, the Defendant wrote the same statement: "*Defendant objects to this request on the grounds that it is overbroad, unduly, burdensome and not reasonable calculated to lead to the discovery of admissible evidence*" (Exhibit # 10). Relevancy is broadly construed under the rules, and C.R.C.P. 26(b)(1) states that, "*For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action*". Finally, and ironically, in their 'Request for Production of Document', the Defendant made almost all of those same requests **verbatim** to the Plaintiff (See Exhibit # 11). In his response, Plaintiff produced 91 pages of documents to the Defendant.

In response to Plaintiff's Request for production of document #13, the Defendant wrote the following statement: '*Defendant objects to this request on grounds that it is vague in that it is unclear what document Plaintiff seek in response to this request*' (Exhibit # 10). Again, it is ironic that in their 'Request for Production of Document', the Defendant made the same request to the Plaintiff **verbatim** (See Request #13 on page 5 of the Defendant's "Request for Production to Plaintiff" (see Exhibit # 11)).

In response to Plaintiff's Request for production of document #8; #14; #15; #26; the Defendant wrote the same statement: '*Defendant objects to this request to the*

*extent it seek information, documents or other communication that are protected from discovery by the Attorney-Client privilege, work-product doctrine or any other privilege or doctrine'.* (Exhibit 10) Again, it ironic that in their 'Request for Production of Document', the Defendant made almost all of those same requests to the Plaintiff **verbatim** (see Exhibit # 11). In his response, Plaintiff produced 91 pages of documents to the Defendant.

In response to Plaintiff's Request for production of document: #1; #2; #5; #7; #9; #10; #22; #23; #24 the Defendant wrote the same statement: '*See documents attached hereto*' (Exhibit # 10). This is a misleading statement because the Defendant produced **zero document** in response to Plaintiff's request for Production. There were no document attached to the Defendant's response.

Finally, the Defendant use the same stalling and deceptive tactics in objecting to Plaintiff legitime Requests for Interrogatories. Using deceptive statement such as: *Defendant objects to this request to the extent it seek information, documents or other communication that are protected from discovery by the Attorney-Client privilege, work-product doctrine or any other privilege or doctrine'.* (Exhibit 10) or statements as:

*"Defendant objects to this request on the grounds that it is overbroad, unduly, burdensome and not reasonable calculated to lead to the discovery of admissible evidence"* (Exhibit # 10). The Defendant is objecting to provide answers to the same question he requested from the Plaintiff (Exhibit # 11)

In accordance with RULE 11 of the SOUTH CAROLINA RULES OF CIVIL PROCEDURE, Plaintiff has attempted and written multiple letters/emails in attempts to resolve this Motion. Counsel for the Defendant has repeatedly used stalling, misleading

and evasive tactics to deny Plaintiff a fair discovery. Additional efforts on behalf of Plaintiff would serve no useful purpose. Plaintiff currently does not have and has not received anything from the Defendant to support and prepare for his case. **No document produced, and no deposition allowed to be completed.** The Defendant in the other hand received from Plaintiff, a huge package of 91 pages of document and has (the Plaintiff) been scheduled for a deposition already. As such, Plaintiff is left with no choice but to file this Motion to resolve this discovery dispute. The Motion is based on the attached Discovery Requests, correspondence in support of the Motion, memorandum of law, as well as any such hearing the Court may see fit to grant.

### III-CONCLUSION

After engaging unsuccessfully in good faith efforts to resolve this matter with the defendant, Plaintiff seeks an order from this Honorable Court overruling numerous objections lodged in response to Plaintiff's discovery requests, as set forth above. It is critical that Plaintiff obtain all documents supporting his case, to be able to move forward with this case.

WHEREFORE, these and other premises considered, Plaintiff moves this Honorable Court for an order overruling all Defendant's discovery objections, as outlined above. The Plaintiff respectfully request this Court to compel the Defendant to provide prompt and complete responses to both the discovery 'Interrogatories requests' and the 'Production of all requested documents', on a date the Court believes is appropriate, cost, and such further relief the Court may find just and reasonable.

The Plaintiff respectfully request this Court to compel the Defendant to collaborate with the Plaintiff and provide him with available dates for the deposition of Dr. John H. Sammies.

Respectfully submitted,

s/Serge Wandji

Serge Wandji, Plaintiff

P.O. Box 523

Columbia 29202

678-612-9649

May 10, 2024,

Columbia, South Carolina





EXHIBIT #1

Serge Wandji <sergewandji@gmail.com>

## Deposition of Dr. John H. Samies

5 messages

Serge Wandji <sergewandji@gmail.com>  
To: amandawilliams@parkerpoe.com

Thu, Apr 27, 2023 at 10:02 PM

Ref: Serge R. Wandji v. The Regional Medical Center and Dr. John H. Samies - Case No. 2023-CP-38-00331

Mrs. Williams,  
I have made preliminary arrangements with a Court Reporter to complete the deposition of Dr. Samies. Please send me as soon as you can the available dates for Dr. Samies in the next two weeks (14 days today) for his deposition.

Please feel free to contact me if you have any questions or concerns.

Sincerely,

Serge Wandji, RN

FILED FOR RECORD  
WINNIE B. CLARK  
2023 MAY 10 AM 11:20  
CLERK OF COURT  
ORANGEBURG, SC

Serge Wandji <sergewandji@gmail.com>  
To: amandawilliams@parkerpoe.com, micheliehewitt@parkerpoe.com

Mon, May 1, 2023 at 1:48 AM

Mrs. Williams,  
This is the fifth day since I sent you this email (the one being forwarded) kindly requesting Dr. Samies' availability days for his deposition.  
I still have not heard anything back from you.  
Again, would you please provide me with Dr. Samies' available days and time for his deposition some time this week or next week. Also, which location and address would Dr. Samies prefer for his deposition? At the Regional Medical Center in Orangeburg or at 'Palmetto Infection Disease Physicians'?

I would really appreciate it if you would provide me with an answer as soon as possible so I can plan accordingly with the Court Reporter.

Thank you  
Serge Wandji, RN  
[Quoted text hidden]

Williams, Amanda C. <amandawilliams@parkerpoe.com>  
To: Serge Wandji <sergewandji@gmail.com>

Mon, May 1, 2023 at 9:58 AM

Mr. Wandji,

ATTEST: TRUE COPY  
*Winnifred B. Clark*  
CLERK OF COURT  
ORANGEBURG, SC

Thank you for your follow-up email. I received your request for Dr. Samies' deposition on Friday, April 28 and am providing you with my response today, May 1, which is the next business day following receipt of your email.

Your request for Dr. Samies' deposition is premature for several reasons. First, the parties have not yet exchanged written discovery. Second, Defendants filed a motion to dismiss the claims asserted against Dr. Samies, as well as some of the claims asserted against The Regional Medical Center. The hearing on the motion to dismiss is set for Monday, May 1, 2023 at 10:00 AM in Courtroom 10 of the Orangeburg County Courthouse. I will be attending the hearing and will be able to provide you with a copy of the motion to dismiss and the hearing notice. I will also be able to provide you with a copy of the deposition notice. I will be able to provide you with a copy of the deposition notice. I will be able to provide you with a copy of the deposition notice.

<https://mail.google.com/mail/u/0/?ik=91589322ef&view=pt&search=all&permthid=thread-a:r5192013935253765989&simpl=msg-a:r5254808323257566631&simpl...> 1/3

15 at 3 pm. Thus, any discovery in this matter should take place after the Court issues its ruling on Defendants' motion to dismiss in order to avoid needless expenditure of time, money, and resources. Defendants are fully prepared to engage and cooperate in the discovery process, but these threshold issues must first take place before the requested deposition goes forward.

Best Regards, Amanda

---

**Amanda Williams**  
Partner



**Our Charleston office location has moved.  
We are now located at:**

**850 Morrison Drive - Suite 400  
Charleston, SC 29403**

**850 Morrison Drive | Suite 400 | Charleston, SC 29403  
Office: 843.727.6309 | Fax: 843.727.2680 | map**

**Visit our website at  
[www.parkerpoe.com](http://www.parkerpoe.com)**

**From:** Serge Wandji <sergewandji@gmail.com>  
**Sent:** Monday, May 1, 2023 1:49 AM  
**To:** Williams, Amanda C. <amandawilliams@parkerpoe.com>; Hewitt, Michelle <michellehewitt@parkerpoe.com>  
**Subject:** Fwd: Deposition of Dr. John H. Samies

\*\*\*Caution: External email\*\*\*

---

[Quoted text hidden]

---

**Serge Wandji** <sergewandji@gmail.com>  
**To:** "Williams, Amanda C." <amandawilliams@parkerpoe.com>

Mon, May 1, 2023 at 1:45 PM

Mrs. Williams,  
I thank you for your reply.  
Very respectfully Madam, I don't think the Defendant has the right to unilaterally decide when "discovery in this matter should take place".  
South Carolina Courts allow discovery to move along even when dispositive motions are pending. Furthermore, Dr. Samies involvement in this case extends beyond the Cause of Action where his name was mentioned in the Complaint.

So for the third time, would you please provide me with the availability days for Dr. Samies deposition next week?

Thank you  
Serge Wandji, RN  
[Quoted text hidden]

## STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF ORANGEBURG

Serge R. Wandji, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

The Regional Medical Center and

Case Number: 2023-CP-38-00331

Dr. John H. Samies, Defendants

Pending in Orangeburg County

TO: Dr. John H. Samies and Amanda C. Williams, Attorney for the Defendants

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

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2023

MAY

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11:00

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☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

Virtual

DATE AND TIME: May12, 2023, 11:00 AM

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

PLACE

DATE AND TIME

AM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF. SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature

Date

Print Name

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number :

Clerk of Court/Issuing Officer's Signature

Date

Pro Se Litigant's Name, Address and Telephone Number :

Serge Wandji, P.O. Box 523 Columbia SC, 29202

Telephone: 678-612-9649

ATTEST: TRUE COPY

Winnita B. Clark

CLERK OF COURT

ORANGEBURG COUNTY, SC

# Exhibit 3

STATE OF SOUTH CAROLINA ) COURT OF COMMON PLEAS  
COUNTY OF ORANGEBURG ) C/A #: 2023-CP-38-00331

Serge R. Wandji,

Plaintiff,

v.

The Regional Medical Center  
and Dr. John H. Samies,

Defendants.

FILED FOR RECORD  
WINNIE B. CLARK  
2023 MAY 12 PM 2:45  
CLERK OF COURT  
ORANGEBURG, SC

## STATEMENT OF NON-APPEARANCE FOR THE DEPOSITION OF

### DR. JOHN H. SAMIES

\*\*\*\*\*

Friday, May 12, 2023  
11: a.m. - 11: a.m.

The deposition of DR. JOHN H. SAMMIES was scheduled to take place via Zoom video conference, on the 12th day of May, 2023 before Amber Scarborough, Court Reporter and Notary Public in and for the State of South Carolina.

ATTEST: TRUE COPY  
*Winnie B. Clark*  
CLERK OF COURT  
ORANGEBURG COUNTY, SC



**CREEL COURT REPORTING, INC.**  
1230 Richland Street / Columbia, SC 29201  
(803) 252-3445 / [contact@creelreporting.com](mailto:contact@creelreporting.com)

APPEARANCES

Serge R. Wanji  
P.O. BOX 523  
Columbia, SC 29202  
Pro Se Plaintiff

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|-------------------------------------|-------------|
| MR. WANDJI . . . . .                | 1           |
| Certificate . . . . .               | 4           |

EXHIBITS

*(No Exhibits were marked at this deposition.)*



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1230 Richland Street / Columbia, SC 29201  
(803) 252-3445 / [contact@creelreporting.com](mailto:contact@creelreporting.com)

**MR. WANDJI - STATEMENT OF NON-APPEARANCE:**

**MR. WANJI:** This is Serge Wandji, the Plaintiff on the case.

I am pro se, representing myself. I just want to make a statement of non-appearance for the subpoena for the deposition of Dr. John Samie, who was properly served on May the 3rd, 2023 and with the attorney of the Defendant, Ms. Amanda Williams, a copy of that subpoena for deposition was properly served for Dr. John Samie on May the 4th. Also, a link to connect to the deposition was sent to both, Ms. Williams, the attorney of the Defendant, and Dr. John Samie yesterday. Today is Friday, May the 12th. The deposition was supposed to start at 11:00 a.m. It is now 11:21 a.m. on May the 12th and neither, Dr. Samie nor the attorney of the Defendant, Ms. Amanda Williams, have shown up. Thank you.

(There being nothing further, the statement of non-appearance concluded at 11:21 a.m.)



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**CREEL COURT REPORTING, INC.**

1230 Richland Street  
Columbia, SC 29201  
(803) 252-3445

5/11/2023

Tax ID: 57-1016805

INVOICE NO. 23-2998

Serge Wandji  
P.O. BOX 523  
Columbia, SC 29202  
sergewandji@gmail.com  
678-612-9649, SC 29202 USA

We accept:



|                                                 |        |
|-------------------------------------------------|--------|
| RE: Serge Wandji v. The Regional Medical Center | 0.00   |
| Deposit for Deposition                          | 142.50 |
| Zoom Hosting Fee                                | 40.00  |
| ORIGINAL AND ONE COPY - Deposition(s) of:       | 0.00   |
| Non-Appearance on 5/12/23                       | 57.50  |
| 5 pages (EXPEDITED - SAME DAY)                  |        |
| Credit                                          | -5.80  |

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CLERK OF COURT  
ORANGEBURG, SC

For accounts that are 90 days past due a service charge  
of 2.5% will be applied.

After 120 days a service charge of 5.0% will be applied.

Total \$234.20

Payments/Credits \$234.20

Balance Due \$0.00

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*Winnif B Clark*  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

/as

**THANK YOU!**  
(Please return copy with remittance)

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STATE OF SOUTH CAROLINA )  
COUNTY OF ORANGEBURG )

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT

Serge R. Wandji,  
Plaintiff

Civil Action No.: 2023-CP-38-00331

**CERTIFICATE OF SERVICE**

Vs

The Regional Medical Center,  
And Dr. John H. Samies,  
Defendants

CLERK OF COURT  
ORANGEBURG, SC

2023 MAY 12 PM 2:45

FILED FOR RECORD  
WINNIFA B. CLARK

I hereby certify that a copy of **STATEMENT OF NON-APPEARANCE FOR THE DEPOSITION OF Dr. JOHN H. SAMIES** has been served upon the following *Attorney for Defendants* by Email and by Certified Mail and U.S. Mail addressed as shown below this 12<sup>th</sup> day of May, 2023:

Amanda C. Williams  
PARKER POE ADAMS & BERNSTEIN LLP  
P.O. Box 160  
Charleston, SC 29402  
*Attorney for Defendants*



Serge Wandji  
P.O. Box 523  
Columbia, SC 29202  
Phone: 678-612-9649

ATTEST: TRUE COPY

*Winnif B. Clark*  
CLERK OF COURT  
ORANGEBURG COUNTY, SC



# Exhibit #4

Serge R. Wandji v. The Regional Medical Center - Case  
No. 2023-CP-38-00331

Inbox

Search for all messages with label Inbox

Remove label Inbox from this conversation

S

Serge Wandji <sergewandji@gmail.com>

Jul 20, 2023,  
1:03 PM

to Amanda

Mrs. Williams,

I am writing to request Dr. Samies availability for his deposition in the above referred case.

Please send me as soon as possible the available dates for Dr. Samies in the next two weeks for his deposition and where he would like to be deposed, so I can make the necessary arrangements with a court reporter.

Please feel free to contact me if you have any questions or concerns.

Sincerely,  
Wandji, RN

W

Williams, Amanda C. <amandawilliams@parkerpoe.com>

Jul 21, 2023,  
3:09 PM

to me

Mr. Wandji,

As you know, the only remaining cause of action in this case is for worker's comp retaliation. Specifically, you claim you were terminated by TRMC because you filed a worker's comp claim. Dr. Samies is no longer a party to the case and it's unclear how his testimony is relevant to your remaining claim against TRMC for worker's comp retaliation or how it's reasonably calculated to lead to the discovery of admissible evidence. Can you please advise why you have identified Dr. Samies as a potential witness on the remaining cause of action?

Best Regards, Amanda

---

**Amanda Williams**  
Partner



**Our Charleston office location has moved!**  
**We are now located at:**

**850 Morrison Drive - Suite 400**  
**Charleston, SC 29403**

850 Morrison Drive | Suite 400 | Charleston, SC 29403  
Office: 843.727.6309 | Fax: 843.727.2680 | [map](#)

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[www.parkerpoe.com](http://www.parkerpoe.com)

**From:** Serge Wandji <[sergewandji@gmail.com](mailto:sergewandji@gmail.com)>  
**Sent:** Thursday, July 20, 2023 1:04 PM  
**To:** Williams, Amanda C. <[amandawilliams@parkerpoe.com](mailto:amandawilliams@parkerpoe.com)>  
**Subject:** Serge R. Wandji v. The Regional Medical Center - Case No. 2023-CP-38-00331

\*\*\*Caution: External email\*\*\*

---

Mrs. Williams,

**Serge Wandji** <[sergewandji@gmail.com](mailto:sergewandji@gmail.com)>

Jul 21, 2023,  
3:20 PM

to Amanda

During the hearing the Judge clearly said I could depose Dr. Samies. Just like I can depose any person in the leadership at the RMC.

Dr. Samies is well familiar with this case, he is a senior member of the hospital leadership, he is a Board of trustee member in good standing and he practices medicine there. He has information relevant to this case as it stands.

Will you please communicate to me his availability for his deposition?

Thank you

Wandji

**S**

**Serge Wandji <sergewandji@gmail.com>**

Jul 21, 2023,  
9:56 PM

to Amanda

Mrs. Williams,

During the Court Hearing of June 15, 2023, Honorable Judge Diane Goodstein clearly stated that I can surely depose Dr. Samies. She went even further by stating that " All I have to do is to write you an email in advance, requesting for the availability of Dr. Samies. That is exactly what I am doing.

For the third time would please communicate to me Dr. Samies' availability in the following two weeks for his deposition?

Thank you

Wandji, RN

**W**

**Williams, Amanda C. <amandawilliams@parkerpoe.com>**

Jul 24, 2023,  
3:53 PM

to me

Mr. Wandji,

The judge said you could depose Dr. Samies if he has knowledge that is relevant to your remaining cause of action. She did not rule on the issue of whether or not Dr. Samies has any relevant knowledge -- that issue was not before the Court.

The Rules of Civil Procedure allow for discovery and depositions that are relevant to the subject matter in the pending action or that relate to your claim or TRMC's defenses. It is our position that Dr. Samies does not have information that is relevant to your claim for worker's comp retaliation. He had no involvement in any decisions regarding the termination of your employment, nor does he handle the worker's comp claims for TRMC. The fact that he practices medicine at TRMC and is on the Board of Trustees does not mean that he has any knowledge regarding your claim that you were terminated in retaliation for filing a worker's comp claim.

Before we proceed with scheduling the deposition of Dr. Samies, I am seeking clarification on what knowledge you assert Dr. Samies may have that is relevant to your workers' comp retaliation claim. Can you please clarify? If you would prefer, I am also happy to set-up a time to discuss with you further via phone.

**S**

**Serge Wandji <sergewandji@gmail.com>**

Jul 25, 2023,  
11:57 AM

to Amanda

Mrs. Williams,

For the fourth time, would you please communicate to me Dr. Samies' availability in the following two weeks for his deposition? YES or NO?

If yes, when and where (dates, times and location) works for you and your client?

Thank you  
Wandji, RN

**W**

**Williams, Amanda C. <amandawilliams@parkerpoe.com>**

Jul 26, 2023,  
5:54 PM

to me

Mr. Wandji,

Though I am happy to coordinate with you in the discovery process and in the scheduling of depositions, the witnesses deposed must have information relevant to the subject matter in your pending lawsuit or that relates to your claim or TRMC's defenses.

I previously requested that you provide me information on what knowledge you assert Dr. Samies may have that is relevant to your workers' comp retaliation claim. Dr. Samies had no involvement in any decisions regarding your employment or the termination of your employment. Thus, it's unclear why you seek to depose him as a witness in this case. Can you please clarify your position so we can advise you whether or not we will object to the scheduling of Dr. Samies' deposition?

**S**

**Serge Wandji <sergewandji@gmail.com>**

Aug 9, 2023,  
8:16 PM

to Amanda

Mrs. Williams,

How do you want the deposition of Dr. Samies to be conducted? In person or Virtual?  
Please advise on your preference.

Thank you  
Wandji, RN

S

**Serge Wandji** <sergewandji@gmail.com>

Aug 11, 2023,  
5:19 PM

to Amanda

Mrs. Williams,

This is the second time I am writing to request your preference for Dr. Samies' deposition.

Would you please inform me on whether you will want Dr. Samies' deposition to be in person or Virtual?

Looking forward to your response as soon as you can

Thank you  
Wandji, RN

W

**Williams, Amanda C.** <amandawilliams@parkerpoe.com>

Aug 14, 2023,  
8:44 AM

to me

Mr. Wandji,

Though we still take the position that Dr. Samies' deposition is not relevant to the remaining claims in the case, if the deposition does go forward, it should be in person.

# Exhibit #5

Serge Wandji <sergewandji@gmail.com>

Tue, Apr 23, 12:41 PM  
(10 days ago)

to Amanda

Mrs. Williams,

It is finally good to hear from you again.

It has been several months already since I sent you an email, I still have not received your written responses to my Interrogatories and Requests for Production initially served on July 28, 2023 (see attached). After missing several times the lawful deadline for providing what I requested, stating that "Your Client is still working on them", you ended up sending a letter rejecting every single thing that I requested. So for the third time, Please provide those (your written responses to our Interrogatories and Requests for Production) no later than May 1 so I may avoid filing a motion with the Court.

Also, I would like to schedule the deposition of Dr. John H. Samies. Please let me know his availability some day/time in the month of May, 2024.

Finally (for now), I would also like to schedule the deposition of The Director of Human Resources. Please let me know his availability as well.

Thank you for your attention to these matters.

Best regards

Wandji

2 Attachments • Scanned by Gmail



Williams, Amanda C.

Tue, Apr 23, 2:11 PM  
(10 days ago)

to Claire, Megan, me

Mr. Wandji,

We produced both documents and written responses to your Interrogatories and Requests for Production on October 10, 2023. Please see the attached email. Thus, it is unclear to me what else you are seeking.

In regards to depositions, your only remaining claim is for worker's comp retaliation and Dr. Samies is no longer a party to this case. Can you please advise what facts and knowledge you contend that Dr. Samies has that is relevant to your remaining cause of action?

As to the deposition of the "Director of Human Resources," are you seeking to depose the human resources director who was employed by RMC when you were an employee?

FILED FOR RECORD  
JANIEA B. CLARK  
2024 MAY 10 P 1:05  
CLERK OF COURT  
ORANGEBURG, SC

Best Regards, Amanda

---

**Amanda Williams**  
Partner



850 Morrison Drive | Suite 400 | Charleston, SC 29403  
Office: 843.727.6309 | Fax: 843.727.2680 | [map](http://map)

Visit our website at  
[www.parkerpoe.com](http://www.parkerpoe.com)

**From:** Serge Wandji <[sergewandji@gmail.com](mailto:sergewandji@gmail.com)>  
**Sent:** Tuesday, April 23, 2024 12:42 PM  
**To:** Williams, Amanda C. <[amandawilliams@parkerpoe.com](mailto:amandawilliams@parkerpoe.com)>  
**Subject:** Re: Wandji v. The Regional Medical Center

\*\*\*Caution: External email\*\*\*

---

One attachment • Scanned by Gmail



**Serge Wandji** <[sergewandji@gmail.com](mailto:sergewandji@gmail.com)>

Thu, Apr 25, 10:22 AM  
(8 days ago)

to Amanda

Mrs. Williams,

You do not produce a single document requested the same so most of my interrogatories were rejected by you. Every question in my interrogatory and every document in my request for production is relevant to this case. For the third time, please provide those by no later than May 1 so I may avoid filing a motion with the Court.

Doctor Sammies is an employee at the RMC involved in this case, he is also in the top leadership in both the clinical and the administrative department with relevant information to the cause of action in this case. Please provide his availability for his deposition in the month of May, 2024.

Best regards  
Wandji, RN

# Exhibit #6

STATE OF SOUTH CAROLINA )  
COUNTY OF ORANGEBURG )

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT

Serge R. Wandji,  
Plaintiff

Civil Action No.: 2023-CP-38-00331

Vs

The Regional Medical Center,  
And Dr. John H. Samies,  
Defendants

PLAINTIFF'S FIRST SET OF REQUESTS FOR  
PRODUCTION TO DEFENDANT

FILED FOR RECORD  
WONIFA B. CLARK  
2023 MAY 10 P 1:05  
CLERK OF COURT  
ORANGEBURG, SC

TO: THE REGIONAL MEDICAL CENTER, DEFENDANT

I, Pro Se Plaintiff Serge R. Wandji pursuant to Rules 26 and 34 of the South Carolina Rules of Civil Procedure, hereby serves upon Defendants, Plaintiff's First Set of Requests for Production, to which written responses must be served within thirty (30) days from the date of service hereof. These Requests for Production shall be continuing in nature until the date of trial, and Defendants is required to serve supplemental responses as additional information is found or becomes available, in accordance with the South Carolina Rules of Civil Procedure

## DEFINITIONS

Unless otherwise stated, the terms set forth below are defined as follows:

1. "You," "your," and "Defendant" shall mean The Regional Medical Center, and all other persons acting on his behalf, including counsel.



2. "Document" and/or "documents" shall mean all written or printed matter of any kind including the originals and all non-identical copies thereof, whether different from the originals by reason of any notation made on such copies or otherwise, including without limitation:

minutes, agendas, bills, contracts, leases, assignments, agreements, reports of any sort, summaries, intra-office and inter-office communications (including e-mail, video, or voice mail communications), offers, notations of any sort, diaries, performance evaluations, disciplinary write-ups, appointment books or calendars, teletype, telefax, thermofax, confirmations, computer data (including e-mail and all other information or programs stored in the computer whether or not ever printed or displayed), text messages, metadata, statistics, graphs, minutes, lists, appraisals, brochures, pamphlets, advertising, marketing, or promotional materials; all drafts, alterations, modifications, changes and amendments of any of the foregoing; all graphics or manual records or representations of any kind, including, without limitation, photographs, microfilm, videotape records, motion pictures and electronic, mechanical or electric records or representations of any kind including, without limitation, tapes, cassettes, discs, disk drives, thumb (USB) drives, magnetic cards and recordings.

3. "Plaintiff" or "me" shall mean Serge Wandji.

4. The terms "concern," "concerning" or "concerned" or as used herein shall mean referred to, alluded to, related to, connected with, commencing on, in respect of, about, regarding, discussing, constituting, showing, describing, in support of, in substitution of, reflecting and analyzing.

## INSTRUCTIONS

1. If Defendant claims any form of privilege, whether based on statute or otherwise, as a ground for not producing any document, set forth all facts from which the claim of privilege is based.

2. To the extent that any documents are not produced on the basis of a claim of privilege or immunity:

(a) submit a list identifying each such document;

(b) identify the nature of

the privilege (including work product) which is being claimed; and

(c) identify each person having knowledge of the factual basis, if any, on which the claim of privilege or immunity is based. For these purposes, "Identify" shall mean in the case of a document, to state the document's date, its author, its recipient or the person for whom it was prepared, the type of document (e.g., letter, memorandum, chart, or other category), its present location or custodian, a summary of its contents, and any other information necessary to render the document distinguishable from all others and subject to ready location.

3. If any documents requested herein have been lost, discarded, or destroyed, the documents so lost, discarded, or destroyed shall be identified as completely as possible, including, without limitation, the following information: date of disposal, manner of disposal, reason for disposal, person authorizing the disposal, and the person disposing of the document.

4. Any responsive electronically stored information should be produced in its native format.

5. The use of the singular form of any word includes the plural and vice versa; and the use of any tense of any verb should be considered to include also within its meaning all other tenses of the verb so used.

#### PLANTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION

1. Produce any and all documents identified in Defendant's Answers to Plaintiff's First Set of Interrogatories.

2. Produce any and all documents consulted or referred to in preparing Defendant's Answers to Plaintiff's First Set of Interrogatories.

3. Produce any and all documents, including emails, identified, referenced, and/or quoted in the Defendant Response to Plaintiff's Complaint.

4. Produce any documents that concern, reference, reflect, or are alleged to be any written policies affecting or related to Plaintiff.

5. Produce any and all documents that support Defendant's contention that Plaintiff was not retaliated against by Defendant.

6. Produce any and all documents list of all Workers' compensation Complaints filed with TRMC workers compensation TRMC workers' compensation insurance (Antum Risk) by any of your employees who contracting the COVID-19 virus at TRMC, from 2021 to present.

7. Produce any and all documents that reflect communications between Defendant and Plaintiff, any agent or employee of Defendants, or any third party

regarding any aspect of Plaintiff's employment with Defendant, his alleged illness, the factual allegations set forth in Defendant's Response to Plaintiff's Complaint, and/or any other issues regarding Plaintiff.

8. Produce any and all documents that reflect communications between Defendant and any third parties, including without limitation any government agencies, any aspect of Plaintiff's employment with Defendant, Plaintiff's illness, the factual allegations set forth in Defendants' Response to Plaintiff's Complaint, and/or any other issues regarding Plaintiff.

9. Produce all documents and correspondence exchanged between Defendants and Plaintiff, from the time of Plaintiff's alleged COVID-19 diagnosis on August 27, 2021 to present.

10. Produce any and all statements given by Defendants or witnesses identified by Defendant, whether written or recorded or otherwise, that relate in any way to the allegations set forth in the Complaint.

11. Produce any and all documents received by Defendants or his counsel in response to any FOIA requests and/or subpoenas issued in connection with this matter.

12. As to each individual identified by Defendant as an expert, produce:

(a) any and all documents or correspondence to and from said expert;

(b) a complete curriculum vitae, resume and/or professional profile, including a list of publications by said expert; and

(c) all documents used by the expert in arriving at his/her opinions in this action.

13. Produce any and all documents showing or otherwise indicating any statement, representation, or comment that Defendant contends constitutes an objection or denial or opposition by Defendants concerning the facts of this case and/or any of the allegations set forth in the Complaint.

14. Produce any and all documents that concern, evidence, relate or otherwise pertain to notes or other writings made by Defendant (or others on Defendant's behalf) that relate to Plaintiff's employment with Defendant, Plaintiff's illness, or any and all matters related to the case.

15. Produce any and all diaries, reports, internal emails, business or personal calendars, journals, blogs, Facebook or MySpace postings, tweets, text messages and/or appointment books, or the like, kept or maintained by Defendant during Plaintiff's employment with Defendant and up to the present that pertain in any way, directly or indirectly, to Plaintiff's employment with Defendant, his illness, or any and all matters related to this case.

16. Produce any and all documents list of all Workers' compensation Complaints filed with the South Carolina Workers' Compensation Commission against TRMC by any of your employees included but not limited to those who contracting the COVID-19 virus at TRMC, from 2021 to present.

17. Produce any and all federal and state tax documents, 1099's, and/or other documents that evidence, relate or refer to the amount and source of revenue or received by Defendants for the year 2020 through present, including, but not limited to, monies received from private insurance companies, self-pay, co-payments, and/or the federal, state or local government, MEDICARE, MEDICAID from 2020 to the present.

18. Produce any and all documents and list of all Regional Medical Center employees who contracted the COVID-19 virus, as reported by the TRMC's laboratory (LAB) to the Center for Disease Control and Preventions (CDC) and all other Federal and State Government agencies from August 2021 to present.

19. Produce ALL COVID-19 related Financial reports for insurance payment and government reimbursement purposes, and ALL CDC reports for ALL the staff members infected with COVID-19 at TRMC, for the entire year of 2021.

20. Produce any and all documents that concern, discuss, relate or otherwise pertain to any other lawsuits, claims, EEOC Charges, Department of Labor complaints, domestic proceedings and/or claims of any nature to which Defendant has been or is a party (including claims filed with insurance carriers), or filed by others on Defendant's behalf, against any person or entity.

21. Produce any and all documents that concern, discuss, relate or otherwise pertain to any complaints, charges, or grievances made by Defendant against any current or former employee.

22. Produce all records, plans, statements, photographs, sketches, reports, exhibits, or other documents, whether in written, electronic, or computerized form, in Defendant's possession or control, that relate to the claims and/or defenses in this case.

23. Produce all exhibits, documents, or other demonstrative items that Defendant may introduce or seek to introduce at any deposition, hearing, or trial in this action, and whether or not said exhibits or documents will be introduced into evidence.

24. Produce all documents or other tangible items not hereinabove requested that concern in any way the allegations, claims or defenses in this matter.

25. Produce ALL COVID-19 records and ALL tracing reports, including but not limited to the daily and weekly Federal and State government required COVID-19 data elements reports, for the entire year of 2021.

26. For each Facebook account maintained by Defendant, please produce all account data for the period of August 2021 through present. You may download and save (or print) your Facebook data by logging into your Facebook account, clicking on the arrow on the top right of the screen, selecting "Settings," clicking on the "Download a copy of your Facebook data" link, and following the directions after selecting "Start my Archive." This request specifically includes all postings on Defendant's "Wall" (including comments by Defendant's "friends" or Defendant himself to any such postings) from August 2021 to the present, and such postings should be downloaded and saved (or printed) to be produced in response to this request.

s/Serge Wandji  
Serge Wandji, Plaintiff  
P.O. Box 523  
Columbia 29202  
678-612-9649

July 28, 2023  
Columbia, South Carolina

# Exhibit #7

STATE OF SOUTH CAROLINA )  
COUNTY OF ORANGEBURG )

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT

Serge R. Wandji,  
Plaintiff

Civil Action No.: 2023-CP-38-00331

**PLAINTIFF'S FIRST SET OF  
INTERROGATORIES TO DEFENDANT**

Vs

The Regional Medical Center,  
And Dr. John H. Samies,  
Defendants

FILED FOR RECORD  
WINIFEA B. CLARK  
2024 MAY 10 P 1:05  
CLERK OF COURT  
ORANGEBURG, SC

TO: THE REGIONAL MEDICAL CENTER

I, SERGE WANDJI, the Plaintiff pursuant to Rules 26 and 33 of the South Carolina Rules of Civil Procedure, hereby serves upon Defendant The Regional Medical Center, Pro Se Plaintiff Serge R. Wandji's First Set of Interrogatories, to which written answers must be served within thirty (30) days from the date of service hereof. These Interrogatories shall be continuing in nature until the date of trial, and Defendant is required to serve supplemental answers as additional information is found or becomes available, in accordance with the South Carolina Rules of Civil Procedure.

## DEFINITIONS

Unless otherwise stated, the terms set forth below are defined as follows:

1. "You," "your," and "Defendants" shall mean The Regional Medical Center, and all other persons acting on his behalf, including counsel.



2. "Document" and/or "documents" shall mean all written or printed matter of any kind including the originals and all non-identical copies thereof, whether different from the originals by reason of any notation made on such copies or otherwise, including without limitation: minutes, agendas, bills, contracts, leases, assignments, agreements, reports of any sort, summaries, intra-office and inter-office communications (including e-mail, video, or voice mail communications), offers, notations of any sort, diaries, performance evaluations, disciplinary write-ups, appointment books or calendars, teletype, telefax, thermofax, confirmations, computer data (including e-mail and all other information or programs stored in the computer whether or not ever printed or displayed), text messages, metadata, statistics, graphs, minutes, lists, appraisals, brochures, pamphlets, advertising, marketing, or promotional materials; all drafts, alterations, modifications, changes and amendments of any of the foregoing; all graphics or manual records or representations of any kind, including, without limitation, photographs, microfilm, videotape records, motion pictures and electronic, mechanical or electric records or representations of any kind including, without limitation, tapes, cassettes, discs, disk drives, thumb (USB) drives, magnetic cards and recordings.

3. "Identify" and/or "identity", when used in reference to an individual person, shall mean to state his or her full name, present or last known business address, telephone number and the name of such person's present or last known employer, place of employment and position, and place of employment and position during the time period of any event addressed by the interrogatory in question.

4. "Identify" and/or "identity" when used in reference to an entity shall mean to state its full and complete name and the present and last known address and telephone number of its headquarters or principal place of business.

5. "Identify" and/or "identity" when used in reference to a document shall mean to state the nature of the document (e.g., letter, memorandum, etc.); the date, if any, appearing on the document; the identity of the persons who wrote, signed, dictated, or otherwise participated in the preparation of the document; the identity of all persons to whom the document was addressed or who received copies of the document; and the present location and custodian of the document.

6. "Defendants" or "TRMC" shall mean The Regional Medical Center, and its agents, employees, and managers.

#### INSTRUCTIONS

1. If Defendant claims any form of privilege, whether based on statute or otherwise, as a ground for not answering an interrogatory or any part of an interrogatory, set forth all facts from which the claim of privilege is based.

2. If Defendant claims any form of privilege, whether based on statute or otherwise, as a ground for not identifying requested oral communications or documents, set forth all facts upon which the claim of privilege is based, and for each document as to which Defendant claims any form of privilege, identify the date, subject matter, location, author or authors, and recipient/recipients of the document, including all persons to whom the document has been provided or who have it in their possession.

3. Whenever a date, amount, or other computation or figure is requested, the exact date, amount or other computation or figure is to be given unless it is not known;

and in that case, the approximate date, amount, or other computation or figure should be given or the best estimate thereof, and the answer should state that the date, amount, or other computation provided is an estimate or approximation.

4. Where facts are set forth in the answers or portions thereof and are supplied upon information and belief rather than Defendants' direct personal knowledge, Defendant should so state and specifically identify each source of information and belief. Should Defendants be unable to answer any interrogatory or portion thereof by either actual knowledge or upon information and belief, Defendants should so state.

5. Whenever a full and complete answer to any interrogatory or subpart is contained in the document identified as answering a specific numbered interrogatory or subpart, the document or a copy may be supplied in lieu of a written answer.

6. Whenever an interrogatory calls for information which is not available to Defendants in the form requested but is available in another form or can be obtained at least in part from other sources in Defendant's possession, so state and either supply the information requested in the form in which it is available or supply the sources from which the information can be obtained.

7. Each interrogatory shall be construed independently and not by reference to any other interrogatory herein for purposes of limitation.

8. Treat each numbered and lettered item in each interrogatory and on all attachments and exhibits as requiring a separate response. If Defendants objects to or is unable to answer one item, so state and respond to all other items.

9. Whenever information respecting a negotiation, meeting, discussion or communication is called for by these interrogatories and Defendant knows of the

occurrence of any such negotiation, meeting, discussion or communication but cannot give either in whole or in part, the specific information called for to the extent requested, please provide the current and most complete information which Defendants can provide on the subject, including his best approximation of all dates, places and geographic locations.

10. The use of the singular form of any word includes the plural and vice versa; and the use of any tense of any verb should be considered to include also within its meaning all other tenses of the verb so used.

#### PLAINTIFF'S FIRST SET OF INTERROGATORIES

1. Give the full name, address and telephone number of each person known to Defendant to have knowledge concerning the facts, events, circumstances, claims, allegations, or defenses surrounding this lawsuit, and indicate whether or not written or recorded statements have been taken from each person and, if so, indicate who has possession of such statements, and, if not, set forth a specific summary sufficient to inform Plaintiff of the important facts known to or observed by each person.

2. Identify all individuals who may be called as witnesses, or upon whose sworn statement or testimony Defendants may rely, at any trial or hearing in this action and as to each, state the substance of such anticipated testimony.

3. Give the name, address, and telephone number of each expert whom Defendant proposes to use as a witness at the trial of this case, and as to each, provide:

- (a) the subject matter of the anticipated testimony;
- (b) the expert's qualifications;

(c) the substance of the facts and opinions to which the expert is expected to testify; and

(d) a summary of the grounds for each of the expert's opinions.

4. State whether Defendants has ever been a party or claimant in a lawsuit, EEOC charge, Department of Labor, employment-related claim or lawsuit (including, but not limited to, discrimination, claims for workers' compensation, and/or disability benefits), domestic proceeding, or other legal or administrative claim or action apart from this action of any nature, including any claim made against a person or entity's third-party liability insurance, and for each such action or claim, set forth the date the claim or action was filed, the civil action number or other identifying number, the forum and location in which the action or claim was filed, the nature of the claim or action filed, and the final resolution of the claim or action.

5. Give the full name, address and telephone number for each person with whom Defendant has communicated about this case and/or the allegations contained in this case.

6. Identify all exhibits, documents, or other demonstrative evidence that Defendants may introduce or seek to introduce at any trial or hearing in this action.

7. Give full list of all Workers' compensation Complaints filed with TRMC workers' compensation insurance (Antum Risk) by any of your employees who contracting the COVID-19 virus at TRMC, from 2021 to present, explicitly identifying their working unit/department.

8. Give full list of all Workers' compensation Complaints filed with the South Carolina Workers' Compensation Commission against TRMC by any of your employees

(explicitly identifying their working unit/department) after contracting the COVID-19 virus at TRMC, from 2021 to present.

9. List all Regional Medical Center employees who contracted the COVID-19 virus, as reported by the TRMC's laboratory to the Center for Disease Control and Preventions (CDC) and all other Federal and State Government agencies from August 2021 to present. Explicitly identifying their working unit/department.

10. Identify ALL COVID-19 related Financial reports for insurance payment and government reimbursement purposes, including but not limited to the Federal Government Special COVID-19 Fund TRMC received from the CARES Act.

11. Specifically outline all CDC reports as submitted by TRMC laboratory, by month and by department/unit for ALL the staff members infected with COVID-19 at TRMC, for the entire year of 2021.

12. Provide a description (including date, jurisdiction, and type of charge) of any criminal charges, which have ever been brought against Defendant since doing business in Orangeburg County, and describe the disposition thereof.

s/Serge Wandji  
Serge Wandji, Plaintiff  
P.O. Box 523  
Columbia 29202  
678-612-9649

July 28, 2023  
Columbia, South Carolina

# Exhibit # 8

S. Wandji vs. The Regional Medical Center and J. H. Samies; 2023-CP-38-00331

Inbox

Search for all messages with label Inbox

Remove label Inbox from this conversation

S

Serge Wandji <sergewandji@gmail.com>

Sep 1, 2023,  
3:25 AM

to Amanda

Dear Mrs. Williams,

On July 28, 2023 you were served with the "Plaintiff's First set of Interrogatories" and the "Plaintiff's first set of Request for Production" in the above mentioned case. It has been more than thirty (30) days since you have been served and I have not received anything from you in this regard, which is a violation of the South Carolina Rules of Civil Procedure.

I thank you  
Wandji, RN

W

Williams, Amanda C. <amandawilliams@parkerpoe.com>

Sep 5, 2023,  
7:53 AM

to Claire, me

Mr. Wandji,

RMC's responses to your discovery requests were due on Friday, September 1 pursuant to the five-day mailing rule under the South Carolina Rules of Civil Procedure. Your responses to RMC's discovery requests, which we have not yet received, were also due on Friday.

I am in the process of finalizing RMC's answers to your written discovery requests. However, due to the transaction between MUSC and RMC earlier this year, there have been some delays in tracking down and getting access to some of the information I need to respond. Thus, I would like to request an extension until September 29 to respond to the requests. To the extent you need additional time to respond to the requests we served on you, please let me know.

Best Regards, Amanda

FILED FOR RECORD  
WILLIAMS, A. B. CLARK  
SEP 10 P 1:05  
JUDGE OF COURT  
SPRINGFIELD, SC

---

**Amanda Williams**  
Partner



**Our Charleston office location has moved!**  
**We are now located at:**

**850 Morrison Drive - Suite 400**  
**Charleston, SC 29403**

850 Morrison Drive | Suite 400 | Charleston, SC 29403  
Office: 843.727.6309 | Fax: 843.727.2680 | [map](#)

Visit our website at  
[www.parkerpoe.com](http://www.parkerpoe.com)

**From:** Serge Wandji <[sergewandji@gmail.com](mailto:sergewandji@gmail.com)>  
**Sent:** Friday, September 1, 2023 3:25 AM  
**To:** Williams, Amanda C. <[amandawilliams@parkerpoe.com](mailto:amandawilliams@parkerpoe.com)>  
**Subject:** S. Wandji vs. The Regional Medical Center and J. H. Samies; 2023-CP-38-00331

\*\*\*Caution: External email\*\*\*



**Serge Wandji <[sergewandji@gmail.com](mailto:sergewandji@gmail.com)>**

Sep 7, 2023,  
3:06 AM

to Amanda

Mr. Williams,  
Your statement "*Your responses to RMC's discovery requests, which we have not yet received, were also due Friday*", is false and misleading.  
My response's package was available for pick up at your address in file on August 26, 2023.  
It is not my responsibility nor my fault if you choose not to pick up your mail.

I am graciously giving you until Friday September 15, 2023 to get TRMC Response to my discovery request to my address, which is about two weeks past the civil Procedure Rules.



Thank you Madam  
Wandji

---

# Exhibit # 8

S. Wandji vs. The Regional Medical Center and J. H. Samies; 2023-CP-38-00331

Inbox

Search for all messages with label Inbox

Remove label Inbox from this conversation

S

Serge Wandji <sergewandji@gmail.com>

to Amanda

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I thank you  
Wandji, RN

W

Williams, Amanda C. <amandawilliams@parkerpoe.com>

Sep 5, 2023,  
7:53 AM

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Best Regards, Amanda

FILED FOR RECORD  
WYNIFA B. CLARK  
2024 MAY 10 P 1:05  
CLERK OF COURT  
ORANGEBURG, SC  
Sep 5, 2023,  
3:25 AM

---

**Amanda Williams**  
Partner



**Our Charleston office location has moved!**  
**We are now located at:**

**850 Morrison Drive - Suite 400**  
**Charleston, SC 29403**

850 Morrison Drive | Suite 400 | Charleston, SC 29403  
Office: 843.727.6309 | Fax: 843.727.2680 | [map](#)

Visit our website at  
[www.parkerpoe.com](http://www.parkerpoe.com)

**From:** Serge Wandji <[sergewandji@gmail.com](mailto:sergewandji@gmail.com)>  
**Sent:** Friday, September 1, 2023 3:25 AM  
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**Subject:** S. Wandji vs. The Regional Medical Center and J. H. Samies; 2023-CP-38-00331

\*\*\*Caution: External email\*\*\*



**Serge Wandji** <[sergewandji@gmail.com](mailto:sergewandji@gmail.com)>

Sep 7, 2023,  
3:06 AM

to Amanda

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I am graciously giving you until Friday September 15, 2023 to get TRMC Response to my discovery request to my address, which is about two weeks past the civil Procedure Rules.

Thank you Madam  
Wandji

# Exhibit # 10

Parker Poe

Amanda C. Williams  
Partner  
t: 843.727.6309  
f: 843.727.2680  
amandawilliams@parkerpoe.com

Atlanta, GA  
Charleston, SC  
Charlotte, NC  
Columbia, SC  
Greenville, SC  
Raleigh, NC  
Spartanburg, SC  
Washington, DC

October 10, 2023

**VIA US MAIL AND E-MAIL**

Serge Wandji  
PO Box 523  
Columbia, SC 29202  
[sergewandji@gmail.com](mailto:sergewandji@gmail.com)

RE: **Serge R. Wandji v. The Regional Medical Center and Dr. John H. Samies**  
Case No. 2023-CP-38-00331

Dear Mr. Wandji:

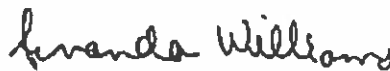
Enclosed for service upon you, please find the following:

1. Defendants' Answers to Plaintiff's First Set of Interrogatories; and
2. Defendants' Responses to Plaintiff's First Set of Requests for Production of Documents.

We are also producing the following documents via a Share File link that will be sent to you via email: RMC-Wandji 0001 - RMC-Wandji 0113.

Please let me know if you have any difficulty accessing the documents. With kind regards,  
I remain

Sincerely,



Amanda C. Williams

ACW/cle  
Enclosure

FILED FOR RECORD  
WINNIE B. CLARK  
2024 MAY 10 P 1:05  
CLERK OF COURT  
SPARTANBURG, SC

PPAB 10007647v1

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Serge R. Wandji,

Plaintiff,

vs.

The Regional Medical Center, and  
Dr. John H. Samies,

Defendants.

) IN THE COURT OF COMMON PLEAS  
) FIRST JUDICIAL CIRCUIT

) Civil Action No. 2023-CP-38-00331

) DEFENDANT'S RESPONSES TO  
) PLAINTIFF'S FIRST SET OF  
) REQUESTS FOR PRODUCTION

FILED FOR RECORD  
WANDA B. CLARK  
MAY 10 P 1:05  
COURT OF COMMON PLEAS  
ORANGEBURG, SC

Pursuant to Rules 26 and 34 of the South Carolina Rules of Civil Procedure, Defendant The Regional Medical Center (hereinafter "Defendant"), by and through its undersigned counsel, hereby responds to the First Set of Requests for Production of Plaintiff Serge R. Wandji (Plaintiff) as follows:

#### **PRELIMINARY STATEMENT**

Defendant has not completed the investigation, discovery or analysis of all facts of this case and has not completed preparation for trial. Accordingly, each of the following Responses is provided without prejudice to Defendant's right to introduce at trial any evidence that is subsequently discovered relating to proof of presently known facts and to produce and introduce all evidence, whenever discovered, relating to the proof of subsequently discovered material facts. Moreover, facts, documents and things now known may be imperfectly understood and accordingly, such facts, documents and things may not be included in the following Responses. Defendant reserves the right to reference, discover or offer into evidence at the time of trial, any and all facts, documents and things notwithstanding the initial Responses and objections interposed herein. Defendant further reserves the right to reference, discover or offer into evidence at the time of trial, any and all facts, documents and things which are not presently recalled but may be recalled at some time in the future.

PPAB 9722220v1

## GENERAL OBJECTIONS

Each of Defendant's Responses is subject to the General Objections set forth below, each of which is incorporated by reference into the Response to each Request. The production of information encompassed within these General Objections shall not be deemed a waiver of these objections:

1. Defendant objects to these Requests to the extent they are vague and ambiguous.
2. Defendant objects to these Requests to the extent they seek information and/or documents that is/are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.
3. Defendant objects to these Requests to the extent they are overbroad, including not being limited in time and scope.
4. Defendant objects to these Requests to the extent they seek documents outside of the relevant temporal scope for discovery.
5. Defendant objects to these Requests to the extent they impose an undue burden upon them.
6. Defendant objects to these Requests to the extent they request information, documents or other communications that are confidential and/or are protected from discovery by the attorney-client privilege, work-product doctrine, self-critical analysis privilege or any other privilege. Inadvertent identification or production of any such document or information shall not constitute a waiver of any privilege with respect to the subject matter thereof or the information contained therein, and shall not waive Defendant's right to object to the use of any document or the information contained therein during this or any subsequent proceeding. Defendant will produce a privilege log reflecting documents withheld from production on grounds of privilege created prior to the time Plaintiff sent demand letters, if any.

7. Defendant objects to these Requests to the extent they seek personal or confidential information pertaining to non-parties to the litigation.

8. Defendant objects to these Requests to the extent they assume incorrect facts and/or facts that have not been established. Defendant specifically reserves the right to object to the factual assumptions made in these Requests.

9. Defendant has not completed its own discovery and has not begun preparations for trial. Accordingly, the following Responses are provided without prejudice to Defendant to produce subsequently discovered documents or to make appropriate changes in such Responses if it should appear at any time that omissions or errors have been made or that additional documents or information have been obtained. When, and if, such documents or information are/is obtained, these Responses will be amended or supplemented.

10. Defendant objects to these Requests to the extent they: (i) exceed the permissible scope of discovery established under the South Carolina Rules of Civil Procedure, and (ii) attempt to place obligations upon Defendant that are inconsistent with those rules. Defendant will respond to Plaintiff's Requests in accordance with the applicable rules.

12. The Responses set forth below are made without waiving the following: (a) the right to object on the grounds of competency, privilege, relevance, materiality or any other proper ground, to the use of any information set forth herein, for any purpose, in whole or in part, in any subsequent proceeding in this action or any other action; (b) the right to object on any and all grounds, at any time, to other requests or discovery procedures involving or relating to the subject matter of these requests; and (c) the right at any time to revise, correct, add to or clarify any of the Responses below.

Subject to, and without waiving the foregoing objections, Defendant responds as follows:



## **RESPONSES TO REQUESTS FOR PRODUCTION**

1. Produce any and all documents identified in Defendant's Answers to Plaintiff's First Set of Interrogatories.

**RESPONSE:** See documents attached hereto.

2. Produce any and all documents consulted or referred to in preparing Defendant's Answers to Plaintiff's First Set of Interrogatories.

**RESPONSE:** See documents attached hereto.

3. Produce any and all documents, including emails, identified, referenced, and/or quoted in the Defendant Response to Plaintiff's Complaint.

**RESPONSE:** Defendant is not in possession of any documents responsive to this Request.

4. Produce any documents that concern, reference, reflect, or are alleged to be any written policies affecting or related to Plaintiff.

**RESPONSE:** Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request on the vague and ambiguous in that it is unclear what types of written policies Plaintiff seeks. Subject to and without waiving the foregoing objection, see documents attached hereto.

5. Produce any and all documents that support Defendant's contention that Plaintiff was not retaliated against by Defendant.

**RESPONSE:** See documents attached hereto.

6. Produce any and all documents list of all Workers' compensation Complaints filed with TRMC workers compensation TRMC workers' compensation insurance (Antum Risk) by any of your employees who contracting the COVID-19 virus at TRMC, from 2021 to present.

**RESPONSE:** Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request on the grounds that it seeks personal health information for individuals who are not parties to this lawsuit. Subject to and without

waiving the foregoing objection, the subject lawsuit is the only one in which a former employee has claimed retaliation after filing a claim for worker's compensation following a COVID-19 diagnosis.

7. Produce any and all documents that reflect communications between Defendant and Plaintiff, any agent or employee of Defendants, or any third party regarding any aspect of Plaintiff's employment with Defendant, his alleged illness, the factual allegations set forth in Defendant's Response to Plaintiff's Complaint, and/or any other issues regarding Plaintiff.

**RESPONSE:** See documents attached hereto.

8. Produce any and all documents that reflect communications between Defendant and any third parties, including without limitation any government agencies, any aspect of Plaintiff's employment with Defendant, Plaintiff's illness, the factual allegations set forth in Defendants' Response to Plaintiff's Complaint, and/or any other issues regarding Plaintiff.

**RESPONSE:** Defendant objects to this Request to the extent it seeks information, documents or other communications that are protected from discovery by the attorney-client privilege, work-product doctrine, or any other privilege or doctrine. Subject to and without waiving the foregoing objection, see documents attached hereto.

9. Produce all documents and correspondence exchanged between Defendants and Plaintiff, from the time of Plaintiff's alleged COVID-19 diagnosis on August 27, 2021 to present.

**RESPONSE:** See documents attached hereto.

10. Produce any and all statements given by Defendants or witnesses identified by Defendant, whether written or recorded or otherwise, that relate in any way to the allegations set forth in the Complaint.

**RESPONSE:** Defendant is not in possession of any documents responsive to this Request.

11. Produce any and all documents received by Defendants or his counsel in response to any FOIA requests and/or subpoenas issued in connection with this matter.

**RESPONSE:** Defendant has not received documents in response to any FOIA requests or subpoenas at this time.

12. As to each individual identified by Defendant as an expert, produce:

- (a) any and all documents or correspondence to and from said expert;
- (b) a complete curriculum vitae, resume and/or professional profile, including a list of publications by said expert; and
- (c) all documents used by the expert in arriving at his/her opinions in this action.

**RESPONSE:** Defendant has not yet retained expert witnesses to testify at the trial of this case. Defendant, however, reserves the right to do so and will supplement this Answer as required by the South Carolina Rules of Civil Procedure.

13. Produce any and all documents showing or otherwise indicating any statement, representation, or comment that Defendant contends constitutes an objection or denial or opposition by Defendants concerning the facts of this case and/or any of the allegations set forth in the Complaint.

**RESPONSE:** Defendant objects to this Request on the grounds that it is overbroad and vague in that it is unclear what documents Plaintiff seeks in response to this Request.

14. Produce any and all documents that concern, evidence, relate or otherwise pertain to notes or other writings made by Defendant (or others on Defendant's behalf) that relate to Plaintiff's employment with Defendant, Plaintiff's illness, or any and all matters related to the case.

**RESPONSE:** Defendant objects to this Request to the extent it seeks information, documents or other communications that are protected from discovery by the attorney-client privilege, work-product doctrine, or any other privilege or doctrine. Subject to and without waiving the foregoing objection, see documents attached hereto.

15. Produce any and all diaries, reports, internal emails, business or personal calendars, journals, blogs, Facebook or MySpace postings, tweets, text messages and/or appointment books, or the like, kept or maintained by Defendant during Plaintiff's employment with Defendant and

up to the present that pertain in any way, directly or indirectly, to Plaintiff's employment with Defendant, his illness, or any and all matters related to this case.

**RESPONSE:** Defendant objects to this Request to the extent it seeks information, documents or other communications that are protected from discovery by the attorney-client privilege, work-product doctrine, or any other privilege or doctrine. Subject to and without waiving the foregoing objection, see documents attached hereto.

16. Produce any and all documents list of all Workers' compensation Complaints filed with the South Carolina Workers' Compensation Commission against TRMC by any of your employees included but not limited to those who contracting the COVID-19 virus at TRMC, from 2021 to present.

**RESPONSE:** Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request on the grounds that it seeks personal health information for individuals who are not parties to this lawsuit. Subject to and without waiving the foregoing objection, the subject lawsuit is the only one in which a former employee has claimed retaliation after filing a claim for worker's compensation following a COVID-19 diagnosis.

17. Produce any and all federal and state tax documents, 1099's, and/or other documents that evidence, relate or refer to the amount and source of revenue or received by Defendants for the year 2020 through present, including, but not limited to, monies received from private insurance companies, self-pay, co-payments, and/or the federal, state or local government, MEDICARE, MEDICAID from 2020 to the present.

**RESPONSE:** Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The various sources of the hospital's revenue is not relevant to Plaintiff's claim for worker's comp retaliation and such a cause of action does not permit recovery of punitive damages.

18. Produce any and all documents and list of all Regional Medical Center employees who contracted the COVID-19 virus, as reported by the TRMC's laboratory (LAB) to the Center

for Disease Control and Preventions (CDC) and all other Federal and State Government agencies from August 2021 to present.

**RESPONSE:** Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request on the grounds that the subject request seeks personal health information for individuals who are not parties to this lawsuit and whose COVID-19 diagnoses is irrelevant to Plaintiff's remaining claim for worker's comp retaliation.

19. Produce ALL COVID-19 related Financial reports for insurance payment and government reimbursement purposes, and ALL CDC reports for ALL the staff members infected with COVID-19 at TRMC, for the entire year of 2021.

**RESPONSE:** Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The Court dismissed three of Plaintiff's four causes of action, and the information sought in this Request is not relevant to Plaintiff's remaining claim for worker's comp retaliation.

20. Produce any and all documents that concern, discuss, relate or otherwise pertain to any other lawsuits, claims, EEOC Charges, Department of Labor complaints, domestic proceedings and/or claims of any nature to which Defendant has been or is a party (including claims filed with insurance carriers), or filed by others on Defendant's behalf, against any person or entity.

**RESPONSE:** To the extent Plaintiff is seeking a list of all litigation in which Defendant was either a plaintiff or a defendant, such a request is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence as it is not limited in time or scope. Subject to and without waiving the foregoing objections, the subject lawsuit is the only one in which a former employee has claimed retaliation after filing a claim for worker's compensation following a COVID-19 diagnosis.

21. Produce any and all documents that concern, discuss, relate or otherwise pertain to any complaints, charges, or grievances made by Defendant against any current or former employee.

**RESPONSE:** Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request on the grounds that Defendant is an entity, not an individual, and thus, it cannot file charges of discrimination or employment related grievances against its employees. Thus, it is unclear what Plaintiff is seeking in this Request.

22. Produce all records, plans, statements, photographs, sketches, reports, exhibits, or other documents, whether in written, electronic, or computerized form, in Defendant's possession or control, that relate to the claims and/or defenses in this case.

**RESPONSE:** See documents attached hereto.

23. Produce all exhibits, documents, or other demonstrative items that Defendant may introduce or seek to introduce at any deposition, hearing, or trial in this action, and whether or not said exhibits or documents will be introduced into evidence.

**RESPONSE:** See documents attached hereto.

24. Produce all documents or other tangible items not hereinabove requested that concern in any way the allegations, claims or defenses in this matter.

**RESPONSE:** See documents attached hereto.

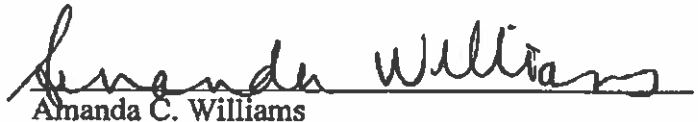
25. Produce ALL COVID-19 records and ALL tracing reports, including but not limited to the daily and weekly Federal and State government required COVID-19 data elements reports, for the entire year of 2021.

**RESPONSE:** Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The Court dismissed three of Plaintiff's four causes of action, and the information sought in this Request is not relevant to Plaintiff's remaining claim for worker's comp retaliation.

26. For each Facebook account maintained by Defendant, please produce all account data for the period of August 2021 through present. You may download and save (or print) your Facebook data by logging into your Facebook account, clicking on the arrow on the top right of

the screen, selecting "Settings," clicking on the "Download a copy of your Facebook data" link, and following the directions after selecting "Start my Archive." This request specifically includes all postings on Defendant's "Wall" (including comments by Defendant's "friends" or Defendant himself to any such postings) from August 2021 to the present, and such postings should be downloaded and saved (or printed) to be produced in response to this request.

**RESPONSE:** Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that there is no limitation on time or scope. Subject to and without waiving the foregoing objections, Defendant's Facebook account was a publicly available business account that was closed following the transaction with MUSC in Spring 2023.



Amanda C. Williams

Email: [amandawilliams@parkerpoe.com](mailto:amandawilliams@parkerpoe.com)

PARKER POE ADAMS & BERNSTEIN LLP

850 Morrison Drive, Suite 400

Charleston, South Carolina 29403

Phone: 843-727-2650

Fax: 843-727-2680

ATTORNEY FOR DEFENDANT

October 10, 2023  
Charleston, South Carolina



STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Serge R. Wandji,

Plaintiff,

vs.

The Regional Medical Center, and  
Dr. John H. Samies,

Defendants.

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT

Civil Action No. 2023-CP-38-00331

DEFENDANT'S ANSWERS TO  
PLAINTIFF'S FIRST SET OF  
INTERROGATORIES

FILED FOR RECORD  
VANITA B. CLARK  
MAY 10 P 1:06  
CLERK OF COURT  
ORANGEBURG, SC

Pursuant to Rules 26 and 33 of the South Carolina Rules of Civil Procedure, Defendant The Regional Medical Center (hereinafter "Defendant"), by and through its undersigned counsel, hereby responds to the First Set of Interrogatories of Plaintiff Serge R. Wandji ("Plaintiff") as follows:

**GENERAL OBJECTIONS TO INTERROGATORIES**

Defendant hereby states the following General Objections to Plaintiff's Interrogatories, which are incorporated herein and made a part of each answer set forth below.

1. To the extent that Plaintiff's Interrogatories seek information irrelevant to the issues raised in this lawsuit or are not reasonably calculated to lead to the discovery of admissible evidence, or are otherwise inconsistent with or enlarge upon the South Carolina Rules of Civil Procedure, Defendant objects to such Interrogatories.

2. Defendant objects to Plaintiff's Interrogatories to the extent they seek information protected by the attorney-client privilege, the work-product doctrine, the trial preparation materials immunity under Rule 26(b)(3) of the South Carolina Rules of Civil Procedure, or any other applicable privilege or protection. Should disclosure of any such information occur, it is inadvertent and shall not constitute a waiver of any privilege or of any other ground for objecting



to discovery with respect to such information, or any parts thereof, or of Defendant's right to object during litigation or otherwise to the use of any such information or any such parts thereof.

3. Defendant objects to any Interrogatory to the extent that it is vague, ambiguous, overly broad, unduly burdensome or oppressive.

4. Defendant objects to each Interrogatory to the extent that it requests documents in the possession of persons or entities that are not under the control of Defendant or is otherwise not in the possession of Defendant.

5. All responses set forth by Defendant are subject to the General Objections set forth above. The General Objections, or some portion thereof, may be specifically referred to or restated in a response for the purpose of clarity. A failure to specifically incorporate a General Objection shall not be construed as a waiver of the General Objection.

6. Defendant reserves the right to supplement or amend these responses.

7. Defendant objects to Plaintiff's Interrogatories to the extent such Interrogatories seek to impose upon Defendant obligations that exceed or differ from the obligations imposed upon Defendant by the South Carolina Rules of Civil Procedure, and to the extent such Interrogatories otherwise are overly burdensome and/or purport to establish or use definitions that differ from the ordinary meaning of the words at issue. To the extent the Plaintiff's Interrogatories purport to impose such an expanded obligation, the South Carolina Rules of Civil Procedure shall control both Defendant's duties and responsibilities in responding to Plaintiff's Interrogatories and the content of such responses.

8. Defendant has not completed the investigation, discovery, or analysis of all the facts of this case and has not completed preparation for trial. Accordingly, each of the following responses is provided without prejudice to Defendant's right to introduce at trial any evidence that is subsequently discovered relating to proof of presently known facts and to produce and introduce

all evidence whenever discovered relating to the proof of subsequently discovered material facts. Moreover, facts, documents, and things now known may be imperfectly understood and, accordingly, such facts, documents, and things may not be included in the following responses. Defendant reserves the right to reference, discover, or offer into evidence at the time of trial any and all facts, documents, and things notwithstanding the initial responses and objections interposed herein. Defendant further reserves the right to reference, discover, or offer into evidence at the time of trial any and all facts, documents, and things that it does not presently recall but may recall at some time in the future.

Subject to and without waiving these General Objections, and the specific objections noted below, Defendant responds as follows to Plaintiff's Interrogatories in accordance with Defendant's understanding of the fair meaning of those Interrogatories:

#### **ANSWERS TO INTERROGATORIES**

1. Give the full name, address and telephone number of each person known to Defendant to have knowledge concerning the facts, events, circumstances, claims, allegations, or defenses surrounding this lawsuit, and indicate whether or not written or recorded statements have been taken from each person and, if so, indicate who has possession of such statements, and, if not, set forth a specific summary sufficient to inform Plaintiff of the important facts known to or observed by each person.

#### **ANSWER:**

(a) Serge Wandji

Mr. Wandji is expected to testify regarding his knowledge of the allegations in the Complaint, including but not limited to the facts surrounding his alleged work injury and alleged termination, and all other relevant matters of which he has personal knowledge. Defendant is not in possession of a written or recorded statement from Mr. Wandji.

(b) Tina Norris  
c/o Amanda C. Williams, Esq.

it seeks personal health information for individuals who are not parties to this lawsuit and whose COVID-19 related worker's compensation claim is irrelevant to Plaintiff's remaining claim for worker's comp retaliation. Subject to and without waiving the foregoing objection, the subject lawsuit is the only one in which a former employee has claimed retaliation after filing a claim for worker's compensation following a COVID-19 diagnosis.

8. Give full list of all Workers' compensation Complaints filed with the South Carolina Workers' Compensation Commission against TRMC by any of your employees (explicitly identifying their working unit/department) after contracting the COVID-19 virus at TRMC, from 2021 to present.

**ANSWER:** Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objection, see Answer to Interrogatory No. 7.

9. List all Regional Medical Center employees who contracted the COVID-19 virus, as reported by the TRMC's laboratory to the Center for Disease Control and Preventions (CDC) and all other Federal and State Government agencies from August 2021 to present. Explicitly identifying their working unit/department.

**ANSWER:** Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Interrogatory on the grounds that the subject request seeks personal health information for individuals who are not parties to this lawsuit and whose COVID-19 diagnoses is irrelevant to Plaintiff's remaining claim for worker's comp retaliation.

10. Identify ALL COVID-19 related Financial reports for insurance payment and government reimbursement purposes, including but not limited to the Federal Government Special COVID-19 Fund TRMC received from the CARES Act.

**ANSWER:** Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The Court dismissed three of Plaintiff's four causes of action, and the information sought in this Interrogatory is not relevant to Plaintiff's remaining claim for worker's comp retaliation.

11. Specifically outline all CDC reports as submitted by TRMC laboratory, by month and by department/unit for ALL the staff members infected with COVID-19 at TRMC, for the entire year of 2021.

**ANSWER:** Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Interrogatory on the grounds that the subject request seeks personal health information for individuals who are not party to this lawsuit and whose COVID-19 diagnoses is irrelevant to Plaintiff's remaining claim for worker's comp retaliation.

12. Provide a description (including date, jurisdiction, and type of charge) of any criminal charges, which have ever been brought against Defendant since doing business in Orangeburg County, and describe the disposition thereof.

**ANSWER:** Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time or scope.



Amanda C. Williams

Email: [amandawilliams@parkerpoe.com](mailto:amandawilliams@parkerpoe.com)

PARKER POE ADAMS & BERNSTEIN LLP

850 Morrison Drive, Suite 400

Charleston, South Carolina 29403

Phone: 843-727-2650

Fax: 843-727-2680

ATTORNEY FOR DEFENDANT

October 10, 2023  
Charleston, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Serge R. Wandji,

Plaintiff,

vs.

The Regional Medical Center, and  
Dr. John H. Samies,

Defendants.

) IN THE COURT OF COMMON PLEAS  
) FIRST JUDICIAL CIRCUIT

) Civil Action No. 2023-CP-38-00331

) **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **DEFENDANT'S ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES** has been served upon the following *Pro Se Plaintiff* by emailing and mailing a copy of the same to him addressed as shown below this 10 day of October 2023:

Serge R. Wandji  
PO Box 523  
Columbia, SC 29202  
[sergewandji@gmail.com](mailto:sergewandji@gmail.com)

*Pro Se Plaintiff*

FILED FOR RECORD  
WINNIEFA B. CLARK  
2024 MAY 10 P 1:06  
CLERK OF COURT  
ORANGEBURG, SC



PARKER POE ADAMS & BERNSTEIN LLP  
850 Morrison Drive, Suite 400  
Charleston, SC 29403  
Phone: (843) 727-2650

# Exhibit # 11

DP

Parker Poe

Amanda C. Williams  
Partner  
t: 843.727.6309  
f: 843.727.2680  
amandawilliams@parkerpoe.com

Atlanta, GA  
Charleston, SC  
Charlotte, NC  
Columbia, SC  
Greenville, SC  
Raleigh, NC  
Spartanburg, SC  
Washington, DC

July 28, 2023

**VIA US MAIL AND E-MAIL**

Serge Wandji  
PO Box 523  
Columbia, SC 29202  
[sergewandji@gmail.com](mailto:sergewandji@gmail.com)

RE: **Serge R. Wandji v. The Regional Medical Center and Dr. John H. Samles**  
Case No. 2023-CP-38-00331

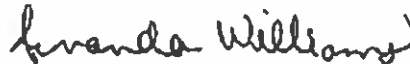
Dear Mr. Wandji:

Enclosed for service upon you, please find the following:

1. Defendants The Regional Medical Center's First Set of Requests for Production to Plaintiff; and
2. Defendant The Regional Medical Center's First set of Interrogatories to Plaintiff.

Thank you and with kinds regards, I am

Sincerely,



Amanda C. Williams

ACW/cle  
Enclosure

FILED FOR RECORD  
WANDA B. CLARK  
2024 MAY 10 P 1:06  
CLERK OF COURT  
ORANGEBURG, SC

PPAB 9717292v1

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Serge R. Wandji,

Plaintiff,

vs.

The Regional Medical Center and Dr. John H. Samies,

Defendants.

IN THE COURT OF COMMON PLEAS

Case No.: 2023-CP-38-00331

DEFENDANT THE REGIONAL  
MEDICAL CENTER'S FIRST SET OF  
REQUESTS FOR PRODUCTION TO  
PLAINTIFF

FILED FOR RECORD  
WHEN  
2024  
CLERK  
P 1:06  
ORANGEBURG, SC

TO: SERGE R. WANDJI, PRO SE PLAINTIFF

Defendant, The Regional Medical Center, ("TRMC" or "Defendant"), by and through its undersigned counsel, and pursuant to Rules 26 and 34 of the South Carolina Rules of Civil Procedure, hereby serves upon counsel for Pro Se Plaintiff Serge R. Wandji, Defendant The Regional Medical Center's First Set of Requests for Production, to which written responses must be served within thirty (30) days from the date of service hereof. These Requests for Production shall be continuing in nature until the date of trial, and Plaintiff is required to serve supplemental responses as additional information is found or becomes available, in accordance with the South Carolina Rules of Civil Procedure.

#### DEFINITIONS

Unless otherwise stated, the terms set forth below are defined as follows:

1. "You," "your," and "Plaintiff" shall mean Serge R. Wandji, and all other persons acting on his behalf, including counsel.
2. "Document" and/or "documents" shall mean all written or printed matter of any kind including the originals and all non-identical copies thereof, whether different from the originals by reason of any notation made on such copies or otherwise, including without limitation:

minutes, agendas, bills, contracts, leases, assignments, agreements, reports of any sort, summaries, intra-office and inter-office communications (including e-mail, video, or voice mail communications), offers, notations of any sort, diaries, performance evaluations, disciplinary write-ups, appointment books or calendars, teletype, telefax, thermofax, confirmations, computer data (including e-mail and all other information or programs stored in the computer whether or not ever printed or displayed), text messages, metadata, statistics, graphs, minutes, lists, appraisals, brochures, pamphlets, advertising, marketing, or promotional materials; all drafts, alterations, modifications, changes and amendments of any of the foregoing; all graphics or manual records or representations of any kind, including, without limitation, photographs, microfilm, videotape records, motion pictures and electronic, mechanical or electric records or representations of any kind including, without limitation, tapes, cassettes, discs, disk drives, thumb (USB) drives, magnetic cards and recordings.

3. "Defendant" or "TRMC" shall mean The Regional Medical Center, and its agents, employees, and managers.

4. The terms "concern," "concerning" or "concerned" or as used herein shall mean referred to, alluded to, related to, connected with, commencing on, in respect of, about, regarding, discussing, constituting, showing, describing, in support of, in substitution of, reflecting and analyzing.

### INSTRUCTIONS

1. If Plaintiff claims any form of privilege, whether based on statute or otherwise, as a ground for not producing any document, set forth all facts from which the claim of privilege is based.

2. To the extent that any documents are not produced on the basis of a claim of privilege or immunity: (a) submit a list identifying each such document; (b) identify the nature of



the privilege (including work product) which is being claimed; and (c) identify each person having knowledge of the factual basis, if any, on which the claim of privilege or immunity is based. For these purposes, "identify" shall mean in the case of a document, to state the document's date, its author, its recipient or the person for whom it was prepared, the type of document (*e.g.*, letter, memorandum, chart, or other category), its present location or custodian, a summary of its contents, and any other information necessary to render the document distinguishable from all others and subject to ready location.

3. If any documents requested herein have been lost, discarded, or destroyed, the documents so lost, discarded, or destroyed shall be identified as completely as possible, including, without limitation, the following information: date of disposal, manner of disposal, reason for disposal, person authorizing the disposal, and the person disposing of the document.

4. Any responsive electronically stored information should be produced in its native format.

5. The use of the singular form of any word includes the plural and vice versa; and the use of any tense of any verb should be considered to include also within its meaning all other tenses of the verb so used.

#### **DEFENDANT'S FIRST SET OF REQUESTS FOR PRODUCTION**

1. Produce any and all documents identified in Plaintiff's Answers to Defendant's First Set of Interrogatories.

2. Produce any and all documents consulted or referred to in preparing Plaintiff's Answers to Defendant's First Set of Interrogatories.

3. Produce any and all documents, including emails, identified, referenced, and/or quoted in the Complaint.

4. Produce any documents that concern, reference, reflect, or are alleged to be any written policies of Defendant.

5. Produce any and all documents that support Plaintiff's contention he was retaliated against by Defendant.

6. Produce any and all medical records or other statements from any physician, psychotherapist, psychologist, counselor, medical facility, mental health facility, or other health care provider by whom or at which Plaintiff has been examined or treated from August 2021 to the present relating to Plaintiff's examination, consultation, diagnosis, or treatment.

7. Produce any and all documents that reflect communications between Plaintiff and Defendant, any agent or employee of Defendant, or any third party regarding any aspect of Plaintiff's employment with Defendant, his alleged illness, the factual allegations set forth in the Complaint, and/or any other allegations regarding Defendant.

8. Produce any and all documents that reflect communications between Plaintiff and any third parties, including without limitation any government agencies, any aspect of Plaintiff's employment with Defendant, his alleged illness, the factual allegations set forth in the Complaint, and/or any other allegations regarding Defendant.

9. Produce all documents and correspondence exchanged between Plaintiff and Defendant TRMC from the time of Plaintiff's alleged COVID-19 diagnosis on August 27, 2021 to present.

10. Produce any and all statements given by Plaintiff or witnesses identified by Plaintiff, whether written or recorded or otherwise, that relate in any way to the allegations set forth in the Complaint.

11. Produce any and all documents received by Plaintiff or his counsel in response to any FOIA requests and/or subpoenas issued in connection with this matter.

12. As to each individual identified by Plaintiff as an expert, produce:

- (a) any and all documents or correspondence to and from said expert;
- (b) a complete curriculum vitae, resume and/or professional profile, including a list of publications by said expert; and
- (c) all documents used by the expert in arriving at his/her opinions in this action.

13. Produce any and all documents showing or otherwise indicating any statement, representation, or comment that Plaintiff contends constitutes an admission by Defendant concerning the facts of this case and/or any of the allegations set forth in the Complaint.

14. Produce any and all documents that concern, evidence, relate or otherwise pertain to notes or other writings made by Plaintiff (or others on Plaintiff's behalf) that relate to Plaintiff's employment with Defendant, his alleged illness, or any and all matters encompassed by the Complaint.

15. Produce any and all diaries, business or personal calendars, journals, blogs, Facebook or MySpace postings, tweets, text messages and/or appointment books, or the like, kept or maintained by Plaintiff during his employment with Defendant and up to the present that pertain in any way, directly or indirectly, to Plaintiff's employment with Defendant, his alleged illness, or any and all matters encompassed by the Complaint.

16. Produce any and all documents concerning any and all attempts by Plaintiff to obtain other employment or any work for compensation since his alleged COVID-19 diagnosis on August 27, 2021, including, but not limited to, employment applications, resumes, correspondence, notes, memoranda and documents from any prospective employers from which employment was sought regarding interviews, applications, offers of employment and rejections of applications for employment.

17. Produce any and all federal and state income tax returns, W-2 forms, 1099's, and/or other documents that evidence, relate or refer to the amount and source of income earned or

received by Plaintiff for the year 2020 through present, including, but not limited to, monies received from self-employment, other employers, and/or the federal, state or local government from 2020 to the present.

18. Produce any and all documents that concern, reflect, or substantiate the damages alleged in the "WHEREFORE" clause of the Complaint.

19. Produce all documents relating to or forming the basis for any calculation of damages Plaintiff seeks to recover from Defendant in this action.

20. Produce any and all documents that concern, discuss, relate or otherwise pertain to any other lawsuits, claims, EEOC Charges, Department of Labor complaints, domestic proceedings and/or claims of any nature to which Plaintiff has been or is a party (including claims filed with insurance carriers), or filed by others on Plaintiff's behalf, against any person or entity.

21. Produce any and all documents that concern, discuss, relate or otherwise pertain to any complaints, charges, or grievances made by Plaintiff against any current or former employer.

22. Produce all records, plans, statements, photographs, sketches, reports, exhibits, or other documents, whether in written, electronic, or computerized form, in Plaintiff's possession or control, that relate to the claims and/or defenses in this case.

23. Produce all exhibits, documents, or other demonstrative items that Plaintiff may introduce or seek to introduce at any deposition, hearing, or trial in this action, and whether or not said exhibits or documents will be introduced into evidence.

24. Produce all documents or other tangible items not hereinabove requested that concern in any way the allegations, claims or defenses in this matter.

25. Produce copies of all postings Plaintiff made on any social media, professional networking or job search site in connection with his employment with Defendant, his alleged

illness, or any effort made by Plaintiff to obtain alternative employment from August 2021 to present.

26. For each Facebook account maintained by Plaintiff, please produce all account data for the period of August 2021 through present. You may download and save (or print) your Facebook data by logging into your Facebook account, clicking on the arrow on the top right of the screen, selecting "Settings," clicking on the "Download a copy of your Facebook data" link, and following the directions after selecting "Start my Archive." This request specifically includes all postings on Plaintiff's "Wall" (including comments by Plaintiff's "friends" or Plaintiff himself to any such postings) from August 2021 to the present, and such postings should be downloaded and saved (or printed) to be produced in response to this request.

s/Amanda C. Williams

Amanda C. Williams

Email: [amandawilliams@parkerpoe.com](mailto:amandawilliams@parkerpoe.com)

PARKER POE ADAMS & BERNSTEIN LLP

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ATTORNEY FOR DEFENDANTS

July 28, 2023

Charleston, South Carolina



|                                                     |   |                                      |
|-----------------------------------------------------|---|--------------------------------------|
| STATE OF SOUTH CAROLINA                             | ) | IN THE COURT OF COMMON PLEAS         |
|                                                     | ) |                                      |
| COUNTY OF ORANGEBURG                                | ) |                                      |
|                                                     | ) |                                      |
| Serge R. Wandji,                                    | ) | Case No.: 2023-CP-38-00331           |
|                                                     | ) |                                      |
| Plaintiff,                                          | ) |                                      |
|                                                     | ) |                                      |
| vs.                                                 | ) | <b>DEFENDANT THE REGIONAL</b>        |
|                                                     | ) | <b>MEDICAL CENTER'S FIRST SET OF</b> |
| The Regional Medical Center and Dr. John H. Samies, | ) | <b>INTERROGATORIES TO PLAINTIFF</b>  |
|                                                     | ) |                                      |
| Defendants.                                         | ) |                                      |
|                                                     | ) |                                      |

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TO: SERGE R. WANDJI, PRO SE PLAINTIFF

Defendant The Regional Medical Center, ("TRMC" or "Defendant"), by and through its undersigned counsel, and pursuant to Rules 26 and 33 of the South Carolina Rules of Civil Procedure, hereby serves upon Pro Se Plaintiff Serge R. Wandji, Defendant The Regional Medical Center's First Set of Interrogatories, to which written answers must be served within thirty (30) days from the date of service hereof. These Interrogatories shall be continuing in nature until the date of trial, and Plaintiff is required to serve supplemental answers as additional information is found or becomes available, in accordance with the South Carolina Rules of Civil Procedure.

#### **DEFINITIONS**

Unless otherwise stated, the terms set forth below are defined as follows:

1. "You," "your," and "Plaintiff" shall mean Serge R. Wandji, and all other persons acting on his behalf, including counsel.
2. "Document" and/or "documents" shall mean all written or printed matter of any kind including the originals and all non-identical copies thereof, whether different from the originals by reason of any notation made on such copies or otherwise, including without limitation: minutes, agendas, bills, contracts, leases, assignments, agreements, reports of any sort, summaries,

intra-office and inter-office communications (including e-mail, video, or voice mail communications), offers, notations of any sort, diaries, performance evaluations, disciplinary write-ups, appointment books or calendars, teletype, telefax, thermofax, confirmations, computer data (including e-mail and all other information or programs stored in the computer whether or not ever printed or displayed), text messages, metadata, statistics, graphs, minutes, lists, appraisals, brochures, pamphlets, advertising, marketing, or promotional materials; all drafts, alterations, modifications, changes and amendments of any of the foregoing; all graphics or manual records or representations of any kind, including, without limitation, photographs, microfilm, videotape records, motion pictures and electronic, mechanical or electric records or representations of any kind including, without limitation, tapes, cassettes, discs, disk drives, thumb (USB) drives, magnetic cards and recordings.

3. "Identify" and/or "identity", when used in reference to an individual person, shall mean to state his or her full name, present or last known business address, telephone number and the name of such person's present or last known employer, place of employment and position, and place of employment and position during the time period of any event addressed by the interrogatory in question.

4. "Identify" and/or "identity" when used in reference to an entity shall mean to state its full and complete name and the present and last known address and telephone number of its headquarters or principal place of business.

5. "Identify" and/or "identity" when used in reference to a document shall mean to state the nature of the document (e.g., letter, memorandum, etc.); the date, if any, appearing on the document; the identity of the persons who wrote, signed, dictated, or otherwise participated in the preparation of the document; the identity of all persons to whom the document was addressed or who received copies of the document; and the present location and custodian of the document.



6. "Defendant" or "TRMC" shall mean The Regional Medical Center, and its agents, employees, and managers.

### **INSTRUCTIONS**

1. If Plaintiff claims any form of privilege, whether based on statute or otherwise, as a ground for not answering an interrogatory or any part of an interrogatory, set forth all facts from which the claim of privilege is based.

2. If Plaintiff claims any form of privilege, whether based on statute or otherwise, as a ground for not identifying requested oral communications or documents, set forth all facts upon which the claim of privilege is based, and for each document as to which Plaintiff claims any form of privilege, identify the date, subject matter, location, author or authors, and recipient/recipients of the document, including all persons to whom the document has been provided or who have it in their possession.

3. Whenever a date, amount, or other computation or figure is requested, the exact date, amount or other computation or figure is to be given unless it is not known; and in that case, the approximate date, amount, or other computation or figure should be given or the best estimate thereof, and the answer should state that the date, amount, or other computation provided is an estimate or approximation.

4. Where facts are set forth in the answers or portions thereof and are supplied upon information and belief rather than Plaintiff's direct personal knowledge, Plaintiff should so state and specifically identify each source of information and belief. Should Plaintiff be unable to answer any interrogatory or portion thereof by either actual knowledge or upon information and belief, Plaintiff should so state.

5. Whenever a full and complete answer to any interrogatory or subpart is contained in the document identified as answering a specific numbered interrogatory or subpart, the document or a copy may be supplied in lieu of a written answer.

6. Whenever an interrogatory calls for information which is not available to Plaintiff in the form requested but is available in another form or can be obtained at least in part from other sources in Plaintiff's possession, so state and either supply the information requested in the form in which it is available or supply the sources from which the information can be obtained.

7. Each interrogatory shall be construed independently and not by reference to any other interrogatory herein for purposes of limitation.

8. Treat each numbered and lettered item in each interrogatory and on all attachments and exhibits as requiring a separate response. If Plaintiff objects to or is unable to answer one item, so state and respond to all other items.

9. Whenever information respecting a negotiation, meeting, discussion or communication is called for by these interrogatories and Plaintiff knows of the occurrence of any such negotiation, meeting, discussion or communication but cannot give either in whole or in part, the specific information called for to the extent requested, please provide the current and most complete information which Plaintiff can provide on the subject, including his best approximation of all dates, places and geographic locations.

10. The use of the singular form of any word includes the plural and vice versa; and the use of any tense of any verb should be considered to include also within its meaning all other tenses of the verb so used.

#### **DEFENDANT'S FIRST SET OF INTERROGATORIES**

1. Give the full name, address and telephone number of each person known to Plaintiff to have knowledge concerning the facts, events, circumstances, claims, allegations, or defenses

surrounding this lawsuit, and indicate whether or not written or recorded statements have been taken from each person and, if so, indicate who has possession of such statements, and, if not, set forth a specific summary sufficient to inform Defendant of the important facts known to or observed by each person.

2. Identify all individuals who may be called as witnesses, or upon whose sworn statement or testimony Plaintiff may rely, at any trial or hearing in this action and as to each, state the substance of such anticipated testimony.

3. Give the name, address, and telephone number of each expert whom Plaintiff proposes to use as a witness at the trial of this case, and as to each, provide:

- (a) the subject matter of the anticipated testimony;
- (b) the expert's qualifications;
- (c) the substance of the facts and opinions to which the expert is expected to testify; and
- (d) a summary of the grounds for each of the expert's opinions.

4. State whether Plaintiff has ever been a party or claimant in a lawsuit, EEOC charge, Department of Labor, employment-related claim or lawsuit (including, but not limited to, claims for unemployment, workers' compensation and/or disability benefits), domestic proceeding, or other legal or administrative claim or action apart from this action of any nature, including any claim made against a person or entity's third-party liability insurance, and for each such action or claim, set forth the date the claim or action was filed, the civil action number or other identifying number, the forum and location in which the action or claim was filed, the nature of the claim or action filed, and the final resolution of the claim or action.

5. Give the full name, address and telephone number for each person with whom Plaintiff has communicated about this case and/or the allegations contained in the Complaint.

6. Identify all exhibits, documents, or other demonstrative evidence that Plaintiff may introduce or seek to introduce at any trial or hearing in this action.

7. Set forth a specific, itemized statement of all damages that Plaintiff claims to have suffered as a result of the incidents described in the Complaint. For each item of damage, state the specific method used in calculating each amount, the basis for said calculation, the date(s) incurred, and, if applicable, the name and business address to whom each item of damage was paid or is owed and the goods and services for which each was incurred.

8. Describe with specificity all efforts made by Plaintiff to mitigate his alleged damages.

9. List by full name, business address, and telephone number, each physician, psychotherapist, psychologist, counselor, medical facility, mental health facility, or other health care provider by whom or at which Plaintiff has been examined or treated from 2013 to the present and, as to each, state whether the treatment was for injuries Plaintiff claims were the result of the acts or omissions of any Defendant, the dates of each examination or treatment, the condition or injury for which Plaintiff was examined or treated, the type or form of treatment provided, and the diagnosis rendered.

10. Identify the name, business address, and telephone number of any and all healthcare providers from whom Plaintiff received medical treatment for the alleged August 27, 2021 diagnosis of COVID-19 and any other illnesses related thereto.

11. Identify the supervisor or manager to whom you first reported your alleged illness and the date and time the alleged illness was reported to a supervisor or manager at TRMC.

12. Specifically outline Plaintiff's employment history from age 18 to the present. In answering this Interrogatory, identify each employer by name and address, the dates of employment, a brief description of job duties and responsibilities, the reason(s) for termination of employment, and whether such termination was voluntary or involuntary on Plaintiff's part.

13. Identify each employer with whom Plaintiff has sought employment since August 27, 2021, and as to each such potential employer, set forth: the name, address and telephone number of the employer; the date(s) on which Plaintiff sought work from the employer; the person(s) with whom Plaintiff had contact; whether Plaintiff received an offer of employment and, if so, the position and pay level offered; whether Plaintiff accepted or rejected the offer, and if the offer was rejected, the reason for having done so.

14. Identify each employer with whom Plaintiff has been employed since the August 27, 2021 and as to each, set forth: the name, address and telephone number of the employer; the position(s) Plaintiff held; the full name and telephone number of Plaintiff's supervisor(s); the dates of employment with that employer; Plaintiff's salary or hourly rate of pay; the benefits provided by or offered by the employer and, if applicable, the reason for termination of the employment.

15. Describe Plaintiff's educational background from high school forward, and for each school attended or certification obtained, identify the educational institution or training provider by name and address, the type of degree(s) and/or certification(s) obtained, and date(s) of such degree(s) and/or certification(s).

16. Provide a description (including date, jurisdiction, and type of charge) of any criminal charges, apart from minor traffic violations, which have ever been brought against Plaintiff since reaching the age of majority, including all arrests, and describe the disposition thereof.

17. State whether you have applied for or are eligible for Medicare benefits and if so, state your Health Insurance Claim Number and Social Security Number, the date on which you first became entitled to receive such benefits and whether any of the medical expenses related to the illnesses complained of in your petition have been submitted to, or paid by, Medicare. (If you

are not currently Medicare eligible but become eligible for Medicare during the pendency of this lawsuit, you must supplement your response at that time.)

18. Identify each social media site on which Plaintiff posted from August 2021 to present in connection with his employment with Defendant TRMC, any effort made by Plaintiff to obtain employment with an employer other than Defendant TRMC, or the pending litigation (including the allegations contained therein).

s/Amanda C. Williams

Amanda C. Williams

Email: [amandawilliams@parkerpoe.com](mailto:amandawilliams@parkerpoe.com)

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ATTORNEY FOR DEFENDANTS

July 28, 2023

Charleston, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Serge R. Wandji,

Plaintiff,

vs.

The Regional Medical Center and Dr. John H.  
Samies,

Defendants.

IN THE COURT OF COMMON PLEAS

Case No.: 2023-CP-38-00331

**CERTIFICATE OF SERVICE**

This is to certify that a copy of **DEFENDANT THE REGIONAL MEDICAL CENTER'S FIRST SET OF INTERROGATORIES TO PLAINTIFF** have been served upon the following counsel of record by U.S. Mail and electronic mail addressed as shown below this 28<sup>th</sup> day of July, 2023:

Serge R. Wandji  
PO Box 523  
Columbia, SC 29202  
[sergewandji@gmail.com](mailto:sergewandji@gmail.com)

*Pro Se Plaintiff*

s/Claire L. Easter  
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850 Morrison Drive, Suite 400  
Charleston, SC 29403  
Phone: (843) 727-2650