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Attorney

March 23, 2026

RECEIVED
Mar 23 2026
SC Court of Appeals

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

Re: Charlotte Beverly Derrick vs. Bon Secours
Case No.: 2024-CP-23-0246

Dear Madam Clerk:

Please find enclosed the Record on Appeal, Certification and Proof of Service of same. By copy of this letter with enclosure, I am serving a copy on Lillian Keeling and Fred Suggs.

If you should have any questions, please feel free to contact our office.

Sincerely,

Tracey O'Brien
Assistant to O. Grady Query

Enclosures
cc: Lillian Keeling, Esquire (via email)
Fred Suggs, Esquire (via email)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

William C. McMaster, III, Circuit Court Judge

Case No. 2024-CP-23-0246
APPELLANT CASE NUMBER: 2025-001598

Charlotte Beverly Derrick, ...Appellant,

v.

Bon Secours St. Francis Health System, Inc.
d/b/a St. Francis Downtown, and
St. Francis Hospital, Inc. d/b/a St. Francis Downtown, ...Respondents.

RECORD ON APPEAL

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FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP2306246

Charlotte Beverly Derrick
PLAINTIFF(S)

St Francis Hospital Inc et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

After careful consideration of the able argument and filings of counsel and review of the record, the Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered. Accordingly, Plaintiff's Motion for Reconsideration is Denied.

It Is So Ordered.

ORDER INFORMATION

This order ☑ ends ☐ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 08/01/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2025 Aug 01 10:23 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

Court Reporter:

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

ELECTRONICALLY FILED - 2025 Aug 01 10:23 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

ELECTRONICALLY FILED - 2025 Aug 01 10:23 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

Greenville Common Pleas

Case Caption: Charlotte Beverly Derrick vs. Bon Secours Mercy Health Inc , defendant, et al

Case Number: 2024CP2306246

Type: Order/Electronic Form 4

So Ordered

William C. McMaster, III

Electronically signed on 2025-08-01 10:16:39 page 3 of 3

ELECTRONICALLY FILED - 2025 Jul 10 9:17 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Charlotte Beverly Derrick, Plaintiff, vs. Bon Secours St. Francis Health System, Inc. d/b/a St. Francis Downtown, and St. Francis Hospital, Inc. d/b/a St. Francis Downtown, Defendants.	IN THE COURT OF COMMON PLEAS C.A. No. 2024-CP-23-06246 **ORDER GRANTING DEFENDANTS' MOTION TO DISMISS**

This matter was before the Court on May 27, 2025. Defendants Bon Secours Mercy Health, Inc. (incorrectly identified as "Bon Secours St. Francis Health System, Inc. d/b/a St. Francis Downtown") and St. Francis Hospital, Inc. (incorrectly identified as St. Francis Hospital, Inc., d/b/a St. Francis Downtown") filed a Motion to Dismiss Plaintiff Charlotte Beverly Derrick's Complaint. Attorney Lillian K.H. Keeling appeared on behalf of the Defendants, and attorney Nicholas B. Uricchio appeared on behalf of the Plaintiff. Additionally, before the Court was the Plaintiff's Motion to Amend the Summons and Complaint, which the parties consented to. Accordingly, the Defendants' argument on their Motion to Dismiss addressed both the Plaintiff's Complaint and Amended Complaint.

Having reviewed the pleadings, the motions, and the briefs, and after considering the arguments of counsel, I hereby **GRANT** Defendants' Motion to Dismiss.

BACKGROUND

The Plaintiff filed her Complaint on October 25, 2024. The Defendants filed a Motion to Dismiss on November 6, 2024. The Plaintiff filed an Amended Complaint on February 20, 2025. According to the Amended Complaint, the Plaintiff was a patient at St. Francis Downtown

ELECTRONICALLY FILED - 2025 Jul 10 9:17 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

Hospital at the time of her accident, having been treated for a fever in the emergency department on November 13, 2021. Amended Complaint Para. 8. According to the Plaintiff, she underwent a CT scan and received IV antibiotics during her hospital stay. Amended Complaint Para. 10. The Amended Complaint continues, "When the Plaintiff exited from the hospital, she was not provided a wheelchair, nor assisted in any way by hospital staff . . . Plaintiff and her aunt were merely directed to a side exit which led to the parking area . . . and the Plaintiff and her aunt had to walk more than 100 yards to their vehicle." Amended Complaint Para. 11. The Plaintiff contends that while "walking out of the ER exit to which Plaintiff had been directed, the Plaintiff suddenly fell to the ground face down." Amended Complaint Para. 12. Ms. Derrick claims that she suffered injuries as a result of this sudden fall.

The Plaintiff asserts three causes of action: premises liability, negligence, and gross negligence. With respect to the premises liability claim, she alleges that the Defendants are "liable for violating a duty to provide for the safe exit for the Plaintiff . . . by insuring or assisting in her safe egress from the hospital," and breaching their duty "by not eliminating the risk of harm by ensuring a safe exit via wheelchair or with other assistance while the Plaintiff was in a weakened state as a result of her examination and treatment." Amended Complaint Paras. 25 and 31.

Regarding the negligence cause of action, the Plaintiff contends that the Defendants were "negligent by not providing the Plaintiff a wheelchair or other assistance when leaving the hospital and allowing her to exit the hospital curbside more than 100 yards from her automobile accompanied only by her elderly aunt." Amended Complaint Para. 36. She continues, asserting that the Defendants "breach[ed] said duty by not exercising a heightened standard of due care to discharge a weakened patient under the standard course of care or dealing, here by failing to use a wheelchair or other assistance to escort her out of the hospital." Amended Complaint Para. 39.

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In their Motion to Dismiss, the Defendants contend that the Plaintiff's theories of premises liability and negligence are actually causes of action sound in medical malpractice. As a result, the Defendants argue that the Plaintiff was required to follow the procedural requirements for medical malpractice actions outlined in S.C. Code Ann. § 15-79-110, et seq. The Court agrees with the Defendants that the Plaintiff's claims sound in medical malpractice. Accordingly, the Plaintiff was required to follow the procedural requirements outlined in the Act before initiating her Complaint.

STANDARD OF REVIEW

A motion to dismiss is generally held to a strict standard in South Carolina. Nonetheless, a motion to dismiss may be granted by the circuit court when a defendant demonstrates that the plaintiff has failed to state facts sufficient to constitute a cause of action in the pleadings filed with the court. *See Sloan Const. Co. v. Southco Grassing, Inc.*, 368 S.C. 523, 525, 629 S.E.2d 372, 373 (Ct.App. 2006). In considering a motion to dismiss, the court may take judicial notice of well-known facts and principles of law, and in "[v]iewing the evidence in favor of the plaintiff, the motion must be granted if facts alleged in the complaint and inferences reasonably deducible therefrom do not entitle the plaintiff to relief on any theory of the case." *Chewning v. Ford Motor Co.*, 346 S.C. 28, 32-33, 550 S.E. 2d 584, 586 (Ct. App. 2001).

For medical malpractice actions arising after July 1, 2005, the South Carolina General Assembly adopted reform legislation designed to provide certain protections and safeguards to hospitals and healthcare providers as defined in the statute (hereinafter the "Act"). *See* S.C. Code Ann. § 15-79-110, et seq. Section 15-79-125 of the Act specifically provides that "prior to filing or initiating a civil action alleging injury or death as a result of medical malpractice, the Plaintiff must file a Notice of Intent to File Suit and, aside from limited exceptions, an affidavit of an expert witness . . . ." S.C. Code Ann. § 15-79-125(A). The Act further provides specific requirements for

ELECTRONICALLY FILED - 2025 Jul 10 9:17 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

the content of the Notice of Intent to File Suit, requires that the notice be served on the named defendants, and requires that the plaintiff answer standard interrogatories. *Id.* Once the aforementioned has been accomplished, the Act further provides that within 120 days from the service of the Notice of Intent to File Suit, the parties must engage in a mediation conference. *Id.* at 15-79-125(C). It is only after conclusion of the mediation conference that a plaintiff may initiate a lawsuit against a health care provider or institution. *Id.* at -125(E).

The statutes provide that these protections are only extended to a "health care institution" or "healthcare provider" as defined by section 15-79-110(2)[1] and section 15-79-110(3)[2]. Moreover, these requirements apply to cases involving medical malpractice. Section 15-79-110(6) of the Act defines "medical malpractice" as follows:

> "Medical malpractice" means doing that which the reasonably prudent healthcare provider or healthcare institution would not do or not doing that which the reasonably prudent healthcare provider or healthcare institution would do in the same or similar circumstances."

S.C. Code Ann. § 15-79-110(6).

ANALYSIS

Although the Plaintiff has filed her Complaint as a premises liability/ordinary negligence lawsuit, it is neither. A premises liability action is one in which the owner or occupier of land or property is held liable for violating a duty to protect the defendant from *a defect or danger on the* premises. *Callender v. Charleston Doughnut Corp.*, 305 S.C. 123, 406 S.E.2d 361 (1991)

[1] A "health care institution" includes a hospital, which is defined by the Act as "a licensed facility with an organized medical staff to maintain and operate organized facilities and services to accommodate two or more nonrelated persons for the diagnosis, treatment, and care of such persons over a period exceeding twenty-four hours and provides medical and surgical care of acute illness, injury, or infirmity and may provide obstetrical care, and I which all diagnoses, treatment, or care are administered by or performed under the direction of persons currently licensed to practice medicine and surgery in the State of South Carolina." S.C. Code Ann. § 15-79-100(2), (4).

[2] The definition of a "health care provider" includes a "nurse. . . or any similar category of licensed health care provider . . . ." S.C. Code Ann. § 15-79-100(3).

ELECTRONICALLY FILED - 2025 Jul 10 9:17 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

(emphasis added); *Larimore v. Carolina Power & Light*, 340 S.C. 438, 531 S.E.2d 535 (Ct. App. 2000). The Plaintiff does not allege that there was a defect or danger on the premises in the Complaint, and the Plaintiff's Amended Complaint does not assert allegations of a defect. The Plaintiff did not trip on a stretcher that was left in the middle of the hallway. She did not slip on a puddle of IV fluid that had been left on the floor for an unreasonable period of time. Instead, she "suddenly fell to the ground." Amended Complaint Para. 12. Rather than alleging a defect or danger on the premises, she contends that the Defendants should have realized that she "was in a weakened state *as a result of her examination and treatment*" and should have provided a wheelchair or other assistance rather than allowing her to leave with her aunt. Amended Complaint Para. 31 (emphasis added). The Plaintiff has pled that she suffered injuries as a "result of her examination and treatment." That is not a premises liability claim, but instead, a claim for medical negligence.

Likewise, the Plaintiff's claim for common or ordinary negligence is instead a claim for medical negligence. The Amended Complaint's language tells the story. The Plaintiff contends that the Defendants breached the standard of care by failing to provide a wheelchair or other assistance upon discharging "a weakened patient" after she underwent medical care and treatment at the hospital. Essentially, the Plaintiff alleges that the Defendants breached the standard of care in failing to appreciate that her medical condition warranted further assistance.

The Defendants, as hospital systems, meet the definition of healthcare provider/institution, and the allegations are that they either committed acts that a reasonably prudent healthcare provider/institution would not have committed, or failed to do certain acts that a reasonably prudent healthcare provider/institution would have done under the same or similar circumstances. Those allegations likewise meet the definition of medical malpractice insomuch as the Plaintiff is

ELECTRONICALLY FILED - 2025 Jul 10 9:17 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

alleging that a healthcare provider failed to do that which a reasonably prudent healthcare provider would have done, i.e., provide assistance at discharge after providing medical care and treatment to the patient.

The Plaintiff contends that her case differs from a medical malpractice case because it is analogous to *Dawkins v. Union Hospital District*. 408 S.C. 171 (2014). The Court disagrees. In *Dawkins*, the plaintiff fell in the restroom of a hospital and fractured her right foot before receiving medical care. *Id.* at 178-179. Here, the Plaintiff has pled that she was in a weakened state "*as a result of her examination and treatment*," which caused her to fall. In other words, the Plaintiff alleges that someone in the hospital—a healthcare provider—breached the standard of care by not appreciating the Plaintiff's weakened medical state prior to discharge, and by discharging her in a weakened state without providing appropriate attendant care.

Pursuant to statutory law, the Plaintiff was required to file a notice of intent accompanied by an expert affidavit. Because she failed to do so, the Defendants are entitled to a dismissal of the action.

IT IS, THEREFORE, ORDERED that Defendants' Motion to Dismiss is **GRANTED.**

IT IS, THEREFORE, ORDERED that the Plaintiff's Complaint and Amended Complaint are dismissed for failure to comply with S.C. Code Ann. Section 15-79-110 and Section 15-79-125.

AND IT IS SO ORDERED.

_____ ___, 2025

The Honorable Judge William C. McMaster, III

ELECTRONICALLY FILED - 2025 Jul 10 9:17 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

Greenville Common Pleas

Case Caption: Charlotte Beverly Derrick vs. Bon Secours Mercy Health Inc , defendant, et al

Case Number: 2024CP2306246

Type: Order/Other

So Ordered

William C. McMaster, III

Electronically signed on 2025-07-09 16:07:12 page 7 of 7

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP2306246

Charlotte Beverly Derrick
PLAINTIFF(S)

St Francis Hospital Inc et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

This matter came before the Court on May 27, 2025. Nicholas Uricchio appeared on behalf of the Plaintiff and Lillian Keeling appeared on behalf of the Defendants. After hearing the arguments of the parties and a review of the filings in the case, Defendants' Motion to Dismiss is Granted, and the Complaint is dismissed for failure to comply with S.C. Code Ann. Section 15-79-110 and Section 15-79-125. Defense counsel is to prepare a formal order within 15 days.

It Is So Ordered.

ORDER INFORMATION

This order ☐ ends ☑ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/13/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2025 Jun 16 9:38 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

Court Reporter:

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

ELECTRONICALLY FILED - 2025 Jun 16 9:38 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

ELECTRONICALLY FILED - 2025 Jun 16 9:38 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

Greenville Common Pleas

Case Caption: Charlotte Beverly Derrick vs. Bon Secours Mercy Health Inc , defendant, et al

Case Number: 2024CP2306246

Type: Order/Electronic Form 4

So Ordered

William C. McMaster, III

ELECTRONICALLY FILED - 2025 May 29 8:32 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Charlotte Beverly Derrick Plaintiff, vs. Bon Secours Mercy Health, Inc., and St. Francis Hospital, Inc., Defendants.	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT CASE NO.: 2024-CP-23-06246 **ORDER**

This matter was before the Court on May 27, 2025, on Plaintiff Charlotte Beverly Derrick's Motion to Amend the Summons and Complaint. Attorney Nicholas B. Uricchio appeared on behalf of the Plaintiff and Attorney Lillian K.H. Keeling appeared on behalf of the Defendants. The Court heard oral argument from Plaintiff's counsel, and Defendants' counsel consented to the Motion to Amend the Summons and Complaint. It is noted that the Defendants' Motion to Dismiss, also heard on May 27, 2025, addressed both the Plaintiff's Complaint and Amended Complaint.

IT IS HERBY ORDERED, Plaintiff Charlotte Beverly Derrick's Motion to Amend the Summons and Complaint is **GRANTED**.

AND IT IS SO ORDERED!

_____
The Honorable William C. McMaster, III
Presiding Circuit Court Judge
Thirteenth Judicial Circuit

Greenville, South Carolina

Dated:_____

ELECTRONICALLY FILED - 2024 Oct 25 9:56 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Charlotte Beverly Derrick Plaintiff, vs. Bon Secours St. Francis Health System Inc. d/b/a St. Francis Downtown, and St. Francis Hospital, Inc. d/b/a St. Francis Downtown, Defendants.	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT CASE NO.: 2024-CP- **SUMMONS**

TO: THE DEFENDANTS, ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy upon the subscriber at Query Sautter & Associates, LLC, The Wappoo Centre, 147 Wappoo Creek Drive, Suite 202, Charleston, South Carolina, within thirty (30) days after service thereof, exclusive of such date of service. If you fail to answer the Complaint within that time, the Plaintiff will apply to the Court, and demand judgment by default rendered against you for the relief demanded in the Complaint.

SIGNATURE PAGE TO FOLLOW

ELECTRONICALLY FILED - 2024 Oct 25 9:56 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE)	CASE NO.: 2024-CP-
)	
Charlotte Beverly Derrick)	
)	**COMPLAINT**
Plaintiff,)	(Negligence, Gross Negligence, Premises Liability)
)	
vs.)	
)	
Bon Secours St. Francis Health)	
System Inc. d/b/a St. Francis)	
Downtown, and)	
St. Francis Hospital, Inc.)	
d/b/a St. Francis Downtown,)	
Defendants.)	
)	

Comes now Plaintiff Charlotte Beverly Derrick, who complains of Defendants Bon Secours St. Francis Health System Inc. d/b/a St. Francis Downtown, and St. Francis Hospital Inc. d/b/a St. Francis Downtown as follows:

PARTIES AND JURISDICTION

1. The Plaintiff is a citizen and resident of Greenville County, South Carolina.

2. Defendants Bon Secours St. Francis Health System Inc. is a corporation incorporated in South Carolina that owns St. Francis Downtown in Greenville, South Carolina. St. Francis Hospital Inc. is a corporation incorporated in South Carolina and operates St. Francis Downtown in Greenville, South Carolina. St. Francis Downtown's principal place of business is in Greenville, South Carolina.

3. The most substantial acts and/or omissions giving rise to the causes of action occurred in Greenville County, South Carolina.

4. This Court has jurisdiction over the subject matter of this Complaint and venue is proper in Greenville County.

ELECTRONICALLY FILED - 2024 Oct 25 9:56 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

FACTUAL ALLEGATIONS

5. The Plaintiff is a published artist, who resides in Greenville, South Carolina, and uses the revenue from selling her art to make a living as her primary earned income.

6. She has been recognized in numerous magazine and other publications.

7. On November 13, 2021, the Plaintiff was admitted to the emergency room at St. Francis Downtown in Greenville, South Carolina, with high fever apparently, due to complications from her breast implantations.

8. Plaintiff was 69 years old at the time.

9. St. Francis Downtown Hospital employees did a CT scan of the Plaintiff's breast and found that she had fluid and blood buildup in her breast. They then administered an intravenous broad-spectrum antibiotic and asked the Plaintiff to follow up with them or a Charleston doctor within a week.

10. When the Plaintiff exited from the hospital, she was not provided a wheelchair, nor assisted in any way by hospital staff. Plaintiff was accompanied by her elderly aunt, Alice Gillespie. Plaintiff and her aunt were merely directed to an exit which lead to the parking area.

11. After walking out of the ER exit to which Plaintiff had been directed, the Plaintiff suddenly fell to the ground face down. Alice Gillespie ran back into the hospital to get assistance as the Plaintiff was unable to get up on her own.

12. Three medical staff came to help the Plaintiff and took her blood pressure while she was still on the ground. The staff then put her in a wheelchair and rolled her back into the emergency room. Plaintiff was readmitted to the emergency room.

13. St. Francis Downtown Hospital employees did a CT scan of the Plaintiff's head and determined that there were only superficial injuries, but the Plaintiff continued to complain of

ELECTRONICALLY FILED - 2024 Oct 25 9:56 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

extreme right-hand pain, right knee pain and generalized soreness after her fall. The physical exam noted significant tenderness, swelling and ecchymosis to the lateral right hand with significant pain with moving the fifth finger. Additionally, Plaintiff suffered bilateral knee abrasions.

14. The Plaintiff's right wrist was then x-rayed. X-rays revealed a proximal fifth metacarpal fracture. Her wrist was subsequently splinted with an ulnar gutter.

15. In the days subsequent, the Plaintiff was unable to lift anything or use her right hand and could engage in little to no movement because of the injuries to her knees.

16. November 15, 2021, the Plaintiff went to the Emergency Room at Roper St. Francis Hospital in Berkeley County complaining of wrist pain. Her fingers were slightly swollen and bruised, and she struggled to move her hand or fingers without experiencing severe pain. She was administered morphine for her pain and was given antibiotics intravenously. She was later released and was told to follow up with her regular doctors.

17. While leaving Roper St. Francis Hospital in Berkeley County, Alice Gillespie was told that the Plaintiff had lost a substantial amount of blood by an employee of Roper St. Francis Hospital.

18. Plaintiff was seen by her personal physician and referred to a hand specialist.

19. November 24, 2021, Dr. Jon DeVrines with South Carolina Sports and Orthopedic Center perform surgery on the Plaintiff consisting of a right fifth metacarpal base fracture open reduction and internal fixation (ORIF).

20. Plaintiff continues to experience intermittent swelling about the dorsal fourth web space and back of the hand. As the day goes on, these issues get progressively worse, with the Plaintiff dropping things, and the pain waking her up throughout the evening.

ELECTRONICALLY FILED - 2024 Oct 25 9:56 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

21. It was necessary for Plaintiff to attend physical therapy for her hand and she continues in therapy.

22. Despite her lengthy and continuous therapy, Plaintiff has not regained the full use of her hand and cannot resume her work as an artist despite intense therapeutic exercise several times each day and painful attempts to resume her work as an artist.

FOR A FIRST CAUSE OF ACTION
(Premises Liability)

23. Plaintiff realleges all of the preceding paragraphs as if set forth herein verbatim.

24. Defendant is liable for violating a duty to provide for the safe exit for the Plaintiff, who was a business invitee, by insuring or assisting in her safe egress from the hospital.

25. Defendant owed the Plaintiff a duty of due care as Plaintiff was an invitee as a recently released patient of the hospital.

26. Defendant owed the Plaintiff a duty of due care to discover risks and to take safety precautions to warn of or eliminate unreasonable risks within the area of invitation, at the exit of the hospital.

27. Defendant breached their duty by not eliminating the risk of harm by ensuring a safe exit via wheelchair or with other assistance while the Plaintiff was in a weakened state as a result of her examination and treatment.

28. The Defendant's breach of the duty of due care was the proximate cause of the Plaintiff's injury. But for the Defendant's breach, the Plaintiff would not have had to walk to her car from inside the hospital without a wheelchair or other assistance, resulting in her falling face first and sustaining subsequent injuries to her knees and right hand and wrist. It was foreseeable that, upon exiting the hospital, walking a lengthy distance to her car from inside the hospital after emergency treatment was likely to result in injury to the Plaintiff.

ELECTRONICALLY FILED - 2024 Oct 25 9:56 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

29. As a result of her fall, Plaintiff has experienced excruciating pain, has had to undergo physical therapy and has lost a significant amount of use of her dominant hand.

30. Plaintiff requests an award of damages for pain and suffering, lost wages and other actual and punitive damages against Defendant in an amount to be determined by a jury.

FOR A SECOND CAUSE OF ACTION
(Negligence)

31. Plaintiff realleges all of the preceding paragraphs as if set forth herein verbatim.

32. Defendant was negligent by not providing the Plaintiff a wheelchair or other assistance when leaving the hospital and allowing her to exit the hospital curbside more than 100 yards from her automobile accompanied only by her elderly aunt.

33. Defendant owed Plaintiff a duty of care to protect Plaintiff based upon the relationship as a business invitee of the hospital. The design or operation of the emergency room exit and entrance did not allow Plaintiff's aunt to bring the car to the exit.

34. Defendant acted with reckless disregard for the safety of Plaintiff by breaching said duty by not exercising a heightened standard of due care to discharge a weakened patient under the standard course of care or dealing, here by failing to use a wheelchair or other assistance to escort her out of the hospital.

35. As a direct and proximate result of the negligent, reckless, willful, wanton, careless, and grossly negligent acts and omissions of the Defendant, the Plaintiff sustained long-term injuries to her wrist and hand.

36. Plaintiff is entitled to an award of actual damages for pain and suffering, lost wages and other actual damages and punitive damages against the Defendant in an amount to be determined by a jury.

ELECTRONICALLY FILED - 2024 Oct 25 9:56 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

FOR A THIRD CAUSE OF ACTION
(Gross Negligence)

37. Plaintiff realleges all of the preceding paragraphs as if set forth herein verbatim.

38. Defendant was grossly negligent by significantly departing from the standard degree of care to protect the Plaintiff from foreseeable injuries.

39. Defendant, by and through the acts of its staff or employees, instructed the Plaintiff to walk out of the hospital without assistance, rather than being escorted out via wheelchair to the parking lot rather than allowing her to meet her car at the curb of the entrance of the hospital.

40. The Defendant, by and through the acts of its staff or agents, voluntarily and willingly denied the Plaintiff proper care as she exited the hospital by not ensuring her safe discharge by wheelchair or with other reasonable assistance or vehicle access.

41. Plaintiff requests an award of actual and punitive damages against Defendant in an amount to be determined by a jury.

42. Defendant created an and allowed an unsafe area for exiting their facility by allowing ambulances not actively offloading or picking up patients to congregate without any plan or order in such a way as to block and prevent the Plaintiff's care from being brought to the entrance or near the entrance of the hospital where it would be possible for her to safely embark and then failing to provide a wheelchair or other assistance for her to traverse the substantial distance to her automobile.

WHEREFORE, having fully complained of the Defendant, Plaintiff prays that an award of lost wages and actual and punitive damages be granted against the Defendant, along with any other relief deemed proper by this court.

SIGNATURE PAGE TO FOLLOW

ELECTRONICALLY FILED - 2024 Oct 25 9:56 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

Respectfully submitted by,

QUERY SAUTTER & ASSOCIATES, LLC.

s/ O. Grady Query
O. Grady Query, Esq
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Nicholas B. Uricchio, Esq
Bar No. 103552
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RYAN HOLLOWAY LAW, LLC

/s Ryan Holloway
Ryan Holloway
Bar No. 71605
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ryanhollowaylaw@gmail.com

Date: 10/25/24
Charleston, South Carolina

ELECTRONICALLY FILED - 2024 Nov 06 3:26 PM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
Charlotte Beverly Derrick,	)	C. A. No. 2024-CP-23-06246
	)	
Plaintiff,	)	
vs.	)	**DEFENDANT'S MOTION TO DISMISS**
	)	
Bon Secours St. Francis Health System, Inc. d/b/a St. Francis Downtown, and St. Francis Hospital, Inc. d/b/a St. Francis Downtown,	)	
Defendants.	)	

TO: O. GRADY QUERY, ATTORNEY FOR THE PLAINTIFF

PLEASE TAKE NOTICE that the Defendants, Bon Secours Mercy Health, Inc. (incorrectly identified as "Bon Secours St. Francis Health System, Inc. d/b/a St. Francis Downtown") and St. Francis Hospital, Inc. (incorrectly identified as St. Francis Hospital, Inc., d/b/a St. Francis Downtown"), will move before the presiding judge of the Court of Common Pleas for Greenville County, South Carolina, at a date, time and location to be set by the Court, for an order dismissing the Complaint based upon S.C. Code Ann. §§ 15-79-125 and 15-36-100.

The motion is based on the pleadings, documents, records, and files in this action; the statutory and case law of the State of South Carolina; 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 Defendants, Bon Secours Mercy Health, Inc. and St. Francis Hospital, Inc., pray that the Complaint be dismissed with prejudice.

(SIGNATURE TO FOLLOW ON NEXT PAGE)

Respectfully submitted,

CASSIDY COATES PRICE P.A.

s/ Fred W. "Trey" Suggs III
Fred W. "Trey" Suggs III (S.C. Bar # 70222)
P. O. Box 10529
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Attorney for Defendant

November 6, 2024

Greenville, South Carolina

ELECTRONICALLY FILED - 2024 Nov 06 3:26 PM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

ELECTRONICALLY FILED - 2024 Nov 12 9:21 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Charlotte Beverly Derrick Plaintiff, vs. **Bon Secours Mercy Health, Inc.,** and **St. Francis Hospital, Inc.,** Defendants.	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT CASE NO.: 2024-CP-23-06246 **AMENDED SUMMONS**

TO: THE DEFENDANTS, ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy upon the subscriber at Query Sautter & Associates, LLC, The Wappoo Centre, 147 Wappoo Creek Drive, Suite 202, Charleston, South Carolina, within thirty (30) days after service thereof, exclusive of such date of service. If you fail to answer the Complaint within that time, the Plaintiff will apply to the Court, and demand judgment by default rendered against you for the relief demanded in the Complaint.

SIGNATURE PAGE TO FOLLOW

Respectfully submitted by,

QUERY SAUTTER & URICCHIO, LLC.

/s O. Grady Query
O. Grady Query, Esq
Bar No. 4610
Nicholas B. Uricchio, Esq
Bar No. 103552
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RYAN HOLLOWAY LAW, LLC

/s Ryan Holloway
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Date: November 12, 2024
Charleston, South Carolina

ELECTRONICALLY FILED - 2024 Nov 12 9:21 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

ELECTRONICALLY FILED - 2024 Nov 12 9:21 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Charlotte Beverly Derrick Plaintiff, vs. **Bon Secours Mercy Health, Inc.,** and **St. Francis Hospital, Inc.,** Defendants.	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT CASE NO.: 2024-CP-23-06246 **AMENDED COMPLAINT** (Negligence, Gross Negligence, Premises Liability)

Comes now Plaintiff Charlotte Beverly Derrick, who complains of Defendants Bon **Secours Mercy Health Inc.**, and **St. Francis Hospital Inc.** as follows:

PARTIES AND JURISDICTION

1. The Plaintiff is a citizen and resident of Greenville County, South Carolina.

2. Defendant **Bon Secours Mercy Health Inc**. is a corporation incorporated in Maryland that **owns or operates** St. Francis Downtown in Greenville, South Carolina. St. Francis Downtown's principal place of business is in Greenville, South Carolina.

3. Defendant **St. Francis Hospital Inc.** is a corporation incorporated in South Carolina that **owns or operates** St. Francis Downtown in Greenville, South Carolina. St. Francis Downtown's principal place of business is in Greenville, South Carolina.

4. The most substantial acts and/or omissions giving rise to the causes of action occurred in Greenville County, South Carolina.

5. This Court has jurisdiction over the subject matter of this Complaint and venue is proper in Greenville County.

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FACTUAL ALLEGATIONS

6. The Plaintiff is a published artist, who resides in Greenville, South Carolina, and uses the revenue from selling her art to make a living as her primary earned income.

7. She has been recognized in numerous magazine and other publications.

8. On November 13, 2021, the Plaintiff was admitted to the emergency room at St. Francis Downtown in Greenville, South Carolina, with high fever apparently, due to complications from her breast implantations.

9. Plaintiff was 69 years old at the time.

10. St. Francis Downtown Hospital employees did a CT scan of the Plaintiff's breast and found that she had fluid and blood buildup in her breast. They then administered an intravenous broad-spectrum antibiotic and asked the Plaintiff to follow up with them or a Charleston doctor within a week. **The Plaintiff was then discharged from being a patient of the hospital and at this point in time the Plaintiff became a normal business invitee.**

11. When the Plaintiff exited from the hospital, she was not provided a wheelchair, nor assisted in any way by hospital staff. Plaintiff was accompanied by her elderly aunt, Alice Gillespie. Plaintiff and her aunt were merely directed to an exit which lead to the parking area.

12. After walking out of the ER exit to which Plaintiff had been directed, the Plaintiff suddenly fell to the ground face down. Alice Gillespie ran back into the hospital to get assistance as the Plaintiff was unable to get up on her own.

13. Three medical staff came to help the Plaintiff and took her blood pressure while she was still on the ground. The staff then put her in a wheelchair and rolled her back into the emergency room. Plaintiff was readmitted to the emergency room.

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14. St. Francis Downtown Hospital employees did a CT scan of the Plaintiff's head and determined that there were only superficial injuries, but the Plaintiff continued to complain of extreme right-hand pain, right knee pain and generalized soreness after her fall. The physical exam noted significant tenderness, swelling and ecchymosis to the lateral right hand with significant pain with moving the fifth finger. Additionally, Plaintiff suffered bilateral knee abrasions.

15. The Plaintiff's right wrist was then x-rayed. X-rays revealed a proximal fifth metacarpal fracture. Her wrist was subsequently splinted with an ulnar gutter.

16. In the days subsequent, the Plaintiff was unable to lift anything or use her right hand and could engage in little to no movement because of the injuries to her knees.

17. November 15, 2021, the Plaintiff went to the Emergency Room at Roper St. Francis Hospital in Berkeley County complaining of wrist pain. Her fingers were slightly swollen and bruised, and she struggled to move her hand or fingers without experiencing severe pain. She was administered morphine for her pain and was given antibiotics intravenously. She was later released and was told to follow up with her regular doctors.

18. While leaving Roper St. Francis Hospital in Berkeley County, Alice Gillespie was told that the Plaintiff had lost a substantial amount of blood by an employee of Roper St. Francis Hospital.

19. Plaintiff was seen by her personal physician and referred to a hand specialist.

20. November 24, 2021, Dr. Jon DeVries with South Carolina Sports and Orthopedic Center perform surgery on the Plaintiff consisting of a right fifth metacarpal base fracture open reduction and internal fixation (ORIF).

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21. Plaintiff continues to experience intermittent swelling about the dorsal fourth web space and back of the hand. As the day goes on, these issues get progressively worse, with the Plaintiff dropping things, and the pain waking her up throughout the evening.

22. It was necessary for Plaintiff to attend physical therapy for her hand and she continues in therapy.

23. Despite her lengthy and continuous therapy, Plaintiff has not regained the full use of her hand and cannot resume her work as an artist despite intense therapeutic exercise several times each day and painful attempts to resume her work as an artist.

FOR A FIRST CAUSE OF ACTION
(Premises Liability)

24. Plaintiff realleges all of the preceding paragraphs as if set forth herein verbatim.

25. **The** Defendants **are** liable for violating a duty to provide for the safe exit for the Plaintiff, who was a business invitee, by insuring or assisting in her safe egress from their hospital.

26. **The** Defendants owed the Plaintiff a duty of due care as Plaintiff was an invitee as a recently released patient of the hospital.

27. **The** Defendants owed the Plaintiff a duty of due care to discover risks and to take safety precautions to warn of or eliminate unreasonable risks within the area of invitation, at the exit of **their hospital.**

28. **The Defendants breached their duty by not providing for a curbside pickup adjacent to the exit of the hospital even though it is foreseeable that an elder person such as the Plaintiff and her aunt would routinely need close and easy access to their vehicles upon exiting the hospital.**

ELECTRONICALLY FILED - 2024 Nov 12 9:21 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

29. **The** Defendants breached their duty by not eliminating the risk of harm by ensuring a safe exit via wheelchair or with other assistance while the Plaintiff was in a weakened state as a result of her examination and treatment.

30. The Defendants' breach of the duty of due care was the proximate cause of the Plaintiff's injury. But for the Defendant's breach, the Plaintiff would not have had to walk to her car from inside the hospital without a wheelchair or other assistance, resulting in her falling face first and sustaining subsequent injuries to her knees and right hand and wrist. It was foreseeable that, upon exiting the hospital, walking a lengthy distance to her car from inside the hospital after emergency treatment was likely to result in injury to the Plaintiff.

31. As a result of her fall, Plaintiff has experienced excruciating pain, has had to undergo physical therapy and has lost a significant amount of use of her dominant hand.

32. Plaintiff requests an award of damages for pain and suffering, lost wages and other actual and punitive damages against Defendant in an amount to be determined by a jury.

FOR A SECOND CAUSE OF ACTION
(Negligence)

33. Plaintiff realleges all of the preceding paragraphs as if set forth herein verbatim.

34. The Defendants were negligent by not providing the Plaintiff a wheelchair or other assistance when leaving the hospital and allowing her to exit the hospital curbside more than 100 yards from her automobile accompanied only by her elderly aunt.

35. **The Defendants were negligent by not providing for a curbside pickup adjacent to the exit of the hospital even though it is foreseeable that an elder person such as the Plaintiff and her aunt would routinely need close and easy access to their vehicles upon exiting the hospital.**

ELECTRONICALLY FILED - 2024 Nov 12 9:21 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

36. The Defendants owed Plaintiff a duty of care to protect Plaintiff based upon the relationship as a business invitee of the hospital. The design or operation of the emergency room exit and entrance did not allow Plaintiff's aunt to bring the car to the exit.

37. The Defendants acted with reckless disregard for the safety of Plaintiff by breaching said duty by not exercising a heightened standard of due care to discharge a weakened patient under the standard course of care or dealing, here by failing to use a wheelchair or other assistance to escort her out of the hospital.

38. As a direct and proximate result of the negligent, reckless, willful, wanton, careless, and grossly negligent acts and omissions of the Defendants, the Plaintiff sustained long-term injuries to her wrist and hand.

38. Plaintiff is entitled to an award of actual damages for pain and suffering, lost wages and other actual damages and punitive damages against the Defendant in an amount to be determined by a jury.

FOR A THIRD CAUSE OF ACTION
(Gross Negligence)

39. Plaintiff realleges all of the preceding paragraphs as if set forth herein verbatim.

40. The Defendants were grossly negligent by significantly departing from the standard degree of care to protect the Plaintiff from foreseeable injuries.

41. The Defendants, by and through the acts of their staff or employees, instructed the Plaintiff to walk out of the hospital without assistance, rather than being escorted out via wheelchair to the parking lot rather than allowing her to meet her car at the curb of the entrance of the hospital.

ELECTRONICALLY FILED - 2024 Nov 12 9:21 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

42. The Defendants, by and through the acts of their staff or agents, voluntarily and willingly denied the Plaintiff proper care as she exited the hospital by not ensuring her safe discharge by wheelchair or with other reasonable assistance or vehicle access.

43. Plaintiff requests an award of actual and punitive damages against the Defendants in an amount to be determined by a jury.

44. The Defendants created an and allowed an unsafe area for exiting their facility by allowing ambulances not actively offloading or picking up patients to congregate without any plan or order in such a way as to block and prevent the Plaintiff's care from being brought to the entrance or near the entrance of the hospital where it would be possible for her to safely embark and then failing to provide a wheelchair or other assistance for her to traverse the substantial distance to her automobile.

WHEREFORE, having fully complained of the Defendant, Plaintiff prays that an award of lost wages and actual and punitive damages be granted against the Defendant, along with any other relief deemed proper by this court.

SIGNATURE PAGE TO FOLLOW

ELECTRONICALLY FILED - 2024 Nov 12 9:21 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

Respectfully submitted by,

QUERY SAUTTER & URICCHIO, LLC.

/s O. Grady Query
O. Grady Query, Esq
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Nicholas B. Uricchio, Esq
Bar No. 103552
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RYAN HOLLOWAY LAW, LLC

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Date: November 12, 2024
Charleston, South Carolina

ELECTRONICALLY FILED - 2025 Jan 29 9:14 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Charlotte Beverly Derrick, Plaintiff, vs. Bon Secours St. Francis Health System, Inc. d/b/a St. Francis Downtown, and St. Francis Hospital, Inc. d/b/a St. Francis Downtown, Defendants.	IN THE COURT OF COMMON PLEAS C.A. No. 2024-CP-23-06246 **DEFENDANTS' MEMORANDUM IN SUPPORT OF ITS MOTION TO DISMISS**

INTRODUCTION AND BACKGROUND

The Plaintiff initiated this medical negligence action by filing a Complaint on October 25, 2024. The Plaintiff did not file a Notice of Intent to File Suit accompanied by an expert affidavit as required by S.C. Code Ann. Section 15-79-110. This motion to dismiss follows.

STATEMENT OF FACTS

According to the Complaint, the Plaintiff was a patient at St. Francis Downtown Hospital at the time of her accident, having been treated for a fever in the emergency department on November 13, 2021. Complaint Para. 7. According to the Plaintiff, she underwent a CT scan and received IV antibiotics during her hospital stay. Complaint Para. 7. The Complaint continues, "When the Plaintiff exited from the hospital, she was not provided a wheelchair, nor assisted in any way by hospital staff." Complaint Para. 10. The Plaintiff contends that while "walking out of the ER exit to which Plaintiff had been directed, the Plaintiff suddenly fell to the ground face down." Complaint Para. 11. Ms. Derrick claims that she suffered injuries as a result of this sudden fall.

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The Plaintiff asserts three causes of action: premises liability, negligence, and gross negligence. With respect to the premises liability claim, she alleges that the Defendants are "liable for violating a duty to provide for the safe exit for the Plaintiff . . . by insuring or assisting in her safe egress from the hospital," and breaching their duty "by not eliminating the risk of harm by ensuring a safe exit via wheelchair or with other assistance while the Plaintiff was in a weakened state as a result of her examination and treatment." Complaint Paras. 24 and 27. Regarding the negligence cause of action, the Plaintiff contends that the Defendants were "negligent by not providing the Plaintiff a wheelchair or other assistance when leaving the hospital and allowing her to exit the hospital curbside more than 100 yards from her automobile accompanied only by her elderly aunt." Complaint Para. 32. She continues, asserting that the Defendants "breach[ed] said duty by not exercising a heightened standard of due care to discharge a weakened patient under the standard course of care or dealing, here by failing to use a wheelchair or other assistance to escort her out of the hospital." Complaint Para. 34.

ARGUMENT

For medical malpractice actions arising after July 1, 2005, the South Carolina General Assembly adopted reform legislation designed to provide certain protections and safeguards to hospitals and healthcare providers as defined in the statute (hereinafter the "Act"). *See* S.C. Code Ann. § 15-79-110, et seq. Section 15-79-125 of the Act specifically provides that "prior to filing or initiating a civil action alleging injury or death as a result of medical malpractice, the Plaintiff must file a Notice of Intent to File Suit and, aside from limited exceptions, an affidavit of an expert witness . . . ." S.C. Code Ann. § 15-79-125(A). The Act further provides specific requirements for the content of the Notice of Intent to File Suit, requires that the notice be served on the named defendants, and requires that the plaintiff answer standard interrogatories. *Id.* Once the

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aforementioned has been accomplished, the Act further provides that within 120 days from the service of the Notice of Intent to File Suit, the parties must engage in a mediation conference. *Id.* at 15-79-125(C). It is only after conclusion of the mediation conference that a plaintiff may initiate a lawsuit against a health care provider or institution. *Id.* at -125(E)

The statutes provide that these protections are only extended to a "health care institution" or "healthcare provider" as defined by section 15-79-110(2)[1] and section 15-79-110(3)[2]. Moreover, these requirements apply to cases involving medical malpractice. Section 15-79-110(6) of the Act defines "medical malpractice" as follows:

> "Medical malpractice" means doing that which the reasonably prudent healthcare provider or healthcare institution would not do or not doing that which the reasonably prudent healthcare provider or healthcare institution would do in the same or similar circumstances."

S.C. Code Ann. § 15-79-110(6).

While the Plaintiff has filed the Complaint as premises liability/ordinary negligence lawsuit, it is neither. This is certainly not a premises liability case. A premises liability action is one in which the owner or occupier of land or property is held liable for violating a duty to protect the defendant from *a defect or danger on the* premises. Callender v. Charleston Doughnut Corp., 305 S.C. 123, 406 S.E.2d 361 (1991) (emphasis ours); Larimore v. Carolina Power & Light, 340 S.C. 438, 531 S.E.2d 535 (Ct.App. 2000). The Plaintiff does not allege that there was a defect or danger on the premises. The Plaintiff did not trip on a stretcher that was left in the middle of the

[1] A "health care institution" includes a hospital, which is defined by the Act as "a licensed facility with an organized medical staff to maintain and operate organized facilities and services to accommodate two or more nonrelated persons for the diagnosis, treatment, and care of such persons over a period exceeding twenty-four hours and provides medical and surgical care of acute illness, injury, or infirmity and may provide obstetrical care, and I which all diagnoses, treatment, or care are administered by or performed under the direction of persons currently licensed to practice medicine and surgery in the State of South Carolina." S.C. Code Ann. § 15-79-100(2), (4).

[2] The definition of a "health care provider" includes a "nurse. . . or any similar category of licensed health care provider . . . ." S.C. Code Ann. § 15-79-100(3).

ELECTRONICALLY FILED - 2025 Jan 29 9:14 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

hallway. She did not slip on a puddle of IV fluid that had been left on the floor for an unreasonable period of time. Instead, she "suddenly fell to the ground." Complaint Para. 11. Rather than alleging a defect or danger on the premises, she contends that the Defendants should have realized that she "was in a weakened state as a result of her examination and treatment" and should have provided a wheelchair or other assistance rather than allowing her to leave with her aunt. Complaint Para. 27. That is not a premises liability claim, but instead, a claim for medical negligence.

As indicated above, the Plaintiff also asserts a claim for common or ordinary negligence. However, this is not a claim for ordinary negligence, but instead, a claim for medical negligence. The Complaint's language tells the story. The Plaintiff contends that the Defendants breached the standard of care by failing to provide a wheelchair or other assistance upon discharging "a weakened patient" after she underwent medical care and treatment at the hospital. Essentially, the Plaintiff alleges that the Defendants breached the standard of care in failing to appreciate that her medical condition warranted further assistance. Clearly, the Defendants as hospital systems meet the definition of healthcare provider/institution, and the allegations are that they either committed acts that a reasonably prudent healthcare provider/institution would not have committed, or failed to do certain acts that a reasonably prudent healthcare provider/institution would have done under the same or similar circumstances. Those allegations likewise meet the definition of medical malpractice insomuch as the Plaintiff is alleging that a healthcare provider failed to do that which a reasonably prudent healthcare provider would have done, i.e., provide assistance at discharge after providing medical care and treatment to the patient.

Pursuant to clear statutory law, the Plaintiff was required to file an NOI accompanied by expert affidavit. Because she failed to do so, the Defendants are entitled to a dismissal of the action.

CONCLUSION

The Plaintiff has failed to comply with the pre-litigation filing requirements of sections 15-70-100 and 15-79-125 of the South Carolina Code. Thus, the Defendants' Motion to Dismiss should be granted.

Respectfully submitted,

CASSIDY COATES PRICE P.A.

s/Fred W. "Trey" Suggs III
Fred W. "Trey" Suggs III (S.C. Bar # 70222)
P. O. Box 10529
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Attorney for Defendant

January 29, 2025

Greenville, South Carolina

ELECTRONICALLY FILED - 2025 Jan 29 9:14 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

ELECTRONICALLY FILED - 2025 Feb 20 1:49 PM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Charlotte Beverly Derrick Plaintiff, vs. Bon Secours Mercy Health, Inc., and St. Francis Hospital, Inc., Defendants.	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT CASE NO.: 2024-CP-23-06246 NOTICE OF MOTION AND MOTION TO AMEND COMPLAINT

TO: FRED W SUGGS, ESQ AND LILLIAN K.H. KEELING, ATTORNEYS FOR ABOVE NAMED DEFENDANTS:

You will please take notice, that Plaintiff, by and through his undersigned counsel, will move this Honorable Court to grant the leave of Court for Plaintiff to amend his Complaint. This motion is based upon Rule 15(a) of the South Carolina Rules of Civil Procedure as justice so requires that Plaintiff be able to amend his Complaint **(Exhibit A)** to amend the causes of action to appropriately conform to the facts of this case, and it does not prejudice Defendants. This motion is supported any affidavits and memoranda of law to be produced prior to the scheduled motion hearing.

SIGNATURE PAGE TO FOLLOW

Respectfully submitted by,

QUERY SAUTTER & URICCHIO, LLC.

/s O. Grady Query
O. Grady Query, Esq
Bar No. 4610
Nicholas B. Uricchio, Esq
Bar No. 103552
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/s Ryan Holloway
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Date: February 19, 2025
Charleston, South Carolina

ELECTRONICALLY FILED - 2025 Feb 20 1:49 PM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

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EXHIBIT

A

ELECTRONICALLY FILED - 2025 Feb 20 1:49 PM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

STATE OF SOUTH CAROLINA) COUNTY OF GREENVILLE) Charlotte Beverly Derrick) Plaintiff,) vs.) Bon Secours Mercy Health, Inc., and St. Francis Hospital, Inc.,) Defendants.)	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT CASE NO.: 2024-CP-23-06246 **SECOND AMENDED SUMMONS**

TO: THE DEFENDANTS, ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy upon the subscriber at Query Sautter & Associates, LLC, The Wappoo Centre, 147 Wappoo Creek Drive, Suite 202, Charleston, South Carolina, within thirty (30) days after service thereof, exclusive of such date of service. If you fail to answer the Complaint within that time, the Plaintiff will apply to the Court, and demand judgment by default rendered against you for the relief demanded in the Complaint.

SIGNATURE PAGE TO FOLLOW

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Respectfully submitted by,

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ELECTRONICALLY FILED - 2025 Feb 20 1:49 PM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

STATE OF SOUTH CAROLINA)) COUNTY OF GREENVILLE)) Charlotte Beverly Derrick)) Plaintiff,)) vs.)) Bon Secours Mercy Health, Inc.,) and St. Francis Hospital, Inc.,)) Defendants.))	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT CASE NO.: 2024-CP-23-06246 **SECOND AMENDED COMPLAINT** (Negligence, Gross Negligence, Premises Liability)

Comes now Plaintiff Charlotte Beverly Derrick, who complains of Defendants Bon Secours Mercy Health Inc., and St. Francis Hospital Inc. as follows:

PARTIES AND JURISDICTION

1. The Plaintiff is a citizen and resident of Greenville County, South Carolina.

2. Defendant Bon Secours Mercy Health Inc. is a corporation incorporated in Maryland that owns or operates St. Francis Downtown in Greenville, South Carolina. St. Francis Downtown's principal place of business is in Greenville, South Carolina.

3. Defendant St. Francis Hospital Inc. is a corporation incorporated in South Carolina that owns or operates St. Francis Downtown in Greenville, South Carolina. St. Francis Downtown's principal place of business is in Greenville, South Carolina.

4. The most substantial acts and/or omissions giving rise to the causes of action occurred in Greenville County, South Carolina.

5. This Court has jurisdiction over the subject matter of this Complaint and venue is proper in Greenville County.

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FACTUAL ALLEGATIONS

6. The Plaintiff is a published artist, who resides in Greenville, South Carolina, and uses the revenue from selling her art to make a living as her primary earned income.

7. She has been recognized in numerous magazine and other publications.

8. On November 13, 2021, the Plaintiff was admitted to the emergency room at St. Francis Downtown in Greenville, South Carolina, with high fever apparently, due to complications from her breast implantations.

9. Plaintiff was 69 years old at the time.

10. St. Francis Downtown Hospital employees did a CT scan of the Plaintiff's breast and found that she had fluid and blood buildup in her breast. They then administered an intravenous broad-spectrum antibiotic and asked the Plaintiff to follow up with them or a Charleston doctor within a week. The Plaintiff was then discharged from being a patient of the hospital and at this point in time the Plaintiff became a normal business invitee. Plaintiff was no longer under a doctor's care or control

11. **When the Plaintiff exited from the hospital, she was not provided a wheelchair, nor assisted in any way by hospital staff. Plaintiff was accompanied by her elderly aunt, Alice Gillespie. Plaintiff and her aunt were merely directed to a side exit which led to the parking area. They were not given a chance or opportunity for a car to be pulled up to this side exit, and the Plaintiff and her aunt had to walk more than 100 yards to their vehicle.**

12. After walking out of the ER exit to which Plaintiff had been directed, the Plaintiff suddenly fell to the ground face down. Alice Gillespie ran back into the hospital to get assistance as the Plaintiff was unable to get up on her own.

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13. Three medical staff came to help the Plaintiff and took her blood pressure while she was still on the ground. The staff then put her in a wheelchair and rolled her back into the emergency room. Plaintiff was readmitted to the emergency room.

14. St. Francis Downtown Hospital employees did a CT scan of the Plaintiff's head and determined that there were only superficial injuries, but the Plaintiff continued to complain of extreme right-hand pain, right knee pain and generalized soreness after her fall. The physical exam noted significant tenderness, swelling and ecchymosis to the lateral right hand with significant pain with moving the fifth finger. Additionally, Plaintiff suffered bilateral knee abrasions.

15. The Plaintiff's right wrist was then x-rayed. X-rays revealed a proximal fifth metacarpal fracture. Her wrist was subsequently splinted with an ulnar gutter.

16. Amidst the second discharge, Plaintiff was escorted out via wheelchair by hospital staff, and her aunt was able to pull the car up to the exit so Plaintiff could promptly enter it and leave the premises.

17. November 15, 2021, the Plaintiff was traveling from Greenville to Charleston where her regular doctor had his office. Plaintiff went to the Emergency Room at Roper St. Francis Hospital in Berkeley County complaining of wrist pain. Her fingers were slightly swollen and bruised, and she struggled to move her hand or fingers without experiencing severe pain. She was administered morphine for her pain and was given antibiotics intravenously. She was later released and was told to follow up with her regular doctors.

18. In the days subsequent, the Plaintiff was unable to lift anything or use her right hand and could engage in little to no movement because of the injuries to her knees. 20.

19. Plaintiff was seen by her personal physician and referred to a hand specialist.

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20. November 24, 2021, Dr. Jon DeVries with South Carolina Sports and Orthopedic Center perform surgery on the Plaintiff consisting of a right fifth metacarpal base fracture open reduction and internal fixation (ORIF).

21. Plaintiff continues to experience intermittent swelling about the dorsal fourth web space and back of the hand. As the day goes on, these issues get progressively worse, with the Plaintiff dropping things, and the pain waking her up throughout the evening.

22. It was necessary for Plaintiff to attend physical therapy for her hand and she continues in therapy.

23. Despite her lengthy and continuous therapy, Plaintiff has not regained the full use of her hand and cannot resume her work as an artist despite intense therapeutic exercise several times each day and painful attempts to resume her work as an artist.

FOR A FIRST CAUSE OF ACTION
(Premises Liability)

24. Plaintiff realleges all of the preceding paragraphs as if set forth herein verbatim.

25. The Defendants are liable for violating a duty to provide for the safe exit for the Plaintiff, who was a business invitee, by insuring or assisting in her safe egress from their hospital.

26. The Defendants owed the Plaintiff a duty of due care as Plaintiff was an invitee as a recently released patient of the hospital.

27. The Defendants owed the Plaintiff a duty of due care to discover risks and to take safety precautions to warn of or eliminate unreasonable risks within the area of invitation, at the exit of their hospital.

28. **The Defendants failed to provide reasonable access for elderly business invitees by barring the use of the main entrance, normally the drop off/pick up area, for invitees.**

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29. **The Defendants breached their duty by not providing for a curbside pickup adjacent to the exit of the hospital even though it is foreseeable that an elderly person such as the Plaintiff and her aunt would routinely need close and easy access to their vehicles upon exiting the hospital.**

30. **The Defendants breached their duty by failing to provide reasonable access and choosing to direct the Plaintiff to use the side exit and require her to walk approximately 100 yards to her car. Insomuch, Defendants violated their duty of reasonable care for an elderly business invitee.**

31. **The** Defendants breached their duty by not eliminating the risk of harm by ensuring a safe exit via wheelchair or with other assistance while the Plaintiff was likely to be in a weakened state as a result of her examination and treatment.

32. The Defendants' breach of the duty of due care was the proximate cause of the Plaintiff's injury. But for the Defendant's breach, the Plaintiff would not have had to walk to her car from inside the hospital without a wheelchair or other assistance, resulting in her falling face first and sustaining subsequent injuries to her knees and right hand and wrist. It was foreseeable that, upon exiting the hospital, walking a lengthy distance to her car from inside the hospital after emergency treatment was likely to result in injury to the Plaintiff.

33. As a result of her fall, Plaintiff has experienced excruciating pain, has had to undergo physical therapy and has lost a significant amount of use of her dominant hand.

34. Plaintiff requests an award of damages for pain and suffering, lost wages and other actual and punitive damages against Defendant in an amount to be determined by a jury.

FOR A SECOND CAUSE OF ACTION
(Negligence)

35. Plaintiff realleges all of the preceding paragraphs as if set forth herein verbatim.

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36. The Defendants were negligent by not providing the Plaintiff a wheelchair or other assistance when leaving the hospital and allowing her to exit the hospital curbside more than 100 yards from her automobile accompanied only by her elderly aunt.

37. The Defendants were negligent by not providing for a curbside pickup adjacent to the exit of the hospital even though it is foreseeable that an elderly person such as the Plaintiff and her aunt would routinely need close and easy access to their vehicles upon exiting the hospital.

38. The Defendants owed Plaintiff a duty of care to protect Plaintiff based upon the relationship as a business invitee of the hospital. The design or operation of the emergency room exit and entrance did not allow Plaintiff's aunt to bring the car to the exit.

39. The Defendants acted with reckless disregard for the safety of Plaintiff by breaching said duty by not exercising a heightened standard of due care to discharge a weakened patient under the standard course of care or dealing, here by failing to use a wheelchair or other assistance to escort her out of the hospital.

40. As a direct and proximate result of the negligent, reckless, willful, wanton, careless, and grossly negligent acts and omissions of the Defendants, the Plaintiff sustained long-term injuries to her wrist and hand.

41. Plaintiff is entitled to an award of actual damages for pain and suffering, lost wages and other actual damages and punitive damages against the Defendant in an amount to be determined by a jury.

FOR A THIRD CAUSE OF ACTION
(Gross Negligence)

42. Plaintiff realleges all of the preceding paragraphs as if set forth herein verbatim.

43. The Defendants were grossly negligent by significantly departing from the reasonable degree of care to protect the Plaintiff from foreseeable injuries.

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44. The Defendants, by and through the acts of their staff or employees, instructed the Plaintiff to walk out of the hospital without assistance, rather than being escorted out via wheelchair to the parking lot rather than allowing her to meet her car at the curb of the entrance of the hospital.

45. The Defendants, by and through the acts of their staff or agents, voluntarily and willingly denied the Plaintiff a reasonably safe exit from the hospital by not ensuring her safe departure by wheelchair or with other reasonable assistance for vehicle access.

46. The Defendants created and allowed an unsafe area for exiting their facility by allowing ambulances not actively offloading or picking up patients to congregate without any plan or order in such a way as to block and prevent the Plaintiff's car from being brought to the entrance or near the entrance of the hospital where it would be possible for her to safely embark or alternatively failing to provide a wheelchair or other assistance for her to traverse the substantial distance to her automobile.

47. Plaintiff requests an award of actual and punitive damages against the Defendants in an amount to be determined by a jury.

WHEREFORE, having fully complained of the Defendants, Plaintiff prays that an award of lost wages and actual and punitive damages be granted against the Defendants, along with any other relief deemed proper by this court.

SIGNATURE PAGE TO FOLLOW

Respectfully submitted by,

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STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Charlotte Beverly Derrick Plaintiff, vs. Bon Secours Mercy Health, Inc., and St. Francis Hospital, Inc., Defendants.	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT CASE NO.: 2024-CP-23-06246 **PLAINTIFF'S MEMORANDUM IN RESPONSE TO DEFENDANT'S MOTION TO DISMISS**

Now comes Plaintiff Charlotte Beverly Derrick ("Plaintiff"), by and through her undersigned counsel, and files this Response to Defendants Bon Secours Mercy Health, Inc. and St. Francis Hospital, Inc. ("Defendants") Motion to Dismiss. Defendants argues that Plaintiff's Complaint is barred by the South Carolina Code Ann. §§ 15-79-125 and 15-36-100. However, for the reasons set forth below, the Court must deny Defendants' Motion to Dismiss and allow this action to proceed.

INTRODUCTION AND BACKGROUND

The Plaintiff filed a Complaint against Defendants on October 25, 2024, with a subsequent Amended Complaint filed on November 12, 2024. The Amended Complaint alleged negligence, gross negligence, and premises liability against the Defendants. Defendants then filed a Motion to Dismiss on November 6, 2024, with a Memorandum in Support of its Motion to Dismiss on January 25, 2025. Plaintiff filed a Motion to Amend the Complaint on February 20, 2025.

STATEMENT OF FACTS

On November 13, 2021, the Plaintiff was admitted to the emergency room. Plaintiff was 69 years old at the time. St. Francis Downtown Hospital employees did a CT scan of the Plaintiff's breast and found that she had fluid and blood buildup in her breast. They then administered an

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intravenous broad-spectrum antibiotic and asked the Plaintiff to follow up with them or a Charleston doctor within a week. The Plaintiff was then discharged from being a patient of the hospital and at this point in time the Plaintiff became a normal business invitee. Plaintiff was no longer under a doctor's care or control

When the Plaintiff exited from the hospital, she was not provided a wheelchair, nor assisted in any way by hospital staff. Plaintiff was accompanied by her elderly aunt, Alice Gillespie. Plaintiff and her aunt were merely directed to a side exit which led to the parking area. They were not given a chance or opportunity for a car to be pulled up to this side exit or the main entrance under the portico, and the Plaintiff and her aunt had to undertake a walk of more than 100 yards to their vehicle.

After walking out of the exit to which Plaintiff had been directed, the Plaintiff suddenly fell to the ground face down. Alice Gillespie ran back into the hospital to get assistance as the Plaintiff was unable to get up on her own.

Three medical staff came to help the Plaintiff and took her blood pressure while she was still on the ground. The staff then put her in a wheelchair and rolled her back into the emergency room. Plaintiff was readmitted to the emergency room.

Plaintiff complained of extreme right-hand pain, right knee pain and generalized soreness after her fall. A physical exam noted significant tenderness, swelling and ecchymosis to the lateral right hand with significant pain with moving the fifth finger. Additionally, Plaintiff suffered bilateral knee abrasions.

The Plaintiff's right wrist was then x-rayed. X-rays revealed a proximal fifth metacarpal fracture. Her wrist was subsequently splinted with an ulnar gutter.

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Plaintiff was then discharged for a second time. Amidst the second discharge, Plaintiff was escorted out via wheelchair by hospital staff, and her aunt was able to pull the car up to an exit so Plaintiff could promptly enter it and leave the premises.

STANDARD OF REVIEW

Under South Carolina Rules of Civil Procedure, a complaint is subject to dismissal when it "fail[s] to state facts sufficient to constitute a cause of action." Rule 12(b)(6), SCRCP.

> "A trial judge may dismiss a claim when the defendant demonstrates the plaintiffs "failure to state facts sufficient to constitute a cause of action" in the pleadings filed with the court. Rule 12(b)(6), SCRCP. "The trial court must dispose of a motion for failure to state a cause of action based solely upon the allegations set forth on the face of the complaint." Brown v. Leverette, 291 S.C. 364, 366, 353 S.E.2d 697, 698 (1987). "The motion cannot be sustained if facts alleged in the complaint and inferences reasonably deducible therefrom would entitle plaintiff to any relief on any theory of the case." Id. All properly pleaded factual allegations are deemed admitted for the purposes of considering a motion for judgment on the pleadings." *Russell v. Columbia*, 305 S.C. 86, 89, 406 S.E.2d 338, 339 (1991).

ARGUMENT

Defendant alleges that Plaintiff is filing a medical malpractice suit, and thus, Defendant is entitled to protection provided by the South Carolina General Assembly, specifically S.C. Code Ann § 15-79-125. However, as Plaintiff is not "filing or initiating a civil action alleging injury or death as a result of *medical malpractice*," and therefore Defendant is not entitled to dismissal under S.C. Code Ann § 15-79-125. Plaintiff's causes of action are based solely on premises liability and negligence. Plaintiff has not invoked or made any claims in the medical malpractice arena and thus S.C. Code Ann § 15-79-125 does not apply in this case. Additionally, the South Carolina Supreme Court has stated that a Motion to Dismiss is improper if facts alleged in the complaint and inferences reasonably deducible therefrom would entitle the plaintiff to any relief on any theory of the case. In the case at hand, the Plaintiff has established and alleged facts in her complaint that would entitle her to relief under premises liability and negligence theories therefore the Defendant's Motion to Dismiss should be denied.

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In South Carolina, premises liability law recognizes different standards of care based on the classification of the person on the property. The Plaintiff, as someone departing the hospital, would be classified as a business invitee. A property owner owes an invitee the duty of exercising reasonable or ordinary care for their safety and is liable for injuries resulting from the breach of such duty. *Singleton v. Sherer*, 377 S.C. 185 (2008). Furthermore, case law has established that a business proprietor must use due care to keep the premises in a reasonably safe condition and warn invitees of any dangerous conditions. *Hughes v. Children's Clinic, P.A.*, 269 S.C. 389 (1977).

In the context of premises liability outside of a hospital, the principles remain consistent. In *Henderson v. St. Francis Community Hospital*, the court held that while the operator of a parking lot is not an insurer of safety, they must use reasonable care to keep the premises used by invitees in a reasonably safe condition. *Henderson*, 303 S.C. 177 (1990). Additionally, it has been emphasized that a business owner has a duty to take reasonable action to protect its invitees against foreseeable risks of physical harm. *Easterling v. Burger King Corp.*, 416 S.C. 437 (2016).

Furthermore, there is Supreme Court caselaw in South Carolina regarding premises liability outside of a hospital. In *Mishoe v. QHG of Lake City, Inc.*, a hospital visitor was injured while walking across the pavement near the emergency room exit. *Mishoe*, 366 S.C. 195 (2005). Also, hospitals have been held liable for injuries occurring on their premises, including areas outside the main hospital building. *Sides v. Greenville Hosp. System*, 362 S.C. 250 (2004).

It must be noted that there is case law discussing the relevance of hospital policies and procedures on discharge instructions. In *Guffey v. Columbia/Colleton Regional Hosp., Inc.*, the Court noted that violation of hospital policies and procedures could constitute evidence of negligence if it proximately caused injury. *Guffey*, 364 S.C. 158 (2005).

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In *Dawkins v. Union Hospital District*, 408 S.C. 171, 176-77 (2014), the Court address the difference between medical malpractice cases and regular negligence cases. The Court stated,

> "...[T]he distinction between medical malpractice claims is subtle...In medical malpractice actions, expert testimony is required to establish both the duty owed to the patient and the breach of that duty, unless the subject matter of the claim falls within a layman's common knowledge or experience... Because medical knowledge is generally outside of a juror's common knowledge, the requisite expert testimony assists the jury in making a more accurate determination of fault regarding whether a physician's negligence in rendering medical care proximately caused the patient's injury. However, not every injury sustained by a patient in a hospital results from medical malpractice or requires expert testimony to establish the claim...For example, claims against a hospital for injuries caused by falling ceiling tiles or improperly maintained hallways or parking lots sound in ordinary negligence, and specifically premises liability..."*Dawkins v. Union Hospital District*, 408 S.C. 171, 176-77 (2014).

In this case, the Plaintiff makes no claims within the medical or professional malpractice arenas or claims that would require an expert's testimony to establish her claims. A layman can easily conclude and realize that a hospital owes a duty to all of its invitees, especially its elderly invitees, to provide a safe ingress and egress for their property. Additionally, the hospital knew or should have known that establishing a curbside pick-up for elderly invitees was necessary to prevent elderly invitees from lengthy walks to vehicles, where injuries are foreseeable as a result.

CONCLUSION

For the reasons set forth above, Plaintiff respectfully requests that Defendants' Motion to Dismiss be Denied and that this Court allow Plaintiff's action to proceed to be decided on its merits.

Signature on following page

Respectfully submitted by,

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Date: February 21, 2025
Charleston, South Carolina

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ELECTRONICALLY FILED - 2025 Jul 18 10:27 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Charlotte Beverly Derrick Plaintiff, vs. Bon Secours Mercy Health, Inc., and St. Francis Hospital, Inc., Defendants.	)	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT CASE NO.: 2024-CP-23-06246 **PLAINTIFF'S MOTION FOR RECONSIDERATION**

Pursuant to Rule 59(e), SCRCP, Plaintiff Charlotte Beverly Derrick (hereinafter referred to as "Plaintiff"), by and through her undersigned counsel, files this Motion for Reconsideration and respectfully requests this Court reconsider its June 16, 2025 Order ("Order") and **DENY** Defendant Bon Secours Mercy Health, Inc. and St. Francis Hospital, Inc.'s (collectively "Defendants") Rule 12(b)6, SCRCP, Motion to Dismiss.

THE LAW

In considering a motion to dismiss under Rule 12(b)6, SCRCP, the trial court's rulings must be based "solely on allegations set forth in the complaint." *Spence v. Spence* 368 S.C.106, 116, 628 S.E.2d 869,874. (2006). "The question is whether in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief." *Hawkins v. Hammond,* 437 S.C. 36, 41, 875 S.E.2d 60,62 (Ct. App. 2002).

A motion to dismiss under Rule 12(b)6 should not be granted if facts alleged and inferences reasonably deducted would entitle plaintiff to relief on any theory of the case. *Patterson v. Witter*, 418 S.C. 66, 75-76, 791 S.E.2d 294, 300 (Ct.App 2016, reh'g denied (Oct. 27, 2016)

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The trial and appellate courts must presume all pled facts to be true. Pleadings in the case should be construed liberally so that substantial justice is done between the parties. Further a judgment on the pleadings is considered to be a drastic procedure by our courts. The complaint should not be dismissed because the Court doubts the plaintiff will prevail in the action, *HHHunt Corp. v. Town of Lexington*, 389 S.C. 623, 632, 699 S.E.2d 699, 703 (Ct.App. 2010).

PLAINTIFF'S SECOND AMENDED COMPLAINT

The complaint under review is the attached Second Amended Complaint filed November 12, 2024, which alleges as the First Cause of Action Premises Liability, a Second Cause of Action in Negligence, and a Third Cause of Action in Gross Negligence.

Of significance Plaintiff did not allege any causes of action in any complaint for medical malpractice, nor did she allege any negligence in her treatment by Defendant.

Viewing Plaintiff's allegations in the light most favorable with all reasonable inferences, Plaintiff alleged that she was discharged from being a patient at the hospital and became a business invitee. That when Plaintiff exited the hospital she was not provided a wheel chair nor assisted in anyway by hospital staff. That Plaintiff and her aunt were merely directed to a side exit which led to the parking area. After walking out of the ER exit to which Plaintiff had been directed, the Plaintiff suddenly fell face down. Plaintiff was unable to get up on her own. Plaintiff suffered extreme right-handed pain, right knee pain, bi-lateral knee abrasions, and a proximal fifth metacarpal fracture. (See 2d Amended Complaint paras. 10, 11, 12, 14 and 15)

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FIRST CAUSE OF ACTION

(Premises Liability)

Plaintiff's First Cause of Action is in Premises Liability. Plaintiff's initially realleged all preceding paragraphs as if set forth therein. Plaintiff then alleged Defendants violated a duty to provide a safe exit for Plaintiff who was a business invitee; that Defendants owed Plaintiff a duty of due care as an invitee as a recently released patient of the hospital; that Defendants violated a duty to provide a safe exit for the Plaintiff as a business invitee; and that Defendants owed Plaintiff a duty of due care to discover risks within the area of invitation, at the exit of their hospital. (Id., paras 25, 26, and 27)

That Defendants breached their duty by not providing for curbside pickup adjacent to the hospital even though it is foreseeable that an elder person such as Plaintiff ... would routinely need close and easy access to their vehicles upon exiting the hospital. That defendants breached their duty by failing to ensure a safe exit via wheelchair or with other assistance while Plaintiff was in a weakened state. (Id., 28 and 29).

That Defendants breach of the duty of due care was the proximate cause of Plaintiffs Damages. (Id., 28, 29 and 30).

SECOND CAUSE OF ACTION

(Negligence)

Plaintiff alleged Defendants were negligent by not providing her a wheel chair or other assistance when leaving the hospital. (Id., at para 34) That Defendants were negligent by not providing curbside pickup adjacent to the hospital even though it is foreseeable that an elder such as Plaintiff would need close and easy access to their vehicles upon exiting the hospital. (Id., at

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35). That Defendants owed Plaintiff a duty of care as a business invitee of the hospital. (Id., at 36) to provide a wheel chair, failing to assist for Plaintiff to exit the facility. (Id., at 35 and 35).

THIRD CAUSE OF ACTION

(Gross Negligence)

Once again Plaintiff realleged all preceding paragraphs as if set forth herein verbatim. Plaintiff alleged that Defendants were grossly negligent by significantly departing from the standard degree of care to protect Plaintiff from foreseeable injury. That Defendants created an allowed an unsafe area for exiting their facility by allowing ambulances to block and prevent Plaintiff from being brought near the entrance of the hospital to safely embark and failing to provide a wheel chair or other assistance to the substantial distance to her automobile. (Id., at para.46).

ARGUMENT

This Court erred in determining that the Plaintiff filed a medical malpractice suit, and thus Defendants are entitled to protection via S.C. Code Ann. § 15-79-110. Furthermore, Plaintiff should have complied with S.C. Code Ann. § 15-79-125.

Plaintiff respectfully submits that she has sufficiently alleged in her Second Amended Complaint a general negligence action based on the premises liability of the Defendants. The factual predicate here mirrors that of *Dawkins v. Union Hospital District*, 408 S.C. 171 (2014), a South Carolina Supreme Court case that establishes the distinguishing line between medical malpractice and ordinary negligence actions.

In *Dawkins*, the Plaintiff's Amended Complaint alleged that Defendant Union Hospital District was grossly negligent, reckless, willful and wanton arising out of injuries sustained when

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a patient, Dawkins, attempted to use a bathroom while unattended in the hospital. *Dawkins v. Wallace Thomson Hospital (aka Union Hospital District)*, 2011 WL 11817872 (S.C.Com.Pl.). In *Dawkins*, the trial court likewise erred in granting the Defendant's Motion to Dismiss.

Upon examination of *Dawkins,* it is evident that the instant matter presents substantially similar factual and legal circumstances. Accordingly, this Court should apply the precedential authority established in *Dawkins* in its consideration of the present case. Plaintiff's Motion for Reconsideration in *Dawkins* most succinctly states

> "Plaintiff is not disputing the diagnosis techniques or professional diagnosis ability of the hospital staff...this case was dismissed before Plaintiffs have had an opportunity to fully engage in discovery... *Plaintiff's theory of the case is simply that Defendant, as a facility which invites sick and infirmed members of the public into its doors for its own benefit, has a duty to ensure that those members of the public are not exposed to a dangerous environment* and that proper fall procedures should have been in place and enforced in order to prevent incidents such as the one alleged in Plaintiff's Amended Complaint from occurring." (emphasis added).

The legal issue that was determined in *Dawkins* is nearly identical to that of the case at hand. In the present case, the Court misapprehended Plaintiff's premises liability claim into one of medical malpractice.

Plaintiff is clearly a business invitee. Plaintiff's presence on the property directly served the Defendants' commercial purpose and was foreseeable as part of the ordinary operation of their business. Case law has further established that a business proprietor must use due care to keep the premises in a reasonably safe condition and warn invitees of any dangerous conditions. *Hughes v.*

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Children's Clinic, P.A., 269 S.C. 389 (1977). In *Hughes*, the Court established that a hospital cannot only be found liable for an unreasonably dangerous premises, but also that as an invitee on the premises, the clinic owed the Plaintiff an active or affirmative duty, which includes refraining from any act which may make the invitee's use of the premises dangerous or result in injury to him. *Id.* at 399.

In *Graham v. Whitaker*, 282 S.C. 393, 321 S.E.2d 40 (1984), an ophthalmologist's patient who was given eye drops was left unsupervised in the waiting room. When the patient attempted to stand, she fell and injured herself, resulting in a *premises liability case*.

The trial court erred in determining that because Plaintiff pled she was in a weakened state "as a result of her examination and treatment" that she is not entitled to the same relief as set forth by *Dawkins*. However, the Court in *Dawkins* found that

> "[t]he statutory definition of medical malpractice found in section 15-79-110(6) does not impact medical providers' ordinary obligation to reasonably care for patients with respect to nonmedical, administrative, ministerial, or routine care. Thus, medical providers are still subject to claims sounding in ordinary negligence." *Id.* at 179.

Ultimately, Plaintiff has plead this case as a premises liability action because Defendants breached the duties of care owed to a business invitee. Accordingly, this Honorable Court should follow the binding precedent set forth in *Dawkins* when evaluating the present matter and deny the Defendant's Motion to Dismiss.

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CONCLUSION

For the reasons set forth above, Plaintiff respectfully requests that the Court issue an Order granting Plaintiff's Motion for Reconsideration and denying Defendant's Motion to Dismiss.

Respectfully submitted,

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dated: July 18, 2025

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP2306246

Charlotte Beverly Derrick
PLAINTIFF(S)

St Francis Hospital Inc et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

This matter came before the Court on May 27, 2025. Nicholas Uricchio appeared on behalf of the Plaintiff and Lillian Keeling appeared on behalf of the Defendants. After hearing the arguments of the parties and a review of the filings in the case, Defendants' Motion to Dismiss is Granted, and the Complaint is dismissed for failure to comply with S.C. Code Ann. Section 15-79-110 and Section 15-79-125. Defense counsel is to prepare a formal order within 15 days.

It Is So Ordered.

ORDER INFORMATION

This order ☐ ends ☑ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/13/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2025 Jun 16 9:38 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246
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Court Reporter:

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

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Greenville Common Pleas

Case Caption: Charlotte Beverly Derrick vs. Bon Secours Mercy Health Inc , defendant, et al

Case Number: 2024CP2306246

Type: Order/Electronic Form 4

So Ordered

William C. McMaster, III

Electronically signed on 2025-06-13 16:05:57 page 3 of 3

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STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Charlotte Beverly Derrick, Plaintiff, vs. Bon Secours St. Francis Health System, Inc. d/b/a St. Francis Downtown, and St. Francis Hospital, Inc. d/b/a St. Francis Downtown, Defendants.	IN THE COURT OF COMMON PLEAS C.A. No. 2024-CP-23-06246 **ORDER GRANTING DEFENDANTS' MOTION TO DISMISS**

This matter was before the Court on May 27, 2025. Defendants Bon Secours Mercy Health, Inc. (incorrectly identified as "Bon Secours St. Francis Health System, Inc. d/b/a St. Francis Downtown") and St. Francis Hospital, Inc. (incorrectly identified as St. Francis Hospital, Inc., d/b/a St. Francis Downtown") filed a Motion to Dismiss Plaintiff Charlotte Beverly Derrick's Complaint. Attorney Lillian K.H. Keeling appeared on behalf of the Defendants, and attorney Nicholas B. Uricchio appeared on behalf of the Plaintiff. Additionally, before the Court was the Plaintiff's Motion to Amend the Summons and Complaint, which the parties consented to. Accordingly, the Defendants' argument on their Motion to Dismiss addressed both the Plaintiff's Complaint and Amended Complaint.

Having reviewed the pleadings, the motions, and the briefs, and after considering the arguments of counsel, I hereby **GRANT** Defendants' Motion to Dismiss.

BACKGROUND

The Plaintiff filed her Complaint on October 25, 2024. The Defendants filed a Motion to Dismiss on November 6, 2024. The Plaintiff filed an Amended Complaint on February 20, 2025. According to the Amended Complaint, the Plaintiff was a patient at St. Francis Downtown

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Hospital at the time of her accident, having been treated for a fever in the emergency department on November 13, 2021. Amended Complaint Para. 8. According to the Plaintiff, she underwent a CT scan and received IV antibiotics during her hospital stay. Amended Complaint Para. 10. The Amended Complaint continues, "When the Plaintiff exited from the hospital, she was not provided a wheelchair, nor assisted in any way by hospital staff . . . Plaintiff and her aunt were merely directed to a side exit which led to the parking area . . . and the Plaintiff and her aunt had to walk more than 100 yards to their vehicle." Amended Complaint Para. 11. The Plaintiff contends that while "walking out of the ER exit to which Plaintiff had been directed, the Plaintiff suddenly fell to the ground face down." Amended Complaint Para. 12. Ms. Derrick claims that she suffered injuries as a result of this sudden fall.

The Plaintiff asserts three causes of action: premises liability, negligence, and gross negligence. With respect to the premises liability claim, she alleges that the Defendants are "liable for violating a duty to provide for the safe exit for the Plaintiff . . . by insuring or assisting in her safe egress from the hospital," and breaching their duty "by not eliminating the risk of harm by ensuring a safe exit via wheelchair or with other assistance while the Plaintiff was in a weakened state as a result of her examination and treatment." Amended Complaint Paras. 25 and 31.

Regarding the negligence cause of action, the Plaintiff contends that the Defendants were "negligent by not providing the Plaintiff a wheelchair or other assistance when leaving the hospital and allowing her to exit the hospital curbside more than 100 yards from her automobile accompanied only by her elderly aunt." Amended Complaint Para. 36. She continues, asserting that the Defendants "breach[ed] said duty by not exercising a heightened standard of due care to discharge a weakened patient under the standard course of care or dealing, here by failing to use a wheelchair or other assistance to escort her out of the hospital." Amended Complaint Para. 39.

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In their Motion to Dismiss, the Defendants contend that the Plaintiff's theories of premises liability and negligence are actually causes of action sound in medical malpractice. As a result, the Defendants argue that the Plaintiff was required to follow the procedural requirements for medical malpractice actions outlined in S.C. Code Ann. § 15-79-110, et seq. The Court agrees with the Defendants that the Plaintiff's claims sound in medical malpractice. Accordingly, the Plaintiff was required to follow the procedural requirements outlined in the Act before initiating her Complaint.

STANDARD OF REVIEW

A motion to dismiss is generally held to a strict standard in South Carolina. Nonetheless, a motion to dismiss may be granted by the circuit court when a defendant demonstrates that the plaintiff has failed to state facts sufficient to constitute a cause of action in the pleadings filed with the court. *See Sloan Const. Co. v. Southco Grassing, Inc.*, 368 S.C. 523, 525, 629 S.E.2d 372, 373 (Ct.App. 2006). In considering a motion to dismiss, the court may take judicial notice of well-known facts and principles of law, and in "[v]iewing the evidence in favor of the plaintiff, the motion must be granted if facts alleged in the complaint and inferences reasonably deducible therefrom do not entitle the plaintiff to relief on any theory of the case." *Chewning v. Ford Motor Co.*, 346 S.C. 28, 32-33, 550 S.E. 2d 584, 586 (Ct. App. 2001).

For medical malpractice actions arising after July 1, 2005, the South Carolina General Assembly adopted reform legislation designed to provide certain protections and safeguards to hospitals and healthcare providers as defined in the statute (hereinafter the "Act"). *See* S.C. Code Ann. § 15-79-110, et seq. Section 15-79-125 of the Act specifically provides that "prior to filing or initiating a civil action alleging injury or death as a result of medical malpractice, the Plaintiff must file a Notice of Intent to File Suit and, aside from limited exceptions, an affidavit of an expert witness . . . ." S.C. Code Ann. § 15-79-125(A). The Act further provides specific requirements for

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the content of the Notice of Intent to File Suit, requires that the notice be served on the named defendants, and requires that the plaintiff answer standard interrogatories. *Id.* Once the aforementioned has been accomplished, the Act further provides that within 120 days from the service of the Notice of Intent to File Suit, the parties must engage in a mediation conference. *Id.* at 15-79-125(C). It is only after conclusion of the mediation conference that a plaintiff may initiate a lawsuit against a health care provider or institution. *Id.* at -125(E).

The statutes provide that these protections are only extended to a "health care institution" or "healthcare provider" as defined by section 15-79-110(2)[1] and section 15-79-110(3)[2]. Moreover, these requirements apply to cases involving medical malpractice. Section 15-79-110(6) of the Act defines "medical malpractice" as follows:

> "Medical malpractice" means doing that which the reasonably prudent healthcare provider or healthcare institution would not do or not doing that which the reasonably prudent healthcare provider or healthcare institution would do in the same or similar circumstances."

S.C. Code Ann. § 15-79-110(6).

ANALYSIS

Although the Plaintiff has filed her Complaint as a premises liability/ordinary negligence lawsuit, it is neither. A premises liability action is one in which the owner or occupier of land or property is held liable for violating a duty to protect the defendant from *a defect or danger on the* premises. *Callender v. Charleston Doughnut Corp.*, 305 S.C. 123, 406 S.E.2d 361 (1991)

[1] A "health care institution" includes a hospital, which is defined by the Act as "a licensed facility with an organized medical staff to maintain and operate organized facilities and services to accommodate two or more nonrelated persons for the diagnosis, treatment, and care of such persons over a period exceeding twenty-four hours and provides medical and surgical care of acute illness, injury, or infirmity and may provide obstetrical care, and I which all diagnoses, treatment, or care are administered by or performed under the direction of persons currently licensed to practice medicine and surgery in the State of South Carolina." S.C. Code Ann. § 15-79-100(2), (4).

[2] The definition of a "health care provider" includes a "nurse. . . or any similar category of licensed health care provider . . . ." S.C. Code Ann. § 15-79-100(3).

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(emphasis added); *Larimore v. Carolina Power & Light*, 340 S.C. 438, 531 S.E.2d 535 (Ct. App. 2000). The Plaintiff does not allege that there was a defect or danger on the premises in the Complaint, and the Plaintiff's Amended Complaint does not assert allegations of a defect. The Plaintiff did not trip on a stretcher that was left in the middle of the hallway. She did not slip on a puddle of IV fluid that had been left on the floor for an unreasonable period of time. Instead, she "suddenly fell to the ground." Amended Complaint Para. 12. Rather than alleging a defect or danger on the premises, she contends that the Defendants should have realized that she "was in a weakened state *as a result of her examination and treatment*" and should have provided a wheelchair or other assistance rather than allowing her to leave with her aunt. Amended Complaint Para. 31 (emphasis added). The Plaintiff has pled that she suffered injuries as a "result of her examination and treatment." That is not a premises liability claim, but instead, a claim for medical negligence.

Likewise, the Plaintiff's claim for common or ordinary negligence is instead a claim for medical negligence. The Amended Complaint's language tells the story. The Plaintiff contends that the Defendants breached the standard of care by failing to provide a wheelchair or other assistance upon discharging "a weakened patient" after she underwent medical care and treatment at the hospital. Essentially, the Plaintiff alleges that the Defendants breached the standard of care in failing to appreciate that her medical condition warranted further assistance.

The Defendants, as hospital systems, meet the definition of healthcare provider/institution, and the allegations are that they either committed acts that a reasonably prudent healthcare provider/institution would not have committed, or failed to do certain acts that a reasonably prudent healthcare provider/institution would have done under the same or similar circumstances. Those allegations likewise meet the definition of medical malpractice insomuch as the Plaintiff is

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alleging that a healthcare provider failed to do that which a reasonably prudent healthcare provider would have done, i.e., provide assistance at discharge after providing medical care and treatment to the patient.

The Plaintiff contends that her case differs from a medical malpractice case because it is analogous to *Dawkins v. Union Hospital District*. 408 S.C. 171 (2014). The Court disagrees. In *Dawkins*, the plaintiff fell in the restroom of a hospital and fractured her right foot before receiving medical care. *Id.* at 178-179. Here, the Plaintiff has pled that she was in a weakened state "*as a result of her examination and treatment*," which caused her to fall. In other words, the Plaintiff alleges that someone in the hospital—a healthcare provider—breached the standard of care by not appreciating the Plaintiff's weakened medical state prior to discharge, and by discharging her in a weakened state without providing appropriate attendant care.

Pursuant to statutory law, the Plaintiff was required to file a notice of intent accompanied by an expert affidavit. Because she failed to do so, the Defendants are entitled to a dismissal of the action.

IT IS, THEREFORE, ORDERED that Defendants' Motion to Dismiss is **GRANTED.**

IT IS, THEREFORE, ORDERED that the Plaintiff's Complaint and Amended Complaint are dismissed for failure to comply with S.C. Code Ann. Section 15-79-110 and Section 15-79-125.

AND IT IS SO ORDERED.

_____ ___, 2025

_____

The Honorable Judge William C. McMaster, III

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Greenville Common Pleas

Case Caption: Charlotte Beverly Derrick vs. Bon Secours Mercy Health Inc , defendant, et al

Case Number: 2024CP2306246

Type: Order/Other

So Ordered

William C. McMaster, III

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STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Charlotte Beverly Derrick Plaintiff, vs. Bon Secours Mercy Health, Inc., and St. Francis Hospital, Inc., Defendants.	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT CASE NO.: 2024-CP-23-06246 **SECOND AMENDED COMPLAINT** (Negligence, Gross Negligence, Premises Liability)

Comes now Plaintiff Charlotte Beverly Derrick, who complains of Defendants Bon Secours Mercy Health Inc., and St. Francis Hospital Inc. as follows:

PARTIES AND JURISDICTION

1. The Plaintiff is a citizen and resident of Greenville County, South Carolina.

2. Defendant Bon Secours Mercy Health Inc. is a corporation incorporated in Maryland that owns or operates St. Francis Downtown in Greenville, South Carolina. St. Francis Downtown's principal place of business is in Greenville, South Carolina.

3. Defendant St. Francis Hospital Inc. is a corporation incorporated in South Carolina that owns or operates St. Francis Downtown in Greenville, South Carolina. St. Francis Downtown's principal place of business is in Greenville, South Carolina.

4. The most substantial acts and/or omissions giving rise to the causes of action occurred in Greenville County, South Carolina.

5. This Court has jurisdiction over the subject matter of this Complaint and venue is proper in Greenville County.

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FACTUAL ALLEGATIONS

6. The Plaintiff is a published artist, who resides in Greenville, South Carolina, and uses the revenue from selling her art to make a living as her primary earned income.

7. She has been recognized in numerous magazine and other publications.

8. On November 13, 2021, the Plaintiff was admitted to the emergency room at St. Francis Downtown in Greenville, South Carolina, with high fever apparently, due to complications from her breast implantations.

9. Plaintiff was 69 years old at the time.

10. St. Francis Downtown Hospital employees did a CT scan of the Plaintiff's breast and found that she had fluid and blood buildup in her breast. They then administered an intravenous broad-spectrum antibiotic and asked the Plaintiff to follow up with them or a Charleston doctor within a week. The Plaintiff was then discharged from being a patient of the hospital and at this point in time the Plaintiff became a normal business invitee. Plaintiff was no longer under a doctor's care or control

11. **When the Plaintiff exited from the hospital, she was not provided a wheelchair, nor assisted in any way by hospital staff. Plaintiff was accompanied by her elderly aunt, Alice Gillespie. Plaintiff and her aunt were merely directed to a side exit which led to the parking area. They were not given a chance or opportunity for a car to be pulled up to this side exit, and the Plaintiff and her aunt had to walk more than 100 yards to their vehicle.**

12. After walking out of the ER exit to which Plaintiff had been directed, the Plaintiff suddenly fell to the ground face down. Alice Gillespie ran back into the hospital to get assistance as the Plaintiff was unable to get up on her own.

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13. Three medical staff came to help the Plaintiff and took her blood pressure while she was still on the ground. The staff then put her in a wheelchair and rolled her back into the emergency room. Plaintiff was readmitted to the emergency room.

14. St. Francis Downtown Hospital employees did a CT scan of the Plaintiff's head and determined that there were only superficial injuries, but the Plaintiff continued to complain of extreme right-hand pain, right knee pain and generalized soreness after her fall. The physical exam noted significant tenderness, swelling and ecchymosis to the lateral right hand with significant pain with moving the fifth finger. Additionally, Plaintiff suffered bilateral knee abrasions.

15. The Plaintiff's right wrist was then x-rayed. X-rays revealed a proximal fifth metacarpal fracture. Her wrist was subsequently splinted with an ulnar gutter.

16. **Amidst the second discharge, Plaintiff was escorted out via wheelchair by hospital staff, and her aunt was able to pull the car up to the exit so Plaintiff could promptly enter it and leave the premises.**

17. November 15, 2021, the Plaintiff was traveling from Greenville to Charleston where her regular doctor had his office. Plaintiff went to the Emergency Room at Roper St. Francis Hospital in Berkeley County complaining of wrist pain. Her fingers were slightly swollen and bruised, and she struggled to move her hand or fingers without experiencing severe pain. She was administered morphine for her pain and was given antibiotics intravenously. She was later released and was told to follow up with her regular doctors.

18. In the days subsequent, the Plaintiff was unable to lift anything or use her right hand and could engage in little to no movement because of the injuries to her knees. 20.

19. Plaintiff was seen by her personal physician and referred to a hand specialist.

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20. November 24, 2021, Dr. Jon DeVries with South Carolina Sports and Orthopedic Center perform surgery on the Plaintiff consisting of a right fifth metacarpal base fracture open reduction and internal fixation (ORIF).

21. Plaintiff continues to experience intermittent swelling about the dorsal fourth web space and back of the hand. As the day goes on, these issues get progressively worse, with the Plaintiff dropping things, and the pain waking her up throughout the evening.

22. It was necessary for Plaintiff to attend physical therapy for her hand and she continues in therapy.

23. Despite her lengthy and continuous therapy, Plaintiff has not regained the full use of her hand and cannot resume her work as an artist despite intense therapeutic exercise several times each day and painful attempts to resume her work as an artist.

FOR A FIRST CAUSE OF ACTION
(Premises Liability)

24. Plaintiff realleges all of the preceding paragraphs as if set forth herein verbatim.

25. The Defendants are liable for violating a duty to provide for the safe exit for the Plaintiff, who was a business invitee, by insuring or assisting in her safe egress from their hospital.

26. The Defendants owed the Plaintiff a duty of due care as Plaintiff was an invitee as a recently released patient of the hospital.

27. The Defendants owed the Plaintiff a duty of due care to discover risks and to take safety precautions to warn of or eliminate unreasonable risks within the area of invitation, at the exit of their hospital.

28. **The Defendants failed to provide reasonable access for elderly business invitees by barring the use of the main entrance, normally the drop off/pick up area, for invitees.**

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29. **The Defendants breached their duty by not providing for a curbside pickup adjacent to the exit of the hospital even though it is foreseeable that an elderly person such as the Plaintiff and her aunt would routinely need close and easy access to their vehicles upon exiting the hospital.**

30. **The Defendants breached their duty by failing to provide reasonable access and choosing to direct the Plaintiff to use the side exit and require her to walk approximately 100 yards to her car. Insomuch, Defendants violated their duty of reasonable care for an elderly business invitee.**

31. **The** Defendants breached their duty by not eliminating the risk of harm by ensuring a safe exit via wheelchair or with other assistance while the Plaintiff was likely to be in a weakened state as a result of her examination and treatment.

32. The Defendants' breach of the duty of due care was the proximate cause of the Plaintiff's injury. But for the Defendant's breach, the Plaintiff would not have had to walk to her car from inside the hospital without a wheelchair or other assistance, resulting in her falling face first and sustaining subsequent injuries to her knees and right hand and wrist. It was foreseeable that, upon exiting the hospital, walking a lengthy distance to her car from inside the hospital after emergency treatment was likely to result in injury to the Plaintiff.

33. As a result of her fall, Plaintiff has experienced excruciating pain, has had to undergo physical therapy and has lost a significant amount of use of her dominant hand.

34. Plaintiff requests an award of damages for pain and suffering, lost wages and other actual and punitive damages against Defendant in an amount to be determined by a jury.

FOR A SECOND CAUSE OF ACTION
(Negligence)

35. Plaintiff realleges all of the preceding paragraphs as if set forth herein verbatim.

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36. The Defendants were negligent by not providing the Plaintiff a wheelchair or other assistance when leaving the hospital and allowing her to exit the hospital curbside more than 100 yards from her automobile accompanied only by her elderly aunt.

37. The Defendants were negligent by not providing for a curbside pickup adjacent to the exit of the hospital even though it is foreseeable that an elderly person such as the Plaintiff and her aunt would routinely need close and easy access to their vehicles upon exiting the hospital.

38. The Defendants owed Plaintiff a duty of care to protect Plaintiff based upon the relationship as a business invitee of the hospital. The design or operation of the emergency room exit and entrance did not allow Plaintiff's aunt to bring the car to the exit.

39. The Defendants acted with reckless disregard for the safety of Plaintiff by breaching said duty by not exercising a heightened standard of due care to discharge a weakened patient under the standard course of care or dealing, here by failing to use a wheelchair or other assistance to escort her out of the hospital.

40. As a direct and proximate result of the negligent, reckless, willful, wanton, careless, and grossly negligent acts and omissions of the Defendants, the Plaintiff sustained long-term injuries to her wrist and hand.

41. Plaintiff is entitled to an award of actual damages for pain and suffering, lost wages and other actual damages and punitive damages against the Defendant in an amount to be determined by a jury.

FOR A THIRD CAUSE OF ACTION
(Gross Negligence)

42. Plaintiff realleges all of the preceding paragraphs as if set forth herein verbatim.

43. The Defendants were grossly negligent by significantly departing from the reasonable degree of care to protect the Plaintiff from foreseeable injuries.

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44. The Defendants, by and through the acts of their staff or employees, instructed the Plaintiff to walk out of the hospital without assistance, rather than being escorted out via wheelchair to the parking lot rather than allowing her to meet her car at the curb of the entrance of the hospital.

45. The Defendants, by and through the acts of their staff or agents, voluntarily and willingly denied the Plaintiff a reasonably safe exit from the hospital by not ensuring her safe departure by wheelchair or with other reasonable assistance for vehicle access.

46. The Defendants created and allowed an unsafe area for exiting their facility by allowing ambulances not actively offloading or picking up patients to congregate without any plan or order in such a way as to block and prevent the Plaintiff's car from being brought to the entrance or near the entrance of the hospital where it would be possible for her to safely embark or alternatively failing to provide a wheelchair or other assistance for her to traverse the substantial distance to her automobile.

47. Plaintiff requests an award of actual and punitive damages against the Defendants in an amount to be determined by a jury.

WHEREFORE, having fully complained of the Defendants, Plaintiff prays that an award of lost wages and actual and punitive damages be granted against the Defendants, along with any other relief deemed proper by this court.

SIGNATURE PAGE TO FOLLOW

Respectfully submitted by,

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Date: _____
Charleston, South Carolina

ELECTRONICALLY FILED - 2025 Jul 29 9:31 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Charlotte Beverly Derrick, Plaintiff, vs. Bon Secours Mercy Health, Inc., and St. Francis Hospital, Inc. Defendants.	IN THE COURT OF COMMON PLEAS C.A. No. 2024-CP-23-06246 **DEFENDANTS' MEMORANDUM IN OPPOSITION OF PLAINTIFF'S MOTION FOR RECONSIDERATION**

INTRODUCTION AND BACKGROUND

The Plaintiff initiated this medical negligence action by filing a Complaint on October 25, 2024. The Plaintiff did not file a Notice of Intent to File Suit accompanied by an expert affidavit as required by S.C. Code Ann. Section 15-79-110. The Defendants, Bon Secours Mercy Health, Inc. (incorrectly identified as "Bon Secours St. Francis Health System, Inc. d/b/a St. Francis Downtown") and St. Francis Hospital, Inc. (incorrectly identified as St. Francis Hospital, Inc., d/b/a St. Francis Downtown") filed a motion to dismiss.

The motion to dismiss was based on the Plaintiff's failure to file a Notice of Intent and expert affidavit as required for medical malpractice actions. The Plaintiff filed an Amended Complaint on February 20, 2025. This Court heard argument on the Defendants' motion to dismiss, which addressed both the Plaintiff's Complaint and Amended Complaint, on May 27, 2025. This Court granted the Defendants' motion to dismiss and entered a written Order on July 10, 2025. The Plaintiff now requests this Court reconsider its ruling, arguing that her allegations are premises liability causes of action and not sound in medical malpractice. For the reasons below, the Defendants respectfully request that his Court deny the Plaintiff's motion for reconsideration.

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LAW

"A motion under Rule 59(e) long has been viewed as 'motion for reconsideration' despite the absence of those words from the rule." *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 21 (2004). "The purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to request the trial judge to 'reconsider matters properly encompassed in a decision on the merits.'" *Arnold v. State*, 309 S.C. 157, 172–73 (1992) (quoting *Budinich v. Becton Dickinson and Co.*, 486 U.S. 196, 200, 108 S. Ct. 1717, 1720, 100 L.Ed.2d 178, 184 (1988)). As a result, a party may "ask the court to reconsider its decision even if it means rehashing all or part of an argument previously presented." *Elam*, 362 S.C. at 21. The South Carolina rules "contemplate two basic situations in which a party should consider filing a Rule 59(e) motion:" (1) a "party *may* 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;" and (2) a "party *must* file a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review." *Id.* at 24.

Here, the Plaintiff has filed a motion for reconsideration under the first scenario—the Plaintiff contends this Court erred in granting the Defendant's motion to dismiss because it misunderstood or failed to fully consider the precedent in *Dawkins v. Union Hospital District*, 408 S.C. 171 (2014), among other caselaw. The Plaintiff's motion for reconsideration should be denied, because this Court's Order granting the Defendant's motion to dismiss is consistent with *Dawkins* as well as the statutory and case law of the State of South Carolina.

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ARGUMENT

In her motion for reconsideration, the Plaintiff reiterates that she "did not allege any causes of action in any complaint for medical malpractice, nor did she allege any negligence in her treatment by Defendant." (Plt's Mtn. for Reconsideration, p. 2). Instead, she argues that her three causes of action are for premises liability, negligence, and gross negligence, respectively. (*Id.*). This is beside the point. A plaintiff does not have to specifically label, caption, or use magic words for her theories of recovery to be sound in medical malpractice.

Here, the Plaintiff has pled that the Defendants should have realized that she "was in a weakened state *as a result of her examination and treatment*" and that the Defendants should have provided a wheelchair or other assistance rather than allowing her to leave with her aunt. (Plt.'s Amended Complaint Para. 31 (emphasis added)). In other words, the Plaintiff is claiming that a doctor, nurse, or other medical provider who treated her failed to appropriately consider the Plaintiff's medical state at discharge. The Plaintiff is claiming that a medical provider at St. Francis breached the standard of care regarding the Plaintiff's discharge.

The Plaintiff addresses several cases in her motion in support of her argument, but each fall short. First, her reliance on *Hughes* is misplaced. (*See* Plt.'s Mtn. for Reconsideration, p. 5-6 discussing *Hughes v. Children's Clinic, P. A.*, 269 S.C. 389 (1977). Importantly, *Hughes* was decided in 1977, which was long before the South Carolina General Assembly adopted reform legislation for medical malpractice actions arising after July 1, 2005. Thus, the plaintiff in *Hughes* was not required to follow the procedural requirements at issue in the present case. Regardless, *Hughes* involved a breakable convex mirror in an office clinic, which constituted an "inherently dangerous condition" on the defendant's premises, which posed a foreseeable risk of harm to all patients. *Hughes v. Children's Clinic, P. A.*, 269 S.C. 389, 398 (1977). Accordingly, the *Hughes*

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court agreed that the defendant clinic should have taken steps to warn its invitees of the inherently dangerous condition. *Id.* at 400. Here, there is no allegation of an inherently dangerous condition or failure to warn. Instead, the Plaintiff argues that "the Defendants acted with reckless disregard for the safety of Plaintiff by breaching said duty by not exercising a *heightened standard of due care* to discharge a weakened patient under the standard course of care of dealing, here by failing to use a wheelchair or other assistance to escort her out of the hospital." (Plt.'s Amended Complaint Para. 37 (emphasis added)).

Similarly, the Plaintiff points to *Graham v. Whitaker*, another case that was decided prior to our legislature adopting the statutory safeguards and protections for hospitals and healthcare providers. (*See* Plt.'s Mtn. for Reconsideration, p. 6 discussing *Graham v. Whitaker*, 282 S.C. 393 (1984). Thus, neither *Hughes* nor *Graham* should be considered since our legislature had not yet adopted the statutory framework which requires a plaintiff to file a notice of intent to file suit along with an expert affidavit when alleging medical negligence.

Lastly, the Plaintiff relies heavily on *Dawkins* and rehashes an argument previously presented. (*See* Plt.'s Mtn. for Reconsideration, p. 6 discussing *Dawkins v. Union Hospital District*, 408 S.C. 171 (2014). The Defendants do not dispute that the *Dawkins* court acknowledged that medical providers are still subject to claims sounding in ordinary negligence. However, the Defendants do dispute that the facts in *Dawkins* are substantially similar to those here.

In *Dawkins*, the Supreme Court of South Carolina noted that differentiating between the two types of claims (medical malpractice and ordinary negligence) "depends heavily on the facts of each individual case." *Id.* at 176. "[M]any states' courts distinguish between medical malpractice and ordinary negligence actions by determining whether expert testimony is necessary to aid the jury's determination of fault, particularly with respect to the 'duty' and 'causation'

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elements of the claim." *Id.* at 177. "In general, if the patient receives allegedly negligent professional medical care, then expert testimony as to the standard of that type of care is necessary, and the action sounds in medical malpractice." *Id.*

The *Dawkins* court determined that the plaintiff's claim was for ordinary negligence because she fell in the restroom of a hospital and fractured her right foot before receiving actual medical care. *Id.* at 178-179. Thus, the facts in *Dawkins* are easily distinguishable from the facts in the present case. Here, the Plaintiff argues that additional safeguards should have existed for her discharge process due to the kind of medical treatment she received from one or more medical providers. (*See generally* Plt.'s Amended Complaint). The Plaintiff claims that the medical treatment she received put her in a weakened state, and that someone failed to take into consideration the effects of her medical treatment prior to and during discharge. Accordingly, the only way to evaluate her theory is to examine the kind of medical treatment she received by a medical provider, and why her discharge protocol was or was not inappropriate given the context of her medical condition and treatment. This analysis calls for expert testimony to assess both "duty" and "causation." Under *Dawkins*, the Plaintiff's action is one of medical malpractice.

Pursuant to clear statutory law, the Plaintiff was required to file a Notice of Intent to File Suit accompanied by an expert affidavit. Because she failed to do so, the Defendants were entitled to a dismissal of the action, and the Court correctly granted the Defendants' motion to dismiss.

CONCLUSION

The Plaintiff has failed to comply with the pre-litigation filing requirements of sections 15-70-100 and 15-79-125 of the South Carolina Code. Thus, the Plaintiff's motion for reconsideration should be denied.

[Signature on following page]

Respectfully submitted,

CASSIDY COATES PRICE P.A.

s/ *Lillian K.H. Keeling*
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Attorneys for Defendant

July 28, 2025
Greenville, South Carolina

ELECTRONICALLY FILED - 2025 Jul 29 9:31 AM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

State of South Carolina	)	Court of Common Pleas
	)	Thirteenth Judicial Circuit
County of Greenville	)	Case No. 2024-CP-23-06246
	)	
	)	
	)	
	)	
Charlotte Bever Derrick,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Bon Secours St. Francis Hospital,	)	
	)	
	)	
Defendant.	)	
	)	

May 27, 2025
Greenville, South Carolina

B E F O R E:

The Honorable William C. McMaster III, Judge

A P P E A R A N C E S:

Nicholas Uricchio, Esquire
Attorney for the Plaintiff

Lillian Keeling, Esquire
Attorney for the Defendant

Proceedings taken down electronically

Transcribed by:
Krystal J. Smith
Official Circuit Court Reporter III

E X H I B I T S

NO.	DESCRIPTION	ID.	EV.
	(No Exhibits Presented)		

COURT REPORTER LEGEND

dashes	--	intentional or purposeful interruption or change in thought
ellipses	. . .	trailing off
[*ph*]		phonetically written
[*sic*]		written as said

(WHEREUPON, the proceedings began via WebEx.)

THE COURT: All right. We'll go to our next hearing. It's Number 11 and 12 on the docket, 2024-CP-23-06246, Charlotte Beverly Derrick versus Bon Secours. If the parties will come forward, please.

All right. If the parties will identify themselves and who they represent.

MS. KEELING: Good afternoon, Judge. May it please the Court. My name is Lillian Keeling. I represent the defendants, Bon Secours, here on our motion to dismiss, and I believe there's also another motion that is not ours.

THE COURT: There is. There's a defendant's motion to dismiss and plaintiff's motion to amend the complaint.

MR. URICCHIO: That is correct, Your Honor.

My name is Nick Uricchio. I represent the plaintiff, Charlotte Beverly Derrick, along with Ron Holloway.

THE COURT: All right. All right. So you want to take it -- they're -- I've just got them how they're filed. I don't know if it takes care of -- I don't know if you want to hear the motion to amend would take care of the -- would address the issues in the motion to dismiss. So I don't know how y'all want to --

MR. URICCHIO: I mean --

THE COURT: You tell me.

MR. URICCHIO: Your Honor, we could do the motion to amend rather quickly. It's -- it's -- if they -- if you would like.

MS. KEELING: You can go ahead and go.

MR. URICCHIO: That's fine.

MS. KEELING: That might be -- make more sense.

THE COURT: You're going to do the motion to amend?

MR. URICCHIO: Yeah. We'll just get it out the way, Your Honor.

THE COURT: Okay. All right. Go ahead.

MR. URICCHIO: Your Honor, we moved to amend our -- our complaint to not add any new causes of actions, not add any new parties. It just cleans up the facts.

Under Rule 15, a party is free to amend within the first 30 days. We are past the first 30 days. Otherwise, a party may amend to a pleading by the leave of the Court or by written consent of the adverse party, and leave shall be freely given when justice so required and does not prejudice any other party.

There's no prejudice in this case by amending. You can amend up until trial date. So, I mean, it's -- I can give you case law, but I mean, it's pretty easy.

THE COURT: Yes.

MR. URICCHIO: Rule 15 allows amendment at this time.

THE COURT: All right. Yes, ma'am?

MS. KEELING: Yes, Your Honor.

So I guess as far as we can consent to their amending the complaint, it doesn't change our argument in our motion to dismiss. Either way, we address the new -- the new paragraphs in their amended complaint as well.

THE COURT: Okay. All right. Well, then they're consenting to that.

MR. URICCHIO: Perfect. Yeah. And that's what I figured they would do, Your Honor. Okay.

THE COURT: That takes care of that.

Okay. All right. Let's move backwards then. We'll go to defendant's motion to dismiss.

Yes, ma'am?

MS. KEELING: All right. Yes. May it please the Court. Again, my name is Lillian Keeling, and I represent the defendant in this case, Bon Secours.

So the plaintiff filed this lawsuit against St. Francis by filing a complaint alleging premises liability and negligence. However, this is not a premises case. It's not a general negligence case, either. It's actually a medical negligence case by definition, and so we have moved to dismiss because the plaintiff has failed to file a notice of intent with an accompanying expert affidavit, which is required by 15-79-110.

I think it's well established in this state that when you

-- prior to filing a medical malpractice complaint, there are certain procedural requirements that have to be met first, one of which is filing a notice of intent with an expert affidavit. There's a pre-suit mediation period before actually filing the complaint, and that was not done in this case.

And as far as the facts are concerned, the -- the complaint speaks for itself, as well as the amended complaint, and she alleges that she was a patient at St. Francis at the time of her fall, having been treated for a fever in the ER, and the plaintiff in this case fell in the parking lot after leaving the hospital.

And in the complaint and amended complaint, she complains that she was not provided with a wheelchair or assisted by staff while exiting the hospital, and she fell while leaving the premises. However, she does not allege a defect or any unsafe condition of the property. She alleges that the defendants were negligent in allowing her to leave without assistance.

Specifically, she alleges -- she alleges that the -- that the defendants are liable for violating a duty to provide for the safe exit for the plaintiff by ensuring or assisting in her safe egress from the hospital and breaching their duty by not eliminating the risk of harm by ensuring a safe exit via wheelchair or other assistance while the plaintiff was in a

weakened state as a result of her examination and treatment. That is the amended complaint, paragraph 29, I believe. And she continues asserting that the defendants breached said duty by not exercising a heightened standard of due care to discharge a weakened patient under the standard course of care or dealing, here by failing to use a wheelchair or other assistance to escort her out of the hospital.

And for medical negligence cases, our legislature has adopted reform legislation designed to provide certain protections and safeguards to hospitals and health care providers, as defined by the statute. That is what I mentioned earlier about the procedural requirements regarding the notice of intent, and this Act applies to health care institutions such as St. Francis.

The Act defines medical malpractice in Section 15-79-110(6) as follows. Medical malpractice means doing that which the reasonably prudent health care provider or healthcare institution would not do or not doing that which the reasonably prudent health care provider or healthcare institution would do in the same or similar circumstances.

Now, I know that's a mouthful, but we have case law that interpret -- that interprets when that implies and when it doesn't. And while the plaintiff has filed this case as a premises liability or ordinary negligence lawsuit, it's neither.

A premises liability action is one where the owner or occupier of a land -- a property is held liable for violating a duty to protect the defendant [*sic*] from a defect or danger on the premises. The plaintiff does not -- they don't -- she does not allege a defect or danger on the premises. She didn't trip on a stretcher or on a curb or a pothole.

Instead, she suddenly -- and they -- they use that -- this phrasing, suddenly fell to the ground because she allegedly didn't have proper supervision or assistance in her -- and this, I think, is one of the most important phrases -- we can state as a result of her examination and treatment.

She didn't -- they're not alleging that she fell as a result of a defect. They're alleging she fell as a result of her weakened state from receiving medical care.

And again, so this is not common negligence. It's not a premises liability, but instead, because of the treatment provided in the ER, she was in a weakened state and fell.

And it's not an issue of common knowledge either, but instead one which requires medical knowledge. What are the effects of the condition or treatment on the patient's ability to ambulate? It's essentially a fall risk case, which we -- representing the hospital, we've had several of those. To determine if a patient is a fall risk, what types of methods they need for transfer, whether it's wheelchair, stretcher, additional supervision, one-to-one monitoring, whatever it may

be, that's determined by a medical professional.

And thus, the allegations meet the definition of medical malpractice, insomuch as the plaintiff here is alleging that a health care provider failed to do which a reasonably prudent healthcare provider would have done, such as providing assistance at discharge after providing medical care and treatment to the patient.

And the amended complaint filed does not cure, does not address the defects, and it doesn't change the nature of the allegations here. Again, why did she fall to the ground? It's not because she tripped on a pothole, not because of any construction in the parking lot, but because of her weakened state. So it's still the same claim. And again, when -- when is a hospital required to provide a wheelchair to transfer a patient? That's the question, and that's determined by expert testimony.

And lastly, just to address some of the plaintiff's case law in their memorandum, the facts in those cases are easily distinguishable from the facts here. In *Mishoe v. QHG of Lake City, Inc.*, the injury occurred in the hospital parking lot after the plaintiff's left foot got caught on a hole. Again, that's a defect on the property.

In *Sides v. Greenville Hospital System*, the injury occurred near a construction area in the parking lot. The plaintiff was forced to walk a different path due to recently

laid concrete, and that path was unlit. It was dark, the plaintiff couldn't see, and she tripped on a curb and fell. Again, that was a defect on the property.

She -- they also cite to *Dawkins v. Union Hospital District* as a case that, you know, distinguishes a premises liability case for injuries occurring in a hospital versus a medical -- med mal cases, and the examples that they include are falling ceiling tiles or improperly maintained hallways or improperly maintained parking lots. So again, that's not the case here.

So, accordingly, the complaint and amended complaint must be dismissed as the plaintiff has failed to file a notice of intent and accompanying expert affidavit. And that is my argument, but I'm happy to answer any questions the Court may have.

THE COURT: All right. Thank you.

Yes, sir?

MR. URICCHIO: Thank you, Your Honor. May it please the Court. Nick Uricchio, on behalf of the plaintiff. If I may approach, Your Honor?

THE COURT: Sure.

MR. URICCHIO: Here you are, Counsel.

I'm bringing up a copy of *Dawkins*. *Dawkins* is the case on point in this case, Your Honor. It could not be more clear that this case goes with *Dawkins*. In *Dawkins*, a woman was

admitted to the ER. She went to a room, and she fell down going to the bathroom. They filed a premise liability case, just like we're doing in this case, and regular negligence case. The defendant hospital moved to dismiss for saying this was a medical malpractice case.

The court granted -- the trial court granted that motion to dismiss. This went to the Supreme Court, and the Supreme Court overturned it. That was when that woman was actually still a patient of the hospital.

The Court went on to say the statutory definition of a medical malpractice case found in S.C. 15-79-110 does not apply -- impact medical providers' ordinary obligation to reasonable care for patients with respect to non-medical, administrative, or routine care. Thus, medical providers are still subject to claims sounding in ordinary negligence. That's on S.C. 178 of the page.

It goes on to say, here we find appellant's claim sound in ordinary negligence. It is not subject to the statutory requirements associated with a medical malpractice claim. Appellant's complaint makes clear that she had not begun receiving medical treatment at the time of her injury, nor does it allege the hospital employees negligently administered medical care.

In the case at hand, the plaintiff in this case, Your Honor, had been released from medical treatment. She became a

regular business invitee. Right? And at that point, she's not receiving medical treatment when she falls down outside the hospital.

Now, in *Dawkins*, there was no falling ceiling tile. There was no tripping on anything. It was the same case we have here. She was still a patient in the hospital, and they found that ordinary negligence cases -- case law mattered.

Additionally, in *Singleton v. Sheeran*, it says a property owner owes an invitee the duty of exercising reasonable and ordinary care for their safety and is liable for injuries resulting from the breach of such duty. My client was a business invitee once she -- once she goes to leave the hospital.

In *Easterling v. Burger King*, it goes on to say, it has been emphasized that a business owner has a duty to take reasonable actions to protect its invitees against foreseeable risk of harm.

In this case, Your Honor, our client came to the hospital with the assistance of her elderly aunt. She is treated and released, becoming a business invitee. She was not provided any assistance to leave the hospital and was only assisted by her elderly aunt. Our client and her aunt are then directed out of a side exit, Your Honor.

That is very important. That side exit did not have a place where they could pull a car around. They had not a

place for my client to sit, and she didn't have a wheelchair to sit in. So her and her elderly aunt did have to go down a sloping, long sidewalk, which then she falls.

It is reasonably perceived that an elderly person leaving the hospital would need access to an entryway that offered curbside pickup. They were directed to the side exit, not the main entrance, which the building was designed for where there is curbside pickup, making our client take on the risk of walking all the way down this sloping sidewalk.

So given the opportunity, they could have exited through the main entrance, but they weren't given that opportunity. It was foreseeable while traversing this sloping sidewalk that an elderly business invitee would fall. So we are right on point with *Dawkins*, Your Honor.

Additionally, I would say this is a motion to dismiss. It's supposed to be viewed in the light most favorable to the nonmoving party. We are the nonmoving party. We have pled premise liability and negligence, and we have met those duties. So I'd ask you not dismiss this case and allow us to proceed to discovery.

THE COURT: All right. I'll hear a brief reply.

MS. KEELING: Just a brief reply. I think the distinguishing factor here is that they plead that she suddenly fell due to her weakened state, her weakened state as a result of her treatment that she received in the hospital.

So when we look at the cause of why she fell, again it's not anything to do with any defect or -- in the hospital. It is because of the treatment that she received and that she -- and the allegation is that she should have been provided additional protections because of the medical treatment that she received.

Oh, and last -- and one more. I don't believe that no longer being under the supervision or care of a doctor matters. You know, if you have a surgery or procedure in a hospital and you go home and you develop an abscess or an infection, that's still a medical malpractice case. Just because you're no longer under the supervision of a -- of a physician doesn't have any effect on whether the -- the -- the case is sound in medical malpractice or not.

THE COURT: Thank you.

All right. Thank you very much for your arguments. I will take it under advisement and hopefully have a ruling by the end of next week, hopefully.

MS. KEELING: Thank you, Judge.

THE COURT: All right.

MR. URICCHIO: Thank you, Your Honor.

THE COURT: Thank you. And can we drop a short order that you consent to the -- to the motion to amend the complaint?

MR. URICCHIO: Yes.

THE COURT: Just drop a short order in my queue.

MR. URICCHIO: Yes, Your Honor. Can I get it to you tomorrow? I don't have a computer with me.

THE COURT: That'll be perfectly fine.

MR. URICCHIO: And we look forward to seeing you in Charleston.

THE COURT: All right. Yeah, I'll be there next week.

(WHEREUPON, the proceedings ended.)

--- END REQUESTED TRANSCRIPT ---

State of South Carolina)

) Certificate

County of Florence)

I, the undersigned, Krystal J. Smith, Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 16, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 27th day of May, 2025, to the best of my ability based upon the audio/video provided.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

s/Krystal J. Smith

Court Reporter

Florence, South Carolina

September 15, 2025

ELECTRONICALLY FILED - 2025 Aug 11 2:48 PM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

William C. McMaster, III, Circuit Court Judge

Case No. 2024-CP-23-0246

Charlotte Beverly Derrick,..... Appellant,
v.
Bon Secours St. Francis Health System, Inc. d/b/a St. Francis Downtown, and St. Francis Hospital, Inc. d/b/a St. Francis Downtown,..... Respondents.

NOTICE OF APPEAL

Charlotte Beverly Derrick appeals the Form 4 Order Granting Defendants' Motion to Dismiss filed on June 16, 2025 (Exhibit A), the subsequent formal Order Granting Defendants' Motion to Dismiss filed July 10, 2025 (Exhibit B) and the subsequent Form 4 Order denying Plaintiff's Motion for Reconsideration, filed August 1, 2025 (Exhibit C).

Appellant received notice of entry of the Form 4 Order Granting Defendants' Motion to Dismiss, from the Greenville County Clerk of Court, via electronic mail on June 16, 2025, notice of entry of the formal Order Granting Defendants' Motion to Dismiss on July 10, 2025, and notice of Order denying Plaintiff's Motion for Reconsideration from the Greenville County Clerk of Court, via electronic mail, on August 1, 2025.

Respectfully submitted,

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ELECTRONICALLY FILED - 2025 Aug 11 2:48 PM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

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EXHIBIT

A

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP2306246

Charlotte Beverly Derrick
PLAINTIFF(S)

St Francis Hospital Inc et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

This matter came before the Court on May 27, 2025. Nicholas Uricchio appeared on behalf of the Plaintiff and Lillian Keeling appeared on behalf of the Defendants. After hearing the arguments of the parties and a review of the filings in the case, Defendants' Motion to Dismiss is Granted, and the Complaint is dismissed for failure to comply with S.C. Code Ann. Section 15-79-110 and Section 15-79-125. Defense counsel is to prepare a formal order within 15 days.

It Is So Ordered.

ORDER INFORMATION

This order ☐ ends ☑ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/13/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2025 Jun 16 2:48 PM - GREENVILLE - COMMON PLEAS - CASE# 2024CP2306246

ELECTRONICALLY FILED - 2025 Aug 16 2:38 PM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

Court Reporter:

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

E-FILED FRONT ALLY FILED 2025 Jun 16 9:38 PM - GREENVILLE - COMMON PLEAS - CASE #2024CP2306246



Greenville Common Pleas

Case Caption:	Charlotte Beverly Derrick vs. Bon Secours Mercy Health Inc , defendant, et al
Case Number:	2024CP2306246
Type:	Order/Electronic Form 4

So Ordered

William C. McMaster, III

ELECTRONICALLY FILED 2025-Jul-10 2:48 PM - GREENVILLE - COMMON PLEAS - CASE#2024CP2306246

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Charlotte Beverly Derrick, Plaintiff, vs. Bon Secours St. Francis Health System, Inc. d/b/a St. Francis Downtown, and St. Francis Hospital, Inc. d/b/a St. Francis Downtown, Defendants.	IN THE COURT OF COMMON PLEAS C.A. No. 2024-CP-23-06246 **ORDER GRANTING DEFENDANTS' MOTION TO DISMISS**

This matter was before the Court on May 27, 2025. Defendants Bon Secours Mercy Health, Inc. (incorrectly identified as "Bon Secours St. Francis Health System, Inc. d/b/a St. Francis Downtown") and St. Francis Hospital, Inc. (incorrectly identified as St. Francis Hospital, Inc., d/b/a St. Francis Downtown") filed a Motion to Dismiss Plaintiff Charlotte Beverly Derrick's Complaint. Attorney Lillian K.H. Keeling appeared on behalf of the Defendants, and attorney Nicholas B. Uricchio appeared on behalf of the Plaintiff. Additionally, before the Court was the Plaintiff's Motion to Amend the Summons and Complaint, which the parties consented to. Accordingly, the Defendants' argument on their Motion to Dismiss addressed both the Plaintiff's Complaint and Amended Complaint.

Having reviewed the pleadings, the motions, and the briefs, and after considering the arguments of counsel, I hereby **GRANT** Defendants' Motion to Dismiss.

BACKGROUND

The Plaintiff filed her Complaint on October 25, 2024. The Defendants filed a Motion to Dismiss on November 6, 2024. The Plaintiff filed an Amended Complaint on February 20, 2025. According to the Amended Complaint, the Plaintiff was a patient at St. Francis Downtown

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Hospital at the time of her accident, having been treated for a fever in the emergency department on November 13, 2021. Amended Complaint Para. 8. According to the Plaintiff, she underwent a CT scan and received IV antibiotics during her hospital stay. Amended Complaint Para. 10. The Amended Complaint continues, "When the Plaintiff exited from the hospital, she was not provided a wheelchair, nor assisted in any way by hospital staff . . . Plaintiff and her aunt were merely directed to a side exit which led to the parking area . . . and the Plaintiff and her aunt had to walk more than 100 yards to their vehicle." Amended Complaint Para. 11. The Plaintiff contends that while "walking out of the ER exit to which Plaintiff had been directed, the Plaintiff suddenly fell to the ground face down." Amended Complaint Para. 12. Ms. Derrick claims that she suffered injuries as a result of this sudden fall.

The Plaintiff asserts three causes of action: premises liability, negligence, and gross negligence. With respect to the premises liability claim, she alleges that the Defendants are "liable for violating a duty to provide for the safe exit for the Plaintiff . . . by insuring or assisting in her safe egress from the hospital," and breaching their duty "by not eliminating the risk of harm by ensuring a safe exit via wheelchair or with other assistance while the Plaintiff was in a weakened state as a result of her examination and treatment." Amended Complaint Paras. 25 and 31.

Regarding the negligence cause of action, the Plaintiff contends that the Defendants were "negligent by not providing the Plaintiff a wheelchair or other assistance when leaving the hospital and allowing her to exit the hospital curbside more than 100 yards from her automobile accompanied only by her elderly aunt." Amended Complaint Para. 36. She continues, asserting that the Defendants "breach[ed] said duty by not exercising a heightened standard of due care to discharge a weakened patient under the standard course of care or dealing, here by failing to use a wheelchair or other assistance to escort her out of the hospital." Amended Complaint Para. 39.

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In their Motion to Dismiss, the Defendants contend that the Plaintiff's theories of premises liability and negligence are actually causes of action sound in medical malpractice. As a result, the Defendants argue that the Plaintiff was required to follow the procedural requirements for medical malpractice actions outlined in S.C. Code Ann. § 15-79-110, et seq. The Court agrees with the Defendants that the Plaintiff's claims sound in medical malpractice. Accordingly, the Plaintiff was required to follow the procedural requirements outlined in the Act before initiating her Complaint.

STANDARD OF REVIEW

A motion to dismiss is generally held to a strict standard in South Carolina. Nonetheless, a motion to dismiss may be granted by the circuit court when a defendant demonstrates that the plaintiff has failed to state facts sufficient to constitute a cause of action in the pleadings filed with the court. *See Sloan Const. Co. v. Southco Grassing, Inc.*, 368 S.C. 523, 525, 629 S.E.2d 372, 373 (Ct.App. 2006). In considering a motion to dismiss, the court may take judicial notice of well-known facts and principles of law, and in "[v]iewing the evidence in favor of the plaintiff, the motion must be granted if facts alleged in the complaint and inferences reasonably deducible therefrom do not entitle the plaintiff to relief on any theory of the case." *Chewning v. Ford Motor Co.*, 346 S.C. 28, 32-33, 550 S.E. 2d 584, 586 (Ct. App. 2001).

For medical malpractice actions arising after July 1, 2005, the South Carolina General Assembly adopted reform legislation designed to provide certain protections and safeguards to hospitals and healthcare providers as defined in the statute (hereinafter the "Act"). *See* S.C. Code Ann. § 15-79-110, et seq. Section 15-79-125 of the Act specifically provides that "prior to filing or initiating a civil action alleging injury or death as a result of medical malpractice, the Plaintiff must file a Notice of Intent to File Suit and, aside from limited exceptions, an affidavit of an expert witness . . . ." S.C. Code Ann. § 15-79-125(A). The Act further provides specific requirements for

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the content of the Notice of Intent to File Suit, requires that the notice be served on the named defendants, and requires that the plaintiff answer standard interrogatories. *Id.* Once the aforementioned has been accomplished, the Act further provides that within 120 days from the service of the Notice of Intent to File Suit, the parties must engage in a mediation conference. *Id.* at 15-79-125(C). It is only after conclusion of the mediation conference that a plaintiff may initiate a lawsuit against a health care provider or institution. *Id.* at -125(E).

The statutes provide that these protections are only extended to a "health care institution" or "healthcare provider" as defined by section 15-79-110(2)[1] and section 15-79-110(3)[2]. Moreover, these requirements apply to cases involving medical malpractice. Section 15-79-110(6) of the Act defines "medical malpractice" as follows:

> "Medical malpractice" means doing that which the reasonably prudent healthcare provider or healthcare institution would not do or not doing that which the reasonably prudent healthcare provider or healthcare institution would do in the same or similar circumstances."

S.C. Code Ann. § 15-79-110(6).

ANALYSIS

Although the Plaintiff has filed her Complaint as a premises liability/ordinary negligence lawsuit, it is neither. A premises liability action is one in which the owner or occupier of land or property is held liable for violating a duty to protect the defendant from *a defect or danger on the* premises. *Callender v. Charleston Doughnut Corp.*, 305 S.C. 123, 406 S.E.2d 361 (1991)

[1] A "health care institution" includes a hospital, which is defined by the Act as "a licensed facility with an organized medical staff to maintain and operate organized facilities and services to accommodate two or more nonrelated persons for the diagnosis, treatment, and care of such persons over a period exceeding twenty-four hours and provides medical and surgical care of acute illness, injury, or infirmity and may provide obstetrical care, and I which all diagnoses, treatment, or care are administered by or performed under the direction of persons currently licensed to practice medicine and surgery in the State of South Carolina." S.C. Code Ann. § 15-79-100(2), (4).

[2] The definition of a "health care provider" includes a "nurse. . . or any similar category of licensed health care provider . . . ." S.C. Code Ann. § 15-79-100(3).

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(emphasis added); *Larimore v. Carolina Power & Light*, 340 S.C. 438, 531 S.E.2d 535 (Ct. App. 2000). The Plaintiff does not allege that there was a defect or danger on the premises in the Complaint, and the Plaintiff's Amended Complaint does not assert allegations of a defect. The Plaintiff did not trip on a stretcher that was left in the middle of the hallway. She did not slip on a puddle of IV fluid that had been left on the floor for an unreasonable period of time. Instead, she "suddenly fell to the ground." Amended Complaint Para. 12. Rather than alleging a defect or danger on the premises, she contends that the Defendants should have realized that she "was in a weakened state *as a result of her examination and treatment*" and should have provided a wheelchair or other assistance rather than allowing her to leave with her aunt. Amended Complaint Para. 31 (emphasis added). The Plaintiff has pled that she suffered injuries as a "result of her examination and treatment." That is not a premises liability claim, but instead, a claim for medical negligence.

Likewise, the Plaintiff's claim for common or ordinary negligence is instead a claim for medical negligence. The Amended Complaint's language tells the story. The Plaintiff contends that the Defendants breached the standard of care by failing to provide a wheelchair or other assistance upon discharging "a weakened patient" after she underwent medical care and treatment at the hospital. Essentially, the Plaintiff alleges that the Defendants breached the standard of care in failing to appreciate that her medical condition warranted further assistance.

The Defendants, as hospital systems, meet the definition of healthcare provider/institution, and the allegations are that they either committed acts that a reasonably prudent healthcare provider/institution would not have committed, or failed to do certain acts that a reasonably prudent healthcare provider/institution would have done under the same or similar circumstances. Those allegations likewise meet the definition of medical malpractice insomuch as the Plaintiff is

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alleging that a healthcare provider failed to do that which a reasonably prudent healthcare provider would have done, i.e., provide assistance at discharge after providing medical care and treatment to the patient.

The Plaintiff contends that her case differs from a medical malpractice case because it is analogous to *Dawkins v. Union Hospital District*. 408 S.C. 171 (2014). The Court disagrees. In *Dawkins*, the plaintiff fell in the restroom of a hospital and fractured her right foot before receiving medical care. *Id.* at 178-179. Here, the Plaintiff has pled that she was in a weakened state "*as a result of her examination and treatment*," which caused her to fall. In other words, the Plaintiff alleges that someone in the hospital—a healthcare provider—breached the standard of care by not appreciating the Plaintiff's weakened medical state prior to discharge, and by discharging her in a weakened state without providing appropriate attendant care.

Pursuant to statutory law, the Plaintiff was required to file a notice of intent accompanied by an expert affidavit. Because she failed to do so, the Defendants are entitled to a dismissal of the action.

IT IS, THEREFORE, ORDERED that Defendants' Motion to Dismiss is **GRANTED.**

IT IS, THEREFORE, ORDERED that the Plaintiff's Complaint and Amended Complaint are dismissed for failure to comply with S.C. Code Ann. Section 15-79-110 and Section 15-79-125.

AND IT IS SO ORDERED.

_____ ___, 2025

The Honorable Judge William C. McMaster, III

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EXHIBIT

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FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP2306246

Charlotte Beverly Derrick
PLAINTIFF(S)

St Francis Hospital Inc et al
DEFENDANT(S)

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DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

After careful consideration of the able argument and filings of counsel and review of the record, the Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered. Accordingly, Plaintiff's Motion for Reconsideration is Denied.

It Is So Ordered.

ORDER INFORMATION

This order ☑ ends ☐ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 08/01/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

William C. McMaster, III, Circuit Court Judge

Case Number: 2024-CP-23-0246

Charlotte Beverly Derrick ..... Appellant,

vs.

Bon Secours St. Francis Health System, Inc. d/b/a St. Francis Downtown, and St. Francis Hospital, Inc. d/b/a St. Francis Downtown ..... Respondents.

PROOF OF SERVICE

I hereby certify that I have served the Notice of Appeal upon the Greenville County Clerk of Court (via efiling & US Mail), The Honorable William C. McMaster, III, (via email & US Mail) and Lillian Keeling and Fred Suggs, attorneys for the Respondents (via email and US Mail) by placing a copy of same in the United States Mail with sufficient postage attached thereto and addressed as follows:

The Hon. William C. McMaster, III
305 E. North Street
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This the 11th day of August 2025

Tracey O'Brien

CERTIFICATE

Michael W. Sautter counsel for Appellant, Certifies that the Record on Appeal contains all materials designated by the parties to be included in the Record on Appeal and not any other material.

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Counsel for Appellant

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

William C. McMaster, III, Circuit Court Judge

Case No. 2024-CP-23-0246
APPELLANT CASE NUMBER: 2025-001598

Charlotte Beverly Derrick,..... Appellant,
v.
Bon Secours St. Francis Health System, Inc. d/b/a St. Francis Downtown, and St. Francis Hospital, Inc. d/b/a St. Francis Downtown,..... Respondents.

PROOF OF SERVICE

I, the undersigned, hereby certify that I served a copy of the Record on Appeal and Certificate that the Record on Appeal contains all materials designated by the parties upon Lillian Keeling, Esquire and Fred Suggs, Esquire, attorneys for the Respondents via email:

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dated: 3.23.26

Tracy O'Brien