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SC Court of Appeals

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.

Appellate Case No. 2025-000941

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Lisa Renee Sample,

Plaintiff,

vs.

Blood Connection Inc. and Delisha K.
English,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No. 2023-CP-10-00914

**ORDER GRANTING DEFENDANT THE
BLOOD CONNECTION, INC.'S
MOTION FOR SUMMARY JUDGMENT**

This matter comes before the Court on the Defendant The Blood Connection, Inc.'s Motion for Summary Judgment. This motion was heard on December 3, 2024. Lillian Keeling appeared on behalf of the Defendant The Blood Connection, Inc. (hereinafter "TBC"),¹ while the Plaintiff, Lisa Renee Sample (hereinafter "Ms. Sample"), was represented by Gregory Keith.

Having reviewed the pleadings, the motion, the briefs, and exhibits submitted by the parties, and after considering the arguments of counsel, I hereby **GRANT** TBC's Motion for Summary Judgment.

BACKGROUND

This medical malpractice action arises out of Ms. Sample's attempted blood donation with TBC and her alleged nerve injuries she sustained as a result. (*See generally*, Pl.'s Compl.). Ms. Sample contends that a TBC phlebotomist punctured a nerve during her donation, and asserts medical negligence and various negligent hiring, training, and supervision claims against TBC. (*Id.*). Ms. Sample described the donation experience as follows in her written discovery:

As the young phlebotomist was readying herself to perform the blood draw, she turned to a supervisor and asked if the supervisor how to perform [*sic*] the blood

¹ The Defendant, Delisha K. English, was dismissed with prejudice on September, 2023 by joint stipulation of dismissal.

draw, and whether or not she should put the needle in first, or whether she should put the clamp on first. *Immediately upon the insertion, Plaintiff felt instantaneous pain, and the sensation that a nerve had been hit.* Her arm immediately began to turn blue. The young phlebotomist *called out urgently for a supervisor to come help her.* At that time a supervisor *immediately came and removed the needle* from Plaintiff's arm.

At that time, the supervisor tried to comfort the Plaintiff *due to her intense pain* and told the Plaintiff that when she removed the needle it was likely that Plaintiff would have a large hematoma. *Plaintiff was in shock and shaking.* Plaintiff recalls that the phlebotomist on duty attempted to treat her with ice and bandages. Plaintiff does recall that she was then asked if she would like to continue her blood donation using her other non-injured arm, and she declined to do so.

At the time Plaintiff left the Defendant Blood Connection's mobile bloodmobile, she was having severe pain and her arm was turning blue, with bruising. Plaintiff noticed *almost immediate weakness and numbness* in her right arm *in the hours following the attempted blood draw* and insertion of the needle into her arm.

(Pl.'s Answers to Interrogs., No. 17) (emphasis added).

In her deposition testimony, Ms. Sample testified to a similar version of events and reiterated that, on January 2, 2020, the environment "seemed kind of chaotic," that the needle was driven in "really, really hard" with no "finesse," that she immediately "felt a sharp pain that went down into my right hand, like a really, really cold sensation, burning cold sensation, and then numbness." (Pl.'s Dep, 26:5-18). Ms. Sample further testified that she immediately said "something's not right, something's not right, please take it out." (*Id.* at 26:18-19). The Plaintiff also confirmed that the pain she felt immediately upon insertion of the needle was greater than she would expect from a normal donation, and that she immediately suspected that she had experienced some type of injury from the insertion of the needle. (*Id.* at 31:10-16, 33:11-14). Additionally, she informed her fiancé that evening of the "crazy story" about her blood donation that day. (*Id.* at 44:6-13).

The Plaintiff subsequently sought medical treatment at multiple healthcare facilities and received several diagnoses related to an alleged ulnar nerve injury. (Pl.’s Compl., ¶ 14).

Ms. Sample filed her Notice of Intent and Complaint simultaneously on February 22, 2023. In her Complaint, Ms. Sample alleges that her donation occurred “in the latter part of February of 2020.” (Pl.’s Compl., ¶ 9). However, it has been confirmed through discovery that the subject donation took place on January 2, 2020, and the Plaintiff does not dispute this is the date of the attempted donation. TBC filed its Motion for Summary Judgment on the basis that Ms. Sample did not file her action within the requisite three-year statute of limitations, because the statute of limitations began to run on January 2, 2020. (See TBC’s Memorandum in Support of Motion for Summary Judgment, filed on 11/26/2024). The Plaintiff does not dispute that the applicable statute of limitations is three years under S.C. Code Ann. § 15-3-545(A). Instead, the Plaintiff argues that the three-year statute of limitations did not begin to run until the day Ms. Sample “fully comprehended the nature and potential negligent cause of her injury,” the earliest date being December 9, 2020. (See Pl.’s Memorandum in Opp. of TBC’s Motion for Summary Judgment, filed on 12/2/2024).

For the reasons stated below, this Court finds as a matter of law that the three-year statute of limitations began on the date of Ms. Sample’s attempted donation, which was January 2, 2020. Accordingly, Ms. Sample’s filing of this action on February 22, 2023 was untimely, as it was filed three years and fifty-one days after January 2, 2020.

STANDARD OF REVIEW

The statute of limitations may be raised in a summary judgment motion. See *McDonnell v. Consolidated School Dist. of Aiken*, 315 S.C. 487, 489 (1994). Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter

of law. *Baird v. Charleston County*, 333 S.C. 519, 529 (1999). In determining whether any triable issues of fact exist, the trial court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party. *McMaster v. Dewitt*, 411 S.C. 138, 143 (Ct. App. 2014). Although the burden is on the party seeking summary judgment, it is not sufficient for the non-moving party “to create an inference that is not reasonable or an issue of fact that is not genuine.” *Id.* (citing *Town of Hollywood v. Floyd*, 403 S.C. 466, 477 (2013)).

Once the moving party carries its initial burden, the “opposing party 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. American Tel. and Tel. Co.*, 306 S.C. 101, 115, (1991) (internal citation omitted). A party cannot rest on the mere allegations in her complaint. Nor can a party “escape summary judgment on the mere hope that something may develop later at trial, or by remaining silent and later claiming additional facts supporting the cause of action.” *Hammond v. Scott*, 268 S.C. 137, 143 (1977).

“The plain language of Rule 56(c), SCRCP, mandates the entry of summary judgment, after adequate time for discovery against a party who fails to make a showing sufficient to establish the existence of an element essential to the party's case and on which that party will bear the burden of proof at trial.” *Boone v. Sunbelt Newspapers, Inc.*, 347 S.C. 571, 579, (Ct. App. 2001); *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 116 (1991) (internal citation and quotation omitted). Furthermore, “[a] complete failure of proof concerning an essential element of the non-moving party's case necessarily renders all other facts immaterial.” *Baughman*, 306 S.C. at 116.

ANALYSIS

South Carolina Code Section 15-3-545(A) provides the following regarding the statute of limitations for a medical malpractice claim:

[I]n any action ... to recover damages for injury to the person arising out of the medical, surgical, or dental treatment, omission, or operation by any licensed health care provider as defined in Article 5, Title 38 acting within the scope of his profession must be commenced within three years from the date of treatment, omission, or operation giving rise to the cause of action or three years from the date of discovery or when it reasonably ought to have been discovered, not to exceed six years from date of occurrence, or as tolled by this section.

S.C. Code Ann. § 15-3-545(A).

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.” *McMaster v. Dewitt*, 411 S.C. 138, 145 (Ct. App. 2014) (citing *Knox v. Greenville Hosp. Sys.*, 362 S.C. 566, 570 (Ct. App. 2005)). *Knox* is particularly instructive as it involved alleged nerve injuries that occurred after a needle was allegedly improperly inserted into the wrist of the plaintiff. (*Id.* at 568-569). The *Knox* Court held that the date of discovery was on the date of the needle insertion itself, because the plaintiff, in response to the needle insertion, “screamed,” “squealed and hollered,” and his “whole hand jumped up . . . in [his] fingers.” (*Id.* at 571). Indeed, the plaintiff in *Knox* knew something was “different” about this insertion because of the pain and reaction he had, and he informed relatives that same day that he was experiencing pain and that the “doctor” hit a nerve. (*Id.*). Accordingly, the *Knox* Court held that the “exercise of reasonable diligence under these facts ‘would put a person of common knowledge and experience on notice that some right of his has been invaded or that some claim against [the Hospital] might exist.’” (*Id.* at 571).

Here, Ms. Sample contends that the discovery rule as explained in *Knox* requires that a plaintiff have a comprehensive understanding of her injury for the statute of limitations to begin, and that Ms. Sample differs from the *Knox* plaintiff because she did not understand her injury or its connection to her attempted blood donation until late 2020 or early 2021. (See Pl.’s

Memorandum in Opp. to TBC's Motion for Summary Judgment). The Court disagrees that this is the standard under the discovery rule as outlined in South Carolina's jurisprudence.

In both her written and oral discovery responses, Ms. Sample emphasized that the pain she felt immediately upon insertion of the needle was abnormal, that she felt uneasy with the care she was receiving, and that she believed a nerve had been hit. Indeed, Ms. Sample confirmed in discovery that "[a]t the time [she] left the Defendant Blood Connection's mobile blood mobile, she was having severe pain and her arm was turning blue, with bruising . . . [and that she] noticed almost immediate weakness and numbness in her right arm in the hours following the attempted blood draw and insertion of the needle into her arm." (Pl.'s Answers to Interrogs., No. 17). This Court finds that the facts and circumstances of Ms. Sample's 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." *McMaster v. Dewitt*, 411 S.C. 138, 145 (Ct. App. 2014) (citing *Knox v. Greenville Hosp. Sys.*, 362 S.C. 566, 570 (Ct. App. 2005)).

Thus, regardless of whether Ms. Sample may have learned more about her purported injuries at a subsequent time, she was on notice on January 2, 2020 that she might have a claim against TBC. Accordingly, the statute of limitations began to run on January 2, 2020, and her commencement of this action on February 22, 2023 was untimely. Therefore, summary judgment must be granted in favor of the Defendant TBC.

Similarly, the Court finds that the statute of limitations for Ms. Sample's negligence claims related to TBC's hiring, training, and supervision also began on January 2, 2020, and thus, are untimely. TBC contends that these negligent claims are intertwined with the medical malpractice claim because they are dependent upon her ability to prove medical malpractice. This Court agrees. Regardless, even if her negligence claims related to hiring, training, and supervision were independent

of her ability to prove medical malpractice, these negligence claims are still subject to S.C. Code Ann. § 15-3-530, and her action remains untimely. S.C. Code Ann. § 15-3-530(5) and § 15-3-535 require a cause of action for “injury to the person or rights of another, not arising on contract and not enumerated by law,” to be commenced within “three years after the person knew or by the exercise of reasonable diligence should have known that he had a cause of action.” *See also Brown v. Pearson*, 326 S.C. 409, 418 (Ct. App. 1997) (negligent hiring and supervision claims must be commenced within three years of injury and “not three years after a full-blown theory of recovery has been developed.”) (emphasis added).

Here, Ms. Sample made clear in written and oral discovery that she had concerns with the Defendant’s staff on the day of January 2, 2020, and thus, the statute of limitations began to run on the day of her donation. (Pl.’s Dep., 26:5-18). As a result, Ms. Sample’s negligent hiring and supervision claims are also barred by the statute of limitations because they were not commenced by January 2, 2023.

IT IS, THEREFORE, ORDERED that Defendant The Blood Connection, Inc’s Motion for Summary Judgment is **GRANTED**.

IT IS FURTHER ORDERED The Blood Connection, Inc. is dismissed as a Defendant in this action with prejudice.

AND IT IS SO ORDERED.

_____, 2025

The Honorable Judge Marvin H. Dukes, III



Charleston Common Pleas

Case Caption: Lisa Renee Sample VS Blood Connection Inc , defendant, et al

Case Number: 2023CP1000914

Type: Order/Summary Judgment

So Ordered

s/Marvin H. Dukes III #2785

Electronically signed on 2025-01-27 11:55:04 page 8 of 8

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2023CP1000914

Lisa Renee Sample
PLAINTIFF(S)

Blood Connection, Inc. and Delisha K. English
DEFENDANT(S)

Submitted by: Hon. Marvin Dukes, III

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 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This motion comes at the Plaintiff's request for the Court to reconsider the Order dated January 27, 2025, granting Defendant Blood Connection, Inc.'s Motion for Summary Judgment. After careful review and consideration, this Plaintiff's motion is **DENIED**.

AND IT IS SO ORDERED

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.

Marvin H. Dukes, III

Circuit Court Judge

2785

Judge Code

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-Fileers or who are appearing pro se. See Rule 77(d), SCRCp.

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

[illegible]

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.



Charleston Common Pleas

Case Caption: Lisa Renee Sample VS Blood Connection Inc , defendant, et al

Case Number: 2023CP1000914

Type: Order/Form 4

So Ordered

s/Marvin H. Dukes III #2785

Electronically signed on 2025-04-16 14:25:00 page 6 of 6

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Lisa Renee Sample,

Plaintiff,

vs.

Blood Connection Inc. and Delisha K. English,

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2023-CP-10-

NOTICE OF INTENT TO FILE SUIT

TO THE DEFENDANTS ABOVE-NAMED:

You are hereby notified that pursuant to S.C. Code Ann. § 15-79-125, Plaintiff, by and through undersigned counsel, intend to file suit against the above-named Defendants.

STATEMENT OF FACTS ENTITLING PLAINTIFF TO RELIEF

That toward the end of February, 2020, Plaintiff, was attending a workout class at Orange Theory Fitness located at 975 Savannah Highway. Upon entrance, employees and/or agents of Blood Connection Inc. ("Blood Connection") asked Plaintiff to donate blood. Blood Connection has facilities located throughout South Carolina, Georgia, and North Carolina, as well as mobile blood donation units to be stationed outside of businesses. Plaintiff consented to blood donation by use of a venipuncture procedure and was attended to by employees and/or agents of Blood Connection at the mobile unit. Immediately upon insertion of the aforesaid procedure, Plaintiff began to experience pain. She informed the technician of her pain, and the technician called a supervisor over to remove the needle from Plaintiff's arm. Plaintiff was informed by the Defendants, their agents and servants, that she would have a small bruise and hematoma.

In the months thereafter, the Plaintiff began to experience increased pain and paresthesia blood donation unit. On October 9, 2020, Plaintiff was first informed that she may have suffered nerve damage as a result of the venipuncture. On May 11, 2021, Plaintiff was informed that the symptoms were confirmed as resulting from an improper venipuncture.

The specifics of Defendants' negligence, supported by the affidavit of Regina O. Edwards, Phlebotomy Instructor, Phlebotomist, ASCP, attached hereto, include but are not limited to the following acts:

- Failure to identify a suitable vein to withstand a 16 to 18 gauge donation needle leading to IV infiltration into the skin tissues.
- Failing and neglecting to properly inspect, monitor and/or reposition the needle at the site after donation began.
- Faulty Technique
- Failing and neglecting to insert the bevel of the needle in all the way or causing the needle to go through the vein resulting in a hole or puncture in the vein's bottom side.

The above-described acts and omissions of medical negligence resulted in Plaintiff's resulting injuries and damages.

Defendant's website <https://thebloodconnection.org/hospitals/services/> guarantees thoroughly trained employees to go above and beyond to comply to regulatory guidelines set by the FDA. Defendants violated their standard duty of care by employing an unlicensed or inadequately trained employee to provide care to the public, including Plaintiff. The above-described acts and omissions of medical negligence resulted in Plaintiff's resulting injuries and damages.

DAMAGES

As a result of the negligent acts or omissions of Defendants, Plaintiff has suffered in the past and will continue to in the future to suffer:

- a. permanent disfigurement and impairment;

- b. pain and suffering;
- c. loss of enjoyment of life;
- d. mental and emotional anguish;
- e. expenditure of money for past and future medical expenses
- f. loss of income;
- g. and other damages as may be proven.

Pursuant to S.C. Code Ann. § 15-79-125(c), you are notified of the statutory requirement to participate in a mediation conference with Plaintiff and her attorney “within ninety days and no later than one hundred twenty days from the services of the Notice of Intent to File Suit...” Plaintiff is ready, willing, and able to schedule mediation immediately. You are further notified that service of the Notice of Intent to File Suit upon you tolls the applicable statute of limitations period for the matter. Because Plaintiff is unaware as to whether Defendants will take the position that is not subject to the notice of intent statute, Plaintiff is also filing a summons and complaint to protect the statute of limitations.

Respectfully,

URICCHIO, HOWE, KRELL, JACOBSON,
TOPOREK, & KEITH, P.A.

s://Gregory D. Keith

Gregory D. Keith

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Fax: (843) 577-4179

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Jonathan@uricchio.com

Charleston, South Carolina

February 16, 2023

Affidavit for Phlebotomy Case Review

1. I am a Nationally Licensed Phlebotomist and licensed to practice in the state of South Carolina.
2. My education, training and experience are set forth in the attached curriculum vitae (Exhibit 1)
3. My education, training and experience qualify me to render expert opinions regarding the care and procedure rendered to Lisa R. Sample.
4. I am familiar with the standard of care for what a reasonable, competent phlebotomist would do or not do in obtaining a blood donation via venipuncture or IV insertion, including but not limited to pre-analytical errors, faulty technique, extended tourniquet time, IV infiltrations and the proper placement of a donation needle (16 to 18 gauge needle) in one of the 3 major veins which I have listed below from low risk to high risk:
 - A. Median Cubital Vein
 - B. Cephalic Vein
 - C. Basilic Vein
5. I have reviewed the medical records of Lisa R. Sample which consist in parts, records from Coastal Vascular & Vein Center located at 1327 Ashley River Rd. Suite B, Charleston, SC 29407; South Carolina Diagnostic Imaging (Tricounty Radiology West Ashley) located at 1975-H Magwood Dr., Charleston, SC 29414; as well as Roper St. Francis Physician Partners (Dr. James L. Price, MD) located at 2093 Henry Tecklenburg Dr. #200 E, Charleston, SC 29414. These are the types of records and documents in which I normally consider in rendering a medical expert opinion.
6. After review of the precedent medical records, it is my opinion to a reasonable degree of medical certainty that The Blood Connection and its donor collecting staff while obtaining donor

blood and scope of its practice at The Blood Connection committed negligent acts or oversights in its blood collecting procedures for the care of donor Lisa R. Sample.

In February 2020, Lisa R. Sample stated that there was a blood drive being held outside of her workout facility. She reported that she decided to give blood after her workout. The phlebotomist stuck her in the right arm. Assuming that this was a Certified Phlebotomist collecting a blood donation below are some of the breaches of standard of care that have arisen:

- A. Failing to identify a suitable vein to withstand a 16 to 18 gauge donation needle leading to IV infiltration into the skins tissues.
- B. Failing and neglecting to properly inspect, monitor and/or reposition the needle at the site after donation began.
- C. Faulty Technique
- D. Failing to release tourniquet in adequate time or leaving tourniquet on for an extended period.
- E. Failing and neglecting to insert the bevel of the needle in all the way or causing the needle to go through the vein resulting in a hole or puncture on the veins' bottom side. This releases blood into the tissue under the skin which can be painful.
- F. Failing and neglecting to inspect donor when a golf size hematoma was forming causing a bluish discoloration (ecchymosis) and pain.
- G. Failing and neglecting to remove needle immediately when donor expressed pain and render proper aid with cold compressions or an ice pack to stop or slow the formation of the hematoma.

7. Further, it is my opinion, to a reasonable degree of medical certainty that the actions or inactions of the defendants most or more than likely caused the injuries of the

blood and scope of its practice at The Blood Connection committed negligent acts or oversights in its blood collecting procedures for the care of donor Lisa R. Sample.

In January 2020, Lisa R. Sample stated that there was a blood drive being held outside of her workout facility. She reported that she decided to give blood after her workout. The phlebotomist stuck her in the right arm. Assuming that this was a Certified Phlebotomist collecting a blood donation below are some of the breaches of standard of care that have arisen:

- A. Failing to identify a suitable vein to withstand a 16 to 18 gauge donation needle leading to IV infiltration into the skins tissues.
 - B. Failing and neglecting to properly inspect, monitor and/or reposition the needle at the site after donation began.
 - C. Faulty Technique
 - D. Failing to release tourniquet in adequate time or leaving tourniquet on for an extended period.
 - E. Failing and neglecting to insert the bevel of the needle in all the way or causing the needle to go through the vein resulting in a hole or puncture on the veins' bottom side. This releases blood into the tissue under the skin which can be painful.
 - F. Failing and neglecting to inspect donor when a golf size hematoma was forming causing a bluish discoloration (ecchymosis) and pain.
 - G. Failing and neglecting to remove needle immediately when donor expressed pain and render proper aid with cold compressions or an ice pack to stop or slow the formation of the hematoma.
7. Further, it is my opinion, to a reasonable degree of medical certainty that the actions or inactions of the defendants most or more than likely caused the injuries of the

compressed/pinched nerve injury to the ulnar nerve causing enlargement and edema (swelling) to the cubital tunnel. This injury can occur when a hematoma forms and exerts pressure on the delicate surrounding nerves. The complications of such injury may include but not limited to loss of mobility in the arm and/or grip strength, along with long-term pain with ecchymosis. Also undiagnosed but can not be excluded due to the nature of the injury Compartment Syndrome can be the cause of the extended pain or throbbing constant pain throughout the day and night. This will also cause the cold sensations felt in the hand, along with discoloration.

8. This Affidavit is given in compliance with the South Carolina of Laws which do not require me to state all negligent acts or omissions by any defendant. Additionally, I reserve the right to supplement or amend this Affidavit or any testimony by me after receiving additional medical records, documents, depositions and/or information.

X Regina O. Edwards
 Regina O. Edwards SC # 100223423
 Phlebotomy Instructor, Phlebotomist, ASCP

SIGNED BEFORE ME THIS
14 DAY OF Feb 2023
 NOTARY PUBLIC X
 MY COMMISSION EXPIRES 07/28/30



STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Lisa Renee Sample,

Plaintiff,

vs.

Blood Connection, Inc. and Delisha K.
English,

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NUMBER: 2023-CP-10-00914

SUMMONS

TO THE ABOVE-NAMED DEFENDANT:

A lawsuit has been filed against you. Within 30 days after service of this Summons on you (not counting the day you received it), you must serve on the Plaintiffs an Answer to the attached Complaint or a Motion under Rule 12 of the South Carolina Rules of Civil Procedure. The Answer or Motion must be served on the Plaintiffs' attorney, listed below, at the address shown below. If you fail to do so, judgment by default will be entered against you for the relief demanded in the Complaint. You also must file your Answer or Motion with the court.

URICCHIO, HOWE, KRELL, JACOBSON,
TOPOREK & KEITH, P.A.

s/Gregory D. Keith
GREGORY D. KEITH
JONATHAN F. KRELL
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ATTORNEYS FOR THE PLAINTIFF

Charleston, South Carolina

February 24, 2023

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Lisa Renee Sample,

Plaintiff,

vs.

Blood Connection Inc. and Delisha K. English,

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2023-CP-10-

COMPLAINT
Jury Trial Requested

Plaintiff, by and through undersigned counsel, brings this action against Defendants based on the allegations set forth below:

THE PLAINTIFF, complaining of the Defendants, alleges and says as follows:

1. The parties hereto, subject matter hereof, and all matters and things hereinafter alleged are within this Court's jurisdiction.
2. Plaintiff is a citizen and resident of Charleston County, South Carolina.
3. Upon information and belief, Defendant Delisa K. English, is a citizen and resident of Greenville County, South Carolina.
4. Upon Information and belief, Defendant Blood Connection Inc. ("Blood Connection") is a corporation organized and existing by and virtue of the laws of the State of South Carolina and is the parent corporation of the Defendants named herein.
5. The Defendant, Blood Connection, was and is now, upon information and belief, a corporation organized and existing by and virtue of the laws of the state of South Carolina; is a nonprofit organization with its principal place of business at 1099 Bracken Road within the city of Piedmont, South Carolina, and currently operates nine (9) blood donation facilities in South

Carolina, three (3) blood donation facilities in North Carolina, and one (1) blood donation facility in Georgia.

6. That said Defendants, own and operate fifty (50) mobile units across the state of South Carolina, operating as a blood donation drive, and as an extension of the Blood Connection facilities.

7. That said Defendants, both prior and subsequent to the times hereinafter alleged, by way of considerable media advertising, held itself out and still holds itself out as capable of providing the highest quality blood products and services, including employees who are thoroughly trained and certified to go above and beyond to comply with regulatory guidelines set by the FDA, and invited the general public, including this Plaintiff, to use its services and facilities.

8. That said Defendants maintained, operated, and offered its services at one of its mobile units to the general public, including Plaintiff, to which certified phlebotomists would draw blood for donation from volunteering patients.

9. That in the latter part of February of 2020, Plaintiff visited a mobile blood donation unit owned and operated by Blood Connection for the purpose of blood donation located outside of Orange Theory Fitness at 975 Savannah Highway, Charleston County, South Carolina, where a venipuncture was performed on the Plaintiff's right arm by agents and servants of the Defendants.

10. That immediately upon insertion of needle, Plaintiff began to experience a cold and chilling pain. She informed the technician of her pain and the technician called a supervisor over to remove the needle from Plaintiff's arm.

11. That Plaintiff was informed by the Defendants, their agents and servants, that the insertion would simply leave a bruise and hematoma. Plaintiff did not complete the blood withdrawal and left the Defendants mobile blood donation unit.

12. That through considerable follow-up treatment and tests conducted by medical experts and specialists, it was determined that in deviation to the medical industry's standard of care, the venipuncture of the Plaintiff's right arm was performed improperly, and did in fact, cause nerve damage.

13. That the Defendants, their agents and servants, were careless, negligent, reckless and grossly negligent at the aforesaid time and place in the following particulars:

- a) In failing and omitting to follow the appropriate standard of care;
- b) In failing to establish proper protocol for the performance of venipuncture and if said Defendants had established said protocol the employees and/or agents of the Defendants failed to follow approved protocol for venous access;
- c) In failing to identify a suitable vein to withstand a 16 to 18 gauge donation needle leading to IV infiltration into the skin tissues;
- d) In failing and omitting to insert the needle into the preferred site pursuant to the appropriate standard of care;
- e) In failing and omitting to take such caution and care in administering the venipuncture so as to avoid striking or puncturing arteries and nerves which pass through the area in which the puncture was made;
- f) In failing and neglecting to properly inspect, monitor and/or reposition the needle at the site after donation began;
- g) In failing and neglecting to insert the bevel of the needle in all the way or causing the needle to puncture the vein, causing considerable internal bleeding and hematomas;
- h) In failing and omitting to require expert supervision of the Defendants' agents and servants, who were acting under the direction and control of the Defendants, while in the performance of a venipuncture;
- i) In failing and omitting to ascertain whether Defendants, their agents, servants and employees, were properly trained in the procedures performed at its facility;
- j) In failing and omitting to have an expert in the field of phlebotomy needle sticks observe the agents, and employees of the Defendants during the performance of the venipuncture;

- k) In failing and omitting to hire, train and educate their lab technicians, and phlebotomists concerning the proper methods of venipunctures;
- l) In failing and omitting to follow proper medical principles and standards which are expected of a medical provider and diagnostic entity in administering venipunctures, and in failing and omitting to use ordinary skill and diligence to apply the means and methods ordinarily and generally used by physicians, nurses and technicians of ordinary skill and learning in the practice of their profession, to prevent the administering of procedures incorrectly; and
- m) In failing and omitting to exercise due care under the circumstances.

14. That as a direct and proximate result of the carelessness, negligence, recklessness and gross negligence of the Defendants, their agents and servants, Plaintiff has been permanently injured. She has incurred and is still incurring considerable expense for medical care and treatment, tests and studies, and rehabilitation efforts; her brachial artery sustained permanent damage coupled with nerve damage, leaving her with constant dull pain; she is unable to grasp objects firmly, is unable to sleep through the night, and the functional capacity of her right hand is permanently limited. She has been informed and believes that she will continue to undergo future medical treatment and incur further significant medical expenses; including a potential surgery, and has been otherwise injured and damaged.

WHEREFORE, Plaintiff prays for judgment, both actual and punitive, against the Defendants, together with the costs and disbursements of this action, in such sum as a jury may determine to be just and proper.

(SIGNATURE NEXT PAGE)

URICCHIO, HOWE, KRELL, JACOBSON,
TOPOREK & KEITH, P.A.

s/Gregory D. Keith

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ATTORNEYS FOR PLAINTIFF

Charleston, South Carolina
February 22, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	C. A. NO.: 2023-CP-10-00914
	)	
Lisa Renee Sample,	)	
	)	ANSWER
Plaintiff,	)	
	)	
vs.	)	
	)	
Blood Connection Inc. and Delisha K.	)	
English,	)	
	)	
Defendants.	)	
	)	

The Defendants, The Blood Connection, Inc. (incorrectly identified as “Blood Connection, Inc.”) and Delisha K. English (collectively, “the Defendants”), answering the Complaint of the Plaintiff, herein, would respectfully allege as follows:

FOR A FIRST DEFENSE

1. The allegations of paragraph 1 state legal conclusions to which no response is required. To the extent that a response is required, the Defendants admit the allegations of paragraph 1.

2. The Defendants admit the allegations of paragraph 2 upon information and belief.

3. The Defendants admit the allegations of paragraph 3.

4. The Defendant admit so much of the allegations of paragraph 4 as allege that The Blood Connection, Inc. is a non-profit company organized and existing in South Carolina. The Defendants deny the remaining allegations of paragraph 4.

5. The Defendants admit so much of the allegations of paragraph 5 as allege that The Blood Connection, Inc. is a non-profit company with its registered agent at 1099 Bracken Road in Piedmont, South Carolina which operates blood donation facilities in South Carolina, North Carolina, and Georgia. The Defendants deny the remaining allegations of paragraph 5.

6. The Defendants admit so much of the allegations of paragraph 6 as allege that The Blood Connection owns and operates mobile units in South Carolina. The Defendants deny the remaining allegations of paragraph 6.

7. The Defendants admit so much of the allegations of paragraph 7 as allege that the Defendants advertise and held themselves out as capable of providing quality blood products and services, as well as employees who are trained and certified to meet the standard of care. The Defendants deny the remaining allegations of paragraph 7.

8. The Defendants admit the allegations of paragraph 8.

9. The Defendants admit so much of the allegations of paragraph 9 as allege that on January 2, 2020, the Plaintiff visited a mobile blood donation unit owned and operated by The Blood Connection for the purpose of blood donation located outside of Orange Theory Fitness at 975 Savannah Hwy. in Charleston County, South Carolina and that a venipuncture was performed on the Plaintiff's right arm by an employee of The Blood Connection. The Defendants deny the remaining allegations of paragraph 9.

10. The Defendants admit so much of the allegations of paragraph 10 as allege that upon insertion of the needle, the Plaintiff reported that she felt pain in her arm, her finger turned blue, and she reported that her finger was numb, and that 15 minutes later, after being assessed by a supervisor, the Plaintiff reported that feeling was back in her hands and fingers and she had no pain. The Defendants deny the remaining allegations of paragraph 10.

11. The Defendants admit so much of the allegations of paragraph 11 as allege that the Plaintiff did not complete the blood withdrawal and departed the mobile blood donation unit. The Defendants lack sufficient information to form a belief as to the truth of the remaining allegations of paragraph 11, and therefore deny the same.

12. The Defendants deny the allegations of paragraph 12.
13. The Defendants deny the allegations of paragraph 13.
14. The Defendants deny the allegations of paragraph 14.
15. The Defendants deny each and every allegation not admitted, denied, or explained hereinabove.

FOR A SECOND DEFENSE

16. The Defendants reallege their previous defenses where not inconsistent herewith, as if fully set forth herein.

17. The Plaintiff failed to initiate this lawsuit within the applicable statute of limitations. Accordingly, this lawsuit should be dismissed against the Defendants.

FOR A THIRD DEFENSE

18. The Defendants reallege their previous defenses where not inconsistent herewith, as if fully set forth herein.

19. The Complaint fails to state facts sufficient to constitute a cause of action. Accordingly, this action should be dismissed against the Defendants pursuant to Rule 12(b)(6), SCRCF. Additionally, the Plaintiff failed to follow the pre-suit process set forth in S.C. Code Ann. § 15-79-125 and § 15-79-110. Consequently, the Court lacks jurisdiction over this matter and the case should be dismissed pursuant to 12(b)(1), SCRCF.

FOR A FOURTH DEFENSE

20. The Defendants reallege their previous defenses where not inconsistent herewith, as if fully set forth herein.

21. The Defendant Blood Connection is a charitable organization or entity, and thus, is entitled to all of the privileges, limitations, and immunities provided by law, including, but not

limited to, the protections granted by S.C. Code § 33-56-180, and the law on recovery of punitive damages referred to therein. As an employee of Blood Connection, these privileges, limitations, and immunities are extended to Delisha K. English.

FOR A FIFTH DEFENSE

22. The Defendants reallege their previous defenses where not inconsistent herewith, as if fully set forth herein.

23. The Defendants plead any and all applicable protections afforded to them under the South Carolina Fairness in Civil Justice Act of 2011, codified at S.C. Code Annotated § 15-32-510 to § 15-32-540, as a defense to the Plaintiff's claims or requests for an award of punitive damages.

WHEREFORE, having fully answered the Complaint of the Plaintiff herein, the Defendants pray that the same be dismissed with costs and for such other and further relief as this court deems necessary and proper.

Respectfully submitted,

CASSIDY COATES PRICE, P.A.

s/Fred W. "Trey" Suggs, III
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Attorney for Defendants

May 18, 2023
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	C. A. NO.: 2023-CP-10-00914
	)	
Lisa Renee Sample,	)	
	)	
Plaintiff,	)	DEFENDANT THE BLOOD
	)	CONNECTION INC.'S MOTION
vs.	)	FOR SUMMARY JUDGMENT
	)	
The Blood Connection Inc., and	)	
Delisha K. English	)	
	)	
Defendants.	)	
	)	

PLEASE TAKE NOTICE that the Defendant, The Blood Connection, Inc.¹, will move before the presiding judge of the Court of Common Pleas for Charleston County, South Carolina, at a date, time, and location to be set by the Court, for an order dismissing the Defendant pursuant to South Carolina Rules of Civil Procedure Rule 56, S.C. Code Ann. §15-3-530, and § 15-3-545.

This motion is based upon common and statutory laws of the State of South Carolina; the pleadings, documents, records, and files in this action; any subsequent memoranda of law or other evidence which may be submitted prior to the hearing on this motion; as well as any oral argument and documentary evidence which may be presented at the hearing on this matter.

WHEREFORE, the Defendant, The Blood Connection, Inc., prays that it be dismissed with prejudice.

[Signature on following page]

¹ The Defendant, Delisha K. English, was dismissed with prejudice on September, 2023 by joint stipulation of dismissal.

CASSIDY COATES PRICE, P.A.

s/ Fred W. "Trey" Suggs III

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Attorneys for Defendants

August 14, 2024
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	C. A. NO.: 2023-CP-10-00914
	)	
Lisa Renee Sample,	)	
	)	
Plaintiff,	)	DEFENDANT THE BLOOD
	)	CONNECTION INC.'S
vs.	)	MEMORANDUM IN SUPPORT
	)	OF MOTION FOR SUMMARY
The Blood Connection Inc., and	)	JUDGMENT
Delisha K. English	)	
	)	
Defendants.	)	
	)	

The Defendant, The Blood Connection, Inc.¹ ("TBC"), by and through its undersigned attorneys, moves for summary judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure on the ground that there is no genuine issue of material fact, and the Defendant is entitled to judgment as a matter of law.

INTRODUCTION

In this medical malpractice action, the Plaintiff Lisa Renee Sample alleges she suffered nerve injuries after attempting to donate blood at one of TBC's mobile donation units. (Pl's Compl., ¶ 9, 12). Although the Plaintiff pled in her Complaint that the attempted blood donation occurred "in the latter part of February of 2020," it has been confirmed in discovery that the subject donation took place on January 2, 2020. (Pl's Compl., ¶ 9; TBC's donor record, attached as "Exhibit A;" Lisa Sample Dep., 5:18-22, 18:12-15 attached as "Exhibit B;" Lisa Sample's Answers to Rog. No. 17, attached as "Exhibit C"). Additionally, discovery has confirmed that, during the donation on January 2, 2020, the Plaintiff "felt instantaneous pain, and the sensation that a nerve had been hit," and that her "arm immediately began to turn blue." (Ex. C, No. 17).

¹ The Defendant, Delisha K. English, was dismissed with prejudice on September, 2023 by joint stipulation of dismissal.

The Plaintiff did not file her Notice of Intent or Complaint until February 22, 2023. (*See generally*, Pl's Compl.). This was over three (3) years from the date of the Plaintiff's donation and discovery of her injury on January 2, 2020. Under S.C. Code Ann § 15-3-545(A), the Plaintiff was required to file her suit within three (3) years from the date of the donation or when her injury reasonably ought to have been discovered. The Plaintiff has confirmed that she was aware of her purported injuries and that something abnormal happened on the day of the donation itself, January 2, 2020. (Ex. C, No. 17). Accordingly, the statute of limitations expired on January 2, 2023, and summary judgment must be granted in the Defendant's favor.

FACTUAL BACKGROUND AND UNCONTESTED FACTS

The Plaintiff, Lisa Sample, attempted to donate blood with one of TBC's mobile units located in Charleston County, South Carolina on January 2, 2020. (Ex. A, dated 1/2/2020; Ex. B 5:18-22). The Plaintiff contends that a TBC phlebotomist punctured her ulnar nerve during her donation. (Ex. B, 5:23-25, 6:1). Specifically, in her answers to interrogatories, the Plaintiff describes her experience on January 2, 2020 as follows:

As the young phlebotomist was readying herself to perform the blood draw, she turned to a supervisor and asked if the supervisor how to perform [*sic*] the blood draw, and whether or not she should put the needle in first, or whether she should put the clamp on first. *Immediately upon the insertion, Plaintiff felt instantaneous pain, and the sensation that a nerve had been hit.* Her arm immediately began to turn blue. The young phlebotomist *called out urgently for a supervisor to come help her.* At that time a supervisor *immediately came and removed the needle* from Plaintiff's arm.

At that time, the supervisor tried to comfort the Plaintiff *due to her intense pain* and told the Plaintiff that when she removed the needle it was likely that Plaintiff would have a large hematoma. *Plaintiff was in shock and shaking.* Plaintiff recalls that the phlebotomist on duty attempted to treat her with ice and bandages. Plaintiff does recall that she was then asked if she would like to continue her blood donation using her other non-injured arm, and she declined to do so.

At the time Plaintiff left the Defendant Blood Connection's mobile bloodmobile, she was having severe pain and her arm was turning blue, with

bruising. Plaintiff noticed *almost immediate weakness and numbness* in her right arm *in the hours following the attempted blood draw* and insertion of the needle into her arm.

(Ex. C, Answer No. 17) (emphasis added).

In her deposition testimony, Ms. Sample testified to a similar version of events and reiterated that, on January 2, 2020, the environment “seemed kind of chaotic,” that the needle was driven in “really, really hard” with no “finesse,” that she immediately “felt a sharp pain that went down into my right hand, like a really, really cold sensation, burning cold sensation, and then numbness.” (Ex. B, 26:5-18). The Plaintiff further testified that she immediately said “something’s not right, something’s not right, please take it out.” (*Id.* at 26:18-19). The Plaintiff also confirmed that the pain she felt immediately upon insertion of the needle was greater than she would expect from a normal donation, and that she immediately suspected that she had experienced some type of injury from the insertion of the needle. (*Id.* at 31:10-16, 33:11-14). Additionally, she informed her fiancé that evening of the “crazy story” about her blood donation that day. (*Id.* at 44:6-13).

The Plaintiff subsequently sought medical treatment at multiple healthcare facilities and received several diagnoses related to an alleged ulnar nerve injury. (Pl’s Compl., ¶ 14). The Plaintiff filed a Notice of Intent and Complaint simultaneously on February 22, 2023, which is three years and fifty-one days after her donation and injury on January 2, 2020.

STANDARD OF REVIEW

The statute of limitations may be raised in a summary judgment motion. *See McDonnell v. Consolidated School Dist. of Aiken*, 315 S.C. 487, 489 (1994). Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Baird v. Charleston County*, 333 S.C. 519, 529 (1999). In determining whether any triable issues of fact exist, the trial court must view the evidence and all reasonable inferences that may be

drawn from the evidence in the light most favorable to the non-moving party. *McMaster v. Dewitt*, 411 S.C. 138, 143 (Ct. App. 2014). Although the burden is on the party seeking summary judgment, it is not sufficient for the non-moving party “to create an inference that is not reasonable or an issue of fact that is not genuine.” *Id.* (citing *Town of Hollywood v. Floyd*, 403 S.C. 466, 477 (2013)).

Once the moving party carries its initial burden, the “opposing party 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. American Tel. and Tel. Co.*, 306 S.C. 101, 115, (1991) (internal citation omitted). A party cannot rest on the mere allegations in her complaint. Nor can a party “escape summary judgment on the mere hope that something may develop later at trial, or by remaining silent and later claiming additional facts supporting the cause of action.” *Hammond v. Scott*, 268 S.C. 137, 143 (1977).

“The plain language of Rule 56(c), SCRCF, mandates the entry of summary judgment, after adequate time for discovery against a party who fails to make a showing sufficient to establish the existence of an element essential to the party's case and on which that party will bear the burden of proof at trial.” *Boone v. Sunbelt Newspapers, Inc.*, 347 S.C. 571, 579, (Ct. App. 2001); *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 116 (1991) (internal citation and quotation omitted). Furthermore, “[a] complete failure of proof concerning an essential element of the non-moving party's case necessarily renders all other facts immaterial.” *Baughman*, 306 S.C. at 116.

ARGUMENT AND CITATION OF AUTHORITY

I. The Plaintiff’s Medical Malpractice Claim Was Not Brought Within the Applicable Statute of Limitations.

The Plaintiff alleges that the Defendant was negligent and failed to comply with the standard of care by: (1) failing to establish and follow proper protocol for the performance of venipuncture; (2) failing to identify a suitable vein to withstand a 16 to 18 needle leading to IV

infiltration into the skin tissues; (3) failing and omitting to insert the needle into the preferred site pursuant to the appropriate standard of care; (4) failing and omitting to take such caution and care in administering the venipuncture to avoid striking or puncturing arteries and nerves; (5) failing to properly inspect, monitor, and reposition the needle; and (6) failing and neglecting to insert the bevel of the needle in all the way or causing the needle to puncture the vein, among other allegations. (*See generally* Pl’s Compl., ¶ 13). Regarding the applicable statute of limitations, South Carolina Code Section 15-3-545(A) provides:

[I]n any action ... to recover damages for injury to the person arising out of the medical, surgical, or dental treatment, omission, or operation by any licensed health care provider as defined in Article 5, Title 38 acting within the scope of his profession *must be commenced within three years* from the date of treatment, omission, or operation giving rise to the cause of action or three years from the date of discovery or when it reasonably ought to have been discovered, not to exceed six years from date of occurrence, or as tolled by this section.

S.C. Code Ann. § 15-3-535(A) (emphasis added). Here, if the Court calculates the three-year statute of limitations from the date of the attempted donation giving rise to this cause of action, the Plaintiff’s lawsuit was filed outside of the statute of limitations. Moreover, even when the three-year statute of limitations is calculated by the “date of discovery,” the outcome is the same.

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.” *McMaster v. Dewitt*, 411 S.C. 138, 145 (Ct. App. 2014) (citing *Knox v. Greenville Hosp. Sys.*, 362 S.C. 566, 570 (Ct. App. 2005)). *Knox* is particularly instructive as it involved alleged nerve injuries that occurred after a needle was allegedly improperly inserted into the wrist of the plaintiff. (*Id.* at 568-569). The *Knox* Court held that the date of discovery was on the date of the needle insertion itself, because the plaintiff, in response to the needle insertion, “screamed,” “squealed and hollered,” and his “whole hand

jumped up . . . in [his] fingers.” (*Id.* at 571). Indeed, the plaintiff in *Knox* knew something was “different” about this insertion because of the pain and reaction he had, and he informed relatives that same day that he was experiencing pain and that the “doctor” hit a nerve. (*Id.*). Accordingly, the *Knox* Court held that the “exercise of reasonable diligence under these facts ‘would put a person of common knowledge and experience on notice that some right of his has been invaded or that some claim against [the Hospital] might exist.’” (*Id.* at 571).

The similarities between Ms. Sample’s version of events and the *Knox* plaintiff are striking. In both her written and oral discovery responses, Ms. Sample emphasized that the pain she felt immediately upon insertion of the needle was abnormal, that she felt uneasy with the care she was receiving, and that she believed a nerve had been hit. (Ex. B at 26; Ex. C, Answer No. 17).

Moreover, Ms. Sample went home that evening and felt compelled to tell her fiancé the “crazy story” that happened to her that day. (Ex. B at 44:6-13). Thus, regardless of whether Ms. Sample may have learned more about her purported injuries at a subsequent time, she was on notice on January 2, 2020 that she might have a claim against TBC. Accordingly, the statute of limitations began to run on January 2, 2020, and her commencement of this action on February 22, 2023 was untimely. Therefore, summary judgment must be granted in favor of the Defendant.

II. Plaintiff’s Negligent Hiring and Supervision Claim Was Not Brought Within the Applicable Statute of Limitations.

The Plaintiff also asserts that the Defendant failed and omitted to “hire, train and educate their lab technicians, and phlebotomists concerning the proper methods of venipunctures,” among other allegations in support of a negligent hiring and supervision claim. (*See generally* Pl’s Compl ¶13). However, the Plaintiff’s claim for negligent hiring and supervision is also barred by the applicable statute of limitations. These claims are intertwined with the medical malpractice claim and should be subjected to S.C. Code Ann. § 15-3-545. The statute of limitations for medical

malpractice claims applies to cases that allege medical malpractice or where liability depends on whether or not medical malpractice occurred in the case. *See Garner v. Houck*, 312 S.C. 481, 487-488 (1993). The Plaintiff's negligent hiring and supervision claims are reliant upon the Plaintiff's ability to prove medical malpractice, and thus, her claims are subject to the statute of limitations set out in South Carolina Code Section 15-3-545.

However, even if this Court finds that S.C. Code Ann. § 15-3-545 does not apply to the negligent hiring and supervision claims, then S.C. Code Ann. § 15-3-530 would apply, which results in the same outcome. S.C. Code Ann. § 15-3-530(5) and § 15-3-535 requires a cause of action for "injury to the person or rights of another, not arising on contract and not enumerated by law," to be commenced within "three years after the person knew or by the exercise of reasonable diligence should have known that he had a cause of action." *See also Brown v. Pearson*, 326 S.C. 409, 418 (Ct. App. 1997) (negligent hiring and supervision claims must be commenced within three years of injury and "*not* three years after a full-blown theory of recovery has been developed.") (emphasis added).

Here, the Plaintiff made clear in written and oral discovery that she had concerns with the Defendant's staff on the day of January 2, 2020, and thus, the statute of limitations began to run on the day of her donation. (Ex. B, 26:5-18). As a result, her negligent hiring and supervision claims are also barred by the statute of limitations because they were not commenced by January 2, 2023.

CONCLUSION

For the foregoing reasons, the Defendant respectfully requests that the Defendant's Motion for Summary Judgment be granted.

Respectfully submitted,

CASSIDY COATES PRICE, P.A.

s/ Fred W. "Trey" Suggs III

Fred W. "Trey" Suggs III, SC Bar No. 70222

Lillian K.H. Keeling, SC Bar No. 106490

P. O. Box 10529

Greenville, SC 29603

Phone: 864-349-2600

Fax: 864-349-0303

Attorneys for Defendants

November 26, 2024
Greenville, South Carolina

Donation Date : 2020-01-02 18:03:00.0

Blood Donation Record / Allogeneic

The Blood Connection, Incorporated

1099 Bracken Road Piedmont SC 29671

1048062

Reg

Name(L,F,M) : Sample , Lisa R

Donor ID : 17668252

Sex : ☐ Male ☒ Female

D.O.B :



Donor ID: 1766-825-2

Registration

Nickname : Prev. Lastname : Donation Procedure : Whole Blood Blood Type:

Address : Credit To: 100EE - Orangetheory Fitness - West Ashley 100EE

City : CHARLESTON State : SC Zip Code : 29407 Willing Code : Last Donation :

Home Email : lisawrenn@gmail.com Collection Code : 200102-100EE

Business Email : Hemachromatosis : ☐

Alternate ID : Race : White / Caucasian WB Lifetime Totals: 0 1 Year RBC Loss : 0

Alternate ID 2: SSN: Pheresis Life Totals: 0 1 Yr Plasma Loss : 0

Home Phone : Ext : Call When : Lifetime Totals (+ Other) : 0

Work Phone : Ext : Call When : First Time Donor!

Cell Phone : (843) 670-6870 Call When : Chagas Required

Phone Preference : ☐ Home ☐ Business ☐ Cell CMV Not Tested

Registrar ID : SSHUMPERT

Deferrals

Deferral Code: Occurred Date: Reported Date: Eligible Date: Tech:

Comments:

Reactions

Reaction Code : Hematoma Date Occurred : 01/02/2020 Notify Until : Witnessed By : SWASHINGTO

Tech ID : SWASHINGTO Comments : Donor was stuck and felt pain in her arm. Finger turned blue and she said it was numb. She was disconnected and was provided a cold pack and water. Monitored for 15 mins afterwards. Feeling was back in her hands and fingers and she reported no pain.

Medical

Historian ID : SSHUMPER Med Comments :

Physical Exam

#1 Pulse : 68 Tech : SSHUMPE

BP : 114 / 80 Tech : SSHUMPE

Temp. : 97.3 Tech : SSHUMPE

Hematocrit : Tech :

Hemoglobin : 14.1 Tech : SSHUMPE

Pulse Evaluation : Acceptable

#2 Pulse : Tech :

BP : / Tech :

Temp. : Tech :

Hematocrit : Tech :

Hemoglobin : Tech :

CuSO4 : Not Tested : ☒

Pass : ☐

Fail : ☐

Arm : Satisfactory : ☒

Unsatisfactory : ☐

Platelet Count :

Tech ID:

Height : 68 In - 5 Ft 8 In Actual ☐ Weight : 140 lbs Actual ☐ General Examiner : SSHUMPERT

Stick 1

Phlebotomy

Start Draw : 01/02/2020 18:44 Tech : VADAMS Arm Used : ☐ Left ☒ Right ☐ Both

Stop Draw : 01/02/2020 18:44 Tech : SSHUMPERT Bag/Kit MFG : Terumo Medical Corp RBC Volume Loss : 2 ml

Instrument : Hemoflow Mixer Bag/Kit Type : CPD Double Plastic Plasma Volume Loss : 3 ml

Serial No : HF11096 Bag/Kit Lot # : &)00180717AG Total Volume Loss : 5 ml

Failure Code : Bag/ Kit Tech SSHUMPERT

Phlebotomist ID : VADAMS



W121619290236

Form # : 1-0000

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ELECTRONICALLY FILED - 2024 Nov 26 5:02 PM - CHARLESTON - COMMON PLEAS - CASE#2023CPI100914

Name(L,F,M) : **Sample , Lisa R**

Donor ID : **17668252**

Sex : ☐ Male ☒ Female

D.O.B :



ID: 1766-825-2

Stick 2

Start Draw :

Tech :

Arm Used :

Left

Right

Both

Stop Draw :

Tech :

Bag/Kit MFG :

RBC Volume Loss : ml

Instrument :

Bag/Kit Type :

Plasma Volume Loss : ml

Serial No :

Bag/Kit Lot # :

Total Volume Loss : ml

Failure Code :

Bag/ Kit Tech :

2nd Stick when applicable

Phlebotomist ID :

Additional Tech :

ELECTRONICALLY FILED - 2024 Nov 26 5:02 PM - CHARLESTON - COMMON PLEAS - CASE#2023CPI1000914

Reg

Name(L,F,M) : **Sample , Lisa R**

Donor ID : **17668252**

Sex : ☐ Male ☒ Female

D.O.B :

Donor ID: 1766-825-2

Status : **Accepted**

Allogeneic Questionnaire 15 [Tech: VADAMS]

Effective Date : **10/07/2019**

Donation Type : **Allogeneic**

Donation Procedure : **Whole Blood**

Deactivate Date : **06/04/2020**

Question 1	Are you feeling healthy and well today?	Yes	☒	No	☐
Question 2	Are you currently taking an antibiotic?	Yes	☐	No	☒
Question 3	Are you currently taking any other medication for an infection?	Yes	☐	No	☒
Question 4	Have you taken any medications on the Medication Deferral List in the time frames indicated? (Review Medication Deferral List).	Yes	☐	No	☒
Question 5	Have you read the educational materials today?	Yes	☒	No	☐
Question 6	In the past 48 hours, have you taken aspirin or anything that has aspirin in it?	Yes	☐	No	☒
Question 7	In the past 8 weeks, have you donated blood, platelets or plasma?	Yes	☐	No	☒
Question 8	In the past 8 weeks, have you had any vaccinations or other shots?	Yes	☐	No	☒
Question 9	In the past 8 weeks, have you had contact with someone who was vaccinated for smallpox in the past 8 weeks?	Yes	☐	No	☒
Question 10	In the past 16 weeks, have you donated a double unit of red cells using an apheresis machine?	Yes	☐	No	☒
Question 11	In the past 12 months, have you had a blood transfusion?	Yes	☐	No	☒
Question 12	In the past 12 months, have you had a transplant such as organ, tissue, or bone marrow?	Yes	☐	No	☒
Question 13	In the past 12 months, have you had a graft such as bone or skin?	Yes	☐	No	☒
Question 14	In the past 12 months, have you come into contact with someone else's blood?	Yes	☐	No	☒
Question 15	In the past 12 months, have you had an accidental needle-stick?	Yes	☐	No	☒
Question 16	In the past 12 months, have you had sexual contact with anyone who has HIV/AIDS or has had a positive test for the HIV/AIDS virus?	Yes	☐	No	☒
Question 17	In the past 12 months, have you had sexual contact with a prostitute or anyone else who takes money or drugs or other payment for sex?	Yes	☐	No	☒
Question 18	In the past 12 months, have you had sexual contact with anyone who has ever used needles to take drugs or steroids or anything not prescribed by their doctor?	Yes	☐	No	☒
Question 19	In the past 12 months, have you had sexual contact with another male?	I am Female			
Question 20	In the past 12 months, have you had sexual contact with a male who had sexual contact with another male in the past 12 months?	Yes	☐	No	☒

Questionnaire

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*Indicates technician answered question skipped by Donor

Form # : 1-0000

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Reg

Name(L,F,M) : **Sample , Lisa R**

Donor ID : **17668252**

Sex : ☐ Male ☒ Female

D.O.B :

Donor ID: 1766-825-2

Status : **Accepted**

Allogeneic Questionnaire 15 [Tech: VADAMS]

Effective Date : **10/07/2019**

Donation Type : **Allogeneic**

Donation Procedure : **Whole Blood**

Deactivate Date : **06/04/2020**

Question 21	<u>In the past 12 months, have you had sexual contact with a person who has hepatitis?</u>	Yes ☐	No ☒
Question 22	<u>In the past 12 months, have you lived with a person who has hepatitis?</u>	Yes ☐	No ☒
Question 23	<u>In the past 12 months, have you had a tattoo?</u>	Yes ☐	No ☒
Question 24	<u>In the past 12 months, have you had ear or body piercing?</u>	Yes ☐	No ☒
Question 25	<u>In the past 12 months, have you had or been treated for syphilis or gonorrhea?</u>	Yes ☐	No ☒
Question 26	<u>In the past 12 months, have you been in juvenile detention, lockup, jail, or prison for more than 72 consecutive hours?</u>	Yes ☐	No ☒
Question 27	<u>In the past three years, have you been outside of the United States or Canada?</u>	Yes ☐	No ☒
Question 28	<u>From 1980 through 1996, did you spend time that adds up to three (3) months or more in the United Kingdom?</u>	Yes ☐	No ☒
Question 29	<u>From 1980 through 1996, were you a member of the U.S. military, a civilian military employee, or a dependent of a member of the U.S. military?</u>	Yes ☐	No ☒
Question 30	<u>From 1980 to the present, did you spend time that adds up to five (5) years or more in Europe? (Review countries of risk in Europe)</u>	Yes ☐	No ☒
Question 31	<u>From 1980 to the present, did you receive a blood transfusion in the United Kingdom or France?</u>	Yes ☐	No ☒
Question 32	<u>Have you EVER been pregnant or are you pregnant now?</u>	Yes ☐	No ☒
Question 33	<u>Have you EVER had a positive test for the HIV/AIDS virus?</u>	Yes ☐	No ☒
Question 34	<u>Have you EVER used needles to take drugs, steroids, or anything NOT prescribed by your doctor?</u>	Yes ☐	No ☒
Question 35	<u>Have you EVER received money, drugs, or other payment for sex?</u>	Yes ☐	No ☒
Question 36	<u>Have you EVER had malaria?</u>	Yes ☐	No ☒
Question 37	<u>Have you EVER had babesiosis?</u>	Yes ☐	No ☒
Question 38	<u>Have you EVER received a dura mater (or brain covering) graft or xenotransplantation product?</u>	Yes ☐	No ☒
Question 39	<u>Have you EVER had any type of cancer, including leukemia?</u>	Yes ☐	No ☒
Question 40	<u>Have you EVER had any problems with your heart or lungs?</u>	Yes ☐	No ☒
Question 41	<u>Have you EVER had a bleeding condition or a blood disease?</u>	Yes ☐	No ☒

*Indicates technician answered question skipped by Donor

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RECEIVED ELECTRONICALLY FILED - 2024 Nov 26 5:02 PM - CHARLESTON - COMMON PLEAS - CASE#2023CPT1000914

Name(L,F,M) : **Sample , Lisa R**

Donor ID : **17668252** Sex : ☐ Male ☒ Female D.O.B :



Donor ID: 1766-825-2

Status : **Accepted** **Allogeneic Questionnaire 15 [Tech: VADAMS]** Effective Date : **10/07/2019**

Donation Type : **Allogeneic** Donation Procedure : **Whole Blood** Deactivate Date : **06/04/2020**

Question 42

Have any of your relatives had Creutzfeldt-Jakob disease?

Yes ☐ No ☒

Question 43

In the past 3 days, have you been to a dentist?

Yes ☐ No ☒

Question 44

Will your mailing address change in the next 8 weeks?

Yes ☐ No ☒

Question 45

Have you ever had a corneal transplant?

Yes ☐ No ☒

Question 46

In the past 4 months, have you had a colonoscopy or an upper GI endoscopic exam?

Yes ☐ No ☒

Question 47

Have you EVER had sexual contact with another male, even once?

I am Female

Question 48

Are you donating platelets by apheresis today?

Yes ☐ No ☒

*Indicates technician answered question skipped by Donor

RECEIVED ELECTRONICALLY FILED - 2024 NOV 26 5:02 PM - CHARLESTON - COMMON PLEAS - CASE#2023CPI1000914

Reg

Name(L,F,M) : Sample , Lisa R

Donor ID : 17668252

Sex : ☐ Male ☒ Female

D.O.B :

Donor ID: 1766-825-2

Status : Accepted

Allogeneic Questionnaire 15 [Tech: VADAMS]

Effective Date : 10/07/2020

Donation Type : Allogeneic

Donation Procedure : Whole Blood

Deactivate Date : 06/04/2020

Question 49

Certification and Consent

Yes ☒

No ☐

I have read and understand the "Important Donor Information" pamphlet. I have reviewed the requirements to be a blood donor. I certify that I am 17 years of age or older (or 16 years of age with written parental / legal guardian consent), and that I am voluntarily donating and transferring possession of a portion of my blood to The Blood Connection. I understand that I may withdraw from the donation process at any time without prejudice to me. Donor Requirements: I agree to inform The Blood Connection if I do not meet the requirements to be a blood donor or if I believe I may have been infected with HIV (AIDS) or any other disease capable of being spread to another person by blood or plasma. I understand that my medical history and past lifestyle behaviors determine my suitability to be a blood donor, and that if I am determined to be ineligible to donate, then my record will include this information. Blood Testing: I have been informed and understand that my donated blood will be tested for laboratory evidence of infectious agents capable of being spread through blood transfusion, including but not limited to: Syphilis, HIV (AIDS), HIV-2,Hepatitis B & C, West Nile Virus, HTLV (a retrovirus), and T. cruzi (a parasitic infection.) I understand that if an insufficient amount of blood is drawn, it cannot be used for transfusion, and some, if not all of the tests may not be performed. I understand that these are not diagnostic tests. I understand that my blood may be tested for other diseases by additional tests as they become available and are thought to improve the safety of the nation's blood supply. The tests are very sensitive and detect most infections, but it is possible that donors who are not infected will have falsely positive tests. For some tests, TBC is required to notify and defer donors even when subsequent test results indicate that the donor is not infected. I understand that my health information will remain confidential in accordance with State and Federal privacy and disclosure laws, and that The Blood Connection will not routinely report my results to me unless a result makes me ineligible for further donations or indicate a possible health problem. In order to interpret and better understand these tests, The Blood Connection may contact me to request a repeat blood sample. I also understand that if testing indicates I am no longer eligible to donate, then my record will include this information. I understand that my blood donation may be discarded because of test results, and that certain test results must be reported to the State Health Department. Risks of Blood Donation: Potential common side effects of both whole blood and automated blood collection include fainting or loss of consciousness and injury from related falls, dizziness, nausea vomiting, bruising or redness in the area of the venipuncture and iron deficiency. Less common, but more serious reactions may include seizures and, rarely, nerve or blood vessel injury in the area of the venipuncture. Rare, serious complications include: shock, blood clotting; severe allergic reactions in people sensitive to latex or rubber, hemolysis (red cell destruction), compartment syndrome (compression of the nerves, blood vessels, and muscle inside a closed space), and symptoms of severe low blood calcium. Blood donation removes iron and may cause or aggravate iron-deficiency anemia. Apheresis has the same risks as whole blood donation (see above). In addition, citrate is used during apheresis to prevent blood clotting, and citrate may cause chills, tingling sensations, feelings of anxiety, tremors, muscle cramping, numbness, nausea, vomiting, and/or convulsions. Donors may be given oral calcium supplements during the apheresis procedure to manage these symptoms. Very rarely, donors can experience allergic reactions (for example, skin rashes, hives, localized swelling, and/or flushing), severe allergic reaction to the ethylene oxide used in the tube sterilization, air in the bloodstream, infection, or other serious complications. I also understand that the long-term effect of lymphocyte (white blood cell) reduction is not clear currently. Having read this consent, and having my questions answered satisfactory, I voluntarily consent to donate blood and/or blood products to The Blood Connection for uses it determines including further manufacturing in research and product development for other healthcare applications. I understand that my personal contact information will be kept confidential and used by blood center staff, volunteers or partner organizations obligated under organizational confidentiality and working on behalf of The Blood Connection. I understand The Blood Connection will use my personal information: email, home address and phone numbers including cellular phone numbers to contact me regarding donation follow up, lab results, appointments, eligibility for future donation, blood center programs and events.

-EOR-

----- End of Report -----

*Indicates technician answered question skipped by Donor

RECEIVED ELECTRONICALLY FILED - 2024 Nov 26 5:02 PM - CHARLESTON - COMMON PLEAS - CASE#2023CPI000914

Reg	Name(L,F,M) : Sample , Lisa R				
	Donor ID : 17668252	Sex : ☐ Male ☒ Female	D.O.B :	Donor ID: 1766-825-2	
Consent	No Questionnaire/Consent exists for the chosen donationtype/donation procedure				

ELECTRONICALLY FILED - 2024 Nov 26 5:02 PM - CHARLESTON - COMMON PLEAS - CASE#2023CPI1000914

Page 1

1 STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

2 COUNTY OF CHARLESTON

3
4
5 LISA RENEE SAMPLE,

6 Plaintiff,

7 vs.

C.A. NO. 2023-CP-10-00914

8 BLOOD CONNECTION INC. AND DELISHA K. ENGLISH,

9 Defendants.

10
11
12 DEPOSITION OF: LISA RENEE SAMPLE

13 DATE: April 23, 2024

14 TIME: 11:04 AM

15 LOCATION: Uricchio, Howe, Krell, Jacobson,
Toporek & Keith, PA
16 17 1/2 Broad Street
Charleston, SC 29401

17
18 TAKEN BY: Counsel for the Defendants

19
20
21
22
23
24
25 REPORTED BY: TERRI L. BRUSSEAU

1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR THE PLAINTIFF

LISA RENEE SAMPLE:

3 URICCHIO, HOWE, KRELL, JACOBSON,
4 TOPOREK & KEITH, PA

BY: GREGORY D. KEITH

5 17 1/2 Broad Street

Charleston, SC 29401

6 (843) 723-7491

greg@uricchio.com

7 ATTORNEYS FOR THE DEFENDANTS

8 BLOOD CONNECTION INC. AND

DELISHA K. ENGLISH:

9 CASSIDY COATES PRICE, PA

10 BY: FRED W. "TREY" SUGGS, III

11 1052 North Church Street

Greenville, SC 29601

(864) 349-2600

12 tsuggs@cassidycoates.com

13 (INDEX AT REAR OF TRANSCRIPT)

1 LISA RENEE SAMPLE

2 being first duly sworn, testified as follows:

3 EXAMINATION

4 BY MR. SUGGS:

5 Q. Miss Sample, my name is Trey Suggs. We
6 just met a moment ago. Have you done this before?

7 A. No.

8 Q. All right. Let me give you the ground
9 rules. I'm sure counsel has already filled you in
10 a little bit about the process, but I'm just here
11 to ask you questions.

12 A. Okay.

13 Q. Trying to gather some information. But
14 before I get started, the rules require me to tell
15 you a couple things. If I ask you a question
16 that's not clear to you for any reason, just tell
17 me and I'll ask it a different way.

18 A. Okay.

19 Q. If you answer it, I'm assuming you
20 understood it. Is that fair?

21 A. Yes.

22 Q. All right. Have you taken any
23 medications that would affect your ability to
24 testify?

25 A. No.

Page 4

1 Q. All right. One of the ground rules to
2 help the court reporter and all of us, frankly, is
3 for you to verbalize your responses. Particularly
4 in the south, we like to do a lot of uh-huh, uh-uh,
5 shaking our head one way or the other. She can't
6 really get that down, so try to give a verbal
7 response.

8 A. Okay.

9 Q. You are going to anticipate where I'm
10 headed with some questions, particularly the basic
11 ones. And our inclination is to arrive at an
12 answer before I finish my question. Try to let me
13 finish my question before you start to answer just
14 so the transcript is clear.

15 A. Okay.

16 Q. If I cut you off at some point or fail
17 to appreciate that you have not completed your
18 answer, just say I'm not done or something along
19 those lines. Let me know you haven't finished
20 answering and I'll give you every opportunity to
21 answer the question, all right?

22 If you need to take a break at any
23 point, feel free to do so. There are no rules in
24 that regard other than if I have a pending question
25 to you, I might ask you to go ahead and answer the

1 question before you take a break.

2 A. Okay.

3 Q. During the course of the deposition I
4 am never asking for information that was provided
5 by your attorney to you. That's confidential and
6 privileged. I'm not entitled to that information.
7 Okay?

8 By the same token, during the course of
9 the deposition if you need clarification of
10 anything, you've got to ask me. You can't talk to
11 your lawyer about the substance of your testimony
12 unless he's invoked a privilege.

13 A. Okay.

14 Q. Make sense?

15 A. Yes.

16 Q. All right. Good. Tell me why you're
17 suing The Blood Connection.

18 A. From the beginning, on January 2nd I
19 left work and stopped at Orangetheory to take a
20 class. Outside there was a person soliciting that
21 you donate to The Blood Connection and I agreed to
22 do it after the class.

23 After the class I did the blood
24 donation in the blood mobile behind the building.
25 And during the donation, she hit my ulnar nerve,

1 punctured my ulnar nerve.

2 Q. All right. And what specifically do
3 you allege that the phlebotomist did wrong?

4 A. I believe that she punctured my ulnar
5 nerve. I mean, you can't -- that you -- she hit
6 the nerve when attempting to draw blood.

7 Q. And I'm not picking on you here, but I
8 am curious. You said punctured. Do you know for a
9 fact that your ulnar nerve was punctured?

10 A. No.

11 Q. All right. So would it be more
12 accurate to say that she struck or hit your ulnar
13 nerve?

14 A. I don't know if accurate's the right --
15 I don't know how they determine that, whether it
16 was punctured or struck.

17 Q. All right. And did you do -- again,
18 don't want to know about anything your attorney
19 did. I don't want to know anything you did once
20 you hired counsel. But prior to hiring counsel,
21 did you do any type of investigation?

22 A. I don't understand the question. When
23 you ask investigation, what are you referring to?

24 Q. Did you do any research or looking into
25 the incident or your damages?

1 A. No.

2 Q. Lisa Renee Sample is your name?

3 A. Yes.

4 Q. How old are you?

5 A. 43.

6 Q. Date of birth?

7 A. May 6, 1980.

8 Q. And where do you live? Residence
9 address.

10 A. 1623 Pinckney Park Drive.

11 Q. That's here in Charleston?

12 A. Yes.

13 Q. How long have you been there?

14 A. I think I bought the house in 2011 and
15 then moved back in in 2000 -- 2016. 2016 I've been
16 back in my house.

17 Q. What did you say you did in 2011?

18 A. I purchased the home in 2011 and then
19 moved back into the house in 2016. I rented it out
20 temporarily to another tenant.

21 Q. Does anyone live there with you?

22 A. Yes, my fiancé.

23 Q. Who is that?

24 A. Brooks Wharton.

25 COURT REPORTER: If you don't mind,

1 could you spell that for me?

2 THE WITNESS: Sure. B-R-O-O-K-S,
3 W-H-A-R-T-O-N.

4 COURT REPORTER: Thank you.

5 BY MR. SUGGS:

6 Q. Have you ever been married?

7 A. No.

8 Q. Has he?

9 A. No.

10 Q. These background questions are almost
11 exclusively for jury selection purposes.

12 A. Okay.

13 Q. That's where I'm going with some of
14 this, just so you know. I'm not being invasive on
15 purpose.

16 A. Okay.

17 Q. Does Brooks work outside the home?

18 A. Yes.

19 Q. What does he do?

20 A. He's a contractor. He has his own
21 company.

22 Q. What's his own company name?

23 A. W. Field Construction.

24 Q. Is it residential or commercial?

25 A. Residential.

1 Q. It's located here in Charleston?

2 A. Um-hum.

3 Q. Yes?

4 COURT REPORTER: Is that yes?

5 THE WITNESS: Yes.

6 BY MR. SUGGS:

7 Q. It seems strange --

8 A. Right.

9 Q. -- and it almost sounds rude, but if
10 you say uh-huh or uh-uh, one of us three is
11 probably going to remind you is that a yes or is
12 that a no. Okay?

13 Do you have any children?

14 A. No.

15 Q. Does Mr. Wharton?

16 A. No.

17 Q. Where did you grow up?

18 A. Charleston.

19 Q. Where did you go to school?

20 A. I went to -- starting from what,
21 grammar school or?

22 Q. Yeah. I mean, a lot -- probably a lot
23 of people go to the same --

24 A. Okay.

25 Q. -- schools throughout Charleston.

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1 A. I started at Springfield Elementary
2 School. Then I went to Drayton Hall, then I went
3 to Middleton High School, and then I graduated from
4 the College of Charleston.

5 Q. Anything beyond College of Charleston?

6 A. Yeah. I took classes abroad in
7 interior design and I also -- yeah. And at Trident
8 Tech.

9 Q. Do you have any degrees beyond College
10 of Charleston?

11 A. No.

12 Q. What did you study there?

13 A. I have a Bachelor of Arts in Hispanic
14 studies, so I speak Spanish. And then I have a
15 minor in hospitality and tourism management.

16 Q. What do you do for a living?

17 A. I work for a company called Classic
18 Journeys. And we specialize in small group tours,
19 walking tours, all over the world.

20 Q. Was there a period of time when you
21 were with Boeing?

22 A. Yes.

23 Q. When was that?

24 A. I started Boeing in 2022 and left last
25 November.

1 Q. What did you do for Boeing?

2 A. I worked as a regional manager.
3 Customer relations, essentially.

4 Q. And prior to that I believe you were
5 serving in bartending for some period of time?

6 A. Yes. After the pandemic, um-hum.

7 Q. And it seemed to me that maybe you're
8 in the tourism industry --

9 A. Prior to that.

10 Q. -- Pandemic hit and you worked at some
11 Wreck?

12 A. The Wreck of Richard and Charlene.
13 It's a restaurant in Mount Pleasant on Shem Creek.

14 Q. Got you.

15 A. But I had always worked there two
16 nights a week leading up to the pandemic. I just
17 worked there more often after the pandemic.

18 Q. Got you. Pre-pandemic, who were you
19 employed by?

20 A. A company called Amber Road Tours.

21 Q. What did you do?

22 A. They were also tour operators
23 specializing in small group tours to Europe.

24 Q. So similar to what you're doing now?

25 A. Correct.

1 Q. Got you. Have you ever served in the
2 military?

3 A. No.

4 Q. Ever been involved in a lawsuit?

5 A. No.

6 Q. Ever been charged with a crime?

7 A. No.

8 Q. You've lived a boring life.

9 A. Yeah.

10 Q. What do you like to do?

11 A. Well, I enjoy running. It's one of the
12 things that I do in my free time. We take our dogs
13 to the park quite frequently, James Island County
14 Dog Park. We love going to the beach. We love
15 going out on the boat. Just kind of Low Country
16 lifestyle.

17 Q. Do you still go to Orangetheory?

18 A. No.

19 Q. Do you use social media?

20 A. Yes.

21 Q. What platforms?

22 A. Instagram and Facebook.

23 Q. What would you have been using back in,
24 what, 2019?

25 A. Instagram or Facebook.

1 Q. 2020? 2020, excuse me.

2 A. Um-hum. Instagram and Facebook.

3 Q. Did you post anything on Instagram or
4 Facebook related to your donation or any injuries
5 related to the donation?

6 A. I don't think so. I don't typically
7 post things like that.

8 Q. All right. As of January of 2020, what
9 was your health like generally?

10 A. Healthy, active. I'm really into
11 fitness. I'm really into healthy diet.

12 Q. I'm familiar with Orangetheory. And
13 it's a solo concept of giving your -- getting your
14 heart rate to a particular range and then
15 sustaining that heart rate?

16 A. Yeah. You get into the orange zone, is
17 what they call it, but it's a -- it's circuit
18 training. So basically you just move around from
19 the treadmill to the weight room to the rower.

20 Q. And how long had you been doing
21 Orangetheory as of January 2020?

22 A. At least four years.

23 Q. When did you stop?

24 A. Probably about a year ago.

25 Q. All right. What's your dominant hand?

1 A. My right hand.

2 Q. And any -- prior to January of 2020,
3 any health or medical conditions or concerns?

4 A. Prior to January of 2020.

5 Q. Maybe some thyroid issues?

6 A. Oh, yeah. I have a thyroid issue,
7 sure.

8 Q. Is it hypo or hyper?

9 A. Hypo. I take 75 milligrams of thyroid
10 medication a day.

11 Q. And that manages the --

12 A. Yeah.

13 Q. What did the hypothyroidism cause from
14 a symptoms standpoint?

15 A. Well, it's -- it can cause you to be
16 tired. It can cause digestion issues like
17 constipation. It can cause slow think -- like
18 foggy thinking. It's a hormonal imbalance.

19 Q. Is that -- is the hypothyroidism
20 related to the Hashimoto's disease or is it one and
21 the same?

22 A. I think Hashimoto's is an autoimmune
23 disease.

24 Q. Do you have that as well?

25 A. Someone at once thought that I had

1 that, but I've never been officially diagnosed with
2 that. In fact, the last time I went to my -- my
3 thyroid condition was being managed by my OBGYN.
4 And when I actually went and saw a thyroid expert,
5 Charleston Thyroid, she was like, I'm not sure that
6 you should still be on your thyroid medication. So
7 I'm...

8 Q. Okay. And with the medication, did
9 that take care of the fatigue and foggy thinking
10 and some of the other issues?

11 A. Yes.

12 Q. There was mention in your records at
13 one point about having some memory issues?

14 A. Uh-huh.

15 Q. And is it your thought that that was
16 related to the hypothyroidism?

17 A. It could be related to hypothyroidism.
18 This -- that mention in my file was talking about
19 my deceased mom and not being able to have strong
20 memories of her in conversations that we had.

21 Q. Okay. Do you presently experience any
22 memory issues?

23 A. Sometimes I have memory issues, but a
24 lot of times that's -- from what I've been
25 explained, that could be a symptom of like grief or

1 ADHD or something like that.

2 Q. Prior to January of 2020, did you have
3 any neurological issues such as fainting or near
4 fainting, tingling, loss of feeling, numbness,
5 anything like that?

6 A. No.

7 Q. And prior to 2020, had you ever had any
8 medical condition related to your right arm or
9 hand?

10 A. No.

11 Q. No numbness in your fingers, hands,
12 arms, pain in your fingers, anything like that?
13 Not a trick question, I promise.

14 A. No.

15 Q. Who is your family doctor?

16 A. Dr. Hugh Thompson.

17 Q. OB?

18 A. Current OB, Jennifer Donlin.

19 Q. Who is she with?

20 A. East Cooper Medical. But she wasn't
21 who initially diagnosed my thyroid. That was
22 Eugene.

23 Q. Dr. Eugene?

24 A. Dr. Eugene. And she was with Rhett
25 Women's Center.

1 Q. Have you been treated for any mental
2 health conditions such as anxiety or depression?

3 A. Throughout the course of my life or
4 right now?

5 Q. Your adult life.

6 A. Yeah. Yes.

7 Q. What?

8 A. I've had depression.

9 Q. And who treated you?

10 A. It's been a long time. Her name was
11 Dr. Lloyd.

12 Q. Was she a psychiatrist?

13 A. Yes.

14 Q. Was that associated with family loss?

15 A. That was associated with something in
16 college.

17 Q. Okay.

18 A. And then I talked to my regular doctor
19 about that. In my adult life, Dr. Thompson.

20 Q. Are you currently taking any
21 medications?

22 A. Just thyroid medication.

23 Q. Prior to January of '20, had you seen
24 an orthopaedist?

25 A. I don't think so.

1 Q. Ever been to a neurologist?

2 A. No.

3 Q. Ever been declared to have any amount
4 of physical impairment or disability?

5 A. No.

6 Q. Prior to January of 2020, was there
7 anything that you were unable to do for yourself?

8 A. No.

9 Q. Is there anything presently that you
10 are unable to do for yourself?

11 A. No.

12 Q. I want to delve in a little more to the
13 details of January 2, 2020. That was the date of
14 your donation?

15 A. Yes, that's correct.

16 Q. And just to the best of your ability or
17 recollection, walk me through that morning. Was it
18 morning time that you donated?

19 A. No, it was afternoon.

20 Q. What did you do that morning?

21 A. Went to work at Amber Road Tours
22 downtown on Meeting Street.

23 Q. What were your work hours typically?

24 A. 9:00 to 5:00.

25 Q. All right. And then you went to the

1 gym?

2 A. Went to Orangetheory on my way home,
3 um-hum.

4 Q. And my understanding from the beginning
5 of your deposition is that when you started the
6 day, you had not planned on donating blood?

7 A. No.

8 Q. It wasn't until you arrived at
9 Orangetheory that you considered donation?

10 A. That's right. That's right. There was
11 a woman that was in front with a -- looked like a
12 table set up asking for volunteers to donate blood.

13 Q. Had you done anything strenuous that
14 day up until that point?

15 A. No.

16 Q. Had you eaten lunch?

17 A. Yes.

18 Q. Do you remember what you did the
19 previous evening?

20 A. No.

21 Q. What day of the week was this?

22 A. I do not recall.

23 Q. Do you drink alcohol?

24 A. Yes.

25 Q. Is that a daily thing or weekly?

1 A. I would say weekly.

2 Q. Do you drink during the week?

3 A. Yes.

4 Q. I ask with no judgment.

5 A. I like to have a glass of wine with
6 dinner.

7 Q. Is that -- back in January of '20, did
8 you typically -- routinely have a glass of wine
9 with dinner?

10 A. Well, that depends. Because
11 historically in January I practice Dry January, so
12 I don't know if that was one of the years where I
13 was doing the whole 30 or not, to be honest with
14 you. I don't recall. But that was typically the
15 month where you hit the reset button.

16 Q. I've done the whole 30 twice.

17 A. Yeah, me too. Well, four times.

18 Q. Good for you. January 2nd was a
19 Thursday.

20 A. Um-hum.

21 Q. And so the day before, obviously, would
22 have been New Year's Day.

23 A. Um-hum.

24 Q. Does that ring a bell at all what you
25 might have done New Year's Day?

1 A. New Year's Day of 2020? No.

2 Q. I didn't know if you had a routine. I
3 know what I do on New Year's Day. I didn't know if
4 you had a routine where you have a family meal or
5 celebration, something like that.

6 A. No. We don't have a consistent New
7 Year's Day plan, family plan.

8 Q. Do you know what you did New Year's Eve
9 of '20, '19 to '20?

10 A. New Year's Eve of '20. Not without
11 looking at the memories on my phone.

12 Q. That's fine. So sitting here today,
13 you don't know whether you had any alcohol the
14 previous evening?

15 A. No.

16 Q. You said -- is the Orangetheory on what
17 road?

18 A. Savannah Highway.

19 Q. Was Orangetheory promoting the blood
20 drive?

21 A. I don't recall what their affiliation
22 was. In some way they must have allowed The Blood
23 Connection to set up in front of their studio.

24 Q. So you arrived. You see someone out
25 front and did you decide to donate?

1 A. After the class. I said let me take
2 the class first and then I'll do it because it was
3 the right thing to do. And I didn't want to
4 obviously donate before exercising because
5 sometimes you -- they tell you it can make you
6 light-headed or tired.

7 Q. Had you donated before?

8 A. I think I had donated maybe in college.

9 Q. Have you donated since?

10 A. No.

11 Q. As far as your prior donation in
12 college, any issues, problems?

13 A. No.

14 Q. Of course like any adult in the Western
15 world, you've had medical workups at times, blood
16 draws, et cetera. Ever had any complications from
17 a blood draw, whether that be bruising, hematoma,
18 nerve injury, anything like that?

19 A. No.

20 Q. Was anyone with you that day?

21 A. No.

22 Q. Did any friends or associates who
23 worked out with you also go to give blood after the
24 class?

25 A. Probably, yes.

1 Q. Could you identify them?

2 A. No.

3 Q. All right. Walk me through -- you
4 finish your workout. You go back out to the
5 parking lot, I presume?

6 A. Um-hum.

7 Q. And you proceed to go through the
8 process for blood donation, is that fair?

9 A. Yes.

10 Q. All right. And was it one of the
11 mobile buses?

12 A. Yes.

13 Q. Do you remember anything about the
14 personnel with whom you interacted?

15 A. I remember that it was a young woman
16 with blonde hair. She seemed very young and
17 inexperienced. And I remember that -- this is
18 probably unrelated, but she had poor hygiene in
19 regards to her teeth.

20 Q. Okay.

21 A. That just stood out to me.

22 Q. When you say poor, like black teeth?

23 A. They were extremely dirty, yellow.

24 Q. Okay.

25 A. Green, yellowy. Just a lot of plaque

1 build-up.

2 Q. And was it just a single person that
3 you interacted with?

4 A. That was the woman that took my -- drew
5 my blood. The woman that came and pulled the
6 needle out of my arm was an African American woman
7 and she appeared to be the manager.

8 Q. Do you remember anything about the
9 discussion you had with TBC personnel prior to the
10 blood draw?

11 A. No.

12 Q. Do you remember anything someone from
13 TBC told you or anything you told someone from TBC
14 prior to the blood draw?

15 A. No.

16 Q. Do you remember what questions you were
17 asked?

18 A. No.

19 Q. Do you remember what information was
20 provided to you prior to donation?

21 A. No.

22 Q. Can you confirm that you did complete a
23 medical questionnaire on the computer?

24 A. Did I complete a medical questionnaire
25 on the computer. No.

1 Q. All right. You just don't remember one
2 way or another?

3 A. Right. Correct.

4 Q. I'll represent to you that I have a
5 copy of what appears to be a questionnaire
6 completed by you and it also indicates that you
7 reviewed the blood donor educational material. Do
8 you remember reviewing the blood donation
9 educational material?

10 A. No. You said it was on a computer?

11 Q. Probably a laptop, yeah, or like a
12 pad -- iPad.

13 A. An iPad. Okay.

14 Q. Most likely. And I appreciate that it
15 was three and a half years ago.

16 A. Uh-huh. I do not recall. I'm sure
17 there was something leading up to it.

18 Q. You just don't recall the details?

19 A. Correct.

20 Q. And do you remember signing the consent
21 form?

22 A. Yes.

23 Q. You would have read the consent prior
24 to signing it?

25 A. Yes.

1 Q. All right. Walk me through the
2 donation. I assume you sit in a big chair?

3 A. Sit -- well, yes. We waited for a
4 little while, myself and some others. It seemed --
5 the environment seemed like either they were behind
6 or didn't have enough people. It seemed kind of
7 chaotic. When it came to be my turn and they put
8 me in the chair and the girl began to prepare, she
9 asked out loud something to the effect of do I put
10 the needle in first or the clamp on first. And I
11 immediately felt, you know, on guard.

12 And then she put the needle in and it
13 drove in really, really hard. It was not a
14 finesse, like a phlebotomist. It was hard. And
15 immediately I felt a sharp pain that went down into
16 my right hand, like a really, really cold
17 sensation, burning cold sensation, and then
18 numbness. And I said, something's not right,
19 something's not right, please take it out.

20 And so she called over the manager, who
21 was the African American woman, who explained to me
22 that something was awry. And she said, I'm going
23 to remove the needle and more than likely you're
24 going to have a hematoma. And I did. And then I
25 sat there for awhile. They asked me if I wanted to

1 give blood on the other arm. I said, no, thanks,
2 and that was it and I left. I think they put like
3 a Cold Pack on my arm or something to kind of
4 reduce the swelling.

5 Q. Um-hum. Walk back through. I tried to
6 write fast.

7 A. Okay. Sorry.

8 Q. No, no, no, you're good. So you recall
9 that the phlebotomist asked out loud, if you will,
10 or maybe to the manager or someone else, do I need
11 to put the needle in first or the clamp on first?

12 A. Something like that.

13 Q. Do you understand what that meant?

14 A. No. I'm sure that I -- I don't -- I'm
15 sure it refers to whatever helps bring blood to the
16 vein or something. I don't know.

17 Q. Okay. And then you said she put in the
18 needle. And I believe you described it as hard,
19 not with finesse?

20 A. That's what it felt like.

21 Q. Did you watch her insert the needle?

22 A. Yes.

23 Q. And can you show me your arm?

24 A. (Indicating).

25 Q. Will you point to the area where she

1 inserted the needle?

2 A. Somewhere around here (indicating).

3 Q. All right. So what I would call that
4 is the antecubital region, but essentially in the
5 middle of your anterior elbow?

6 A. Yeah.

7 Q. So this being your posterior elbow,
8 this is your anterior elbow, essentially in the
9 middle of it. Is that accurate?

10 A. I think so, yes.

11 Q. Did you decide which arm to use?

12 A. That I don't recall.

13 Q. Do you recall whether the phlebotomist
14 evaluated both arms to select which one to use?

15 A. I cannot remember that.

16 Q. Do you recall whether she felt or
17 palpated both arms?

18 A. I cannot remember that.

19 Q. Do you remember the phlebotomist
20 expressing any concerns? I would think you'd have
21 good veins being thin, but do you remember she
22 had any -- expressed any concerns about the quality
23 of your veins, if you will?

24 A. I don't think so.

25 Q. Did she apply a tourniquet?

1 A. I think so, yes.

2 Q. Do you recall when it was released?

3 A. No.

4 Q. I assume she cleaned your arm before
5 she stuck you?

6 A. Yes.

7 Q. Let me hand you -- we exchange what are
8 called written interrogatories or written
9 discovery. Part of that are questions.

10 A. Okay.

11 Q. I'm going to pass you -- all I did was
12 print -- all I care about for purposes of this
13 question is Number 17 at the bottom of Page 13 and
14 on to Page 14. Just read that over with me. Or
15 not with me, read it over and then let's talk about
16 it.

17 A. Okay.

18 Q. Miss Sample, is the answer as written
19 to Interrogatory 17 accurate?

20 A. Yes.

21 Q. Are there any details that you need to
22 revise?

23 A. No.

24 Q. Okay. You mentioned to me a moment
25 ago, you said as soon as she put in the needle you

1 felt pain. You said running down to your hand?

2 A. Um-hum. Yes.

3 Q. That there was a cold sensation, but it
4 also felt burning --

5 A. Yes.

6 Q. -- is that fair? And you wrote here
7 that the pain was instantaneous and the sensation
8 that a nerve had been hit. Is that accurate?

9 A. Yes.

10 Q. And that -- you didn't mention this
11 earlier, but in your description here it writes her
12 arm immediately began to turn blue. Is that
13 accurate?

14 A. Yes. I think it was more my hand.

15 Q. Hand was blue? Going back for a
16 moment. We were talking about the location of the
17 stick. Do you recall how the phlebotomist
18 identified what vein she was going to stick?

19 A. No.

20 Q. And I wouldn't expect you to know the
21 answer to this, but do you know what vein was
22 stuck?

23 A. No.

24 Q. It was just a single attempt?

25 A. Yes.

1 Q. And once the needle was inserted, was
2 it manipulated in any way other than to withdraw
3 it?

4 A. No.

5 Q. Now, having given blood before,
6 granted -- it's my understanding that the donation
7 needles are a pretty large gauge needle, somewhat
8 larger than what you would typically have blood
9 drawn from in an office. But having had sticks in
10 this area in the past, did the pain you felt at the
11 time of the donation seem to be greater than what
12 you would expect?

13 A. Greater than what I would expect from a
14 normal donation?

15 Q. Correct.

16 A. Yes. It was abnormal.

17 Q. Okay. And that's what I understood
18 from your testimony. I just wanted to make --
19 obviously when you have a needle going into your --
20 through your skin, there's going to be some amount
21 of discomfort, but what you experienced was out of
22 the range of what you would consider to be normal
23 discomfort associated with a blood draw?

24 A. Yes.

25 Q. Was any blood collected?

1 A. That I don't recall. It was a blur
2 after when that started.

3 Q. And I believe you testified earlier
4 that as soon as the needle was inserted, you said
5 something is not right?

6 A. Yes.

7 Q. Or something to that effect?

8 A. Yes.

9 Q. And it sounded to me like the
10 phlebotomist asked for assistance from her manager?

11 A. Yes.

12 Q. And her manager came over and
13 immediately withdrew the needle?

14 A. Yes.

15 Q. How much time would you estimate passed
16 between your saying something's not right and the
17 needle being withdrawn?

18 A. Maybe a minute or two. It was pretty
19 quick.

20 Q. You -- we may look at it. I can't
21 recall exactly what records I pulled, but somewhere
22 you told a physician that the pain was severe, like
23 an electric shock. Is that an accurate description
24 of your pain at the time of the needle insertion?

25 A. Yeah, you could describe it like an

1 electrical sensation.

2 Q. I think you've already said it, you
3 might have said it twice, but the pain you
4 experienced was immediate upon needle insertion?

5 A. Yes.

6 Q. And what did you think had caused the
7 pain? Did you think she had hit a nerve?

8 A. Hard to know what I thought when that
9 was occurring, but that would make -- that would be
10 the best explanation, yes.

11 Q. All right. And so you immediately
12 suspected that you had experienced some type of
13 injury from insertion of the needle?

14 A. Yes.

15 Q. Going back to the blueness in your
16 right upper extremity. You said you felt it was
17 your hand. Was it your whole hand or a particular
18 finger?

19 A. I don't recall, but my best guess was
20 my whole hand.

21 Q. How long did that blueness last?

22 A. I think that subsided within the next
23 few minutes after removing the needle.

24 Q. And is your impression that -- it was
25 an African American female who removed the needle?

1 A. Yes.

2 Q. It was your impression she was the
3 manager?

4 A. Yes. Or had more experience. She
5 seemed to be more confident.

6 Q. Once the needle was removed, did your
7 pain change at all?

8 A. I think my pain began to subside, yes.

9 Q. And you think they brought you a Cold
10 Pack?

11 A. Yes.

12 Q. And did they also give you a Band-Aid
13 and do that Kerlix wrap on it, you know, that kind
14 of elastic -- sticky elastic wrap?

15 A. I think so, yes.

16 Q. Did you -- did they ask you to elevate
17 your arm?

18 A. Hmm. I don't think so.

19 Q. Did you or the staff apply pressure to
20 the location of the donation?

21 A. I don't recall.

22 Q. You said you stayed awhile. Do you
23 recall about how long?

24 A. Maybe 10 or 15 minutes.

25 Q. Did you have any further conversations

1 with the TBC staff after the donation beyond them
2 asking you if you wanted to try the other arm and
3 you saying no?

4 A. No.

5 Q. Did they seem concerned about your
6 condition and your complaints?

7 A. I mean, they were -- they were caring
8 and I could tell that they -- this was probably an
9 abnormal incident.

10 Q. Did -- I'm sorry. Go ahead.

11 A. Yeah, there wasn't -- I don't really
12 have anything else to add to that.

13 Q. Did the African American, when she told
14 you you're likely to have a hematoma, did she
15 evaluate it again and confirm that what she was
16 seeing was a hematoma?

17 A. I don't recall. I just remember having
18 like a golf ball kind of size swollen area where
19 they pulled the needle out and she said that that
20 was normal based on what had occurred.

21 Q. How -- did that develop while you were
22 still there --

23 A. Yes.

24 Q. -- at TBC?

25 A. Yes. It eventually, of course, went

1 down with time.

2 Q. Can you show me approximately where
3 that hematoma was located?

4 A. It was somewhere right in here
5 (indicating).

6 Q. So in the proximate site of the
7 donation?

8 A. Yes.

9 Q. Do you recall receiving any verbal
10 instructions at the time of discharge?

11 A. They may have told me to ice it or
12 something like that.

13 Q. Do you remember being provided a
14 post-donation care instruction sheet?

15 A. No.

16 Q. But you wouldn't deny receiving it, you
17 just don't recall one way or another?

18 A. Correct.

19 Q. When you left the donation site, were
20 you concerned?

21 A. Not really. I just thought it would be
22 something that would resolve itself.

23 Q. And did it resolve itself?

24 A. No.

25 Q. All right. Did you go home after the

1 donation?

2 A. No. I went next-door to Harris-Teeter
3 and picked up what I needed for dinner.

4 Q. What did you do then?

5 A. Went home and cooked dinner with my
6 fiancé.

7 Q. Were you all engaged at the time?

8 A. Yes.

9 Q. Do you recall when you removed the
10 bandage?

11 A. I think the following morning.

12 Q. How did your arm look?

13 A. It was still bruised.

14 Q. Was it still swollen?

15 A. Oh, sorry, I forgot my -- I don't know
16 why my watch did that.

17 You know, I don't think it was swollen.
18 It was just bruised the next day.

19 Q. So the hematoma had resolved by that
20 point?

21 A. Yes.

22 Q. What color was the hematoma?

23 A. Like a purply yellow. The hematoma or
24 the bruising?

25 Q. The hematoma.

1 A. I don't recall the color of the
2 hematoma. I imagine it would probably be a red or
3 purple color, but...

4 Q. How long did it last? Excuse me. I
5 totally already asked you that. Did you take any
6 photographs?

7 A. Yes.

8 Q. Of the hematoma?

9 A. No. I took a couple photographs of my
10 bruised arm.

11 Q. Could you provide those to your
12 attorney?

13 A. Yes.

14 Q. Do you recall when you took them?

15 A. The next day.

16 Q. Yeah, that would be helpful. And the
17 area of the bruising I assume was the same area as
18 the hematoma?

19 A. Yes.

20 Q. Was the diameter --

21 A. Well, it kind of went -- it kind of
22 went further around, you know.

23 Q. Ran down towards your hand?

24 A. If I recall, yeah.

25 Q. And do you remember about how long that

1 bruising lasted?

2 A. A few days.

3 Q. Did it continue to improve?

4 A. Yes.

5 Q. What about swelling? Did you have any
6 swelling?

7 A. The next day I don't recall there being
8 swelling, no.

9 Q. When did you realize that you had --
10 well, strike that.

11 Did you have any tingling in your
12 fingers, hand or arm?

13 A. We're talking about the next day?

14 Q. At any point.

15 A. Yes.

16 Q. When did that start?

17 A. I would say that that started a couple
18 of months after the incident. I can't really put a
19 definitive date on when that started.

20 Q. But you've also experienced some
21 numbness in your right extremity?

22 A. Yes.

23 Q. Let me go back to tingling. Excuse me.
24 Where did you experience tingling?

25 A. In my hand and these two fingers.

1 Q. Tell me one, two, three, four, five.
2 What fingers?

3 A. My ring finger and my pinky finger.

4 Q. Okay. Once it started, was it constant
5 or intermittent?

6 A. Intermittent.

7 Q. Was it associated with anything in
8 particular?

9 A. It seemed like when my arm was in a
10 bent position would be when I would experience it
11 the most.

12 Q. And then you've also had some numbness?

13 A. Yes.

14 Q. And has that numbness been since the
15 time of your donation?

16 A. Yes.

17 Q. And where is that numbness located?

18 A. The numbness started in my arm and into
19 my hand.

20 Q. And you just touched your forearm, so
21 maybe from your elbow along your forearm into your
22 hand?

23 A. Yes.

24 Q. Has that been constant or intermittent?

25 A. Intermittent.

1 Q. Is that also associated with bending
2 your right elbow?

3 A. Yes.

4 Q. And the blueness that we talked about
5 earlier, my understanding was it dissipated fairly
6 rapidly?

7 A. Yes.

8 Q. It has not returned?

9 A. Correct.

10 Q. Have you had any changes in temperature
11 in your right extremity?

12 A. Sometimes I feel that my -- those same
13 two fingers, the pinky finger and the ring finger,
14 are cold. Like they -- in comparison to the other
15 fingers on my hands.

16 Q. And how do I articulate this exactly?
17 Is it when you touch those fingers they feel cold
18 to the touch or is it almost like an internal
19 sensation of, oh, my fingers seem to be cold?

20 A. Both. I can touch them to my face and
21 feel that they feel colder than my other fingers.

22 Q. Even at present?

23 A. Yes.

24 Q. Any changes in strength in your right
25 extremity, whether it be grip strength or any other

1 type of strength?

2 A. No.

3 Q. Now, we know you initially had pain
4 upon needle insertion. Since that time and moving
5 forward from the time of the donation, did you have
6 relatively consistent pain in your right upper
7 extremity?

8 A. Can you ask that question again?

9 Q. Be happy to. So you described for me
10 earlier that you had pain immediately upon
11 insertion of the needle.

12 A. Yes.

13 Q. From that point forward, did the pain
14 stay the same, get better, get worse? Can you kind
15 of tell me the pattern of pain?

16 A. I think there was a period of time
17 where I considered that it had resolved itself, so
18 I would say that it got better.

19 Q. When was that period of time?

20 A. I would say probably -- it's hard for
21 me to remember specific times, but I would say
22 maybe three to six months following the incident.
23 I just felt like it was resolving itself.

24 Q. So you had pain for the first three to
25 six months, but then it seemed to resolve?

1 A. No, I would say I felt like during that
2 period following the donation that it was resolving
3 itself.

4 Q. Got it. Then what happened?

5 A. I started experiencing a sensation
6 where my arm -- my right arm would fall asleep
7 while I was sleeping and it would wake me up
8 consistently.

9 Q. Did you get a pins-and-needles feeling?

10 A. Yes. Yes.

11 Q. And that would wake you up most nights?

12 A. Pretty consistently, yes. There was a
13 certain period like around 3:00 AM where I would
14 wake up and -- because my arm was in a bent
15 position, it would fall asleep.

16 Q. How do you sleep?

17 A. On my side.

18 Q. Was it -- do you sleep on your right
19 side?

20 A. Right side.

21 Q. And can you give me a timeframe for
22 when you realized this was happening?

23 A. Not really. This was kind of --
24 there's a -- it's hard to recall dates. This was
25 all happening -- I remember this was all happening

1 during the pandemic. That launched in March of
2 2020, so it was -- the pandemic became, you know,
3 just the forefront I think of everybody's mind, so
4 it's hard to recall exactly when this started
5 becoming a problem.

6 Q. When you got home to your fiancé on the
7 night of the donation or evening of the donation,
8 did you tell him about it?

9 A. Yes.

10 Q. What did you tell him?

11 A. I was just like listen to this crazy
12 story when I donated blood on my way home from work
13 today.

14 Q. Did he express concern?

15 A. Not abnormally, no.

16 Q. Did you have any communication with
17 employees of The Blood Connection after the date of
18 the donation?

19 A. I think they called me a couple times
20 and asked me how I was doing.

21 Q. It looks like you might have spoken
22 with someone on January 9, 2020. Is that generally
23 consistent with your recollection?

24 A. I remember somebody called me. Maybe
25 somebody called me once or twice and asked me how

1 things were going.

2 Q. And at that point what did you -- do
3 you remember what you told them?

4 A. I thought I -- I think I told them that
5 things were resolving themselves, that it was
6 getting better.

7 Q. There's a note that says that you had
8 some purple/yellow bruising and redness on the,
9 quote, medial aspect of your elbow, so it would be
10 right there (indicating). Any reason to dispute
11 you would have reported that?

12 A. No.

13 Q. But you just don't remember the details
14 or is that consistent with what you recall telling
15 them?

16 A. I don't remember the details of what I
17 told them. They probably asked me specific
18 questions and I answered with specific answers,
19 what did it -- what did the site look like or
20 whatever. I don't...

21 Q. Okay.

22 (EXHIBIT 1, Roper St. Francis Patient
23 Information Pain Form, Roper Ortho 0029, was marked
24 for identification.)

25 BY MR. SUGGS:

1 Q. I've marked as Exhibit 1 a Roper
2 St. Francis Patient Information Pain Form Bates
3 stamped Roper Ortho 29. The date next to your
4 signature is February 1st, 2020, but above that the
5 date of injury and approximate first date of
6 symptoms are all February 1, 2020.

7 A. Um-hum.

8 Q. So I'm a little confused. Do you know
9 when you completed this pain form?

10 A. What is this? Where is this -- this is
11 from Roper St. Francis Pain Form. Where was this
12 obtained?

13 Q. Roper Orthopaedics.

14 A. I don't know when I completed this. Is
15 that what you asked me?

16 Q. Yes. I'm just trying -- you had it
17 dated February 1, 2020. Do you believe that's the
18 date that you completed this form?

19 A. Approximate first date of symptoms. I
20 don't know.

21 Q. Is that your handwriting?

22 A. Yes.

23 Q. And your signature?

24 A. Yes.

25 Q. And if you read the brief description

1 of the accident/injury, nerve was punctured while
2 donating blood, technician had to immediately
3 remove needle, developed hematoma. Hand turned
4 blue, ice cold. Is that an accurate description of
5 the accident and injury?

6 A. Yes.

7 Q. And that's, in fact, your description
8 of the accident/injury, correct?

9 A. That is.

10 Q. We're only going to look at select
11 portions of some of these records, so don't worry.
12 I'm not going to make you read the whole thing.

13 (EXHIBIT 2, Roper St. Francis Physician
14 Partners medical document dated 10/9/20, Roper
15 Primary Care 023 to 025, was marked for
16 identification.)

17 BY MR. SUGGS:

18 Q. This is Exhibit 2. It is Roper
19 St. Francis Physician Partners/primary care note
20 from October 9, 2020. It's Bates stamped Roper
21 Primary Care 23 through 25. Do you know when you
22 first sought medical attention or treatment related
23 to your right arm?

24 A. I don't recall.

25 Q. Would anybody have accompanied you to

1 Dr. Hugh Thompson for this October 9, 2020 visit?

2 A. I don't typically take somebody with me
3 to the doctor, no. No.

4 Q. If you look on that first page, it's
5 called -- has a section called history of present
6 illness.

7 A. Okay.

8 Q. And then go down past the PHQ-9 and
9 you'll see a description which begins with
10 Miss Sample presents today to discuss when she
11 tried to donate blood at The Blood Connection. Do
12 you see that?

13 A. Um-hum. Yes.

14 Q. Will you review that paragraph under
15 the HPI section on Roper Primary Care 23 and let me
16 know whether it appears to be accurate.

17 A. Yes.

18 Q. Yes, it does appear to be truthful and
19 accurate?

20 A. You're referring to this paragraph that
21 says Miss Sample presents today to discuss when she
22 tried to donate blood?

23 Q. Yes, ma'am, down to she states she is
24 currently doing well, she denies any palpitations,
25 et cetera, et cetera.

1 A. Yes, this is accurate.

2 Q. So as of October 9, 2020, you are
3 continuing to have discomfort?

4 A. Yes.

5 Q. And it was suspected that you might
6 have mild nerve damage to your I believe median --
7 does it say -- oh, if you look at the next page
8 under assessment, it says injury of median nerve at
9 right forearm level. Do you see that? Down under
10 treatment.

11 A. Yes.

12 Q. So there's suspected nerve damage. Did
13 you relate that suspected nerve damage to the
14 donation, to the blood donation?

15 A. No.

16 Q. You did not?

17 A. Did I relate that to --

18 Q. Yes.

19 A. Oh, I thought you meant did I
20 communicate that to them. Pardon me.

21 Q. No.

22 A. Yes. Probably, yes. But I think my
23 discussion with Dr. Thompson was that anything
24 nerve-related would resolve itself with time. He
25 kind of just indicated that it would need more

1 time.

2 Q. Okay.

3 A. He wasn't overly concerned.

4 Q. Did you do what he asked and try the
5 moist heat several times daily?

6 A. Yes.

7 Q. Did it help?

8 A. It was kind of like it would come and
9 go and come and go, so --

10 Q. It being what?

11 A. The discomfort.

12 Q. Did you get -- at that point did you
13 get any imaging studies?

14 A. I don't think so, no.

15 (EXHIBIT 3, Carolina Neurological
16 Clinic, LLP neurological consultation dated
17 11/11/20, Roper Ortho 0059 to 0061, was marked for
18 identification.)

19 BY MR. SUGGS:

20 Q. We've marked as Exhibit 3 Roper Ortho
21 59, which is a November 11, 2020 note at Carolina
22 Neurological Clinic. Did Dr. Thompson refer you to
23 Carolina Neurological?

24 A. I believe so, yes.

25 Q. Take a look at that HPI section, the

1 history of present illness, which is on the first
2 page.

3 A. Okay.

4 Q. Is that history of present illness
5 accurate?

6 A. Yes.

7 Q. Is anything inaccurate -- I notice it
8 said she said they tried to get blood from her
9 right hand. That's probably not right, is it?

10 A. That's incorrect.

11 Q. Okay. Is anything else in that
12 paragraph incorrect or inaccurate?

13 A. No.

14 Q. It mentions that you were having some
15 issues with typing? Do you remember having those
16 issues?

17 A. That's going back to when my arm is
18 bent probably from cold sensation in my fingers.

19 Q. All right. So you were having numbness
20 in your hand when you bent your elbow and that had
21 been since your donation?

22 A. Yes.

23 Q. If you go to plans section, which is on
24 Roper Ortho 60.

25 A. Um-hum.

1 Q. He also indicates a media (sic) nerve
2 injury and then writes: Patient's symptoms started
3 right after introduction of needle into her right
4 antecubital region that most probably injured media
5 nerve with instant pain and electrical shock
6 sensation. I don't know what it means by instead.

7 She has had some right upper extremity
8 weakness which could be due to this nerve injury.
9 Is that from a historical standpoint all accurate?

10 A. Yes.

11 Q. Now he writes that it was -- excuse me.
12 Strike that.

13 Do you have any doubt given the
14 history -- do you have any doubt that your symptoms
15 were caused by the needle insertion?

16 A. At this point I didn't have a
17 definitive diagnosis, so I'm still kind of in the
18 discovery phase.

19 Q. I'm asking -- I'm saying now. Sitting
20 here today --

21 A. No.

22 Q. -- do you have any doubts that --

23 A. No.

24 Q. So you believe confidently that your
25 symptoms and problems were related to the needle

1 insertion?

2 A. Yes.

3 Q. Did you ever have the MRI of the brain
4 that you suggested?

5 A. No.

6 Q. Did you ever have the neuropsych
7 evaluation?

8 A. No.

9 (EXHIBIT 4, South Carolina Diagnostic
10 Imaging document dated 1/14/21, Roper Ortho 0025,
11 was marked for identification.)

12 BY MR. SUGGS:

13 Q. We've marked as Number 4 the January
14 14, 2021 MR right elbow with and without contrast.
15 So you ultimately did have a diagnostic study on
16 your arm. Do you know what the conclusion was?

17 A. I think it was inconclusive. I don't
18 think they found anything.

19 Q. Right.

20 (EXHIBIT 5, Roper St. Francis Physician
21 Partners document dated 12/9/20, Roper Ortho 0027,
22 was marked for identification.)

23 BY MR. SUGGS:

24 Q. We've marked as Number 5 a
25 questionnaire from Roper St. Francis dated December

1 9, 2020, so I guess I went a little bit out of
2 order. Roper Ortho 27 to 28 is the Bates. Can you
3 look at that questionnaire and confirm to me that
4 it is your handwriting and signature on the second
5 page?

6 A. Yes.

7 Q. Going back to the first page. It's
8 asked how injury occurred. Did you write donating
9 blood?

10 A. Yes.

11 Q. And then under chief complaint, HPI,
12 can you review that section regarding location,
13 quality, severity, duration, timing, context and
14 modifying factors and tell me whether that is
15 accurate?

16 A. It is accurate.

17 MR. SUGGS: What's that?

18 MR. KEITH: I was asking if she was at
19 a meter.

20 (Off the record.)

21 (A recess transpired.)

22 (EXHIBIT 6, Coastal Vascular & Vein
23 Center Progress Note dated 5/24/21, Coastal Vein
24 0019 to 0021, was marked for identification.)

25 BY MR. SUGGS:

1 Q. I've marked as Exhibit 6 Coastal
2 Vascular & Vein Center progress note dated May 24,
3 2021 completed by Thomas Appleby, MD and Bates
4 stamped Coastal Vein 19 through 21. Do you recall
5 who referred you to Dr. Appleby?

6 A. I think it was Dr. Price.

7 Q. Who is Dr. Price?

8 A. Dr. Price is an orthopaedist.

9 Q. And do you know why you were referred?

10 A. Well, at this point they are still
11 inconclusive and they're trying to figure out
12 what's wrong with my arm. So I think he ordered --
13 I think he ordered me to go see Appleby because
14 Appleby did like an ultrasound. He did like a
15 venal ultrasound or whatever you call it when they
16 ultrasound your veins.

17 Q. Got you. You had an EMG at some point,
18 right?

19 A. What does EMG mean?

20 Q. That's the nerve conduction study.
21 It's not super comfortable.

22 A. Yes.

23 Q. And that was inconclusive as well,
24 right?

25 A. Yes. That was with Bahadori, right?

1 If I recall. Yes.

2 Q. Yeah, I don't know the answer to that.

3 A. Yeah. Because that's a neurologist
4 that does that.

5 Q. Right.

6 A. That's correct.

7 Q. That's correct?

8 A. Yes.

9 Q. All right. So you had an MRI and an
10 EMG and both of those have been inconclusive?

11 A. Correct.

12 Q. And so then they send you over to get
13 your vascular system looked at to figure out -- try
14 to figure out what's going on?

15 A. Yes, that's right.

16 Q. All right. Again look at the history
17 of present illness section there. Just read that
18 to yourself and I'm going to ask you the same
19 question, and that is whether it is accurate.

20 A. Yes, it's accurate.

21 Q. Is there something about that
22 description, any of the lines or descriptions,
23 which are inaccurate?

24 A. No.

25 Q. Now, this part here in the middle.

1 Immediately after this, she noticed a loss of grip
2 strength in her right hand and it has remained.

3 Did that loss of grip strength improve at any
4 point?

5 A. Yes, it has.

6 Q. All right. When did it improve?

7 A. Over the course of time. This -- when
8 I noticed that was when I went to the grocery store
9 right after.

10 Q. The grip strength?

11 A. Yes. Yes. But over time this has
12 improved itself.

13 Q. But it looked to me from the
14 description that it was -- that once your hematoma
15 and bruising got better, that's when you noticed
16 the loss of grip strength.

17 A. However, immediately after she noticed
18 a loss of grip strength in her hand. Hmm. I
19 don't -- I'm not sure if they're talking about
20 immediately after the incident or immediately --
21 that's kind of unclear to me.

22 Q. But your loss of grip strength was
23 either immediately after the incident or after the
24 hematoma and bruising got better, one of the two?

25 A. Yes.

1 (EXHIBIT 7, Coastal Vascular & Vein
2 Center document dated 6/24/21, Coastal Vein 0015 to
3 0017, was marked for identification.)

4 BY MR. SUGGS:

5 Q. This is a note by Dr. Appleby dated
6 June 14, 2021 from the Coastal Vascular Vein Center
7 Bates stamped Coastal Vein 15 to 17. Will you read
8 the history of present illness and tell me whether
9 it is accurate.

10 A. This is correct.

11 Q. Okay. Now, it mentions here that there
12 is numbness in your third through fifth fingers.
13 At one point did your middle finger bother you as
14 well?

15 A. Yes.

16 Q. But no longer?

17 A. Now it seems to be these two, yes, my
18 ring finger and my pinky.

19 Q. But it notes here you had an arterial
20 duplex which was unremarkable. So it didn't answer
21 any questions, is that fair?

22 Do you see that at the end of the HPI
23 section? It says RUE, that's right upper
24 extremity, arterial duplex obtained today is
25 unremarkable. Is that consistent with your

1 recollection?

2 A. Not really, no.

3 Q. What were you thinking?

4 A. It was my understanding that it wasn't
5 until I went and saw the vascular doctor where they
6 had it confirmed -- where they confirmed that there
7 was something going on.

8 Q. Okay. And it looks here -- in the
9 middle of the HPI, it noted that you -- she denies
10 any more hand coldness or difficulty with motor
11 function.

12 So is it true that you were not having
13 difficulty with motor function of your hand?

14 A. The motor function and coldness, those
15 are all kind of intermittent, so it could have been
16 a period where I wasn't experiencing that.

17 Q. When you were having difficulties with
18 motor function --

19 A. It was just a loss of strength. It
20 wasn't -- it felt like my strength wasn't like it
21 was before.

22 Q. And was it just grip strength?

23 A. Yes.

24 Q. Any other aspects of motor
25 functionality that were impacted?

1 A. No.

2 Q. If you look on the next page under
3 treatment, which is on Coastal Vein 16, you see
4 bottom quarter, I suppose, treatment, number one,
5 right arm, clinical notes?

6 A. Um-hum.

7 Q. Acute onset after donating blood,
8 symptoms are stable. Is that accurate?

9 A. Yes.

10 Q. So that the first two sentences there
11 are accurate, correct?

12 A. Correct.

13 Q. And then he notes that from a blood
14 flow standpoint, everything is normal. Suspect
15 that there is either a neuropathy after insult or
16 related to nerve compression. Is that what he told
17 you?

18 A. Yes.

19 Q. And then at the bottom, very last lines
20 of the addendum, he writes: In talking with
21 Miss Sample, it does appear that her symptoms are
22 slightly abating?

23 A. Um-hum. Yes.

24 Q. Was that true?

25 A. Yes.

1 Q. And then she still notices some
2 discoloration and cyanosis of her hand when it is
3 in certain positions. So that means coldness?

4 A. Um-hum. Yes.

5 Q. And then she still endorses some
6 weakness. And you were to return on an as-needed
7 basis. Is that consistent with your recollection?

8 A. Yes.

9 (EXHIBIT 8, Roper St. Francis Physician
10 Partners Progress Notes dated 1/7/22, Roper Ortho
11 0009 to 0010, was marked for identification.)

12 BY MR. SUGGS:

13 Q. I'm looking for a date. Okay. This is
14 Exhibit 8, January 7, 2022, note from Roper
15 St. Francis, particularly Dr. James Price, Roper
16 Ortho 9 through 10. Look at the HPI section. Is
17 that accurate?

18 A. I don't know why they're calling it a
19 cubital tunnel syndrome.

20 Q. I was going to ask you about that. Was
21 that -- were you ever diagnosed as far as you know
22 with a cubital tunnel syndrome?

23 A. What is the date of this?

24 Q. January 7, 2022.

25 A. Well, initially they -- they were --

1 someone had mentioned that, cubital tunnel
2 syndrome. Somebody along the line had mentioned
3 that during the whole discovery phase.

4 Q. Do you know whether that was -- that
5 diagnosis was ever made?

6 A. I don't think so, no.

7 Q. And it seems to me from the HPI section
8 that you were primarily symptomatic when you bent
9 your elbow?

10 A. That's correct.

11 Q. But when you -- it notes here if she
12 extends her arm fully, the symptoms go away. Was
13 that immediate? So symptomatic when bent and then
14 unbend or straighten you arm, did the symptoms go
15 away immediately?

16 A. Yes.

17 Q. And on a scale of one to ten, one being
18 very little, ten being great, how much were you
19 bothered by the symptoms you were having at that
20 point in January of 2022?

21 A. Well, it was impacting my sleep, so I
22 think that was one of the most detrimental
23 symptoms. It was waking me up a lot in my sleep
24 and I would have to extend my arm to keep it from
25 going to sleep. So on a weekly basis, multiple

1 times a week. And when something's impacting your
2 sleep, it impacts your daily life.

3 Q. Sure. Absolutely. Was it typically
4 that it would just wake you up one time during the
5 night?

6 A. I don't know.

7 Q. And would you typically be able to just
8 straighten your arm out and drift back off to
9 sleep?

10 A. Yes. How many times I woke up and did
11 that, I can't tell you.

12 Q. Will you look to the bottom section of
13 Roper Ortho 9, the treatment section, which reads
14 cubital tunnel syndrome on right. Do you see that?
15 That top page.

16 A. Um-hum.

17 Q. Patient seems a little bit better since
18 she was here last, still has occasional ulnar nerve
19 paresthesias and numbness with origination from the
20 upper medial elbow. Does that seem accurate?

21 A. Yes.

22 Q. And then after long discussion with the
23 patient as we did last time, we talked about
24 surgery and the risks and potential complications
25 of doing exploration and nerve release. She does

1 not seem to be losing any motor power and her
2 symptoms have moderated somewhat and she may
3 therefore decide not to proceed with surgery. She
4 will consider the risks and potential complications
5 against the chance of getting permanent improved by
6 having surgery. And then you'll call her if you
7 want to schedule. Is that consistent with your
8 recollection?

9 A. Yes.

10 Q. And then the next thing we appear to
11 have is that you did get surgery?

12 A. I did.

13 Q. How did you arrive at the decision to
14 have surgery?

15 A. I think I was just tired of dealing
16 with it and ready for a solution.

17 Q. What was your expectation of the
18 procedure?

19 A. Well, what Dr. Price explained to me,
20 that they would -- he would go in and do a release
21 on the ulnar nerve and that would help with those
22 sensations that I was experiencing, and it did.

23 Q. What did you understand -- did you ever
24 understand that you had a firm diagnosis?

25 A. I didn't really think I had a firm

1 diagnosis or understand that they could attribute
2 it to what happened in regards to the blood
3 connection until Dr. Appleby confirmed it, and that
4 would have been in May of 2021.

5 Q. He confirmed what?

6 A. I have the note somewhere. But he said
7 it looks like you've had some kind of injury to
8 your nerve in your arm after they did the venal
9 ultrasound. He was the first one that ever really
10 said, okay, this is something here. Because
11 everybody else was like, oh, carpal tunnel or maybe
12 this is Raynaud's syndrome. Somebody told me that
13 they thought I had Raynaud's, but I never had any
14 of that before.

15 Q. So you always suspected that your
16 symptoms were related to the donation?

17 A. I didn't really know. It just was
18 something that was consistently coming up over and
19 over again.

20 Q. But you didn't have any symptoms until
21 the date of the donation itself, correct?

22 A. Correct.

23 Q. And then from that point forward you
24 had intermittent symptoms?

25 A. Intermittent symptoms, yes.

1 Q. But sitting here today, what do you
2 understand your diagnosis to have been?

3 A. I understand that there was some sort
4 of ulnar nerve insult that occurred when I gave
5 blood.

6 Q. Was the ulnar nerve -- and I appreciate
7 you're not a doctor, but as far as you know --

8 A. Yeah.

9 Q. -- being the patient, is it your
10 understanding that the ulnar nerve was the only
11 nerve that was injured?

12 A. I believe so, yes.

13 Q. And you said Appleby is the one that
14 told you that he suspected that the nerve injury
15 was related to the donation?

16 A. Yes.

17 Q. Your surgery appears to have been on
18 March 21st, 2022? Is that accurate as far as you
19 know?

20 A. Yes.

21 Q. What is your understanding from a
22 layperson standpoint that they did in that
23 procedure?

24 A. From a layperson, he explained to me
25 that he was going to go in and perform an ulnar

1 nerve release. So I guess he was going to release
2 whatever compression was on the nerve. And he told
3 me that he was going to have to move it, move the
4 nerve somehow or make it -- I knew that it was
5 going to be closer to the skin after surgery.

6 Q. Did you talk to him after surgery?

7 A. Yes.

8 Q. Did he tell you what he found?

9 A. Yes.

10 Q. What?

11 A. I think he said that he found that
12 there was some compression.

13 Q. On the ulnar nerve?

14 A. Yes. But now, granted, right after I
15 was under anesthesia, so that's the best I recall.

16 Q. Certainly you had follow-ups with him,
17 right?

18 A. Yes.

19 Q. And in those discussions did he tell
20 you that he found some compression on the ulnar
21 nerve?

22 A. Yes.

23 Q. Would you mind showing me the scar from
24 your surgery?

25 A. Sure (indicating).

1 Q. Okay. You were outpatient?

2 A. Yes.

3 Q. Does the scar bother you?

4 A. No. I mean, bother me like does it
5 hurt or aesthetically?

6 Q. Aesthetically.

7 A. It's not ideal.

8 Q. I mean, are you self-conscious about
9 it?

10 A. Sometimes. Depending on what I'm
11 wearing.

12 Q. Has anybody ever asked you about it?

13 A. Yes, they have.

14 Q. Did the surgery alleviate your
15 symptoms?

16 A. Yes.

17 Q. And I don't know that I'm going to mark
18 this, but you went to Roper St. Francis followup
19 with Sawyer Langston, who must be a PA for --

20 A. Yes, um-hum.

21 Q. On March 2nd, 2022. And he noted that
22 the tingling and numbness had resolved. Is that
23 accurate? Do you want to see it?

24 A. Yes. That's accurate.

25 Q. Do you want to see it?

1 A. No, it's okay.

2 Q. When was the last time you sought
3 medical treatment related to your right upper
4 extremity, your right arm, hand, fingers?

5 A. I guess that would have been any kind
6 of post-op visit that I had.

7 Q. I want to look at a couple of -- you
8 don't need to mark this. This is your complaint.
9 And I just want to ask you a couple -- not the
10 whole thing, just some of the paragraphs. Look at
11 Paragraph 7 for me. Had you seen TBC's
12 advertisements prior to donation?

13 A. I don't remember.

14 Q. Okay.

15 A. It's not something I paid attention to.

16 Q. Right. Look at Paragraph 10. Is that
17 accurate?

18 A. Yes.

19 Q. And Paragraph 12. I'm trying to
20 understand this paragraph and was hoping you might
21 be able to help me a little bit. It says -- you
22 can read it, but can you explain that paragraph to
23 me?

24 A. That through considerable followup
25 treatment and tests conducted by medical experts

1 and specialists, it was determined that in
2 deviation to the medical industry's standard of
3 care the venipuncture of the plaintiff's right arm
4 was performed improperly and did, in fact, cause
5 nerve damage.

6 Q. Right, but -- so I guess what I'm
7 looking to understand is what -- it says through
8 the treatment and tests conducted by medical
9 experts and specialists, it was determined that
10 there was a deviation of the medical industry's
11 standard of care.

12 How did the treatment and tests
13 conducted by medical experts and specialists make
14 that determination that there was a breach of the
15 standard of care?

16 A. Can you ask me this question in a
17 different way?

18 Q. Yeah. And I'm trying to understand it
19 myself. Let me ask you this: Has any medical
20 expert or specialist told you that a phlebotomist
21 at TBC breached the standard of care; otherwise,
22 was negligent?

23 A. I don't think anybody's ever used the
24 term negligent.

25 Q. And when you refer to -- and I

1 appreciate this isn't your language. But reference
2 to the medical industry's standard of care, what
3 industry standards are you referring to, if you
4 know?

5 A. I would think that in the -- the
6 phlebotomist would need to be trained not to cause
7 an injury when drawing blood, so perhaps that's a
8 deviation from the standard of care that that's
9 referring to.

10 Q. Do you know whether nerve injuries are
11 a known and accepted complication of blood
12 donation?

13 A. No.

14 Q. Has any medical expert -- similar to a
15 question I asked a moment ago, but has any medical
16 expert or specialist told you that this particular
17 venipuncture was performed improperly?

18 A. Well, I think it was -- I think it was
19 Dr. Appleby that said he thought that something
20 occurred during the venipuncture. In fact, I'm
21 positive it was Dr. Appleby that said that.

22 Q. Right. So Dr. Appleby told you that
23 the venipuncture resulted in an injury to your
24 nerve?

25 A. Yes.

1 Q. And I appreciate that, but the question
2 is a little bit different, which is --

3 A. Okay.

4 Q. -- has any doctor or specialist said
5 that the venipuncture was performed improperly?

6 A. No.

7 Q. Look at Paragraph 13 for yourself.
8 This is the specific alleged breaches of the
9 standard of care. And my question to you before
10 you start reading is: Do you have any personal
11 knowledge to support any of these enumerated
12 allegations? If so, I'm going to ask you about it.

13 A. No.

14 Q. Sitting here today -- what?

15 A. How much longer?

16 Q. This has been really short.

17 A. Okay.

18 Q. I can take a deposition all day long.

19 A. Okay.

20 Q. I need to ask you about your damages.

21 A. Okay.

22 Q. Do you presently have any symptoms
23 which you attribute to the blood donation?

24 A. Do I presently have any symptoms that I
25 attribute. I have intermittent, same, sensation,

1 cold fingers, and I have some numbing when my arm
2 is bent still, but it's nothing like it was prior
3 to surgery.

4 Q. I think what I heard you said is you
5 have intermittent symptoms, including some coldness
6 and some numbness?

7 A. Correct.

8 Q. Those are the only symptoms?

9 A. Yes.

10 Q. And those are with your ring finger and
11 your --

12 A. And my pinky finger.

13 Q. Any other part of your right upper
14 extremity --

15 A. No.

16 Q. -- that is affected by coldness or
17 numbness?

18 A. No.

19 Q. When you say intermittent, how often
20 are you talking?

21 A. Just when my arm is bent when I'm --
22 when I'm typing, when I'm on the phone, when I'm
23 sleeping, but it's significantly less than it was
24 before.

25 Q. Do you still wake up at night?

1 A. No.

2 Q. And when you straighten your arm, are
3 your symptoms alleviated?

4 A. Yes.

5 Q. Is this a daily, weekly, monthly
6 occurrence, these symptoms?

7 A. I would say that the coldness in my
8 fingers is a daily. The numbness is more sporadic.

9 Q. Does it impact your functional -- do
10 those symptoms impact your functional capacity in
11 any way?

12 A. My typing is slower.

13 Q. Anything else?

14 A. No.

15 Q. Does the intermittent coldness or
16 numbness impact your hobbies or activities,
17 exercise, anything like that?

18 A. No.

19 Q. So no current deficits in your right
20 arm, is that true?

21 A. Yes.

22 Q. You don't have to wear a brace or take
23 any medications?

24 A. No.

25 Q. Nobody has suggested that you're going

1 to require additional treatment or surgery in the
2 future?

3 A. No.

4 Q. Don't need any future therapy that
5 you're aware of?

6 A. No.

7 Q. In the complaint, Paragraph 14 -- and
8 we're about to be done.

9 A. Okay.

10 Q. It mentions -- and it could be a typo,
11 but I just want to ask you about it. It mentions
12 injury to your brachial artery. It says her
13 brachial artery sustained permanent damage. I
14 didn't see that anywhere in your medical records.
15 Are you aware of having an injury to your brachial
16 artery?

17 A. I'm not sure what a brachial artery is.

18 Q. Are you aware of any doctor telling you
19 that you sustained permanent damage to your
20 brachial artery?

21 A. No.

22 Q. Do you remember seeing that in your
23 medical records?

24 A. Brachial artery. No.

25 Q. And your grip is back to normal?

1 A. Yes.

2 Q. You agree that the functional capacity
3 of your right hand is not permanently limited?

4 A. Yes. It's not the same, but it's not
5 limited.

6 Q. How is it not the same?

7 A. Just the cold sensation that I have all
8 the time, but...

9 Q. Did you submit any of your medical
10 bills to TBC for reimbursement?

11 A. No.

12 Q. Were you ever invited to or encouraged
13 to?

14 A. No.

15 Q. Are you making a lost wage claim?

16 A. Yes.

17 Q. How much time did you miss from work?

18 A. It was either a week or two weeks. I
19 don't recall. I had my arm in a cast, so I really
20 couldn't wait tables.

21 Q. That was after your surgery?

22 A. Um-hum.

23 Q. How long did you have your arm in a
24 cast?

25 A. Three or four weeks or something like

1 that. Or maybe two weeks.

2 Q. Did you miss any work at the time of
3 the donation?

4 A. No, because I was in an office job
5 during that period of time.

6 Q. And you were making \$4.75 an hour while
7 you were waiting tables?

8 A. That's standard minimum wage and then
9 you're paid tips.

10 Q. I know.

11 A. Yeah. I just want to be clear that's
12 not my salary.

13 Q. I know how it works.

14 A. Okay.

15 Q. And you continue making approximately
16 800 dollars a week?

17 A. Um-hum.

18 Q. Yes?

19 A. Yes. Yes.

20 Q. Would that be reflected in your income
21 tax returns for that time period?

22 A. Yes.

23 Q. Other than the photograph of --

24 A. Well, let me step back to that
25 question. Some cash -- some tips are cash and

1 they're not reported, so that's kind of a gray
2 area, you know what I mean? So credit card tips
3 are reported in the check, but anything that's cash
4 isn't always shown on your W-2. Anyway...

5 Q. But you still have to pay taxes on it,
6 right?

7 A. Yeah.

8 Q. All right. So what I'm trying to
9 figure out is if you're making a lost wage claim,
10 would I be able to look at your tax returns to
11 accurately determine what your weekly, monthly
12 wages were?

13 A. I think so, yes.

14 Q. Other than the photographs you
15 mentioned that showed the bruising to your arm
16 immediately post-donation, have you taken any other
17 photographs of your arm as it relates to your
18 injuries or damages in this case?

19 A. No.

20 Q. Have you understood my questions today?

21 A. Yes.

22 Q. Have I given you the opportunity to ask
23 for clarification if you did not understand my
24 questions?

25 A. Yes.

1 Q. Is there anything you need to add or
2 anything you think I need to know about as it
3 relates to your allegations or your damages?

4 A. No.

5 Q. Do you need to revise or amend any of
6 the answers to the questions I've given you today?

7 A. No.

8 MR. SUGGS: That's all I have.

9 MR. KEITH: Nothing from me and we'll
10 waive reading and signing.

11 (Whereupon, the proceedings concluded
12 at 12:51 PM.)

13 (The witness, after having been advised
14 of her right to read and sign this transcript,
15 waives that right.)
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TATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

LISA RENEE SAMPLE,

Plaintiff,

vs.

BLOOD CONNECTION INC. and
DELISHA K. ENGLISH,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No. 2023-CP-10-00914

**PLAINTIFF LISA RENEE SAMPLE'S
ANSWERS TO DEFENDANTS'
FIRST SET OF INTERROGATORIES
TO PLAINTIFF**

**TO: FRED W. "TREY" SUGGS, III, ESQUIRE
ATTORNEY FOR THE DEFENDANTS:**

Plaintiff, Lisa Renee Sample (hereinafter, "Plaintiff"), by and through the undersigned counsel, hereby submits her Answers to Defendants' First Set of Interrogatories to Plaintiff, as follows:

1. Please state the Plaintiff's date of birth, current residence, and provide the address of the Plaintiff's previous residences for the past ten (10) years.

ANSWER:

Date of Birth: [REDACTED]

Current Residence: [REDACTED]

Previous Residence: [REDACTED]

2. Please state the names, current addresses, telephone numbers, and occupations of all persons known by you to be witnesses to the facts involved in this case, and with respect to each person identified, please state, in narrative form, the facts which you believe to be within the

knowledge of each such witness and indicate whether a written or recorded statement has been taken from these witnesses and who has possession of such statement.

ANSWER:

Plaintiff Lisa Sample

[REDACTED]

Charleston, SC 29407

No written or recorded statement.

Plaintiff will testify as to this incident, her pain, medical treatment, on-going care, and physical limitations.

Regina O. Edwards

ASCP Nationally Certified Phlebotomist

407 York Street

Ladson, Sc 29456

Statement/Affidavit of Phlebotomy Case Review dated February 19, 2023.

Ms. Edwards has been retained as an expert in this matter and will likely testify as to her thoughts, opinions, and expert review regarding the initial treatment and incident which is the subject matter of this lawsuit, breach of standard of care, negligence, and resultant condition and limitations, as well as potential complications arising therefrom.

Defendant The Blood Connection Incorporated

587 Oak Court Road, N

Charleston, SC 29406

c/o its Registered Agent:

Debra K. English

1099 Bracken Road

Piedmont, SC 29673

No written or recorded statement, other than Incident Report of 1/2/2020.

The Blood Connection Incorporated Phlebotomists and Employees involved and/or witnesses to the incident which is the subject of the Complaint.

1099 Bracken Road

Piedmont, SC 29673

Plaintiff is unaware of any written or recorded statement other than the Blood Connection, Incorporated Incident Report of 1/2/2020.

**Mr. Brooks Wharton
1623 Pinckney Park Drive
Charleston, SC 29407**

No written or recorded statement.

Mr. Wharton is Plaintiff's fiancé and was home when Plaintiff returned home after the blood draw. Mr. Wharton will testify as to the Plaintiff's injury, pain and suffering, and her medical treatment. Mr. Wharton was also involved in caring for the Plaintiff after her surgery and also will testify as to her physical symptoms, pain and her physical limitations since the surgery.

**Julie and Eric Groves
42 Lampton Road
Charleston, SC 29407**

No written or recorded statement.

Mr. and Mrs. Groves are Plaintiff's sister and brother-in-law and will testify as to Plaintiffs injury, her pain and suffering, her subsequent medical treatment, surgery and her physical limitations.

**Brad and Cassie Frazier
42 Lord Calvert Drive
Charleston, SC 29407**

No written or recorded statement.

Mr. and Mrs. Frazier are Plaintiff's cousin and his wife. Mr. and Mrs. Frazier will testify as to Plaintiffs injury, her pain and suffering, her subsequent medical treatment, surgery and her physical limitations.

**Charlie and Gina Cheatham
1679 Dotterers Run
Charleston, SC 29414**

No written or recorded statement

Mr. and Mrs. Cheatham are Plaintiff's Aunt and Uncle. Mr. and Mrs. Cheatham will testify as to Plaintiffs injury, her pain and suffering, her subsequent medical treatment, surgery and her physical limitations.

**Michelle and Kip Bowman
5265 Kenco Lane
Hollywood, SC 29449**

No written or recorded statement.

Mr. and Mrs. Bowman are Plaintiff's sister and brother-in-law. Mr. and Mrs. Bowman will testify as to Plaintiffs injury, her pain and suffering, her subsequent medical treatment, surgery and her physical limitations.

**Emily Bengal
100 Bennett Street
Mt. Pleasant, SC 29464**

No written or recorded statement

Ms. Dengal is a friend of Plaintiff and will testify as to Plaintiffs injury, her pain and suffering, her subsequent medical treatment, surgery and her physical limitations.

**Ms. Ann Warner
Warner & Cagle, LLC
The Wreck of the Richard & Charlene
106 Haddrell Street
Mount Pleasant, SC 29464**

See Lost Wage Authorization signed by Ms. Warner, forwarded contemporaneously herewith with Plaintiff's Responses to Defendants' First Set of Requests for Production to Plaintiff.

Ms. Warner was Plaintiff's employer at the time of the incident which is the subject of the Complaint. Ms. Warner will testify as to Plaintiffs injury, her pain and suffering, her subsequent medical treatment, surgery and her physical limitations. Additionally, Ms. Warner will testify as to the Plaintiff's surgery and wearing of a cast, impact on her employment, work days missed, and lost wages.

**Annie Ravenel
204 San Souci Street
Charleston, SC 29403**

No written or recorded statement.

Ms. Ravenel is a friend of the Plaintiff and will testify as to Plaintiffs injury, her pain and suffering, her subsequent medical treatment, surgery and her physical limitations.

**Ms. Kristen Holladay
2110 Seabird Court
Charleston, SC 29414**

No written or recorded statement.

Ms. Holladay is a friend of the Plaintiff and will testify as to Plaintiffs injury, her pain and suffering, her subsequent medical treatment, surgery and her physical limitations.

All of Plaintiff's treating medical providers, as listed in Plaintiff's Answer to Interrogatory No. 4, below, including medical records and bills forwarded contemporaneously herewith in Plaintiff's Responses to Defendants' First Request for Production of Documents to Plaintiff.

3. Please set forth a list of all photographs, plats, sketches, charts, diagrams or other prepared documents in your possession or subject to your custody or control which pertain to the facts of this case.

ANSWER:

Plaintiff directs Defendants to her document production forwarded contemporaneously herewith in Plaintiff's Responses to Defendants' First Request for Production of documents, namely copies of The Blood Connection Inc. Records, Photographs of the Plaintiff's Injuries, Plaintiff's Medical Records and Bills, and Plaintiff's Lost Wage Verification.

4. Please set forth the names and addresses of all physicians and medical practices which treated Ms. Lisa Sample and all hospitals to which she was admitted in connection with the allegations in this lawsuit.

ANSWER:

**The Blood Connection Incorporated
Blood Drive – Mobile Bloodmobile located in back parking lot at Orangetheory Fitness, West Ashley
975 Savannah Highway
Charleston, SC 29407**

**Hugh Thompson, MD
Roper St. Francis Physician Partners, Primary Care
615 Wesley Drive, Suite 200
Charleston, SC 29407-7251**

**Hamid Bahadori, MD
Carolina Neurological Clinic, LLC
3531 Mary Ader Avenue, Suite A
Charleston, SC 29414**

**John M. Ernst, MD
James L. Price, MD
Sawyer A. Langston, PA-C
Roper St. Francis Physician Partners, Orthopaedic Care
2093 Henry Tecklenburg Drive, Suite 200
Charleston, SC 29414**

**South Carolina Diagnostic Imaging/Tricounty Radiology – West Ashley
1975-H Magwood Drive
Charleston, SC 29414**

**Thomas C. Applebee, MD
Carrie Sears, RVT
Adam J. Keefer, MD
Coastal Vascular & Vein Center
1327 Ashley River Drive
Charleston, SC 29407**

**Roper St. Francis Ambulatory Surgery & Pain Management
James Island Surgical Center
325 Folly Road, Suite 200
Charleston, SC 29412**

**Roper St. Francis Physician Partners
2093 Henry Tecklenburg Drive, Suite 200
Charleston, SC 29414**

5. Please state each item or category of damage which you are claiming in this lawsuit, exclusive of pain and suffering, including an itemization of financial loss.

ANSWER:

LISA SAMPLE – DAMAGES SUMMARY

MEDICAL DAMAGES

Roper St. Francis Physicians - Primary Care

10/09/2020 – PC Visit – Hugh Thompson, MD

To be Supplemented

Carolina Neurological Clinic

11/11/2020 – Neuro Consult – Hamid Bahadori, MD

To be Supplemented

12/04/2020 – Neurophysiology–EMG Study – Hamid Bahadori, MD

To be Supplemented

RSFPP Orthopaedic Care

12/09/2020 – Ortho Visit – John M. Ernst, MD

\$ 384.00

02/03/2021 – Ortho Visit – John M. Ernst, MD

\$ 235.00

05/11/2021 – Ortho IME – James L. Price, MD

\$ 1,000.00

08/17/2021 – Ortho Visit – James L. Price, MD	\$	235.00
01/07/2022 – Ortho Visit – James L. Price, MD	\$	246.75
03/02/2022 – Ortho Visit – Sawyer Langston, PA-C		-0-
04/14/2022 – Ortho Visit – Sawyer Langston, PA-C		-0-
Total	\$	2,100.75

South Carolina Diagnostic Imaging – Tricounty Radiology

01/14/2021 – MRI Right Elbow – James Theising, DO	Total	\$	3,501.10
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Coastal Vascular & Vein Center

05/24/2021 – Initial Consult – Thomas Applebee, MD	\$	200.00
06/08/2021 – Upper Extremity Doppler US	\$	250.00
06/14/2021 – Visit – Thomas Applebee, MD	\$	175.00
Total	\$	625.00

Roper St. Francis Ambulatory Surgery & Pain Mgmt – James Island

02/21/2022 – Surgery – Decompression Ulnar Nerve	\$	19,043.60
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Roper St. Francis Physician Partners – Outpatient Sx Physician Bill

02/21/2022 – Surgery – Decompression Ulnar Nerve	\$	1,714.00
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Total Medical Damages: \$ 26,984.45

LOST WAGES

Warner & Cagle, LLC – The Wreck of the Richard and Charlene

Title: Server

Average Weekly Wage: \$800.00 (\$4.75/hour plus tips)

Time Lost: 2/21/22 through 3/8/2022 (Surgery and Post-Op) – 2-1/2 weeks	\$	2,000.00
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Total Lost Wages: \$ 2,000.00

TOTAL DAMAGES: \$ 28,984.45

** To be supplemented*

Plaintiff is not yet in possession of all bills pertaining to medical treatment expenses she incurred as a result of the incident giving rise to the allegations named in the complaint.

Plaintiff's medical damages and lost wages through the date of this document total \$28,984.45. All outstanding billing statements have been requested, and those medical bills will be forwarded upon receipt. Plaintiff reserves the right to supplement this Answer upon receipt of said additional medical billing documentation.

6. With respect to each item or category of damage identified in the answer to Interrogatory No. 4:

- a) Describe in general terms the damage or damages involved;
- b) State the amount of damage or damages claimed;
- c) Set forth in detail the precise manner in which you have calculated your claim for such damage or damages;
- d) Identify each written document, memorandum, bill, check or other writing pertaining to your claim for this item of damage; and
- e) Identify each person who is a witness or has knowledge concerning this item or category of claimed damage or damages.

ANSWER:

See Plaintiff's Damages Summary, submitted contemporaneously herewith with Plaintiff's Responses to Defendant's First Requests for Production of Documents.

7. Describe all physical, psychological, or mental, ailments, diseases, or illnesses from which Ms. Lisa Sample suffered during her life requiring medical attention; the year in which she first suffered symptoms of such ailment, disease, or illness; the duration of each ailment, disease, or illness; the physicians or healthcare providers consulted by Ms. Sample; the diagnosis made by such physicians or healthcare providers; and the medication(s) taken or other curative procedure(s) undergone to control or cure such ailment, disease, or illness.

ANSWER:

Plaintiff objects to this Interrogatory as it is overbroad and impossible to answer with one hundred percent (100%) accuracy given the number of health care providers she has treated with during her lifetime.

Plaintiff further objects to this Interrogatory in that it is impossible for Plaintiff to recall with any specificity all physical, psychological, mental, ailments, diseases or illnesses which she suffered during her entire lifetime, not the year(s), duration, diagnoses, medications taken or other curative procedures.

Plaintiff further objects to this Request insofar as it seeks documentation not likely to lead to the introduction of admissible evidence at the trial of this matter.

Without waiving her objection, Plaintiff's past medical history includes hyperthyroidism, hyperhidrosis, Hashimoto's disease; back pain, muscle aches, mild degenerative disc disease, kidney cysts/stones, hemorrhoids, and minor digestive issues.

Plaintiff experienced some anxiety and depression after the death of her mother in 2016, and the subsequent death of her father in 2021. Those medications were prescribed to Plaintiff on a short term basis by her primary care physician, Dr. Hugh Thompson at Roper St. Francis Physician Partners, Primary Care. Plaintiff stopped taking any medication for depression years ago, in 2021.

Plaintiff has treated with her primary care physician, Hugh Thompson, MD, Roper St. Francis Physician Partners, Primary Care, and various other medical providers with regard to the above medical conditions, along with her OB-Gyn provider. Plaintiff occasionally sees her chiropractor, Marcus Hostetler at Seacoast Chiropractic and pain management physician, Dr. Edward M. Tavel, Jr. at Pain Specialists of Charleston, for issues related to back pain and muscle aches, with mild degenerative disc disease.

8. List all medications, whether prescription or over the counter, Ms. Sample took during the last ten (10) years. For each medication listed, please include the following:

- a) The reason for taking each medication;
- b) The prescribing physician and the name and address of his or her affiliated medical facility; and
- c) The approximate dates that Ms. Sample started taking and stopped taking each medication.

ANSWER:

Plaintiff objects to this Interrogatory as it is overbroad and impossible to answer with one hundred percent (100%) accuracy given the number of health care providers she has treated with during the past ten (10) years, nor each and every prescription she has taken for the past ten (10) years.

Plaintiff further objects to this Request insofar as it seeks documentation not likely to lead to the introduction of admissible evidence at the trial of this matter.

Without waiving her objection, plaintiff has taken the following medications in the past ten (10) years:

Currently Taking:

Np Synthroid 75 mg. This medication is prescribed for thyroid issues and is sometimes substituted with Armour Thyroid

Taken PRN (as needed)

Alprazolam/Xanax – Taken for insomnia after the death of Plaintiff's parents.

No Longer Taking:

Wellbutrin – Plaintiff took this medication years ago after the death of her mother in 2016, and her father in 2021.

9. Describe Ms. Sample's employment history during the past ten (10) years, including job title, employer, business address and telephone number, dates of employment, supervisor, a brief description of the job duties, wages, the date and amount of any wage increases, and the reason for leaving the job.

ANSWER:

From 2013 to 2020, Plaintiff worked as an Office Manager for the following employer:

**Amber Road Tours
272 Meeting Street
Charleston, SC 29401
843-579-2828**

Plaintiff's average yearly wage while employed at Amber Road Tours was \$60,000.00 yearly, plus commissions. Amber Road Tours shut down as a result of the Covid pandemic in approximately February 2020.

Plaintiff worked as a waitress server on a part-time basis from 2012 to 2020 for Ann Warner, Warner & Cagle, LLC at their restaurant named The Wreck of the Richard and Charlene. Beginning in approximately January 2020, Plaintiff went on a full-time basis with this employer due to her previous employer, Amber Road Tours, having to shut down their business due to the Covid pandemic.

Plaintiff was working for this employer at the time of the incident which is the subject of the Complaint:

**Ann Warner, Warner & Cagle, LLC
The Wreck of the Richard & Charlene
106 Haddrell Street
Mount Pleasant, SC 29464
843-884-0052**

Plaintiff's job duties were as a waitress/server. Plaintiff received \$4.75 per hour, plus tips. Plaintiff's average weekly wage was \$800.00. See the Lost Wage Verification attached to Plaintiff's Responses to Defendants' First Requests for production of documents, served contemporaneously herewith.

Plaintiff is presently employed as a Regional Manager in the Customer Relations Department for the following employer:

Boeing South Carolina Delivery Center
5400 Airframe Drive
North Charleston, SC 29418
312-544-2000

Plaintiff is currently earning approximately [REDACTED] arly while employed at Boeing. Plaintiff is still employed in this position.

12. If there is included with this action a claim for lost earnings as a result of the alleged negligence, state the job from which time was lost, giving the name, address, and telephone number of the employer; the number of hours or days lost; the dates during which the Plaintiff contends that she was out of work on account of the alleged negligence; the rate of pay during all such periods of lost time; and the total dollar amount of wages that the Plaintiff claims to have lost.

ANSWER:

Plaintiff directs Defendants to her Lost Wage Verification submitted contemporaneously herewith in Plaintiff's Responses to Defendant's First Request for Production of Documents.

Ann Warner, Warner & Cagle, LLC
The Wreck of the Richard & Charlene
106 Haddrell Street
Mount Pleasant, SC 29464
843-884-0052

Dates Plaintiff was out of work due to her surgery and recuperation from February 21, 2022 through March 8, 2022

Plaintiff was employed as a server. She received \$4.75 per hour, plus tips. Plaintiff's average weekly wage was \$800.00. Plaintiff missed two and one-half weeks of work, for a total lost wage claim of \$2,000.00.

13. List all relatives, by either blood or marriage, over the age of eighteen, who reside in Charleston County, South Carolina.

ANSWER:

**Julie and Eric Groves
42 Lampton Road
Charleston, SC 29407
Mr. and Mrs. Groves are Plaintiff's sister and brother-in-law.**

**Brad and Cassie Frazier
42 Lord Calvert Drive
Charleston, SC 29407
Mr. and Mrs. Frazier are Plaintiff's cousin and his wife.**

**Charlie and Gina Cheatham
1679 Dotterers Run
Charleston, SC 29414
Mr. and Mrs. Cheatham are Plaintiff's Aunt and Uncle.**

**Michelle and Kip Bowman
5265 Kenco Lane
Hollywood, SC 29449
Mr. and Mrs. Bowman are Plaintiff's sister and brother-in-law.**

14. Other than this lawsuit, has the Plaintiff ever been involved in a civil lawsuit as either a plaintiff or a defendant? If so, please state the caption of the legal action in which she was involved; the court in which the action was filed; the date the action was filed; the subject matter of the action; and the disposition or outcome of the case.

ANSWER:

**Case Name: James B. Ross v. Lisa R. Sample
Charleston County Court of Common Pleas
Ninth Judicial Circuit
Case No.: 99-CP-10-260
Filing Date: January 22, 1999
Case Type: Automobile Accident
Disposition: Judgment entered for \$4,250.00 against Defendant, Lisa Sample.
Satisfaction of Judgment filed December 29, 2000; paid in full.**

15. Please state whether or not any medical expenses which are the subject of this lawsuit have been paid by Medicaid or Medicare, and if so, please state the specific dollar amount paid by Medicaid or Medicare.

ANSWER:

No.

16. Identify by date, author, location, and citation, where appropriate, any code, regulation statute, custom, standard or test which the Plaintiff contends the Defendants violated, and state with particularity the facts upon which you rely to allege such violations.

ANSWER:

Plaintiff's expert, Regina Edwards, ASCP Nationally Certified Phlebotomist has reviewed Plaintiff's medical records pertaining to this claim. Plaintiff directs Defendants to the Affidavit of Phlebotomist Case Review attached to Plaintiff's Notice of Intent to Sue prepared by Ms. Edwards, which Affidavit is included in Plaintiff's Responses to Defendant's First Request for Production of Documents submitted contemporaneously herewith.

17. Please describe with specificity the substance of any statement or conversations between the Plaintiff and the Defendants regarding the events complained of in the Plaintiff's Complaint.

ANSWER:

On or about January 2, 2020, Plaintiff was at her fitness center, Orangetheory Fitness at their West Ashley location in Charleston SC when she went to give blood at Bloodmobile Van owned and operated by Defendant The Blood Connection, Inc. As the young phlebotomist was readying herself to perform the blood draw, she turned to a supervisor and asked if the supervisor how to perform the blood draw, and whether or not she should put the needle in first, or whether she should put the clamp on first. Immediately upon the insertion, Plaintiff felt instantaneous pain, and the sensation that a nerve had been hit. Her arm immediately began to turn blue. The young phlebotomist called out urgently for a supervisor to come help her. At that time a supervisor immediately came and removed the needle from Plaintiff's arm.

At that time, the supervisor tried to comfort the Plaintiff due to her intense pain and told the Plaintiff that when she removed the needle it was likely that Plaintiff would

have a large hematoma. Plaintiff was in shock and shaking. Plaintiff recalls that the phlebotomists on duty attempted to treat her with ice and bandages. Plaintiff does recall that she was then asked if she would like to continue her blood donation using her other non-injured arm, and she declined to do so.

At the time Plaintiff left the Defendant Blood Connection's mobile bloodmobile, she was having severe pain and her arm was turning blue, with bruising. Plaintiff noticed almost immediate weakness and numbness in her right arm in the hours following the attempted blood draw and insertion of the needle into her arm.

18. Please describe with specificity the substance of any statements and conversations between Ms. Sample and her treating physicians regarding the events complained of in the Complaint, identifying with whom the conversation was had, who witnessed the conversation, when the conversation was had, who instigated the conversation, and the purpose of the conversation.

ANSWER:

Plaintiff directs Defendants to Plaintiff's Responses to Defendants' First Request for Production of Documents forwarded contemporaneously herewith, specifically with respect to all of Plaintiff's medical records for treatment rendered as a result of the incident specified in the Complaint in this matter. The medical records submitted herewith speak for themselves. Plaintiff does not recall conversations outside of the records prepared by her treating medical providers.

19. Please describe with specificity what investigation was taken by or on behalf of the Plaintiff with respect to the claims for which you have filed suit.

ANSWER:

Plaintiff treated with many medical providers as a result of the injuries she sustained with respect to the incident named in the Complaint in this matter. All of Plaintiff's medical providers investigated her injuries and condition arising out of the incident named in the Complaint in this matter. Additionally, Plaintiff's expert, Regina Edwards, ASCP Nationally Certified Phlebotomist has reviewed Plaintiff's medical records pertaining to this claim. Plaintiff directs Defendants to the Affidavit of Phlebotomist Case Review attached to Plaintiff's Notice of Intent to Sue prepared by Ms. Edwards, which Affidavit is included in Plaintiff's Responses to Defendant's First Request for Production of Documents submitted contemporaneously herewith.

20. Please identify Ms. Sample's primary family physician(s) and provide his or her practice name and address.

ANSWER:

**Hugh Thompson, MD
Roper St. Francis Physician Partners, Primary Care
615 Wesley Drive, Suite 200
Charleston, SC 29407-7251**

21. List of all medical providers who have provided medical care and treatment to Ms. Sample in the past ten (10) years.

ANSWER:

Plaintiff objects to this Interrogatory as it is overbroad and impossible to answer with one hundred percent (100%) accuracy given the number of health care providers she has treated with during the past ten (10) years. Without waiving her objection, Plaintiff has treated with the following providers:

**Hugh Thompson, MD – Primary Care Physician
Roper St. Francis Physician Partners, Primary Care
615 Wesley Drive, Suite 200
Charleston, SC 29407-7251**

**Hamid Bahadori, MD - Neurology
Carolina Neurological Clinic, LLC
3531 Mary Ader Avenue, Suite A
Charleston, SC 29414**

**John M. Ernst, MD – Orthopaedic Care, Hand & Wrist Injuries
James L. Price, MD – Orthopaedic Care, Hand, Wrist, Elbow & Shoulders
Sawyer A. Langston, PA-C – Orthopaedic Care, Hand, Wrist and Elbows
Roper St. Francis Physician Partners, Orthopaedic Care
2093 Henry Tecklenburg Drive, Suite 200
Charleston, SC 29414**

**South Carolina Diagnostic Imaging/Tricounty Radiology – West Ashley
1975-H Magwood Drive
Charleston, SC 29414**

**Thomas C. Applebee, MD – Vascular Surgeon
Carrie Sears, RVT – Vein Technician
Adam J. Keefer, MD – Vascular Care and Imaging**

**Coastal Vascular & Vein Center
1327 Ashley River Drive
Charleston, SC 29407**

**Roper St. Francis Ambulatory Surgery & Pain Management
James Island Surgical Center
325 Folly Road, Suite 200
Charleston, SC 29412**

**Roper St. Francis Physician Partners
2093 Henry Tecklenburg Drive, Suite 200
Charleston, SC 29414**

**Ms. Eugenia Holman Blake, NP – Nurse Practitioner, OB/GYN
Rhett Women’s Center – East Cooper
1300 Hospital Drive, Suite 150
Mount Pleasant, SC 29464**

**Jennifer Donlin, PA – Physician’s Assistant, OB/GYN
East Cooper OB/GYN
851 Leonard Fulghum Blvd., Suite 200
Mount Pleasant, SC 29464**

**John Goolsby, DDS – General Dentistry
Goolsby Family Dentistry
537 Wappoo Road, Suite 5711
Charleston, SC 29407**

**Bon Secours St. Francis Hospital, Renal Scan
2095 Henry Tecklenburg Drive
Charleston, SC 29414**

**Gabriel R. Chedister, MD
Roper St. Francis Healthcare – Gastroenterology/GI Care
125 Doughty Street, Suite 280
Charleston, SC 29401**

**Ankit V. Patel, MD
Roper St. Francis Healthcare - Gastroenterology/GI Care
180 Wingo Way, Suite 305
Mt. Pleasant, SC 29464**

**Marcus R. Hostetler, DC - Chiropractor
Seacoast Chiropractic, LLC
2411 Savannah Highway, Suite 3
Charleston, SC 29414**

**Edward M. Tavel, Jr., MD – Interventional Pain Mgmt., Back
Pain Specialists of Charleston, P.A.
2695 Elms Plantation Blvd., Suite A
Charleston, SC 29406**

22. Please describe how Ms. English breached the standard of care and caused or contributed to Ms. Sample's alleged injuries.

ANSWER:

Plaintiff's expert, Regina Edwards, ASCP Nationally Certified Phlebotomist has reviewed Plaintiff's medical records pertaining to this claim. Plaintiff directs Defendants to the Affidavit of Phlebotomist Case Review attached to Plaintiff's Notice of Intent to Sue prepared by Ms. Edwards, which Affidavit is included in Plaintiff's Responses to Defendant's First Request for Production of Documents submitted contemporaneously herewith.

Per Ms. Edward's Affidavit, it is her opinion to a reasonable degree of medical certainty that the Blood Connection and its donor collecting staff, while obtaining donor blood, and during the scope of its practice at The Blood Connection committed negligent acts or oversights in its blood collecting procedures for the care of donor Plaintiff.

The Phlebotomist performing the blood draw upon the Plaintiff stuck her in the right arm. Per Ms. Edward's Affidavit, assuming that the phlebotomist was a certified phlebotomist collecting a blood donation breached the standard of care in that she:

- a. Failed to identify a suitable vein to withstand a 16 to 18 gauge donation needle leading to an IV infiltration into the skin tissues;
- b. Failed and neglected to properly inspect, monitor, and/or reposition the needle at the site after the donation began;
- c. Used faulty techniques;
- d. Failed to release the tourniquet in adequate time or left the tourniquet on for an extended period;
- e. Failed and neglected to insert the bevel of the needle in all the way, or caused the needle to go through the vein, resulting in a hole or puncture on the vein's bottom side. This released blood into the tissue under the skin, causing pain.

- f. Failed and neglected to inspect the donor when a golf-sized hematoma was forming, causing a bluish discoloration (ecchymosis) and pain; and
- g. Failed and neglected to remove the needle immediately when the donor expressed pain and failed to render proper aid with cold compressions or an ice pack to stop or slow the formation of the hematoma.

Further, it is Ms. Edward's opinion, to a reasonable degree of medical certainty that the actions or inactions of the Defendants most or more than likely caused the injuries of the compressed/pinched nerve injury to the ulnar nerve, causing enlargement and edema to the cubital tunnel. This injury can occur when a hematoma forms and exerts pressure on the surrounding nerves.

The complications of such an injury may include, but are not limited to, loss of mobility in the arm and/or grip strength, along with long-term pain with ecchymosis. Also not diagnosed, but cannot be excluded due to the nature of the injury, is Compartment Syndrome, which can cause extended pain, throbbing, and/or constant pain throughout the day and night. Additionally, it may cause cold sensations to be felt in the hand, along with discoloration.

Dated this the 14th day of September, 2023.

URICCHIO, HOWE, KRELL, JACOBSON,
TOPOREK & KEITH, P.A.



GREGORY D. KEITH
17-1/2 Broad Street, P. O. Box 399
Charleston, SC 29401
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Email: greg@uricchio.com

ATTORNEY FOR PLAINTIFF

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2023-CP-10-914
	)	
Lisa Renee Sample,	)	
	)	
Plaintiff,	)	
	)	PLAINTIFF’S MEMORANDUM IN
vs.	)	OPPOSITION TO DEFENDANTS’
	)	MOTION FOR SUMMARY JUDGMENT
Blood Connection, Inc. and Delisha K.	)	
English,	)	
	)	
Defendants.	)	
_____	)	

Plaintiff, through undersigned counsel hereby responds to Defendants’ motion for summary judgment. Plaintiff respectfully requests that Defendants’ motion be denied.

INTRODUCTION

Defendant The Blood Connection (TBC) incorrectly argues that the statute of limitations bars Plaintiff’s medical malpractice claim. Under South Carolina’s discovery rule, the statute of limitations does not begin to run until the plaintiff has fully comprehended the nature and potential negligent cause of her injury.

LEGAL STANDARD

South Carolina Code Section 15-3-545(A) allows medical malpractice actions to be commenced within three years from the date of discovery or when the injury reasonably ought to have been discovered, not exceeding six years from the date of occurrence.

ARGUMENT

I. The Discovery Rule Requires Comprehensive Understanding of Injury

In *McMaster v. Dewitt*, 411 S.C. 138, 145 (Ct. App. 2014), the Court of Appeals clarified that 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."

We apply the discovery rule to determine when an action accrues. *Dunbar v. Carlson*, 341 S.C. 261, 266, 533 S.E.2d 913, 915-16 (Ct. App. 2000). 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." *Knox v. Greenville Hosp. Sys.*, 362 S.C. 566, 570, 608 S.E.2d 459, 462 (Ct. App. 2005); *see also Dunbar*, 341 S.C. at 266, 533 S.E.2d at 916.

McMaster v. Dewitt, 411 S.C. 138, 145, 767 S.E.2d 451, 454 (Ct. App. 2014).

Unlike the defendant's interpretation of *Knox v. Greenville Hosp. Sys.*, 362 S.C. 566 (Ct. App. 2005), Plaintiff's situation differs. While Plaintiff experienced immediate pain, she did not immediately understand the full medical implications of her nerve injury. "The mere presence of pain or discomfort, to be sure, will ordinarily not serve to trigger the commencement of the applicable statute of limitations." *Knox v. Greenville Hosp. Sys.*, 362 S.C. 566, 571, 608 S.E.2d 459, 462 (Ct. App. 2005).

II. Genuine Dispute Exists About Date of Discovery

The defendant relies heavily on the *Knox* precedent, arguing that immediate pain constitutes discovery. However, Plaintiff's medical records and subsequent treatments demonstrate she did not fully understand her injury's extent until after January 2020.

Specifically, it was not until December 9, 2020 when Dr. John M. Ernst first assessed the plaintiff's right ulnar nerve irritation as related to phlebotomy and ordered imaging and diagnostics (Exhibit 1). Further, it was not until February 3, 2021 when Dr. Ernst determined that the nerve

irritation and median nerve injury stemmed from a phlebotomy procedure in January 2020 (Exhibit 2). Additionally, Plaintiff testified in her deposition that first time she was told that the venipuncture resulted in an injury to her nerve was by Dr. Thomas C. Appleby. Lisa Sample Dep., 71: 18-25; (Exhibit 3). Dr. Appleby's first treatment assessment that concerned the nerve injury in regards to the blood center was on May 24, 2021 (Exhibit 4). In her deposition when asked if she suspected that her "symptoms were related to the donation" she responded: "I didn't really know" and also testified that she had never heard the term "negligent" used by her medical providers. Lisa Sample Dep., 71: 18-25; 70:19-24 (Exhibit 3).

These dates of treatment and multiple medical evaluations to diagnose the specific ulnar nerve injury, determine potential long-term consequences, and assess medical treatment options occurred well within the three year window for the statute of limitations.

III. Statute of Limitations Analysis

Even under S.C. Code Ann. § 15-3-545(A), a genuine issue of material fact exists regarding when Plaintiff reasonably discovered her injury and its potential negligent cause.

CONCLUSION

The Defendants' motion for summary judgment should be denied. A genuine factual dispute exists about the precise date of injury discovery.

URICCHIO HOWE KRELL JACOBSON
TOPOREK & KEITH, P.A.

s/ Gregory D. Keith
Gregory D. Keith, Bar No. 7119
greg@uricchio.com
Jonathan F. Krell, Bar No. 16691
jonathan@uricchio.com
PO Box 399 – Charleston, SC 29402
Tel.: (843) 723-7491
ATTORNEYS FOR PLAINTIFF

December 2, 2024
Charleston, South Carolina

**SAMPLE, LISA R**

40 Y old Female, DOB: [REDACTED]/1980

Account Number: 00001430826

1623 PINCKNEY PARK DR, CHARLESTON, SC-29407-6231

Home: 843-670-6870

Guarantor: SAMPLE, LISA R Insurance: RESERVE NATIONAL

INSURANCE Payer ID: 5812

PCP: HUGH E THOMPSON, MD

Appointment Facility: RSFPP Orthopaedics O OSCWA

12/09/2020

Progress Notes: John M Ernst MD

Current Medications**Taking**

Armour Thyroid 15 MG Tablet 1 tablet on an empty stomach Orally Once a day

Armour Thyroid 60 MG Tablet 1 tablet Orally Once a day

Not-Taking/PRN

Alprazolam 0.5 MG Tablet 1 tablet Orally at bedtime prn

Effexor XR 37.5 MG Capsule Extended Release 24 Hour

1 capsule with food Orally Once a day

Flonase 50 MCG/ACT Suspension 1 spray in each nostril

Nasally Twice a day

Probiotic Tablet Delayed Release Orally

Medication List reviewed and reconciled with the patient

Past Medical History

Hyperthyroidism.

Hyperhidrosis.

Hashimoto's.

Drug-induced urticaria from Wellbutrin.

Surgical History

colonoscopy > IH, EH poor prep 04/18/17

Family History

Father: alive

Mother: deceased 62 yrs, diagnosed with Breast CA

Sister(s): alive

3 sister(s) - healthy.

mother has breast cancer(triple negative).

Social History**Tobacco Use:**

Tobacco Use/Smoking

Are you a nonsmoker

Additional Findings: Tobacco Non-User Non-smoker for personal reasons

Tobacco cessation

Patient counselled on the dangers of tobacco

10/09/2020

Cessation: Not applicable

Tobacco Use/Smokeless: Denies

Smokeless Tobacco/nicotine use: No

Drugs/Alcohol:

Drugs: Denies

Have you used drugs other than those for medical reasons in the past 12 months? No

Alcohol Screen: Denies

Did you have a drink containing alcohol in the past year? No

Points 0

Interpretation Negative

works as a small group tour sales person.

Allergies

Wellbutrin: Hives - Allergy

Hospitalization/Major Diagnostic**Procedure**

Denies Past Hospitalization

Review of Systems**General/Constitutional:**

Night sweats denies. Fatigue denies.

Fever denies. Change in activity level denies.

Allergy/Immunology:

Allergies denies. Infection after surgery denies.

Latex denies.

ENT:

Reason for Appointment

1. RT ELBOW PAIN- SAW DR BAHADORI-Had nes done-referral coming- no other tx-not work comp- reserve national ins

History of Present Illness**Upper Extremity Problems:**

DEMOGRAPHICS 40 YEAR OLD FEMALE RIGHT HAND DOMINANT SERVER BARTENDER.

HPI SUMMARY 12/09/20 -(Right arm)Patient underwent phlebotomy right medial antecubital region for blood donation on 1/20 experiencing immediate acute pain tingling or weakness of the hand and rapid development of antecubital hematoma. reports residual activity daytime and nocturnal paresthesias more so long ring and small finger with antecubital aching. Right arm weakness..

EXAM SUMMARY 12/09/20 -(Right arm) no lacerations or abrasions contusions or ecchymosis normal pulses and lymphatics. Range of motion full. Sensitive ulnar nerve cubital tunnel positive Tinel's transient elbow flexion test benign forearm compartments. Benign antecubital area no hematomas normal muscle mass. negative Tinel's carpal tunnel canal Guyon negative Phalen's benign medial condyle flexor origin cubital tunnel benign bicipital tendon. Good resistance. Benign lateral condyle extensor origin radial tunnel cauda equina. Intact ulnar intrinsic and extrinsic motor. Reflexes 1+. Upper extremity motor symmetrical. 2 point discrimination 6 mm all digits. Mild enlargement right hand and slight venous congestion appearance. Good refill. Small radial volar carpal ganglion cyst benign nontender nonpulsatile Alert and oriented no apparent distress age-appropriate normal respirations..

ASSESSMENT/TREATMENT SUMMARY 12/09/20 -(Right arm) Residual complex right arm symptomatology after phlebotomy was significant hematoma and bruising noted. Some ulnar nerve hypersensitivity and ulnar nerve paresthesias intermittently no radicular symptoms. History and clinical exam is not consistent with right carpal tunnel syndrome./Recommend more focal ulnar nerve studies including EMG. right elbow MRI with contrast to evaluate neurovascular structures. Serial assessment..

INTERVENTION SUMMARY

12/09/20 -Neurological consultation Dr. Bahadori noted and reviewed.

12/09/20 -Nerve conduction studies Dr. Bahadori 12/4/20 demonstrates right median motor latency 4.7/less than 4.5 normal with normal amplitude. Right median sensory latency 4.1/less than 3.5 normal with normal amplitude. Normal right ulnar motor sensory and motor latency and amplitude. Normal ulnar motor across elbow. Normal screening EMG right deltoid triceps biceps APB. Interpretation right carpal tunnel syndrome.

Vital Signs

Ht 68 in, Wt 139.3 lbs, BMI 21.18 Index.

Examination**General Examination:****RADIOGRAPHS**

12/09/20 -(Right arm) no lacerations or abrasions contusions or ecchymosis normal pulses and lymphatics. Range of motion full. Sensitive ulnar nerve cubital tunnel positive Tinel's transient elbow flexion test benign forearm compartments. Benign antecubital area no hematomas normal muscle mass. negative Tinel's carpal tunnel canal Guyon negative Phalen's benign medial condyle flexor origin cubital



Tinnitus denies. Nosebleed denies. Hearing loss denies.

Ophthalmologic:

Change in vision denies. Glaucoma denies.

Endocrine:

Take insulin? denies. Hypoglycemia denies.

Dizziness denies. Thyroid problem denies.

Diabetes denies.

Respiratory:

O₂ required denies. Shortness of breath denies.

Sleep Apnea denies. Asthma denies.

COPD denies.

Cardiovascular:

Heart problems denies. Angina denies.

Peripheral Vascular Disease denies. Trouble breathing

when lying down denies. High blood

pressure denies. Irregular heartbeat denies. Low

Blood Pressure denies. Edema denies.

Gastrointestinal:

GERD denies. Hernia denies. change in bowel

movements denies. Reflux denies. Rectal

bleeding denies. Liver problems denies.

Musculoskeletal:

Joint stiffness denies. Fibromyalgia denies.

Arthritis denies. Swollen joints denies. Painful

joints denies. Weakness denies. Gout denies.

Hematology:

Blood thinners denies. Hepatitis denies.

Bleeding problems denies. Easy bruising denies.

Anemia denies.

Genitourinary:

Blood in urine denies. Frequent UTI denies.

Kidney problems denies.

Neurologic:

Seizures denies. Tremor denies. Stroke denies.

Tingling/Numbness denies.

Psychiatric:

Depression denies. Mental foginess denies.

Anxiety denies.

Dermatology:

Skin rash denies. Poor wound healing denies.

tunnel benign bicipital tendon. Good resistance. Benign lateral condyle extensor origin radial tunnel cauda equina. Intact ulnar intrinsic and extrinsic motor. Reflexes 1+. Upper extremity motor symmetrical. 2 point discrimination 6 mm all digits. Mild enlargement right hand and slight venous congestion appearance. Good refill. Small radial volar carpal ganglion cyst benign nontender nonpulsatile Alert and oriented no apparent distress age-appropriate normal respirations.

Assessments

1. Injury of median nerve at right forearm level, initial encounter - S54.11XA (Primary)

2. Irritation of right ulnar nerve - G56.21

12/09/20 -(Right arm) Residual complex right arm symptomatology after phlebotomy was significant hematoma and bruising noted. Some ulnar nerve hypersensitivity and ulnar nerve paresthesias intermittently no radicular symptoms. History and clinical exam is not consistent with right carpal tunnel syndrome./Recommend more focal ulnar nerve nerve studies including EMG. right elbow MRI with contrast to evaluate neurovascular structures.Serial assessment.

Treatment

1. Injury of median nerve at right forearm level, initial encounter

IMAGING: MRI Elbow w/ + w/o Contrast Right

history of antecubital venipuncture with rapid hematoma and paresthesias evaluate median nerve ulnar nerve and neurovascular structures

Notes:

12/09/20 -(Right arm) Residual complex right arm symptomatology after phlebotomy was significant hematoma and bruising noted. Some ulnar nerve hypersensitivity and ulnar nerve paresthesias intermittently no radicular symptoms. History and clinical exam is not consistent with right carpal tunnel syndrome./Recommend more focal ulnar nerve nerve studies including EMG. right elbow MRI with contrast to evaluate neurovascular structures.Serial assessment.

Referral To:Hamid Bahadori Neurology

Reason:repeat ulnar motor nerve conduction studies proximal crossing distal to elbow.|EMG right ADM, first DI FCU, FDP ulnar

2. Others

Continue Medication reported as directed by the ordering provider

Follow Up

after MRI and nerve conduction studies

Care Plan Details



Electronically signed by JOHN ERNST MD on 12/14/2020 at 04:11 PM EST

Sign off status: Completed

RSFPP Orthopaedics O OSCWA
2093 HENRY TECKLENBURG DR
STE 200
CHARLESTON, SC 29414-5742
Tel: 843-958-2500
Fax: 843-606-8058

Patient: SAMPLE, LISA R DOB: [REDACTED] Progress Note: John M Ernst MD 12/09/2020

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

**SAMPLE, LISA R**

40 Y old Female, DOB: [REDACTED] 080

Account Number: 00001430826

1623 PINCKNEY PARK DR, CHARLESTON, SC 29407-6231

Home: 843-670-6870

Guarantor: SAMPLE, LISA R Insurance: RESERVE NATIONAL

INSURANCE Payer ID: 5812

PCP: HUGH E THOMPSON, MD

Appointment Facility: RSFPF Orthopaedics O OSCWA

02/03/2021

Progress Notes: John M Ernst MD

Current Medications**Taking**

Armour Thyroid 15 MG Tablet 1 tablet on an empty stomach Orally Once a day

Armour Thyroid 60 MG Tablet 1 tablet Orally Once a day

Medication reported as directed by the ordering provider

Not-Taking/PRN

Alprazolam 0.5 MG Tablet 1 tablet Orally at bedtime prn

Effexor XR 37.5 MG Capsule Extended Release 24 Hour

1 capsule with food Orally Once a day

Flonase 50 MCG/ACT Suspension 1 spray in each nostril

Nasally Twice a day

Probiotic Tablet Delayed Release Orally

Medication List reviewed and reconciled with the patient

Past Medical History

Hyperthyroidism.

Hyperhidrosis.

Hashimoto's.

Drug-induced urticaria from Wellbutrin.

Surgical History

colonoscopy > IH, EH poor prep 04/18/17

Family History

Father: alive

Mother: deceased 62 yrs, diagnosed with Breast CA

Sister(s): alive

3 sister(s) - healthy.

mother has breast cancer(triple negative).

Social History**Tobacco Use:**

Tobacco Use/Smoking

Are you a nonsmoker

Additional Findings: Tobacco Non-User Non-smoker for personal reasons

Tobacco cessation

Patient counselled on the dangers of tobacco

10/09/2020

Cessation: Not applicable

Tobacco Use/Smokeless: Denies

Smokeless Tobacco/nicotine use: No

Drugs/Alcohol:

Drugs: Denies

Have you used drugs other than those for medical reasons in the past 12 months? No

Alcohol Screen: Denies

Did you have a drink containing alcohol in the past year? No

Points 0

Interpretation Negative

works as a small group tour sales person.

Allergies

Wellbutrin: Hives - Allergy

Hospitalization/Major Diagnostic**Procedure**

Denies Past Hospitalization

Review of Systems**General/Constitutional:**

Night sweats denies. Fatigue denies.

Fever denies. Change in activity level denies.

Allergy/Immunology:

Allergies denies. Infection after surgery denies.

Reason for Appointment

1. Mri rt elbow results

History of Present Illness**Upper Extremity Problems:****DEMOGRAPHICS 40 YEAR OLD FEMALE RIGHT HAND DOMINANT SERVER BARTENDER.****HPI SUMMARY 12/09/20**-(Right arm)Patient underwent phlebotomy right medial antecubital region for blood donation on 1/20 experiencing immediate acute pain tingling or weakness of the hand and rapid development of antecubital hematoma.reports residual activity daytime and nocturnal paresthesias more so long ring and small finger with antecubital aching. Right arm weakness.**02/03/21**-(right arm) reports coolness bluish hue right long ring and small fingers with cold exposure. Reports tingling and pain right medial elbow forearm extending to small finger with elbow flexion. Symptoms when sleeping with elbow flexed. No radicular complaints. Additional nerve studies noted below. Of note patient's median sensory conduction Antecubital region and forearm is normal. MRI result noted below.Of note during patient's phlebotomy over antecubital region patient describes deep penetration. Noting shock and burning sensation ulnar forearm to hand.. Patient developed immediate blueness of her hand.also has phone photos of distal half humerus and proximal third forearm bruising.currently not using elbow pads..**EXAM SUMMARY 12/09/20**-(Right arm) no lacerations or abrasions contusions or ecchymosis normal pulses and lymphatics. Range of motion full. Sensitive ulnar nerve cubital tunnel positive Tinel's transient elbow flexion test benign forearm compartments. Benign antecubital area no hematomas normal muscle mass. negative Tinel's carpal tunnel canal Guyon negative Phalen's benign medial condyle flexor origin cubital tunnel benign bicipital tendon. Good resistance. Benign lateral condyle extensor origin radial tunnel cauda equina. Intact ulnar intrinsic and extrinsic motor. Reflexes 1+. Upper extremity motor symmetrical. 2 point discrimination 6 mm all digits. Mild enlargement right hand and slight venous congestion appearance. Good refill.. Small radial volar carpal ganglion cyst benign nontender nonpulsatileAlert and oriented no apparent distress age-appropriate normal respirations.**02/03/21**-(right arm) no laceration abrasions contusions or ecchymosis normal pulses and lymphatics. Full range of motion. Transient venous hue right long ring and small fingers. Elbow stable benign medial condyle flexor origin positive Tinel's cubital tunnel. No snapping. Negative elbow flexion test benign forearm compartments negative Tinel's carpal tunnel canal Guyon negative Phalen's sign. Light touch intact 2 point discrimination 6 mm all digits. Normal pulp refill color turgor and sudomotor evaluation. Benign canal Guyon normal Allen's test. Normal ulnar intrinsic and extrinsic motor. Normal thenar/hypothenar eminence normal FPL FDP APB..**ASSESSMENT/TREATMENT SUMMARY 12/09/20**-(Right arm) Residual complex right arm symptomatology after phlebotomy with significant hematoma and bruising noted. Some ulnar nerve hypersensitivity and ulnar nerve paresthesias intermittently no radicular symptoms. History and clinical exam is not consistent with right carpal tunnel syndrome./Recommend more focal ulnar nerve nerve studies including EMG. right elbow MRI with contrast to evaluate neurovascular structures.Serial assessment.**02/03/21**-Component of Raynaud's phenomena associated history of cold hands and feet but venous hue more so right long ring and small finger with cold exposure and some activities.Component ulnar nerve neuritis with normal nerve studies across the elbow slight peripheral ulnar sensory changes normal motor. Clinical exam for ulnar nerve hypersensitivity no snapping. Slight changes on

Latex denies.

ENT:

Tinnitus denies. Nosebleed denies. Hearing loss denies.

Ophthalmologic:

Change in vision denies. Glaucoma denies.

Endocrine:

Take insulin? denies. Hypoglycemia denies. Dizziness denies. Thyroid problem denies. Diabetes denies.

Respiratory:

O2 required denies. Shortness of breath denies. Sleep Apnea denies. Asthma denies.

COPD denies.

Cardiovascular:

Heart problems denies. Angina denies. Peripheral Vascular Disease denies. Trouble breathing when lying down denies. High blood pressure denies. Irregular heartbeat denies. Low Blood Pressure denies. Edema denies.

Gastrointestinal:

GERD denies. Hernia denies. change in bowel movements denies. Reflux denies. Rectal bleeding denies. Liver problems denies.

Musculoskeletal:

Joint stiffness denies. Fibromyalgia denies. Arthritis denies. Swollen joints denies. Painful joints denies. Weakness denies. Gout denies.

Hematology:

Blood thinners denies. Hepatitis denies. Bleeding problems denies. Easy bruising denies. Anemia denies.

Genitourinary:

Blood in urine denies. Frequent UTI denies. Kidney problems denies.

Neurologic:

Seizures denies. Tremor denies. Stroke denies. Tingling/Numbness denies.

Psychiatric:

Depression denies. Mental foginess denies. Anxiety denies.

Dermatology:

Skin rash denies. Poor wound healing denies.

MRI./Prior to consideration of cubital tunnel decompression would recommend vascular consultation for Raynaud's phenomenon/treatment

INTERVENTION SUMMARY 12/09/20 -Neurological consultation Dr. Bahadori noted and reviewed.

12/09/20 -Nerve conduction studies Dr. Bahadori 12/4/20 demonstrates right median motor latency 4.7/less than 4.5 normal with normal amplitude. Right median sensory latency 4.1/less than 3.5 normal with normal amplitude. Normal right ulnar motor sensory and motor latency and amplitude. Normal ulnar motor across elbow. Normal screening EMG right deltoid triceps biceps APB. Interpretation right carpal tunnel syndrome.

02/03/21 - (MRI right elbow with without contrast 1/14/21 interpret as mild enlargement and slight edema involving ulnar nerve at cubital tunnel without abnormal enhancement. No mass lesion. No muscular deformity. Interpretation noted.

02/03/21 -additional nerve studies phone report indicates median sensory latency 4.3 elevated normal amplitude. Median motor 4.5 borderline. Ulnar motor across elbow was normal. Ulnar sensory at wrist 3.0 elevated normal amplitude. ulnar motor normal. EMGs performed first DI and APB normal however remaining ulnar motor was not performed. Including FCU FDP /ADQ. Written report pending.

Vital Signs

Ht 68 in, Wt 139.3 lbs, BMI 21.18 Index.

Examination

General Examination:

02/03/21 -(right arm) no laceration abrasions contusions or ecchymosis normal pulses and lymphatics. Full range of motion. Transient venous hue right long ring and small fingers. Elbow stable benign medial condyle flexor origin positive Tinel's cubital tunnel. No snapping. Negative elbow flexion test benign forearm compartments negative Tinel's carpal tunnel canal Guyon negative Phalen's sign. Light touch intact 2 point discrimination 6 mm all digits. Normal pulp refill color turgor and sudomotor evaluation. Benign canal Guyon normal Allen's test. Normal ulnar intrinsic and extrinsic motor. Normal thenar/hypothenar eminence normal FPL FDP APB.

Assessments

1. Irritation of right ulnar nerve - G56.21 (Primary)
 2. Injury of median nerve at forearm level, right arm, subsequent encounter - S54.11XD
 3. Raynaud's phenomenon without gangrene - I73.00
- 02/03/21** -Component of Raynaud's phenomena associated history of cold hands and feet but venous hue more so right long ring and small finger with cold exposure and some activities. Component ulnar nerve neuritis with normal nerve studies across the elbow slight peripheral ulnar sensory changes normal motor. Clinical exam for ulnar nerve hypersensitivity no snapping. Slight changes on MRI./Prior to consideration of cubital tunnel decompression would recommend vascular consultation for Raynaud's phenomenon/treatment.

Treatment

1. Irritation of right ulnar nerve

Notes: **02/03/21** -Component of Raynaud's phenomena associated history of cold hands and feet but venous hue more so right long ring and small finger with cold exposure and some activities. Component ulnar nerve neuritis with normal nerve studies across the elbow slight peripheral ulnar sensory changes normal motor. Clinical exam for ulnar nerve hypersensitivity no snapping. Slight changes on MRI./Prior to consideration of cubital tunnel decompression would recommend vascular consultation for Raynaud's phenomenon/treatment.

Referral To: FAX and send P2P Appleby Thomas - Vascular Surgery

Reason: right arm raynauds phenomena [symptom magnification following previous right arm diffuse distal humerus proximal forearm bruising after phlebotomy one year ago] component of cubital tunnel ulnar nerve irritation

2. Others

Continue Medication reported as directed by the ordering provider

Follow Up

after vascular consultation

Care Plan Details



Electronically signed by JOHN ERNST MD on 02/03/2021 at 04:02 PM
EST
Sign off status: Completed

RSFPP Orthopaedics O OSCWA
2093 HENRY TECKLENBURG DR
STE 200
CHARLESTON, SC 29414-5742
Tel: 843-958-2500
Fax: 843-606-8058

Patient: SAMPLE, LISA R DOB: [REDACTED] Progress Note: John M Ernst MD 02/03/2021

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

Page 62 1 someone had mentioned that, cubital tunnel 2 syndrome. Somebody along the line had mentioned 3 that during the whole discovery phase. 4 Q. Do you know whether that was -- that 5 diagnosis was ever made? 6 A. I don't think so, no. 7 Q. And it seems to me from the HPI section 8 that you were primarily symptomatic when you bent 9 your elbow? 10 A. That's correct. 11 Q. But when you -- it notes here if she 12 extends her arm fully, the symptoms go away. Was 13 that immediate? So symptomatic when bent and then 14 unbend or straighten you arm, did the symptoms go 15 away immediately? 16 A. Yes. 17 Q. And on a scale of one to ten, one being 18 very little, ten being great, how much were you 19 bothered by the symptoms you were having at that 20 point in January of 2022? 21 A. Well, it was impacting my sleep, so I 22 think that was one of the most detrimental 23 symptoms. It was waking me up a lot in my sleep 24 and I would have to extend my arm to keep it from 25 going to sleep. So on a weekly basis, multiple	Page 64 1 not seem to be losing any motor power and her 2 symptoms have moderated somewhat and she may 3 therefore decide not to proceed with surgery. She 4 will consider the risks and potential complications 5 against the chance of getting permanent improved by 6 having surgery. And then you'll call her if you 7 want to schedule. Is that consistent with your 8 recollection? 9 A. Yes. 10 Q. And then the next thing we appear to 11 have is that you did get surgery? 12 A. I did. 13 Q. How did you arrive at the decision to 14 have surgery? 15 A. I think I was just tired of dealing 16 with it and ready for a solution. 17 Q. What was your expectation of the 18 procedure? 19 A. Well, what Dr. Price explained to me, 20 that they would -- he would go in and do a release 21 on the ulnar nerve and that would help with those 22 sensations that I was experiencing, and it did. 23 Q. What did you understand -- did you ever 24 understand that you had a firm diagnosis? 25 A. I didn't really think I had a firm
Page 63 1 times a week. And when something's impacting your 2 sleep, it impacts your daily life. 3 Q. Sure. Absolutely. Was it typically 4 that it would just wake you up one time during the 5 night? 6 A. I don't know. 7 Q. And would you typically be able to just 8 straighten your arm out and drift back off to 9 sleep? 10 A. Yes. How many times I woke up and did 11 that, I can't tell you. 12 Q. Will you look to the bottom section of 13 Roper Ortho 9, the treatment section, which reads 14 cubital tunnel syndrome on right. Do you see that? 15 That top page. 16 A. Um-hum. 17 Q. Patient seems a little bit better since 18 she was here last, still has occasional ulnar nerve 19 paresthesias and numbness with origination from the 20 upper medial elbow. Does that seem accurate? 21 A. Yes. 22 Q. And then after long discussion with the 23 patient as we did last time, we talked about 24 surgery and the risks and potential complications 25 of doing exploration and nerve release. She does	Page 65 1 diagnosis or understand that they could attribute 2 it to what happened in regards to the blood 3 connection until Dr. Appleby confirmed it, and that 4 would have been in May of 2021. 5 Q. He confirmed what? 6 A. I have the note somewhere. But he said 7 it looks like you've had some kind of injury to 8 your nerve in your arm after they did the venal 9 ultrasound. He was the first one that ever really 10 said, okay, this is something here. Because 11 everybody else was like, oh, carpal tunnel or maybe 12 this is Raynaud's syndrome. Somebody told me that 13 they thought I had Raynaud's, but I never had any 14 of that before. 15 Q. So you always suspected that your 16 symptoms were related to the donation? 17 A. I didn't really know. It just was 18 something that was consistently coming up over and 19 over again. 20 Q. But you didn't have any symptoms until 21 the date of the donation itself, correct? 22 A. Correct. 23 Q. And then from that point forward you 24 had intermittent symptoms? 25 A. Intermittent symptoms, yes.

Page 66 1 Q. But sitting here today, what do you 2 understand your diagnosis to have been? 3 A. I understand that there was some sort 4 of ulnar nerve insult that occurred when I gave 5 blood. 6 Q. Was the ulnar nerve -- and I appreciate 7 you're not a doctor, but as far as you know -- 8 A. Yeah. 9 Q. -- being the patient, is it your 10 understanding that the ulnar nerve was the only 11 nerve that was injured? 12 A. I believe so, yes. 13 Q. And you said Appleby is the one that 14 told you that he suspected that the nerve injury 15 was related to the donation? 16 A. Yes. 17 Q. Your surgery appears to have been on 18 March 21st, 2022? Is that accurate as far as you 19 know? 20 A. Yes. 21 Q. What is your understanding from a 22 layperson standpoint that they did in that 23 procedure? 24 A. From a layperson, he explained to me 25 that he was going to go in and perform an ulnar	Page 68 1 Q. Okay. You were outpatient? 2 A. Yes. 3 Q. Does the scar bother you? 4 A. No. I mean, bother me like does it 5 hurt or aesthetically? 6 Q. Aesthetically. 7 A. It's not ideal. 8 Q. I mean, are you self-conscious about 9 it? 10 A. Sometimes. Depending on what I'm 11 wearing. 12 Q. Has anybody ever asked you about it? 13 A. Yes, they have. 14 Q. Did the surgery alleviate your 15 symptoms? 16 A. Yes. 17 Q. And I don't know that I'm going to mark 18 this, but you went to Roper St. Francis followup 19 with Sawyer Langston, who must be a PA for -- 20 A. Yes, um-hum. 21 Q. On March 2nd, 2022. And he noted that 22 the tingling and numbness had resolved. Is that 23 accurate? Do you want to see it? 24 A. Yes. That's accurate. 25 Q. Do you want to see it?
Page 67 1 nerve release. So I guess he was going to release 2 whatever compression was on the nerve. And he told 3 me that he was going to have to move it, move the 4 nerve somehow or make it -- I knew that it was 5 going to be closer to the skin after surgery. 6 Q. Did you talk to him after surgery? 7 A. Yes. 8 Q. Did he tell you what he found? 9 A. Yes. 10 Q. What? 11 A. I think he said that he found that 12 there was some compression. 13 Q. On the ulnar nerve? 14 A. Yes. But now, granted, right after I 15 was under anesthesia, so that's the best I recall. 16 Q. Certainly you had follow-ups with him, 17 right? 18 A. Yes. 19 Q. And in those discussions did he tell 20 you that he found some compression on the ulnar 21 nerve? 22 A. Yes. 23 Q. Would you mind showing me the scar from 24 your surgery? 25 A. Sure (indicating).	Page 69 1 A. No, it's okay. 2 Q. When was the last time you sought 3 medical treatment related to your right upper 4 extremity, your right arm, hand, fingers? 5 A. I guess that would have been any kind 6 of post-op visit that I had. 7 Q. I want to look at a couple of -- you 8 don't need to mark this. This is your complaint. 9 And I just want to ask you a couple -- not the 10 whole thing, just some of the paragraphs. Look at 11 Paragraph 7 for me. Had you seen TBC's 12 advertisements prior to donation? 13 A. I don't remember. 14 Q. Okay. 15 A. It's not something I paid attention to. 16 Q. Right. Look at Paragraph 10. Is that 17 accurate? 18 A. Yes. 19 Q. And Paragraph 12. I'm trying to 20 understand this paragraph and was hoping you might 21 be able to help me a little bit. It says -- you 22 can read it, but can you explain that paragraph to 23 me? 24 A. That through considerable followup 25 treatment and tests conducted by medical experts

Lisa Renee Sample
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April 23, 2024

Page 70 1 and specialists, it was determined that in 2 deviation to the medical industry's standard of 3 care the venipuncture of the plaintiff's right arm 4 was performed improperly and did, in fact, cause 5 nerve damage. 6 Q. Right, but -- so I guess what I'm 7 looking to understand is what -- it says through 8 the treatment and tests conducted by medical 9 experts and specialists, it was determined that 10 there was a deviation of the medical industry's 11 standard of care. 12 How did the treatment and tests 13 conducted by medical experts and specialists make 14 that determination that there was a breach of the 15 standard of care? 16 A. Can you ask me this question in a 17 different way? 18 Q. Yeah. And I'm trying to understand it 19 myself. Let me ask you this: Has any medical 20 expert or specialist told you that a phlebotomist 21 at TBC breached the standard of care; otherwise, 22 was negligent? 23 A. I don't think anybody's ever used the 24 term negligent. 25 Q. And when you refer to -- and I	Page 72 1 Q. And I appreciate that, but the question 2 is a little bit different, which is -- 3 A. Okay. 4 Q. -- has any doctor or specialist said 5 that the venipuncture was performed improperly? 6 A. No. 7 Q. Look at Paragraph 13 for yourself. 8 This is the specific alleged breaches of the 9 standard of care. And my question to you before 10 you start reading is: Do you have any personal 11 knowledge to support any of these enumerated 12 allegations? If so, I'm going to ask you about it. 13 A. No. 14 Q. Sitting here today -- what? 15 A. How much longer? 16 Q. This has been really short. 17 A. Okay. 18 Q. I can take a deposition all day long. 19 A. Okay. 20 Q. I need to ask you about your damages. 21 A. Okay. 22 Q. Do you presently have any symptoms 23 which you attribute to the blood donation? 24 A. Do I presently have any symptoms that I 25 attribute. I have intermittent, same, sensation,
Page 71 1 appreciate this isn't your language. But reference 2 to the medical industry's standard of care, what 3 industry standards are you referring to, if you 4 know? 5 A. I would think that in the -- the 6 phlebotomist would need to be trained not to cause 7 an injury when drawing blood, so perhaps that's a 8 deviation from the standard of care that that's 9 referring to. 10 Q. Do you know whether nerve injuries are 11 a known and accepted complication of blood 12 donation? 13 A. No. 14 Q. Has any medical expert -- similar to a 15 question I asked a moment ago, but has any medical 16 expert or specialist told you that this particular 17 venipuncture was performed improperly? 18 A. Well, I think it was -- I think it was 19 Dr. Appleby that said he thought that something 20 occurred during the venipuncture. In fact, I'm 21 positive it was Dr. Appleby that said that. 22 Q. Right. So Dr. Appleby told you that 23 the venipuncture resulted in an injury to your 24 nerve? 25 A. Yes.	Page 73 1 cold fingers, and I have some numbing when my arm 2 is bent still, but it's nothing like it was prior 3 to surgery. 4 Q. I think what I heard you said is you 5 have intermittent symptoms, including some coldness 6 and some numbness? 7 A. Correct. 8 Q. Those are the only symptoms? 9 A. Yes. 10 Q. And those are with your ring finger and 11 your -- 12 A. And my pinky finger. 13 Q. Any other part of your right upper 14 extremity -- 15 A. No. 16 Q. -- that is affected by coldness or 17 numbness? 18 A. No. 19 Q. When you say intermittent, how often 20 are you talking? 21 A. Just when my arm is bent when I'm -- 22 when I'm typing, when I'm on the phone, when I'm 23 sleeping, but it's significantly less than it was 24 before. 25 Q. Do you still wake up at night?

19 (Pages 70 - 73)

SAMPLE, LISA DOB: [REDACTED]/1980 (41 yo F) Acc No. 190860 DOS: 05/24/2021

COASTAL VASCULAR & VEIN CENTER

Progress Note

Patient: SAMPLE, LISA
DOB: [REDACTED] 1980 Age: 41 Y Sex: Female

Provider: Thomas C. Appleby, MD
Date: 05/24/2021

Reason for Appointment

1. JOHN ERNST/RUE RAYNAUDS PHENOMENON

History of Present Illness

General:

Ms. Sample is a 41-year-old, white female seen at the kind courtesy of Dr. Ernst for a vascular evaluation. Ms. Sample is very healthy and has started having trouble with her right arm and hand. It is noted that she is right-hand dominant. She dates all of her symptoms to 01/2020 when she was giving blood at a blood drive outside her workout facility. She reports deciding to give blood after her workout. She states that when the phlebotomist stuck her in her right antecubital fossa, she had a cold sensation go down her volar forearm and her fingers turned blue. When she told them something was wrong, a supervisor came and took the needle out and told her she would have a hematoma and bruise. She did have a golf ball sized hematoma and she bruised circumferentially around her antecubital fossa. After a week or two, her hematoma and ecchymosis had resolved. However, immediately after this she noticed a loss of grip strength in her right hand, and it has remained. She also states that she has a dull throbbing pain along the volar forearm. She states that she is a right-side sleeper, and she sleeps with her arm tucked and flexed underneath her body. Between 1 a.m. and 3 a.m. every night, she wakes up with pain. She also describes a sensation that the inner aspect of her right fifth finger feels colder. She has not had any trouble with change in color or pain when she sticks her hand in a freezer or refrigerator. She currently works as a server and bartender at the Wreck, so she doing this fairly often.

Current Medications

Taking

- Armour Thyroid 15 MG Tablet 1 tablet on an empty stomach Orally Once a day, Notes: Patient states she takes 15 mg and 60 mg tablet 1 x day

Medication List reviewed and reconciled with the patient

Past Medical History

Thyroid disease.

Surgical History

Denies Past Surgical History

Family History

Mother: deceased, diagnosed with Cancer

Siblings: alive, diagnosed with Cancer

Family history of breast cancer.

Provider: Thomas C. Appleby, MD

Date: 05/24/2021

<https://sccsvsapp.ecwcloud.com/mobiledoc/jsp/catalog/xml/printMultipleChartOptions.jsp...> 7/26/2021



SAMPLE, LISA DOB: ~~05/15~~/1980 (41 yo F) Acc No. 190860 DOS: 05/24/2021

Social History

Tobacco Use:

Tobacco Use/Smoking

Are you a nonsmoker

She used to be a travel agent organizing small group trips to Europe but when COVID hit, this business went away, and she now is a server/bartender at the Wreck Restaurant in Mt. Pleasant. She is a nonsmoker. She drinks two to three drinks per week.

Allergies

N.K.D.A.

Hospitalization/Major Diagnostic Procedure

Denies Past Hospitalization

Review of Systems

GENERAL: Negative fever, chills, weight loss, weight gain. HEENT: No blurry vision or epistaxis. RESPIRATORY: No SOB, PND, DOE, wheezing, asthma. CARDIAC: No chest pain, palpitations, MI, or congestive heart failure. VASCULAR: No claudication, rest pain, or nonhealing ulcers. No DVT or superficial thrombophlebitis. GASTROINTESTINAL: No abdominal pain, nausea, vomiting, diarrhea, constipation. GENITOURINARY: No dysuria, hematuria, frequency. HEMATOLOGIC: No bleeding diathesis. ENDOCRINE: Positive for hypothyroidism. No diabetes. PSYCHIATRIC: No depression or anxiety. MUSCULOSKELETAL: No arthritis or back pain. NEUROLOGIC: Negative migraine headaches. No seizure, syncope, stroke. No amaurosis fugax or TIAs.

Vital Signs

Temp 97.7, HR 70 /min, BP 123/85 mm Hg, Wt 140 lbs, BMI 21.28 Index, Ht 5 ft 8 in.

Physical Examination

GENERAL: She is a well-developed, fit-appearing, white female in no acute distress. HEENT: Sclerae anicteric. NECK: Supple. Without mass. No prominent venous pattern. CHEST: Clear. CARDIAC: Negative JVD. Regular rate and rhythm without appreciable gallop, murmur, or rub. VASCULAR: Radials, brachials, superficial temporal, and carotid artery pulses are 2+ bilaterally. I appreciate no bruits. I appreciate no brachial artery mass. EXTREMITIES: She has no edema and no masses bilaterally. She has no discoloration. Roos' test is negative. LOWER EXTREMITIES: Without CCE. ABDOMEN: Soft, nondistended, nontender. No masses. NEUROLOGIC: Awake, alert, and oriented x3. Cranial nerves II-XII intact. Strength 5/5. Gait normal. Speech clear.

DATA: Dr. Ernst's notes from 02/03/2021 are reviewed including summary of Dr. Bahadori's nerve conduction study on 12/09/2020. MRI of her elbow 02/03/2021 is reviewed and additional nerve conduction studies dated 02/03/2021 are noted.

Assessments

1. Right arm pain - M79.601 (Primary)
2. Right arm weakness - R29.898
3. Cold extremity without peripheral vascular disease - R20.9
4. Body mass index [BMI] 21.0-21.9, adult - Z68.21

Unusual constellation of symptoms. I do not believe she has any significant Raynaud's phenomenon or syndrome. I am concerned about a brachial artery puncture and potentially a nerve injury at the time of her blood bank experience. The question of a reflex sympathetic dystrophy is also raised.

Treatment

1. Others

Clinical Notes: I would like to get an arterial Duplex scan of her brachial artery for completeness. Unfortunately, she cannot stay today as she has an appointment in 20 minutes, so we will get her back for the Duplex scan and make final recommendations at that time.

Provider: Thomas C. Appleby, MD

Date: 05/24/2021

<https://sccsvsapp.ecwcloud.com/mobiledoc/jsp/catalog/xml/printMultipleChartOptions.jsp...> 7/26/2021

SAMPLE, LISA DOB: 05/05/1980 (41 yo F) Acc No. 190860 DOS: 05/24/2021

Preventive Medicine

Counseling:

Care goal follow-up plan:

NORMAL BMI BMI IS NORMAL NO FOLLOW-UP PLAN IS DOC

Screening/Special Tests:

Fall Risk Screening:

Fall Risk Assessment: No falls in the past year

Procedure Codes

G8420 BMI- 18.5 to 25= Normal BMI

G8427 DOC MEDS VERIFIED W/PT OR RE

1036F TOBACCO NON-USER

2000F BLOOD PRESSURE, MEASURED

1101F PT FALLS ASSESS-DOC'D LE1/YR



Electronically signed by Thomas Appleby MD, MD on 05/25/2021 at 10:46 AM EDT

Sign off status: Completed

Provider: Thomas C. Appleby, MD

Date: 05/24/2021

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STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	9th JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2023-CP-10-914
Lisa Renee Sample,	)	
	)	
Plaintiff,	)	
	)	
v,	)	PLAINTIFF'S MOTION TO
	)	RECONSIDER
Blood Connection, Inc. and Delisha K.	)	
English,	)	
	)	
Defendants.	)	
	)	

Plaintiff, by and through undersigned counsel, hereby submits this motion for the Court to reconsider its Order granting summary judgment to Defendants.

Argument/Law

1. Rule 59 Standard

Pursuant to Rule 59(e), "A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order." Rule 59(e), SCRCF. "A party *may* wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review." *Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772 (2004).

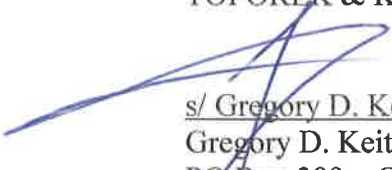
Plaintiff seeks to provide the Court additional medical records which bear upon her understanding of the nature of injury, the medical opinions provided to her, and the timing of her understanding of the facts and circumstances that put her on notice that a claim against the Defendant might exist. A formal brief will be submitted.

Conclusion

Based upon the foregoing, Plaintiff respectfully requests that the Court reconsider its Order granting Defendants' summary judgment as genuine issues of material fact exist.

(SIGNATURE PAGE TO FOLLOW)

URICCHIO HOWE KRELL JACOBSON
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Attorneys for Plaintiff

January 31, 2025

Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2023-CP-10-914
	)	
Lisa Renee Sample,	)	
	)	
Plaintiff,	)	
	)	PLAINTIFF'S MEMORANDUM IN
vs.	)	SUPPORT OF SCRCP 59 MOTION FOR
	)	RECONSIDERATION
Blood Connection, Inc. and Delisha K.	)	
English,	)	
	)	
Defendants.	)	
	)	

Plaintiff, by and through undersigned counsel, submits her memorandum in support of Motion for Reconsideration and/or Alter or Amend a Judgment under SCRCP 59(e), as follows:

I. SCRCP 59 Standard

"A party may wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party must file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review." *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). *Skydive Myrtle Beach, Inc. v. Horry Cnty.*, 426 S.C. 175, 826 S.E.2d 585 (S.C. 2019).

ARGUMENT

II. Plaintiff Was Unable To File A Notice Of Intent Without An Expert Medical Diagnosis Linking The Phlebotomy To Her Damages

The Court has ruled that regardless of whether Ms. Sample may have learned more about her purported injuries at a subsequent time, she was on notice on January 2, 2020 that she might have a claim against TBC and therefore that the statute of limitations began to run on January 2, 2020, and her commencement of this action on February 22, 2023 was untimely. However, Ms. Sample's ability

to bring a medical malpractice claim was dependent upon her ability to show medical malpractice through an expert medical diagnosis.

As the Court is aware, under S.C. Code § 15-79-125, before a complaint alleging malpractice may be filed, the plaintiff must file a Notice of Intent to File Suit with a sworn affidavit from a qualified medical witness who will serve as an expert on the plaintiff's behalf. The affidavit must specify at least one example of how the defendant's conduct resulted in negligence and harm to the patient. To be clear, Ms. Sample needed a medical expert to provide a sworn affidavit attesting a particular breach of care that proximately caused her particular damages.

There was no expert medical evidence of the symptoms being related to phlebotomy until well after January 2020. Specifically, it was not until December 9, 2020 when Dr. John M. Ernst first assessed the Ms. Sample right ulnar nerve irritation as related to phlebotomy and ordered imaging and diagnostics (Exhibit 1). Further, it was not until February 3, 2021 when Dr. Ernst determined that the nerve irritation and median nerve injury stemmed from a phlebotomy procedure in January 2020 (Exhibit 2). Additionally, Plaintiff testified in her deposition that first time she was told that the venipuncture resulted in an injury to her nerve was by Dr. Thomas C. Appleby. Lisa Sample Dep., 71: 18-25; (Exhibit 3). Dr. Appleby's first treatment assessment that concerned the nerve injury in regards to the blood center was on May 24, 2021 (Exhibit 4). In her deposition when asked if she suspected that her "symptoms were related to the donation" she responded: "I didn't really know" and also testified that she had never heard the term "negligent" used by her medical providers. Lisa Sample Dep., 71: 18-25; 70:19-24 (Exhibit 3).

Regardless of what the Plaintiff felt may have been the cause of her symptoms, her medical providers were following a theory of a Raynaud's phenomenon diagnosis. In fact, Raynaud's phenomenon was not ruled out as the cause of her symptoms until August, 17, 2021. Upon

reviewing the medical records for Ms. Sample, it is noted that when she first went to her Primary Care Physician, Dr. Hugh Thompson, on December 9, 2020, she was complaining of right forearm pain (Exhibit 5). She was diagnosed with cubital tunnel ulnar nerve irritation and a workup for Raynaud's phenomenon was initiated as the most likely diagnosis. *Id.* Ms. Sample was referred to neurology and had nerve conduction studies. *Id.* She was referred to Orthopedics and to a hand specialist who recommended an MRI. *Id.* On May 11, 2021, Ms. Sample was referred to her Orthopedics physician, Dr. James Price, who notes her pain "seems to be directly related to the venipuncture" (Exhibit 6). However, she was referred to Coastal Vascular & Vein Center for a consultation for Raynaud's phenomenon (Exhibit 7 & 8). On August 17, 2021, Ms. Sample had a follow-up visit with Dr. James Price who notes all testing was negative for Raynaud's phenomenon. He discusses at this visit the possibility of surgery if no improvement (Exhibit 9).

Therefore, Ms. Sample did not have a definitive answer from a physician until August 17, 2021. She was definitively diagnosed on August, 17, 2021 after Raynaud's phenomenon was ruled out by a hand surgeon, neurology and vascular specialists. These dates of treatment and multiple medical evaluations to diagnose the specific ulnar nerve injury, determine potential long-term consequences, and assess medical treatment options occurred well after January 2020. Throughout the above mentioned medical care, Ms. Sample and her medical providers were actively engaged in seeking to discover the cause of her pain. Ms. Sample did not sit on her hands and idly wait until years later to investigate her pain to only then discover potential negligence and malpractice. *See Stokes-Craven Holding Corp. v. Robinson*, 416 S.C. 517, 526, 787 S.E.2d 485, 490 (2016) ("One purpose of a statute of limitations is to relieve the courts of the burden of trying stale claims when a plaintiff has slept on his or her rights." (quoting *Kelly v. Logan, Jolley & Smith, L.L.P.*, 383 S.C. 626, 632, 682 S.E.2d 1, 4 (Ct. App. 2009))).

While it is true that Ms. Sample made clear in written and oral discovery that she had concerns with the Defendant's staff on the day of January 2, 2020, that is not the standard for bringing a medical malpractice claim in South Carolina. Plaintiff needed more than her mere "concern" before she could file a Notice of Intent to File Suit. South Carolina does not recognize the doctrine of *Res Ipsa Loquitur* and therefore even if Ms. Sample was aware of an "occurrence of complication" that is not alone evidence of negligence or malpractice. *See Snow v. City of Columbia*, 305 S.C. 544, 555 n.7, 409 S.E.2d 797, 803 n.7 (Ct. App. 1991). She required a sworn affidavit from a qualified medical witness to serve as an expert on her behalf under the rules.

Further, even if Ms. Sample felt there was a breach of care that occurred on January 2, 2020, she had no expert medical evidence that this breach of care resulted in any damages to her. "In a medical malpractice action, the plaintiff must establish proximate cause as well as the negligence of the physician." *Guffey v. Columbia/Colleton Reg'l Hosp., Inc.*, 364 S.C. 158, 163, 612 S.E.2d 695, 697 (2005). In South Carolina, the elements of duty and breach are preconditions to a finding of proximate cause and "we are not permitted to speculate that misfortune was the result of negligence in the absence of any evidence as to how the physicians deviated from the standard of care." *Fletcher v. Med. Univ.*, 390 S.C. 458, 463-464, 702 S.E.2d 372, 374, 2010 S.C. App. LEXIS 169, *5-6 As shown exhaustively in her medical records, her medical providers did not even connect the January 2, 2020 phlebotomy to her symptoms until well into 2021. Until the connection was made by expert medical providers between the January 2, 2020 phlebotomy and her symptoms, the Plaintiff was barred from bringing the medical malpractice claim. There was no medical diagnosis that had been made that could lead a medical expert to attest, within a reasonable degree of medical certainty, that the Defendants' malpractice was the proximate cause of the damages,

III. Genuine Dispute Exists About Date of Discovery

In *McMaster v. Dewitt*, 411 S.C. 138, 145 (Ct. App. 2014), the Court of Appeals clarified that 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." Courts apply the discovery rule to determine when an action accrues. *Dunbar v. Carlson*, 341 S.C. 261, 266, 533 S.E.2d 913, 915-16 (Ct. App. 2000). 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." *Knox v. Greenville Hosp. Sys.*, 362 S.C. 566, 570, 608 S.E.2d 459, 462 (Ct. App. 2005); *see also Dunbar*, 341 S.C. at 266, 533 S.E.2d at 916. *McMaster v. Dewitt*, 411 S.C. 138, 145, 767 S.E.2d 451, 454 (Ct. App. 2014).

But *Knox* makes it clear that: "The mere presence of pain or discomfort, to be sure, will ordinarily not serve to trigger the commencement of the applicable statute of limitations." *Knox* 362 S.C. at 570, 608 S.E.2d at 462. The defendant relies heavily on the *Knox* precedent, arguing that immediate pain constitutes discovery. However, Ms. Sample's medical records and subsequent treatments demonstrate she did not fully understand her injury's extent until after January 2020. In the case at bar, while Plaintiff experienced immediate pain, she did not immediately understand the full medical implications of her nerve injury. Ms. Sample may have been unhappy and had concerns with the care she received from the Defendant, but her medical providers' finding and opinions in the medical records could not put any reasonable person on notice there was a potential claim or even injury related to negligent performance of the phlebotomy. *See McMaster*, 411 S.C. at 145, 767 S.E.2d at 454 (holding "[u]nder 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.'" (emphasis added) (citation omitted)).

The earliest Ms. Sample could be put on notice of a potential claim was when her doctors informed her the symptoms were related to the phlebotomy. Only then would a reasonable person have been put on notice that some claim against Defendants may exist. South Carolina courts have held before that the first reasonable notice of a potential claim arose when the Plaintiff was informed of an injury by a medical expert. *See Chabek v. Anmed Health*, 442 S.C. 61, 75, 897 S.E.2d 58, 65, 2023 S.C. App. LEXIS 144, *18-19

A genuine issue of material fact exists regarding when Plaintiff reasonably discovered her injury and its potential negligent cause. When there is conflicting testimony regarding the time of discovery, it becomes an issue for the jury to decide. *Brown v. Finger*, 240 S.C. 102, 124 S.E.2d 781 (1962).

CONCLUSION

Based on the foregoing, Plaintiff respectfully requests the Court reconsider its prior Order, reverse its rulings, and deny Defendant's motion for summary judgment. In the alternative, Plaintiff respectfully requests the Court provide specific rulings on the legal issues raised by Plaintiff in this memoranda in support of the Motion for Reconsideration.

URICCHIO HOWE KRELL JACOBSON
TOPOREK & KEITH, P.A.

s/ Gregory D. Keith
Gregory D. Keith, Bar No. 7119
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PO Box 399 – Charleston, SC 29402
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ATTORNEYS FOR PLAINTIFF

February 14, 2025

Charleston, South Carolina

**SAMPLE, LISA R**

40 Y old Female, DOB: 05/06/1980

Account Number: 00001430826

1623 PINCKNEY PARK DR, CHARLESTON, SC 29407-6231

Home: 843-670-6870

Guarantor: SAMPLE, LISA R Insurance: RESERVE NATIONAL

INSURANCE Payer ID: 5812

PCP: HUGH E THOMPSON, MD

Appointment Facility: RSFPP Orthopaedics O OSCWA

12/09/2020

Progress Notes: John M Ernst MD

Current Medications**Taking**

Armour Thyroid 15 MG Tablet 1 tablet on an empty stomach Orally Once a day

Armour Thyroid 60 MG Tablet 1 tablet Orally Once a day

Not-Taking/PRN

Alprazolam 0.5 MG Tablet 1 tablet Orally at bedtime prn

Effexor XR 37.5 MG Capsule Extended Release 24 Hour 1 capsule with food Orally Once a day

Flonase 50 MCG/ACT Suspension 1 spray in each nostril Nasally Twice a day

Probiotic Tablet Delayed Release Orally

Medication List reviewed and reconciled with the patient

Past Medical History

Hyperthyroidism.

Hyperhidrosis.

Hashimoto's.

drug-induced urticaria from Wellbutrin.

Surgical History

colonoscopy > 1H, EH poor prep 04/18/17

Family History

Father: alive

Mother: deceased 62 yrs, diagnosed with Breast CA

Sister(s): alive

3 sister(s) - healthy.

mother has breast cancer(triple negative).

Social History**Tobacco Use:**

Tobacco Use/Smoking

Are you a nonsmoker.

Additional Findings: Tobacco Non-User Non-smoker for personal reasons

Tobacco cessation

Patient counselled on the dangers of tobacco

10/09/2020

Cessation: Not applicable

Tobacco Use/Smokeless: Denies

Smokeless Tobacco/nicotine use: No

Drugs/Alcohol:

Drugs: Denies

Have you used drugs other than those for medical reasons in the past 12 months? No

Alcohol Screen: Denies

Did you have a drink containing alcohol in the past year? No

Points 0

Interpretation Negative

works as a small group tour sales person.

Allergies

Wellbutrin: Hives - Allergy

Hospitalization/Major Diagnostic Procedure

Denies Past Hospitalization

Review of Systems**General/Constitutional:**

Night sweats denies. Fatigue denies.

Fever denies. Change in activity level denies.

Allergy/Immunology:

Allergies denies. Infection after surgery denies.

Latex denies.

ENT:**Reason for Appointment**

1. RT ELBOW PAIN- SAW DR BAHADORI-Had ncs done-referral coming- no other tx-not work comp- reserve national ins

History of Present Illness**Upper Extremity Problems:**

DEMOGRAPHICS 40 YEAR OLD FEMALE RIGHT HAND DOMINANT SERVER BARTENDER.

HPI SUMMARY 12/09/20_-(Right arm)Patient underwent phlebotomy right medial antecubital region for blood donation on 1/20 experiencing immediate acute pain tingling or weakness of the hand and rapid development of antecubital hematoma.reports residual activity daytime and nocturnal paresthesias more so long ring and small finger with antecubital aching. Right arm weakness..

EXAM SUMMARY 12/09/20_-(Right arm) no lacerations or abrasions contusions or ecchymosis normal pulses and lymphatics. Range of motion full. Sensitive ulnar nerve cubital tunnel positive Tinel's transient elbow flexion test benign forearm compartments. Benign antecubital area no hematomas normal muscle mass. negative Tinel's carpal tunnel canal Guyon negative Phalen's benign medial condyle flexor origin cubital tunnel benign bicipital tendon. Good resistance. Benign lateral condyle extensor origin radial tunnel cauda equina. Intact ulnar intrinsic and extrinsic motor. Reflexes 1+. Upper extremity motor symmetrical. 2 point discrimination 6 mm all digits. Mild enlargement right hand and slight venous congestion appearance. Good refill. Small radial volar carpal ganglion cyst benign nontender nonpulsatile.Alert and oriented no apparent distress age-appropriate normal respirations..

ASSESSMENT/TREATMENT SUMMARY 12/09/20_-(Right arm) Residual complex right arm symptomatology after phlebotomy was significant hematoma and bruising noted. Some ulnar nerve hypersensitivity and ulnar nerve paresthesias intermittently no radicular symptoms. History and clinical exam is not consistent with right carpal tunnel syndrome./Recommend more focal ulnar nerve nerve studies including EMG. right elbow MRI with contrast to evaluate neurovascular structures.Serial assessment..

INTERVENTION SUMMARY

12/09/20_-Neurological consultation Dr. Bahadori noted and reviewed.

12/09/20_-Nerve conduction studies Dr. Bahadori 12/4/20 demonstrates right median motor latency 4.7/less than 4.5 normal with normal amplitude. Right median sensory latency 4.1/less than 3.5 normal with normal amplitude. Normal right ulnar motor sensory and motor latency and amplitude. Normal ulnar motor across elbow. Normal screening EMG right deltoid triceps biceps APB. Interpretation right carpal tunnel syndrome.

Vital Signs

Ht 68 in, Wt 139.3 lbs, BMI 21.18 Index.

Examination**General Examination:****RADIOGRAPHS**

12/09/20_-(Right arm) no lacerations or abrasions contusions or ecchymosis normal pulses and lymphatics. Range of motion full. Sensitive ulnar nerve cubital tunnel positive Tinel's transient elbow flexion test benign forearm compartments. Benign antecubital area no hematomas normal muscle mass. negative Tinel's carpal tunnel canal Guyon negative Phalen's benign medial condyle flexor origin cubital



Tinnitus denies. Nosebleed denies. Hearing loss denies.

Ophthalmologic:

Change in vision denies. Glaucoma denies.

Endocrine:

Take insulin? denies. Hypoglycemia denies.

Dizziness denies. Thyroid problem denies.

Diabetes denies.

Respiratory:

O2 required denies. Shortness of breath denies.

Sleep Apnea denies. Asthma denies.

COPD denies.

Cardiovascular:

Heart problems denies. Angina denies.

Peripheral Vascular Disease denies. Trouble breathing

when lying down denies. High blood

pressure denies. Irregular heartbeat denies. Low

Blood Pressure denies. Edema denies.

Gastrointestinal:

GERD denies. Hernia denies. change in bowel

movements denies. Reflux denies. Rectal

bleeding denies. Liver problems denies.

Musculoskeletal:

Joint stiffness denies. Fibromyalgia denies.

Arthritis denies. Swollen joints denies. Painful

joints denies. Weakness denies. Gout denies.

Hematology:

Blood thinners denies. Hepatitis denies.

Bleeding problems denies. Easy bruising denies.

Anemia denies.

Genitourinary:

Blood in urine denies. Frequent UTI denies.

Kidney problems denies.

Neurologic:

Seizures denies. Tremor denies. Stroke denies.

Tingling/Numbness denies.

Psychiatric:

Depression denies. Mental foginess denies.

Anxiety denies.

Dermatology:

Skin rash denies. Poor wound healing denies.

tunnel benign bicipital tendon. Good resistance. Benign lateral condyle extensor origin radial tunnel cauda equina. Intact ulnar intrinsic and extrinsic motor. Reflexes 1+. Upper extremity motor symmetrical. 2 point discrimination 6 mm all digits. Mild enlargement right hand and slight venous congestion appearance. Good refill. Small radial volar carpal ganglion cyst benign nontender nonpulsatile Alert and oriented no apparent distress age-appropriate normal respirations.

Assessments

1. Injury of median nerve at right forearm level, initial encounter - S54.11XA (Primary)

2. Irritation of right ulnar nerve - G56.21

12/09/20 -(Right arm) Residual complex right arm symptomatology after phlebotomy was significant hematoma and bruising noted. Some ulnar nerve hypersensitivity and ulnar nerve paresthesias intermittently no radicular symptoms. History and clinical exam is not consistent with right carpal tunnel syndrome./Recommend more focal ulnar nerve nerve studies including EMG. right elbow MRI with contrast to evaluate neurovascular structures.Serial assessment.

Treatment

1. Injury of median nerve at right forearm level, initial encounter

IMAGING: MRI Elbow w/ + w/o Contrast Right

history of antecubital venipuncture with rapid hematoma and paresthesias evaluate median nerve ulnar nerve and neurovascular structures

Notes:

12/09/20 -(Right arm) Residual complex right arm symptomatology after phlebotomy was significant hematoma and bruising noted. Some ulnar nerve hypersensitivity and ulnar nerve paresthesias intermittently no radicular symptoms. History and clinical exam is not consistent with right carpal tunnel syndrome./Recommend more focal ulnar nerve nerve studies including EMG. right elbow MRI with contrast to evaluate neurovascular structures.Serial assessment.

Referral To:Hamid Bahadori Neurology

Reason:repeat ulnar motor nerve conduction studies proximal crossing distal to elbow. EMG right ADM, first DI FCU, FDP ulnar

2. Others

Continue Medication reported as directed by the ordering provider

Follow Up

after MRI and nerve conduction studies

Care Plan Details



Electronically signed by JOHN ERNST MD on 12/14/2020 at 04:11 PM EST

Sign off status: Completed

RSFPP Orthopaedics O OSCWA
2093 HENRY TECKLENBURG DR
STE 200
CHARLESTON, SC 29414-5742
Tel: 843-958-2500
Fax: 843-606-8058

Patient: SAMPLE, LISA R DOB: 05/06/1980 Progress Note: John M Ernst MD 12/09/2020

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

**SAMPLE, LISA R**

40 Y old Female, DOB: 05/06/1980

Account Number: 00001430826

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Home: 843-670-6870

Guarantor: SAMPLE, LISA R Insurance: RESERVE NATIONAL

INSURANCE Payer ID: 5812

PCP: HUGH E THOMPSON, MD

Appointment Facility: RSFPF Orthopaedics O OSCWA

02/03/2021

Progress Notes: John M Ernst MD

Current Medications**Taking**

Armour Thyroid 15 MG Tablet 1 tablet on an empty stomach Orally Once a day

Armour Thyroid 60 MG Tablet 1 tablet Orally Once a day

Medication reported as directed by the ordering provider

Not-Taking/PRN

Alprazolam 0.5 MG Tablet 1 tablet Orally at bedtime prn

Effexor XR 37.5 MG Capsule Extended Release 24 Hour 1 capsule with food Orally Once a day

Flonase 50 MCG/ACT Suspension 1 spray in each nostril Nasally Twice a day

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Hyperthyroidism.

Hyperhidrosis.

Hashimoto's.

drug-induced urticaria from Wellbutrin.

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colonoscopy > IH, EH poor prep 04/18/17

Family History

Father: alive

Mother: deceased 62 yrs, diagnosed with Breast CA

Sister(s): alive

3 sister(s) - healthy.

mother has breast cancer(triple negative).

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Tobacco Use/Smoking

Are you a nonsmoker

Additional Findings: Tobacco Non-User Non-smoker for personal reasons

Tobacco cessation

Patient counselled on the dangers of tobacco

10/09/2020

Cessation: Not applicable

Tobacco Use/Smokeless: Denies

Smokeless Tobacco/nicotine use: No

Drugs/Alcohol:

Drugs: Denies

Have you used drugs other than those for medical reasons in the past 12 months? No

Alcohol Screen: Denies

Did you have a drink containing alcohol in the past year? No

Points 0

Interpretation Negative

works as a small group tour sales person.

Allergies

Wellbutrin: Hives - Allergy

Hospitalization/Major Diagnostic Procedure

Denies Past Hospitalization

Review of Systems**General/Constitutional:**

Night sweats denies. Fatigue denies.

Fever denies. Change in activity level denies.

Allergy/Immunology:

Allergies denies. Infection after surgery denies.

Reason for Appointment

1. Mri rt elbow results

History of Present Illness**Upper Extremity Problems:****DEMOGRAPHICS 40 YEAR OLD FEMALE RIGHT HAND DOMINANT SERVER BARTENDER.**

HPI SUMMARY 12/09/20 _-(Right arm)Patient underwent phlebotomy right medial antecubital region for blood donation on 1/20 experiencing immediate acute pain tingling or weakness of the hand and rapid development of antecubital hematoma.reports residual activity daytime and nocturnal paresthesias more so long ring and small finger with antecubital aching. Right arm weakness.

02/03/21 _-(right arm) reports coolness bluish hue right long ring and small fingers with cold exposure. Reports tingling and pain right medial elbow forearm extending to small finger with elbow flexion. Symptoms when sleeping with elbow flexed. No radicular complaints. Additional nerve studies noted below. Of note patient's median sensory conduction Antecubital region and forearm is normal. MRI result noted below.Of note during patient's phlebotomy over antecubital region patient describes deep penetration. Noting shock and burning sensation ulnar forearm to hand.. Patient developed immediate blueness of her hand.also has phone photos of distal half humerus and proximal third forearm bruising.currently not using elbow pads..

EXAM SUMMARY 12/09/20 _-(Right arm) no lacerations or abrasions contusions or ecchymosis normal pulses and lymphatics. Range of motion full. Sensitive ulnar nerve cubital tunnel positive Tinel's transient elbow flexion test benign forearm compartments. Benign antecubital area no hematomas normal muscle mass. negative Tinel's carpal tunnel canal Guyon negative Phalen's benign medial condyle flexor origin cubital tunnel benign bicipital tendon. Good resistance. Benign lateral condyle extensor origin radial tunnel cauda equina. Intact ulnar intrinsic and extrinsic motor. Reflexes 1+. Upper extremity motor symmetrical. 2 point discrimination 6 mm all digits. Mild enlargement right hand and slight venous congestion appearance. Good refill.. Small radial volar carpal ganglion cyst benign nontender nonpulsatileAlert and oriented no apparent distress age-appropriate normal respirations.

02/03/21 _-(right arm) no laceration abrasions contusions or ecchymosis normal pulses and lymphatics. Full range of motion. Transient venous hue right long ring and small fingers. Elbow stable benign medial condyle flexor origin positive Tinel's cubital tunnel. No snapping. Negative elbow flexion test benign forearm compartments negative Tinel's carpal tunnel canal Guyon negative Phalen's sign. Light touch intact 2 point discrimination 6 mm all digits. Normal pulp refill color turgor and sudomotor evaluation. Benign canal Guyon normal Allen's test. Normal ulnar intrinsic and extrinsic motor. Normal thenar/hypothenar eminence normal FPL FDP APB..

ASSESSMENT/TREATMENT SUMMARY 12/09/20 _-(Right arm) Residual complex right arm symptomatology after phlebotomy with significant hematoma and bruising noted. Some ulnar nerve hypersensitivity and ulnar nerve paresthesias intermittently no radicular symptoms. History and clinical exam is not consistent with right carpal tunnel syndrome./Recommend more focal ulnar nerve nerve studies including EMG. right elbow MRI with contrast to evaluate neurovascular structures.Serial assessment.

02/03/21 _-Component of Raynaud's phenomena associated history of cold hands and feet but venous hue more so right long ring and small finger with cold exposure and some activities.Component ulnar nerve neuritis with normal nerve studies across the elbow slight peripheral ulnar sensory changes normal motor. Clinical exam for ulnar nerve hypersensitivity no snapping. Slight changes on

Latex denies.

ENT:

Tinnitus denies. Nosebleed denies. Hearing loss denies.

Ophthalmologic:

Change in vision denies. Glaucoma denies.

Endocrine:

Take insulin? denies. Hypoglycemia denies. Dizziness denies. Thyroid problem denies. Diabetes denies.

Respiratory:

O2 required denies. Shortness of breath denies. Sleep Apnea denies. Asthma denies. COPD denies.

Cardiovascular:

Heart problems denies. Angina denies. Peripheral Vascular Disease denies. Trouble breathing when lying down denies. High blood pressure denies. Irregular heartbeat denies. Low Blood Pressure denies. Edema denies.

Gastrointestinal:

GERD denies. Hernia denies. change in bowel movements denies. Reflux denies. Rectal bleeding denies. Liver problems denies.

Musculoskeletal:

Joint stiffness denies. Fibromyalgia denies. Arthritis denies. Swollen joints denies. Painful joints denies. Weakness denies. Gout denies.

Hematology:

Blood thinners denies. Hepatitis denies. Bleeding problems denies. Easy bruising denies. Anemia denies.

Genitourinary:

Blood in urine denies. Frequent UTI denies. Kidney problems denies.

Neurologic:

Seizures denies. Tremor denies. Stroke denies. Tingling/Numbness denies.

Psychiatric:

Depression denies. Mental fog/denies. Anxiety denies.

Dermatology:

Skin rash denies. Poor wound healing denies.

MRI./Prior to consideration of cubital tunnel decompression would recommend vascular consultation for Raynaud's phenomenon/treatment

INTERVENTION SUMMARY 12/09/20 -Neurological consultation Dr. Bahadori noted and reviewed.

12/09/20 -Nerve conduction studies Dr. Bahadori 12/4/20 demonstrates right median motor latency 4.7/less than 4.5 normal with normal amplitude. Right median sensory latency 4.1/less than 3.5 normal with normal amplitude. Normal right ulnar motor sensory and motor latency and amplitude. Normal ulnar motor across elbow. Normal screening EMG right deltoid triceps biceps APB. Interpretation right carpal tunnel syndrome.

02/03/21 - (MRI right elbow with without contrast 1/14/21 interpret as mild enlargement and slight edema involving ulnar nerve at cubital tunnel without abnormal enhancement. No mass lesion. No muscular deformity. Interpretation noted.

02/03/21 -additional nerve studies phone report indicates median sensory latency 4.3 elevated normal amplitude. Median motor 4.5 borderline. Ulnar motor across elbow was normal. Ulnar sensory at wrist 3.0 elevated normal amplitude. ulnar motor normal. EMGs performed first DI and APB normal however remaining ulnar motor was not performed. Including FCU FDP /ADQ. Written report pending.

Vital Signs

Ht 68 in, Wt 139.3 lbs, BMI 21.18 Index.

Examination

General Examination:

02/03/21 - (right arm) no laceration abrasions contusions or ecchymosis normal pulses and lymphatics. Full range of motion. Transient venous hue right long ring and small fingers. Elbow stable benign medial condyle flexor origin positive Tinel's cubital tunnel. No snapping. Negative elbow flexion test benign forearm compartments negative Tinel's carpal tunnel canal Guyon negative Phalen's sign. Light touch intact 2 point discrimination 6 mm all digits. Normal pulp refill color turgor and sudomotor evaluation. Benign canal Guyon normal Allen's test. Normal ulnar intrinsic and extrinsic motor. Normal thenar/hypothenar eminence normal FPL FDP APB.

Assessments

1. Irritation of right ulnar nerve - G56.21 (Primary)
2. Injury of median nerve at forearm level, right arm, subsequent encounter - S54.11XD

3. Raynaud's phenomenon without gangrene - I73.00

02/03/21 -Component of Raynaud's phenomena associated history of cold hands and feet but venous hue more so right long ring and small finger with cold exposure and some activities. Component ulnar nerve neuritis with normal nerve studies across the elbow slight peripheral ulnar sensory changes normal motor. Clinical exam for ulnar nerve hypersensitivity no snapping. Slight changes on MRI./Prior to consideration of cubital tunnel decompression would recommend vascular consultation for Raynaud's phenomenon/treatment.

Treatment

1. Irritation of right ulnar nerve

Notes: **02/03/21** -Component of Raynaud's phenomena associated history of cold hands and feet but venous hue more so right long ring and small finger with cold exposure and some activities. Component ulnar nerve neuritis with normal nerve studies across the elbow slight peripheral ulnar sensory changes normal motor. Clinical exam for ulnar nerve hypersensitivity no snapping. Slight changes on MRI./Prior to consideration of cubital tunnel decompression would recommend vascular consultation for Raynaud's phenomenon/treatment.

Referral To: FAX and send P2P Appleby Thomas Vascular Surgery

Reason: right arm raynauds phenomena |symptom magnification following previous right arm diffuse distal humerus proximal forearm bruising after phlebotomy one year ago|component of cubital tunnel ulnar nerve irritation

2. Others

Continue Medication reported as directed by the ordering provider

Follow Up

after vascular consultation

Care Plan Details



Electronically signed by JOHN ERNST MD on 02/03/2021 at 04:02 PM
EST
Sign off status: Completed

RSFPP Orthopaedics O OSCWA
2093 HENRY TECKLENBURG DR
STE 200
CHARLESTON, SC 29414-5742
Tel: 843-958-2500
Fax: 843-606-8058

Patient: SAMPLE, LISA R DOB: 05/06/1980 Progress Note: John M Ernst MD 02/03/2021

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

Page 62 1 someone had mentioned that, cubital tunnel 2 syndrome. Somebody along the line had mentioned 3 that during the whole discovery phase. 4 Q. Do you know whether that was -- that 5 diagnosis was ever made? 6 A. I don't think so, no. 7 Q. And it seems to me from the HPI section 8 that you were primarily symptomatic when you bent 9 your elbow? 10 A. That's correct. 11 Q. But when you -- it notes here if she 12 extends her arm fully, the symptoms go away. Was 13 that immediate? So symptomatic when bent and then 14 unbend or straighten you arm, did the symptoms go 15 away immediately? 16 A. Yes. 17 Q. And on a scale of one to ten, one being 18 very little, ten being great, how much were you 19 bothered by the symptoms you were having at that 20 point in January of 2022? 21 A. Well, it was impacting my sleep, so I 22 think that was one of the most detrimental 23 symptoms. It was waking me up a lot in my sleep 24 and I would have to extend my arm to keep it from 25 going to sleep. So on a weekly basis, multiple	Page 64 1 not seem to be losing any motor power and her 2 symptoms have moderated somewhat and she may 3 therefore decide not to proceed with surgery. She 4 will consider the risks and potential complications 5 against the chance of getting permanent improved by 6 having surgery. And then you'll call her if you 7 want to schedule. Is that consistent with your 8 recollection? 9 A. Yes. 10 Q. And then the next thing we appear to 11 have is that you did get surgery? 12 A. I did. 13 Q. How did you arrive at the decision to 14 have surgery? 15 A. I think I was just tired of dealing 16 with it and ready for a solution. 17 Q. What was your expectation of the 18 procedure? 19 A. Well, what Dr. Price explained to me, 20 that they would -- he would go in and do a release 21 on the ulnar nerve and that would help with those 22 sensations that I was experiencing, and it did. 23 Q. What did you understand -- did you ever 24 understand that you had a firm diagnosis? 25 A. I didn't really think I had a firm
Page 63 1 times a week. And when something's impacting your 2 sleep, it impacts your daily life. 3 Q. Sure. Absolutely. Was it typically 4 that it would just wake you up one time during the 5 night? 6 A. I don't know. 7 Q. And would you typically be able to just 8 straighten your arm out and drift back off to 9 sleep? 10 A. Yes. How many times I woke up and did 11 that, I can't tell you. 12 Q. Will you look to the bottom section of 13 Roper Ortho 9, the treatment section, which reads 14 cubital tunnel syndrome on right. Do you see that? 15 That top page. 16 A. Um-hum. 17 Q. Patient seems a little bit better since 18 she was here last, still has occasional ulnar nerve 19 paresthesias and numbness with origination from the 20 upper medial elbow. Does that seem accurate? 21 A. Yes. 22 Q. And then after long discussion with the 23 patient as we did last time, we talked about 24 surgery and the risks and potential complications 25 of doing exploration and nerve release. She does	Page 65 1 diagnosis or understand that they could attribute 2 it to what happened in regards to the blood 3 connection until Dr. Appleby confirmed it, and that 4 would have been in May of 2021. 5 Q. He confirmed what? 6 A. I have the note somewhere. But he said 7 it looks like you've had some kind of injury to 8 your nerve in your arm after they did the venal 9 ultrasound. He was the first one that ever really 10 said, okay, this is something here. Because 11 everybody else was like, oh, carpal tunnel or maybe 12 this is Raynaud's syndrome. Somebody told me that 13 they thought I had Raynaud's, but I never had any 14 of that before. 15 Q. So you always suspected that your 16 symptoms were related to the donation? 17 A. I didn't really know. It just was 18 something that was consistently coming up over and 19 over again. 20 Q. But you didn't have any symptoms until 21 the date of the donation itself, correct? 22 A. Correct. 23 Q. And then from that point forward you 24 had intermittent symptoms? 25 A. Intermittent symptoms, yes.

Page 66

1 Q. But sitting here today, what do you
2 understand your diagnosis to have been?
3 A. I understand that there was some sort
4 of ulnar nerve insult that occurred when I gave
5 blood.
6 Q. Was the ulnar nerve -- and I appreciate
7 you're not a doctor, but as far as you know --
8 A. Yeah.
9 Q. -- being the patient, is it your
10 understanding that the ulnar nerve was the only
11 nerve that was injured?
12 A. I believe so, yes.
13 Q. And you said Appleby is the one that
14 told you that he suspected that the nerve injury
15 was related to the donation?
16 A. Yes.
17 Q. Your surgery appears to have been on
18 March 21st, 2022? Is that accurate as far as you
19 know?
20 A. Yes.
21 Q. What is your understanding from a
22 layperson standpoint that they did in that
23 procedure?
24 A. From a layperson, he explained to me
25 that he was going to go in and perform an ulnar

Page 67

1 nerve release. So I guess he was going to release
2 whatever compression was on the nerve. And he told
3 me that he was going to have to move it, move the
4 nerve somehow or make it -- I knew that it was
5 going to be closer to the skin after surgery.
6 Q. Did you talk to him after surgery?
7 A. Yes.
8 Q. Did he tell you what he found?
9 A. Yes.
10 Q. What?
11 A. I think he said that he found that
12 there was some compression.
13 Q. On the ulnar nerve?
14 A. Yes. But now, granted, right after I
15 was under anesthesia, so that's the best I recall.
16 Q. Certainly you had follow-ups with him,
17 right?
18 A. Yes.
19 Q. And in those discussions did he tell
20 you that he found some compression on the ulnar
21 nerve?
22 A. Yes.
23 Q. Would you mind showing me the scar from
24 your surgery?
25 A. Sure (indicating).

Page 68

1 Q. Okay. You were outpatient?
2 A. Yes.
3 Q. Does the scar bother you?
4 A. No. I mean, bother me like does it
5 hurt or aesthetically?
6 Q. Aesthetically.
7 A. It's not ideal.
8 Q. I mean, are you self-conscious about
9 it?
10 A. Sometimes. Depending on what I'm
11 wearing.
12 Q. Has anybody ever asked you about it?
13 A. Yes, they have.
14 Q. Did the surgery alleviate your
15 symptoms?
16 A. Yes.
17 Q. And I don't know that I'm going to mark
18 this, but you went to Roper St. Francis followup
19 with Sawyer Langston, who must be a PA for --
20 A. Yes, um-hum.
21 Q. On March 2nd, 2022. And he noted that
22 the tingling and numbness had resolved. Is that
23 accurate? Do you want to see it?
24 A. Yes. That's accurate.
25 Q. Do you want to see it?

Page 69

1 A. No, it's okay.
2 Q. When was the last time you sought
3 medical treatment related to your right upper
4 extremity, your right arm, hand, fingers?
5 A. I guess that would have been any kind
6 of post-op visit that I had.
7 Q. I want to look at a couple of -- you
8 don't need to mark this. This is your complaint.
9 And I just want to ask you a couple -- not the
10 whole thing, just some of the paragraphs. Look at
11 Paragraph 7 for me. Had you seen TBC's
12 advertisements prior to donation?
13 A. I don't remember.
14 Q. Okay.
15 A. It's not something I paid attention to.
16 Q. Right. Look at Paragraph 10. Is that
17 accurate?
18 A. Yes.
19 Q. And Paragraph 12. I'm trying to
20 understand this paragraph and was hoping you might
21 be able to help me a little bit. It says -- you
22 can read it, but can you explain that paragraph to
23 me?
24 A. That through considerable followup
25 treatment and tests conducted by medical experts

Lisa Renee Sample
Sample, Lisa Renee Vs. Blood Connection Inc.

April 23, 2024

Page 70 1 and specialists, it was determined that in 2 deviation to the medical industry's standard of 3 care the venipuncture of the plaintiff's right arm 4 was performed improperly and did, in fact, cause 5 nerve damage. 6 Q. Right, but -- so I guess what I'm 7 looking to understand is what -- it says through 8 the treatment and tests conducted by medical 9 experts and specialists, it was determined that 10 there was a deviation of the medical industry's 11 standard of care. 12 How did the treatment and tests 13 conducted by medical experts and specialists make 14 that determination that there was a breach of the 15 standard of care? 16 A. Can you ask me this question in a 17 different way? 18 Q. Yeah. And I'm trying to understand it 19 myself. Let me ask you this: Has any medical 20 expert or specialist told you that a phlebotomist 21 at TBC breached the standard of care; otherwise, 22 was negligent? 23 A. I don't think anybody's ever used the 24 term negligent. 25 Q. And when you refer to -- and I	Page 72 1 Q. And I appreciate that, but the question 2 is a little bit different, which is -- 3 A. Okay. 4 Q. -- has any doctor or specialist said 5 that the venipuncture was performed improperly? 6 A. No. 7 Q. Look at Paragraph 13 for yourself. 8 This is the specific alleged breaches of the 9 standard of care. And my question to you before 10 you start reading is: Do you have any personal 11 knowledge to support any of these enumerated 12 allegations? If so, I'm going to ask you about it. 13 A. No. 14 Q. Sitting here today -- what? 15 A. How much longer? 16 Q. This has been really short. 17 A. Okay. 18 Q. I can take a deposition all day long. 19 A. Okay. 20 Q. I need to ask you about your damages. 21 A. Okay. 22 Q. Do you presently have any symptoms 23 which you attribute to the blood donation? 24 A. Do I presently have any symptoms that I 25 attribute. I have intermittent, same, sensation,
Page 71 1 appreciate this isn't your language. But reference 2 to the medical industry's standard of care, what 3 industry standards are you referring to, if you 4 know? 5 A. I would think that in the -- the 6 phlebotomist would need to be trained not to cause 7 an injury when drawing blood, so perhaps that's a 8 deviation from the standard of care that that's 9 referring to. 10 Q. Do you know whether nerve injuries are 11 a known and accepted complication of blood 12 donation? 13 A. No. 14 Q. Has any medical expert -- similar to a 15 question I asked a moment ago, but has any medical 16 expert or specialist told you that this particular 17 venipuncture was performed improperly? 18 A. Well, I think it was -- I think it was 19 Dr. Appleby that said he thought that something 20 occurred during the venipuncture. In fact, I'm 21 positive it was Dr. Appleby that said that. 22 Q. Right. So Dr. Appleby told you that 23 the venipuncture resulted in an injury to your 24 nerve? 25 A. Yes.	Page 73 1 cold fingers, and I have some numbing when my arm 2 is bent still, but it's nothing like it was prior 3 to surgery. 4 Q. I think what I heard you said is you 5 have intermittent symptoms, including some coldness 6 and some numbness? 7 A. Correct. 8 Q. Those are the only symptoms? 9 A. Yes. 10 Q. And those are with your ring finger and 11 your -- 12 A. And my pinky finger. 13 Q. Any other part of your right upper 14 extremity -- 15 A. No. 16 Q. -- that is affected by coldness or 17 numbness? 18 A. No. 19 Q. When you say intermittent, how often 20 are you talking? 21 A. Just when my arm is bent when I'm -- 22 when I'm typing, when I'm on the phone, when I'm 23 sleeping, but it's significantly less than it was 24 before. 25 Q. Do you still wake up at night?

19 (Pages 70 - 73)

SAMPLE, LISA DOB: [REDACTED]/1980 (41 yo F) Acc No. 190860 DOS: 05/24/2021

COASTAL VASCULAR & VEIN CENTER

Progress Note

Patient: SAMPLE, LISA
DOB: [REDACTED] 1980 Age: 41 Y Sex: Female

Provider: Thomas C. Appleby, MD
Date: 05/24/2021

Reason for Appointment

1. JOHN ERNST/RUE RAYNAUDS PHENOMENON

History of Present Illness

General:

Ms. Sample is a 41-year-old, white female seen at the kind courtesy of Dr. Ernst for a vascular evaluation. Ms. Sample is very healthy and has started having trouble with her right arm and hand. It is noted that she is right-hand dominant. She dates all of her symptoms to 01/2020 when she was giving blood at a blood drive outside her workout facility. She reports deciding to give blood after her workout. She states that when the phlebotomist stuck her in her right antecubital fossa, she had a cold sensation go down her volar forearm and her fingers turned blue. When she told them something was wrong, a supervisor came and took the needle out and told her she would have a hematoma and bruise. She did have a golf ball sized hematoma and she bruised circumferentially around her antecubital fossa. After a week or two, her hematoma and ecchymosis had resolved. However, immediately after this she noticed a loss of grip strength in her right hand, and it has remained. She also states that she has a dull throbbing pain along the volar forearm. She states that she is a right-side sleeper, and she sleeps with her arm tucked and flexed underneath her body. Between 1 a.m. and 3 a.m. every night, she wakes up with pain. She also describes a sensation that the inner aspect of her right fifth finger feels colder. She has not had any trouble with change in color or pain when she sticks her hand in a freezer or refrigerator. She currently works as a server and bartender at the Wreck, so she doing this fairly often.

Current Medications

Taking

- Armour Thyroid 15 MG Tablet 1 tablet on an empty stomach Orally Once a day, Notes: Patient states she takes 15 mg and 60 mg tablet 1 x day

Medication List reviewed and reconciled with the patient

Past Medical History

Thyroid disease.

Surgical History

Denies Past Surgical History

Family History

Mother: deceased, diagnosed with Cancer

Siblings: alive, diagnosed with Cancer

Family history of breast cancer.

Provider: Thomas C. Appleby, MD

Date: 05/24/2021

<https://sccsvsapp.ecwcloud.com/mobiledoc/jsp/catalog/xml/printMultipleChartOptions.jsp...> 7/26/2021



SAMPLE, LISA DOB: ~~05/15~~/1980 (41 yo F) Acc No. 190860 DOS: 05/24/2021

Social History

Tobacco Use:

Tobacco Use/Smoking

Are you a *nonsmoker*

She used to be a travel agent organizing small group trips to Europe but when COVID hit, this business went away, and she now is a server/bartender at the Wreck Restaurant in Mt. Pleasant. She is a nonsmoker. She drinks two to three drinks per week.

Allergies

N.K.D.A.

Hospitalization/Major Diagnostic Procedure

Denies Past Hospitalization

Review of Systems

GENERAL: Negative fever, chills, weight loss, weight gain. HEENT: No blurry vision or epistaxis. RESPIRATORY: No SOB, PND, DOE, wheezing, asthma. CARDIAC: No chest pain, palpitations, MI, or congestive heart failure. VASCULAR: No claudication, rest pain, or nonhealing ulcers. No DVT or superficial thrombophlebitis. GASTROINTESTINAL: No abdominal pain, nausea, vomiting, diarrhea, constipation. GENITOURINARY: No dysuria, hematuria, frequency. HEMATOLOGIC: No bleeding diathesis. ENDOCRINE: Positive for hypothyroidism. No diabetes. PSYCHIATRIC: No depression or anxiety. MUSCULOSKELETAL: No arthritis or back pain. NEUROLOGIC: Negative migraine headaches. No seizure, syncope, stroke. No amaurosis fugax or TIAs.

Vital Signs

Temp 97.7, HR 70 /min, BP 123/85 mm Hg, Wt 140 lbs, BMI 21.28 Index, Ht 5 ft 8 in.

Physical Examination

GENERAL: She is a well-developed, fit-appearing, white female in no acute distress. HEENT: Sclerae anicteric. NECK: Supple. Without mass. No prominent venous pattern. CHEST: Clear. CARDIAC: Negative JVD. Regular rate and rhythm without appreciable gallop, murmur, or rub. VASCULAR: Radials, brachials, superficial temporal, and carotid artery pulses are 2+ bilaterally. I appreciate no bruits. I appreciate no brachial artery mass. EXTREMITIES: She has no edema and no masses bilaterally. She has no discoloration. Roos' test is negative. LOWER EXTREMITIES: Without CCE. ABDOMEN: Soft, nondistended, nontender. No masses. NEUROLOGIC: Awake, alert, and oriented x3. Cranial nerves II-XII intact. Strength 5/5. Gait normal. Speech clear.

DATA: Dr. Ernst's notes from 02/03/2021 are reviewed including summary of Dr. Bahadori's nerve conduction study on 12/09/2020. MRI of her elbow 02/03/2021 is reviewed and additional nerve conduction studies dated 02/03/2021 are noted.

Assessments

1. Right arm pain - M79.601 (Primary)
2. Right arm weakness - R29.898
3. Cold extremity without peripheral vascular disease - R20.9
4. Body mass index [BMI] 21.0-21.9, adult - Z68.21

Unusual constellation of symptoms. I do not believe she has any significant Raynaud's phenomenon or syndrome. I am concerned about a brachial artery puncture and potentially a nerve injury at the time of her blood bank experience. The question of a reflex sympathetic dystrophy is also raised.

Treatment

1. Others

Clinical Notes: I would like to get an arterial Duplex scan of her brachial artery for completeness. Unfortunately, she cannot stay today as she has an appointment in 20 minutes, so we will get her back for the Duplex scan and make final recommendations at that time.

Provider: Thomas C. Appleby, MD

Date: 05/24/2021

<https://sccsvsapp.ecwcloud.com/mobiledoc/jsp/catalog/xml/printMultipleChartOptions.jsp...> 7/26/2021

SAMPLE, LISA DOB: 05/05/1980 (41 yo F) Acc No. 190860 DOS: 05/24/2021

Preventive Medicine

Counseling:

Care goal follow-up plan:

NORMAL BMI BMI IS NORMAL NO FOLLOW-UP PLAN IS DOC

Screening/Special Tests:

Fall Risk Screening:

Fall Risk Assessment: No falls in the past year

Procedure Codes

G8420 BMI- 18.5 to 25= Normal BMI

G8427 DOC MEDS VERIFIED W/PT OR RE

1036F TOBACCO NON-USER

2000F BLOOD PRESSURE, MEASURED

1101F PT FALLS ASSESS-DOC'D LE1/YR



Electronically signed by Thomas Appleby MD, MD on 05/25/2021 at 10:46 AM EDT

Sign off status: Completed

Provider: Thomas C. Appleby, MD

Date: 05/24/2021

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<https://sccsvsapp.ecwcloud.com/mobiledoc/jsp/catalog/xml/printMultipleChartOptions.jsp...> 7/26/2021



40 Y old Female, DOB: [REDACTED]
Account Number: 00001430826

Home: [REDACTED]

Guarantor: SAMPLE, LISA R Insurance: RESERVE NATIONAL
INSURANCE Payer ID: 5812
PCP: HUGH E THOMPSON, MD
Appointment Facility: RSFPP Orthopaedics O OSCWA

02/03/2021

Progress Notes: John M Ernst MD

Current Medications

Taking
Armour Thyroid 15 MG Tablet 1 tablet on an empty stomach Orally Once a day
Armour Thyroid 60 MG Tablet 1 tablet Orally Once a day
Medication reported as directed by the ordering provider
Not-Taking/PRN
Alprazolam 0.5 MG Tablet 1 tablet Orally at bedtime prn
Effexor XR 37.5 MG Capsule Extended Release 24 Hour 1 capsule with food Orally Once a day
Flonase 50 MCG/ACT Suspension 1 spray in each nostril Nasally Twice a day
Probiotic Tablet Delayed Release Orally
Medication List reviewed and reconciled with the patient

Past Medical History

Hyperthyroidism.
Hyperhidrosis.
Hashimoto's.
drug-induced urticaria from Wellbutrin.

Surgical History

colonoscopy > IH, EH poor prep 04/18/17

Family History

Father: alive
Mother: deceased 62 yrs, diagnosed with Breast CA
Sister(s): alive
3 sister(s) - healthy.
mother has breast cancer(triple negative).

Social History

Tobacco Use:
Tobacco Use/Smoking
Are you a nonsmoker
Additional Findings: Tobacco Non-User Non-smoker
for personal reasons
Tobacco cessation
Patient counselled on the dangers of tobacco
10/09/2020
Cessation: Not applicable
Tobacco Use/Smokeless: Denies
Smokeless Tobacco/nicotine use: No

Drugs/Alcohol:
Drugs: Denies
Have you used drugs other than those for medical reasons in the past 12 months? No
Alcohol Screen: Denies:

Did you have a drink containing alcohol in the past year? No
Points 0
Interpretation Negative
works as a small group tour sales person.

Allergies

Wellbutrin: Hives - Allergy

Hospitalization/Major Diagnostic Procedure

Denies Past Hospitalization

Review of Systems

General/Constitutional:

Night sweats denies. Fatigue denies.
Fever denies. Change in activity level denies.
Allergy/Immunology:
Allergies denies. Infection after surgery denies.

Reason for Appointment

1. Mri rt elbow results

History of Present Illness

Upper Extremity Problems:

DEMOGRAPHICS 40 YEAR OLD FEMALE RIGHT HAND DOMINANT SERVER BARTENDER.

HPI SUMMARY 12/09/20 -(Right arm)Patient underwent phlebotomy right medial antecubital region for blood donation on 1/20 experiencing immediate acute pain tingling or weakness of the hand and rapid development of antecubital hematoma. reports residual activity daytime and nocturnal paresthesias more so long ring and small finger with antecubital aching. Right arm weakness.

02/03/21 -(right arm) reports coolness bluish hue right long ring and small fingers with cold exposure. Reports tingling and pain right medial elbow forearm extending to small finger with elbow flexion. Symptoms when sleeping with elbow flexed. No radicular complaints. Additional nerve studies noted below. Of note patient's median sensory conduction Antecubital region and forearm is normal. MRI result noted below. Of note during patient's phlebotomy over antecubital region patient describes deep penetration. Noting shock and burning sensation ulnar forearm to hand.. Patient developed immediate blueness of her hand.also has phone photos of distal half humerus and proximal third forearm bruising.currently not using elbow pads..

EXAM SUMMARY 12/09/20 -(Right arm) no lacerations or abrasions contusions or ecchymosis normal pulses and lymphatics. Range of motion full. Sensitive ulnar nerve cubital tunnel positive Tinel's transient elbow flexion test benign forearm compartments. Benign antecubital area no hematomas normal muscle mass. negative Tinel's carpal tunnel canal Guyon negative Phalen's benign medial condyle flexor origin cubital tunnel benign bicipital tendon. Good resistance. Benign lateral condyle extensor origin radial tunnel cauda equina. Intact ulnar intrinsic and extrinsic motor. Reflexes 1+. Upper extremity motor symmetrical. 2 point discrimination 6 mm all digits. Mild enlargement right hand and slight venous congestion appearance. Good refill.. Small radial volar carpal ganglion cyst benign nontender nonpulsatile.Alert and oriented no apparent distress age-appropriate normal respirations.

02/03/21 -(right arm) no laceration abrasions contusions or ecchymosis normal pulses and lymphatics. Full range of motion. Transient venous hue right long ring and small fingers. Elbow stable benign medial condyle flexor origin positive Tinel's cubital tunnel. No snapping. Negative elbow flexion test benign forearm compartments negative Tinel's carpal tunnel canal Guyon negative Phalen's sign. Light touch intact 2 point discrimination 6 mm all digits. Normal pulp refill color turgor and sudomotor evaluation. Benign canal Guyon normal Allen's test. Normal ulnar intrinsic and extrinsic motor. Normal thenar/hypothenar eminence normal FPL FDP APB..

ASSESSMENT/TREATMENT SUMMARY 12/09/20 -(Right arm) Residual complex right arm symptomatology after phlebotomy with significant hematoma and bruising noted. Some ulnar nerve hypersensitivity and ulnar nerve paresthesias intermittently no radicular symptoms. History and clinical exam is not consistent with right carpal tunnel syndrome./Recommend more focal ulnar nerve nerve studies including EMG. right elbow MRI with contrast to evaluate neurovascular structures.Serial assessment.

02/03/21 -Component of Raynaud's phenomena associated history of cold hands and feet but venous hue more so right long ring and small finger with cold exposure and some activities.Component ulnar nerve neuritis with normal nerve studies across the elbow slight peripheral ulnar sensory changes normal motor. Clinical exam for ulnar nerve hypersensitivity no snapping. Slight changes on

Patient: SAMPLE, LISA R Progress Note: John M Ernst MD 02/03/2021

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

Latex denies.

ENT:

Tinnitus denies. Nosebleed denies. Hearing loss denies.

Ophthalmologic:

Change in vision denies. Glaucoma denies.

Endocrine:

Take insulin? denies. Hypoglycemia denies. Dizziness denies. Thyroid problem denies. Diabetes denies.

Respiratory:

O2 required denies. Shortness of breath denies. Sleep Apnea denies. Asthma denies. COPD denies.

Cardiovascular:

Heart problems denies. Angina denies. Peripheral Vascular Disease denies. Trouble breathing when lying down denies. High blood pressure denies. Irregular heartbeat denies. Low Blood Pressure denies. Edema denies.

Gastrointestinal:

GERD denies. Hernia denies. change in bowel movements denies. Reflux denies. Rectal bleeding denies. Liver problems denies.

Musculoskeletal:

Joint stiffness denies. Fibromyalgia denies. Arthritis denies. Swollen joints denies. Painful joints denies. Weakness denies. Gout denies.

Hematology:

Blood thinners denies. Hepatitis denies. Bleeding problems denies. Easy bruising denies. Anemia denies.

Genitourinary:

Blood in urine denies. Frequent UTI denies. Kidney problems denies.

Neurologic:

Seizures denies. Tremor denies. Stroke denies. Tingling/Numbness denies.

Psychiatric:

Depression denies. Mental foginess denies. Anxiety denies.

Dermatology:

Skin rash denies. Poor wound healing denies.

MRI./Prior to consideration of cubital tunnel decompression would recommend vascular consultation for Raynaud's phenomenon/treatment

INTERVENTION SUMMARY 12/09/20 -Neurological consultation Dr. Bahadori noted and reviewed.

12/09/20 -Nerve conduction studies Dr. Bahadori 12/4/20 demonstrates right median motor latency 4.7/less than 4.5 normal with normal amplitude. Right median sensory latency 4.1/less than 3.5 normal with normal amplitude. Normal right ulnar motor sensory and motor latency and amplitude. Normal ulnar motor across elbow. Normal screening EMG right deltoid triceps biceps APB. Interpretation right carpal tunnel syndrome.

02/03/21 - MRI right elbow with without contrast 1/14/21 interpret as mild enlargement and slight edema involving ulnar nerve at cubital tunnel without abnormal enhancement. No mass lesion. No muscular deformity. Interpretation noted.

02/03/21 -additional nerve studies phone report indicates median sensory latency 4.3 elevated normal amplitude. Median motor 4.5 borderline. Ulnar motor across elbow was normal. Ulnar sensory at wrist 3.0 elevated normal amplitude. ulnar motor normal. EMGs performed first DI and APB normal however remaining ulnar motor was not performed. Including FCU FDP /ADQ. Written report pending.

Vital Signs

Ht 68 in, Wt 139.3 lbs, BMI 21.18 Index.

Examination

General Examination:

02/03/21 -(right arm) no laceration abrasions contusions or ecchymosis normal pulses and lymphatics. Full range of motion. Transient venous hue right long ring and small fingers. Elbow stable benign medial condyle flexor origin positive Tinel's cubital tunnel. No snapping. Negative elbow flexion test benign forearm compartments negative Tinel's carpal tunnel canal Guyon negative Phalen's sign. Light touch intact 2 point discrimination 6 mm all digits. Normal pulp refill color turgor and sudomotor evaluation. Benign canal Guyon normal Allen's test. Normal ulnar intrinsic and extrinsic motor. Normal thenar/hypothenar eminence normal FPL FDP APB.

Assessments

1. Irritation of right ulnar nerve - G56.21 (Primary)
2. Injury of median nerve at forearm level, right arm, subsequent encounter - S54.11XD

3. Raynaud's phenomenon without gangrene - I73.00

02/03/21 -Component of Raynaud's phenomena associated history of cold hands and feet but venous hue more so right long ring and small finger with cold exposure and some activities.Component ulnar nerve neuritis with normal nerve studies across the elbow slight peripheral ulnar sensory changes normal motor. Clinical exam for ulnar nerve hypersensitivity no snapping. Slight changes on MRI./Prior to consideration of cubital tunnel decompression would recommend vascular consultation for Raynaud's phenomenon/treatment.

Treatment

1. Irritation of right ulnar nerve

Notes: **02/03/21** -Component of Raynaud's phenomena associated history of cold hands and feet but venous hue more so right long ring and small finger with cold exposure and some activities.Component ulnar nerve neuritis with normal nerve studies across the elbow slight peripheral ulnar sensory changes normal motor. Clinical exam for ulnar nerve hypersensitivity no snapping. Slight changes on MRI./Prior to consideration of cubital tunnel decompression would recommend vascular consultation for Raynaud's phenomenon/treatment.

Referral To:FAX and send P2P Appleby Thomas Vascular Surgery

Reason:right arm raynauds phenomena |symptom magnification following previous right arm diffuse distal humerus proximal forearm bruising after phlebotomy one year ago|component of cubital tunnel ulnar nerve irritation

2. Others

Continue Medication reported as directed by the ordering provider

Follow Up

after vascular consultation

Care Plan Details



Electronically signed by JOHN ERNST MD on 02/03/2021 at 04:02 PM
EST
Sign off status: Completed

RSFPP Orthopaedics O OSCWA
2093 HENRY TECKLENBURG DR
STE 200
CHARLESTON, SC 29414-5742
Tel: 843-958-2500
Fax: 843-606-8058

Patient: SAMPLE, LISA R DOB: 05/06/1980 Progress Note: John M Ernst MD 02/03/2021

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41 Y old Female, DOB: [REDACTED]

Account Number: 00001430826

Home: [REDACTED]

Guarantor: SAMPLE, LISA R Insurance: RESERVE
NATIONAL INSURANCE Payer ID: 5812

PCP: HUGH E THOMPSON, MD

Appointment Facility: RSFPP Orthopaedics O OSCMP

05/11/2021

James L Price MD

Current Medications**Taking**

- Alprazolam 0.5 MG Tablet 1 tablet Orally at bedtime prn
- Armour Thyroid 15 MG Tablet 1 tablet on an empty stomach Orally Once a day
- Armour Thyroid 60 MG Tablet 1 tablet Orally Once a day
- Medication List reviewed and reconciled with the patient

Past Medical History

Hyperthyroidism.
Hyperhidrosis.
Hashimoto's.
drug-induced urticaria from Wellbutrin.

Surgical History

colonoscopy > IH, EH poor prep 04/18/17

Family History

Father: alive
Mother: deceased 62 yrs, diagnosed with Breast CA
Sister(s): alive
3 sister(s) - healthy.
mother has breast cancer(triple negative).

Social History

Tobacco Use:
Tobacco Use/Smoking Are you a nonsmoker. Tobacco Use/Smokeless: Denies .
Drugs/Alcohol:
Alcohol Screen: Denies Did you have a drink containing alcohol in the past year? No, Points 0, Interpretation Negative.
works as a small group tour sales person.

Allergies

Wellbutrin: Hives - Allergy

Hospitalization/Major**Diagnostic Procedure**

Denies Past Hospitalization

Review of Systems**General/Constitutional:**

Weight change denies.

Allergy/Immunology:

Allergies denies.

ENT:**Reason for Appointment**

1. IME: RIGHT UPPER EXTREMITY

History of Present Illness

Patient is 41 years old female who February 1 year ago was donating blood had a blood mobile and during her venipuncture had an acute pain in the right antecubital fossa causing pain radiating down her arm and immediate bluish discoloration to the hand and severe pain. Patient had the needle withdrawn and compression put on the elbow and a large hematoma was created by the puncture. She since that time has several complaints other been persistent over the past year. This includes bluish congestion to the hand. She also has numbness and paresthesias of the little finger and ring finger area she has coldness to the right hand compared to the left hand she has tenderness around the medial elbow and she also has tenderness along the right ulnar nerve. She is had a workup by Dr. Bahadori finding carpal tunnel syndrome on electrodiagnosis but no clinical symptoms of carpal tunnel syndrome and she had some mild findings of nerve changes around the ulnar nerve but negative electrodiagnostic studies. Dr. Ernst evaluate her an MRI scan was obtained showing some changes in the ulnar nerve on MRI scanning which may be secondary to ulnar neuritis. No direct finding of arterial injury on MRI was seen. Patient was ordered to have a vascular workup by Dr. Applebee by Dr. Ernst but this has not occurred yet.

MRI of right elbow performed at TCR on 1/14/2021 and ordered by Dr Ernst: IMPRESSION: 1. Mild enlargement and slight edema involving the ulnar nerve in the cubital tunnel without abnormal enhancement. This may relate to an ulnar neuritis. Secondary consideration given to a neuroma/peripheral nerve sheath tumor although felt to be ow consideration given absence of abnormal enhancement focal. 2. no mass lesion demonstrated an the medial aspect of the right elbow. No deformity of musculature surrounding of the elbow to suggest a neuropathic process related to a nerve injury.

Nerve studies on 12/4/2020 from Dr Bahadori: Abnormal nerve conduction study of the right median nerve. Right median nerve sensorimotor demyelinating neuropathy at the wrist consistent with carpal tune syndrome. The NCV study of the median nerve shows a normal conduction velocity rom the antecubital region to the wrist. Normal EMG study of the right upper extremity. The results of the study were discussed with the patient and recommendation orthopedic consult and ultrasound of the antecubital region secondary to her continued discomfort.

Elbow:

Location Right. Quality aching. Severity variable. Timing Blood

Patient: SAMPLE, LISA R [REDACTED] Progress Note: James L Price MD 05/11/21

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

Ringing in the ears denies.
Ophthalmologic:
 Change in vision denies.
Endocrine:
 Temperature intolerance denies.
 Excessive thirst denies. Frequent
 urination denies.
Respiratory:
 Shortness of breath denies.
 Wheezing denies.
Cardiovascular:
 Chest Pain denies. Dizziness denies.
Gastrointestinal:
 Heartburn denies.
Musculoskeletal:
 Instability denies. Arm
 swelling denies. Redness denies. Muscle
 aches denies. Painful joints denies.
Hematology:
 Abnormal bleeding denies. Easy
 bruising denies.
Skin:
 Rash denies.
Genitourinary:
 Painful urination denies.
Neurologic:
 Seizures denies.
 Tingling/Numbness denies.
Psychiatric:
 Depression denies. Anxiety denies.

drawn. Duration constant. Context activities. Modifying
 Factors n/a. Associated Symptoms weakness, tingling.

Vital Signs

Ht 68 in, Wt **139.3 lbs**, BMI **21.18** Index.

Examination

General Examination:

GENERAL APPEARANCE: well developed, well nourished, Patient
 is alert and oriented X 3. Moderate discomfort. Appropriate affect.,
 looks stated age.

Left elbow:

INSPECTION: no ecchymosis, no swelling.
 WOUNDS: no wounds noted.
 PALPATION: non-tender.
 RANGE OF MOTION: full range of motion.
 STRENGTH: 5/5 all groups.
 STABILITY: no instability.
 TESTS: negative tinnels at the cubital tunnel.
 SENSATION: light touch intact.
 VASCULAR: good capillary refill < 3 seconds.
 MASS: no mass appreciated.
 Normal Allen's testing and negative Tinel's signs.

Right elbow:

INSPECTION: no ecchymosis, no swelling.
 WOUNDS: no wounds noted.
 PALPATION: Patient has tenderness over the cubital tunnel and
 ulnar nerve she also has tenderness over the brachial artery above the
 elbow to palpation. Positive Tinel sign over the ulnar nerve to the little
 finger. Negative Tinel sign over the median nerve.
 RANGE OF MOTION: full range of motion.
 STRENGTH: 5/5 all groups no weakness in the intrinsic muscles.
 STABILITY: no instability.
 TESTS: Positive Tinel sign at the cubital tunnel normal Allen's
 testing of the hand.
 SENSATION: Ulnar nerve paresthesias.
 VASCULAR: good capillary refill < 3 seconds coolness to the
 fingers despite good capillary refill.
 MASS: no mass appreciated.

Assessments

1. Raynaud's phenomenon without gangrene - I73.00 (Primary)
2. Cubital tunnel syndrome on right - G56.21

Treatment

1. Raynaud's phenomenon without gangrene

Notes: Patient will proceed to get her vascular studies completed and
 contact us after it is complete.

Clinical Notes: Patient has vascular spasm possible Raynaud's
 phenomenon or lower flow through the brachial artery after
 venipuncture caused injury in the antecubital fossa area. I agree with
 Dr. Ernst that vascular testing is in order with Dr. Applebee and pulse
 pressures of the finger should be tested to see if lower flow is going
 through the brachial artery. Even though Allen's testing is normal flow
 could be slower through a traumatized brachial artery. This seems to
 be directly related to her venipuncture.

2. Cubital tunnel syndrome on right

Clinical Notes: Cubital tunnel syndrome by clinical diagnosis but not
 affirmed by electrodiagnosis. Hemorrhage around the elbow could've

caused scarring around the ulnar nerve. Ulnar nerve release may be necessary but resolution of the vascular problem should be done first since there seems to be no untoward motor effects by electrodiagnosis to the ulnar nerve. This too seems to be directly related to the venipuncture.

Follow Up

pt to call



Electronically signed by JAMES PRICE JR MD on 05/11/2021
at 05:33 PM EDT

Sign off status: Completed

RSFPP Orthopaedics O OSCMP
594 LONE TREE DRIVE
BLDG 6
MOUNT PLEASANT, SC 29464-8170
Tel: 843-958-2500
Fax: 843-606-8058

Patient: SAMPLE, LISA R DOB: 05/06/1980 Progress Note: James L Price MD 05/11/2021

Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)

DOB: [REDACTED] (41 yo F) Acc No. 190860 DOS: 05/24/2021

COASTAL VASCULAR & VEIN CENTER

Progress Note

Patient: [REDACTED]
DOB: [REDACTED] Age: 41 Y Sex: Female

Provider: Thomas C. Appleby, MD
Date: 05/24/2021

Reason for Appointment

1. JOHN ERNST/RUE RAYNAUDS PHENOMENON

History of Present Illness

General:

Ms. [REDACTED] is a 41-year-old, white female seen at the kind courtesy of Dr. Ernst for a vascular evaluation. Ms. [REDACTED] is very healthy and has started having trouble with her right arm and hand. It is noted that she is right-hand dominant. She dates all of her symptoms to 01/2020 when she was giving blood at a blood drive outside her workout facility. She reports deciding to give blood after her workout. She states that when the phlebotomist stuck her in her right antecubital fossa, she had a cold sensation go down her volar forearm and her fingers turned blue. When she told them something was wrong, a supervisor came and took the needle out and told her she would have a hematoma and bruise. She did have a golf ball sized hematoma and she bruised circumferentially around her antecubital fossa. After a week or two, her hematoma and ecchymosis had resolved. However, immediately after this she noticed a loss of grip strength in her right hand, and it has remained. She also states that she has a dull throbbing pain along the volar forearm. She states that she is a right-side sleeper, and she sleeps with her arm tucked and flexed underneath her body. Between 1 a.m. and 3 a.m. every night, she wakes up with pain. She also describes a sensation that the inner aspect of her right fifth finger feels colder. She has not had any trouble with change in color or pain when she sticks her hand in a freezer or refrigerator. She currently works as a server and bartender at the Wreck, so she doing this fairly often.

Current Medications

Taking

- Armour Thyroid 15 MG Tablet 1 tablet on an empty stomach Orally Once a day, Notes: Patient states she takes 15 mg and 60 mg tablet 1 x day

Medication List reviewed and reconciled with the patient

Past Medical History

Thyroid disease.

Surgical History

Denies Past Surgical History

Family History

Mother: deceased, diagnosed with Cancer
Siblings: alive, diagnosed with Cancer
Family history of breast cancer.

Provider: Thomas C. Appleby, MD

Date: 05/24/2021

<https://sccsvsapp.ecwcloud.com/mobiledoc/jsp/catalog/xml/printMultipleChartOptions.jsp...> 7/26/2021

DOB: 05/24/1980 (41 yo F) Acc No. 190860 DOS: 05/24/2021

Social History

Tobacco Use:

Tobacco Use/Smoking

Are you a *nonsmoker*

She used to be a travel agent organizing small group trips to Europe but when COVID hit, this business went away, and she now is a server/bartender at the Wreck Restaurant in Mt. Pleasant. She is a nonsmoker. She drinks two to three drinks per week.

Allergies

N.K.D.A.

Hospitalization/Major Diagnostic Procedure

Denies Past Hospitalization

Review of Systems

GENERAL: Negative fever, chills, weight loss, weight gain. HEENT: No blurry vision or epistaxis. RESPIRATORY: No SOB, PND, DOE, wheezing, asthma. CARDIAC: No chest pain, palpitations, MI, or congestive heart failure. VASCULAR: No claudication, rest pain, or nonhealing ulcers. No DVT or superficial thrombophlebitis. GASTROINTESTINAL: No abdominal pain, nausea, vomiting, diarrhea, constipation. GENITOURINARY: No dysuria, hematuria, frequency. HEMATOLOGIC: No bleeding diathesis. ENDOCRINE: Positive for hypothyroidism. No diabetes. PSYCHIATRIC: No depression or anxiety. MUSCULOSKELETAL: No arthritis or back pain. NEUROLOGIC: Negative migraine headaches. No seizure, syncope, stroke. No amaurosis fugax or TIAs.

Vital Signs

Temp 97.7, HR 70 /min, BP 123/85 mm Hg, Wt 140 lbs, BMI 21.28 Index, Ht 5 ft 8 in.

Physical Examination

GENERAL: She is a well-developed, fit-appearing, white female in no acute distress. HEENT: Sclerae anicteric. NECK: Supple. Without mass. No prominent venous pattern. CHEST: Clear. CARDIAC: Negative JVD. Regular rate and rhythm without appreciable gallop, murmur, or rub. VASCULAR: Radials, brachials, superficial temporal, and carotid artery pulses are 2+ bilaterally. I appreciate no bruits. I appreciate no brachial artery mass. EXTREMITIES: She has no edema and no masses bilaterally. She has no discoloration. Roos' test is negative. LOWER EXTREMITIES: Without CCE. ABDOMEN: Soft, nondistended, nontender. No masses. NEUROLOGIC: Awake, alert, and oriented x3. Cranial nerves II-XII intact. Strength 5/5. Gait normal. Speech clear.

DATA: Dr. Ernst's notes from 02/03/2021 are reviewed including summary of Dr. Bahadori's nerve conduction study on 12/09/2020. MRI of her elbow 02/03/2021 is reviewed and additional nerve conduction studies dated 02/03/2021 are noted.

Assessments

1. Right arm pain - M79.601 (Primary)
2. Right arm weakness - R29.898
3. Cold extremity without peripheral vascular disease - R20.9
4. Body mass index [BMI] 21.0-21.9, adult - Z68.21

Unusual constellation of symptoms. I do not believe she has any significant Raynaud's phenomenon or syndrome. I am concerned about a brachial artery puncture and potentially a nerve injury at the time of her blood bank experience. The question of a reflex sympathetic dystrophy is also raised.

Treatment

1. Others

Clinical Notes: I would like to get an arterial Duplex scan of her brachial artery for completeness. Unfortunately, she cannot stay today as she has an appointment in 20 minutes, so we will get her back for the Duplex scan and make final recommendations at that time.

Provider: Thomas C. Appleby, MD

Date: 05/24/2021

<https://sccsvsapp.ecwcloud.com/mobiledoc/jsp/catalog/xml/printMultipleChartOptions.jsp...> 7/26/2021

~~APPLEBY, THOMAS~~ DOB: ~~05/05/1980~~ (41 yo F) Acc No. 190860 DOS: 05/24/2021

Preventive Medicine

Counseling:

Care goal follow-up plan:

NORMAL BMI BMI IS NORMAL NO FOLLOW-UP PLAN IS DOC

Screening/Special Tests:

Fall Risk Screening:

Fall Risk Assessment: No falls in the past year

Procedure Codes

G8420 BMI- 18.5 to 25= Normal BMI

G8427 DOC MEDS VERIFIED W/PT OR RE

1036F TOBACCO NON-USER

2000F BLOOD PRESSURE, MEASURED

1101F PT FALLS ASSESS-DOC'D LE1/YR



Electronically signed by Thomas Appleby MD, MD on 05/25/2021 at 10:46 AM EDT

Sign off status: Completed

Provider: Thomas C. Appleby, MD

Date: 05/24/2021

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SAMPLE, LISA DOB: 05/06/1980 (41 yo F) Acc No. 190860 DOS: 06/14/2021

COASTAL VASCULAR & VEIN CENTER

Patient: **SAMPLE, LISA**
DOB: 05/06/1980 Age: 41 Y Sex: Female

Provider: Thomas C. Appleby, MD
Date: 06/14/2021

Reason for Appointment

1. 3WKS RUE PAIN U/S DONE 6/8/201

History of Present Illness

General:

Ms. Sample is a 41 yo F seen in follow-up after being seen initially on 5/24/21. In brief, the patient describes the onset of symptoms following a needle access while donating blood. The patient states she noticed an antecubital hematoma, cold sensation down the volar forearm and right hand discoloration. Since that time the patient states she has daily night time awakenings. She has attempted to use a brace with a pillowcase, but this doesn't seem to be very effective. She denies any more hand coolness, or difficulty with motor function of the hand. Endorses intermittent numbness of the 3rd-5th fingers at night time, but also will experience pains and needles sensation of the 1st and 2nd digits as well. Subjective she feels her right hand isn't as strong as the the left.

RUE arterial duplex obtained today is unremarkable.

Current Medications

Taking

- Armour Thyroid 15 MG Tablet 1 tablet on an empty stomach Orally Once a day, Notes: Patient states she takes 15 mg and 60 mg tablet 1 x day

Medication List reviewed and reconciled with the patient

Past Medical History

Thyroid disease.

Surgical History

Denies Past Surgical History

Family History

Mother: deceased, diagnosed with Cancer

Siblings: alive, diagnosed with Cancer

Family history of breast cancer.

Social History

Tobacco Use:

Tobacco Use/Smoking

Are you a nonsmoker

She used to be a travel agent organizing small group trips to Europe but when COVID hit, this business

Provider: Thomas C. Appleby, MD

Date: 06/14/2021

<https://sccsvsapp.ecwcloud.com/mobiledoc/jsp/catalog/xml/printMultipleChartOptions.jsp...> 7/26/2021

SAMPLE, LISA DOB: 05/06/1980 (41 yo F) Acc No. 190860 DOS: 06/14/2021

went away, and she now is a server/bartender at the Wreck Restaurant in Mt. Pleasant. She is a nonsmoker. She drinks two to three drinks per week.

Allergies

N.K.D.A.

Hospitalization/Major Diagnostic Procedure

Denies Past Hospitalization

Review of Systems

General/Constitutional:

Denies Chills. Denies Fatigue.

Allergy/Immunology:

Denies Congestion. Denies Itching. Denies Rash.

Ophthalmologic:

Denies Blurred vision. Denies Diminished visual acuity.

ENT:

Denies Blocked ear(s). Denies Decreased hearing.

Respiratory:

Denies Cough. Denies Hemoptysis.

Cardiovascular:

Denies Chest pain at rest. Denies Chest pain with exertion. Denies Claudication.

Gastrointestinal:

Denies Abdominal pain. Denies Change in bowel habits.

Musculoskeletal:

Denies Painful joints. Denies Sciatica.

Vital Signs

HR 65 /min, BP sitting: 102/66, Wt 140 lbs, BMI 21.28 Index, Ht 5 ft 8 in.

Examination & Studies

General Examination:

GENERAL APPEARANCE: in no acute distress, well developed, well nourished.

NEUROLOGIC: Awake, alert, oriented x3.

HEART: regular rate and rhythm.

ABDOMEN: soft, nontender, nondistended.

BILATERAL UPPER EXTREMITIES: RIGHT: 2+ radial, 2+ brachial

LEFT: 2+ radial, 2+ brachial

Strength equal bilaterally. radial, ulnar and median nerves grossly intact. Tinel's positive on right..

Physical Examination

Vascular Studies:

Arterial duplex RUE: triphasic throughout. no evidence of hemodynamically significant stenosis.

Assessments

1. Right arm pain - M79.601 (Primary)
2. Right hand paresthesia - R20.2
3. Cold extremity without peripheral vascular disease - R20.9
4. Body mass index [BMI] 21.0-21.9, adult - Z68.21

Treatment

Provider: Thomas C. Appleby, MD

Date: 06/14/2021

<https://sccsvsapp.ecwcloud.com/mobiledoc/jsp/catalog/xml/printMultipleChartOptions.jsp...> 7/26/2021

SAMPLE, LISA DOB: 05/06/1980 (41 yo F) Acc No. 190860 DOS: 06/14/2021

1. Right arm pain

Clinical Notes: Acute onset after donating blood. Symptoms are stable. From a blood flow standpoint, Ms. Sample is normal. Suspect that there is either a neuropathy after insult, or related to nerve compression. Will see back on a prn basis. Will send back to Dr. Price for further evaluation and work-up.

2. Others

Clinical Notes:

ADDENDUM:

Patient seen, independently interviewed, and examined separate and distinct from Dr. Joe Anderson. Developed plan of care with Dr. Anderson. Basically, agree with above.

In talking with Ms. Sample, it does appear that her symptoms are slightly abating. She still notices some discoloration and cyanosis of her hand when it is in certain positions. She still endorses some weakness. She does state that when she presses inward on the ulnar aspect of her antecubital fossa, it seems to help. Her symptoms are predominantly neurogenic in my opinion. This could represent a reflex sympathetic dystrophy. Her Duplex scan is completely normal without evidence of stenosis or pseudoaneurysm. She is informed of these results. She should return on an as needed basis.

cc: Dr. James Price

cc: Dr. Hugh Ed Thompson

Preventive Medicine

Counseling:

Care goal follow-up plan:

NORMAL BMI BMI IS NORMAL NO FOLLOW-UP PLAN IS DOC

Procedure Codes

G8420 BMI- 18.5 to 25= Normal BMI

G8427 DOC MEDS VERIFIED W/PAT OR RE

1036F TOBACCO NON-USER

2000F BLOOD PRESSURE, MEASURED

Follow Up

prn



Electronically signed by Thomas Appleby MD, MD on 06/16/2021 at 11:49 AM EDT

Sign off status: Completed

Provider: Thomas C. Appleby, MD

Date: 06/14/2021

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<https://sccsvsapp.ecwcloud.com/mobiledoc/jsp/catalog/xml/printMultipleChartOptions.jsp...> 7/26/2021

DOB: (41 yo F) Acc No. 00001430826 DOS: 08/17/2021



41 Y old Female, DOB: Account Number: 00001430826

Home:

Guarantor: URICCHIO, HOWE, JACOBSON, TOPOREK, THEOS, KEITH LAW FIRM, Insurance: URICCHIO HOWE KRELL JACOBSON LAW FIRM Payer ID: 4300

PCP: HUGH E THOMPSON, MD

Appointment Facility: RSFPP Orthopaedics O OSCMP

08/17/2021

Progress Notes: James L Price MD

Current Medications

Taking

- Alprazolam 0.5 MG Tablet 1 tablet Orally at bedtime prn
- Armour Thyroid 15 MG Tablet 1 tablet on an empty stomach Orally Once a day
- Armour Thyroid 60 MG Tablet 1 tablet Orally Once a day
- Not-Taking/PRN
- Concerta 18 MG Tablet Extended Release 1 tablet in the morning Orally Once a day
- Medication List reviewed and reconciled with the patient

Past Medical History

Hyperthyroidism.
Hyperhidrosis.
Hashimoto's.
drug-induced urticaria from Wellbutrin.

Surgical History

colonoscopy > IH, EH poor prep 04/18/17

Family History

Father: alive
Mother: deceased 62 yrs, diagnosed with Breast CA
Sister(s): alive
3 sister(s) - healthy.
mother has breast cancer (triple negative).

Social History

works as a small group tour sales person.

Allergies

Wellbutrin: Hives - Allergy - Criticality Low

Reason for Appointment

- F/U VISIT, RIGHT HAND NUMBNESS

History of Present Illness

Symptom(s):

Patient's here for evaluation of her elbow. A workup is been totally negative for any specific abnormality including vascular and neural however her clinical symptoms point to an ulnar nerve over the medial epicondyle and more proximally. She has been having consistent symptoms over the past year with paresthesias in the ulnar side of her hand worse at night when she lies down with a hyperflexed elbow better if she sleeps with an extended elbow. Continued pain over the ulnar nerve several centimeters above the medial epicondyle. Negative MRI scan in this area.

Vital Signs

Ht 68 in, Wt 142 lbs, BMI 21.59 Index.

Examination

Right elbow:

INSPECTION: no ecchymosis, no swelling.

WOUNDS: no wounds noted.

PALPATION: Patient has tenderness over the cubital tunnel and ulnar nerve she also has tenderness along the ulnar nerve above the medial epicondyle. Close to the intramuscular septum..

RANGE OF MOTION: full range of motion.

STRENGTH: 5/5 all groups no weakness in the intrinsic muscles.

STABILITY: no instability.

TESTS: Positive Tinel sign at the cubital tunnel normal Allen's testing of the hand.

SENSATION: Ulnar nerve paresthesias.

VASCULAR: good capillary refill < 3 seconds coolness to the fingers despite good capillary refill.

MASS: no mass appreciated.

Assessments

- Cubital tunnel syndrome on right - G56.21 (Primary)

Treatment

Progress Note: James L Price MD 08/17/2021

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http://rsfhapp.ecw.carealliance.com/mobiledoc/servlet/sg/xml/printMultipleChartOptions.... 9/15/2021

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SAMPLE, LISA R DOB: 05/06/1980 (41 yo F) Acc No. 00001430826 DOS: 08/17/2021

Hospitalization/Major Diagnostic Procedure

No Hospitalization History.

Review of Systems

General/Constitutional:

Weight change denies.

Allergy/Immunology:

Allergies denies.

ENT:

Ring in the ears denies.

Ophthalmologic:

Change in vision denies.

Endocrine:

Temperature intolerance denies.

Excessive thirst denies. Frequent

urination denies.

Respiratory:

Shortness of breath denies.

Wheezing denies.

Cardiovascular:

Chest Pain denies.

Dizziness denies.

Gastrointestinal:

Heartburn denies.

Musculoskeletal:

Instability denies. Arm swelling denies. Redness denies.

Muscle aches denies. Painful joints denies.

Hematology:

Abnormal bleeding denies. Easy bruising denies.

Skin:

Rash denies.

Genitourinary:

Painful urination denies.

Neurologic:

Seizures denies.

Tingling/Numbness **admits**.

Psychiatric:

Depression denies.

Anxiety denies.

1. Cubital tunnel syndrome on right

Clinical Notes: Patient's here for evaluation of the elbow continued to have ulnar nerve symptoms. Despite of a negative workup I believe ulnar nerve exploration is probably in order. We talked about the risks and the potential complications including the possibility of traumatizing nerve ourselves. The chances of an infection bleeding nerve injury and reflex dystrophy all discussed. She understands the risks and would probably like to proceed in the near future. We can do an ulnar nerve release with potential transfer if the nerve is unstable.

2. Others

Continue Continue Medications reported by the ordering provider, , as directed

Follow Up

After Surgery

Care Plan Details



Electronically signed by JAMES PRICE JR MD on 08/17/2021 at 17:02 EDT

Sign off status: Completed

RSFPP Orthopaedics O OSCMP
594 LONE TREE DRIVE
BLDG 6
MOUNT PLEASANT, SC 29464-8170
Tel: 843-958-2500
Fax: 843-606-8058

Progress Note: James L Price MD 08/17/2021

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF COMMON PLEAS
2023-CP-10-00914

Lisa Renee Sample,)

) TRANSCRIPT OF RECORD

-vs-)

) December 3, 2024

Blood Connection, Inc.,)

) Charleston, South Carolina

B E F O R E:

The Honorable Marvin H. Dukes, Judge

A P P E A R A N C E S:

Gregory D. Keith, Esquire
Attorney for the Plaintiff

Lillian K.H. Keeling, Esquire
Attorney for the Defendant

Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
Ninth Judicial Circuit

1 THE COURT: Next is Sample versus
2 Blood Connection.

3 MR. KEITH: Your Honor, I know this brief
4 was filed -- Your Honor, I'm Greg Keith here for
5 Lisa Sample. I have a copy for you if you did not
6 get it.

7 THE COURT: It's probably in here somewhere,
8 but I'll happily take your copy.

9 MS. KEELING: Thank you, Judge. I'm
10 Lillian Keeling on behalf of The Blood Connection, Inc.,
11 for the moving party.

12 THE COURT: Okay.

13 (Pause.)

14 THE COURT: And this is Defendant's summary
15 judgment motion. I'm happy to hear from you.

16 MS. KEELING: Sorry?

17 THE COURT: It's your motion?

18 MS. KEELING: Yes, Your Honor.

19 THE COURT: Happy to hear from you.

20 MS. KEELING: All right. Again, I'm
21 Lillian Keeling, I represent The Blood Connection, Inc.,
22 the Defendant in this matter. The individual Defendant
23 that I believe is still in the caption was dismissed
24 earlier on in this case, and so The Blood Connection
25 is the sole remaining one.

1 And we're here today on our motion for
2 summary judgment based on the statute of limitations.
3 It's a pretty straightforward argument. But to give
4 the Court some brief facts, this is a medical
5 malpractice case, and it's centered around an alleged
6 negligent blood donation. The Blood Connection, Inc
7 is a community blood donation center, and they have
8 mobile units, blood drives, that the Court is probably
9 familiar with. And the Plaintiff here is claiming
10 she suffered a nerve injury as a result of an attempted
11 blood donation that took place on January 2nd, 2020.

12 And in her written discovery, which is also
13 mentioned in our brief, she describes her donation,
14 and in her deposition testimony, she was given --
15 you know, this answer to her interrogatory, which is
16 No. 17, she confirmed that it's accurate. And I don't
17 want to -- I won't read the whole thing again for
18 the Court, but I do want to point out some pertinent
19 parts.

20 And this, again, is on January 2nd, 2020.
21 She arrives on the bus, she is approached by a young
22 phlebotomist who, you know, she claims turned to
23 a supervisor and seemed uncertain about how to perform
24 the venipuncture, and Ms. Sample, the Plaintiff,
25 describes it as immediately upon insertion, she felt

1 instantaneous pain and the sensation that a nerve
2 had been hit. Her arm immediately began to turn blue,
3 and the young phlebotomist called out urgently for
4 a supervisor to come help her.

5 And at that time, the supervisor immediately
6 came and removed the needle, the supervisor tried
7 to comfort the Plaintiff due to her intense pain,
8 and told the Plaintiff that when she removed the needle
9 it was likely that the Plaintiff would have a large
10 hematoma, and Plaintiff was in shock and shaking.
11 Again, these are her words.

12 And at the time she left the mobile unit,
13 she was having severe pain, and her arm was turning blue
14 with bruising. She noticed almost immediate weakness
15 and numbness in her right arm in the hours following
16 the attempted blood draw. And again, in her deposition,
17 she confirmed this version of events.

18 She also added some context about -- she
19 perceived the atmosphere in the mobile unit to be
20 chaotic. She testified that she was on guard because
21 of what she was observing, and she also testified that
22 the pain and sensation she felt during the donation
23 was abnormal.

24 And so it's our position that the statute
25 of limitations for this case began to run on that day,

1 January 2nd, 2020. The -- she did not file her notice
2 of intent or complaint until February 22nd, 2023.
3 And I don't believe it's in dispute that the applicable
4 statute of limitations is three years in this case.

5 That's our position. I don't believe
6 the Plaintiff disputes that. The only dispute is
7 the date that the statute began to run. Our position
8 is January 2nd, 2020, since they filed -- meaning that,
9 the deadline to file would have been January 2nd, 2023.
10 However, it was not filed until February 22nd, 2023.

11 And regarding the, you know, applicable
12 analysis, the question that's asked in this case for
13 determining the start date for the statute, you look
14 at whether the facts and circumstances of the blood
15 donation would put Ms. Sample, who is a person of common
16 knowledge and experience, on notice that some claim
17 against The Blood Connection might exist, and that's
18 from McMaster v. Dewitt and also the Knox case that's
19 cited in our brief.

20 And Knox also informs us that the date on
21 which discovery should have been made is an objective,
22 not a subjective question. And, importantly, the fact
23 that an injured party may not comprehend the full extent
24 of the damage is immaterial to this analysis. And
25 the Knox case, we discussed in our brief, is strikingly

1 similar to the facts of this case. I have copies if
2 the Court would like, but it's involving an IV insertion
3 into a patient's wrist. So it's not donating blood
4 that's in a hospital setting, but it is a needle
5 insertion.

6 And the Court in that case rejected
7 the Plaintiff's argument that the statute began once
8 the Plaintiff discovered his actual diagnosis, but
9 it began on the date that the Knox Plaintiff got
10 the IV injection. And this is because the Plaintiff
11 in the Knox case described the needle insertion
12 was abnormal compared to ones he's had in the past.
13 Plaintiff also testified similarly here. The Knox Court
14 also noted that the Plaintiff in that case screamed,
15 squealed, and hollered from pain when the IV was
16 injected.

17 Now here, the Plaintiff did not scream
18 and squeal and holler, but she did describe that
19 she felt instantaneous abnormal pain. And she also
20 testified that she said to the phlebotomist, something
21 is not right, take it out, take it out, and that a
22 supervisor came over and immediately removed the needle.
23 And the Plaintiff testified -- I mean, it's kind
24 of over and over again how she thought it was abnormal,
25 how she felt something was awry, and that something

1 went wrong.

2 Also, you know, the Plaintiff in the Knox
3 case testified that the nurse in that case administered
4 -- who administered the IV apologized, something similar
5 happened here. She claims a supervisor came over,
6 and it was her impression that, you know, something
7 was wrong. For the Knox, Plaintiff was discharged,
8 he told family members that he was experiencing pain
9 and that the doctor hit a nerve.

10 Here, Ms. Sample went home to her fiance
11 and told him about this. I believe she testified
12 the crazy story that happened to her that day about
13 her blood donation. And really, you know, Knox where
14 it specifically rejected the Plaintiff's argument
15 that he did not reasonably discover his injury until
16 he knew the extent of his injury.

17 And that's -- I mean, really that's the same
18 thing that Plaintiff is arguing here, that the statute
19 didn't begin to run until she fully understood the
20 nuances and potential permanency of her nerve injury
21 after she visited a doctor, and that's just not how the
22 statute of limitations works. It's when a reasonable
23 person is on notice of a potential claim.

24 And it's our position that -- I mean,
25 the record -- the complaint, written discovery, and oral

1 discovery is replete with facts that support that
2 Ms. Sample was aware that something was abnormal,
3 something was strange, something was different on
4 the date of her blood donation, putting her on notice.
5 And, accordingly, you know, the statute expired almost
6 two months before the Plaintiff filed this action,
7 and we believe summary judgment is appropriate.

8 We also -- I'm not going to spend a lot
9 of time on it here, unless the Court has questions,
10 but the Plaintiff also has some negligent hiring
11 and supervision claims, but we believe, you know,
12 that those claims rise and fall with their medical
13 malpractice claim. Also, even if it didn't, the statute
14 of limitations for negligent hiring and supervision
15 claims is three years as well, and so the outcome
16 is the same.

17 And, lastly, you know, Ms. Sample -- - the
18 Plaintiff filed a brief in opposition to your motion
19 last night, and I believe in the introduction, they
20 claimed that the statute of limitations does not begin
21 to run until the Plaintiff has fully comprehended
22 the nature and potential negligent cause of her injury.
23 And we just want to point out that that's an incorrect
24 statement of the law.

25 It's not what the discovery rule is,

1 and I believe they cite many of the same cases that
2 we do, which again, reiterates that the statute begins
3 to run when the facts and circumstances of an injury
4 would put a person of common knowledge and experience
5 on notice that some right of his has been invaded,
6 or that some claim against another party might exist.

7 And here, although mere presence of pain
8 in a medical procedure won't put someone on notice,
9 there are many more facts that, one, this was not
10 ordinary pain. She testified that it was an abnormal
11 pain. And, I mean -- it's not just pain we're talking
12 about. It's the chaos of the environment. She
13 testified to the fact that she knew something was awry,
14 so we have more than just an ordinary pain from a needle
15 insertion in this case.

16 And that's all I have for the Court, but
17 I'm happy to answer any questions. We believe that
18 this is a pretty straightforward case. Unfortunately,
19 they were just about almost two months too late when
20 they filed their action.

21 THE COURT: What pages -- you had given
22 the description of -- her description in her deposition,
23 and I'm just scrolling through here trying to ---

24 MS. KEELING: Yes.

25 THE COURT: Where is that?

1 MS. KEELING: Let's see. I have several.
2 So the very first -- her narrative description is on
3 Page 26.

4 THE COURT: Twenty-six.

5 MS. KEELING: She's asked to, you know,
6 walk through her donation, and she described, it seemed
7 -- "The environment seemed like either they were behind,
8 or they didn't have enough people. It seemed kind
9 of chaotic. When it came to be my turn, and they put me
10 in the chair, and the girl began to prepare, she asked
11 out loud something to the effect of, do I put the needle
12 in first or the clamp on first? And I immediately felt,
13 you know, on guard. And then she put the needle in,
14 and it drove in really, really hard. It was not
15 finessed like a phlebotomist. It was hard. And
16 immediately, I felt a sharp pain that went down my right
17 hand, like, a really, really cold sensation, burning,
18 cold sensation, and then numbness, and I said, something
19 is not right, something is not right. Please take it
20 out. And so she called over the manager, who explained
21 to me that something was awry, and she said, I'm going
22 to remove the needle, and more than likely you're going
23 to have a hematoma, and I did. And then I sat there
24 for a while."

25 She also declined -- you know, they asked

1 her if she would be willing to donate in her other arm;
2 she said no. Another instance -- well, Page 29 is where
3 she confirms that her answer to interrogatory No. 17
4 is accurate.

5 THE COURT: And what again was 17?

6 MS. KEELING: Oh, 17, it's copy pasted
7 in our brief. I have her answers to interrogatories,
8 if the Court would like a copy. I only have one though,
9 but it is several paragraphs, and it starts on or about
10 January 2nd, 2020. Plaintiff was at her fitness center;
11 it was Orangetheory, located in Charleston. She went
12 to give blood at the blood mobile van owned and operated
13 by the Defendant.

14 And then it goes on to what I was describing
15 -- said earlier. As the young phlebotomist was
16 readying herself to perform the blood draw, she turned
17 to a supervisor and asked the supervisor how to perform
18 a blood draw, and whether or not she should put the
19 needle in first, or whether she should put the clamp
20 on first. Immediately upon the insertion, Plaintiff
21 felt instantaneous pain and the sensation that a nerve
22 had been hit. Her arm immediately began to turn
23 blue. The young phlebotomist called out urgently
24 for a supervisor to come help her.

25 At that time, a supervisor immediately

1 came and removed the needle from Plaintiff's arm.
2 At that time, the supervisor tried to comfort the
3 Plaintiff due to her intense pain and told the Plaintiff
4 that when she removed the needle, it was likely
5 that the Plaintiff would have a large hematoma.
6 And the Plaintiff also testified in her deposition
7 that she did have a golf ball-sized hematoma.

8 Plaintiff was in shock and shaking.
9 Plaintiff recalls that the phlebotomist on duty
10 attempted to treat her with ice and bandages.
11 She -- Plaintiff does not recall that she was then --
12 I'm sorry. I think this is -- might be a typo.
13 Plaintiff does recall that she was then asked if she
14 would like to continue her blood donation using her
15 other non-injured arm, and she declined to do so.

16 At the time Plaintiff left the Defendant,
17 Blood Connections Mobile, she was having severe pain,
18 and her arm was turning blue with bruising. Plaintiff
19 noticed almost immediate weakness and numbness in her
20 right arm in the hours following the attempted blood
21 draw and insertion of the needle into her arm.

22 So, I mean, I think that alone satisfies
23 that -- you know, the statute analysis that it began
24 to run on that day.

25 THE COURT: All right. Anything else?

1 MS. KEELING: That's it, but I'm happy
2 to answer any questions.

3 THE COURT: All right. Thank you, none
4 at this time. I'm happy to hear from you, sir.

5 MR. KEITH: May it please the Court,
6 Your Honor. Your Honor, the concise response to their
7 motion is this is really simply a question of fact,
8 while we certainly agree it's a three-year statute
9 of limitations, and we certainly agree that it was filed
10 on February the 22nd of '23.

11 But what I've handed up to you, and we
12 can start off with they really rely on the Knox case,
13 but I pulled out the one point that you really need
14 to remember from the Knox case, and that says that
15 the mere presence of pain or discomfort, to be sure,
16 will ordinarily not serve to trigger the commencement
17 of the applicable statute of limitations. That's
18 directly out of the Knox case, Your Honor.

19 But what I've handed up to you is we have
20 a young lady, and if you look on Plaintiff's Exhibit
21 No. 3 during her deposition -- I have highlighted
22 it for you on Page 65, so you always suspected your
23 symptoms was related to the donation? I didn't
24 really know. I didn't really know. So what she did
25 is she sought treatment from numerous medical providers.

1 So if Your Honor will look on Plaintiff's
2 Exhibit 1, where she's seen on February the 9th of 2020,
3 is the first time a doctor says, well, you've got
4 an irritation of the ulnar nerve on the second page,
5 Your Honor. But, basically, it says, we need some
6 more testing. I can't tell you what's wrong with
7 you. You may have carpal tunnel; you may have Raynaud's
8 syndrome, so let's get some testing done.

9 So now we're in December of 2020. If he
10 had told her on that day, yep, you've got an ulnar
11 injury from the results of this venipuncture, we would
12 still be within the statute of limitations, but the
13 doctor doesn't tell her that that day. We don't want
14 people just going off and filing medical malpractice
15 claims. She wanted to be sure.

16 Plaintiff's Exhibit 2, she sees Dr. Ernst
17 [ph] again. Dr. Ernst tells her on Page 2, Your Honor,
18 you may have Raynaud's phenomenon. You need to get
19 some testing done before I can tell you exactly what's
20 wrong with you. If you look on the bottom of the page,
21 he says irritation of ulnar nerve, would recommend
22 vascular consultation for Raynaud's phenomenon.
23 He didn't tell her at that point again. So now we're
24 at February of '21, he didn't tell her, oh, you've
25 got a nerve injury as a result of this venipuncture.

1 He says there may be something else going on with you.
2 Let's get it checked.

3 If you look on page -- if we go back
4 to No. 3, Your Honor, on the third page, this is where
5 we -- where we talk about what she knew, and really
6 boils down to it's a factual question. She's asked
7 by the attorney, has any medical expert or specialist
8 told you the phlebotomist at TBC breached the standard
9 of care or otherwise was negligent? I don't think
10 anybody has ever used the term negligent. Nobody ever
11 told her. She's seeing doctors, they think something
12 else is wrong with her.

13 Finally, Page 71 at the bottom, Your Honor,
14 well, I think it was Dr. Applebee [ph] that said he
15 thought something occurred during the venipuncture.
16 In fact, I'm positive Dr. Applebee said that. So
17 Dr. Applebee told you that the venipuncture resulted
18 in an injury to your nerve? Yes.

19 Taking us to Exhibit No. 4, Your Honor.
20 Exhibit 4, where after she's seen Dr. Ernst, she's
21 had carpal tunnel testing, she's had nerve conduction
22 studies. She finally gets to a vascular surgeon who,
23 Your Honor, on page -- on the second page of Exhibit
24 No. 4 tells her, finally, I've got a diagnosis for
25 you. You do not have Raynaud's phenomenon or syndrome,

1 but a breakaway artery puncture and potentially a nerve
2 injury at the time of your blood bank experience.
3 That is in May of '21, Your Honor.

4 So it's at that point that Ms. Sample seeks
5 an attorney; it's at that point that's she on notice.
6 After all of this testing, a doctor has finally said,
7 here's where the problem is. And at that point,
8 Your Honor, she's on notice, she certainly files
9 well within the three-year statute of limitations.
10 In fact, she files not even -- less than six months
11 after that.

12 So it's really a question of fact,
13 Your Honor, given all the testimony from these doctors
14 that we don't know what's wrong with you. So she can't
15 just go and run and file a medical malpractice claim
16 without some doctor telling her this is your diagnosis.
17 And we go back to the Knox case. She may have had pain,
18 she may have had -- thinking about it when she does
19 her interrogatories now three years later, and someone
20 saying, tell me what you remember about this specific
21 incident. She says, well, now this is what I remember,
22 but the doctor told me in May of 2021, that that's
23 what it was from.

24 So it's really a question of fact of when
25 she knew or should have known because until that point,

1 no doctor had told her, yeah, you have a nerve injury
2 as a result of this venipuncture. They didn't know.
3 It wasn't until Dr. Applebee, a vascular surgeon,
4 finally sees her and says, here's the cause. And
5 whether a jury is going to determine that she should
6 have known before then, she should have known after
7 then, that's a question of fact, Your Honor.

8 But we think the facts are such that
9 if the doctors are telling her, we don't know what's
10 wrong with you, you can't begin to say and file
11 a medical malpractice claim until you actually have
12 notice from the doctor. We don't want people just
13 filing these claims. So that's our position, it's
14 a question of fact, it's for the jury to determine
15 whether -- when she was on notice, but we think the
16 evidence is clear, she's not on notice until she's
17 definitively diagnosed by Dr. Applebee. Thank you,
18 Your Honor.

19 THE COURT: How do you get around though
20 the -- looking at the deposition, Page 33, Line 11.
21 "All right. And so you immediately suspected that you
22 had experienced some type of injury from the insertion
23 of the needle?" And the answer is, "Yes."

24 MR. KEITH: Well, she may have suspected
25 it then, but then when she goes to the doctor, they

1 told her that wasn't the problem. They told her
2 she might have carpal tunnel, you may have Raynaud's
3 syndrome. All these doctors are telling her, we've
4 got to get some more testing done. We don't -- we can't
5 tell you. We don't know what that is.

6 So she can't then say, well, I know better
7 than the doctor. I think I've got a medical malpractice
8 claim. She's doing what they're telling her to do.
9 She's getting the testing done, and until the testing
10 is complete, and the testing confirms exactly what
11 happened, that's when she's on notice.

12 THE COURT: But that's not the standard.
13 I mean, I don't believe -- respectfully, I don't
14 think that's the standard, that she has to wait until
15 she gets a complete diagnosis before the time starts
16 running.

17 MR. KEITH: Well, Your Honor, I would
18 argue that would be a question of fact for the jury,
19 and you could put on the jury -- the verdict form,
20 when do you feel that she was first on notice?
21 But I think because she gets a hematoma, and they tell
22 her everything is going to be okay, even though it was
23 a harrowing experience for her, when she sees a doctor,
24 and the doctor says, well, no, I think it's something
25 else, then she -- then even if she thought she was

1 on notice, she doesn't -- she can't confirm that
2 before the doctors tell her. So that would be really
3 a question of fact.

4 THE COURT: All right. Well, let me give
5 it some thought, and I'll get back with y'all promptly.

6 MR. KEITH: Thank you, Your Honor.

7 MS. KEELING: Thank you.

8 (End of Transcript of Record.)

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CERTIFICATE OF REPORTER

State of South Carolina)

County of Charleston)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 3rd of December, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

May 7, 2025



Yvestre Torres

Circuit Court Reporter