THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Marvin H. Dukes, III, Circuit Court Judge

Lower Court Case No. 2023-CP-10-00914

Lisa Renee Sample, Appellant,

v.

Blood Connection, Inc. and Delisha K. English,

of which Blood Connection, Inc. is the Respondent.

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SC Court of Appeals

Appellate Case No. 2025-000941

INITIAL REPLY BRIEF OF APPELLANT

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The assurance from the manager that Ms. Sample's experience was normal, coupled with her physicians relating her symptoms to medical problems other than the blood draw, created a genuine issue of material fact as to when a reasonable person would have been on notice that they had a claim against the defendants.

The focus of the discovery rule in determining when the statute of limitations begins to run in a medical malpractice action is whether a reasonable person knows that *a claim* might exist against the defendant. *See McMaster v. Dewitt*, 411 S.C. 138, 145, 767 S.E.2d 451, 454 (Ct. App. 2014) ("Under the discovery rule, the statute begins to run when the facts and circumstances of an injury would put a person of common knowledge and experience on notice that some right of his has been invaded or that some claim against another party might exist") (internal quotations omitted). "When there is conflicting testimony regarding the time discovery should have occurred, it becomes an issue for the jury to decide." *Chabek v. Anmed Health*, 442 S.C. 61, 73, 897 S.E.2d 58, 64 (Ct. App. 2023) (citing *Brown v. Finger*, 240 S.C. 102, 113, 124 S.E.2d 781, 786 (1962)).

Respondent relies heavily on this Court's decision in *Knox v. Greenville Hosp. Sys.*, 362 S.C. 566, 608 S.E.2d 459 (Ct. App. 2005) and highlights the similarities between Ms. Sample's situation and *Knox*. BOR at 10. However, Respondent ignores the many significant differences between Ms. Sample's situation and *Knox*. Ms. Sample did not have extensive experience with blood donations. She had only donated blood once several decades ago. Pl.'s depo. p. 7, ll. 4 – 7; p. 22, ll. 7 – 10. Furthermore, even if Ms. Sample believed the blood draw in this case to be "abnormal," that is not the test for determining whether the statute of limitations has been triggered. In fact, immediately after the needle was removed from Ms. Sample's arm, the manager told her that the hematoma "was normal based on what had occurred." So even though Ms. Sample

believed her experience was "abnormal" she was assured by the manager that her experience was normal. *Id*. p. 35, ll. 13 – 20. This is a striking difference between Ms. Sample's case and *Knox*. *Knox*, 362 S.C. at 568, 608 S.E.2d at 461 (the nurse in *Knox* told the plaintiff that she "hit the wrong thing in there" and apologized immediately after the insertion of the needle).

Respondent argues that Ms. Sample's testimony regarding the manager's assurance that what she experienced was normal was only in response to the "abnormal" blood draw. BOR at 10. In other words, Ms. Sample's injury due to Respondent's negligence is what was "normal." However, the manager's assurance to Ms. Sample that what happened was normal does not clearly indicate that the manager meant that Ms. Sample's pain was a normal response to Respondent's negligence. And whether the manager's assurance would prevent a reasonable person from believing she had a claim against Respondent is a factual question for the jury to resolve. *See Chabek*, 442 S.C. at 73, 897 S.E.2d at 64.

Respondent also focuses on statements made by Ms. Sample to her medical providers relating her symptoms back to the day of the blood draw. BOR at 11. However, this Court should consider the fact that the statements *from her medical providers to her* indicated that her symptoms were due to an entirely different medical problem. Even with the knowledge that Ms. Sample experienced pain on the day of the blood draw, her doctors told her that her symptoms were likely the result of carpal tunnel or Raynaud's syndrome. Pl.'s depo. p. 64, l. 10 – p. 65, l. 14. Ms. Sample testified that it was a "couple of months" after the attempted blood draw, when she started experiencing intermittent numbness and tingling in her right hand and arm. *Id*. p. 39, l. 11 – p. 40, l. 25. She then spent more than a year seeing different doctors who tried to figure out the cause of her symptoms. Pl.'s MIO MSJ, Ex.s 1 & 2. It wasn't until May of 2021 when Dr. Appleby confirmed that Ms. Sample's symptoms were caused by the attempted blood draw. *Id*., Ex. 4.

It is difficult to square Ms. Sample's situation with *Knox*, given her subsequent medical treatment which suggested her symptoms were unrelated to the blood draw. It is even more difficult to find that Ms. Sample should have known better than her treating physicians as to whether she had a claim against Respondents. A reasonable person who is actively receiving treatment for an injury and who is misinformed about the cause of that injury would not believe they had a claim for medical malpractice. *See McMaster*, 411 S.C. at 148, 767 S.E.2d at 456 ("McMaster's May hospitalization, coupled with his knowledge that it was induced by Adderall, put him on notice of a claim against Dr. Dewitt and commenced the running of the statute of limitations").

Finally, Ms. Sample is not asking this Court to dramatically alter the legal landscape regarding the statute of limitations in medical malpractice cases as suggested by Respondent. Instead, Ms. Sample is simply asking this Court to recognize that there was a genuine dispute of material fact in this case as to when a reasonable person would have been put on notice that they had a claim against Respondents. In other words, Ms. Sample is only asking for this Court to apply the discovery rule as currently written. Upon careful review of this Court's decisions in *Knox*, *McMaster*, and *Chabek* leads to the conclusion that under the specific facts and circumstances of Ms. Sample's case, a reasonable person would not have been on notice that they had a claim against the Respondent's until a doctor connected her symptoms with the blood draw.

CONCLUSION

For the reasons argued in Ms. Sample's opening brief, and this reply brief, this Court should reverse the circuit court's grant of summary judgment and remand this case for a jury trial.

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This 10th day of November 2025.