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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
J. Derham Cole, Jr., Circuit Judge

Appellate Case No. 2026-000768
Court of Common Pleas Case No. 2023-CP-10-03391

STÉFANIE SEIXAS-MIKELUS, M.D.,

Appellant,

v.

TENET HEALTHCARE CORPORATION, TENET PHYSICIAN RESOURCES, LLC, AND
EAST COOPER PHYSICIAN NETWORK, LLC,

Respondents.

**RECORD ON APPEAL
VOLUME I OF II**

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Stéfanie Seixas-Mikelus, M.D.

Petitioner,

v.

Tenet Healthcare Corporation, Tenet Physician
Resources, LLC, and East Cooper Physician
Network, LLC.

Respondents.

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

CASE NO.: 2023-CP-10-03391

**ORDER DENYING VACATUR AND
CONFIRMING ARBITRAL AWARD**

Petitioner's and Respondents' cross-motions to vacate and to confirm the arbitration award in this matter, respectively, came before this Court on December 18, 2024. James Atkinson Bruorton IV appeared on behalf of Petitioner Stéfanie Seixas-Mikelus, M.D. Carmen Harper Thomas appeared on behalf of Respondents. Desa Ballard appeared on behalf of Arbitrator Kristine L. Cato. Johnston Cox appeared on behalf of Harry F. Cato. Bill Wood appeared on behalf of Nelson Mullins Riley & Scarborough, LLP. The motions before this Court present the question of whether the mutually agreed-upon Arbitrator Kristine L. Cato demonstrated evident partiality in favor of the Respondents such that the underlying arbitral award in favor of Respondents must be vacated. Petitioner's motion to vacate also includes a motion to conduct limited discovery and an evidentiary hearing pertaining to her motion.

BACKGROUND

Petitioner is a urologist with specialization in robotics-based treatment. The parties entered into a five-year employment agreement and opened Petitioner's urology practice June 1, 2019. Petitioner began seeing patients in July of 2019. Eighteen months thereafter, in December of 2021, the parties began to have disagreements on material terms in Petitioner's employment agreement. Respondents terminated her employment without cause that same month pursuant to the parties' agreement. Petitioner initiated arbitration proceedings against Respondents in July of 2022. In her Demand for Arbitration, Petitioner brought claims for breach of contract, breach of implied covenant of good faith and fair dealing, and wrongful termination in violation of public policy.

The parties mutually selected Kristine L. Cato, Esq. to arbitrate the claims. Arbitration hearings on the matter took place on February 1 and 2, and March 1, 2023. On May 26, 2023, Arbitrator Cato issued a Final Award finding that Petitioner failed to meet the burden of proof as to any claims and entered judgment in favor of Respondents.

Following the issuance of the Final Award on July 13, 2023, Petitioner filed this Motion to Vacate Arbitration Award. Respondents removed the matter to the United States District Court on August 11, 2023, and the federal court remanded it to the Circuit Court on April 30, 2024. Respondents filed their Motion to Confirm Arbitration Award September 19, 2024.

In her Motion to Vacate, Petitioner claims that Arbitrator Cato made untruthful, incomplete and misleading disclosures in the materials provided to Petitioner for her assessment. Specifically, Petitioner claims that Arbitrator Cato failed to appropriately disclose or downplayed her professional and business relationship with Nelson Mullins Riley & Scarborough LLP (“Nelson Mullins”), the law firm representing Respondents in the arbitration. The nexus of that relationship is Arbitrator Cato’s husband, Harry F. Cato, a non-attorney government relations consultant who has a contractual relationship with Nelson Mullins pursuant to which he provides consulting services to certain of Nelson Mullins’ clients. Petitioner also claims that Arbitrator Cato failed to update her disclosures and inform the parties of her election to the Board of Directors of Lexington Medical Center on March 1, 2023.

STANDARD OF REVIEW

The preference for the arbitration of legal disputes is well established in South Carolina. *Batten v. Howell*, 300 S.C. 545, 547, 389 S.E.2d 170, 172 (1990). *See Waldo v. Cousins*, 442 S.C. 662, 664, 901 S.E.2d 276, 278 (2024) (acknowledging the rare and narrow basis the court may disturb an arbitration award). “Upon application of a party, the court shall vacate an award where: [t]here was evident partiality by arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of any party.” S.C. Code Ann. §15-48-130 (a)(2).¹ “The language of the statute requires the party seeking vacatur to demonstrate ‘that a reasonable person would have to conclude that an arbitrator was partial to the other party to the arbitration.’”

¹ As Respondents note in their Opposition to Petitioner’s Motion to Vacate Arbitration Award, Petitioner moves to vacate the judgment pursuant to S.C. Code Ann. §15-48-130 (a)(2) of the South Carolina Uniform Arbitration Act. Respondents argue the Federal Arbitration Act (“FAA”), applied to this dispute, the relevant section of which is 9 U.S.C. §10. Respondents further note that either section sets a standard of evident partiality for vacatur of an arbitral award. The South Carolina Supreme Court has incorporated the FAA test for evident partiality as described in *Crouch Const. Co. v. Causey*, 405 S.C. 155, 165-66, 747 S.E.2d 482, 487-88 (2013).

Crouch Const. Co., Inc. v. Causey, 405 S.C. 155, 168, 747 S.E.2d 482, 489 (2013) (citing *ANR Coal Co. v. Cogentrix of North Carolina*, 173 F.3d 493 (4th Cir. 1995)). “The party asserting bias ‘must establish specific facts that indicate improper motives on the part of an arbitrator.’” *Id.* (citing *Freeman v. Pittsburgh Glass Works, LLC*, 709 F.3d 240, 253 (3d Cir. 2013)).

“A court should examine four factors to determine if a claimant has demonstrated evident partiality: (1) the extent and character of the personal interest, pecuniary or otherwise, of the arbitrator in the proceeding; (2) the directness of the relationship between the arbitrator and the party he is alleged to favor; (3) the connection of that relationship to the arbitration; (4) the proximity in time between the relationship and the arbitration proceeding.” *ANR Coal*, 173 F.3d at 500 (quoting *Consolidation Coal Co. v. Local 1643, United Mine Workers of America*, 48 F.3d 125, 130 (4th Cir. 1995)).

“The word ‘evident’ suggests that the [FAA] requires more than a vague appearance of bias. The arbitrator’s bias must be sufficiently obvious that a reasonable person would easily recognize it.” *Crouch Const. Co.*, 405 S.C. at 166 (internal citations omitted). The *Crouch Const. Co.* court explicitly rejects an “appearance-of-bias” standard in favor of a standard in which a party seeking vacatur must demonstrate that a reasonable person would have to conclude that an arbitrator was partial to the other party in the arbitration. *Id.* (internal quotations and citations omitted). The movant carries a heavy burden to meet this onerous standard. *Crouch Const. Co.*, 405 S.C. at 168.

ANALYSIS

A. Evident Partiality

In this case, Petitioner has not met the onerous burden required to vacate the arbitrator’s award. Specifically, she has not demonstrated to the Court the specific facts as required in *Crouch Const. Co.*, to satisfy the evident-partiality standard. In her motion for vacatur, Petitioner cites two alleged examples of evident partiality on the part of Arbitrator Cato:

1. In her disclosures provided to the parties in connection with her selection as arbitrator in this case, Arbitrator failed to adequately disclose the nature of her husband’s relationship with the law firm representing the Respondents in the arbitration.
2. A failure on the part of Arbitrator Cato to update her disclosures during the pendency of the arbitration to reflect her appointment to the Board of Directors of Lexington Medical Center.

The three disclosures in Arbitrator Cato's disclosure document Petitioner alleges are untruthful, incomplete and/or misleading are as follows:

3. *Have you had any professional or social relationship with counsel for any party in this proceeding or the firms for which they work?* Answer: NO.

5. *Have you had any professional or social relationship of which you are aware with any relative of any of the parties to this proceeding, or any relative of counsel to this proceeding, or any of the witnesses identified to date in the proceeding?* Answer: NO.

14. *Are there any connections, direct or indirect, with any of the case participants that have not been covered by the above questions?* Answer: YES. Comments: Indirectly. My husband is a government relations consultant and contracts with Nelson Mullins to perform some governmental relations consulting for some of their clients, although NOT the defendant in this matter. He is not an attorney and provides consulting and lobbying work only. This will not affect my ability to act impartially in this matter.

15. *Are you aware of any other information that may lead to a justifiable doubt as to your impartiality or independence or create an appearance of partiality?* Answer: NO.

In *Crouch Const. Co.*, the South Carolina Supreme Court drew a distinction between a violation of the South Carolina Code of Ethics for Arbitrators and a factual showing that justifies vacating an arbitration award. *Crouch Const. Co.*, 405 S.C. at 164. This Court is not suggesting there was a breach of the applicable code of ethics, and that issue is not before the Court, although it is referenced in Petitioner's expert affidavit submitted in connection with her motion to vacate. Rather, this Court notes the distinction to underscore the appropriate standard of review to be applied to the decision of whether or not to vacate an arbitration award on the basis of evident partiality.

Conducting an analysis of evident partiality requires a court to examine four factors as to both of Petitioner's allegations of bias. They are:

1. The extent and character of the personal interest, pecuniary or otherwise, of the arbitrator in the proceeding;

2. The directness of the relationship between the arbitrator and the party she is alleged to favor;
3. The connection of that relationship to the arbitration; and
4. The proximity in time between the relationship and the arbitration proceeding.

Turning to each allegation of acts or omissions Petitioner's have alleged against Arbitrator Cato in this case, the Court examines the four factors as to each.

1. Relationship to Respondents' Law Firm

Petitioner has not alleged any significant personal interest of Arbitrator Cato in this proceeding. The record reflects no relationship or personal interest in or with any party to the proceeding or otherwise. The Petitioner's complaint is centered on Arbitrator Cato's spousal relationship with Harry Cato, who is a non-lawyer contractor for the law firm representing Respondents in this matter. His work is in the area of governmental relations, and he did not represent any of the Respondents in his contracted work.

This is not a "non-disclosure" case as to her spousal relationship, as the court decided in *Crouch Const. Co.* Arbitrator Cato specifically indicated that she had an indirect relationship with the case participants to the extent of her relationship with her husband, as described above. Petitioner alleges Arbitrator Cato downplayed the extent of her husband's affiliation with Respondents' law firm. Once Petitioner was on notice of the affiliation during the arbitrator selection process, however, she had ample opportunity to conduct due diligence on the nature, extent, and character of Harry Cato's affiliation with Respondents' law firm, including but not limited to his office address, website biography, and the length of his affiliation with the law firm. The record does not reflect any contemporaneous objections to Arbitrator Cato's selection to arbitrate this case or any further investigation into her indirect connection to Respondents' law firm.

The connection of the relationship to the arbitration is tenuous at best. The "indirect" relationship, as Arbitrator Cato characterized it, consists of her relationship with her husband, who serves as a non-lawyer contractor for Respondents' law firm. In that capacity, he represents various clients before governmental bodies, but notably had no representational relationship with the parties to the arbitration. The proximity-in-time factor was contemporaneous, inasmuch as Harry Cato served as a contractor for Nelson Mullins during the arbitration, but that timing is

immaterial to the Court's analysis as to whether the relationship between Arbitrator Cato and Respondents' law firm established evident partiality. It did not.

2. *Arbitrator Cato's Election to the Lexington Medical Center Board of Directors*

Arbitrator Cato's election to the Board of Directors of Lexington Medical Center did not give rise to any demonstrable evident partiality in this case. That role did not confer any personal interest in the arbitration. Lexington Medical Center had no role whatsoever in the underlying arbitration. Furthermore, it had no bearing on any relationship Arbitrator Cato had, however attenuated, with Respondents in this matter. The Court does not find any connection between that relationship and the arbitration. Finally, Arbitrator Cato's election to the Lexington Medical Center Board of Directors occurred well into the arbitration proceedings.

B. Petitioner's Request for Limited Discovery and Evidentiary Hearing

In connection with her Motion to Vacate, Petitioner seeks an evidentiary hearing as well as limited discovery, including, but not limited to the issuance of various subpoenas, which have been subject to motions to quash. Respondents object, as have various parties to whom subpoenas have been issued.

"Arbitration proceedings are summary in nature to effectuate the national policy of favoring arbitration, and they require 'expeditious and summary hearing, with only restricted inquiry into factual issues.'" *O.R. Securities, Inc. v. Professional Planning Associates, Inc.*, 857 F.2d 742 (11th Cir. 1988)(citing *Legion Insurance Co. v. Insurance General Agency, Inc.*, 822 F.2d 541, 543 (5th Cir.1987) (quoting *Moses H. Cone Memorial Hospital v. Mercury Construction Corp.*, 460 U.S. 1, 22, 103 S.Ct. 927, 940, 74 L.Ed.2d 765 (1983)).

The Court finds the record before it sufficient to determine whether or not Petitioner has satisfied her burden of demonstrating evident partiality on the part of Arbitrator Cato. As to the indirect connection with Respondents' law firm, Petitioner had notice and opportunity to inquire further into that connection prior to Arbitrator Cato's selection as arbitrator in this case, and potentially decline to select her to arbitrate the case. Therefore, the Court declines to permit additional discovery or evidentiary hearings on that issue. *O.R. Securities, Inc.*, 857 F.2d 742, 749. As to the issue of Arbitrator Cato's service on the Lexington Medical Center's Board of Directors, Petitioner must establish more than an appearance-of-bias. She has not alleged facts sufficient to demonstrate that Arbitrator Cato's election to the Lexington Medical Center's Board of Directors meets the required evident-partiality standard as detailed in this Order and the

supporting case law. Likewise, Arbitrator Cato's failure to update her disclosures to reflect her election to that board of directors did not establish evident partiality under the standard the Court is required to employ. This Court declines to permit additional discovery or an evidentiary hearing on that issue.

CONCLUSION

The Court hereby orders the following in this matter for the reasons stated hereinabove:

1. Petitioner Stéfanie Seixas-Mikelus' Motion to Vacate Arbitration Award is **DENIED**;
2. Respondents' Motion to Confirm Arbitration Award pursuant to S.C. Code Ann. §15-48-120 is **GRANTED**;
3. Judgment shall be **ENTERED** pursuant to S.C. Code Ann. §15-48-150;
4. Petitioner's Motion for Leave to Conduct Limited Discovery is **DENIED**, including any subpoenas or discovery requests issued prior to the hearing in this matter;
5. Petitioner's Motion for an Evidentiary Hearing is **DENIED**; and
6. Each party shall bear their own costs and fees.

[Electronic Signature Page Follows.]



Charleston Common Pleas

Case Caption: Stefanie Seixas Mikelus VS Tenet Healthcare Corporation ,
defendant, et al
Case Number: 2023CP1003391
Type: Order/Other

IT IS SO ORDERED!

s/ J. Derham Cole, Jr. 2789

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FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2023CP1003391

Stefanie Seixas Mikelus
PLAINTIFF(S)

Tenet Healthcare Corporation et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

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

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

This matter was before the Court on Petitioner's motion to vacate an arbitral award. Respondents moved to confirm the arbitral award and have judgment entered thereon.

The Court, via separate order to be filed contemporaneously herewith, finds in favor of Respondents. The arbitral award is confirmed and judgment entered in favor of Respondents Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network, LLC.

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 02/25/2026 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

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



Charleston Common Pleas

Case Caption: Stefanie Seixas Mikelus VS Tenet Healthcare Corporation ,
defendant, et al
Case Number: 2023CP1003391
Type: Order/Electronic Form 4

IT IS SO ORDERED!

s/ J. Derham Cole, Jr. 2789

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STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	CASE NO.:
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	MOTION TO VACATE
	)	ARBITRATOR'S AWARD, REQUEST
v.	)	FOR LIMITED DISCOVERY AND REQUEST
	)	FOR EVIDENTIARY HEARING
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	

TO: ALL RESPONDENTS NAMED HEREIN AND COUNSEL OF RECORD

COMES NOW the Claimant, by and through her undersigned attorneys, who will move before the presiding Judge with the Court of Common Pleas for the Ninth Judicial Circuit, Charleston County, after ten (10) days from the date of service hereof, or at such time as the Court may direct, for orders, pursuant to S.C. Code Ann. §§ 15-48-130 & 170 (2013) and S.C. R. Civ. Pro. 60(b), permitting limited discovery, conducting an evidentiary hearing, and vacating the Arbitration Award issued May 26, 2023, by Kristine L. Cato, Esq. (the "Arbitrator"), delivered to Claimant that same day (a copy of which is attached as **Exhibit 1**).

Claimant requests this relief on the ground that the Award was affected by the bias and evident partiality of the Arbitrator. As described in more detail below, the Arbitrator failed to meet her ethical disclosure requirements as to her potential bias and partiality. She provided answers in her written disclosures that were incomplete and misleading. The Arbitrator inaccurately described both her husband's relationship and her relationship with the law firm defending Respondents as "indirect" and further failed to supplement her disclosures to include

her own personal involvement on the Board of Directors for Lexington Medical Center, a private hospital engaging in operations similar to those of the Respondents.

In support of this motion, Claimant submits the Affidavit of Barbara M. Seymour, Esq., filed contemporaneously herewith, who was an investigating and prosecuting attorney for the Office of Disciplinary Counsel to the Supreme Court of South Carolina from 2000 to 2017, including service as Deputy Disciplinary Counsel from 2007 – 2017. *See* Affidavit of Barbara M. Seymour ¶ 2d. Attorney Seymour has extensive experience in matters involving the professional conduct of lawyers and judges. *See* Affidavit of Barbara M. Seymour ¶ 2d.¹ Since 2017, Attorney Seymour has focused her private practice on matters involving, among other areas, legal malpractice, ethical compliance, lawyer and judicial discipline, and government ethics. *See* Affidavit of Barbara M. Seymour ¶ 2e. In Attorney Seymour's professional opinion, Arbitrator Cato breached her ethical obligations as arbitrator concealing relevant information to Claimant in this case that could reasonably call her impartiality into question. *See* Affidavit of Barbara M. Seymour ¶ 5.

As a direct and proximate result of Arbitrator Cato's breach of her ethical disclosure obligations as arbitrator, Claimant is entitled to have Arbitrator Cato's Final Award and corresponding Interim Awards vacated and to have her claims against Respondents heard before an impartial arbitrator. For all the reasons set forth herein, Arbitrator Cato's rulings must be vacated, and this case tried before an impartial neutral.

PROCEDURAL HISTORY

- July 7, 2021 – Claimant initiated Arbitration against Respondents through the filing of an Arbitration Demand with the American Arbitration Association.

¹ Attorney Seymour, as lead counsel, has had approximately 130 opinions published by the Supreme Court of South Carolina, all of which involve the professional conduct and capacity of lawyers and judges.

- July 14, 2021 – Nelson Mullins Riley & Scarborough, LLP and Sue Erwin Harper, Esq. make an appearance on behalf of Respondents.
- July 23, 2021 – Carmen Thomas, Esq. of Nelson Mullins Riley & Scarborough, LLP added as additional counsel of record for Respondents.
- August 9, 2021 – Parties preliminarily consent to use of Kristine L. Cato, Esq. as arbitrator.
- September 1, 2021 – AAA notifies parties of appointment of Kristine L. Cato, Esq. as arbitrator and provides parties with copy of Arbitrator's Oath and Disclosures stating as follows:

3. Have you had any professional or social relationship with counsel for any party in this proceeding or the firms for which they work?

Answer: NO

...

5. Have you had any professional or social relationship of which you are aware with any relative of any of the parties to this proceeding, or any relative of counsel to this proceeding, or any of the witnesses identified to date in the proceeding?

Answer: NO

...

14. Are there any connections, direct or indirect, with any of the case participants that have not been covered by the above questions?

Answer: YES

Comments: Indirectly. My husband is a governmental relations consultant and contracts with Nelson Mullins to perform such governmental relations consulting for some of their clients, although NOT the defendant in this matter. He is not an attorney and provides consulting and lobbying work only. This will not affect my ability to act impartially in this matter.

- In reliance on the disclosure as being complete, honest, and accurate, Claimant agreed to Mrs. Cato to serve as arbitrator.

- February 1 – 2, 2023 – Initial Arbitration hearing held and not concluded. Respondents given additional time to request and review supplemental documentation on Claimant's post-termination income and mitigation of damages.
- March 1, 2023 – Merits Hearing is concluded upon completion of testimony of Claimant.
- March 17, 2023 – Claimant submits Post-Hearing Brief and Motion to Amend to Conform to the Evidence to add cause of action for Breach of Contract Accompanied by Fraudulent Act.
- April 5, 2023 – Respondents file Motion to Strike Non-Pleaded Claim.²
- May 4, 2023 – Arbitrator Cato issues Order (1) granting Respondents' Motion to Strike Non-Pleaded Claim and (2) denying Claimant's Motion to Amend to Conform to the Pleadings.
- May 26, 2023 – Arbitrator Cato issues Final Award finding Claimant failed to meet her burden of proof as to any claims and entered judgment in favor of Respondents.

BRIEF SUMMARY OF CLAIM

Claimant, Dr. Seixas-Mikelus is a licensed and trained urologist of exceptional qualification with a specialization in the evolving field of medical robotics. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 2. Respondents heavily recruited her, ultimately convincing her to work for them. After successfully doing so, the parties entered into a five-year contract for her services. She left her existing job and moved to Mount Pleasant. Respondents abruptly

² After the full and completed hearing on the merits, which included Claimant's presentation of 4 causes of action, including negligent misrepresentation, Respondent files a motion to strike Claimant's negligent misrepresentation claim as not plead. The Arbitration Demand filed by Claimant with AAA includes the negligent misrepresentation claim. The corresponding copy of the Arbitration Demand mailed to Respondents was an incomplete draft version of the pleading without the negligent misrepresentation cause of action. Arbitration does not have the same technical pleading requirements as South Carolina's state court system. Regardless, Arbitrator Cato found the negligent misrepresentation claim could not be part of the action because Respondent did not know of its existence.

terminated her without cause after only 18 months, leading to this arbitration proceeding. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 3.

Claimant holds a bachelor's degree from the University of Pennsylvania and completed her M.D. in 2003 at the prestigious Tufts University School of Medicine. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 2. Upon completion of medical school, Dr. Seixas-Mikelus was one of two women selected for a one-year General Surgery internship at Beth Israel Deaconess Medical Center in Boston and completed a Urology residency at the State University of New York at Buffalo in 2009. *Id.* She was one of two individuals selected for a two-year Urologic Oncology Fellowship with training in robotics at the Roswell Park Cancer Institute between 2009 and 2011. *Id.* She worked in private practice in Massachusetts and served as the Medical Director of Robotic Surgery at Hackensack Meridian Jersey Shore University Medical Center, a 700-bed, Level I trauma center in New Jersey, before being hired by Respondents to start East Cooper Urology in April 2019. *Id.*

Dr. Seixas-Mikelus opened her Urology practice with Respondents on June 1, 2019, and began seeing patients in July 2019. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 3. Within a few months of joining East Cooper Urology, Dr. Seixas-Mikelus was ranked in the top 1% of all Tenet physicians for patient satisfaction nationwide in all categories, and her practice received a quality score of 1, the highest quality score throughout Tenet. In addition, Dr. Seixas-Mikelus was voted by patients in the community and named by local magazine "Health Links" as the top urologist in the Charleston area shortly after she relocated and established her practice here.

According to the claims submitted by Dr. Seixas-Mikelus, the employment terms and conditions within her Physician Employment Agreement ("PEA") were not upheld by Respondents resulting in diminished productivity of the practice and Respondents' terminating

Dr. Seixas-Mikelus in December 2021. Dr. Seixas-Mikelus further alleged Respondents' authorized representatives negligently misrepresented key essential terms of her employment and unilaterally changed the terms of her employment after execution of the PEA and within forty-eighty (48) hours of her relocating to Charleston. Respondents denied Claimant's allegations and assert that Respondents complied with the terms of the PEA and had the right to terminate Dr. Seixas-Mikelus without cause, effectively reducing the guaranteed term of her contract.

STATEMENT OF ISSUE FOR COURT'S CONSIDERATION

Does the Arbitrator's misleading and incomplete disclosure of critical facts pertinent to her bias and evident partiality constitute a basis for vacating the award entered by her in favor of Respondents, when Respondents' counsel has employed the Arbitrator's husband for over a decade and the Arbitrator serves on the Board of Directors of a private healthcare facility similarly situated to Respondents, all of which the arbitrator failed to disclose to the Claimant?

ETHICAL STANDARDS TO SERVE AS ARBITRATOR

An Arbitrator is ethically required to disclose relevant information to the parties involved in the arbitration that could reasonably call the Arbitrator's impartiality into question. *See* Affidavit of Barbara M. Seymour ¶ 5. An Arbitrator's disclosure obligation requires truthful and accurate disclosure of any past or present relationships with the parties, their counsel, or potential witnesses, direct or indirect, whether financial, professional, social or any other kind, with any doubts being resolved in favor of disclosure. *See* Affidavit of Barbara M. Seymour ¶ 5 (d). The South Carolina Code of Ethics for Arbitrators and the AAA Code of Ethics mandate disclosure of "interest or relationships that are likely to affect [the arbitrator's] impartiality or suggest that they are biased against one party or favorable to another." *See* Affidavit of Barbara M. Seymour ¶ 5a (citing *Crouch Constr. Co. v. Causey*, 405 S.C. 155, 747 S.E.2d 482 (2013)).

“It is most important that the parties have complete confidence in the arbitrator’s impartiality.” See **Exhibit 2** - General Arbitrator Oath Form, American Arbitration Association. When it comes to arbitrator disclosures, arbitrators “should err on the side of disclosure” because “it is better that the relationship be disclosed at the outset when the parties are free to reject the arbitrator or accept him with knowledge of the relationship.” *Commonwealth Coatings Corp. v. Continental Casualty Co.*, 393 US. 145 (1968). Proper disclosures should not be made only in the beginning of an arbitration appointment because obligations of an Arbitrator are not set to a finite period of time. See **Exhibit 2** - General Arbitrator Oath Form, American Arbitration Association. The Arbitrator has a continuing obligation through the entire time of service on a case to supplement disclosures with any additional direct or indirect contacts that arise during the course of the arbitration and any change at any time in the biographical information previously provided. *Id.* The arbitrator’s obligation of full, truthful, and complete disclosure to the parties is not a “may” but a “must.” See Affidavit of Barbara M. Seymour ¶ 5 (d).

LEGAL STANDARD FOR VACATING AN ARBITRATION AWARD

S.C. Code Ann. § 15-48-130 Vacating an award.

(a) Upon application of a party, the court shall vacate an award where:

- (1) The award was procured by corruption, fraud or other undue means;
- (2) **There was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of any party;**
- (3) The arbitrators exceeded their powers;
- (4) The arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of Section 15-48-50, as to prejudice substantially the rights of a party; or
- (5) There was no arbitration agreement and the issue was not adversely determined in proceedings under Section 15-48-20 and

the party did not participate in the arbitration hearing without raising the objection;

...

(b) **An application under this section shall be made within ninety days after delivery of a copy of the award to the applicant**, except that, if predicated upon corruption, fraud or other undue means, it shall be made within ninety days after such grounds are known or should have been known, (c) in vacating the award on grounds other than stated in item (5) of subsection (a) **the court may order a rehearing before new arbitrators chosen as provided in the agreement**, or in the absence thereof, by the court in accordance with Section 15-48-30, . . .

(d) If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

S.C. Code Ann. § 15-48-130 (emphasis added).

BASIS FOR VACATING AWARD

The American Arbitration Association's ("AAA") Code of Ethics is clear that an arbitrator has a responsibility not only to the parties but also to the process of arbitration itself. *See* AAA Code of Ethics for Arbitrators (copy attached as **Exhibit 3**). Arbitrators must observe high standards of conduct so that the integrity and fairness of the process is preserved. *Id.* Impartiality is the most important single attribute of an Arbitrator, appointed to serve as a neutral to a dispute. Persons who act as arbitrators undertake serious responsibilities to the public, as well as to the parties, which include important ethical obligations. *Id.*

South Carolina's Code of Ethics mirrors the AAA Code as it relates to the obligations of an arbitrator. *See* Code of Ethics for Arbitrators, App. A, SCADR (copy attached as **Exhibit 4**). Both codes set forth prevailing ethical principles to which arbitrators must adhere when serving as a neutral to uphold the integrity and impartiality of the arbitration process. Specifically, the codes set forth the following fundamental principles of impartiality:

Canon 1. An Arbitrator should uphold the integrity and fairness of the arbitration process.

Canon II. An Arbitrator should disclose any interest or relationship likely to affect impartiality or which might create an appearance of impartiality or bias.

Code of Ethics for Arbitrators, App. A., SCADR; AAA Code of Ethics for Arbitrators.

Under Canon 1, an arbitrator, after accepting appointment and while serving as an arbitrator, should avoid entering into any business, professional, or personal relationship, or acquiring any financial or personal interest, which might reasonably create the appearance of partiality. *See* Code of Ethics for Arbitrators, App. A., Canon 1, SCADR. The ethical obligations of an arbitrator begin upon acceptance of the appointment and continue throughout all stages of the proceeding. *Id.* For a reasonable period of time after the decision of a case, persons who have served as arbitrators should avoid entering into any such relationship, or acquiring any such interest, in circumstances which might reasonably create the appearance that they have been influenced in the arbitration by the anticipation or expectation of the relationship or interest. *Id.*

Canon 2 establishes the ethical considerations for an appointed arbitrator in making disclosures to the parties. *See* Code of Ethics for Arbitrators, Canon II, App. A., SCADR. Before accepting an appointment, the arbitrator should disclose ... “(2) any existing or past financial, business, professional, family, or social relationships which are likely to affect impartiality, or which might reasonably create an appearance of partiality or bias.” *Id.* Persons requested to serve as arbitrators not only should disclose any relationships which they personally have with any party or its lawyer(s), or with individuals whom they have been told will be witnesses but also disclose any such relationships involving members of their families or their current employers, partners, or business associates. *Id.*

Substantial evidence of partiality, or at a minimum the reasonable appearance of partiality or bias, as supported by the Affidavit of Barbara Seymour, Esq. and the Affidavit of Dr. Stéfanie Seixas-Mikelus, filed contemporaneously herewith, thoroughly taints Arbitrator Cato's service as arbitrator in this matter. For all the reasons set forth herein, the Final Award rendered by Arbitrator Cato should be vacated and a new arbitration hearing set before an impartial neutral.

EVIDENCE OF IMPARTIALITY

a. Lack of Completeness and Truthfulness in Initial Disclosures

On August 20, 2021, Arbitrator Kristine Cato provided disclosures relied upon by Claimant in assessing Arbitrator Cato as a fair and impartial neutral to hear this dispute. Unbeknownst to Claimant, the disclosures made by Arbitrator Cato were untruthful, incomplete, and misleading. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 8. Had complete and truthful disclosures been made, Ms. Cato would not have been acceptable to Claimant as the arbitrator. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 12. Based upon the undisclosed professional, social, and business relationship with the law firm representing Respondents, Nelson Mullins, Arbitrator Cato's ethical obligations as an Arbitrator should have prevented her from accepting the appointment from AAA to serve in this matter.

Specifically, the following disclosures were untruthful, incomplete and/or misleading:

3. Have you had any professional or social relationship with counsel for any party in this proceeding or the firms for which they work?

Answer: **NO**

5. Have you had any professional or social relationship of which you are aware with any relative of any of the parties to this proceeding, or any relative of counsel to this proceeding, or any of the witnesses identified to date in the proceeding?

Answer: **NO**

14. Are there any connections, direct or indirect, with any of the case participants that have not been covered by the above questions?

Answer: **YES**

Comments: **Indirectly. My husband is a government relations consultant and contracts with Nelson Mullins to perform some governmental relations consulting for some of their clients, although NOT the defendant in this matter. He is not an attorney and provides consulting and lobbying work only. This will not affect my ability to act impartially in this matter.**

15. Are you aware of any other information that may lead to a justifiable doubt as to your impartiality or independence or create an appearance of partiality?

Answer: **NO**

Arbitrator Cato's disclosures are misleading and untruthful. "Although Ms. Cato disclosed her husband's relationship with the Respondents' law firm, she characterized it as "indirect" and downplayed the nature of the relationship." See Affidavit of Barbara M. Seymour ¶ 5. Arbitrator Cato's husband, Harry F. Cato, is in fact a long-term Government Relations Consultant directly employed by Nelson Mullins. See **Exhibit 5** – Harry F. Cato's Nelson Mullins Profile. Arbitrator Cato downplayed her husband's relationship with Nelson Mullins suggesting that he occasionally does contract work with Nelson Mullins to provide consulting and lobbying work for some of their clients. The disclosure, as stated, implies that Harry Cato is a Government Relations Consultant, not solely for Nelson Mullins but for other law firms and business entities. While Arbitrator Cato's description of the connection may be partially true, it does not suggest, much less disclose, a ten-and-a-half-year, exclusive employment relationship in which Mr. Cato advises Nelson Mullins' healthcare clients and works in the same office as the lawyers who represent the Respondents. See Affidavit of Barbara M. Seymour ¶ 5. Arbitrator Cato omitted material facts such as the length and extent of her husband's relationship with Nelson Mullins, the nature of the relationship (as exclusive employment rather than occasional

contract work), and the types of Nelson Mullins' clients with whom Harry Cato consulted . *See* Affidavit of Barbara M. Seymour ¶ 5.

Nelson Mullins website contains a listing of the professional services the firm provides in five (5) broad categories of Corporate, Litigation, Intellectual Property, Government Relations, and Industries.³ Under each professional service category, the Nelson Mullins professionals providing those services are listed with biographical profiles of each professional's education, experience, recognitions, leadership, articles, professional activities, and areas of focus.⁴ Within the Government Relations category, Nelson Mullins lists Harry F. Cato with his experience, recognitions, education, and areas of focus with a Nelson Mullins mailing address, phone number, and email.⁵

Harry F. Cato's contact information on the Nelson Mullins website is as follows:

Harry F. Cato
Government Relations Consultant
Meridian
1320 Main Street
17th Floor
Columbia, SC 29201
Harry.cato@nelsonmullins.com
T 803.255.5513

Similarly, counsel for Respondents in this matter, Sue Harper, Esq. and Carmen Thomas, Esq. are listed on the Nelson Mullins website under the Litigation category with the following contact information:

³ <https://www.nelsonmullins.com/services>

⁴ <https://www.nelsonmullins.com/professionals>

⁵ <https://www.nelsonmullins.com/professionals/harry-cato#main>

Sue Erwin Harper
 Of Counsel
 Meridian
 1320 Main Street
 17th Floor
 Columbia, SC 29201
Corky.harper@nelsonmullins.com
 T 803.255.5544

Carmen Harper Thomas
 Partner
 Meridian
 1320 Main Street
 17th Floor
 Columbia, SC 29201
Carmen.thomas@nelsonmullins.com
 T 803.255.9385

Harry Cato's profile demonstrates a much greater role and professional/business relationship with Nelson Mullins than what was disclosed by Arbitrator Cato. *See Exhibit 5* - Harry F. Cato's Nelson Mullins Profile. He works full time in the same office as Respondents' lead counsel, Carmen Thomas. *See Exhibit 6* - Carmen Harper Thomas Nelson Mullins Profile. A general search for Harry F. Cato does not associate him as a Government Relations Consultant for any firm other than Nelson Mullins. Harry F. Cato works out of the Columbia, South Carolina, office of Nelson Mullins, sends and receives emails from his Nelson Mullins email address, and receives financial compensation from Nelson Mullins for his Government Relations Consulting services. "Objectively, regular and long-term employment of the arbitrator's spouse by the law firm representing a party in the arbitration is a material conflict inconsistent with impartiality." *See* Affidavit of Barbara M. Seymour ¶ 5.

Arbitrator Cato led the Claimant to believe in her disclosures that there was only an "indirect" connection between her husband and the case participants that did not warrant disclosure in response to the questions on AAA's General Arbitrator Oath Form. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 8. Instead, as attested to by Attorney Seymour, "It is a direct, definite, and demonstrable potential bias requiring disclosure." *See* Affidavit of Barbara M. Seymour ¶ 5. Clearly, as husband and wife, the Catos have a professional relationship with Nelson Mullins and most likely a social relationship with its employees, at least within the Columbia office.

Arbitrator Cato's disclosure response to Question 3 on the AAA's General Arbitrator Oath Form should have been nothing less than an unequivocal YES with comments explaining the full professional and social relationship. "Further, Mrs. Cato's decision to characterize the relationship as insignificant and to not disclose material facts would cause a reasonable person to conclude that she was, in fact, partial to the [Respondents] to the arbitration." *See* Affidavit of Barbara M. Seymour ¶ 5.

Both the AAA Code of Ethics and the South Carolina Code of Ethics require the arbitrator to resolve any doubts in favor of disclosure. Instead of disclosing the full extent of her husband's relationship with Nelson Mullins, Arbitrator Cato downplayed the relationship as indirect, insignificant, and occasional. Arbitrator Cato's disclosure suggested that for the past thirteen (13) years, she and her husband have not attended any of Nelson Mullins firm functions, do not socialize with fellow Nelson Mullins attorneys, nor have any professional or business relationship with any of Nelson Mullins attorneys, despite Harry F. Cato's direct, significant, and everyday employment relationship with the law firm in the same office as defense counsel. Arbitrator Cato financially benefits from her husband's work with Nelson Mullins and did so during the entire course of this arbitration proceeding. Certainly, any time money changes hands between an arbitrator and a party, or in this case the party's law firm, involved in a pending arbitration before that arbitrator, disclosure must take place. *See Crow Construction v. Jeffrey M. Brown Assoc. Inc.*, 264 F. Supp.2d 217 (E.D. Pa. 2003). At a minimum, these facts and circumstances known to the Claimant would cause a reasonable person to question Mrs. Cato's partiality. *See* Affidavit of Barbara M. Seymour ¶ 5.

Furthermore, in his government relations role at Nelson Mullins, Mr. Cato has lobbied on behalf of several health care service providers, including lobbying efforts on behalf of AnMed

Health System, Blue Cross Blue Shield of South Carolina, and Metro Treatment of South Carolina. Mrs. Cato did not mention any of these facts. Each of these entities is affiliated with private health care organizations just like Tenet Healthcare and its affiliated entities represented in this matter by Nelson Mullins. Arbitrator Cato is not removed from her husband's affiliation with private health care providers, nor from his direct affiliation with Nelson Mullins. Arbitrator Cato should have made full and truthful disclosures but did not do so.

An arbitrator's repeated failed disclosures in an arbitration proceeding results in a selection process that deprives the parties of a fair opportunity to make informed choices in the selection of the arbitrators proposed by the American Arbitration Association. *See Crow Construction*, 264 F. Supp. 2d at 226. Here, Arbitrator Cato and the Nelson Mullins attorneys representing the Respondents chose to conceal the full extent of the relationship between Harry F. Cato and Nelson Mullins, creating an adversarial advantage for the Respondents. Given her own professional and social relationship with Nelson Mullins and its lawyers, through her husband, Arbitrator Cato's violation of her Code of Ethics created a substantial danger of an unjust result, which is in fact what happened. *See Merit Ins. Co. v. Leatherby Ins. Co.*, 714 F.2d 673 (7th Cir. 1983).

Harry F. Cato's LinkedIn profile discloses the depth of his involvement with Nelson Mullins. *See Exhibit 7 - Harry F. Cato LinkedIn Profile*. His profile lists Nelson Mullins under the "Experience" heading and shows a date range from December 2010 – Present. *Id.* Nelson Mullins is the only company, law firm, or business entity listed in Harry F. Cato's experience. *Id.*

Other sources further reveal the close relationship between Harry F. Cato and Nelson Mullins as well as Nelson Mullins' efforts to intensely market that association to its advantage.

On December 3, 2010, Nelson Mullins issued a press release stating “Former South Carolina House of Representatives Speaker Pro Tem Harry F. Cato has contracted with Nelson Mullins Riley & Scarborough to advise the firm’s government relations clients and expand its practice.” See **Exhibit 8** Midlandsbiz, WHOSE ON THE MOVE IN COLUMBIA, 12.3.2010. The press release quotes Nelson Mullins’ partner David H. Wilkins, stating, “Harry Cato’s extensive knowledge of and experience with state government is a major new resource *for our firm, and our clients* interested in state government will benefit from his wise counsel and strategic advice.” *Id.* (emphasis added).

Clearly, Nelson Mullins claims Harry F. Cato as one of their own. Nelson Mullins markets Mr. Cato’s services through the firm’s website, provides him with a Nelson Mullins email, and furnishes him office space within the capital city of South Carolina to perform his Government Relations work on behalf of Nelson Mullins’ client base. See **Exhibit 5** - Harry F. Cato’s Nelson Mullins Profile. According to Nelson Mullins, Mr. Cato was not only brought in to advise the firm’s government relations clients, but also to expand Nelson Mullins’ government practice. See **Exhibit 8** Midlandsbiz, WHOSE ON THE MOVE IN COLUMBIA, 12.3.2010. This tight bond between Nelson Mullins and Mr. Cato is more than a simple, periodic third-party consulting relationship for some of Nelson Mullins’ clients as described by Arbitrator Cato. See **Exhibit 2** - General Arbitrator Oath Form, American Arbitration Association. Instead, Harry Cato is the *lynchpin* of the firm’s government relations practice, financially benefiting Nelson Mullins and the Cato family.

Arbitrator Cato’s decision to withhold the full extent of her, and her husband’s, relationship with Nelson Mullins violates the ethical guidelines set forth in the South Carolina Code of Ethics for Arbitrators and the AAA Code of Ethics. See Affidavit of Barbara M.

Seymour ¶ 5. Failing to have information that could reasonably create the appearance of partiality by the arbitrator in favor of Respondents deprived Claimant of her right to a fair and impartial hearing. Allowing opposing counsel and/or the appointed arbitrator to withhold information critical to the integrity of the arbitration process defies the very premise for which the Code of Ethics for Arbitrators were established.

b. Failure to Supplement Arbitration Disclosure

In addition, Arbitrator Cato continued to disregard her ongoing duty to disclose potential conflicts and biases by failing to timely supplement her disclosures with significant material information related to her organizational involvement. *See* Affidavit of Barbara M. Seymour ¶ 5 (c) – (d). The undisclosed organization involvement can be reasonably viewed as material and relevant to this arbitration. *Id.* Specifically, Question 10 of the disclosure was not properly supplemented by Arbitrator Cato during the course of this matter:

10. Are you a member of any organization that is not listed on your panel biography that may be relevant to this arbitration?

Answer: **NO**

At the beginning of 2023, Arbitrator Cato was appointed to the Board of Directors of the Lexington Medical Center. *See Exhibit 9* – Lexington Medical Center Board of Directors. Her appointment occurred during the pendency of this case prior to the close of the arbitration hearing, which concluded with testimony on March 2, 2023, and the post-arbitration briefing which was filed on April 20, 2023.

Lexington Medical Center is a privately owned, independent hospital similar to Respondents. Although Lexington Medical Center is not a party to or otherwise involved in the dispute subject to this arbitration, Arbitrator Cato's service on its Board of Directors would be a

fact subject to disclosure under both the South Carolina and AAA ethics rules because a reasonable person would want to know that information before consenting to her service as arbitrator in this case. *See* Affidavit of Barbara M. Seymour ¶ 5. Having not known of this appointment, Claimant was deprived of an opportunity to voice an objection to Arbitrator Cato's continued service as Arbitrator.

While an appointment to serve on the board of an entity similarly situated to one of the parties involved in the arbitration might not, standing alone, warrant disqualification, this information, coupled with Harry F. Cato's continuous, exclusive work for Nelson Mullins' clients, including clients, is unquestionably relevant to the question of Arbitrator Cato's ability to impartially and fairly decide claims against another hospital. *Id.* Arbitrator Cato violated the instructions in the disclosure form, which state, "this is a continuing obligation throughout your service on the case and should any additional direct or indirect contact arise during the course of the arbitration or if there is any change at any time in the biographical information that you have provided, it must also be disclosed. Any doubts should be resolved in favor of disclosure." *See Exhibit 2* - General Arbitrator Oath Form, American Arbitration Association.

It must be kept in mind that her appointment to the board and her acceptance of that position was not an overnight occurrence. It is probable that Arbitrator Cato was aware of her upcoming appointment well before and certainly during the arbitration of this case. Arbitrator Cato's conscious decision not to supplement her disclosure with this new, material information breached her ethical obligations as the arbitrator in this case, creating the appearance of partiality and bringing into question the integrity of the arbitration process. *Id.* Her decision deprived Claimant of a fair opportunity to determine Arbitrator Cato's suitability to serve as an arbitrator in this matter.

c. Claimant was Misled by the Arbitrator's Disclosures

Based on the information Claimant has discovered since the issuance of the Arbitrator's Final Award, Claimant would have struck Arbitrator Cato from the list of arbitrators presented by the AAA. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 12. Claimant trusted and believed that arbitration of her claims, as required by her PEA, would be a fair process with an impartial neutral serving over her claims against Respondents. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 6. After Mrs. Cato was selected and agreed to by the parties to serve as the presiding arbitrator, nothing was disclosed that gave Claimant concern that Arbitrator Cato could not be fair and impartial. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 8. Claimant trusted the arbitration process and believed the information received in Arbitrator Cato's Oath was a complete and truthful disclosure. *Id.* The disclosure led Claimant to believe the relationship was trivial in nature. *Id.* Claimant only recently learned the disclosures made by Arbitrator Cato as part of her Arbitrator's Oath were inaccurate, incomplete, and misleading. *Id.*

Upon receipt of Arbitrator Cato's Final Award, Claimant raised a question as to Arbitrator Cato's lack of partiality based upon what Claimant perceives as an egregious error in the arbitrator's findings and application of the law. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 9. Subsequent to Arbitrator Cato's Final Award, Claimant, through her counsel, uncovered and became aware of a significant and compromising connection between Arbitrator Cato and Respondents' law firm. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 10. Claimant now knows that Arbitrator Cato's husband is much more than a consultant who "contracts with Nelson Mullins to perform some government relations consulting for some of their clients." *Id.* Instead, Arbitrator Cato's husband has been employed with Nelson Mullins for over a decade and works out of the same office as the counsel who represented the Respondents in this case.

Id. The further Claimant digs, the more evident Arbitrator Cato's lack of partiality becomes, including the fact that Arbitrator Cato's husband has lobbied on behalf of several health care service providers affiliated with private health care organizations, like Respondent Tenet Healthcare Corporation, and that Arbitrator Cato herself is intimately involved with Lexington Medical Center as a Board member. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 11 & 14.

The facts withheld from Claimant by Arbitrator Cato, both in response to her Arbitrator's Oath and her obligation to supplement her disclosures, are material to Claimant's assessment of Arbitrator Cato's ability to be fair and impartial and reasonably creates the appearance of impartiality. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶¶ 12, 15 & 16. Arbitrator Cato's withholding of pertinent information as to her ability to be impartial deprived Claimant of her rights to a fair and impartial decision maker to hear the merits of her claims. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 13. Material facts of Arbitrator Cato's partiality towards the Respondents in this matter are direct, definite, and capable of demonstration. *See* Affidavit of Dr. Stéfanie Seixas-Mikelus ¶ 17. As a party to this action, Claimant's right to a fair and impartial trial was prejudiced by Arbitrator Cato's evident partiality. *Id.*

LEGAL ARGUMENT

South Carolina has limited precedent in setting forth what is "evident partiality" by an appointed arbitrator to warrant vacating an arbitrator's award. While the precedent in South Carolina for vacating an arbitration award is limited, the statutory standard is clear and entirely in line with neighboring jurisdictions. In South Carolina, the court shall vacate an award where **there was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of any party.** *See S.C. Code Ann. § 15-48-130 Vacating an award* (emphasis added). This is an objective standard, characterized by the

Supreme Court of Alabama as a “reasonable impression of partiality.” *See Waverlee Homes v. McMichael*, 855 So.2d 493 (Ala. 2003). In *Waverlee* a mobile home vendor and manufacturer moved to vacate an arbitration award on the basis of arbitrator bias. Waverlee Homes argued that the arbitrator had failed to fully and truthfully disclose prior involvement with cases serving as arbitrator in mobile home cases. *Id.* In analyzing the movant’s position, the Supreme Court of Alabama recognized the standard of review for such motion to be a “reasonable impression of partiality.” *Id.*

To establish “evident partiality,” the facts supporting partiality must be direct, definite, and capable of demonstration. *Andersons, Inc. v. Horton Farms, Inc.*, 166 F.3d 308 (6th Cir. 1998). The specific facts and circumstances of each situation must be analyzed in determining “evident partiality”. Because the South Carolina Courts have little precedent on this topic, they look to federal interpretations to determine the “evident partiality” standard. Evident partiality within the meaning of subsection (a) of the Federal Arbitration statute means more than the mere appearance of bias. *See Waverlee Homes, Inc. v. McMichael*, 855 So.2d 493 (2003) (citing *Health Services Management Corp. v. Hughes*, 975 F.2d 1253 (7th Cir. 1992)). To set aside an award for arbitration partiality, the interest or bias must be direct, definite, and capable of demonstration rather than remote, uncertain, or speculative. *Id.* The Fourth Circuit Court of Appeals has laid out four factors that must be demonstrated to support a finding of evident partiality. *See ANR Coal Co. v. Cogentrix of North Carolina*, 173 F.3d 493 (4th Cir. 1999). Specifically, the court requires the party moving to vacate an award to demonstrate: (1) the extent and character of the personal interest; (2) the directness of the relationship between the arbitrator and the party he or she is alleged to favor; (3) the connection of that relationship to the

arbitrator; and (4) the proximity in time between the relationship and the arbitration proceeding. *Id.*

The facts in favor of vacating the award in this matter are supported by direct and definitive evidence of Arbitrator Cato's close relationship with the firm representing Respondents which were not truthfully and fully disclosed in accordance with the arbitrator's ethical obligations for disclosure. In the opinion of Attorney Seymour, to a reasonable degree of professional certainty, Arbitrator Cato was ethically required to disclose to Claimant any relevant information that could reasonably call her impartiality into question. *See* Affidavit of Barbara M. Seymour ¶ 5. Attorney Seymour concludes that Arbitrator Cato's disclosures did not meet her ethical obligations for service as the appointed arbitrator in this case. *Id.* Attorney Seymour's experience and qualifications to render such an opinion are unimpeachable.

When a petition to vacate an arbitration award alleges facially sufficient grounds for relief, the trial court must, at a minimum, hold a limited evidentiary hearing to allow the movant to submit evidence to establish its claim. *See World Invest Corp. v. Breen*, 684 So.2d 221 (Fla. Dist. Ct. App. 1996). To further substantiate her claim of bias and impartiality on the part of Arbitrator Cato, Claimant is entitled to conduct discovery to further investigate the relationship Arbitrator Cato and her husband have with Nelson Mullins. Where an arbitrator fails to disclose significant relationships which give an appearance of impartiality, the petitioning party has the right to take the deposition of the arbitrator to further investigate those relationships. *See William C. Vick Const. Co. v. North Carolina Farm Bureau*, 123 N.C. App. 97 (Ct. App. 1996). The North Carolina Court of Appeals in *William C. Vick Const. Co.* held that the arbitrator's failure to disclose significant relationships with partners in the law firm representing the adverse party warranted relief from judgment, and the deposition of the arbitrator to investigate those

relationships was proper. *Id.* In furtherance of this limited right to discovery, Claimant should also be allowed to subpoena select records of Nelson Mullins bearing on the relationship between the firm and the Catos.

As Arbitrator, Ms. Cato had an affirmative duty to disclose her husband's direct employment and relationship with Nelson Mullins from which she benefits. She further had an affirmative duty to supplement her disclosures with her involvement on the Board of Directors for Lexington Medical Center. These disclosures are not optional, but mandatory, and any doubt is to be resolved in favor of disclosure. *See* Affidavit of Barbara M. Seymour ¶ 5. Both the South Carolina Code of Ethics for Arbitrators and the AAA Code of Ethics mandate disclosure of "interests or relationships that are likely to affect [the arbitrator's] impartiality or suggest that they are biased against one party or favorable to another." *See* Affidavit of Barbara M. Seymour ¶ 5 (citing *Crouch Constr. Co. v. Causey*, 405 S.C. 155, 747 S.E.2d 482 (2013)). The facts now known to the Claimant would cause a reasonable person to question Arbitrator Cato's partiality. *Id.*; *see also* Affidavit of Dr. Seixas-Mikelus ¶¶ 12-13. Without being able to question Arbitrator Cato about these relationships and to access select records pertinent to these relationships, Claimant will be deprived of her right to present to the Court the true depth of Arbitrator Cato's relationship with Nelson Mullins either directly or through her husband.

In *William C. Vick Const. Co.*, the Court found that the sole appointed arbitrator (as Arbitrator Cato is in this instance) did not disclose numerous social, business, and professional relationships with partners in the law firm representing the Defendant Farm Bureau. The Court further noted that the relationships that the Arbitrator failed to disclose were not merely trivial in nature. 123 N.C. App. 97 (Ct. App. 1996). Here, Attorney Seymour considers Harry F. Cato's regular and long-term employment with the law firm representing the Respondents is a material

conflict inconsistent with impartiality. *See* Affidavit of Barbara M. Seymour ¶ 5 (b). Further, Arbitrator Cato's service on the Lexington Medical Center Board would be a material fact that must be disclosed under both the South Carolina and AAA ethics rules because a reasonable person would want to know that information before consenting to her service as arbitrator in this case. *See* Affidavit of Barbara M. Seymour ¶ 5(c). Like in *William C. Vick Const.*, the facts in this case establish an objective basis for a reasonable belief that misconduct has occurred which should allow the parties to the arbitration to depose the arbitrator relative to that misconduct with such deposition proceedings being admissible as further evidence to vacate an award. 123 N.C. App. at 102.

The North Carolina Court of Appeals in an opinion prior to *William C. Vick Const. Co.*, held that an arbitration award **must** be vacated if an arbitrator fails to disclose any relationship which is not merely trivial in nature. *See Creative Homes and Millwork v. Hinkle*, 109 N.C. App. 259, 426 S.E.2d 480 (1993) (emphasis added). Arbitrator Cato's disclosure is extremely limited, stating only an indirect connection with counsel for Respondents and omitting pertinent facts like the length and extent of the relationship, his continuous direct employment by the law firm, and the hospital clients of the law firm with whom he consulted. *See* Affidavit of Barbara M. Seymour ¶ 5(b). Arbitrator Cato's insufficient disclosure gives an appearance that Harry F. Cato's relationship with Nelson Mullins is merely indirect and incidental when in fact it is the opposite. *See* Affidavit of Dr. Seixus-Mikelus ¶¶ 8 & 10. The relationship is direct, definite, and substantial which clearly demonstrates potential bias in favor of Respondents. *See* Affidavit of Barbara M. Seymour ¶ 5. This is more than a vague appearance of bias; it is sufficiently obvious that a reasonable person could easily recognize it. *See Freeman v. Pittsburgh Glass Works, LLC*, 709 F.3d 240, 253 (3d Cir. 2013).

While the *Waverlee* decision does not set forth the Court's ultimate finding of whether to vacate the award, it relies on the Florida District Court's decision in *Breen* and other Court rulings in finding that whenever material facts are in dispute as to whether an arbitration award should be vacated, the Court should conduct an evidentiary hearing and render findings of fact and conclusions of law in support of granting or denying the motion to vacate the arbitration award." See *Medina v. Foundation Reserve Ins. Co.*, 123 N.M. 280, 940 P.2d 1175 (1997). Accordingly, the Supreme Court of Alabama concluded that Waverlee's support of its post-judgment motion was sufficient to warrant a hearing for the purpose of determining whether adequate evidence existed to grant its motion to vacate.

If nothing more, Claimant has submitted material facts, evidentiary support, and credible expert opinion to support limited discovery and ultimately a finding that the arbitration award rendered by Arbitrator Cato should be vacated. Based on the record presented, the Court, at a minimum should conduct an evidentiary hearing on Claimant's motion.

Finally, the silence by Respondents' counsel about these matters is hard to overlook. After all, counsel failed to notify Claimant's counsel of the extent and nature of Harry F. Cato's relationship to Nelson Mullins during discussions surrounding the potential selection of Arbitrator Cato as an agreed upon arbitrator. Such failure on the part of Respondents' counsel is hard to reconcile with the South Carolina Lawyer's Oath of Office, which states that a lawyer solemnly swears "to opposing parties and their counsel, [to] pledge fairness, integrity and civility, not only in court, but in all written and oral communications." See S.C. Appellate Rule 401(h)(3). Concealing the relationship between the arbitrator's spouse and Respondents' counsel undermine fairness, integrity, and civility in the legal practice.

Prior to the required evidentiary hearing, Claimant should be given the opportunity to conduct limited discovery to put forward *all* the pertinent facts bearing on the relationship between Arbitrator Cato, Harry F. Cato, and Nelson Mullins, as well as Arbitrator Cato's relationship with Lexington Medical Center. Only with such limited discovery will Claimant have a full and fair opportunity to demonstrate the extent of the information that was withheld and should have been disclosed, showing the evident partiality of Arbitrator Cato.

CONCLUSION

For all the reasons set forth herein, coupled with the exhibits attached hereto, and the affidavits of Dr. Stéfanie Seixas-Mikelus and Barbara Seymour, Esq. both filed contemporaneously herewith, the Court should grant the request for limited discovery, conduct an evidentiary hearing, and ultimately vacate the Final Award issued by Arbitrator Cato.

Respectfully submitted,

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ATTORNEYS FOR PETITIONER

Charleston, South Carolina
July 13, 2023

Exhibit 1

**AMERICAN ARBITRATION ASSOCIATION
Employment Arbitration Tribunal**

AAA Case No. 01-21-0004-6490

Stefanie Seixas-Mikelus, M.D.,	)	
	)	
Claimant,	)	
	)	FINAL AWARD
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC,	)	
	)	
Respondents.	)	
_____	)	

INTRODUCTION

I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the personnel manual or employment agreement entered into by the above-named parties and dated March 30, 2019, and having been duly sworn and having duly heard the proofs and allegations of the parties, and Claimant being represented by James Bruorton and Elizabeth Nicholson of Rosen & Hagood, and Respondents being represented by Sue Erwin Harper and Carmen Harper Thomas of Nelson Mullins Riley & Scarborough, hereby AWARD, as follows:

A hearing in this matter took place on February 1 and 2, 2023. The parties reconvened virtually on March 2, 2023 to complete witness testimony. At the conclusion of the hearing, Claimant moved to amend the pleadings to conform to the evidence and assert a cause of action for breach of contract accompanied by a fraudulent act, and Respondent moved to strike Claimant's claim for negligent misrepresentation. After denying the motion to amend and granting the motion to strike, the causes of action left to be ruled upon are 1) breach of contract, 2) breach of covenant of good faith and fair dealing, and 3) wrongful termination in violation of public policy. For the reasons set forth below, Claimant has not sustained her burden on any of the three claims and as such, they are dismissed, with judgment entered in favor of Respondent.

FACTS

Claimant presents as a competent, intelligent and professional physician who entered into negotiations with Respondent and moved her family from the Northeast to create a start-up urology practice (the “Practice”) under Tenet Healthcare in Charleston, South Carolina. Prior to entering into the Physician Employment Agreement (“PEA” or the “Agreement”) she ultimately signed on March 30, 2019, she met with and had multiple conversations with numerous officials of Respondents, including Wayne Winney, CEO of Physician Operations (“Winney”) and Patrick Downes, East Cooper Medical Center’s CEO (“Downes”). It is undisputed that of importance to Claimant was that another physician be hired into the office so that the office would not be a “single-physician” office, leaving her with an inability to take time off and, instead, be wholly and solely responsible for call coverage. Testimony from all witnesses substantiated that this was a topic of conversation before and after she was hired.

The PEA the parties entered into was for a term of five years, with various provisions for termination of the Agreement, including termination by Respondent without cause under Section 8c. with a 90-day notice period.

The relevant language in the PEA related to Claimant’s and Respondents’ obligations is the following.

- 1) Under **3. Physician’s Obligations, section i.**, the following is stated:

Additional Physicians. Employer and Physician agree as an essential term of this Agreement that it is the intent of the parties to develop a comprehensive medical practice. It is further understood Employer intends to negotiate and enter into employment relationships with additional qualified physicians. Physician agrees to use reasonable best efforts to forge and establish an ongoing relationship and team approach with such additional physicians for the furnishing or professional medical and related services to patients.

- 2) Under **4. Space and Support**, the Agreement provides the following:

Employer shall provide Physician with office and clinic space, equipment, supplies, and personnel at the Practice Sites (or, in the case of certain support services, at other locations) as Employer determines to be necessary, after consultation with Physician, to enable Physician to provide medical services to patients consistent with recognized medical standards. Physician will utilize only equipment and supplies provided by Employer in the Practice Site and will not order additional equipment and supplies without Employer's prior consent.

- 3) Under **12. Miscellaneous, section c**, the following is stated:

Marketing and Advertising. Employer may engage in marketing or advertising activities respecting the Practice and the Practice Sites and Physician shall participate as reasonably requested.

Throughout her employment, Claimant complained on numerous occasions to Winney and others regarding Respondents' failure to hire another physician in accordance with the pre- and post-hire discussions, primarily because of the excessive call she felt it required of her, and time off she felt she could not take. Respondent attempted to hire additional support, but at least one of the candidates it proffered to Claimant for hire was unacceptable to her. Respondents took steps to assist her with getting her call covered by exploring call coverage with Dr. Gwen Choi, and by contacting a competitor to assist with call. A second physician was ultimately not hired during Claimant's tenure.

During her tenure, Claimant also requested additional equipment, some, but not all, of which she was provided. She asserts that the office space she was provided was insufficient and that she was not provided with a credentialed robotics assistant. She further asserts that she was not provided with the robotics referrals and other referral volume of patients she believes were promised to her.

Claimant testified that she did not file any complaints or concerns regarding safety issues with OSHA, although she did complain to Respondents that her call requirements, as well as the

insufficient office space, support and equipment jeopardized, or at least were not in the best interest of, patient safety.

During the course of her employment, several primary care physicians that were part of the Tenet referral network from which Claimant's practice received referral patients left the Tenet network, which resulted in fewer referrals to Claimant.

Prior to her termination, Claimant wrote to Respondents' CEO, outlining her concerns in detail that she had raised throughout her employment.

Throughout her employment, and at the end of it, Claimant's productivity, for whatever reason, was never the volume expected. Respondents made the decision to close the Practice and terminated Claimant on December 12, 2021 pursuant to Section 8.c., Termination Without Cause. In lieu of the 90 days' notice the provision included, Respondent paid her 90 days of pay.

Claimant's specific claims regarding Respondents' various breaches center primarily around representations she asserts that Winney, Downes and others made before and after entering into the PEA regarding the hiring of another physician into the Practice, but also include other claims regarding Respondents' failure meet their obligations to her.

LEGAL ANALYSIS

A. Claimant's Breach of Contract Claim

In order to determine whether a breach of contract exists, it is necessary to look only at the promises contained within the four corners of the Agreement – not representations made outside of the Agreement. Such representations, to the extent they contradict what is in the Agreement, would be considered parole evidence, and cannot be considered in determining a breach of contract claim.

In support of her claim for breach of contract, Claimant asserts that Respondents failed in the following areas:

- 1) to hire additional physicians;
- 2) to provide a safe and healthy call schedule;
- 3) to provide adequate support for Claimant's PTO;
- 4) to provide a credentialed independent robotics assistant;
- 5) to provide adequate clinical space;
- 6) to provide resources for equipment to perform necessary practice-related procedure and performance of necessary surgical procedures;
- 7) to provide sufficient robotic volume and referral volume to develop a program; and
- 8) to effectively market Claimant's robotics practice.

Claimant's primary argument is that the Agreement specifically required Respondents to hire another physician for the Practice. Her arguments revolve in large part around the fact that there had been numerous pre-contract discussions regarding her concerns and desires regarding hiring another physician. When presented with the Agreement, Claimant had it reviewed by her counsel, who suggested revisions to the contract, but which were rejected by Respondents.

Ultimately, Claimant signed the Agreement provided by Respondents. With regard to the breach that Claimant asserts regarding additional physicians, the provision at issue is located in the Agreement under the section entitled **3. Physician's Obligations**. Section 3.i provides specifically, as identified above, **"Employer and Physician agree as an essential term of this Agreement that it is the intent of the parties to develop a comprehensive medical practice. It is further understood Employer intends to negotiate and enter into employment relationships with additional qualified physicians."**

The provision is unambiguous. First, it is contained within the Section identifying the **physician's** obligations, not the employer's obligations. Second, the essential term that Claimant continually has asserted was a promise to hire additional physicians is not what is identified as an "essential term." The "essential term" of the provision is clear – that "it is the intent of the parties to develop a comprehensive medical practice." Nowhere in that provision, or anywhere in the Agreement for that matter, do Respondents contractually agree to hire additional physicians. The plain language of the provision includes no promises on the part of Respondents to hire additional physicians. The following sentence states only that the employer "intends" to negotiate and enter into employment relationships with qualified physicians. An "intent" to take an action is entirely distinct from a "promise" or "covenant" to take an action.

While Claimant asserts that she believed that the provision meant that Respondent was promising to hire multiple physicians, and that's what she believed the essential term of that provision to be, that is not what the language says. In fact, the following provision very clearly states that hiring multiple physicians was the "intent," not the promise.

Therefore, Respondents' failure to hire additional physicians does not constitute a breach of contract.

With regard to the remaining allegations of breach, but without belaboring the specifics, nowhere within the four corners of the Agreement do Respondents make the promises identified above that Claimant asserts they breached.

Since Claimant has not sustained her burden of proof to establish a breach of contract, her claim for breach of covenant of good faith and fair dealing likewise fails.

B. Claimant's Wrongful Termination in Violation of Public Policy Claim

In order for Claimant to prevail on a claim for wrongful termination in violation of public policy, Claimant must first show that she was an “at-will” employee. Based upon the claims asserted, it was unclear whether Claimant believed she was an “at-will” employee or one with a contract of a definite duration. She has asserted various contractual claims coupled with the present one asserting that she should prevail on a tort claim as an at-will employee.

While Claimant asserts that Respondents “can’t have it both ways,” Respondents have never asserted that Claimant was an at-will employee. Claimant relies on her Agreement to support her breach of contract claim, her breach of covenant of good faith and fair dealing claim, and her breach of contract accompanied by a fraudulent act claim.

To then assert a tort claim as an at-will employee is difficult to reconcile. The argument Claimant makes that the “termination with a notice provision” provision in the Agreement converts the contractual relationship to an at-will relationship is interesting and creative, and one definitely worth considering. However, Claimant cites no authority supporting the theory. Indeed, South Carolina courts have determined that an employment contract with a definite duration and a notice provision for termination remains a contract with a definite duration. Therefore, Claimant was not an at-will employee.

Since Claimant was not an at-will employee, further analysis regarding any retaliatory action based upon Claimant engaging in protected activity or Respondent acting in violation of public policy is unnecessary since her claim must fail since she cannot establish the primary element of the analysis. Nevertheless, based upon the testimony and other evidence presented at the hearing, Respondents’ actions in terminating Claimant were not demonstrated to be retaliatory or in violation of public policy. Therefore, Claimant has not sustained her burden of proof in this matter.

CONCLUSION

For the reasons set forth above, Claimant has not sustained her burden of proof in this matter and her remaining claims are dismissed, with judgment to be entered in favor of Respondent.

The administrative fees and expenses of the American Arbitration Association totaling \$2,950.00 shall be borne as incurred, and the compensation and expenses of the arbitrator totaling \$41,154.47 shall be borne as incurred.

This Award is in full settlement of all claims submitted to this Arbitration. All claims not expressly granted herein are hereby, denied.

May 26, 2023

/s/ Kristine L. Cato, Arbitrator

Exhibit 2

General Arbitrator Oath Form

American Arbitration Association

Stephanie Seixas-Mikelus
Vs.
Tenet Healthcare Corporation

Case# 01-21-0004-6490

Notice of Appointment for Kristine Cato

Disclosure Obligations

It is most important that the parties have complete confidence in the arbitrator's impartiality. Therefore, please disclose any past or present relationship with the parties, their counsel, or potential witnesses, direct or indirect, whether financial, professional, social or of any other kind. This is a continuing obligation throughout your service on the case and should any additional direct or indirect contact arise during the course of the arbitration or if there is any change at any time in the biographical information that you have provided, it must also be disclosed. Any doubts should be resolved in favor of disclosure. If you are aware of direct or indirect contact with such individuals, please describe it below. Failure to make timely disclosures may forfeit your ability to collect compensation. All disclosures will be brought to the attention of the parties.

Instructions

You will not be able to serve until this duly executed Notice of Appointment has been completed and submitted. Please review the *Disclosure Guidelines* found by navigating to the *My Tasks* screen from the menu on the left, and after conducting a conflicts check, answer the following questions and complete the remainder of this Notice of Appointment.

Should the answer to any of the following questions be "Yes", or if you are aware of any other information that may lead to a justifiable doubt as to your impartiality or independence or create an appearance of partiality, then describe the nature of the potential conflict(s) in the space provided.

1. Do you or your law firm presently represent any person in a proceeding involving any party to the arbitration?

Answer : NO

2. Have you represented any person against any party to the arbitration?

Answer : NO

3. Have you had any professional or social relationship with counsel for any party in this proceeding or the firms for which they work?

Answer : NO

4. Have you had any professional or social relationship with any parties or witnesses identified to date in this proceeding or the entities for which they work?

Answer : NO

5. Have you had any professional or social relationship of which you are aware with any relative of any of the

General Arbitrator Oath Form

parties to this proceeding, or any relative of counsel to this proceeding, or any of the witnesses identified to date in the proceeding?

Answer : NO

6. Have you, any member of your family, or any close social or business associate ever served as a neutral in a proceeding in which any of the identified witnesses or named individual parties gave testimony?

Answer : YES

Comments : In 2014, I served as a neutral in which one or more witnesses from Respondent gave testimony.

7. Have you, any member of your family, or any close social or business associate been involved in the last five years in a dispute involving the subject matter contained in the case which you are assigned?

Answer : NO

8. Have you ever served as an expert witness or consultant to any party, attorney, witness or other arbitrator identified in this case?

Answer : NO

9. Have any of the party representatives, law firms or parties appeared before you in past arbitration cases?

Answer : YES

Comments : I have served as a neutral in several arbitrations in which Ms. Harper represented one of the parties.

10. Are you a member of any organization that is not listed on your panel biography that may be relevant to this arbitration?

Answer : NO

11. Have you ever sued or been sued by either party or its representative?

Answer : NO

12. Do you or your spouse own stock in any of the companies involved in this arbitration?

Answer : NO

13. If there is more than one arbitrator appointed to this case, have you had any professional or social relationships with any of the other arbitrators?

Answer : NO

14. Are there any connections, direct or indirect, with any of the case participants that have not been covered by the above questions?

Answer : YES

Comments : Indirectly. My husband is a governmental relations consultant and contracts with Nelson Mullins to perform some governmental relations consulting for some of their clients, although NOT the defendant in this matter. He is not an attorney and provides consulting and lobbying work only. This will not affect my ability to act

General Arbitrator Oath Form

impartially in this matter.

15. Are you aware of any other information that may lead to a justifiable doubt as to your impartiality or independence or create an appearance of partiality?

Answer : NO

Arbitrator's Oath

I attest that I have reviewed my biographical information provided to the parties on this case and confirm it is current, accurate and complete.

I attest that I have diligently conducted a conflicts check, including a thorough review of the information provided to me about this case to date, and that I have performed my obligations and duties to disclose in accordance with the Rules of the American Arbitration Association, Code of Ethics for Arbitrators in Commercial Disputes, the parties' agreement, and applicable law pertaining to arbitrator disclosures.

I further affirm that consistent with the applicable Rules of the American Arbitration Association, the Code of Ethics for Arbitrators in Commercial Disputes, the parties' agreement, and applicable law:

- That I am fit to serve on the above-referenced arbitration and able to fully execute my responsibilities during all phases of the case;
- That I will keep confidential all matters relating to the above-referenced arbitration;
- That I will maintain a professional demeanor and appearance of impartiality during all phases of this case;
- That I will endeavor to effectively manage all phases of this case with a commitment to speed, economy and just resolution in a manner consistent with the parties' expectations;
- That I will bill parties responsibly and ethically and will review my bills for reasonableness relative to the nature and scope of the activity performed prior to submitting them to the AAA.

The arbitrator being duly sworn, hereby accepts this appointment.

Terms of Compensation

Before proceeding, please indicate that you have reviewed the Notice of Compensation Arrangements for this case.



Once completed, please indicate your acceptance of this appointment as arbitrator by entering your initials in the space provided.

(klc)

Kristine Cato
20-Aug-21

Exhibit 3



The Code of Ethics for Arbitrators in Commercial Disputes

Effective March 1, 2004

The **Code of Ethics for Arbitrators in Commercial Disputes** was originally prepared in 1977 by a joint committee consisting of a special committee of the American Arbitration Association® and a special committee of the American Bar Association. The Code was revised in 2003 by an ABA Task Force and special committee of the AAA®.

Preamble

The use of arbitration to resolve a wide variety of disputes has grown extensively and forms a significant part of the system of justice on which our society relies for a fair determination of legal rights. Persons who act as arbitrators therefore undertake serious responsibilities to the public, as well as to the parties. Those responsibilities include important ethical obligations.

Few cases of unethical behavior by commercial arbitrators have arisen. Nevertheless, this Code sets forth generally accepted standards of ethical conduct for the guidance of arbitrators and parties in commercial disputes, in the hope of contributing to the maintenance of high standards and continued confidence in the process of arbitration.

This Code provides ethical guidelines for many types of arbitration but does not apply to labor arbitration, which is generally conducted under the **Code of Professional Responsibility for Arbitrators of Labor-Management Disputes**.

There are many different types of commercial arbitration. Some proceedings are conducted under arbitration rules established by various organizations and trade associations, while others are conducted without such rules. Although most proceedings are arbitrated pursuant to voluntary agreement of the parties, certain types of disputes are submitted to arbitration by reason of particular laws. This Code is intended to apply to all such proceedings in which disputes or claims are submitted for decision to one or more arbitrators appointed in a manner provided by an agreement of the parties, by applicable arbitration rules, or by law. In all such cases, the persons who have the power to decide should observe fundamental standards of ethical conduct. In this Code, all such persons are called "arbitrators," although in some types of proceeding they might be called "umpires," "referees," "neutrals," or have some other title.

Arbitrators, like judges, have the power to decide cases. However, unlike full-time judges, arbitrators are usually engaged in other occupations before, during, and after the time that they serve as arbitrators. Often, arbitrators are purposely chosen from the same trade or industry as the parties in order to bring special knowledge to the task of deciding. This Code recognizes these fundamental differences between arbitrators and judges.

In those instances where this Code has been approved and recommended by organizations that provide, coordinate, or administer services of arbitrators, it provides ethical standards for the members of their respective panels of arbitrators. However, this Code does not form a part of the arbitration rules of any such organization unless its rules so provide.



Note on Neutrality

In some types of commercial arbitration, the parties or the administering institution provide for three or more arbitrators. In some such proceedings, it is the practice for each party, acting alone, to appoint one arbitrator (a "party-appointed arbitrator") and for one additional arbitrator to be designated by the party-appointed arbitrators, or by the parties, or by an independent institution or individual. The sponsors of this Code believe that it is preferable for all arbitrators including any party-appointed arbitrators to be neutral, that is, independent and impartial, and to comply with the same ethical standards. This expectation generally is essential in arbitrations where the parties, the nature of the dispute, or the enforcement of any resulting award may have international aspects. However, parties in certain domestic arbitrations in the United States may prefer that party-appointed arbitrators be non-neutral and governed by special ethical considerations. These special ethical considerations appear in Canon X of this Code.

This Code establishes a presumption of neutrality for all arbitrators, including party-appointed arbitrators, which applies unless the parties' agreement, the arbitration rules agreed to by the parties or applicable laws provide otherwise. This Code requires all party-appointed arbitrators, whether neutral or not, to make pre-appointment disclosures of any facts which might affect their neutrality, independence, or impartiality. This Code also requires all party-appointed arbitrators to ascertain and disclose as soon as practicable whether the parties intended for them to serve as neutral or not. If any doubt or uncertainty exists, the party-appointed arbitrators should serve as neutrals unless and until such doubt or uncertainty is resolved in accordance with Canon IX. This Code expects all arbitrators, including those serving under Canon X, to preserve the integrity and fairness of the process.

Note on Construction

Various aspects of the conduct of arbitrators, including some matters covered by this Code, may also be governed by agreements of the parties, arbitration rules to which the parties have agreed, applicable law, or other applicable ethics rules, all of which should be consulted by the arbitrators. This Code does not take the place of or supersede such laws, agreements, or arbitration rules to which the parties have agreed and should be read in conjunction with other rules of ethics. It does not establish new or additional grounds for judicial review of arbitration awards.

All provisions of this Code should therefore be read as subject to contrary provisions of applicable law and arbitration rules. They should also be read as subject to contrary agreements of the parties. Nevertheless, this Code imposes no obligation on any arbitrator to act in a manner inconsistent with the arbitrator's fundamental duty to preserve the integrity and fairness of the arbitral process.

Canons I through VIII of this Code apply to all arbitrators. Canon IX applies to all party-appointed arbitrators, except that certain party-appointed arbitrators are exempted by Canon X from compliance with certain provisions of Canons I-IX related to impartiality and independence, as specified in Canon X.



CANON I: An arbitrator should uphold the integrity and fairness of the arbitration process.

- A.** An arbitrator has a responsibility not only to the parties but also to the process of arbitration itself, and must observe high standards of conduct so that the integrity and fairness of the process will be preserved. Accordingly, an arbitrator should recognize a responsibility to the public, to the parties whose rights will be decided, and to all other participants in the proceeding. This responsibility may include pro bono service as an arbitrator where appropriate.
- B.** One should accept appointment as an arbitrator only if fully satisfied:
 - (1) that he or she can serve impartially;
 - (2) that he or she can serve independently from the parties, potential witnesses, and the other arbitrators;
 - (3) that he or she is competent to serve; and
 - (4) that he or she can be available to commence the arbitration in accordance with the requirements of the proceeding and thereafter to devote the time and attention to its completion that the parties are reasonably entitled to expect.
- C.** After accepting appointment and while serving as an arbitrator, a person should avoid entering into any business, professional, or personal relationship, or acquiring any financial or personal interest, which is likely to affect impartiality or which might reasonably create the appearance of partiality. For a reasonable period of time after the decision of a case, persons who have served as arbitrators should avoid entering into any such relationship, or acquiring any such interest, in circumstances which might reasonably create the appearance that they had been influenced in the arbitration by the anticipation or expectation of the relationship or interest. Existence of any of the matters or circumstances described in this paragraph C does not render it unethical for one to serve as an arbitrator where the parties have consented to the arbitrator's appointment or continued services following full disclosure of the relevant facts in accordance with Canon II.
- D.** Arbitrators should conduct themselves in a way that is fair to all parties and should not be swayed by outside pressure, public clamor, and fear of criticism or self-interest. They should avoid conduct and statements that give the appearance of partiality toward or against any party.
- E.** When an arbitrator's authority is derived from the agreement of the parties, an arbitrator should neither exceed that authority nor do less than is required to exercise that authority completely. Where the agreement of the parties sets forth procedures to be followed in conducting the arbitration or refers to rules to be followed, it is the obligation of the arbitrator to comply with such procedures or rules. An arbitrator has no ethical obligation to comply with any agreement, procedures or rules that are unlawful or that, in the arbitrator's judgment, would be inconsistent with this Code.
- F.** An arbitrator should conduct the arbitration process so as to advance the fair and efficient resolution of the matters submitted for decision. An arbitrator should make all reasonable efforts to prevent delaying tactics, harassment of parties or other participants, or other abuse or disruption of the arbitration process.
- G.** The ethical obligations of an arbitrator begin upon acceptance of the appointment and continue throughout all stages of the proceeding. In addition, as set forth in this Code, certain ethical obligations begin as soon as a person is requested to serve as an arbitrator and certain ethical obligations continue after the decision in the proceeding has been given to the parties.
- H.** Once an arbitrator has accepted an appointment, the arbitrator should not withdraw or abandon the appointment unless compelled to do so by unanticipated circumstances that would render it impossible or impracticable to continue. When an arbitrator is to be compensated for his or her services, the arbitrator may withdraw if the parties fail or refuse to provide for payment of the compensation as agreed.
- I.** An arbitrator who withdraws prior to the completion of the arbitration, whether upon the arbitrator's initiative or upon the request of one or more of the parties, should take reasonable steps to protect the interests of the parties in the arbitration, including return of evidentiary materials and protection of confidentiality.



Comment to Canon I

A prospective arbitrator is not necessarily partial or prejudiced by having acquired knowledge of the parties, the applicable law or the customs and practices of the business involved. Arbitrators may also have special experience or expertise in the areas of business, commerce, or technology which are involved in the arbitration. Arbitrators do not contravene this Canon if, by virtue of such experience or expertise, they have views on certain general issues likely to arise in the arbitration, but an arbitrator may not have prejudged any of the specific factual or legal determinations to be addressed during the arbitration.

During an arbitration, the arbitrator may engage in discourse with the parties or their counsel, draw out arguments or contentions, comment on the law or evidence, make interim rulings, and otherwise control or direct the arbitration. These activities are integral parts of an arbitration. Paragraph D of Canon I is not intended to preclude or limit either full discussion of the issues during the course of the arbitration or the arbitrator's management of the proceeding.

CANON II: An arbitrator should disclose any interest or relationship likely to affect impartiality or which might create an appearance of partiality.

- A.** Persons who are requested to serve as arbitrators should, before accepting, disclose:
 - (1) any known direct or indirect financial or personal interest in the outcome of the arbitration;
 - (2) any known existing or past financial, business, professional or personal relationships which might reasonably affect impartiality or lack of independence in the eyes of any of the parties. For example, prospective arbitrators should disclose any such relationships which they personally have with any party or its lawyer, with any co-arbitrator, or with any individual whom they have been told will be a witness. They should also disclose any such relationships involving their families or household members or their current employers, partners, or professional or business associates that can be ascertained by reasonable efforts;
 - (3) the nature and extent of any prior knowledge they may have of the dispute; and
 - (4) any other matters, relationships, or interests which they are obligated to disclose by the agreement of the parties, the rules or practices of an institution, or applicable law regulating arbitrator disclosure.
- B.** Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interests or relationships described in paragraph A.
- C.** The obligation to disclose interests or relationships described in paragraph A is a continuing duty which requires a person who accepts appointment as an arbitrator to disclose, as soon as practicable, at any stage of the arbitration, any such interests or relationships which may arise, or which are recalled or discovered.
- D.** Any doubt as to whether or not disclosure is to be made should be resolved in favor of disclosure.
- E.** Disclosure should be made to all parties unless other procedures for disclosure are provided in the agreement of the parties, applicable rules or practices of an institution, or by law. Where more than one arbitrator has been appointed, each should inform the others of all matters disclosed.
- F.** When parties, with knowledge of a person's interests and relationships, nevertheless desire that person to serve as an arbitrator, that person may properly serve.



- G. If an arbitrator is requested by all parties to withdraw, the arbitrator must do so. If an arbitrator is requested to withdraw by less than all of the parties because of alleged partiality, the arbitrator should withdraw unless either of the following circumstances exists:
- (1) An agreement of the parties, or arbitration rules agreed to by the parties, or applicable law establishes procedures for determining challenges to arbitrators, in which case those procedures should be followed; or
 - (2) In the absence of applicable procedures, if the arbitrator, after carefully considering the matter, determines that the reason for the challenge is not substantial, and that he or she can nevertheless act and decide the case impartially and fairly.
- H. If compliance by a prospective arbitrator with any provision of this Code would require disclosure of confidential or privileged information, the prospective arbitrator should either:
- (1) Secure the consent to the disclosure from the person who furnished the information or the holder of the privilege; or
 - (2) Withdraw.

CANON III: An arbitrator should avoid impropriety or the appearance of impropriety in communicating with parties.

- A. If an agreement of the parties or applicable arbitration rules establishes the manner or content of communications between the arbitrator and the parties, the arbitrator should follow those procedures notwithstanding any contrary provision of paragraphs B and C.
- B. An arbitrator or prospective arbitrator should not discuss a proceeding with any party in the absence of any other party, except in any of the following circumstances:
- (1) When the appointment of a prospective arbitrator is being considered, the prospective arbitrator:
 - (a) may ask about the identities of the parties, counsel, or witnesses and the general nature of the case; and
 - (b) may respond to inquiries from a party or its counsel designed to determine his or her suitability and availability for the appointment. In any such dialogue, the prospective arbitrator may receive information from a party or its counsel disclosing the general nature of the dispute but should not permit them to discuss the merits of the case.
 - (2) In an arbitration in which the two party-appointed arbitrators are expected to appoint the third arbitrator, each party-appointed arbitrator may consult with the party who appointed the arbitrator concerning the choice of the third arbitrator;
 - (3) In an arbitration involving party-appointed arbitrators, each party-appointed arbitrator may consult with the party who appointed the arbitrator concerning arrangements for any compensation to be paid to the party-appointed arbitrator. Submission of routine written requests for payment of compensation and expenses in accordance with such arrangements and written communications pertaining solely to such requests need not be sent to the other party;
 - (4) In an arbitration involving party-appointed arbitrators, each party-appointed arbitrator may consult with the party who appointed the arbitrator concerning the status of the arbitrator (i.e., neutral or non-neutral), as contemplated by paragraph C of Canon IX;
 - (5) Discussions may be had with a party concerning such logistical matters as setting the time and place of hearings or making other arrangements for the conduct of the proceedings. However, the arbitrator should promptly inform each other party of the discussion and should not make any final determination concerning the matter discussed before giving each absent party an opportunity to express the party's views; or
 - (6) If a party fails to be present at a hearing after having been given due notice, or if all parties expressly consent, the arbitrator may discuss the case with any party who is present.
- C. Unless otherwise provided in this Canon, in applicable arbitration rules or in an agreement of the parties, whenever an arbitrator communicates in writing with one party, the arbitrator should at the same time send a copy of the communication to every other party, and whenever the arbitrator receives any written communication concerning the case from one party which has not already been sent to every other party, the arbitrator should send or cause it to be sent to the other parties.



CANON IV: An arbitrator should conduct the proceedings fairly and diligently.

- A.** An arbitrator should conduct the proceedings in an even-handed manner. The arbitrator should be patient and courteous to the parties, their representatives, and the witnesses and should encourage similar conduct by all participants.
- B.** The arbitrator should afford to all parties the right to be heard and due notice of the time and place of any hearing. The arbitrator should allow each party a fair opportunity to present its evidence and arguments.
- C.** The arbitrator should not deny any party the opportunity to be represented by counsel or by any other person chosen by the party.
- D.** If a party fails to appear after due notice, the arbitrator should proceed with the arbitration when authorized to do so, but only after receiving assurance that appropriate notice has been given to the absent party.
- E.** When the arbitrator determines that more information than has been presented by the parties is required to decide the case, it is not improper for the arbitrator to ask questions, call witnesses, and request documents or other evidence, including expert testimony.
- F.** Although it is not improper for an arbitrator to suggest to the parties that they discuss the possibility of settlement or the use of mediation, or other dispute resolution processes, an arbitrator should not exert pressure on any party to settle or to utilize other dispute resolution processes. An arbitrator should not be present or otherwise participate in settlement discussions or act as a mediator unless requested to do so by all parties.
- G.** Co-arbitrators should afford each other full opportunity to participate in all aspects of the proceedings.

Comment to Paragraph G

Paragraph G of Canon IV is not intended to preclude one arbitrator from acting in limited circumstances (e.g., ruling on discovery issues) where authorized by the agreement of the parties, applicable rules or law, nor does it preclude a majority of the arbitrators from proceeding with any aspect of the arbitration if an arbitrator is unable or unwilling to participate and such action is authorized by the agreement of the parties or applicable rules or law. It also does not preclude *ex parte* requests for interim relief.

CANON V: An arbitrator should make decisions in a just, independent and deliberate manner.

- A.** The arbitrator should, after careful deliberation, decide all issues submitted for determination. An arbitrator should decide no other issues.
- B.** An arbitrator should decide all matters justly, exercising independent judgment, and should not permit outside pressure to affect the decision.
- C.** An arbitrator should not delegate the duty to decide to any other person.
- D.** In the event that all parties agree upon a settlement of issues in dispute and request the arbitrator to embody that agreement in an award, the arbitrator may do so, but is not required to do so unless satisfied with the propriety of the terms of settlement. Whenever an arbitrator embodies a settlement by the parties in an award, the arbitrator should state in the award that it is based on an agreement of the parties.



CANON VI: An arbitrator should be faithful to the relationship of trust and confidentiality inherent in that office.

- A.** An arbitrator is in a relationship of trust to the parties and should not, at any time, use confidential information acquired during the arbitration proceeding to gain personal advantage or advantage for others, or to affect adversely the interest of another.
- B.** The arbitrator should keep confidential all matters relating to the arbitration proceedings and decision. An arbitrator may obtain help from an associate, a research assistant or other persons in connection with reaching his or her decision if the arbitrator informs the parties of the use of such assistance and such persons agree to be bound by the provisions of this Canon.
- C.** It is not proper at any time for an arbitrator to inform anyone of any decision in advance of the time it is given to all parties. In a proceeding in which there is more than one arbitrator, it is not proper at any time for an arbitrator to inform anyone about the substance of the deliberations of the arbitrators. After an arbitration award has been made, it is not proper for an arbitrator to assist in proceedings to enforce or challenge the award.
- D.** Unless the parties so request, an arbitrator should not appoint himself or herself to a separate office related to the subject matter of the dispute, such as receiver or trustee, nor should a panel of arbitrators appoint one of their number to such an office.

CANON VII: An arbitrator should adhere to standards of integrity and fairness when making arrangements for compensation and reimbursement of expenses.

- A.** Arbitrators who are to be compensated for their services or reimbursed for their expenses shall adhere to standards of integrity and fairness in making arrangements for such payments.
- B.** Certain practices relating to payments are generally recognized as tending to preserve the integrity and fairness of the arbitration process. These practices include:
 - (1)** Before the arbitrator finally accepts appointment, the basis of payment, including any cancellation fee, compensation in the event of withdrawal and compensation for study and preparation time, and all other charges, should be established. Except for arrangements for the compensation of party-appointed arbitrators, all parties should be informed in writing of the terms established;
 - (2)** In proceedings conducted under the rules or administration of an institution that is available to assist in making arrangements for payments, communication related to compensation should be made through the institution. In proceedings where no institution has been engaged by the parties to administer the arbitration, any communication with arbitrators (other than party appointed arbitrators) concerning payments should be in the presence of all parties; and
 - (3)** Arbitrators should not, absent extraordinary circumstances, request increases in the basis of their compensation during the course of a proceeding.

CANON VIII: An arbitrator may engage in advertising or promotion of arbitral services which is truthful and accurate.

- A.** Advertising or promotion of an individual's willingness or availability to serve as an arbitrator must be accurate and unlikely to mislead. Any statements about the quality of the arbitrator's work or the success of the arbitrator's practice must be truthful.
- B.** Advertising and promotion must not imply any willingness to accept an appointment otherwise than in accordance with this Code.



Comment to Canon VIII

This Canon does not preclude an arbitrator from printing, publishing, or disseminating advertisements conforming to these standards in any electronic or print medium, from making personal presentations to prospective users of arbitral services conforming to such standards or from responding to inquiries concerning the arbitrator's availability, qualifications, experience, or fee arrangements.

CANON IX: Arbitrators appointed by one party have a duty to determine and disclose their status and to comply with this code, except as exempted by Canon X.

- A.** In some types of arbitration in which there are three arbitrators, it is customary for each party, acting alone, to appoint one arbitrator. The third arbitrator is then appointed by agreement either of the parties or of the two arbitrators, or failing such agreement, by an independent institution or individual. In tripartite arbitrations to which this Code applies, all three arbitrators are presumed to be neutral and are expected to observe the same standards as the third arbitrator.
- B.** Notwithstanding this presumption, there are certain types of tripartite arbitration in which it is expected by all parties that the two arbitrators appointed by the parties may be predisposed toward the party appointing them. Those arbitrators, referred to in this Code as "Canon X arbitrators," are not to be held to the standards of neutrality and independence applicable to other arbitrators. Canon X describes the special ethical obligations of party-appointed arbitrators who are not expected to meet the standard of neutrality.
- C.** A party-appointed arbitrator has an obligation to ascertain, as early as possible but not later than the first meeting of the arbitrators and parties, whether the parties have agreed that the party-appointed arbitrators will serve as neutrals or whether they shall be subject to Canon X, and to provide a timely report of their conclusions to the parties and other arbitrators:
 - (1)** Party-appointed arbitrators should review the agreement of the parties, the applicable rules and any applicable law bearing upon arbitrator neutrality. In reviewing the agreement of the parties, party-appointed arbitrators should consult any relevant express terms of the written or oral arbitration agreement. It may also be appropriate for them to inquire into agreements that have not been expressly set forth, but which may be implied from an established course of dealings of the parties or well-recognized custom and usage in their trade or profession;
 - (2)** Where party-appointed arbitrators conclude that the parties intended for the party-appointed arbitrators not to serve as neutrals, they should so inform the parties and the other arbitrators. The arbitrators may then act as provided in Canon X unless or until a different determination of their status is made by the parties, any administering institution or the arbitral panel; and
 - (3)** Until party-appointed arbitrators conclude that the party-appointed arbitrators were not intended by the parties to serve as neutrals, or if the party-appointed arbitrators are unable to form a reasonable belief of their status from the foregoing sources and no decision in this regard has yet been made by the parties, any administering institution, or the arbitral panel, they should observe all of the obligations of neutral arbitrators set forth in this Code.
- D.** Party-appointed arbitrators not governed by Canon X shall observe all of the obligations of Canons I through VIII unless otherwise required by agreement of the parties, any applicable rules, or applicable law.



CANON X: Exemptions for arbitrators appointed by one party who are not subject to rules of neutrality.

Canon X arbitrators are expected to observe all of the ethical obligations prescribed by this Code except those from which they are specifically excused by Canon X.

A. Obligations Under Canon I

Canon X arbitrators should observe all of the obligations of Canon I subject only to the following provisions:

- (1) Canon X arbitrators may be predisposed toward the party who appointed them but in all other respects are obligated to act in good faith and with integrity and fairness. For example, Canon X arbitrators should not engage in delaying tactics or harassment of any party or witness and should not knowingly make untrue or misleading statements to the other arbitrators; and
- (2) The provisions of subparagraphs B(1), B(2), and paragraphs C and D of Canon I, insofar as they relate to partiality, relationships, and interests are not applicable to Canon X arbitrators.

B. Obligations Under Canon II

- (1) Canon X arbitrators should disclose to all parties, and to the other arbitrators, all interests and relationships which Canon II requires be disclosed. Disclosure as required by Canon II is for the benefit not only of the party who appointed the arbitrator, but also for the benefit of the other parties and arbitrators so that they may know of any partiality which may exist or appear to exist; and
- (2) Canon X arbitrators are not obliged to withdraw under paragraph G of Canon II if requested to do so only by the party who did not appoint them.

C. Obligations Under Canon III

Canon X arbitrators should observe all of the obligations of Canon III subject only to the following provisions:

- (1) Like neutral party-appointed arbitrators, Canon X arbitrators may consult with the party who appointed them to the extent permitted in paragraph B of Canon III;
- (2) Canon X arbitrators shall, at the earliest practicable time, disclose to the other arbitrators and to the parties whether or not they intend to communicate with their appointing parties. If they have disclosed the intention to engage in such communications, they may thereafter communicate with their appointing parties concerning any other aspect of the case, except as provided in paragraph (3);
- (3) If such communication occurred prior to the time they were appointed as arbitrators, or prior to the first hearing or other meeting of the parties with the arbitrators, the Canon X arbitrator should, at or before the first hearing or meeting of the arbitrators with the parties, disclose the fact that such communication has taken place. In complying with the provisions of this subparagraph, it is sufficient that there be disclosure of the fact that such communication has occurred without disclosing the content of the communication. A single timely disclosure of the Canon X arbitrator's intention to participate in such communications in the future is sufficient;
- (4) Canon X arbitrators may not at any time during the arbitration:
 - (a) disclose any deliberations by the arbitrators on any matter or issue submitted to them for decision;
 - (b) communicate with the parties that appointed them concerning any matter or issue taken under consideration by the panel after the record is closed or such matter or issue has been submitted for decision; or
 - (c) disclose any final decision or interim decision in advance of the time that it is disclosed to all parties.



- (5) Unless otherwise agreed by the arbitrators and the parties, a Canon X arbitrator may not communicate orally with the neutral arbitrator concerning any matter or issue arising or expected to arise in the arbitration in the absence of the other Canon X arbitrator. If a Canon X arbitrator communicates in writing with the neutral arbitrator, he or she shall simultaneously provide a copy of the written communication to the other Canon X arbitrator;
- (6) When Canon X arbitrators communicate orally with the parties that appointed them concerning any matter on which communication is permitted under this Code, they are not obligated to disclose the contents of such oral communications to any other party or arbitrator; and
- (7) When Canon X arbitrators communicate in writing with the party who appointed them concerning any matter on which communication is permitted under this Code, they are not required to send copies of any such written communication to any other party or arbitrator.

D. *Obligations Under Canon IV*

Canon X arbitrators should observe all of the obligations of Canon IV.

E. *Obligations Under Canon V*

Canon X arbitrators should observe all of the obligations of Canon V, except that they may be predisposed toward deciding in favor of the party who appointed them.

F. *Obligations Under Canon VI*

Canon X arbitrators should observe all of the obligations of Canon VI.

G. *Obligations Under Canon VII*

Canon X arbitrators should observe all of the obligations of Canon VII.

H. *Obligations Under Canon VIII*

Canon X arbitrators should observe all of the obligations of Canon VIII.

I. *Obligations Under Canon IX*

The provisions of paragraph D of Canon IX are inapplicable to Canon X arbitrators, except insofar as the obligations are also set forth in this Canon.

Exhibit 4

APPENDIX A
Code of Ethics for Arbitrators¹

CANON I
**An Arbitrator Should Uphold the Integrity
and Fairness of the Arbitration Process.**

A. Fair and just processes for resolving disputes are indispensable in our society. Commercial arbitration is an important method for deciding many types of disputes. In order for commercial arbitration to be effective, there must be broad public confidence in the integrity and fairness of the process. Therefore, an arbitrator has a responsibility not only to the parties but also to the process of arbitration itself, and must observe high standards of conduct so that the integrity and fairness of the process will be preserved. Accordingly, an arbitrator should recognize a responsibility to the public, to the parties whose rights will be decided, and to all other participants in the proceeding. The provisions of this code should be construed and applied to further these objectives.

B. It is inconsistent with the integrity of the arbitration process for persons to solicit appointment for themselves. However, a person may indicate a general willingness to serve as an arbitrator. A person who offers herself or himself as available to serve as an arbitrator gives parties and the public the expectation that she or he has the competency to arbitrate effectively, including conducting Online Dispute Resolution. In court-connected or other forms of mandated arbitration, it is essential that arbitrators assigned to the parties have the requisite training and experience.

C. Persons should accept appointment as arbitrators only if they believe that they can be available to conduct the arbitration promptly.

D. After accepting appointment and while serving as an arbitrator, a person should avoid entering into any financial, business, professional, family or social relationship, or acquiring any financial or personal interest, which is likely to affect impartiality or which might reasonably create the appearance of partiality or bias. For a reasonable period of time after the decision of a case, persons who have served as arbitrators should avoid entering into any such relationship, or acquiring any such interest, in circumstances which might reasonably create the appearance that they had been influenced in the arbitration by the anticipation or expectation of the relationship or interest.

E. Arbitrators should conduct themselves in a way that is fair to all parties and should not be swayed by outside pressure, by public clamor, by fear of criticism or by self-interest.

F. When an arbitrator's authority is derived from an agreement of the parties, the arbitrator should neither exceed that authority nor do less than is required to exercise that authority completely. Where the agreement of the parties sets forth procedures to be followed in conducting the arbitration or refers to rules to be followed, it is the obligation of the arbitrator to comply with such procedures or rules.

G. An arbitrator should make all reasonable efforts to prevent delaying tactics, harassment of parties or other participants, or other abuse or disruption of the arbitration process.

H. The ethical obligations of an arbitrator begin upon acceptance of the appointment and continue throughout all stages of the proceeding. In addition, wherever specifically set forth in this code, certain ethical obligations begin as soon as a person is requested to serve as an arbitrator and certain ethical obligations continue even after the decision in the case has been given to the parties.

CANON II
An Arbitrator Should Disclose Any Interest or Relationship

Likely to Affect Impartiality or Which Might Create an Appearance of Partiality or Bias.

Introductory Note

This code reflects the prevailing principle that arbitrators should disclose the existence of interests or relationships that are likely to affect their impartiality or that might reasonably create an appearance that they are biased against one party or favorable to another. These provisions of the code are intended to be applied realistically so that the burden of detailed disclosure does not become so great that it is impractical for persons in the business world to be arbitrators, thereby depriving parties of the services of those who might be best informed and qualified to decide particular types of cases.² This code does not limit the freedom of parties to agree on whomever they choose as an arbitrator. When parties, with knowledge of a person's interests and relationships, nevertheless desire that individual to serve as an arbitrator, that person may properly serve.

Disclosure

A. Persons who are requested to serve as arbitrators should, before accepting, disclose

(1) any direct or indirect financial or personal interest in the outcome of the arbitration;

(2) any existing or past financial, business, professional, family or social relationships which are likely to affect impartiality or which might reasonably create an appearance of partiality or bias. Persons requested to serve as arbitrators should disclose any such relationships which they personally have with any party or its lawyer, or with any individual whom they have been told will be a witness. They should also disclose any such relationships involving members of their families or their current employers, partners or business associates.

B. Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interests or relationships described in the preceding paragraph A.

C. The obligation to disclose interests or relationships described in the preceding paragraph A is a continuing duty which requires a person who accepts appointment as an arbitrator to disclose, at any stage of the arbitration, any such interests or relationships which may arise, or which are recalled or discovered.

D. Disclosure should be made to all parties unless other procedures for disclosure are provided in the rules or practices of an institution which is administering the arbitration. Where more than one arbitrator has been appointed, each should inform the others of the interests and relationships which have been disclosed.

E. In the event that an arbitrator is requested by all parties to withdraw, the arbitrator should do so. In the event that an arbitrator is requested to withdraw by less than all of the parties because of alleged partiality or bias, the arbitrator should withdraw unless either of the following circumstances exists.

(1) If an agreement of parties, or arbitration rules agreed to by the parties, establishes procedures for determining challenges to arbitrators, then those procedures should be followed; or,

(2) if the arbitrator, after carefully considering the matter, determines that the reason for the challenge is not substantial, and that he or she can nevertheless act and decide the case impartially and fairly, and that withdrawal would cause unfair delay or expense to another party or would be contrary to the ends of justice.

CANON III

An Arbitrator in Communicating with the Parties Should

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Avoid Impropriety or the Appearance of Impropriety.

A. If an agreement of the parties or applicable arbitration rules referred to in that agreement establishes the manner or content of communications between the arbitrator and the parties, the arbitrator should follow those procedures notwithstanding any contrary provision of the following paragraphs B and C.

B. Unless otherwise provided in applicable arbitration rules or in an agreement of the parties, arbitrators should not discuss a case with any party in the absence of each other party, except in any of the following circumstances.

(1) Discussions may be had with a party concerning such matters as setting the time and place of hearings or making other arrangements for the conduct of the proceedings. However, the arbitrator should promptly inform each other party of the discussion and should not make any final determination concerning the matter discussed before giving each absent party an opportunity to express its views.

(2) If a party fails to be present at a hearing after having been given due notice, the arbitrator may discuss the case with any party who is present.

(3) If all parties request or consent to it, such discussion may take place.

C. Unless otherwise provided in applicable arbitration rules or in an agreement of the parties, whenever an arbitrator communicates in writing with one party, the arbitrator should at the same time send a copy of the communication to each other party. Whenever the arbitrator receives any written communication concerning the case from one party which has not already been sent to each other party, the arbitrator should do so.

CANON IV
An Arbitrator Should Conduct the
Proceedings Fairly and Diligently.

A. An arbitrator should conduct the proceedings in an evenhanded manner and treat all parties with equality and fairness at all stages of the proceedings.

B. An arbitrator should perform duties diligently and conclude the case as promptly as the circumstances reasonably permit.

C. An arbitrator should be patient and courteous to the parties, to their lawyers and to the witnesses and should encourage similar conduct by all participants in the proceedings.

D. Unless otherwise agreed by the parties or provided in arbitration rules agreed to by the parties, an arbitrator should accord to all parties the right to appear in person and to be heard after due notice of the time and place of hearing.

E. An arbitrator should not deny any party the opportunity to be represented by counsel.

F. If a party fails to appear after due notice, an arbitrator should proceed with the arbitration when authorized to do so by the agreement of the parties, the rules agreed to by the parties or by law. However, an arbitrator should do so only after receiving assurance that notice has been given to the absent party.

G. When an arbitrator determines that more information than has been presented by the parties is required to decide the case, it is not improper for the arbitrator to ask questions, call witnesses, and

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request documents or other evidence.

H. It is not improper for an arbitrator to suggest to the parties that they discuss the possibility of settlement of the case. However, an arbitrator should not be present or otherwise participate in the settlement discussions unless requested to do so by all parties. An arbitrator should not exert pressure on any party to settle.

I. Nothing in this code is intended to prevent a person from acting as a mediator or conciliator of a dispute in which he or she has been appointed as arbitrator, if requested to do so by all parties or where authorized or required to do so by applicable laws or rules.

J. When there is more than one arbitrator, the arbitrators should afford each other the full opportunity to participate in all aspects of the proceedings.

CANON V

An Arbitrator Should Make Decisions in a Just, Independent and Deliberate Manner.

A. An arbitrator should, after careful deliberation, decide all issues submitted for determination. An arbitrator should decide no other issues.]

B. An arbitrator should decide all matters justly, exercising independent judgment, and should not permit outside pressure to affect the decision.

C. An arbitrator should not delegate the duty to decide to any other person.

D. In the event that all parties agree upon a settlement of issues in dispute and request an arbitrator to embody that agreement in an award, an arbitrator may do so, but is not required to do so unless satisfied with the propriety of the terms of settlement. Whenever an arbitrator embodies a settlement by the parties in an award, the arbitrator should state in the award that it is based on an agreement of the parties.

CANON VI

An Arbitrator Should Be Faithful to the Relationship of Trust and Confidentiality Inherent in That Office.

A. An arbitrator is in a relationship of trust to the parties and should not, at any time, use confidential information acquired during the arbitration proceeding to gain personal advantage or advantage for others, or to affect adversely the interest of another.

B. Unless otherwise agreed by the parties, or required by applicable rules or law, an arbitrator should keep confidential all matters relating to the arbitration proceedings and decision.

C. It is not proper at any time for an arbitrator to inform anyone of the decision in advance of the time it is given to all parties. In a case in which there is more than one arbitrator, it is not proper at any time for an arbitrator to inform anyone concerning the deliberations of the arbitrators. After an arbitration award has been made, it is not proper for an arbitrator to assist in postarbitral proceedings, except as is required by law.

D. In many types of arbitration it is customary practice for the arbitrators to serve without pay. However, in some types of cases it is customary for arbitrators to receive compensation for their services and reimbursement for their expenses. In cases in which any such payments are to be made, all

persons who are requested to serve, or who are serving as arbitrators, should be governed by the same high standards of integrity and fairness as apply to their other activities in the case. Accordingly, such persons should scrupulously avoid bargaining with parties over the amount of payments or engaging in any communications concerning payments which would create an appearance of coercion or other impropriety. In the absence of governing provisions in the agreement of the parties or in rules agreed to by the parties or in applicable law, certain practices, relating to payments are generally recognized as being preferable in order to preserve the integrity and fairness of the arbitration process. These practices include the following.

(1) It is preferable that before the arbitrator finally accepts appointment the basis of payment be established and that all parties be informed thereof in writing.

(2) In cases conducted under the rules or administration of an institution that is available to assist in making arrangements for payments, the payments should be arranged by the institution to avoid the necessity for communication by the arbitrators directly with the parties concerning the subject.

(3) In cases where no institution is available to assist in making arrangement for payments, it is preferable that any discussions with arbitrators concerning payments should take place in the presence of all parties.

Amended by order dated May 12, 2021.

1 In applying the provisions of this code relating to disclosure, it might be helpful to recall the words of the concurring opinion, in a case decided by the US Supreme Court, that arbitrators "should err on the side of disclosure" because "it is better that the relationship be disclosed at the outset when the parties are free to reject the arbitrator or accept him with knowledge of the relationship." At the same time, it must be recognized that "an arbitrator's business relationships may be diverse indeed, involving more or less remote commercial connections with great numbers of people." Accordingly, an arbitrator "cannot be expected to provide the parties with his complete and unexpurgated business biography," nor is an arbitrator called on to disclose interest or relationships that are merely "trivial" (a concurring opinion in *Commonwealth Coatings Corp. v. Continental Casualty Co.*, 393 US 145, 131-152, 1968).

2 In applying the provisions of this code relating to disclosure, it might be helpful to recall the words of the concurring opinion, in a case decided by the US Supreme Court, that arbitrators "should err on the side of disclosure" because "it is better that the relationship be disclosed at the outset when the parties are free to reject the arbitrator or accept him with knowledge of the relationship." At the same time, it must be recognized that "an arbitrator's business relationships may be diverse indeed, involving more or less remote commercial connections with great numbers of people." Accordingly, an arbitrator "cannot be expected to provide the parties with his complete and unexpurgated business biography," nor is an arbitrator called on to disclose interest or relationships that are merely "trivial" (a concurring opinion in *Commonwealth Coatings Corp. v. Continental Casualty Co.*, 393 US 145, 131-152, 1968).

Exhibit 5

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Harry was a member of the S.C. House of Representatives for 20 years, representing the northern portion of Greenville County.

Experience

Following is a selected sampling of matters and is provided for informational purposes only. Past success does not indicate the likelihood of success in any future matter.

- Served as the Speaker Pro-Tempore to the SC House of Representatives and as the Chairman of the Labor, Commerce and Industry (LCI) Committee of the South Carolina House of Representatives for 14 years
 - This Committee handles all legislation passing through the General Assembly concerning issues such as professional practice laws, labor laws, insurance, banking, small business, real estate, regulated utilities, economic development, and industry related procurement issues
 - Worked extensively with numerous state agencies, including the state Budget and Control Board, on various legislative matters as chairman and Speaker Pro Tem

Recognitions

The bar rules of some states require that the standards for an attorney's inclusion in certain public accolades or recognitions be provided. When such accolades or recognitions are listed, a hyperlink is provided that leads to a description of the respective selection methodology.

Education

Clemson University, BS, Administrative Management

Areas of Focus

[Government Relations](#)

[State & Local Government Relations](#)

- Recipient, numerous legislator of the year awards
- Recipient, the Order of the Palmetto, the highest honor in the state

Leadership

- Appointed the American Legislative Exchange Council (ALEC) State Chair (January 2008)
 - ALEC is a national organization of state legislators, founded on Jeffersonian principles of free enterprise, limited government and individual liberties seeks to affect public policy at the most fundamental level of government – the States
 - ALEC forums held throughout the year educate legislators and generate model legislation that is available for use in South Carolina
- Served on Travelers Rest City Council (1986 – 1990)
- Served as Mayor Pro Tempore of Travelers Rest (1988 – 1990)

Exhibit 6



Carmen Harper Thomas

Partner

Meridian
1320 Main Street
17th Floor
Columbia, SC 29201

T [803.255.9385](tel:803.255.9385)

F [803.256.7500](tel:803.256.7500)

carmen.thomas@nelsonmullins.com

Carmen helps clients resolve disputes and regulatory issues in the energy, manufacturing, financial services, and technology sectors. She is experienced with all phases of developing a client's case and bringing it to a resolution.

Experience

Following is a selected sampling of matters and is provided for informational purposes only. Past success does not indicate the likelihood of success in any future matter.

Experience

- Litigated and resolved disputes involving various types of manufacturing and technology contracts and projects
- Defended matters involving power generation and resource needs, generation asset construction, utility rates and tariffs, antitrust allegations, and renewable development proposals
- Protected trade secrets and proprietary information especially involving technology
- Defended entities in cases regarding the scope of the practice of law, including the intersection of legal services and technology
- Defended disputes involving companies and former professionals in various contexts
- Defended innovative businesses in a variety of matters at the intersection of their business models and current legal and regulatory frameworks
- Litigation and regulatory and enforcement counsel on a variety of financial services issues, including the follow



- Fair Debt Collection Practices Act
- Telephone Consumer Protection Act
- Fair Credit Reporting Act
- Real Estate Settlement Procedures Act
- Truth in Lending Act
- South Carolina Consumer Protection Code, including the Attorney and Insurance Preference Statute, online installment loan issues, and other Uniform Consumer Credit Code statutory compliance issues
- Uniform Commercial Code and negotiable instrument
- Creditor issues in bankruptcy
- Defended multi-front litigation and investigations
- Defended businesses in state- and nation-wide class actions in state and federal courts, including managing nationwide and statewide class action settlements
- Negotiated and represented clients with disputes involving federal and state agencies like the Federal Trade Commission and the Consumer Financial Protection Bureau

Previous Professional Experience

- Law clerk, S.C. Senate Judiciary Committee
- Planning Manager, S.C. Department of Commerce
 - Developed annual plans for federal funding used for statewide economic development, infrastructure, community facilities, and housing development and rehabilitation projects
- State Planner, South Carolina Energy Office within the S.C. State Budget and Control Board
 - Coordinated the annual Strategic Energy Action Plan and researched and implemented energy use and renewable energy policies for South Carolina, including solar, fuel cell, biomass, and transportation efficiency projects
- Legislative Aide and Page, S.C. House of Representatives

Education

University of South Carolina School of Law, JD, cum laude (2007)

- Editor in Chief of the *South Carolina Law Review*
- CALI Excellence for the Future Awards in Securities Regulation and Media Law
- Order of the Wig and Robe
- Student Member, John Belton O'Neill Inn of Court

University of South Carolina, Master of Public Administration (2002)

University of South Carolina, Honors College, BA, Journalism and Mass Communications, cum laude (1999)

Admissions

South Carolina

Supreme Court of the United States

U.S. Bankruptcy Court, District of South Carolina

U.S. Court of Appeals for the Fourth Circuit

U.S. District Court for the District of South Carolina



ROA_076

Practice Areas

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Industries

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Media

Insights

Defining "Debt Collector" Under the FDCPA: The Eleventh and Fourth Circuits Reject the Acquired-in-Default Test, *The Business Lawyer*, Co-Author (Spring 2017)
[Re-Open for Business: South Carolina's Business Court Expands Statewide](#), *SC Lawyer*, Author (January 2015)
Annual Review of Developments in Business and Commercial Litigation, Chapter 5: Business Courts, *American Bar Association* (2011-2014)
Effect of Changes to Federal Law on Mortgage Originator Compensation, *Lexology*, Co-Author (July 2010)
Getting Down to Business: The Successes of the SC Business Court Pilot Program, *S.C. Lawyer 12*, Co-Author (January 2010)

Events / Speaking Engagements

Big Players, Big Problems: The CFPB's Attention on Market Dominance, American Bar Association, Business Law Section Spring Meeting, Seattle, Speaker (April 28, 2023)
[The South Carolina Business Court – Creation, Evolution, Practice, and Present Relevance](#), Business Torts in South Carolina Webcast, South Carolina Bar, Panelist (October 15, 2021)
SC Bar Convention 2021, Consumer Law Section: "Protecting Consumers in a Pandemic and 2021 Consumer Law Developments", Speaker and Moderator (Jan. 19, 2021)
[Loan and Account Modifications: What You Can Do Unilaterally and What Requires Consent](#), Speaker (April 9, 2020)

News

[Attorneys Recognized as 'Super Lawyers' and 'Rising Stars' in South Carolina](#) (April 28, 2023)
[Firm Attorneys Recognized in 2023 'Best Lawyers'](#) (Aug. 18, 2022)
[Carmen Thomas Honored with Compleat Lawyer Award](#) (May 2, 2022)
[Nelson Mullins South Carolina Attorneys Selected for 2022 'Super Lawyers' and 'Rising Stars'](#) (April 29, 2022)
[Nelson Mullins Attorneys Selected For Inclusion in 2022 'Best Lawyers'](#) (Aug. 19, 2021)

Alerts

[South Carolina Business Court Is Here to Stay](#), Additional Nelson Mullins Alerts, Author (January 31, 2019)

[Fourth Circuit Decision on the Definition of Debt Collector Under the Fair Debt Collection Practices Act Offers Opportunities for Loan Servicers](#), Additional Nelson Mullins Alerts (March 2016)

[For First Time Ever, Consumer Financial Protection Bureau Penalizes a Company over Misrepresentations of Data Security, Privacy & Data Security Alert](#) (March 8, 2016)

Blogs

[Rehearing Recently Sought in South Carolina Appeals Court Case That May Affect the Priority of Refinance Mortgages](#), The Vault, Co-Author (Dec. 30, 2020)

[South Carolina Supreme Court Adopts Forms for Mortgage Foreclosures Affected by the CARES Act](#), The Vault, Co-Author (May 7, 2020)

[Update on South Carolina Court Order Affecting Consumer Financial Services Litigation](#), The Vault, Co-Author (April 15, 2020)

[The Suspense of Standing After Spokeo](#), The Vault, Author (August 2, 2019)

[Deterrence for one and all—Caller avoids trebling of \\$925 million TCPA verdict](#), The Vault, Author (June 26, 2019)

Recognitions

The bar rules of some states require that the standards for an attorney's inclusion in certain public accolades or recognitions be provided. When such accolades or recognitions are listed, a hyperlink is provided that leads to a description of the respective selection methodology.

- [Chambers USA: America's Leading Lawyers for Business](#), Litigation: General Commercial – South Carolina (2023)
- University of South Carolina School of Law Compleat Lawyer Award, Silver (2022)
- [The Best Lawyers in America®](#), Commercial Finance Law (2023), Commercial Litigation (2020–2023), Energy Law (2023), Mass Tort Litigation/Class Actions – Defendants (2020–2023)
- [Leadership SC Class of 2018](#)
- [Leadership Council on Legal Diversity 2018 Fellow](#)
- [South Carolina Super Lawyers Rising Star, Banking](#) (2013–2017, 2022)
- [Riley Institute, Diversity Leaders Initiative, Midlands Class 2016](#)
- South Carolina Law Review Alumni Award (2012–2013)
- South Carolina Bar Leadership Academy (2012)

Professional Activities

- American Bar Association
 - Business Law Section, Consumer Financial Services Committee
 - Federal and State Trade Practices Subcommittee, Co-Vice Chair (2019–present)
 - Task Force on Small Dollar Lending, Young Lawyer Liaison (2014–2015)
 - [Commission on the Future of Legal Services](#) (2015)
 - Business Law Section Subcommittee on Business Courts, Vice Chair (2012–2014)
- South Carolina Bar
 - Consumer Law Section Council, Chair (2020–2021), Chair-Elect (2019–2020), Council (2012–present)
 - Ethics Advisory Committee (2019–present)
 - House of Delegates (2015–2016)
- John Belton O'Neall Inn of Court, President (2016–2017), Executive Committee (2014–2018)
- Fourth Circuit Judicial Conference, Permanent Member



- American Bar Foundation, Fellow
- Defense Research Institute
- SC Defense Trial Attorneys Association
- South Carolina Women Lawyers Association
- Richland County Bar Association, Public Service Committee (2008–2014)
- Nelson Mullins Associates Committee Chair (2021–2022), Vice Chair (2019–2020); Columbia LGBTQ+ Affinity Group Ally (2020–present)

Community

- Boys and Girls Club of the Midlands Board Member (2016–present), Resource Development Chair (2018–present), Vice Chair (2020–2022)
- University of South Carolina Board of Visitors (2015–present), Chair (2020–2021)
- University of South Carolina, University Associates
- Women's Rights and Empowerment Network, Advisory Group (2018–present)
- Homeless Experience Legal Protection Project, Co-founder, Volunteer Coordinator, and Volunteer (2008–2014)

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Exhibit 7



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**Harry Cato** · 2nd

Governmental Relations at Nelson Mullins



Nelson Mullins



Clemson University

Lexington County, South Carolina, United States · [Contact info](#)

288 connections



John Cannon Few is a mutual connection

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Harry hasn't posted yet

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Nelson Mullins

Dec 2010 - Present · 12 yrs 8 mos

Columbia, SC

Education**Clemson University**

Bachelor of Science (BS), Administrative Management

1976 - 1980

Interests[Companies](#)**1101 Public Affairs LLC**

287 followers

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Harry Cato to advise clients of Nelson Mullins Riley & Scarborough

📅 December 3, 2010

<https://whosonthemove.com/harry-cato-to-advise-clients-of-nelson-mullins-riley-scarborough-218958/>

December, 2010 – Former South Carolina House of Representatives Speaker Pro Tem Harry F. Cato has contracted with Nelson Mullins Riley & Scarborough LLP to advise the firm's government relations clients and expand its practice.

Mr. Cato served in the S.C. House from 1991 through November 2010, representing District 17 in Greenville County.

Harry Cato's extensive knowledge of and experience with state government is a major new resource for our firm, and our clients interested in state government will benefit from his wise counsel and strategic advice, said Nelson Mullins partner David H. Wilkins, chair of the firm's Public Policy and International Law Group.

The Nelson Mullins government practice guides clients through the design and implementation of government relations strategies before state governments and in Washington, DC. The firm has registered lobbyists in South Carolina, Georgia, North Carolina, Massachusetts and Washington, DC. Mr. Cato will not engage in lobbying during his initial year out of public office.

Mr. Cato served as chairman of the House Labor, Commerce and Industry Committee from 1994 until 2008, successfully managing legislation on numerous important measures affecting the state's business sector. He most recently served as Speaker Pro Tempore of the House. He also has served as Mayor Pro Tempore of Travelers Rest and a member of its City Council.

Nelson Mullins

Established in 1897, Nelson Mullins has more than 400 attorneys and government relations professionals practicing from 12 office locations in the District of Columbia, Florida, Georgia, Massachusetts, North Carolina, South Carolina, and West Virginia. For more information on the Firm, go to www.nelsonmullins.com (<http://nelsonmullins.com/>), or call 803.255.9794.

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Exhibit 9



Leadership & Board of Directors

Executive Team

Tod Augsburger - President & CEO

Tod has served as President and CEO since 2015. He previously served as Senior Vice President and Chief Operating Officer from 1999 to 2015.

Roger Sipe - Senior Vice President of Operations

Roger has served as Senior Vice President of Operations since 2015. He previously served LMC as Vice President of Revenue Cycle and Community Medical Centers.

Jeff Brillhart - Senior Vice President & Chief Financial Officer

Jeff has served as Senior Vice President and Chief Financial Officer since 2017.

Kirk Jenkins - Senior Vice President of Physician Network

Kirk has served as Senior Vice President of Physician Network since 2015. He previously served LMC as Assistant Vice President.

Jeff Wilson - Senior Vice President & General Counsel

Jeff has served as Senior Vice President and General Counsel since 2016.

Dr. Brent Powers - Senior Vice President & System Chief Medical Officer

Brent has served as Chief Medical Officer since 2011. He previously served as Vice President of Quality and Patient Safety.

Board of Directors

Donny Burkett - Chairman

Randy Senn - Vice Chairman

Craig Caldwell - Secretary

Myron Barwick, MD - Chief of Staff

Janice Burt

Kris Cato

JR Caughman, Jr.

Paul Clifton

C.P. Dunbar, MD

Luanne Dyer

Rev. Charles Jackson, Sr.

Johnny Jeffcoat

David Lamb, MD

Mickey Layden

Stanley Myers

Leigh Provost

Jeff Salters

Frank Shumpert

Justin Strickland

Larry Stroud, PharmD

Richard N. Westbrook

Board members may be contacted at the following address:

Lexington Medical Center – Administration

2720 Sunset Blvd.

West Columbia, SC 29169

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Doctors' Offices

(803) 791-2000

Contact a Patient

(803) 739-3200

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STATE OF SOUTH CAROLINA	)	AFFIDAVIT OF
	)	DR. STEFANIE SEIXAS-MIKELUS
COUNTY OF CHARLESTON	)	

**PERSONALLY APPEARED BEFORE ME, DR. STEFANIE SEIXAS-MIKELUS,
WHO BEING DULY SWORN, DEPOSES AND STATES AS FOLLOWS:**

1. I am over the age of eighteen (18) and possess the competency to make this affirmation based upon my own knowledge of information attested to herein.

2. I hold a bachelor's degree from the University of Pennsylvania and received my medical degree from Tufts University School of Medicine. I was selected and participated in a one-year General Surgery internship at Beth Israel Medical Center in Boston, Massachusetts and completed a Urology residency at the State University of New York at Buffalo in 2009. I completed a two-year Urologic Oncology Fellowship with training in robotics at the Roswell Park Cancer Institute between 2009 – 2011. I have worked in private practice in Massachusetts and served as the Medical Director of Robotic Surgery at Hackensack Meridian Jersey Shore University Medical Center, a Level I trauma center in New Jersey, before being hired by East Cooper Physician Network, LLC to start a urology practice for Tenet Healthcare Corporation to be known as East Cooper Urology in Charleston, South Carolina.

3. I opened East Cooper Urology on June 1, 2019, and I began seeing patients in July 2019. After a-year-and-a-half of dedicating my life to East Cooper Urology, and suffering through running a medical practice during the COVID-19 Pandemic, I was terminated without cause and without explanation in December 2021. The East Cooper Urology practice was eliminated from Tenet Healthcare Corporation's operations and officially closed its doors in February 2021.

4. I retained legal counsel to protect my legal rights pursuant to the Employment Agreement I signed with East Cooper Physician Network, LLC, to protect my professional name, character and good standing within the medical community based on what I believe was wrongful

termination, blatant disregard to the agreed upon contract terms and obligations within my Physician Employment Agreement (“PEA”), and misrepresentation of certain material facts and circumstances by my employer which were essential to my employment.

5. On July 7, 2021, through my legal counsel at Rosen Hagood, LLC, I filed an Arbitration Demand against Tenet Healthcare Corporation, Tenet Physician Resources, LLC and East Cooper Physician Network, LLC seeking monetary damages resulting from actions and/or inactions of my employer, which included my wrongful termination and has significantly affected my livelihood, professionally, personally, and financially.

6. Having never been through legal proceedings before, I relied upon my counsel’s affirmation that the arbitration of my claims, as required by my PEA, would be a fair process with an impartial neutral serving over my claims against my former employer.

7. The selection of the Arbitrator to preside over my claims was primarily handled by my legal counsel using their experience, qualifications, and expertise in selection of an arbitrator from the list of Arbitrators provided by the American Arbitration Association. The list provided by the American Arbitration Association was vetted by my counsel and narrowed down to a few arbitrators for consideration. Ultimately, Kris Cato was selected and agreed to by the parties to serve as the presiding Arbitrator.

8. After Arbitrator Cato was appointed, nothing was disclosed to me, nor my legal counsel, that would have given me concern that Arbitrator Cato could not be a fair and impartial arbitrator. I trusted the arbitration process and believed the information received in Arbitrator Cato’s Oath was a complete and truthful disclosure that my legal counsel and I could rely upon in making an informed decision in proceeding with her as the selected arbitrator. The disclosure made by Arbitrator Cato indicated her husband provided occasional consulting services to clients

of the law firm representing the Respondents. I recently learned the disclosures made by Arbitrator Cato as part of her Arbitrator's Oath were inaccurate, incomplete, and misleading.

9. The overall Final Award rendered by Arbitrator Cato was certainly disappointing and did not seem justified to me based upon the facts, circumstances, and evidentiary support of my claims. I informed my legal counsel that something just didn't seem right with Arbitrator Cato's demeanor during the arbitration, and I raised the question of whether there was some connection between Arbitrator Cato and Attorney Carmen Thomas that maybe my counsel was not made aware of. I had a gut feeling that something was not right, and I asked my legal counsel to investigate whether there was a bias on the part of Arbitrator Cato toward the Respondents or Respondents' counsel in this matter.

10. Through investigation conducted post-issuance of Arbitrator Cato's Final Award, my legal counsel uncovered and informed me of a significant compromising connection between Arbitrator Cato and Respondents' law firm. Specifically, I now know that Arbitrator Cato's husband, Harry F. Cato, is much more than a consultant who "contracts with Nelson Mullins to perform some government relations consulting for some of their clients." Instead, Harry F. Cato has had a ten-an-a-half-year exclusive employment relationship with the law firm in which Mr. Cato, working out of the same office as Respondents' counsel of record, advises Nelson Mullins' healthcare clients. Prior to the arbitration or rendering of her Final Award, I had no knowledge of this critical information including the extent of Arbitrator Cato's husband's relationship with Nelson Mullins, the exclusive employment of Mr. Cato with Nelson Mullins or the types of clients Mr. Cato consulted with on behalf of Nelson Mullins.

11. Clearly, as husband and wife, the Catos have a professional, and most likely social, relationship with the employees of Nelson Mullins, at least within the Columbia, South Carolina office, which would include Attorney Carmen Thomas and Attorney Sue Erwin Harper. Upon

information and belief, Arbitrator Cato financially benefits from her husband's employment with Nelson Mullins and did so during the entire course of this arbitration proceeding. Further, I now understand that Mr. Cato in his time with Nelson Mullins has lobbied on behalf of several health care service providers affiliated with private health care organizations, like Tenet Healthcare Corporation and its affiliated entities.

12. Had Arbitrator Cato fully informed me of the extent of her husband's professional, monetary and likely social relationship with Nelson Mullins and its attorneys, I would definitely have struck Arbitrator Cato from the list of arbitrators presented by the American Arbitration Association. In my opinion, the facts that were withheld by Arbitrator Cato are material to my assessment of her ability to be fair and impartial in my case and reasonably create the appearance of impartiality.

13. I am informed and believe that Arbitrator Cato downplaying of her husband's relationship with Nelson Mullins in her disclosures is unethical based on the AAA Code of Ethics and the South Carolina Code of Ethics. Certainly, as a party in this matter, I feel that Arbitrator Cato's withholding of pertinent information as to her ability to be impartial deprived me of my rights to a fair and impartial decision maker to hear the merits of my claims.

14. Not only was I not provided with full and accurate information of Arbitrator Cato's relationship with Nelson Mullins, Arbitrator Cato did not inform us she was intimately involved in the private medical provider sector of the medical community through being on the Board of Directors for Lexington Medical Center. While I understand this appointment to the Board of Directors did not occur until after she was appointed as arbitrator of my case, I am informed and believe such service on the Board of Directors began during the pendency of my case, prior to the merits hearing, and certainly prior to Arbitrator Cato rendering her Final Award.

15. In my opinion, and as a party trusting the arbitration process, Arbitrator Cato's involvement on the Board of Directors for Lexington Medical Center is a material fact to my assessment of her ability to be neutral in my case. Arbitrator Cato's work on behalf of a private medical corporation, like my former employer, reasonably create the appearance of impartiality for which I would have acted upon in objecting to Arbitrator Cato continuing to serve as the arbitrator for my claims.

16. I am informed and believe that Arbitrator Cato failure to supplement her initial disclosures with information related to her appointment to the Lexington Medical Center Board of Directors is also unethical based on the AAA Code of Ethics and the South Carolina Code of Ethics. Again, as a party in this matter, I feel that Arbitrator Cato's withholding of pertinent information as to her ability to be impartial deprived me of my rights to a fair and impartial decision maker to hear the merits of my claims.

17. I believe material facts of Arbitrator Cato's partiality towards the Respondents in this matter are direct, definite, and capable of demonstration. As a party to this matter, I believe Arbitrator Cato's evident partiality prejudiced my right to a fair and impartial trial and has destroyed my confidence in her as an impartial neutral.

FURTHER AFFIANT SAYETH NOT.


Dr. Stefanie Seixas-Mikelus, M.D.

Sworn to before me this the

11 day of July, 2023



Notary Public for the State of South Carolina

My Commission Expires: 01/10/2033

<p>ETHAN BURKE Notary Public - State of South Carolina My Commission Expires January 10, 2033</p>
--

AMERICAN ARBITRATION ASSOCIATION

Case No. 01-21-0004-6490

Stefanie Seixas-Mikelus, M.D.,)
)
 Claimant,)
)
 v.)
 Tenet Healthcare Corporation, Tenet)
 Physician Resources, LLC, and East Cooper)
 Physician Network, LLC,)
)
 Respondents.)
 _____)

**AFFIDAVIT OF
BARBARA M. SEYMOUR**

The Affiant, Barbara M. Seymour, an attorney licensed and in good standing in South Carolina and Georgia, states as follows:

1. I make this affidavit in reliance on the documents provided to me regarding certain facts at issue in this case based on my understanding of the legal and ethical principles stated herein. I am making this affidavit and the opinions herein based on my experience as an attorney.
2. I have the requisite qualifications to give this affidavit. Those qualifications include the following, set out more fully in my curriculum vitae, which is attached.
 - a. I earned a Juris Doctor degree from the University of Georgia School of Law in 1993.
 - b. I am an attorney licensed to practice law in South Carolina and Georgia and have been in good standing in those jurisdictions since 1993.
 - c. From 1993 to 2000, I worked as a trial lawyer in a plaintiff's practice that represented clients in personal injury, products liability, and workers' compensation matters.
 - d. From 2000 to 2017, I worked as an investigating and prosecuting attorney for the Office of Disciplinary Counsel to the Supreme Court of South Carolina, including service as the Deputy Disciplinary Counsel from 2007 until 2017. The matters I handled for the Office of Disciplinary Counsel involved the capacity and professional conduct of lawyers and judges.
 - e. Since 2017, I have been in private practice, focusing exclusively on matters involving legal malpractice, ethical compliance, lawyer and judicial discipline, discovery disputes, Bar admissions, government ethics, and the unauthorized practice of law. My practice includes providing expert witness opinions and testimony on issues involving the standard of care for lawyers and ethical compliance, including conflicts of interest, discovery abuse, and litigation misconduct.

- f. Since 1997, I have served as an adjunct instructor in two paralegal studies programs in South Carolina, teaching Ethics & Professional Responsibility, Civil Litigation, Business Law, Torts, Law Office Management, and Legal Research & Writing.
 - g. I have extensively read and studied articles, treatises, and other publications on ethics and the standard of care in legal matters. I have written articles, manuals, and other publications on a variety of topics related to the duties and practices of judges, lawyers, and paralegals. I have presented more than 350 continuing legal education programs and guest lectures at local, state, and national meetings and conferences on a variety of ethics-related topics.
 - h. As lead counsel, I have had approximately 130 opinions published by the Supreme Court of South Carolina. All of those cases involved the professional conduct and capacity of lawyers or judges.
3. For purposes of this affidavit and for the formulation of my opinions, I am assuming the facts set forth in Claimant's Motion to Vacate Arbitrator's Award to be accurate and complete.
 4. In connection with the preparation of this affidavit, I have reviewed the following documents:
 - Claimant's Motion to Vacate Arbitrator's Award
 - General Arbitrator Oath Form completed by Kristine Cato, dated August 20, 2021
 - Filing CSV Report from SC State Ethics Commission website at <https://apps.sc.gov/lobbyingactivity/principalswithlobbyistsreport.aspx>.
 - Article entitled *Harry Cato to advise clients of Nelson Mullins Riley & Scarborough*, published in MidlandsBiz website at whosonthemove.com, dated December 3, 2010
 - Online profile of Henry F. Cato on Nelson Mullins website at <https://nelsonmullins.com/professionals>
 - Online profile of Henry F. Cato on LinkedIn at <https://linkedin.com/harry-cato-44596992/>
 - List of Lexington Medical Center Board of Directors at <https://lexmed.com/about/leadership-board-of-directors/>
 5. It is my opinion, to a reasonable degree of professional certainty, that Ms. Cato was ethically required to disclose relevant information to the claimant in this case that could reasonably call her impartiality into question. Specifically, my opinion is as follows.
 - a. Although she did disclose a connection with the law firm representing the respondents, Ms. Cato significantly downplayed that association, stating that it was an "indirect" connection and implying that her husband occasionally contracted with the law firm to provide "some" consulting to "some" of the law firm's clients. While her description of the connection might be technically true, it does not suggest a ten-and-a-half-year, exclusive employment relationship in which Mr. Cato advises the law firm's healthcare clients and works in the same office as the lawyers who represent the respondents. Both the South Carolina

Code of Ethics for Arbitrators and the AAA Code of Ethics mandate disclosure of “interests or relationships that are likely to affect [the arbitrator’s] impartiality or suggest that they are biased against one party or favorable to another.” Crouch Constr. Co. v. Causey, 405 S.C. 155, 747 S.E.2d 482 (2013).

- b. Although Ms. Cato disclosed her husband’s relationship with the respondent’s law firm, she characterized it as “indirect” and downplayed the nature of the relationship. Further, she omitted material facts such as the length and extent of her husband’s relationship with the law firm, the nature of the relationship (as exclusive employment rather than occasional contract work), and the types of law firm clients he consulted with. The facts now known to the claimant would cause a reasonable person to question Ms. Cato’s partiality. Objectively, regular and long-term employment of the arbitrator’s spouse by the law firm representing a party in the arbitration is a material conflict inconsistent with impartiality. It is a direct, definite, and demonstrable potential bias requiring disclosure. Further, Ms. Cato’s decision to characterize the relationship as insignificant and to not disclose material facts would cause a reasonable person to conclude that she was, in fact, partial to the other party to the arbitration.
 - c. Compounding the incomplete disclosure regarding Mr. Cato’s employment relationship with Nelson Mullins is Ms. Cato’s decision not to supplement her disclosure when she was appointed to serve on the Board of Directors of Lexington Medical Center. That appointment would have been responsive to Question 10 on the disclosure form: “Are you a member of any organization that is not listed on your panel biography that may be relevant to this arbitration?” Although LMC is not a party to or otherwise involved in the dispute subject to the arbitration, Ms. Cato’s service on its board would be a fact subject to disclosure under both the South Carolina and AAA ethics rules because a reasonable person would want to know that information before consenting to her service as arbitrator in this case.
 - d. An appointment to serve on the board of an entity similar to one of the parties involved in the arbitration might not, standing alone, warrant disqualification. However, in the context of Mr. Cato’s work for clients in the healthcare industry on behalf of and for the pecuniary benefit of the respondents’ counsel’s law firm, Ms. Cato’s decision not to supplement her disclosure with this new, material information was not in conformity with her ethical obligations as arbitrator in this case. It would certainly have been reasonable for the claimant to have had the expectation that Ms. Cato was fully forthcoming in her disclosures based on the instructions on the disclosure form, which stated, “This is a continuing obligation throughout your service on the case and should any additional direct or indirect contact arise during the course of the arbitration or if there is any change at any time in the biographical information that you have provided, it must also be disclosed. Any doubts should be resolved in favor of disclosure.” (emphasis mine)
6. My expert opinions are based on the information provided to me at this time, as outlined above, all of which I have assumed to be true. The opinions in this affidavit are subject to

EDUCATION

UNIVERSITY OF GEORGIA, SCHOOL OF LAW, Juris Doctor, May 1993

UNIVERSITY OF NORTH CAROLINA AT GREENSBORO, B.S., Management & Marketing, May 1990

PROFESSIONAL EXPERIENCE

CLAWSON & STAUBES, LLC, COLUMBIA, SOUTH CAROLINA, July 2017 – Present

Partner. Representing clients in Professional Responsibility, Legal Ethics, State Ethics Act, and unauthorized practice of law matters. Assisting lawyers and law firms in ensuring ethical compliance, including conflicts analysis, advertising review, risk management assessment, trust account management training, succession planning, departure and dissolution guidance, and litigation and discovery conduct. Representing lawyers, judges, and law students in Bar admission, reinstatement, and professional discipline matters. Legal malpractice consulting and testimony.

PARALEGAL DEGREE PROGRAM, MIDLANDS TECHNICAL COLLEGE, August 2000 – Present

Adjunct Professor. Courses have included Torts, Introduction to Law and Ethics, Civil Litigation, Law Office Management, and Business Law.

OFFICE OF DISCIPLINARY COUNSEL, SUPREME COURT OF SOUTH CAROLINA, June 2000 – July 2017

Deputy Disciplinary Counsel. Investigated complaints of misconduct and incapacity pursuant to the Rules of Professional Conduct, the Code of Judicial Conduct, and the Rules for Disciplinary Enforcement. Prosecuted discipline, incapacity, and contempt proceedings before the Commission on Lawyer Conduct and the Supreme Court of South Carolina. Trained new ODC attorneys and staff. Design, training, and technical support for case management software. Drafted proposed rule revisions. Provided assistance and advice to the Disciplinary Counsel in personnel, case processing, and policy matters.

PROFESSIONAL LEGAL ASSISTANTS PROGRAM, CONVERSE COLLEGE, August 1997 – June 2000

Adjunct Instructor. Taught Professional Responsibility, Legal Research & Writing, Civil Litigation.

HARRIS & GRAVES, P.A., GREENVILLE, SOUTH CAROLINA, August 1993 – June 2000

Associate. Responsible for all aspects of client files, from initial interview to settlement or trial. Maintained an average caseload of 200 files, representing plaintiffs in civil matters. Extensive courtroom experience. Hired, trained, supervised non-lawyer staff.

REPRESENTATIVE CASES

In the Matter of McKeever, 421 S.C. 130, 805 S.E.2d 201 (2017)

In the Matter of Breckenridge, 416 S.C. 446, 787 S.E.2d 466 (2016)

In the Matter of Berger, 408 S.C. 313, 759 S.E.2d 716 (2014)

In the Matter of Collie, 410 S.C. 556, 765 S.E.2d 835 (2014)

In the Matter of Carter, 400 S.C. 170, 733 S.E.2d 897 (2012)

In the Matter of White, 391 S.C. 581, 707 S.E.2d 411 (2011)

In the Matter of Davis, 395 S.C. 470, 719 S.E.2d 645 (2011)

In the Matter of Pennington, 393 S.C. 300, 713 S.E.2d 261 (2011)

In the Matter of Lattimore, 361 S.C. 126, 604 S.E.2d 369 (2004)

Linder v. Insurance Claims Consultants, 348 S.C. 447, 560 S.E.2d 612 (2002) (*amicus curiae*)

PROFESSIONAL AFFILIATIONS

- **South Carolina Bar**, Admitted November 1993
 - Professional Responsibility Committee, 2003 – Present (Chair, 2022 – Present)
 - Unauthorized Practice of Law Committee, 2016 – Present (Chair, 2018 - 2020)
 - Diversity Committee, 2017 – Present
 - Professional Standards Subcommittee Chair, 2020-2022
 - Law Related Education Committee, 1998 – Present (Chair, 2002 – 2004)
 - House of Delegates, 2017 - 2018
 - Legal Ethics and Practice Program (LEAPP), Creator & Presenter, 2009 - 2020
 - S.C. Access to Justice Commission, Limited Scope Representation Subcommittee (2017)
 - Bridge-the-Gap/Essentials Series Faculty
 - Ethics Essentials – Coordinator & Presenter, 2018 – Present
 - Personal Injury Essentials – Ethics Presenter, 2018 – Present
 - Family Law Essentials – Ethics Presenter, 2022 - Present
 - Trust Accounting, 2013 – 2014
 - Law Office Management, 2005 – 2006
 - Continuing Legal Education Committee, 2000 – 2006
 - Conventions Committee, 2000 – 2003
 - Young Lawyers Division, 1993 – 2003
 - Adopt-A-Shelter Committee, 1999 – 2000
 - Continuing Legal Education Committee, 2001 – 2002
- **State Bar of Georgia**, Admitted July 1993
 - Facilitator, First-Year Law Student Orientation on Professionalism 1997, 1999, 2000
- **SC Paralegal Certification Board**, Character and Fitness Subcommittee 2020 - Present
- **Association of Professional Responsibility Lawyers**, 2017 – Present
- **South Carolina Women Lawyers Association**, 1998 – Present
 - Judicial Election Task Force, Chair, 2018 – 2020
 - Board of Directors, 2002 – 2005
 - Membership Committee Chair, 2004 – 2005
 - Editorial Committee Chair, 2002 – 2003
 - Midlands Region Coordinator, 2002
- **National Organization of Bar Counsel**, 2000 – 2017
 - Director-at-Large, 2016 - 2017
 - Liaison to ABA Commission on Lawyer Assistance Programs, 2016 – 2017
 - Programming Committee, 2011 – 2016
 - Special Committee on Permanent Retirement, 2012
 - MRLDE Subcommittee, 2011
- National Institute for the Teaching of Ethics and Professionalism - Fellow, 2006 & 2011
- Midlands Technical College Paralegal Studies Dept. Adjunct Faculty Member of the Year, 2020
- SC Bar Law-Related Education Lawyer of the Year, 2006
- Martindale-Hubbell rating – AV Preeminent
- *South Carolina Lawyer's Weekly* Leadership in Law Award, 2013
- Richland County Bar Association, 2018 - Present
- South Carolina Trial Lawyers Association, 1993 - 2000
- Spartanburg & Greenville County Bar Associations, 1993 – 2000
- American Bar Association, 1993 – 2000, 2023 - Present

PUBLICATIONS

Protecting the Profession and the Public: Primer on Reporting Misconduct *SC Lawyer Magazine* (Jan 2023)
Navigating the SC Disciplinary Process, *SC Lawyer Magazine* (November 2022)
Trust Accounting for South Carolina Lawyers: An Annotated Practice Manual, SC Bar Publication (2021)
Paralegal Survival Guide, Ethics & Professional Responsibility Chapter, SC Bar Publication (4d Ed. 2020)
New Year's Resolution: Escheat Unclaimed Funds! *SC Lawyer Magazine* (January 2018)
The Curious Case of Benjamin Hunt: Origins of Civility Regulation in SC, *SC Lawyer Magazine* (May 2013)
Ethics Watch: An Inside Look at Confidential Discipline, *SC Lawyer Magazine* (May 2008)

NATIONAL CONFERENCE PRESENTATIONS

Passing the Baton: Leaving Your Practice in Good Hands, (panelist), American Bar Association 48th Annual Professional Responsibility Conference – New Orleans, LA (2023)
Uncharted Waters: Navigating a Multijurisdictional Practice, American Public Power Association Annual Legal and Regulatory Conference – Charleston, SC (2018)
The Crucible of Discipline: The Role of Public Shaming in Promoting Professional Conduct and Protecting the Public, National Organization of Bar Counsel Annual Meeting – New York, NY (2017)
Just Because You're Paranoid Doesn't Mean They're Not After You: Managing Complaints Against Bar Counsel, (panelist) NOBC Annual Meeting – New York, NY (2017)
New Challenges in Managing Receiverships, (moderator) NOBC Mid-Year Meeting - Miami, FL (2017)
Attorney Discipline Procedures from Around the Globe: Comparative Analyses and Best Practices, (panelist) 5th International Conference of Legal Regulators - Washington, DC (2016)
The Bigger They Are, the Harder They Fall: Challenges in Prosecuting Government Officials, (moderator) NOBC Annual Meeting – San Francisco, CA (2016)
Ethics & the Elderly Client: Investigating Disciplinary Complaints Related to Representation of Older Clients, (panelist) NOBC Mid-Year Meeting – San Diego, CA (2016)
Nontraditional Legal Service Providers and the Impact of NC Board of Dental Examiners v. FTC on Lawyer Regulation, (moderator) NOBC Annual Meeting – Chicago, IL (2015)
Professionalism Mandates & Regulation of Lawyer Civility, NOBC Annual Meeting – Chicago, IL (2015)
Ten Years of Multijurisdictional Practice: The Challenge of Regulating Cross-Border Practice, NOBC Annual Meeting – Chicago, IL (2015)
It's Just Adding and Subtracting: Helping Lawyers Avoid Trust Accounting Disasters and Prosecuting Them When They Don't, NOBC Mid-Year Meeting – Houston, TX (2015)
Is Where You Sit Where You Practice? MJP, UPL, and the Virtual Practice of Law (panelist), 12th Annual Legal Malpractice & Risk Management Conference - Chicago, IL (2013)
Prosecutorial Discretion: Disciplinary Complaints Against Public Defenders, (panelist) NOBC Mid-Year Meeting – Dallas, TX (2013)
This is Not Your Father's Law Firm: Investigating "National" Law Firms & Virtual Law Offices, NOBC Annual Meeting – Chicago, IL (2012)
A LEAPP Forward: South Carolina's Ounce-of-Prevention Approach to Lawyer Discipline, Burge Conference on Law and Ethics, Georgia State University College of Law – Atlanta, GA (2011)
Mandatory Overdraft Reporting: South Carolina's Holistic Approach to Trust Account Compliance, NOBC Mid-Year Meeting – Atlanta, GA (2011)
Judicial Ethics & Electronic Communication, National College of Probate Judges Fall Conference – Charleston, SC (2010)
Finding Your Way: Ethics for the Transportation Lawyer, (panelist) American and Canadian Transportation Lawyers Associations Annual Joint Conference – Hilton Head Island, SC (2010)
Ethics 2.0: Is New Media Really Changing Legal Ethics? NOBC Annual Meeting – San Francisco, CA (2010)

LOCAL & STATE PRESENTATIONS

10 Things You Need to Know that You Won't Find in the Rules of Professional Conduct, Haynsworth-Perry Inn of Court (2023)

Creating a Culture of Ethics in Public Service, SC Assoc of Probate Judges Bench/Staff Seminar (2023)

Ethics Update for Judges, SC Association of Probate Judges Annual Meeting (2023)

Where Angels Fear to Tread: Unauthorized Practice of Law, Palmetto Paralegal Assn. (2003); SC Association for Justice Paralegal Seminar (2023)

Ethics & Deepfake Scams: What You Need to Know to Protect Your Clients and Your Firm, Chicago Title Ins. Co. Annual Claims & Underwriting Seminar, Lexington County Bar Annual CLE (2022); SC Women Lawyers Association CLE (2023)

Unique Ethical & Regulatory Challenges for Immigration Lawyers, American Immigration Lawyers Assn (2022)

Ethical Considerations for Court Employees, Aiken County Magistrates' Office (2017); SC Assn of Clerks of Court & Registers of Deeds Fall Conference (2022)

The Paralegal Parachute: Saving Lawyers from Themselves, Palmetto Paralegal Assn. Lunch Meeting (2022)

Ethics Tips for Public Defenders, SC Public Defenders Association Annual Meeting (2022)

Ethics & the Modern Solo Practice, Charleston School of Law Solo Practice CLE (2022)

School Law Ethics: Collaboration in School District Representation, SCSBA Council of School Attorneys (2022)

The Problem of Prejudice in the Legal Profession: Is There a Regulatory Solution? Charleston School of Law Diversity Week Speaker Series (2022)

Behind the Scenes at ODC: How the Discipline Process Works and How to Avoid It, Pee Dee Inn of Court (2022); Richland Co. Bar (2021); Berkeley Co. Bar (2019); Charleston Co. Bar "What Works" (2018)

Trust Accounts: From Set Up to Succession, Chicago Title Ins. Co. Attorney Seminar (2022)

Practical Advice for Taking Responsibility, Building Resilience, and Being a Better Lawyer, Hilton Head Bar Super CLE (2021); Greenville Co. Bar Annual Conference; SCWLA CLE (2020)

Ethics & Social Media for Litigators, SC Defense Trial Attorneys Association Annual Conference (2020)

Ethical Issues and Pro Se Litigants, SC Children's Law Center, DSS Attorney Seminar (2020)

Judicial Ethics in the Virtual World, SC Association of Probate Judges Annual Meeting (2020)

Recognizing & Addressing Cognitive Impairment in Your Law Office, Charleston County Bar Wellness Committee CLE (2020); SCWLA (2023)

Defending the Borders: MJP, UPL, and Advertising for Immigration Lawyers, SC Chapter of American Immigration Lawyers Association CLE (2020)

A Little Help from Your Friends: SA/MH Resources for SC Lawyers, Hilton Head Island Bar, Annual Super CLE (2020); SC Workers' Compensation Education Association, Annual Conference (2019)

Too Good to Be True? Risks of Associating with "National" Law Firms, SC Bankruptcy Law Association (2019)

Judicial Ethics for Lawyers, SCWLA (2011 & 2019); York County Bar (2011)

Your Name (and Address) Here: How to Avoid Advertising Complaints, Richland County Bar, Greenville Association of Criminal Defense Lawyers (2019); Charleston County Bar (2017)

Keys to Securing Client Confidentiality, Palmetto Paralegal Association Fall Conference (2019)

Ethics & Civil Litigation, SC Association for Justice Annual Conference (2018)

Succession Planning for Lawyers and Law Firms, SC Bankruptcy Law Association (2018)

Those Were NOT the Days: A History of Discrimination in the Legal Profession, SCWLA; SC Bar YLD Diversity Committee CLE; SC Bar Leadership Academy (2017)

Multijurisdictional Practice and Unauthorized Practice of Law in Magistrate's Court, SC Summary Court Judges Association Annual Meeting (2017)

Back to Basics: Trust Accounting 101, SCWCEA Annual Conf. (2017); Hilton Head Bar; SC Supreme Court Mentees (2011); Spartanburg Co. Bar; Lexington Co. Bar (2010); Richland Co. Bar; SCWCEA (2005)

Judicial Ethics in the Internet Age, Summary Court Judges Annual Meeting (2017); South Carolina Judicial Conference; SC Assn. of Probate Judges, Bench/Staff Seminar (2010)

Warning Signs that Your Lawyer Might Be in Trouble, Palmetto Paralegal Assn. (2006 & 2017)
Ethics & Professionalism for Law Clerks & Staff Attorneys, SC Judicial Conference (2007-2017)
"No Comment!" Ethical Considerations in Lawyer-Media Relations, SCWLA; Hilton Head Bar (2016)
Unauthorized Practice, False Witnessing, and Misappropriation: Is It Time to Reconsider Certification & Regulation of Paralegals in South Carolina? SC Legal Staff Professionals; (2015) Upstate Paralegal Assn. (2016); Palmetto Paralegal Assn. (2014)
Ethical Considerations in the Use of Social Media by Lawyers and Law Firms, SC Defense Trial Attorneys Assn. Annual Meeting; Lexington County Bar Annual CLE (2015)
Ethics and Discipline Update for Real Estate Practitioners, SC Bar Real Estate Section, Annual Convention (2016); First American Title Company, Annual Attorney Seminar (2015)
Law Office Management, Technology, & Ethics, SCWLA (2015); SC Legal Staff Professionals CLE (2013); Greenville County Bar CLE; Palmetto Paralegal Assn. (2012)
Defending the Borders in the Internet Age: Multijurisdictional Practice, Virtual Law Offices, and the Unauthorized Practice of Law, SCWLA; Hilton Head Bar; SC Judicial Conference; Chicago Title Ins. Co. Attorney Seminar (2014); Richland Co. Bar Annual Ethics Seminar; SCAJ Annual Convention (2013)
Lawyers and Identity Theft: An Emerging Trend, SCWLA; Hilton Head Bar Assn.; SCAJ Annual Convention (2013); SCWCEA Annual Education Conference (2012)
Advertising Evolution: Recent Developments in the Regulation of Law Office Marketing, SCWCEA Annual Education Conference; SCWLA; Association of Legal Marketing Professionals, Low Country Chapter; SC Injured Workers Advocates (2013)
Thinking About the Unthinkable: Planning for Disaster, Disability, Discipline, and Death, SCAJ, Annual Convention (2009 & 2013)
Social Networking: Professionalism and Ethics for Paralegals, SC Legal Staff Professionals (2011 & 2013); Upstate Paralegal Assn. (2011); Palmetto Paralegal Assn. (2010)
Managing Ethical Issues in Your Day-to-Day Practice, National Business Institute CLE (2006, 2007, 2012); SC Supreme Court Mentees CLE (2010)
Substance Abuse & Mental Health Issues in the Legal Profession, Lexington County Bar (2011)
Two Wrongs Don't Make a Right: The Lawyer's Oath, Revisited, SCAJ Annual Convention; SCWCEA Annual Conference (2011)
Legal Ethics in the Digital Age, National Business Institute CLE (2011)
Navigating the Social Media Minefield: Are You Prepared? SC Assn. of Legal Administrators (2011)
Trust Accounting for Real Estate Lawyers, South Carolina Bar Convention (2011); Stewart Title Company, Title Insurance Professionals Seminar (2006)
Pretexting & Dissembling: Lawyers and Little White Lies, SC Insurance Reserve Fund - Law Enforcement Defense Counsel Annual Meeting (2010); cited in Ethics of "Pretexting" in a Cyber World, 41 MCGEORGE L.REV. 2; SCWCEA Annual Conference (2009)
Accounting & Accountants: What Lawyers Need to Know, National Business Institute CLE (2010)
Making the Most of Technology at Trial (panelist), Assn. of Litigation Support Professionals (2010)
Advertising in the Internet Age, SC Assn. of Legal Administrators; Hilton Head Bar; SCWLA (2010)
Social Networking: Professionalism in the Internet Age, SCWLA; Lexington Co. Bar; Federal Law Clerks (2010)
Ethical Considerations in Marketing Your Law Practice, SCWLA; Richland Co. Bar, Annual Seminar (2009)
Eight Simple Ways to Lose Your Law License by Email, Hilton Head Bar; Federal Law Clerks; Richland Bar (2009); SCWLA; SCWCEA Annual Conference (2010)
Professional Responsibility and Lawyer Discipline in South Carolina, SCANPO/SCDOR Annual CLE (2003); SC Attorney and CEO Clinic (2000)
Legal Ethics for Private Investigators, SC Assn. of Legal Investigators, Annual Conference (2007)
How to Handle Lawyer Misconduct in Your Courtroom, South Carolina Judicial Conference (2007)
Basics of Legal Assisting in SC: Ethics for Legal Assistants, Half Moon Seminars (2001, 2003, 2007)
The Busy Lawyer's Top Five Must-Haves This Holiday Season, SCAJ Annual Auto Torts Seminar (2007)

BARBARA M. SEYMOUR, J.D.

Practical Legal Ethics for SC Attorneys and Law Office Staff, Half Moon Seminars (2001, 2004, 2006)
Screening for Conflicts & Obtaining Waivers After Ethics 2000, SCWLA (2006)
Ethics for Federal Practitioners, SC Chapter of the Federal Bar Assn. (2005)
What You Need to Know About Ethics 2000, USC School of Law Alumni Assn., Annual CLE; SCAJ Annual Convention (panelist); SCWLA (2005)
Revised Lawyers' Oath Seminar, SC Claimants' Attorneys for Workers' Compensation; SC Probate Judges Assn. (2005); Hilton Head Bar; SCAJ; SC Administrative & Regulatory Lawyers Assn.; SC Assn. of Criminal Defense Lawyers; SCWLA (2004)
Top Ten Most Frequent Complaints, USC School of Law Alumni Assn., Annual CLE (2003)
The Ethics Café: Overview of Ethical Considerations, Hilton Head Bar CLE (2003)
Think Like a Manager: A Systems Approach to Ethical Compliance, SCWCEA Annual Conf.; SCWLA (2002)
Top 10 Ways Lawyers Screw Up Their Reputations, NMR&S Center on Professionalism CLE (2002)
The Twenty-First Century Paralegal, Converse College PLA Program, Commencement Address (2001)
Ethical Considerations for Legal Support Staff, Spartanburg County Paralegal Association (1999)

SOUTH CAROLINA BAR CLE PRESENTATIONS

Annual Ethics Hot Tips, Speaker and Moderator (2023)
How to Get Paid Without Getting Disbarred, 32nd Annual Criminal Practice in South Carolina (2023)
Fostering an Ethical Organizational Culture: Tips for Leaders, Hot Topics in Education Law (2023)
Ethics and Civility: Beyond the Lawyer's Oath, Family Law Hot Tips (2022)
How to Avoid Grievances and What to Do When You Can't, Annual Tips from the Bench (2015, 2017, 2022)
Ethics & The Modern Law Firm: Lessons from the Pandemic (2022)
Trust Account Academy, Distance Learning Three-Part Series (2021)
Investigation Ethics for Litigators, Distance Learning Video (2020)
Diversity & Inclusion in the Profession: Where We've Been & Where We Are Going, Ann. Convention (2018)
Current Events in Criminal Law & Ethics, 25th Annual Criminal Practice Seminar (2018)
Ethics for Criminal Lawyers: The New Model Rule 8.4(g), 25th Annual Criminal Practice Seminar (2017)
Common Advertising Complaints and How to Avoid Them, Annual Convention (2017)
Ethics and Discipline Update for Real Estate Practitioners, Annual Convention (2016)
A Little This Side of the Snow: The Changing Landscape of the Legal Profession, 31st Annual NC/SC Labor & Employment Law Conference (2015)
Ethics for Criminal Lawyers: Interactions with the Media, 24th Annual Criminal Practice Seminar (2015)
Loan Modification & Unauthorized Practice in Equity Court, Master-in-Equity Bench/Bar (2014)
"I Was Just Obeying Orders": Ethical Consideration for Attorneys & Paralegals, The Secrets of Law Firm Profitability & Efficiency Seminar (2014)
Ethics & Marketing: Getting Out There Without Getting in Trouble, Rainmaking Boot Camp (2014)
Establishing & Maintaining Your Client Trust Account, Distance Learning Video (2012)
Ethical Considerations in Marketing Your Law Practice, Distance Learning Video (2008, rev. 2012)
Ethics on the River: Annual Update on Ethics & Discipline (2011)
Ethics of Bankruptcy Practice in South Carolina: Advertising in SC Post-Milavetz (2011)
Practice Essentials for Lawyers and Paralegals: Confidentiality in the Internet Age (2010)
Staying Out of eTrouble: Professional Responsibility & Online Networking, Distance Learning (2010)
Ethics & Online Networking, Conference on the 75th Anniversary of the SC Workers' Comp Act (2010)
Back to Basics: Trust Accounting 101, Solo & Small Firm Conference (2010, 2011, 2012)
Succession Planning for Lawyers, Solo & Small Firm Section, Hot Tips Seminar (2010)
Advertising in the Internet Age, Law of Automobile Insurance Seminar (2009)
Search Engine Marketing and Ethical Considerations for Law Firms (2009)
Ethics & Advertising for Family Law Practitioners, Family Law Section, Hot Tips Seminar (2009)

Judicial Ethics for Lawyers, Master-in-Equity, Probate, and Family Court Bench Bar Seminars (2009)
Ethics Update for Solo & Small Firm Practitioners, Annual Convention (2007)
Developments in Professional Responsibility & Lawyer Discipline, Solo & Small Firm Section (2007)
Ethics – Did You Know...? Distance Learning Video (2007)
Ethics 2000, Tips from the Bench Seminar (2005)
20/20 – An Optimal View of 2005: Annual Review of Disciplinary Cases (2005)
Hot Tips for Domestic Law Practitioners: Juggling Ethics in the Family Circus (2003)
Sex, Lies, and Conflicts of Interest (2003)
Take Your Lawyer ‘Oats’ Seriously: Words of Wisdom for Attorneys from Their Clients, (2003)
Conflicts of Interest in Domestic Cases, Family Law Ethics Seminar (2003)
SC Tort Claims Act: Beyond the Primer (1998 & 2003)
Controlling Your Environment: Ethics for Nonlawyer Staff, Annual Convention (2002)
Are We Having Fun Yet? Interactive Ethics Presentation (2002)
Ethics Roadshow, Client Assistance Program Seminar (2002)
Small Office Systems and Ethical Compliance, Solo & Small Firm Section Seminar (2002)
Ring Out the Old, Ring in the New: Ethics Update (2001)
Professionalism in the Real World, Young Lawyers Division Seminar (2001)

GUEST LECTURES & IN-HOUSE PRESENTATIONS

AGENCIES:

U.S. District Court for the Southern District of Georgia, Advisory Committee
Office of the United States Attorney, District of South Carolina
SC Commission on Prosecution Coordination
SC Department of Insurance
SC Department of Social Services
SC Appleseed Legal Justice Center
SC Department of Health & Environmental Control
SC Worker’s Compensation Commission
SC Department of Labor, Licensing, and Regulation
SC Office of the Attorney General
SC Association of Counties
7th Circuit Solicitor’s Office
South Carolina Legal Services
Public Employee Benefits Administration Board of Directors

LAW FIRMS:

Nelson Mullins Riley & Scarborough
Ogletree, Deakins, Nash, Smoak & Stewart
Haynesworth Sinkler Boyd
Callison Tighe Robinson
Turner, Padgett, Graham & Laney, PA
Burnette, Shutt & McDaniel
McAngus Goudelock & Curry
Collins & Lacy
Womble, Carlisle, Sandridge & Rice

EDUCATIONAL INSTITUTIONS:

University of South Carolina School of Law



BARBARA M. SEYMOUR, J.D.

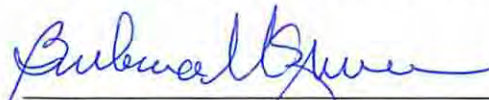
Georgia State University College of Law
Charleston School of Law
Greenville Technical College, Paralegal Department
Horry-Georgetown Technical College, Legal Studies Department

ELECTRONICALLY FILED - 2023 Jul 13 3:40 PM - CHARLESTON - COMMON PLEAS - CASE#2023CPI003391

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A handwritten signature in blue ink, appearing to be 'me' or similar, located in the bottom right corner of the page.

supplementation, clarification, and modification if and when further information or issues are presented to me.


Barbara M. Seymour, Affiant

Columbia, SC

SWORN TO AND SIGNED in my presence
on June 28, 2023.


Signature of Notary Public for the State of South Carolina

Amber Gilliam
Printed Name

My commission expires: 02/20/2029

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	Case No.: 2023-CP-100-3391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	<u>RESPONDENTS' OPPOSITION</u>
	)	<u>TO PETITIONER'S</u>
v.	)	<u>MOTION TO VACATE</u>
	)	<u>ARBITRATION AWARD</u>
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East Cooper	)	
Physician Network, LLC.	)	
	)	
Respondents.	)	

INTRODUCTION

Petitioner seeks to overturn an unfavorable result in an arbitration because she is dissatisfied with the outcome. Because the procedure was fair, Petitioner turns her dissatisfaction on the arbitrator, alleging “evident partiality” that Petitioner asserts should void the result of the arbitration proceeding. Petitioner mentions but does not address the four factors to determine whether evident partiality was present. Petitioner’s motion also fails to consider critical facts:

1. *Petitioner named the arbitrator as her first choice;*
2. *Petitioner had an opportunity to investigate, ask questions about, and object to the arbitrator’s disclosures once they were made;*
3. *All of the information on which Petitioner’s motion is based was publicly available to her at the time of the arbitrator’s disclosures; and*
4. *Petitioner did not object* and did not ask about the disclosures before the deadline, or at any time until *after* the arbitration award against all of her claims.

Applying the four factors of the analysis shows the arbitrator did not exhibit evident partiality.

The sole basis for vacatur advanced by Petitioner is her allegation of evident partiality by the arbitrator, one of the limited grounds for vacating an arbitration award under S.C. Code Ann. § 15-48-130, the South Carolina Uniform Arbitration Act (“SC UAA”); 9 U.S.C. § 10, the Federal Arbitration Act (“FAA”).¹ (Mot. Vacate.) Petitioner fails to meet the heavy burden necessary to vacate the Final Award based on alleged evident partiality. She cannot meet the four elements of the Fourth Circuit Court of Appeals’ test because (1) the arbitrator’s relationship to Respondents’ counsels’ law firm (her husband is a nonlawyer contractor to the firm) is indirect *and was disclosed and not objected to by Petitioner*, and her subsequent appointment to the Board of Directors of an unrelated hospital has no connection to the arbitration; (2) the arbitrator had no personal interest in the proceeding; (3) no other connection existed between the arbitrator and the arbitration; and (4) no undisclosed, direct relationship existed between the arbitrator and the parties or their counsel during the pendency of this matter.

Further, Petitioner waived any objection to the arbitrator’s disclosures or the indirect relationship because she did not object either before the deadline to object or at any time before the arbitration hearing.

The motion also seeks discovery related to the purported evident partiality, and this request also should be denied. The information in the record and in public documents is sufficient to establish conclusively that Petitioner cannot meet the high burden for a motion to vacate.

¹ Petitioner’s motion cites to the S.C. Uniform Arbitration Act as support. (Mot. Vacate, at 8-9.) Pursuant to the Physician Employment Agreement between Petitioner and Respondent East Cooper Physician Network, LLC, however, the parties explicitly agreed to follow the FAA to resolve disputes. (Physician Employment Agmt. at ¶ 13, attached as Exhibit 1 (citing Tenet Open Door Policy and Fair Treatment Process at ¶ 5(a), attached as Exhibit 2.)) However, the application of the FAA or SC UAA here makes little difference as “both provide for an arbitration award to be vacated upon a showing of ‘evident partiality’”, which is the sole ground for vacation argued by Petitioner. *Crouch Const. Co. v. Causey*, 405 S.C. 155, 165–66, 747 S.E.2d 482, 487–88 (2013).

For these reasons and as explained further below, Respondents Tenet Healthcare Corporation (“Tenet”), Tenet Physician Resources, LLC (“TPR”), and East Cooper Physician Network, LLC (“ECPN”) (collectively, “Respondents”), oppose Petitioner Stéfanie Seixas-Mikelus, M.D.’s Motion to Vacate Arbitrator’s Award, Request for Limited Discovery and Request for Evidentiary Hearing (“motion to vacate”), and request that the motion be denied in full. Further, Respondents will be filing a motion to confirm the arbitration award and will seek relief for the fees and costs incurred in responding to the motion to vacate because it is frivolous.

FACTS AND PROCEDURAL BACKGROUND

Effective June 1, 2019, Petitioner began employment as a urologist with East Cooper Urology in Mt. Pleasant, South Carolina, pursuant to the Physician Employment Agreement (“PEA”) between Respondent ECPN and Petitioner. On December 11, 2020, Respondent ECPN notified Petitioner of her termination without cause from ECPN pursuant to the termination without cause provision of the PEA. (Termination Notice, attached as Exhibit 3.)

In July 2021, Petitioner initiated arbitration by filing with the American Arbitration Association (“AAA”) an Arbitration Demand against the Respondents for breach of contract, breach of implied covenant of good faith and fair dealing, and wrongful termination in violation of public policy.² (Demand for Arb., attached as Exhibit 4.) Respondents filed an Answer to Petitioner’s Arbitration Demand. (Resp. Answer, attached as Exhibit 5.)

² As Petitioner notes in her motion to vacate, her Demand for Arbitration that was served on Respondents only included the above three causes of action. (Mot. Vacate at 4, n.4.) After the arbitration hearing when the discrepancy was first identified upon Petitioner’s filing of her post-hearing brief, Petitioner alleged that the correct version included a fourth cause of action for negligent misrepresentation. She admitted to never having served this version on Respondents. (*Id.*) The Arbitrator found Petitioner’s failure to serve Respondents with this version of the complaint and her subsequent failure to raise the fourth cause of action at any point until after the arbitration hearing meant she could no longer proceed with the negligent misrepresentation cause of action. (Final Award, attached as Exhibit 6.)

On July 23, 2021, AAA initiated the arbitrator selection process by circulating a list of potential arbitrators that included South Carolina lawyer Kris Cato. (AAA Ltr. to Parties and Kris Cato resume excerpted from list of candidates (July 23, 2021), attached as Exhibit 7.) On August 6, 2021, *Petitioner proposed Kris Cato as her first choice*, even noting a second choice in the event Arbitrator Cato has a conflict. (Email from E. Nicholson Email to C. Thomas, S. Harper (Aug. 6, 2021), attached as Exhibit 8.) On August 16, 2021, in a communication to AAA, Petitioner's counsel confirmed Arbitrator Cato as Petitioner's choice. (Email from E. Nicholson to Mary Jara (AAA), C. Thomas, attached as Exhibit 9.)

On September 1, 2021, AAA notified the Parties that Arbitrator Cato was appointed “[p]ursuant to the agreement of the parties.” (Email from AAA to Parties (Sept. 1, 2021), attached as Exhibit 10.) In that same communication, AAA circulated Arbitrator Cato's disclosures cited in Petitioner's motion to vacate to the parties' counsel. (*Id.*) In this communication, AAA also notified the Parties that *any objections to Arbitrator Cato's appointment were due by September 8, 2021.* (*Id.*) Arbitrator Cato's September 1, 2021 disclosures conveyed the following information that Petitioner only now contests:

3. Have you had any professional or social relationship with counsel for any party in this proceeding or the firms for which they work?

Answer: NO

5. Have you had any professional or social relationship of which you are aware with any relative of any of the parties to this proceeding, or any relative of counsel to this proceeding, or any of the witnesses identified to date in the proceeding?

Answer: NO.

14. **Are there any connections, direct or indirect, with any of the case participants that have not been covered by the above questions?**

Answer: YES

Comments: **Indirectly. My husband is a government relations consultant and contracts with Nelson Mullins to perform some governmental relations consulting for some of their clients, although NOT the defendant in this matter. He is not an attorney and provides consulting and lobbying work only. This will not affect my ability to act impartially in this matter.**

15. Are you aware of any other information that may lead to a justifiable doubt as to your impartiality or independence or create an appearance of partiality?

Answer: NO

(*Id.* at 3-5 (emphasis added).)

After these disclosures were received on September 1, 2021, Petitioner asked no questions and sought no additional information about the disclosures. *Petitioner submitted no objections to Arbitrator Cato or to her disclosures by the September 8, 2021 due date.*

Accordingly, on September 14, 2021, AAA notified the parties that no objections had been made to Arbitrator Cato's appointment, and she was appointed, two weeks after Petitioner received Arbitrator Cato's disclosures and almost two months after Petitioner proposed Arbitrator Cato as her first choice. (Email from AAA to Parties (Sept. 14, 2021), attached as Exhibit 11.)

On September 30, 2021, counsel for the Parties participated in a video call for the case management conference with Arbitrator Cato. Petitioner's Counsel, Mr. Bruorton and Ms. Nicholson, and Petitioner, were a on a video call with Respondent's Counsel, Ms. Thomas, and witnessed when Ms. Thomas first met Arbitrator Cato, during the call.

From that point, the parties engaged in substantial written and document discovery, depositions, discovery motions, and a dispositive motion over the course of a year and nearly eight months. During that time, Petitioner received fair and equal treatment by Arbitrator Cato, and she

does not assert otherwise. As an example, despite already taking the depositions of several witnesses, Petitioner requested the deposition of Respondent Tenet's CEO after the scheduling order deadline for depositions. Respondents moved for protection against the deposition, and after a hearing, Arbitrator Cato allowed Petitioner to take the CEO's deposition.

As another example, after the close of discovery and prior to the arbitration hearing, Respondents moved for Summary Judgment on all of Petitioner's claims that had been asserted in the arbitration demand served on Respondents. After a hearing on this motion, and despite strong evidence in support of Respondent's position, Arbitrator Cato denied Respondents' Motion for Summary Judgment in favor of Petitioner.

The arbitration hearing was held on February 1 and February 2, 2023, in Charleston, South Carolina. Petitioner was present in the lobby of Petitioner's counsels' firm when Respondents' counsel Carmen Thomas first met Arbitrator Cato in person.

As another example of the fairness to Petitioner with which Arbitrator Cato presided over the arbitration, during Petitioner's testimony at the hearing, it was revealed that Petitioner failed to supplement her discovery responses regarding her mitigation of damages, as Respondents' counsel had requested a month before the hearing. Arbitrator Cato allowed Petitioner to supplement her discovery responses despite the additional time and expense to Respondents to review supplemental discovery and to extend the case beyond the scheduled hearing dates. After supplementing her responses, additional testimony from Petitioner was heard on March 2, 2023, and the hearing was concluded.

On May 26, 2023, after supplemental submissions and post-hearing briefs from both parties, Arbitrator Cato issued an award in favor of Respondents on all of Petitioner's claims. (AAA Final Award, attached as Exhibit 6.)

Petitioner filed her motion to vacate on July 13, 2023, in this court. Petitioner requested that this court vacate the arbitrator's award and permit Petitioner limited discovery and an evidentiary hearing. (Mot. to Vacate.) On August 11, 2023, Respondents removed Petitioner's motion to vacate to the United States District Court for the District of South Carolina, Charleston Division. On August 30, 2024, the S.C. District Court issued an order remanding this case to state court. (Rem. Order.)

ARGUMENT

As noted above and described below, a four-factor analysis is required for courts to evaluate whether evident partiality exists to warrant vacating an arbitration award. Petitioner's motion, however, only identifies the test and does not explain why the circumstances of this case meet the test. Instead, Petitioner focuses on issues that are outside the test and which courts have explicitly said are not a part of the test. When focusing on the court-applied test and examining the indisputable facts, the relief Petitioner seeks is not supported and should be denied.

I. The Federal Arbitration Act and the S.C. Uniform Arbitration Act impose a heavy burden on Petitioner to show evident partiality, and her "evidence" is unreliable.

Before application of the four-part test for evident partiality, clarification of what the test is and what resources inform application of the test is necessary. Petitioner's motion misdirects to inapplicable sources of authority and attempts to rely on unreliable affidavits, and they should be disregarded and the motion denied.

A. Petitioner has a high burden to vacate an arbitration award based on evident partiality.

The FAA and the SC UAA enumerate limited grounds on which a court may vacate an arbitral award. *See* 9 U.S.C. § 10(a); S.C. Code Ann. § 15-48-130. Specifically at issue in Petitioner's motion, Section (a)(2) of the SC UAA provides that a "court shall vacate an award

where [t]here was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of any party.” Similarly, Section 10 of the FAA provides that a federal court may vacate an arbitration award “(2) where there was evident partiality or corruption in the arbitrators, or either of them.” *Id.* The “statutory grounds for vacating an award must be read in the light of the rule that the Court’s function in vacating or confirming an arbitration award is ‘severely limited.’” *Atl. Shores Resort Joint Venture v. Martin*, 731 F. Supp. 1279, 1282 (D.S.C. 1990) (quoting *Newark Stereotypers’ Union v. Newark Morning Ledger Co.*, 261 F.Supp. 832, 835 (D.N.J.1966), *aff’d*, 397 F.2d 594 (3d Cir.), *cert. denied*, 393 U.S. 954, 89 S.Ct. 378, 21 L.Ed.2d 365 (1968); *Swentor v. Swentor*, 336 S.C. 472, 484, 520 S.E.2d 330, 337 (Ct. App. 1999) (“[T]he court’s function in confirming or vacating an arbitration award is severely limited.”).) According to the U.S. Supreme Court, “[t]he judiciary should minimize its role in arbitration as judge of the arbitrator’s impartiality.” *Commonwealth Coatings Corp. v. Cont’l Cas. Co.*, 393 U.S. 145, 151, 89 S.Ct. 337, 21 L.Ed.2d 301 (1968) (White, J., concurring).

To determine if Petitioner has demonstrated evident partiality, the following four factors adopted by the Fourth Circuit Court of Appeals and the South Carolina Supreme Court must be examined and weighed:

- (1) the extent and character of the personal interest, pecuniary or otherwise, of the arbitrator in the proceeding;
- (2) the directness of the relationship between the arbitrator and the party he is alleged to favor;
- (3) the connection of that relationship to the arbitration; and
- (4) the proximity in time between the relationship and the arbitration proceeding.

See ANR Coal Co., Inc. v. Cogentrix of N.C., Inc., 173 F.3d 493, 500 (4th Cir. 1999) (citing *Consolidation Coal Co. v. Local 1643, United Mine Workers of America*, 48 F.3d 125, 130 (4th

Cir.1995)) (finding no evident partiality, and denying motion to vacate, because facts showed the relationship was trivial); *Crouch Const. Co., Inc. v. Causey* (S.C. 2013) 405 S.C. 155, 747 S.E.2d 482 (holding the same four factors apply).

When a party asserts evident partiality as a basis for vacatur of an arbitration award, that party has the burden of proof, and the alleged partiality must be “direct, definite, and capable of demonstration rather than remote, uncertain or speculative.” *Peoples Sec. Life Ins. Co. v. Monumental Life Ins. Co.*, 991 F.2d 141, 146 (4th Cir. 1993) (internal citations omitted). Furthermore, “the burden on a claimant for vacation of an arbitration award due to ‘evident partiality’ is heavy (*id.*) and “onerous.” *ANR Coal*, 173 F.3d at 501; *see also Crouch Const. Co. v. Causey*, 405 S.C. 155, 168, 747 S.E.2d 482, 489 (2013) (quoting *ANR Coal* in agreeing “[t]he movant carries a heavy burden in order to meet this onerous standard”). The claimant must establish specific facts that “objectively demonstrate such a degree of partiality that a reasonable person could assume that the arbitrator had improper motives.” *Crouch*, 405 S.C. at 169, 747 S.E.2d at 489 (quoting *ANR Coal*, 173 F.3d at 501); *see also Atl. Shores Resort Joint Venture v. Martin*, 731 F.Supp. 1279, 1283 (D.S.C. 1990) (internal citations omitted).

B. The only basis for vacating an arbitration award are statutory.

The only grounds to vacate an arbitration award are those specified in the statute, whether it is the FAA or the SC UAA. *See ANR Coal Co. v. Cogentrix of North Carolina, Inc.*, 174 F.3d 493, 499 (4th Cir. 1999); *see also Crouch Const. Co. v. Causey*, 405 S.C. at 165, 747 S.E.2d at 487 (2013) (echoing same point and including “manifest disregard of the law”); *see also Swentor v. Swentor*, 336 S.C. 472, 485–86, 520 S.E.2d 330, 338 (Ct. App. 1999) (“[T]he court may vacate the award only upon the establishment of one of the grounds set forth in section 15-48-130, or the

rarely applied non-statutory ground of “manifest disregard or perverse misconstruction of the law.”).

“Under the FAA and the SC UAA, a court “must” confirm an arbitration award “unless” a party to the arbitration demonstrates that the award should be vacated under one of the four enumerated grounds, or because the arbitrator manifestly disregarded the law. *Wells Fargo Clearing Servs., LLC v. Taylor*, No. CV 2:20-1103-BHH-MHC, 2020 WL 8713811, at *3 (D.S.C. Nov. 23, 2020), *report and recommendation adopted*, No. CV 2:20-1103-BHH, 2021 WL 321102 (D.S.C. Feb. 1, 2021) (internal citations omitted); *Swentor v. Swentor*, 336 S.C. 472, 478, 520 S.E.2d 330, 334 (Ct. App. 1999) (“Under the Act, an arbitration award must be confirmed by “the court” unless a party timely seeks to correct, modify, or vacate the award.”).

Petitioner raises purported failures to meet the requirements of the South Carolina Code of Ethics for Arbitrators and the AAA rules as grounds for finding evident partiality. (*See, e.g.*, Mot. Vacate, at 6.) As described below, the federal and state cases addressing motions to vacate explicitly find that these sources do not govern the analysis.

As to the South Carolina Code of Ethics for Arbitrators, “the issue of whether [a] nondisclosure is unethical is separate and distinct from the issue of whether an arbitration award must be vacated due to evident partiality.” *Crouch*, 405 S.C. at 164, 747 S.E.2d at 487 (finding “[t]he circuit court improperly conflated a purported breach of the South Carolina Code of Ethics for Arbitrators with a factual showing that justifies setting aside an arbitration award”). Put simply, “the Code of ethics provides no basis for vacatur.” *Id.* at 169, 747 S.E.2d at 489.

In addition, as to the AAA rules, “[w]hen parties agree to be bound by the AAA rules, those rules do not give a federal court license to vacate an award on grounds other than those set

forth in 9 U.S.C. § 10.” *ANR Coal*, 173 F.3d at 499 (internal quotations omitted). Thus, the AAA rules “are not the proper starting point for an inquiry into an award’s validity.” *Id.*

Accordingly, relying on these sources as the grounds to support evident partiality is incorrect both for the motion and the affidavits supporting it.

C. Petitioner’s affidavit is self-serving and should be disregarded.

Petitioner’s own affidavit attached to her motion to vacate should be disregarded because it is self-serving and contains legal conclusions, speculation, conjecture, arguments, and subjective beliefs. Such affidavits do not offer sufficient support to show evident partiality for a motion to vacate an arbitration award. *See Trademark Remodeling, Inc. v. Rhines*, No. PWG-11-1733, 2012 WL 3239916, at *10, n.2 (D. Md. Aug. 6, 2012) (holding that affidavit submitted in support of motion to modify, vacate, or correct arbitration award was “replete with argument and legal conclusions” and “contain[ed] abundant argument, speculation, and conjecture”); *see also Jackson v. Conifer Revenue Cycle Sols., LLC*, No. 4:19-CV-256-ALM-CAN, 2019 WL 8755075, at *9, n.5 (E.D. Tex. Dec. 17, 2019), *report and recommendation adopted*, No. 4:19-CV-256, 2020 WL 1242448, at *2 (E.D. Tex. Mar. 16, 2020) (holding party showed no evidence of bias by arbitrator and offered no proof of an alleged ex parte communication “other than the self-serving affidavit” with “unsupported or subjective statements of opinion and suppositions”).

Furthermore, affidavits that contain “no more than subjective beliefs” should be rejected. *Bryant v. Bell Atl. Maryland, Inc.*, 288 F.3d 124, 134–35 (4th Cir. 2002) (holding in summary judgment context that “affidavits amounted to no more than subjective beliefs” where they included statements such as “I believe . . .”); *see also Larken v. Perkins*, 22 F. App’x 114, 115, n.* (4th Cir. 2001) (upholding district court’s granting of motion for summary judgment where

party filed “only his own, self-serving affidavit containing conclusory assertions and unsubstantiated speculation”).

Petitioner’s affidavit is replete with her own legal conclusions, speculation, conjecture, and subjective statements of opinion and beliefs. Selected excerpts below illustrate these deficiencies:

- “I recently learned the disclosures made as part of her Arbitrator’s Oath were inaccurate, incomplete, and misleading.” (Seixas Aff. ¶ 8.)
- “[S]omething just didn’t seem right with Arbitrator Cato’s demeanor during the arbitration,” and Petitioner “had a gut feeling that something was not right.” (Seixas Aff. ¶ 9.)
- “Clearly, as husband and wife, the Catos have a professional, and most likely social relationship with the employees of Nelson Mullins, at least within the Columbia, South Carolina office, which would include Attorney Carmen Thomas and Attorney Sue Erwin Harper.” (Seixas Aff. ¶ 11.)

(*See also, e.g.*, Seixas Aff. ¶¶ 12, 13, 14, 15, 16, & 17.) Petitioner’s “gut feeling” and her nonjudicial, personal conclusions about application of the law to the facts should be rejected and provide no direct, specific evidence to support the motion to vacate.

D. Petitioner’s expert’s affidavit is not reliable or useful because the law and information on which it is based are incorrect.

Petitioner’s expert’s opinion also is not reliable in several respects, but a key defect is the opinion is based on applying the South Carolina Code of Ethics for Arbitrators and the AAA Code of Ethics. (*See* Seymour Aff. ¶ 5(b).) As stated above, under federal and South Carolina law, those sources are not the standard by which courts determine evident partiality. (*See supra* Part I.B.) Whether the disclosures meet ethical requirements is not the question before the Court. Because the opinion is based on the wrong standard, it is unreliable and not useful and should be given no weight or consideration. *See Walker v. The Bluffs Apartments*, 477 S.E.2d 472 (S.C. App. 1996) (holding that in summary judgment context expert’s affidavit failed to state standard of care and therefore was insufficient).

Further, the opinion is based on incorrect conclusions, including that Arbitrator Cato's husband is an employee of and has an exclusive relationship with Respondents' counsels' law firm, both of which are not true. (*See infra* Part II.A.2.) Because the opinion is based on unreliable allegations and is not founded on accurate information, the opinion itself is unreliable and not useful, and therefore should be given no weight or consideration. *See Nieves Martinez v. United States*, 997 F.3d 867, 877, n.1 (9th Cir. 2021) (holding that in summary judgment context "courts may decline to consider unsupported speculation and subjective beliefs in expert testimony and testimony that is not founded in fact"); *Guidroz-Brault v. Missouri Pac. R. Co.*, 254 F.3d 825, 830-31 (9th Cir. 2001) (affirming summary judgment and affirming exclusion of expert affidavit because "it was not sufficiently founded on facts").

II. Petitioner does not and cannot meet her heavy burden to show evident partiality by the arbitrator.

The four-factor test must be applied to determine whether evident partiality by Arbitrator Cato was present. Petitioner alleges Arbitrator Cato's failure to disclose two sets of facts demonstrate her evident partiality: Arbitrator Cato's husband's nonlawyer contractor relationship to Respondents' counsels' law firm, and Arbitrator Cato's recent appointment to the Board of Directors of a hospital that had no connection to the arbitration. As to Arbitrator Cato's husband's status, no facts would change the indisputable circumstances of the disclosures, Petitioner's awareness of them, and the publicly available information that shows the disclosures were accurate and complete. As to the board appointment, no basis exists for evident partiality because an arbitrator's involvement in the industry that is the subject of the arbitration is typical and even recommended by the same sources of authority on which Petitioner relies. Both sets of facts are analyzed below under each part of the four-factor test. As the analysis shows, discovery is not necessary and the motion to vacate and request for discovery should be denied.

A. Arbitrator Cato's husband's contractor relationship to Respondents' counsels' law firm does not show evident partiality.

1. Arbitrator Cato had no "personal interest" in the proceeding.

With regard to the first factor, "the extent and character of the personal interest, pecuniary or otherwise, of the arbitrator in the proceeding," Arbitrator Cato's disclosures and the facts presented by Petitioner show Petitioner cannot meet her burden to show any personal interest by Arbitrator Cato in the proceeding.

Arbitrator Cato accurately disclosed—and Petitioner does not dispute—that she and her law firm do not and have not represented the parties, she has no professional or social relationship with any parties or witnesses, and that she and her spouse do not own stock in any of the companies involved in the arbitration. (*See* Arbitrator Oath, attached to Email from AAA to Parties (Sept. 1, 2021), Exhibit 10.) Petitioner cites only to the purported relationship. As explained below in the context of the second factor of the four-factor test, the relationship which Petitioner misconstrues does not relate in any way to the arbitration, and it was disclosed by Arbitrator Cato.

Further, a relationship itself is insufficient to show a personal interest in the proceeding. *See ANR Coal*, 173 F.3d at 496 (finding no evidence of personal interest when arbitrator's law firm represented entity that contracted with one of the parties); *Crouch Const. Co., Inc. v. Causey*, 405 S.C. 155, 171–72, 747 S.E.2d 482, 491 (2013) (holding that nondisclosure of the fact that the brother of the Arbitrator's law partner was employed by consultant in case was not sufficient to show personal interest because the consultant was not a party to the arbitration proceedings and the arbitrator had no direct relationship with the employee).

Similarly, Arbitrator Cato herself has no direct relationship to Respondents' counsels' law firm, and Petitioner does not allege that she does.

2. Arbitrator Cato's relationship with Respondents is nonexistent, and Petitioner did not object.

The second factor is “the directness of the relationship between the arbitrator and the party he is alleged to favor.” *ANR Coal*, 173 F.3d at 501. In this matter, then, the analysis is of the relationship between Arbitrator Cato and Respondents, the party who Cato allegedly favored by deciding against Petitioner. Petitioner's focus, however, is on Arbitrator Cato's husband's nonlawyer contractor relationship to Respondents' counsels' law firm—an unambiguously attenuated and incidental relationship that cannot support evident partiality. When the analysis follows the four-factor test and begins with the *arbitrator's* relationship, Petitioner's argument fails. Further, Petitioner's argument hangs on the purported nondisclosure of Arbitrator Cato's husband's relationship, but the relationship was disclosed:

14. Are there any connections, direct or indirect, with any of the case participants that have not been covered by the above questions?

Answer: YES

Comments: **Indirectly. My husband is a government relations consultant and contracts with Nelson Mullins to perform some governmental relations consulting for some of their clients, although NOT the defendant in this matter. He is not an attorney and provides consulting and lobbying work only. This will not affect my ability to act impartially in this matter.**

(Arbitrator Oath, attached to Email from AAA to Parties (Sept. 1, 2021), Exhibit 10.) Arbitrator Cato's response to this question unequivocally was “YES,” there were connections, direct or indirect, with some of the case participants that had not already been covered by the other questions. She goes on to provide key information about his role and relationship to Respondents' counsels' law firm, allowing Petitioner to assess whether any follow up is needed and to object

and raise any questions. The purported nondisclosure component of Petitioner's argument thus does not hold based on the plain language of the disclosure.

Even so, “mere nondisclosure does not in itself justify vacatur.” *ANR Coal Co.*, 173 F.3d at 500 (4th Cir. 1999). In nondisclosure situations, “[t]he question is whether facts that were not disclosed suggest a *material* conflict of interest.” *Crouch*, 405 S.C. at 169, 747 S.E.2d at 489 (2013) (citing *Scandinavian Reinsurance Co. v. St. Paul Fire & Marine Ins. Co.*, 668 F.3d 60, 77 (2d Cir.2012)). “[F]or a relationship to be material, and therefore require disclosure, it must be such that a reasonable person would have to conclude that an arbitrator who failed to disclose it was partial to one side” and that “[i]n doing so, courts ‘must focus on the question of how strongly that [undisclosed] relationship tends to indicate the possibility of bias in favor of or against one party, and not how closely that relationship appears to relate to the facts of the arbitration.’” *Crouch*, 405 S.C. at 169, 747 S.E.2d at 490 (2013) (citing *Scandinavian*, 668 F.3d at 76-77).

In addition, “[t]o have an award set aside, it is not enough merely to aver that an arbitrator violated the Code of Ethics without any showing that the complained-of-violation’ created a substantial danger of an unjust result.” *Crouch*, 405 S.C. at 164, 747 S.E.2d at 487 (2013) (citing *ANR Coal*, 173 F.3d at 499). Further, although the South Carolina Code of Ethics for Arbitrators requires arbitrators to disclose the existence of interests or relationships that are likely to affect their impartiality or suggest that they are biased against one party or favorable to another, “an arbitrator is not required to provide the parties with ‘his complete and unexpurgated business biography’ or ‘disclose interest[s] or relationships that are merely “trivial.””” *Crouch*, 405 S.C. at 164, 747 S.E.2d at 486 (2013) (citing S.C. Code of Ethics for Arbitrators Canon II, App. A, SCADRR, n.2).

Petitioner first argues that Arbitrator Cato’s disclosures are “misleading and untruthful” because Arbitrator Cato characterized *her husband’s relationship* with Respondent’s law firm as “‘indirect’ and downplayed the nature of the relationship.” (*Id.* at 11 (citing Seymour Aff. ¶ 5).) Specifically, Petitioner asserts that evidence attached to her motion to vacate shows that Mr. Cato has a “ten-and-a-half-year, exclusive employment relationship in which Mr. Cato advises Nelson Mullins’ healthcare clients and works in the same office as the lawyers who represent the Respondents.” (*Id.*) Further, she claims that the disclosures “omitted material facts such as the length and extent of her husband’s relationship with Nelson Mullins, the nature of the relationship (as exclusive employment rather than occasional contract work), and the types of Nelson Mullins’ clients with whom Harry Cato consulted.”³ (*Id.* at 12 (citing Seymour Aff. ¶ 5).) Petitioner does this without acknowledging that all of the resources she relies on were available to her and her counsel online at the time of arbitrator selection in September 2021.

Similar to not addressing the arbitrator’s relationship to Respondents as required by *ANR Coal*, Petitioner misconstrues the word “indirect” in the disclosure. The disclosure by the arbitrator requests *Arbitrator Cato’s* “connections, *direct or indirect*, with any of the case participants . . .”. ((Arbitrator Oath, attached to Email from AAA to Parties (Sept. 1, 2021), Exhibit 10, at ¶ 14.) (emphasis added). The disclosure form is the “General *Arbitrator* Oath Form,” refers to “the *arbitrator’s* impartiality,” and uses the pronoun “You” to direct the questions to the *arbitrator*. Based on a plain reading of the language, the word “indirectly” refers to Arbitrator

³ Petitioner argues that “Mr. Cato lobbied on behalf of several health care service providers, including lobbying efforts on behalf of AnMed Health System, Blue Cross Blue Shield of South Carolina, and Metro Treatment of South Carolina.” (Mot. Vacate, at 14-15.) However, none of these entities have any connection to this matter.

Cato's relationship to the case participants, not her husband's. While Mr. Cato is a nonlawyer contractor to Nelson Mullins, Arbitrator Cato is not.

Moreover, Petitioner's argument fails because the disclosures are accurate and complete, and the facts contradict the assertions in Petitioner's self-serving affidavit. Accurate facts are available in the details and attachments cited and relied upon in the motion to vacate, though Petitioner misconstrues them to support her motion. First, as shown by the law firm web page and the press release, Arbitrator Cato's husband is not employed by Nelson Mullins and instead is a contractor. (*See* Nelson Mullins web site page on Harry F. Cato, Gov't. Relations *Consultant*, Ex. 5 to Mot. Vacate; Press Release re: Harry Cato to advise clients of Nelson Mullins, Ex. 8 to Mot. Vacate (noting he "has *contracted* with Nelson Mullins" to "advise *the firm's* government relations clients" (emphasis added))).

Second, as shown by resources relied upon by Petitioner and her expert, Mr. Cato operates his own consulting business from a different address than Nelson Mullins' Columbia office. Petitioner's motion identifies various entities for whom Mr. Cato is registered as a lobbyist (*see supra* note 4), and this information and his different address is available from the reports he submits to the South Carolina Ethics Commission. (*See, e.g.*, SC Ethics Commission Lobbyist Disclosures, Metro Treatment of SC, attached as Exhibit 12.) This detail cuts against Petitioner's position that by Arbitrator Cato's husband having the same office address, Arbitrator Cato must have a professional and social relationship with Respondents' counsel. As explained in the Facts and Procedural Background above, Respondents' lead counsel did not meet Arbitrator Cato until the case management conference for this proceeding, which Petitioner and her counsel attended.

Third, Mr. Cato's arrangement with Nelson Mullins is not exclusive, as shown from the context of the press release remarks indicating he would be advising "*the firm's* government

relations clients” and that his knowledge and experience were a “new resource for our firm,” and by his separate business address used for his lobbying disclosures. (Press Release re: Harry Cato to advise clients of Nelson Mullins, Ex. 8 to Mot. Vacate.)

Therefore, Petitioner’s own evidence for her motion contradicts her arguments that the disclosures were inaccurate or incomplete. Furthermore, the motion has no support for several allegations that are purely guesses and insinuations and that are not true, including that Arbitrator Cato has a professional or social relationship with Respondents’ counsel or counsel’s firm. (Mot. Vacate at 13.) No evidence in the motion to vacate or otherwise would support these conclusions because they are not true.

3. No connection exists between Arbitrator Cato’s husband and the arbitration.

The third factor is “the connection of that relationship to the arbitration.” *ANR Coal*, 173 F.3d at 500. “That relationship” refers to “the relationship between the arbitrator and the party he is alleged to favor,” drawing from the second factor in the test. *Id.* The relationship Petitioner contests, however, is Arbitrator Cato’s husband’s nonlawyer contractor relationship to Respondents’ counsels’ law firm. The contested relationship has no connection to the arbitration. Further, Petitioner has failed to allege any connection between Mr. Cato and the arbitration because he is a nonlawyer contractor to Nelson Mullins, and there is no evidence that he had or has any connection to Respondents. As a nonlawyer contractor, he cannot have a lawyer-client relationship with Respondents. When the arbitrator’s connection is to a non-party, evident partiality does not exist even when the non-party has a relationship to the arbitration. *See ANR Coal*, 173 F.3d at 501 (citing *U.S. Wrestling Fed’n v. Wrestling Division of AAU, Inc.*, 605 F.2d 313 (7th Cir. 1979).)

The situation contested by Petitioner is more attenuated than *ANR Coal* and *U.S. Wrestling*: the issue is not that Arbitrator Cato’s own firm ever represented Respondents, but rather her

husband and the law firm to which he is a nonlawyer contractor. Mr. Cato is a nonlawyer contractor for Nelson Mullins, and Petitioner does not allege he has consulted for Respondents himself, only allegedly other healthcare-related entities not a party to this case.

4. No temporal connection exists because no conflict relationship exists.

Lastly, with regard to the fourth factor, “the proximity in time between the relationship and the arbitration proceeding,” the court in *ANR Coal* found that the overlap in representation of one of the parties by the arbitrator’s firm was only for a year and was ten years prior. *Id.* Although Mr. Cato has been a contractor to Nelson Mullins prior to this arbitration, Petitioner has presented no evidence that any time during that period that Mr. Cato represented or advised Respondents. None would exist because he has not, as shown by his public lobbying disclosures available to Petitioner.

B. Arbitrator Cato’s appointment to the board of directors of a hospital with no relationship to the arbitration does not show evident partiality.

Petitioner’s second argument in support of vacating the arbitration award is that Arbitrator Cato failed to update her disclosures to include her appointment “[a]t the beginning of 2023” to the Board of Directors at Lexington Medical Center (“LMC”). (Mot. Vacate at 17.) Petitioner argues that due to this failure to update the disclosure, Arbitrator Cato “breached her ethical obligations as the arbitrator in this case, creating the appearance of partiality and bringing into question the integrity of the arbitration process.” (*Id.* at 18.)

As explained above, courts explicitly hold that the AAA Rules and South Carolina Code of Arbitrator Ethics do not create the standard by which evident partiality is determined. Instead, Arbitrator Cato’s appointment to the LMC board must be examined using the four-factor test. The factors of the test in this context are listed below, but due to the nature of this set of facts and of the analysis, they are treated together:

1. Arbitrator Cato had no “personal interest” in the proceeding.
2. Arbitrator Cato’s position on the board has no relationship to Respondents.
3. Arbitrator Cato’s position on the board has no relationship to the arbitration.
4. No temporal connection exists because no relationship exists.

Petitioner does not attempt to connect LMC to Respondents other than noting it “is a privately owned, independent hospital similar to Respondents.” (Mot. Vacate at 17.) Petitioner acknowledges LMC “is not a party to or otherwise involved in the dispute subject to the arbitration.” (*Id.*) No personal interest is possible if there is no connection. Likewise, there is no relationship to consider.

Petitioner has offered no support for her contention that appointment to a board of an entity in the same broad field such as healthcare constitutes a “material” fact that should have been disclosed. To the contrary, compared to Petitioner’s perspective, parties to an arbitration generally “prefer a tribunal knowledgeable about the subject matter of their dispute to a generalist court with its austere impartiality but limited knowledge of subject matter.” *See ANR Coal Co.*, 173 F.3d at 500.

Further, both the AAA Rules and the South Carolina Rules provide that an arbitrator’s industry involvement is preferred and specifically is not an indication of partiality. In particular, the AAA Code of Ethics for Arbitrators in Commercial Disputes, Comment to Canon 1, attached to Petitioner’s motion to vacate, notes that

[a] prospective arbitrator is not necessarily partial or privileged by having acquired knowledge of the parties, the applicable law or the customs and practices of the business involved. Arbitrator may also have special experience or expertise in the areas of business, commerce, or technology which are involved in the arbitration. Arbitrators do not contravene this Canon if, by

virtue of such experience or expertise, they have view on certain general issues likely to arise in the arbitration, but an arbitrator may not have prejudged any of the specific factual or legal determinations to be addressed during the arbitration.

(Emphasis added.) Similarly, Canon II of the South Carolina Code of Ethics for Arbitrators provides that the provisions of the Code related to disclosures

are intended to be applied realistically so that the burden of detailed disclosure does not become so great that it is impractical for persons in the business world to be arbitrators, thereby depriving parties of the services of those who might be best informed and qualified to decide particular types of cases.

Furthermore, footnote 2 to Canon II provides that “it must be recognized that ‘an arbitrator’s business relationships may be diverse indeed, involving more or less remote commercial connections with great numbers of people.’” S.C. Code of Ethics for Arbitrators, Canon II (citing a concurring opinion in *Commonwealth Coatings Corp. v. Continental Casualty Co.*, 393 US 145,131-152 (1968)).

Regardless, Petitioner’s argument that Arbitrator Cato “breached her ethical obligations in this case, creating the appearance of partiality and bringing into question the integrity of the arbitration process” fails because the “appearance of partiality” is not a basis for vacating an arbitration award under the FAA.

Further, Respondents have very little in common with LMC. LMC is a hospital. *See* About, Lexington Medical Center, <https://www.lexmed.com/about/>. Petitioner would not dispute that Respondents are healthcare entities that employ physicians and other healthcare providers who may work in hospitals, but individually they are not hospitals. (Petitioner provided services to a hospital in connection with her practice-based services through Respondent East Cooper Physician Network, but she did not name that hospital as a Respondent in the arbitration.) Also, LMC serves

a different geographic area than Respondents. LMC and Respondents have no connections or commonalities other than healthcare, which Petitioner acknowledges.

Lastly, LMC is not even a third-party witness or involved in this case. Petitioner's only argument is that LMC is also a healthcare provider like Respondents. This broad category is insufficient to objectively demonstrate "the probability of bias," *Crouch*, 405 S.C.at 171, 747 S.E.2d at 490, even if it is combined with Arbitrator Cato's husband's nonlawyer contractor role with Respondents' counsels' law firm, as Petitioner urges the Court to do.

III. Petitioner has waived any objection to purported evident partiality.

Arbitrator Cato's husbands' relationship as a nonlawyer contractor to Respondents' counsels' law firm was disclosed, and Petitioner did not ask any questions about the disclosure at the time or later, did not object to the disclosure then or later, and did not raise the issue until after the unfavorable result. The lack of any questions or an objection to the Arbitrator's disclosure until after the adverse ruling highlights a "classic case of waiver" by Petitioner. *Deluxe Lab 'ys, Inc. v. Int'l All. of Theatrical Stage Emps.*, Loc. 683, No. CV 01-3469 RJK, 2001 WL 1158591, at *6 (C.D. Cal. Aug. 31, 2001); *see also ANR Coal*, 173 F.3d at 501 (finding ANR's claim that certain facts related to arbitrator's undisclosed connections to opposing party's sole customer demonstrate the arbitrator's personal interest "is severely undercut by ANR's pre-award willingness to accept [the arbitrator] despite its knowledge that" the arbitrator's law firm represented the customer in another type of case).

Petitioner "cannot remain silent, raising no objection during the course of the arbitration proceeding, and when an award adverse to [her] has been handed down complain of a situation of which [s]he had knowledge from the first." *Cook Indus., Inc. v. C. Itoh & Co. (Am.) Inc.*, 449 F.2d 106, 107-08 (2d Cir. 1971) (finding appellant-movant had waived objection of evident partiality)

(cited in *ANR Coal and Crouch*). “Where a party has knowledge of facts possibly indicating bias or partiality on the part of an arbitrator [s]he cannot remain silent and later object to the award of the arbitrators on that ground. H[er] silence constitutes a waiver of the objection.” *Ilios Shipping & Trading Corp. S. A. v. American Anthracite & Bituminous Coal Corp.*, 148 F. Supp. 698, 700 (S.D.N.Y.), *aff’d per curiam*, 245 F.2d 873 (2d Cir. 1957) (cited in *Cook Indus.*).

Further, as to the LMC appointment, Petitioner acknowledges that “an appointment to serve on the board of an entity similarly situated to one of the parties involved in the arbitration *might not, standing alone, warrant disqualification . . .*” (Mot. Vacate at 18.) Thus, by waiving any objection to Arbitrator Cato’s disclosure and admitting the LMC board appointment itself does not support evident partiality, Petitioner has articulated no basis for vacatur of the arbitration award.

IV. Petitioner’s request to conduct limited discovery or an evidentiary hearing should be denied because she is not entitled to and discovery is not necessary.

Petitioner should not be granted limited discovery or an evidentiary hearing, because she is not entitled to discovery, and the evidence already attached to the motion shows Arbitrator Cato did not exhibit evident partiality, and no further evidence would change that result.

Neither the FAA nor the S.C. Uniform Arbitration Act explicitly provide for an evidentiary hearing or limited discovery, and Petitioner has failed to cite to any cases in this jurisdiction where a court recognized a right to limited discovery or an evidentiary hearing to decide a motion to vacate. To the contrary, “[w]hile courts hold that the question of evident partiality is a ‘fact intensive inquiry,’ discovery and an evidentiary hearing are not always required.” *Grupo Unidos por el Canal, S.A. v. Autoridad del Canal de Panama*, No. 20-24867-CIV-SCOLA, 2021 WL 5834296, at *11 (S.D. Fla. Dec. 9, 2021) (citing *Perez v. Cigna Health and Life Ins. Co.*, No. 20-12730, 2021 WL 2935260, at *3 n.5 (11th Cir. July 13, 2021) (holding that it is not an abuse of

discretion to deny discovery and an evidentiary hearing where the movant fails to allege sufficient evidence to vacate an arbitration award); *see also O.R. Sec., Inc. v. Pro. Plan. Assocs., Inc.*, 857 F.2d 742, 746, n.3 (11th Cir. 1988) (finding that district court was not required to hold an evidentiary hearing where a party failed to allege sufficient bases to support its claims for relief); *Careminders Home Care, Inc. v. Concura, Inc.*, 660 F. App'x 795, 798 (11th Cir. 2016) (finding that a district court was within its discretion in declining to hold an evidentiary hearing before denying a motion to vacate where a hearing was not necessary due to the party's failure to allege sufficient bases in support of motion).

In examining whether an evidentiary hearing is required on a motion to vacate an arbitration award, courts also consider the policy of favoring arbitration: "Arbitration proceedings are summary in nature to effectuate the national policy of favoring arbitration, and they require 'expeditious and summary hearing, with only restricted inquiry into factual issues.'" *O.R. Sec., Inc. v. Pro. Plan. Assocs., Inc.*, 857 F.2d 742, 747–48 (11th Cir. 1988) (citing *Legion Insurance Co. v. Insurance General Agency, Inc.*, 822 F.2d 541, 543 (5th Cir.1987)).

Without any support under applicable law, Petitioner cites to cases that are inapplicable to this situation. Petitioner relies on *World Invest Corp. v. Breen*, 684 So.2d 221 (Fla. Dist. Ct. App. 1996), but in that case, the Florida District Court of Appeals explicitly found that there was no facial evidence of evident partiality in the motion to vacate. The evidentiary hearing was granted on the moving party's other claim that the arbitration award was arbitrary and capricious, a separate ground for vacatur. *Id.* at 223.

Petitioner also cited *William C. Vick Construction Co. v. North Carolina Farm Bureau* and *Waverlee Homes v. McMichael* in support of her contention that she is "entitled to conduct discovery to further investigate the relationship Arbitrator Cato and her husband have with Nelson

Mullins.” (Mot. Vacate at 22.) *William C. Vick Construction Co.* is distinguishable because the North Carolina statute in place at the time of the case specifically allowed discovery.⁴ Further, the court noted that the losing party actually objected to the arbitrator being appointed after his disclosure, *id.* at 347, which is different than Petitioner *who did not object or ask questions* after Arbitrator Cato’s disclosures.

In *Waverlee*, the court held that an evidentiary hearing was warranted because the moving party’s “evidentiary showing in support of its post-judgment motion was sufficient, at the initial stage, to warrant” an evidentiary hearing. *Waverlee Homes, Inc. v. McMichael*, 855 So. 2d 493, 501 (Ala. 2003). This evidentiary support presented with the motion by the moving party was substantial and showed that the arbitrator acted as co-counsel with an attorney on a case, and that the arbitrator made similar rulings in other cases brought by the same attorney. *Id.* at 499. The evidence included, among other things, a letter to the State Bar requesting ethical opinions on similar situations, similar prior cases where the arbitrator served, and an affidavit describing a “deal” reached between the arbitrator and other attorneys. *Id.* at 496–99. Additionally, the court also noted in allowing an evidentiary hearing that the arbitration award was inconsistent with the amounts presented by the experts, and the opposing party failed to submit any evidence to contradict the assertions. *Id.* Thus, *Waverlee* is procedurally and substantively different from Petitioner’s allegations.

⁴ See *William C. Vick Const. Co.*, 472 S.E.2d at 349 (N.C. Ct. App. 1996) (“Where an objective basis exists for a reasonable belief that misconduct has occurred, the parties to the arbitration may depose the arbitrators relative to that misconduct and such depositions are admissible in a proceeding under N.C.G.S. § 1-567.13 to vacate an award.”). N.C.G.S.A § 1-567.13 was repealed by S.L. 2003-345, § 1, eff. Jan. 1, 2004.

Courts routinely decide motions to vacate without discovery, particularly in situations where the movant does not specify “how such discovery will overcome the heavy burden of proving evident partiality,” identify the specific discovery sought, or simply states that discovery is needed to verify whether there is evident partiality. *See Jackson v. Conifer Revenue Cycle Sols., LLC*, No. 4:19-CV-256, 2020 WL 1242448, at *3 (E.D. Tex. Mar. 16, 2020) (“Simply stating discovery is needed to verify whether there is or was partiality for Defendant is not enough.”); *see also Deluxe Lab’ys, Inc. v. Int’l All. of Theatrical Stage Emps.*, No. CV 01-3469 RJK, 2001 WL 1158591, at *6 (C.D. Cal. Aug. 31, 2001) (deciding case after “considering the papers submitted by the parties, the case file and argument of counsel”); *ANR Coal Co. v. Cogentrix of N. Carolina, Inc.*, 173 F.3d 493, 502 (4th Cir. 1999); *Consol. Coal Co. v. Loc. 1643, United Mine Workers of Am.*, 48 F.3d 125, 127 (4th Cir. 1995); *Sheet Metal Workers’ Int’l Ass’n, Loc. 399, AFL-CIO v. Maximum Air Flow Co.*, 877 F. Supp. 2d 392 (D.S.C. 2012), *aff’d sub nom. Sheet Metal Workers’ Int’l Ass’n, Loc. 399, AFL-CIO v. McLemore*, 541 F. App’x 321 (4th Cir. 2013).

In addition to seeking discovery presumably directly from Arbitrator Cato and her husband, Petitioner also includes in her request for discovery that she would seek information from Respondents’ counsels’ law firm, Nelson Mullins, and perhaps even Lexington Medical Center. (Mot. Vacate at 26.) Neither of these entities is a party to the arbitration or to this proceeding, and to allow third party discovery based on Petitioner’s self-serving affidavit would be beyond the scope of the limited role by a court in considering vacatur of an arbitration award.

CONCLUSION

Therefore, because Petitioner has failed to present facially sufficient evidence of evident partiality in her motion to vacate and because Petitioner had ample opportunity to investigate

Arbitrator Cato at the time of the disclosures and to object, her request for an evidentiary hearing and limited discovery should be denied.

Respondents respectfully request that this Court:

1. Deny Petitioner's motion to vacate in full;
2. Deny Petitioner's request for discovery and an evidentiary hearing;
3. Award Respondents fees and costs for responding to this motion;
4. Grant Respondents' contemporaneous motion to confirm the arbitration award.

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Network, LLC*

Columbia, South Carolina
September 18, 2024

EXHIBIT 1

Physician Employment Agmt.

PHYSICIAN EMPLOYMENT AGREEMENT

BY AND BETWEEN

EAST COOPER PHYSICIAN NETWORK, LLC

AND

STEFANIE A. SEIXAS-MIKELUS, M.D.

EXHIBIT A

ROA_138

**THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO § 15-48-10, ET
SEQ. OF THE SOUTH CAROLINA CODE OF LAWS, AS AMENDED.**

PHYSICIAN EMPLOYMENT AGREEMENT

THIS PHYSICIAN EMPLOYMENT AGREEMENT ("Agreement") is made and entered into as of the later of March 29, 2019, or the execution of the Agreement by both parties (the "Effective Date") by and between East Cooper Physician Network, LLC ("Employer") and Stefanie A. Seixas-Mikelus, M.D. ("Physician").

RECITALS:

A. Employer provides for the care and treatment of patients at one or more clinics located in Charleston, South Carolina (the "Area"), and Employer desires Physician to provide physician services at one or more of such clinics in the Area.

B. Physician is or will be licensed to practice medicine prior to the Commencement Date (as defined in Section 2 below) in the State of South Carolina ("State"), is qualified in the specialty of Urology ("Specialty"), and desires to become a bona fide employee of Employer under the terms and conditions outlined below and is willing to provide such Specialty services.

C. Employer desires to employ Physician under the terms and conditions outlined below.

AGREEMENT

In consideration of the above recitals, which are incorporated herein, and the mutual agreements set forth herein, the parties hereto agree as follows:

1. **EMPLOYMENT.** Employer hereby employs Physician for the practice of medicine in the care and treatment of patients at TBD or at such other clinic sites in the Area as Employer and Physician may designate (collectively referred to as the "Practice Sites"). It is expressly understood and agreed Employer shall have reasonable discretion to consolidate and relocate clinics operated by Employer in the Area and to redesignate Practice Sites served by Physician from time to time, upon consultation with Physician; provided, however, that Employer shall not assign Physician to any Practice Site outside of Charleston County or Berkeley County, South Carolina, without her consent. Physician shall be subject to Employer's employment policies, directives, rules and regulations ("Employer Policies") as promulgated by Employer from time to time, including, but not limited to, those pertaining to employees; provided, however, in the event of any inconsistency between the Employer Policies and this Agreement, the provisions of this Agreement shall prevail. Physician shall retain the right to exercise Physician's independent medical judgment in providing care and treatment to patients.

2. **TERM.** The term of this Agreement ("Term") shall be for a period commencing as of "Commencement Date" and ending the last calendar day of the month five (5) years after the Commencement Date. For purposes of this Agreement, "Commencement Date" shall mean the day Physician becomes credentialed and a member of all the managed care plans listed in Schedule 2 attached hereto and meets all employment criteria established by Employer or at such other time as mutually agreed to by the parties. Commencement Date will be confirmed in a writing signed

by both parties. As used herein, an "Employment Year" shall mean the annual period beginning on the Commencement Date and each annual period thereafter; provided, however, if Commencement Date falls on a date other than the first day of a calendar month, "Employment Year One" shall then include the first partial calendar month of employment beginning on the Commencement Date and the twelve full calendar months thereafter. Subsequent Employment Years shall be the annual periods following the conclusion of Employment Year One. Further, if Commencement Date falls on a date other than the first of the calendar month, then "Month One" of Term shall include the first partial and first full calendar month of employment.

3. PHYSICIAN'S OBLIGATIONS.

a. **Use of Premises.** Physician shall use the Practice Sites as designated by Employer exclusively for the practice of medicine in the care and treatment of patients, and for any associated administrative tasks, and shall comply with all applicable federal, state, and local laws, rules and regulations.

b. **Medical Practice.** Physician shall engage in the practice of medicine on a full-time basis exclusively as an exempt employee of Employer, subject to time off discussed in Schedule 6.a. (the "Practice") and provide the duties and responsibilities set forth in this Agreement and in Schedule 3.b. attached hereto and incorporated herein by reference. In addition, Physician shall be responsible for a proportionate amount of after-hours, holiday and weekend call coverage for the Practice Sites, which shall be sufficient to serve the Practice Sites' patients in a high quality, professional manner. Except as otherwise provided herein, while this Agreement is in effect, Physician shall not enter into any other physician employment contract or otherwise engage in the practice of medicine, directly or indirectly, except as Employer's employee. Physician acknowledges employees in the Practice Site are under the direct supervision of Employer and/or Employer's designated management staff, for non-clinical services and human resource matters.

c. **Professional Qualifications.** Physician shall be and remain duly licensed to practice medicine in the State. Upon request of Employer throughout Term, Physician, at Employer's expense, shall obtain a self-query report from the National Practitioner Data Bank ("NPDB") and provide a copy of same to Employer or its designee.

d. **Medical Staff Privileges.** Physician shall obtain and maintain in good standing such medical staff membership and privileges as required by the medical staff bylaws of each hospital and/or facility in the Area at which Employer requires Physician to maintain medical staff membership and privileges, including but not limited to, providing emergency department call coverage. Physician shall obtain and maintain, in good standing, medical staff membership and appropriate privileges based on Physician's Specialty and services to be provided under this Agreement at East Cooper Medical Center ("Hospital"). Any action taken with respect to Physician's medical staff privileges shall be solely within the prerogative of Hospital or its medical staff.

e. **Identifiers.** Physician will obtain and/or maintain an Individual Medicare Provider Number and a National Provider Identifier ("NPI") number prior to Commencement Date and throughout Term.

f. **Managed Care Organizations and Government Programs.** For and on behalf of Physician, Employer shall have the sole and exclusive right and authority to enter into contractual relationships with HMOs, IPAs, PPOs, PHOs, employer groups, provider networks and other managed care organizations (collectively "Managed Care Organizations"). Physician shall provide the same quality of care to patients from Managed Care Organizations as is provided to other patients in the Practice. Upon request from Employer, Physician shall execute Managed Care Organization documents as "provider" if deemed necessary or advisable by Employer. Physician shall not contract with any Managed Care Organization without Employer's prior written consent in each instance. Additionally, for and on behalf of Physician, Employer shall have the sole and exclusive right and authority to complete any healthcare payor enrollment applications on behalf of Physician and Physician agrees to grant Employer access to enrollment systems to facilitate same.

g. **Professional Fees.** Employer shall have the exclusive right and authority to set, collect and retain all fees, including professional fees, to be charged to patients of the Practice. All professional fees generated by Physician (including, without limitation, capitated risk pool fees, professional retainer fees, honoraria, medical director fees, clinical research payments, professional consulting and teaching fees, on-call fees, incentive payments from the government for implementing electronic health record ("EHR") technology, shared savings, and fees for expert testimony, but excluding Physician's private investment and non-professional income) while an employee of Employer, including both cash collections and accounts receivable, will be the sole and exclusive property of Employer, whether received by Employer or by Physician and whether received during the Term or any time thereafter. Physician hereby assigns all rights to said fees and accounts to Employer and shall execute all documents required from time to time by Employer and otherwise fully cooperate with Employer to enable Employer to collect accounts from patients and third party payors. Notwithstanding the foregoing, Employer hereby agrees Physician may retain any fees which may be related to those certain activities set forth on Schedule 3.g. attached hereto and made a part hereof ("Outside Activities") or from additional Outside Activities with prior written approval of Employer, subject to the following requirements: (1) Outside Activities must be performed by Physician on Physician's own time; (2) Outside Activities must not interfere with the performance of Physician's duties under this Agreement, or result in diminution in the quality or amount of Physician's service to Employer under this Agreement; (3) Physician may not hold Physician out as Employer's employee while engaged in Outside Activities; (4) Physician agrees to indemnify, defend and hold harmless Employer for any claims, causes of action, damages, losses, attorney's fees, etc., Employer may incur as a result of the Outside Activities; (5) Physician must obtain and maintain a separate malpractice policy for Outside Activities involving the practice of medicine because Physician will not be covered by Employer's policy when engaged in Outside Activities as they are outside the scope of employment; (6) Physician may not utilize any company assets, employees, services, etc., while performing Outside Activities and will not perform such Outside Activities on Employer's premises or while performing services on behalf of Employer; and (7) Physician shall be solely responsible for any applicable federal, state, and local income tax, self-employment tax, and all other taxes related to income generated by Physician for Physician's own account in accordance with Outside Activities.

h. **Authorization to Release Information.** Physician hereby authorizes Managed Care Organizations, government programs, hospitals and other healthcare entity third parties to release to Employer and its agents any information requested by Employer or its agents from time to time relating to Physician's professional qualifications or competency. Physician

agrees to execute the Authorization to Release Information in the form set forth in Schedule 3.h, attached hereto and incorporated herein by reference and to otherwise fully cooperate with Employer to enable Employer and its agents to obtain such information from third parties, provided that such cooperation shall be at no cost to Employee.

i. **Additional Physicians.** Employer and Physician agree as an essential term of this Agreement that it is the intent of the parties to develop a comprehensive medical practice. It is further understood Employer intends to negotiate and enter into employment relationships with additional qualified physicians. Physician agrees to use reasonable best efforts to forge and establish an ongoing relationship and team approach with such additional physicians for the furnishing of professional medical and related services to patients.

j. **Use of Electronic Health Records.** Physician hereby agrees to use all electronic health records, electronic prescribing, voice recognition dictation, and any other electronic or automation acquired and implemented by Employer. Moreover, as applicable at Hospital, Physician will: utilize Computerized Provider Order Entry; enter all orders in Hospital's electronic health record; and do what is necessary to comply with the meaningful use provision of the HITECH Act including, but not limited to, entering orders, performing medication reconciliation, viewing results and nursing documentation, and performing electronic physician documentation, if available.

k. **Coding Compliance.** Timely, accurate and thorough medical record documentation is Physician's responsibility. It is Physician's responsibility to accurately code Physician's services with CPT, HCPS, modifiers, ICD-10 codes, or diagnoses in narrative, for accurate reporting to patients and third party payors. Physician understands submitted codes will represent the services are medically necessary, delivered and documented. Physician agrees to comply with Employer's compliance policies and procedures, including those related to documentation and billing, and to use Physician's best efforts to accurately code Physician's services with the goal of attaining and maintaining a coding error rate of no more than five percent (5%). Physician will participate in coding compliance training, education and audit programs. Upon initial employment, Employer will perform a coding audit covering the first 30 days following Commencement Date. A coding improvement plan will be developed with Physician to address error identified in the audit. If Physician's coding error rate exceeds five percent (5%), the plan will include re-audit within three (3) to six (6) months with re-audit until an error rate of five percent (5%) or less is achieved. Thereafter, Physician may be selected for audit on a random basis. Compensation (as set forth in Schedule 5.a, attached) will be reduced by the actual amount of compensation earned by or attributed to Physician due to Physician's coding errors.

4. **SPACE AND SUPPORT.** Employer shall provide Physician with office and clinic space, equipment, supplies, and personnel at the Practice Sites (or, in the case of certain support services, at other locations) as Employer determines to be necessary, after consultation with Physician, to enable Physician to provide medical services to patients consistent with recognized medical standards. Physician will utilize only equipment and supplies provided by Employer in the Practice Site and will not order additional equipment and supplies without Employer's prior consent.

5. **PHYSICIAN'S COMPENSATION.**

a. **Compensation.** Physician shall be compensated as stated in Schedule 5.a., attached hereto.

b. **Additional Payments.** In addition to the compensation in Schedule 5.a., Physician shall be entitled to the following additional payments ("Additional Payments"):

(1) **Sign-on Bonus.** Physician shall be paid a one-time Sign-On Bonus of Twenty Thousand and No/100 Dollars (\$20,000.00). Such bonus shall be paid within thirty (30) days from Commencement Date.

(2) **Relocation Expenses.** Physician shall be reimbursed for actual relocation expenses incurred as described in Schedule 5.b., (the "Relocation Addendum"), attached hereto and incorporated herein by this reference, at a cost not to exceed Fifteen Thousand and No/100 Dollars (\$15,000.00). Physician acknowledges he/she may incur tax withholding on relocation benefits which are taxable under IRS relocation tax guidelines as described in Schedule 5.b., attached hereto and incorporated herein by reference.

c. **Early Termination.** Should Employer terminate Physician for cause under Section 8.a. below (with the exception of Section 8.a.(ii)) or Physician voluntarily terminates employment within twelve (12) months of Commencement Date, Physician will be required to re-pay Employer in full for any Additional Payments. Should Employer terminate Physician for cause under Section 8.a. below (with the exception of Section 8.a.(ii) below) or Physician voluntarily terminates employment at any time after the first twelve (12) months from Commencement Date, Physician will be required to re-pay Employer a pro rata portion of any Additional Payments based on the number of months remaining during the Term divided by the number of months in the Term. For example, assuming a five (5) year or sixty (60) month term, Additional Payments of \$30,000, and Physician voluntarily terminated employment in month twenty-four (24) of Agreement, Physician would be obligated to re-pay Employer \$18,000 (i.e., \$30,000 total Additional Payments multiplied by the quotient of 36 months remaining in the Term divided by 60 total months in the Term) ($\$30,000 \times 36/60 = \$18,000$). Further, Physician agrees Employer may deduct the repayment amount due Employer from Physician's final pay periods including accrued benefits, if any. To the extent additional amounts are still owed, Employer and Physician agree any remaining repayment amount shall be paid by Physician in six (6) equal monthly installments or as otherwise agreed to by the Parties in writing.

6. **PHYSICIAN'S BENEFITS.** Physician will receive employee benefits only as provided in this Agreement. Benefits are subject to amendment from time to time by Employer in accordance with its practices generally applicable to other employees.

a. **General Benefits.** Physician shall receive those general benefits described in Schedule 6.a., attached hereto and incorporated herein by reference. Benefits are subject to the terms of the plan documents or insurance contracts, as applicable, and may be changed at the discretion of Employer in accordance with changes that are generally applicable to other employees. To the extent Employer's benefit plans allow, Physician may be given credit (as established by Employer) for prior service with Practice for eligibility and vesting purposes (but not benefit accrual purposes) under Employer's benefit plans in which Physician is eligible for and offered participation as described in Schedule 6.a.

b. **Seminars, Professional Dues and Subscriptions, Etc.** Physician shall be entitled to attend medical seminars paid for or reimbursed by Employer, so long as they are approved in advance by Employer. All related seminar expenses such as travel, meals, and lodging shall be in accordance with and limited by Tenet policy which in most cases requires submission of actual receipts. Employer will not reimburse or pay for seminars outside of the contiguous United States, unless otherwise pre-approved in writing by Employer; or during any period of time following either party having given notice to terminate Agreement; and only during periods of re-negotiation or extension at Employer's sole discretion. The cost of such attendance, and the cost of Physician's professional dues (excluding medical staff dues pursuant to Section 3.d.) and subscriptions, and books shall be paid by Employer, in an amount not to exceed Five Thousand and No/100 Dollars (\$5,000.00) in the aggregate in each Employment Year. CME days are to be scheduled with Employer's approval in advance and subject to the needs of the Practice Sites, which shall not be unreasonably withheld by Employer. Any such expenses incurred by Physician in excess of such sum set forth herein shall be the sole and exclusive responsibility of Physician and must be paid by Physician. Physician shall submit to Employer the necessary documentation within sixty (60) days from the end of the month the expense was incurred as required by Employer Policies prior to reimbursement of any expenses. Physician agrees not to receive any cash, cash equivalent (e.g., gift card), or any item of value in exchange for attending CME seminars reimbursed or paid for by Employer and if received, further agrees to give the cash equivalent of any such item of value to Employer. Additionally, Employer shall pay expenses for state medical and DEA licenses and controlled substance registrations necessary for the performance of Physician's services during Term and, Physician shall receive reimbursement for expenses of state medical and DEA licenses and controlled substance registrations if obtained specifically for purposes of entering into this Agreement, with such reimbursement to be paid after Commencement Date.

7. PHYSICIAN'S COVENANTS.

a. **Covenants.** During the Term of this Agreement and for a period of one (1) year after the expiration or termination of this Agreement (unless such termination is by Physician for cause pursuant to Section 9 below), Physician, unless otherwise permitted by the written consent of Employer or listed as an Outside Activity on Schedule 3.g., shall not, on Physician's own account or as an employee, landlord, lender, trustee, associate, consultant, partner, agent, principal, contractor, owner, officer, director, investor, member or stockholder of any other person, or in any other capacity, directly or indirectly, in whole or in part:

(1) Engage in any activities in competition with Employer, including the operation of any medical practice or offering of any medical services similar to services offered at the Practice Sites, within ten (10) miles of Physician's primary Practice Site where Physician provides medical services to patients of Employer;

(2) Have any financial interest in any hospital, surgery center, imaging center, outpatient therapy center, or other facility that is competitive with any activity engaged in by Employer or Hospital, within ten (10) miles of Physician's primary Practice Site or Hospital (collectively, "Competitor(s)"). A "financial interest" includes, without limitation, any direct or indirect ownership or investment interest in a Competitor (except for ownership of securities traded on a recognized stock exchange in which quotations are published daily).

(3) Solicit or encourage the resignation of any employee of Employer or a third-party, including but not limited to, the practice management service provider, with whom Physician had a working relationship during Physician's employment with Employer;

(4) Solicit or divert patients with whom Physician had personal contact during such employment; or

(5) Influence or attempt to influence any payor, provider or other person or entity to cease, reduce or alter any business relationship with Employer relating to the Practice Sites.

b. **Construction and Enforcement.** The covenants on the part of Physician in Subsection 7.a. above shall be construed as an agreement independent of any other provision in this Agreement, and the existence of any other claims or causes of action by Physician against Employer, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by Employer of said covenants. Physician acknowledges and agrees the restrictions set forth in Subsection 7.a. above are necessary for the protection of Employer's legitimate business and professional interests and are reasonable in scope and content. The parties recognize if the provisions in Subsection 7.a. above are breached or threatened to be breached by Physician, the extent of actual damages sustained by Employer will be difficult to ascertain, although great and irreparable, and compensation at law will be inadequate, and money damages alone may not be an appropriate measure of the harm to Employer from such continuing breach, especially because Physician's employment is part of a long range business plan. Therefore, the parties expressly agree Employer shall have the right to injunctive relief for breach or threatened breach of such provisions, in addition to any other available legal or equitable remedies. Physician shall indemnify and hold Employer harmless with respect to all of Employer's costs and expenses (including attorneys' fees and costs) in successfully enforcing such provisions. If any portion of any covenant or its application is construed to be invalid, illegal or unenforceable then the other portions or their application shall not be affected thereby and shall be enforceable without regard thereto. If any covenant is determined to be unenforceable because of its scope, duration, geographic area or similar factor, then the court or arbitrator making such determination shall have the power to reduce or limit such scope, duration, geographic area or other factor and such covenant shall then be enforceable in its reduced or limited form.

8. TERMINATION.

a. **Termination Without Right of Cure.** Employer may terminate this Agreement effective immediately upon written notice to Physician under the following circumstances: (i) the failure to obtain and maintain, or the denial, suspension, revocation, termination, restriction, lapse or voluntary relinquishment (under threat of disciplinary action) of Physician's membership or medical staff privileges at any health care facility including Hospital for any reason, or Physician's license to practice medicine in any jurisdiction including the State, (ii) Physician's death, (iii) Physician's failure or inability to perform Physician's duties under this Agreement for ninety (90) consecutive days, (iv) Physician's acts or conduct materially detrimental to patient care or to the reputation or operations of Employer and/or the Practice Sites, (v) Physician's failure to follow Employer's policies and procedures and other rules of conduct applicable to all employees of Employer; (vi) Physician's conviction of an offense related to health care or Physician's listing by a federal agency as being debarred, excluded, or otherwise ineligible for Federal program participation, (vii) the termination, revocation, restriction or relinquishment

of Physician's Drug Enforcement Agency number, (viii) the breach by Physician of the representations and warranties set forth in Section 14 hereof, (ix) the breach by Physician of the confidentiality provisions of this Agreement, and (x) the breach by Physician of any covenant set forth in Section 7 above.

The causes for termination described in this Subsection 8.a. do not require thirty (30) days' notice nor give the right of a thirty (30) day cure.

b. **Termination With Right of Cure.** Employer may terminate this Agreement with cause by written notice to Physician upon the failure by Physician to observe or perform any of the material covenants, conditions or provisions of this Agreement including the duties and responsibilities described in Schedule 3.b. (other than the circumstances set forth in Subsection 8.a. above), where such failure shall continue for a period of thirty (30) days after written notice thereof has been given by Employer; provided, however, if the nature of the non-compliance is such that more than thirty (30) days is reasonably required for its cure, then Physician shall not be deemed to be in default if Physician has commenced such cure within the said thirty (30) days and thereafter is diligently pursuing such cure to completion.

c. **Termination Without Cause.** Either party may terminate this Agreement without cause by giving the other party hereto at least ninety (90) days' prior written notice. If such notice is given by Employer, Employer may, in its sole discretion, at any time prior to the effective date of such termination, remove Physician from Physician's position hereunder, as long as Employer continues to pay Physician all compensation and benefits due under this Agreement until the effective date of such termination. If such notice is given by Employer during Productivity Compensation Period, Employer will set Physician's remaining compensation at the Draw Amount in effect on the date of notice.

d. **Termination for Changes in Law.** In the event any governmental or nongovernmental agency, or any court or administrative tribunal passes, issues or promulgates any new, or change to any existing, law, rule, regulation, standard, interpretation, order, decision or judgment (individually or collectively, "Legal Event"), which a party (the "Noticing Party") reasonably believes (i) materially and adversely effects either party's licensure, accreditation, certification, or ability to refer, to accept any referral, to present a bill or claim, or to receive payment or reimbursement from any governmental or non-governmental payor, or (ii) implicates a Legal Event with which the Noticing Party desires further compliance, then, in either event, the Noticing Party may give the other party thirty (30) days prior written notice of its intent to amend or terminate this Agreement. Notwithstanding the foregoing, the Noticing Party may propose an amendment to the Agreement to take into account the Legal Event and, if accepted by the other party prior to the end of the thirty (30) day notice period, the Agreement shall be amended as of the date of such acceptance and if not amended shall automatically terminate.

9. **TERMINATION BY PHYSICIAN.** Physician may terminate this Agreement with cause by written notice to Employer upon the failure by Employer to observe or perform any of the material covenants, conditions or provisions of this Agreement, when such failure shall continue for a period of thirty (30) days after written notice thereof has been given by Physician; provided, however, if the nature of the non-compliance is such that more than thirty (30) days is reasonably required for its cure, then Employer shall not be deemed to be in default if Employer has commenced such cure within the said thirty (30) days and thereafter is diligently pursuing such cure to completion.

10. **PATIENT MEDICAL RECORDS.** All patient medical records of the Practice, including, without limitation, patient medical records generated during the Term, shall be the property of Employer subject always to the rights of the respective patients. Upon the expiration of this Agreement or the termination of this Agreement by either party for any reason, Employer will retain custody and control of such patient medical records and, at Employer's discretion, Employer shall be responsible to send required notices to patients.

11. **PHYSICIAN/PATIENT RELATIONSHIP.** Physician shall always be mindful of and use best efforts to facilitate an overall positive patient experience. Physician shall be responsible for the quality of medical care rendered to patients by Physician in the Practice. Physician shall perform all services with respect to the diagnosis and treatment of patients in such manner as the Physician, in the independent exercise of Physician's medical judgment, deems to be in the best interests of the patients, subject only to a quality assurance and peer review program of Employer. Employer shall not, except as provided in this Agreement, exercise control or supervision over patient care and medical judgment of Physician.

12. **MISCELLANEOUS.**

a. **Schedules, Headings, Inclusive Words, Severability.** The schedules attached hereto constitute a part of this Agreement and are incorporated herein by reference in their entirety as if fully set forth in the Agreement at the point where first mentioned herein. The headings of this Agreement are inserted for convenience only and are not to be considered in the construction of the provisions hereof and shall not in any way limit the scope or modify the substance or context of any section or paragraph hereof. Unless the context otherwise requires, any terms of the Agreement which indicate the neuter of any gender shall be held to include the neuter and the other gender, as the case may be; and the words in singular shall be held and construed to include the plural and vice versa. The provisions of this Agreement shall be severable. The unenforceability of any provision of this Agreement shall not affect the validity of the remaining provisions hereof, unless either party should determine in its sole and complete discretion such term or provision materially or adversely affects the benefit of its bargain under this Agreement in which case said party may terminate this Agreement without further liability to the other party hereto. To the extent the time or geographic boundaries of any provision are deemed unreasonable by a Court or arbitrator, the parties agree the Agreement shall be amended to set forth the maximum limits allowed by law.

b. **Confidentiality.** Physician agrees to maintain and hold as confidential and to not disclose the terms of this Agreement or any confidential or proprietary information Physician may be provided during the Term of this Agreement to any other person (with the exception of Physician's legal counsel, accountant, or financial advisors), unless disclosure thereof is required by law or otherwise authorized by the Agreement or consented to in writing by Employer. With respect to any patient or medical record information regarding the Practice Site or hospital patients, Physician shall comply with all federal and state laws and regulations, and all rules, regulations, and policies of Employer and Hospital and its medical staff, regarding the confidentiality of such information, including, without limitation, all applicable provisions and regulations of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). The provisions of this Subsection shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

c. **Marketing and Advertising.** Employer may engage in marketing or advertising activities respecting the Practice and the Practice Sites and Physician shall participate as reasonably requested.

d. **Proprietary Information and Intellectual Property.**

(1) Physician acknowledges during Physician's employment hereunder Physician will have contacts with and develop and service the patients of Employer and referring sources of business of Employer. In all of Physician's activities, Physician, through the nature of Physician's work, will have access to and will acquire confidential information related to the business and operations of Employer, including, without limiting the generality of the foregoing, patient lists and confidential information relating to processes, plans, methods of doing business and special needs of referring doctors and patients. Physician acknowledges all such information is solely the property of Employer and constitutes proprietary and confidential information of Employer; and the disclosure thereof would cause substantial loss to the goodwill of Employer; and disclosure to Physician is being made only because of the position of trust and confidence Physician will occupy. The parties agree Confidential Information does not include information (i) generally known and used by persons with expertise comparable to Physician; (ii) common knowledge in the industry; (iii) available in the public domain; or (iv) that Physician is required to disclose pursuant to governmental or court order.

(2) Physician covenants, except as required by law, Physician will not, at any time during the Term or any time thereafter, disclose to any person, hospital, firm, partnership, entity or organization (except when authorized in writing by Employer) any Confidential Information whatsoever pertaining to the business or operations of Employer, any affiliate thereof or of any other physician employed by Employer, including, without limitation, any of the kinds of information described in this Subsection. The parties agree throughout the Term and at all times thereafter not to make any disparaging remarks to any third party concerning Physician, Employer, or any of its officers or directors or any other comments to any third party which would be reasonably expected to damage or adversely affect the reputation, goodwill or business of Physician, Employer, or any of its officers or directors. The parties agree any disclosures or reports made by the other party to a government agency, regulatory board, or similar public entity with authority to regulate Physician, Physician's profession, Employer, or aspects of Employer's business shall not be in violation of this Agreement.

(3) Physician acknowledges and agrees all Work Product (as defined below) is the exclusive property of Employer as a work made for hire, as that term is defined under federal copyright law. Title to any Work Product, including, but not limited to, any inventions or discoveries, is the property of Employer. Physician shall promptly disclose to Employer in writing such Work Product and, upon request of Employer, will execute all documents and take all actions reasonably necessary to assist Employer in protecting its intellectual property rights in such Work Product. Additionally, Physician shall not publish or publicly distribute or disseminate any such Work Product without Employer's prior written consent, which shall not be unreasonably withheld. For purposes of this provision, "Work Product" means all rights, title and interest in and to any reports, documents, plans, data, inventions, discoveries, or other work product prepared, developed, or resulting from, or arising out of, or relating to, the Practice or Physician's obligations under this Agreement, including, without limitation: all documentation, materials, notes, outlines, and the like created in connection therewith; all formulas, processes, algorithms, ideas, inventions, know how, techniques, and other information generated by Physician in the course of, and for the

purpose of, Physician's performance of services required to be performed under this Agreement as set forth in Schedule 3b; the copyright, patent, trademark, trade secret, and other proprietary rights therein; and any intermediate and partial versions thereof or derivative works created therefrom. Work Product shall not include any reports, documents, plans, data, inventions, discoveries or other work product existing prior to the Effective Date (or arising out of such pre-existing work product) or prepared, developed, or resulting from, or arising out of, or relating to, Physician's efforts with respect to Outside Activities (Schedule 3.g) or outside the scope of this Agreement and without utilizing Employer's resources. Employer agrees that all revenues, rights, title and interest from, in and to all reports, documents, plans, data, inventions, discoveries or other work product prepared, developed, or resulting from, or arising out of, or relating to, Physician's efforts with respect to Outside Activities (Schedule 3.g) or Physician's pre-existing intellectual property, or outside the scope of this Agreement and without utilizing Employer's resources, shall remain the exclusive property of Physician, person, or entity for whom Physician developed, prepared, or assisted in the development or preparation of such reports, documents, plans, data, inventions, discoveries or other work product.

(4) The provisions of this Subsection shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

13. **ARBITRATION.** Excluding any action for injunctive relief only, any dispute or controversy arising under, out of or in connection with, or in relation to this Agreement, or any amendment hereof, or the breach hereof shall be determined and settled by arbitration in Charleston County, in State, in accordance with the Tenet's Fair Treatment Process ("FTP"), a comprehensive method for affording fair procedure and resolving employment-related disputes, as detailed in Tenet's Human Resources Policy and Procedures manual Policy No. HR.ERW.05, and applying the laws of the State. Policy No. HR.ERW.05 is available at https://portal.etenet.com/Lists/Policies/HR.ERW.05_Open_Door_and_Fair_Treatment.pdf or in Human Resources. **Physician further acknowledges receipt of the Open Door Policy and Fair Treatment Process, including the arbitration process, prior to executing this Agreement.** It is understood and mutually agreed Physician shall be considered a Facility Management employee at the Department Head level or above for purposes of processing grievances pursuant to the FTP. It is further understood and mutually agreed, to the extent permitted by law, Physician may not join any such claim or dispute with the dispute of another employee in a class, collective, representative or group action. Arbitration under the Fair Treatment Process is limited to individual disputes, claims or controversies a court of law would be authorized or have jurisdiction over to grant relief, and by agreeing to the use of arbitration to resolve disputes, the parties agree to forego any right to a jury trial on issues covered by the Fair Treatment Process. If the provisions of this section conflict with the provision of the FTP, the provision of this section shall prevail. Any award rendered by the arbitrator shall be final and binding upon each of the parties, and judgment thereof may be entered in any court having jurisdiction thereof. The costs of arbitration shall be borne equally by both parties, provided each party shall bear the fees and costs of attorneys or other persons representing the interests of such party. During the pendency of any such arbitration and until final judgment hereon has been entered, this Agreement shall remain in full force and effect unless otherwise terminated as provided hereunder.

14. **REPRESENTATIONS AND WARRANTIES.** Physician represents and warrants to Employer, upon execution and throughout the Term of this Agreement, as follows: (a) Physician is not bound by any Agreement or arrangement which would preclude Physician from entering into, or from fully performing the services required under this Agreement; (b) Physician's license

to practice medicine or Drug Enforcement Agency Number in the State or in any other jurisdiction has never been denied, suspended, revoked, terminated, voluntarily relinquished, under threat of disciplinary action, or restricted in any way; (c) Physician's medical staff privileges at any health care facility have never been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or made subject to terms of probation or any other restriction; (d) Physician shall perform the services required hereunder in accordance with (i) all applicable federal, state, and local laws, rules and regulations; (ii) all applicable standards of The Joint Commission or other relevant accrediting organizations; and (iii) all applicable Bylaws, Rules, and Regulations of Hospital and its medical staff; (e) Physician has not in the past conducted and is not presently conducting, Physician's medical practice in such a manner as to cause Physician to be suspended, excluded, debarred or sanctioned under the Medicare or Medicaid Programs or any government licensing agency, and has never been convicted of an offense related to health care, or listed by a federal agency as debarred, excluded or otherwise ineligible for federal program participation; (f) Physician has, and shall maintain throughout the Term of this Agreement, an unrestricted license to practice medicine in the State and staff membership and privileges at Hospital; (g) Physician shall immediately notify Employer if Physician is required to pay damages in any malpractice action by way of judgment or settlement; (h) Physician shall immediately notify Employer if Physician becomes the subject of a disciplinary or other proceeding or action before any governmental, professional, medical staff, or peer review body; (i) Physician shall notify Employer within five (5) business days of the receipt of a healthcare liability claim or upon learning Physician is under investigation by a governmental agency or licensing board; (j) other than as disclosed in writing to Employer, Physician has not had an action or claim against Physician based on an allegation of malpractice by Physician which has been settled or otherwise resolved by the patient to a plaintiff or claimant of any amount of money during the five-year period preceding the Commencement Date; (k) other than as disclosed in writing to Employer, a final judgment in a malpractice action awarding money has not been entered against Physician during the five-year period preceding the Commencement Date; and (l) Physician shall disclose in writing to Employer any arrest, charge, or criminal conviction, excluding misdemeanor traffic tickets, within five (5) business days. Each of the representations and warranties set forth herein shall be continuing and in the event any such representation or warranty fails to remain true and accurate during the Term, Physician shall immediately notify Employer.

15. ENTIRE AGREEMENT; MODIFICATIONS; GOVERNING LAW; COUNTERPARTS; NOTICES; WAIVER; ASSIGNMENT; THIRD PARTY BENEFICIARIES. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the parties relating to such subject matter. This Agreement may not be amended or modified except by mutual written agreement. This Agreement shall be construed in accordance with the laws of the State and, those provisions where provided for herein shall survive the expiration or other termination of this Agreement. This Agreement may be executed in one or more counterparts, all of which together shall constitute only one Agreement. All notices hereunder shall be in writing, delivered personally, by certified or registered mail, return receipt requested, or by overnight courier, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid, or deposited with the overnight courier, addressed at the place identified on the signature page below. A waiver by either party of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure. Physician shall not assign or transfer, in whole or in part, this Agreement or any of Physician's rights, duties or obligations under this Agreement without the prior written consent of Employer, and any assignment or transfer by Physician without such consent shall be null and void. This Agreement

is assignable by Employer without consent or notice. Nothing in this Agreement, either expressly or implicitly, confers, or intends to confer, any rights or remedies upon any person or entity not a party to this Agreement, except as otherwise specifically stated herein.

16. **COMPLIANCE OBLIGATIONS.** Physician represents Physician shall abide by Tenet's Standards of Conduct. Physician shall comply with Tenet's Compliance Program and Tenet's policies and procedures related to the Deficit Reduction Act of 2005, Anti-Kickback Statute and the Stark Law. Tenet's Standards of Conduct, summary of Compliance Program, and policies and procedures, including a summary of the Federal False Claims Act and applicable state false claims laws (collectively "False Claims Laws") with descriptions of penalties and whistleblower protections pertaining to such laws, are available at: <https://www.tenethealth.com/about/ethics-compliance>. Further, the parties to this Agreement certify they shall not violate the Anti-Kickback Statute and Stark Law, and shall abide the Deficit Reduction Act of 2005, as applicable, in performing services to Employer or Hospital. Hardcopies of any information shall be made available upon request.

17. **AFFIRMATION OF STARK AND ANTI-KICKBACK COMPLIANCE.** By signing this Agreement, Physician affirms to the best of his/her knowledge and understanding, the employment under this Agreement and the compensation set forth herein, is not conditioned upon or determined based on the volume or value of any referrals to Employer or its affiliates. Physician further affirms he/she has not solicited or received any offer to be paid any compensation by Employer and/or Employer's affiliates, directly or indirectly, overtly or covertly, in cash or in-kind to induce or reward the referral, purchase, order, lease or recommendation of any item or service payable under a federal healthcare program. Each of the affirmations set forth herein shall be continuing and in the event any such representation or warranty fails to remain true and accurate during the Term, Physician shall immediately notify Employer.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

EAST COOPER PHYSICIAN NETWORK, LLC:

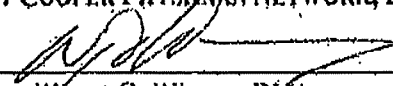
By: _____
Name: Wayne O. Winney, DHA
Title: CEO, SC Physician Operations
Date: _____
Address: 1445 Ross Avenue, Suite 1400
Dallas, TX 75202

PHYSICIAN:

Stefanie A. Seixas-Mikelus
Stefanie A. Seixas-Mikelus, MD
Date: 3/30/19
Address: 72 Independence Way
Morristown, New Jersey 07960

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

EAST COOPER PHYSICIAN NETWORK, LLC:

By: 

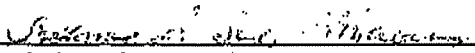
Name: Wayne O. Winney, DHA

Title: CEO, SC Physician Operations

Date: 3/31/19

Address: 1445 Ross Avenue, Suite 1400
Dallas, TX 75202

PHYSICIAN:


Stefanie A. Seixas-Mikelus, MD

Date: 3/30/19

Address: 32 Independence Blvd

Winston, NC 27067

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

EAST COOPER PHYSICIAN NETWORK, LLC:

By: [Signature]
Name: Wayne O. Winney, DHA
Title: CEO, SC Physician Operations
Date: 3/31/19
Address: 1445 Ross Avenue, Suite 1400
Dallas, TX 75202

PHYSICIAN:

[Signature]
Stefanie A. Seixas-Mikelus, MD
Date: 3/30/19
Address: FL 1004 Woodmont Dr
Plantation, FL 33324

SCHEDULE 2,

1. Medicare
2. Medicaid
3. Blue Cross/ Blue Shield
4. Medcost
5. United Healthcare
6. Cigna
7. Aetna

SCHEDULE 3.b.**DESCRIPTION OF DUTIES AND RESPONSIBILITIES**

Physician agrees the duties and responsibilities listed below are reasonable, and agrees to abide by such during the Term of the Agreement. Physician acknowledges and agrees additional duties not contemplated below may arise from time to time while providing medical care for his/her patients. To the extent additional duties arise during the course of and in connection with Physician's employment, Physician agrees to use his/her best efforts to carry out those obligations, whether originated by Physician or requested by Employer.

1. Physician is expected to have an average of no less than forty (40) available clinical patient care hours per week in the Practice Site, Hospital, and other practice locations as scheduled by Employer. Physician acknowledges it will take more than forty (40) hours per week to complete required clinical activities due to other associated activities, including but not limited to, documentation and coordination of patient care.
2. Physician is expected to see patients as they reasonably present in the Practice Site.
3. Physician is expected to see same day walk-in patients as reasonable patient demand dictates.
4. Physician will reschedule or cancel patients only in unavoidable or emergency situations.
5. Physician will make every effort to maintain patient schedule in an efficient manner such that patients are seen promptly and without unreasonable delays. Physician will see urgent patients, or make arrangements for all urgent patients, to be seen and treated promptly regardless of time of arrival.
6. Physician will complete all patient medical records in accordance with applicable by-laws, policies, and procedures of Employer and/or the applicable facility. Physician agrees to document patient visits in accordance with Federal, State, and payor regulations. Patient visit documentation will be completed by Physician by the end of the visit day.
7. Physician shall utilize the Electronic Health Record System in place or to be put in place at the Practice Site and shall use all electronic prescribing, voice recognition dictation, and any other electronic or automation acquired and implemented by Employer and Hospital's Computerized Physician Order Entry ("CPOE") as applicable.
8. Hospital fee slips shall be turned into the Practice manager or designee on the first work day following the hospital visit. Office fee slips shall be completed by the Physician and submitted on the day of the patient visit. If an electronic medical record is used by Employer, Physician will document all office and hospital visits within the timeframes outlined in Employer's procedures.

9. Physician agrees to utilize Practice Site's electronic medical record, take all required training and timely enter all required documentation. Practice Site's physical medical records shall not be removed from Practice Site.
10. Physician will consistently treat Practice employees, colleagues, patients and their families and others who accompany patients to office and hospital visits in a professional, respectful manner.
11. Physician is expected to see all patients presenting to the Practice, without regard to race, sex, religion, financial status, sexual orientation, or insurance class.
12. Physician will not fire and/or dismiss patients from the Practice without prior conversation with the Employer or Employer's practice manager. Procedures will be established on how to resolve conflicts among providers and patients and Physician may not transfer care to another provider without ensuring continuity of care for the patient.
13. Physician will participate in and cooperate with the peer review, Quality Improvement and Quality Management programs and procedures of Employer.
14. Physician shall comply with all rules, regulations, and policies established by Employer, the Occupational Health and Safety Administration, all Federal, State, and local agencies, and other accreditation organizations. Physician will comply with all Medicare, Medicaid, and other third party payor reimbursement rules and OIG compliance standards. Physician shall comply with and participate in any Ethics Training Programs and Compliance Training Programs established by Employer and Hospital.
15. Physician shall assist Employer in the investigation, documentation, and resolution of any issue arising out of Employer's dealings with peer review and all regulatory agencies having jurisdiction relating to the Practice Site.
16. Physician will exercise best efforts to assist Employer to build the Practice patient base through networking, emergency room coverage, community education, extended/weekend hours and other reasonable marketing activities as requested by Employer and in accordance with Employer's policies and procedures.
17. Physician shall cooperate fully with Employer and facility credentialing office, including providing, in a timely manner, the information necessary to process credentialing materials relating to Physician for health insurers, state and federal agencies, and other health organizations.
18. Physician shall review and acknowledge by signature Physician's annual performance targets and shall use best efforts to meet or exceed those targets.
19. If required, Physician will actively participate in Hospital medical staff committees as assigned by the medical staff.

20. Physician will strive to maintain five (5) Star Patient satisfaction.
21. Physician will work actively with Hospital case management to efficiently follow patient care plans and discharge patients when medically appropriate, if applicable.
22. If applicable, Physicians will cooperate with Hospital's physician advisor or delegate from the utilization management plan for the Hospital in complying with Hospital policies regarding appropriate bed placement and admission criteria.
23. If mutually agreed upon, Physician will actively participate in new program development for Hospital. Physician involvement may include meetings, development of evidence based protocols, collaboration with Hospital and non-Hospital employed physician groups.
24. To the extent Physician provides patient care at Hospital, Physician will participate in Hospital's performance excellence initiatives and other performance management and innovation initiatives as they pertain to increasing quality, efficiency and effectiveness for care delivered to patients. Participation may include meetings, development and adoption of evidence based protocols and review of practitioner and group data.
25. Physician will take all training and education courses reasonably required by Employer.
26. If approved by Employer, Physician may participate in clinical research studies. Employer must approve participation in each study, in writing.
27. Physician will use means of electronic communication provided or otherwise approved by Employer, including but not limited to an Employer-issued email account, to communicate regarding work-related matters. Physician further acknowledges and agrees Physician shall be deemed to have constructively received any email communications from Employer sent to Physician's Employer-issued email account.
28. Physician shall not block the patient appointment schedule and shall accept same day, next day, and new patient appointments timely and make himself/herself available for patient visits throughout the hours of operation of Practice Site ("Open Schedule").

SCHEDULE 3.g.

OUTSIDE ACTIVITIES

1. Expert Testimony Fees (e.g., medical malpractice expert) so long as not adverse to Employer or related entities.
2. Consulting Services, Speaking engagements, or Writing (provided any such activities for vendors, pharmaceutical companies, or medical device manufacturers requires specific, written approval of Employer).
3. Business activities, ventures, and investments which do not involve the practice of medicine.
4. Activities related to or involving Catalyze Health LLC.

SCHEDULE 3.h.

AUTHORIZATION TO RELEASE INFORMATION

Stefanie A. Seixas-Mikelus, M.D.

I, the undersigned physician, hereby authorize East Cooper Physician Network, LLC ("Employer") and its duly authorized representatives to obtain information from time to time about my professional education, training, licensure, competence, ethics and character from any source having such information. This information may include, without limitation, peer review information, DRG analysis, ancillary usage information and other utilization and quality related data.

I hereby release Employer, its authorized representatives and any third parties from any liability for actions, recommendations, statements, reports, records or disclosures, including privileged and confidential information, involving me that are made, requested, taken or received by Employer or its authorized representatives to, from or by any third parties in good faith and relating to or arising from my professional conduct, character and capabilities.

I agree this authorization to release information shall remain effective until termination of my employment by Employer. A duplicate of this authorization may be relied upon to the same degree as the original by any third party providing information pursuant to Employer's request.

Stefanie A. Seixas-Mikelus
Signature

3/30/19
Date

SCHEDULE 3.h.

AUTHORIZATION TO RELEASE INFORMATION

Stefanie A. Seixas-Mikelus, M.D.

I, the undersigned physician, hereby authorize East Cooper Physician Network, LLC ("Employer") and its duly authorized representatives to obtain information from time to time about my professional education, training, licensure, competence, ethics and character from any source having such information. This information may include, without limitation, peer review information, DRG analysis, ancillary usage information and other utilization and quality related data.

I hereby release Employer, its authorized representatives and any third parties from any liability for actions, recommendations, statements, reports, records or disclosures, including privileged and confidential information, involving me that are made, requested, taken or received by Employer or its authorized representatives to, from or by any third parties in good faith and relating to or arising from my professional conduct, character and capabilities.

I agree this authorization to release information shall remain effective until termination of my employment by Employer. A duplicate of this authorization may be relied upon to the same degree as the original by any third party providing information pursuant to Employer's request.

Stefanie A. Seixas-Mikelus
Signature

3/20/19
Date

3.h.-1

SCHEDULE 3.h.

AUTHORIZATION TO RELEASE INFORMATION

Stefanie A. Seixas-Mikelus, M.D.

I, the undersigned physician, hereby authorize East Cooper Physician Network, LLC ("Employer") and its duly authorized representatives to obtain information from time to time about my professional education, training, licensure, competence, ethics and character from any source having such information. This information may include, without limitation, peer review information, DRG analysis, ancillary usage information and other utilization and quality related data.

I hereby release Employer, its authorized representatives and any third parties from any liability for actions, recommendations, statements, reports, records or disclosures, including privileged and confidential information, involving me that are made, requested, taken or received by Employer or its authorized representatives to, from or by any third parties in good faith and relating to or arising from my professional conduct, character and capabilities.

I agree this authorization to release information shall remain effective until termination of my employment by Employer. A duplicate of this authorization may be relied upon to the same degree as the original by any third party providing information pursuant to Employer's request.

Stefanie A. Seixas-Mikelus
Signature3/30/19
Date

SCHEDULE 5.a.**PHYSICIAN COMPENSATION**

1. **Months 1 through 36 of Term ("Base Salary Period").** During Base Salary Period, Physician shall receive an annual base salary of Four Hundred Thousand and No/100 Dollars (\$400,000.00) ("Base Salary"). Notwithstanding the foregoing, Physician shall be entitled to additional compensation if during any Employment Year of the Base Salary Period, Productivity Salary (as defined hereinafter) exceeds Base Salary paid to Physician. Productivity Salary calculation shall be determined based on the formula shown below. If Productivity Salary exceeds Base Salary at the end of any Employment Year of the Base Salary Period, Employer shall compensate Physician the excess within forty five (45) days of the end of the applicable Employment Year.

2. **Month 37 through the remainder of Term ("Productivity Compensation Period").** During Productivity Compensation Period, Physician shall be solely compensated based on Physician's production ("Productivity Salary") in accordance with a work RVU productivity calculation ("wRVU Productivity Calculation"). The wRVU Productivity Calculation shall be a product of the number of wRVUs, as more fully defined hereinafter, generated by Physician multiplied by the Conversion Factor (defined hereinafter) of Sixty and No/100 Dollars (\$60.00).

During Productivity Compensation Period, Physician shall receive a bi-weekly draw ("Draw Amount"), calculated as follows: Expected Annual Compensation divided by 26 (number of pay periods in an Employment Year). Expected Annual Compensation is defined as the most current wRVU production which supports and represents what is expected to be achieved during the upcoming Employment Year as determined in Employer's discretion, multiplied by the appropriate Conversion Factor.

Such amount shall be paid out in equal bi-weekly installments or otherwise in accordance with Employer's payroll policies. Notwithstanding, Employer may at any time in its discretion, increase or decrease Draw Amount to more accurately reflect the professional services being performed by Physician.

Within thirty (30) days of the end of each Employment Year quarter ("Employment Quarter"), Employer shall determine whether Draw Amount for the prior Employment Quarter either exceeded or was less than the actual wRVU Productivity Calculation for the applicable Employment Quarter. If Draw Amount exceeds the actual wRVU Productivity Amount (an "Overpayment"), Overpayment shall be carried forward for consideration in the annual wRVU Productivity Calculation reconciliation. If Draw Amount was less than the actual wRVU Productivity Amount (an "Underpayment"), fifty percent (50%) of Underpayment shall be payable to Physician within forty-five (45) days of the end of such Employment Quarter or in the next paycheck following the expiration of forty-five (45) days. Any remaining amount owed Physician may be paid following completion of the annual Employment Year reconciliation as stated below.

Employer shall conduct an annual wRVU Productivity Calculation reconciliation. Such reconciliation shall occur within forty-five (45) days following each Employment Year. The process shall be the same as the Employment Quarter reconciliation except any annual Underpayment shall be paid to Physician within sixty (60) days of the end of Employment Year.

Upon completion of the annual reconciliation, any annual Overpayment shall be deducted from Physician's salary over the next six (6) pay periods. If there are not six (6) pay periods remaining in Term of Agreement, any annual Overpayment shall be deducted equally from Physician's salary in the remaining pay periods, if any, or the amount shall be paid back to Employer within thirty (30) days of completion of the annual reconciliation and notification of Overpayment.

In the event of early termination of Agreement, a final pro-rated reconciliation will be performed within thirty (30) days of termination. Any Underpayment shall be made to Physician within thirty (30) days of the date of reconciliation. Any Overpayment shall be returned to Employer within thirty (30) days of the date of the notice to Physician of the amount of the Overpayment.

3. **wRVU defined.** As used herein, wRVU means the work relative value units determined by Employer in accordance with below. Notwithstanding anything to the contrary, Physician shall not be credited with the generation of a wRVU until all required documentation is complete and has been properly submitted to Employer, in accordance with this Agreement, Employer's policies and procedures, and the applicable payor's policies and procedures. If Physician is inadvertently given wRVU credit for a professional service lacking such documentation, Employer, in its sole discretion, may recoup such compensation overpayment including by adjusting Physician's Draw Amount for the then current quarter.

a. **Listed Codes.** Regardless of the applicable patient or payor associated with a professional service, the most recent RVU table published by Centers for Medicare and Medicaid Services ("CMS"), as updated from time to time by CMS ("CMS RVU Table"), will be used to determine wRVU weights for all codes listed therein.

b. **Unlisted Clinical Codes.** For any professional services provided that are not included in the CMS RVU Table, Employer, in its sole discretion, may utilize a certified professional coder ("CPC") to determine the appropriate wRVU based on the procedure performed.

(1) A reconciliation will be performed at the end of each Employment Year quarter or earlier at discretion of Employer to identify professional services performed with no corresponding wRVU. To appropriately assign the wRVU value for the unlisted code, the CPC will review the medical record documentation and identify a similar procedure as described in the most recent Current Procedural Terminology ("CPT") Professional Edition. The wRVU amount associated with the similar CPT code will be utilized to populate the wRVU amount for the unlisted code(s) during the end of quarter reconciliation.

(2) While choice of wRVU is at the sole discretion of Employer, Employer shall reasonably consult with Physician prior to loading an unlisted code wRVU amount into the Work RVU Productivity Calculation Model database.

c. **Modifiers.** If Physician performs a professional service requiring the use of a modifier under CMS' then-current coding requirements, Employer, in its sole discretion, may adjust the wRVU amount credited to Physician for such professional service in a manner equal to the applicable payment or wRVU modification described in CMS' then-current billing and coding policies and procedures, as determined and interpreted by Employer in its sole and absolute discretion. If Physician is inadvertently given unmodified wRVU credit and compensation for

such professional service, Employer, in its sole discretion, may recoup such compensation overpayment including by adjusting Physician's Draw Amount for the then current quarter. Without limiting the generality of the foregoing, based on Employer's interpretation of CMS' current billing and coding policies and procedures (as of Effective Date), the following is a description of the effect some of the more common modifiers will have on the amount of wRVUs credited to Physician. Please note this is not an exhaustive list of modifiers that may apply to the wRVU amount credited to Physician.

(1) **Modifier 51 (Multiple Procedures):** In the event same-day multiple procedures subject to standard multiple procedure discount rules are performed, the highest value CPT code will receive 100% wRVU credit and all subsequent codes may be reduced to 50% wRVU credit.

(2) **Modifier 62 (Co-Surgical Services):** If Physician provides a professional service as part of an allowable co-surgery, Physician may be credited at sixty-two and one-half percent (62.5%) of the wRVU amount. If multiple co-surgical procedures subject to standard multiple procedure discount rules are performed, Physician may be credited at sixty-two and one-half percent (62.5%) for the highest value CPT code and all subsequent codes may be credited at thirty-one and one-quarter percent (31.25%).

(3) **Modifiers 80, 81, or 82 (Assistant Surgeon):** If Physician provides assistant surgeon services, Physician may be credited at sixteen percent (16%) of the wRVU amount.

d. **Non-Clinical Services.** Except as otherwise provided in Agreement, for any practice income received for non-clinical professional services (e.g. Medical Directorship, ED on-call, etc.), Employer shall determine whether to pass through the payments in part or in whole; or Employer, in its discretion, may assign a wRVU amount after consultation with Physician.

e. **Denied or Rejected Claims.** Employer, in its sole discretion, may adjust wRVUs granted to Physician for claims denied or rejected (due to Physician actions or inactions) because: (i) a required Medicare Advance Beneficiary Notice was not properly executed; (ii) the service is deemed medically unnecessary by the payor and, therefore, not eligible for reimbursement; (iii) the service is deemed to be a duplicate billed service by the payor and, therefore, not eligible for reimbursement; or (iv) the claim was denied due to the services inclusion as part of a global billing episode. To the extent Employer elects to make such adjustment, Employer, each Employment Year quarter, will reconcile any Overpayment to Physician made as a result of such denied claim(s) by adjusting Physician's Draw Amount for the then current quarter. Employer also will maintain a log of such denied claims (with ANSI reason codes), which will be made available to Physician upon request. Employer, in its reasonable discretion, also will provide all necessary information to any payor in order to substantiate any denied claim. If a payor subsequently approves payment, the Work RVU Productivity Calculation Model calculation will be adjusted accordingly for the period the services were provided.

f. **Personally Performed Services.** wRVUs shall only include wRVUs generated for Physician that are billed by or on behalf of Employer for professional and ancillary services personally performed by Physician, but shall not include wRVUs for services performed incident to Physician's personally performed services, each within the meaning of 42 U.S.C. § 1395nn and regulations promulgated pursuant thereto. Notwithstanding anything to the contrary,

Employer, in its sole discretion, may elect to exclude from Physician's productivity any wRVUs generated from professional services where there is no expectation to bill or collect payment for such services, such as indigent patients seen in a free or charity care clinic or where professional courtesy discounts are applied. Notwithstanding the above, wRVUs shall include professional services to non-insured or indigent patients to the extent such patients were scheduled by Employer or otherwise treated by Physician as part of the ordinary course of the Practice (and not at the specific request of Physician), including, without limitation, patients who originated in a hospital emergency department or pursuant to a consult at Hospital (including those patients seen by the emergency medicine physician and sent to Physician for follow up as Physician was on-call for the hospital emergency department that day).

4. **Conversion Factor defined.** "Conversion Factor" represents the fair market value of one physician wRVU for the applicable specialty. Conversion Factor may be adjusted by Employer upon sixty (60) days prior notice to Physician in order to reflect the financial performance of Physician's practice, including but not limited to (i) a change in reimbursement of five percent (5%) or more by one of the top seven (7) payors, (ii) hiring of additional support personnel or other increases in the expenses of Practice, (iii) market changes impacting Employer's ability to collect for services and, (iv) changes to the CMS RVU table. Notwithstanding the preceding, Employer shall not adjust Conversion Factor during the first twenty-four (24) months of Term.

5. **Benefits Salary.** Notwithstanding anything to the contrary above, for the term of this Agreement, for purposes of Physician's employment benefits calculations, the Employment Year One annual Base Salary is considered to be the base salary amount.

6. **Payment.** The Base Salary or Draw Amounts shall be payable monthly or bi-weekly in accordance with Employer's policy.

Schedule 5.b.**RELOCATION ADDENDUM**

Employer, through its affiliate ("Tenet") will arrange for direct-bill or reimburse Physician for the following relocation expenses up to a maximum of Fifteen Thousand and No/100 Dollars \$15,000.00.

SHIPMENT OF HOUSEHOLD GOODS

- packing, moving and unpacking of personal and household goods from principal residence to the new residence
- insurance of household goods cargo up to One hundred Thousand and No/100 Dollars (\$100,000) full replacement coverage through the company preferred third-party insurer in conjunction with a Tenet contracted household goods carrier
- third-party service fees to disconnect and reconnect the following household appliances: washer, dryer, refrigerator, icemaker and grandfather clock
- storage 'in-transit' up to a maximum of thirty (30) days
- shipment of automobile(s) via car carrier or moving van, whichever is more economical, for distances in excess of two hundred fifty (250) miles

Tenet *will not* pay for:

- storage of automobiles
- shipment of recreational vehicles, hot tubs, motorcycles, animals, building materials, firewood, small outdoor structures (storage sheds, playhouses), plants/trees (except ordinary house plants at owner's own risk), and large satellite dishes
- exclusive use of carrier's van or excessive crating
- excess insurance above company-provided coverage
- gratuities/meals for moving crew
- waiting time during normal delivery spread if Physician is unable to be located or unavailable
- overtime charges such as weekend loading or delivery unless performed at carrier's convenience and no cost to Tenet

Reimbursement Method: Tenet's Relocation Services will assign a company-preferred moving company and arrange direct billing to Tenet.

Temporary Housing

Temporary lodging costs (actual expense).

Reimbursement Method: Tenet's Relocation Services will make arrangements for temporary housing and rent will be direct billed to Tenet. If Physician arranges for housing (including hospital quarters), Relocation Services must be notified in writing so rent paid on Physician's behalf can be reported in Physician's wages per IRS regulations. Applicable taxes will be withheld at the time expenses are reported to payroll.

FINAL TRAVEL TO NEW LOCATION

Transportation, lodging and meal costs will be reimbursed for Physician and Physician's family for the final move to the new location. The IRS definition of 'final move' is the trip taken to start work. Tenet will pay designated expenses during the trip and on the day preceding the actual move of Physician and Physician's family. Expenses covered are:

- one-way transportation costs at either coach airfare, or if by car, at the established corporate mileage reimbursement rate (measured by the shortest, most direct route)
- reasonable lodging
- reasonable meals (not to exceed Fifty and No/100 Dollars (\$50) per day per adult and twenty four and No/100 Dollars (\$24) per day per child under sixteen (16); tear tabs are not acceptable as meal receipts)

Expenses incurred as a result of side excursions taken while traveling to the new location are not reimbursable.

Reimbursement Method: Submit Relocation Expense Report and attach original receipts for transportation expenses (other than mileage), lodging and meals. If air travel is utilized, original passenger receipts must be attached (even when electronic tickets are used) An Automobile Mileage Record form is completed for mileage reimbursement.

Tax Issues

Under current tax laws, relocation expenses reimbursed or paid on Physician's behalf are considered taxable income. However, some of the reimbursed expenses or those paid on Physician's behalf are excludable from income if certain IRS requirements are met:

- The distance from the former home to the new work place is fifty (50) miles further than the distance from the former home to the former work place.
- Physician works in the new location for at least thirty nine (39) weeks.
- Moving expenses are incurred within one year of the start date in the new location.

If the above IRS requirements are met, the following expenses, if applicable, will be excluded from Physician's income:

- The packing and shipping of household goods and shipment of auto.
- If incurred, in-transit storage of household goods up to thirty (30) days.
- Final move expenses entailing one-way transportation and lodging when moving from the old home to the new home. Meal expenses are not excludable. Lodging expenses in the area of the former home are excludable if incurred within one day after the household goods have been moved. Lodging expenses in the new location are limited to the day of arrival. Lodging expenses incurred while driving to the new area are also excludable.

If Tenet does not pay for or reimburse Physician for the expenses outlined above, Physician can deduct these expenses. Physician is advised to retain all receipts for expenses incurred. IRS Form 3903 needs to be completed to take any of the above deductions.

All other reimbursements are taxable and will be reported as wages. Physician will receive a form at the end of the calendar year itemizing both taxable and excludable expenses. Tenet strongly recommends Physician contact his/her own personal tax advisor to learn of any additional tax impact.

BENEFIT TERM

Benefit eligibility and reimbursement provisions expire twelve (12) months from Physician's start date in the new work location. According to IRS regulations, for certain relocation benefits to be tax deductible, reimbursements must occur within one year of the start date in the new position unless there are extenuating circumstances making this time frame impossible. If Tenet reimburses expenses occurring after twelve (12) months, Physician should provide the IRS with justification on why these expenses exceeded the time test.

EXPENSE REPORTING AND REIMBURSEMENT

To receive reimbursement for eligible relocation expenses, please complete a Relocation Expense Report form. All relocation forms can be obtained from Relocation Services or found on eTenet. Forward the approved Relocation Expense Report to Senior Relocation Specialist at Tenet, 1445 Ross Avenue, Suite 1400, Dallas, TX 75202-2703 for compliance review. Relocation reimbursements will be paid according to payroll cycle. To be reimbursed in a timely manner, Tenet's Relocation Department, or its designee, must receive the approved expense report at least 10 days prior to Physician's pay day.

A Mileage Requirement Form should also be submitted with Physician's first relocation expense report.

To initiate benefits, call Relocation Services at 469-893-2947

SCHEDULE 6.a.**GENERAL BENEFITS**

1. **Employee Benefits.** Physician shall be entitled to participate in benefits maintained by Employer, pursuant to the terms and conditions of such plans, which may be changed at the sole discretion of Employer. The following is a listing of current benefits available to physicians at this time:

a. **Tenet Physicians Time Off Plan.** During Base Salary Period, Physician is entitled to take part in a time-off program providing income replacement, when taking approved time off from scheduled work in each Employment Year for vacation, sick time, continuing medical education ("CME") and holidays. Although no set amount of time off is provided or guaranteed and may be changed in Employer's sole discretion at any time, at the time of the execution of Agreement, physicians are generally entitled to take up to 30 days of time off per calendar year (pro-rated based on start date). The thirty (30) days includes Employer recognized Holidays and CME days. In addition, Physician shall be entitled to five (5) days of time off per calendar year which may only be used for CME. Vacation and CME days are to be scheduled with Employer's approval in advance and subject to the needs of the Practice Sites. If Physician does not take off all of the days to which Physician is entitled under this plan during an Employment Year, Physician shall not be entitled to receive any compensation for such unused days nor may any such unused days be used in any other Employment Year. If this Agreement is terminated for any reason by either party or expires, Physician shall forfeit any accrued but unused paid time off, to the extent permitted by applicable law.

During the non-Base Salary Period, Physician acknowledges compensation is dependent on Physician's productivity and Physician will not receive any benefits under the paid time-off plan for Holidays, vacation, CME and sick days not worked, except as provided under Federal, State, or local laws. Employer will adhere to applicable Federal and State leave laws. Physician must still adhere to the allowable days off parameters and procedures in the above paragraph.

b. **Tenet Employee Benefit Plan,** which is a comprehensive welfare benefit plan providing various benefits including, medical benefits, dental benefits, vision benefits, life insurance benefits, long-term disability benefits, accidental death and dismemberment benefits and health care and dependent day care flexible spending account benefits. If applicable, Physician is entitled to Practice years of service credit (as established in Section 6.a. of Agreement) for purposes of determining plan eligibility.

c. **Tenet Healthcare Corporation 401(k) Retirement Savings Plan,** which is a qualified retirement plan, including a cash or deferred arrangement described in section 401(k) of the Internal Revenue Code with an employer matching contribution feature. If applicable, Physician is entitled to Practice years of service credit (as established in Section 6.a. of Agreement) for purposes of plan vesting requirements, but not for benefit accrual purposes.

d. **Tenet 2006 Deferred Compensation Plan**, which is a nonqualified deferred compensation plan within the meaning of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code.

2. **Wireless Communications.** At the discretion of Employer, Physician may be provided with a cellular telephone or other mobile device to be used in accordance with relevant policies and procedures as updated from time to time.

3. **Medical Staff Dues.** The cost of medical staff application fees and medical staff dues at Hospital shall be paid by Employer after the Effective Date of this Agreement or, if any such fees and dues are paid by Physician prior to the Effective Date, shall be reimbursed by Employer to Physician within thirty (30) days following receipt of documentation evidencing payment.

4. **Medical Malpractice Insurance.**

a. During the Term, Physician shall be provided with claims made or occurrence medical malpractice insurance coverage under primary and excess policies in minimum amounts of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) annual aggregate. Unless otherwise provided herein, Employer shall have no responsibility for providing coverage for Physician's acts prior to the Commencement Date of this Agreement or any prior physician employment agreement between Physician and Employer, provided there was no lapse in employment. Further, Employer shall have no responsibility for providing coverage for services rendered outside the scope of this Agreement. This coverage shall apply to all services rendered regardless of location provided the Physician is acting within the scope of his or her employment. If the coverage maintained during the Term was at any time claims-made coverage, then upon expiration of this Agreement, Employer will purchase at its cost an extended reporting period policy or "tail" policy on behalf of Physician for medical malpractice claims arising out of medical malpractice incidents occurring during Physician's employment.

b. During the Term of this Agreement and thereafter, the parties recognize certain risk management issues, legal issues, claims or actions may arise which involve or could potentially involve the parties and their respective affiliates, other employees and agents. The parties further recognize the importance of cooperating with each other in good faith when such issues, claims, or actions arise, to the extent such cooperation does not violate any applicable laws, cause the breach of any duties created by any policies of insurance, or otherwise compromise the confidentiality of communications or information regarding the issues, claims or actions.

FIRST AMENDMENT TO PHYSICIAN EMPLOYMENT AGREEMENT

THIS FIRST AMENDMENT TO PHYSICIAN EMPLOYMENT AGREEMENT ("First Amendment") is made and entered into as of the later of the 20 day of November, 2019 or the date of execution of the First Amendment by both parties, by and between East Cooper Physician Network, LLC ("Employer") and Stefanie A. Seixas-Mikelus, M.D. ("Physician").

RECITALS

WHEREAS, Employer and Physician entered into that certain Physician Employment Agreement effective as of March 31, 2019 which is incorporated herein by this reference (the "Agreement"); and

WHEREAS, the parties hereby agree to enter into this First Amendment in order to revise the compensation provisions of the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and intending to be legally bound, Employer and Physician hereby agree to further amend the Agreement as follows:

1. The following shall be inserted as Section 7 at the end of Schedule 5.a. to the Agreement:

"7. Hospital On-Call Compensation. Notwithstanding anything to the contrary herein, in addition to the compensation above, Physician may be eligible to receive compensation for taking call at Employer-contracted outside entities. Physician shall be paid one hundred percent (100%) of the rate Employer is compensated for each shift Physician provides on-call coverage. Payment to Physician is contingent upon Employer receiving payment from the outside entity, the on-call compensation shall be paid in the next biweekly payment or the next payment in accordance with Employer's policy. For purposes of on-call coverage, one (1) shift is defined as a twenty-four (24) hour period. Moreover, to receive payment, Physician must comply with the terms contained in the Agreement with the outside entity contracting for the services. Employer will advise Physician of all such requirements."

2. Except as herein provided, the Agreement and all of the terms and conditions contained therein, are hereby ratified and reaffirmed by the parties.

3. This First Amendment represents the complete agreement between the parties regarding the subject matter hereof, and no other changes or modifications of the Agreement are intended nor shall any such other changes or modifications exist. In the event of a conflict between the terms of the Agreement and this First Amendment, the terms of this First Amendment shall control to the extent applicable.

EAST COOPER PHYSICIAN
NETWORK, LLC

By: 
Wayne O. Wincey, DHA
CEO, SC Physician Operations
Date: 12/5/19

PHYSICIAN


Stefanie A. Seixas-Mikelus, M.D.
Date: 12/5/19

EXHIBIT 2

Tenet Open Door Policy and Fair Treatment Process

	Human Resource Policy Employee Relations & Workplace Expectations	No. HR.ERW.05¹
	Title: OPEN DOOR POLICY AND FAIR TREATMENT PROCESS	Page: 1 of 8
		Effective Date: 01-14-19
		Retires Policy Dated: 06-25-14
		Previous Versions Dated: 12-10-13; 11-21-13; 09-27-11; 01-22-07; 08-01-00; 01-01-93

I. SCOPE:

This policy applies to (1) Tenet Healthcare Corporation and its wholly-owned subsidiaries and affiliates (each, an "Affiliate"); (2) any other entity or organization in which Tenet Healthcare Corporation or an Affiliation owns a direct or indirect equity interest greater than 50%; and (3) any hospital or healthcare entity in which an Affiliate either manages or controls the day-to-day operations of the entity (each, a "Tenet Entity") (collectively, "Tenet").

II. PURPOSE:

To provide leaders and employees with appropriate directions for addressing and resolving employee problems, concerns and disputes.

III. POLICY:

We believe that positive employee relations and morale can be best achieved and maintained in a working environment that promotes ongoing and open communication between supervisors and employees, including open and candid discussions of employee problems, concerns and disputes. Tenet, its consolidated subsidiaries, hospitals, healthcare operations and other entities owned or operated by Tenet's consolidated subsidiaries ("Tenet") encourages employees to openly express their problems, concerns and opinions on any issue related to their employment.

Tenet sincerely hopes that its employees will never have a dispute relating to their employment with the Company. However, Tenet recognizes that disputes sometimes arise between the Company and its employees relating to the employment relationship. Tenet believes that it is in the best interests of both its employees and the Company to resolve employment-related disputes in a forum that provides the fastest and fairest method for resolving such disputes. Therefore Tenet has established the Fair Treatment Process ("FTP"), to provide for review of employment-related disputes between the Company and its employees, culminating in final and binding arbitration of such disputes if they cannot be resolved through the optional internal step. Employees can use the FTP without fear of retaliation or reprisal.

IV. GENERAL

A. Applicability and Coverage

The FTP applies to all employees, regardless of length of service or status, and the agreement to arbitrate covers all disputes relating to or arising out of an employee's employment with the Company or the termination of employment. The only disputes or claims not covered by the FTP are those listed in the Exclusions section below. Examples of the type of disputes or claims covered by the FTP and the

¹Prior to June 1, 2013, the policy number was HR-110.

Unnecessary Pages Omitted

	Human Resource Policy Employee Relations & Workplace Expectations	No. HR.ERW.05¹
	Title: OPEN DOOR POLICY AND FAIR TREATMENT PROCESS	Page: 5 of 8
		Effective Date: 01-14-19
		Retires Policy Dated: 06-25-14
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state agencies, are not subject to exclusive review under the FTP. This means that employees may file such non-waivable statutory claims with the appropriate agency that has jurisdiction over them if they wish, regardless of whether they decide to use the FTP to resolve them. However, if such agency completes its processing of an employee's claim and the employee decides to pursue further remedies on such claims in a civil action against the Company, the employee must use the FTP (although Step 1 may be skipped). In addition, the FTP does not apply to employees covered by a collective bargaining agreement, unless otherwise agreed to by such employees.

5. Other Important Information

- a. **Applicable Law and Procedural Rules:** The Federal Arbitration Act, 9 U.S.C. § 1, et seq., will govern arbitrations under the FTP. The applicable Employment Arbitration Rules of the AAA will govern the procedures to be used in such arbitrations, unless the parties have agreed otherwise.
- b. **Discovery and Amendment of Claims:** All discovery shall be conducted in accordance with the Employment Arbitration Rules of the AAA. The arbitrator shall have the authority to order discovery sufficient to enable a full and fair exploration of the issues in dispute consistent with the expedited nature of arbitration.
- c. **Limitations Periods:** Any request for arbitration under the FTP must be made within one year after the event giving rise to the dispute. If the claim was submitted to a federal, state or local agency, then a request for arbitration of that claim must be made within 90 days of the receipt of the agency's decision. However, if a longer limitations period is provided by a statute governing the claim, then the claim will be subject to the longer limitations period provided by the statute.
- d. **Authority of Arbitrator:** The arbitrator has the authority to award any remedy that would have been available to the employee had the employee litigated the dispute in court under applicable law, which includes attorney's fees and costs for the prevailing party, if those would be an available remedy in court.

Unnecessary Pages Omitted

EXHIBIT 3

Termination Notice



December 11, 2020

Stefanie A Seixas-Mikelus, MD
Via Hand Delivery

Re: Notice of Termination of Physician Employment Agreement dated March 31, 2019
("Agreement") between Stefanie A. Seixas-Mikelus, MD ("Physician") and East Cooper
Physician Network, LLC ("Employer")

Dear Dr. Seixas-Mikelus:

In accordance with Section 8.c. of the above referenced Agreement, this letter shall serve as written notice that Employer is terminating the Agreement and your employment without cause effective Ninety (90) days from the date of your receipt of this letter (the "Termination Date"). Accordingly (unless the parties mutually agree otherwise), the Termination Date will be March 12, 2021.

Employer reminds you of the other current and ongoing obligations and covenants contained in the Agreement, including, but not limited to, those non-waived covenants contained in Sections 7 (non-solicitation and non-compete during remaining Term of Agreement), 12.b. (confidentiality), and 12.d. (proprietary information and non-disparaging remarks) of the Agreement. Additionally, Employer reserves the right to immediately terminate the Agreement in the event one of the circumstances described in Section 8.a. of the Agreement were to arise.

We appreciate your cooperation during this transition period and respectfully request you direct all communications related to this matter to me at 843-606-4022 or wayne.winney@tenethealth.com. On behalf of East Cooper Physician Network, LLC, I wish you the best in your future endeavors.

Sincerely,

Wayne O. Winney, DHA
CEO, SC Physician Operations

* * * * *

The undersigned hereby acknowledges receipt of this letter.

Stefanie A. Seixas-Mikelus, MD

Date

EXHIBIT 4

Demand for Arb.



**Service of Process
Transmittal**

07/12/2021

CT Log Number 539879066

TO: Olga Barnes
Tenet Healthcare Corporation
14201 NORTH DALLAS PARKWAY
DALLAS, TX 75254

RE: Process Served in South Carolina

FOR: East Cooper Physician Network, LLC (Domestic State: SC)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Stefanie Selxas-Mikelus, Pltff. vs. Tenet Healthcare Corporation, et al., Dfts. // To: East Cooper Physician Network, LLC

DOCUMENT(S) SERVED: --

COURT/AGENCY: None Specified
Case # 012100046490

ON WHOM PROCESS WAS SERVED: CT Corporation System, Columbia, SC

DATE AND HOUR OF SERVICE: By Certified Mail on 07/12/2021 postmarked: "Not Post Marked"

JURISDICTION SERVED : South Carolina

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): None Specified

ACTION ITEMS: CT has retained the current log, Retain Date: 07/12/2021, Expected Purge Date: 07/17/2021
Image SOP
Email Notification, Olga Barnes olga.barnes@tenethealth.com
Email Notification, Jennifer Cossa jennifer.cossa@tenethealth.com

REGISTERED AGENT ADDRESS: C T Corporation System
2 Office Park Court
Suite 103
Columbia, SC 29223
877-564-7529
MajorAccountTeam2@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

ELECTRONICALLY FILED - 2024 Sep 18 3:35 PM - CHARLESTON - COMMON PLEAS - CASE#2023CPI003391

100 FIRST CLASS MAIL

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE



7018 2290 0000 9401 1275

First Class Mail

Rosen Hagood, LLC
Attorneys and Counselors at Law
P.O. Box 893
Charleston, South Carolina 29402

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
CT Corporation System
Registered Agent for East Cooper Physician Network, LLC,
2 Office Park Court, Suite 103
Columbia, SC 29223

ROSEN | HAGOOD

seschenbrenner@rosenhagood.com

July 8, 2021

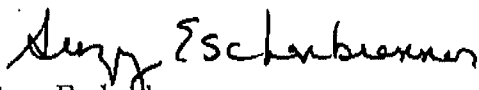
CT Corporation System
Registered Agent for East Cooper Physician Network, LLC
2 Office Park Court, Suite 103
Columbia, SC 29223

Re: Stefanie Seixas-Mikelus, M.D. v. Tenet Healthcare Corporation,
Tenet Physician Resources, LLC and East Cooper Physician Network, LLC
AAA Case No. 01 21 0004 6490

Dear Sir or Madam:

Enclosed please find a copy of the Demand for Arbitration that was filed with the American Arbitration Association on behalf of Stefanie Seixas-Mikelus, M.D., which is being served on you as the registered agent for East Cooper Physician Network, LLC.

Sincerely yours,


Suzy Eschenbrenner
Paralegal

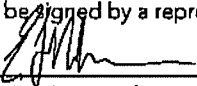
/see
Enclosures



To ensure your demand is processed promptly, please file online at www.adr.org/support. Complete this form, provide last known email addresses and include a copy of the Arbitration Agreement, Plan or Contract.

Mediation: If you would like the AAA to contact the other parties and attempt to arrange mediation, please check this box ☐ .		
Parties (Claimant)		
Name of Claimant: Stefanie Seixas-Mikelus, M.D.		
Address: 2251 Spring Hope Road		
City: Mt. Pleasant	State: South Carolina	Zip Code: 29466
Phone No.: 9179166301	Fax No.:	
Email Address: steffimd@verizon.net		
Representative's Name (if known): Elizabeth F. Nicholson		
Firm (if applicable): Rosen Hagood, LLC		
Representative's Address: 151 Meeting Street, Suite 400		
City: Charleston,	State: South Carolina	Zip Code: 29401
Phone No.: 8432668140	Fax No.: 8432662225	
Email Address: enicholson@rosenhagood.com		
Parties (Respondent)		
Name of Respondent: Tenet Healthcare Corporation		
Address: 14201 Dallas Parkway		
City: Dallas	State: Texas	Zip Code: 75254
Phone No.: 4698932000	Fax No.:	
Email Address: lawdepartment@tenethealth.com		
Representative's Name (if known):		
Firm (if applicable):		
Representative's Address:		
City:	State: Select...	Zip Code:
Phone No.:	Fax No.:	
Email Address:		
Claim: What was/is the employee/worker's annual wage range? ☐ Less than \$100,000 ☐ \$100,000-\$250,000 ☒ Over \$250,000 Note: This question is required by California law.		
Amount of Claim: Damages are ongoing; currently in excess of \$2,500,000.00		
Claim involves: ☒ Statutorily Protected Rights ☒ Non-Statutorily Protected Rights		



In detail, please describe the nature of each claim. You may attach additional pages if necessary: Please see the attached written demand for arbitration.		
Other Relief Sought: ☒ Attorneys Fees ☒ Interest ☒ Arbitration Costs ☒ Punitive/ Exemplary ☒ Other: Damages incurred as a result of Respondent's Breach of Employment Contract and Wrongful Termination of Claimant.		
Please describe the qualifications for arbitrator(s) to hear this dispute: Employment Law		
Hearing: Estimated time needed for hearings overall: _____ hours or _____ days		
Hearing Locale: Charleston County, South Carolina (check one) ☐ Requested by Claimant ☒ Locale provision included in the contract		
Filing Fee requirement or \$300 (max amount per AAA) Filing by Company: ☐ \$2,200 single arbitrator ☐ \$2,800 three arbitrator panel		
Notice: To begin proceedings, please file online at www.adr.org/fileonline . You will need to upload a copy of this Demand and the Arbitration Agreement, and pay the appropriate fee.		
Signature (may be signed by a representative): 	Date: 7/7/2021	
Pursuant to Section 1284.3 of the California Code of Civil Procedure, consumers with a gross monthly income of less than 300% of the federal poverty guidelines are entitled to a waiver of arbitration fees and costs, exclusive of arbitrator fees. This law applies to all consumer agreements subject to the California Arbitration Act, and to all consumer arbitrations conducted in California. Only those disputes arising out of employer plans are included in the consumer definition. If you believe that you meet these requirements, you must submit to the AAA a declaration under oath regarding your monthly income and the number of persons in your household. Please contact the AAA's Western Case Management Center at 1-800-778-7879. If you have any questions regarding the waiver of administrative fees, AAA Customer Service can be reached at 1-800-778-7879. Please visit our website at www.adr.org/support to file this case online.		

AMERICAN ARBITRATION ASSOCIATION

Case No. _____

Stéfanie A. Seixas-Mikelus.,	)
	)
Claimant,	)
v.	)
	)
Tenet Healthcare Corporation, Tenet Physician	)
Resources, LLC and East Cooper Physician	)
Network, LLC,	)
	)
Respondent.	)
_____	)

ARBITRATION DEMAND

Claimant, Stéfanie A. Seixas-Mikelus, M.D. ("Claimant"), by and through her undersigned counsel, brings this action against Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network, LLC (collectively "Respondents") alleging as follows:

FACTS & BACKGROUND

1. Stéfanie A. Seixas-Mikelus, M.D. is a citizen and resident of the State of South Carolina.
2. Upon information and belief, East Cooper Physician Network, LLC ("East Cooper") is a limited liability company organized and existing under the laws of the State of South Carolina.
3. Upon information and belief, Tenet Physician Resources, LLC ("TPR") is a limited liability company organized and existing under the laws of the State of South Carolina.
4. Upon information and belief, Tenet Healthcare Corporation ("Tenet") is a corporation organized and existing under the laws of the State of Texas.
5. Upon information and belief, Tenet owes, operates, manages, and oversees East

Cooper and TPR.

6. On, or around, March 30, 2019, Claimant entered into a Physician Employment Agreement ("Agreement") with Respondent. A copy of the Agreement, the terms of which are incorporated by reference, is attached as **Exhibit A**.

7. Claimant was employed by East Cooper Physician Network, LLC ("East Cooper") as a physician from June 1, 2019, until March 12, 2021. Specifically, Claimant was employed as a urology oncologist who specialized in robotic surgery.

8. Prior to her employment with East Cooper, Claimant served as the Medical Director of Robotic Surgery at Hackensack Meridian Jersey Shore University Medical Center.

9. In October of 2018, Claimant interviewed for the position with East Cooper, and during her interview, she was told that East Cooper was seeking two physicians to manage its Urology practice.

10. During her initial interview, and when Claimant was offered the Urology physician position, East Cooper represented to Claimant that it had hired a second physician to help her manage the Urology practice and even went as far as to provide Claimant with the contact information of the alleged hired physician.

11. Claimant accepted the physician position with East Cooper with the understanding that she would be joined by another physician who would be primarily responsible for treating patients experiencing traditional urological issues while Claimant would focus on robotics, oncological, and surgical issues.

12. Within six months of accepting the position, Claimant relocated to Charleston to begin her employment as a physician with East Cooper in June of 2019. Upon her arrival, East Cooper informed Claimant that it was no longer hiring a second physician to help manage the

Urology practice.

OVEREXTENDED HOURS AND SCHEDULING

13. Claimant began her employment with East Cooper on June 1, 2019, as the only physician for East Cooper Urology. As a result, Claimant's schedule required her to be on call 24 hours, 7 days a week, which created a substantial threat to patient safety.

14. East Cooper failed to arrange necessary and reliable coverage for Claimant.

15. Claimant attempted to make arrangements with other physicians to provide coverage to allow her necessary time-off, but her efforts to arrange and secure adequate coverage were largely unsuccessful or significantly limited by the schedules of other physicians.

16. On July 25, 2019, Claimant contacted Wayne Winney, Respondents' Chief Executive Officer of Physician Operations, to express concerns with regards to her dangerous schedule and its threat to patient safety.

17. Respondents' on-call schedule only provided physicians one to two weeks' notice of the next month's schedule. This scheduling practice prevented Claimant from finding coverage for necessary time off. Claimant contacted Respondents regarding her difficulties finding coverage in such short notice.

18. Respondents' failure to arrange both a reliable and safe coverage system and fair on-call schedule made it impossible for Claimant to take crucial, necessary, and deserved time-off.

19. As a result, Claimant suffered two miscarriages, and after each miscarriage, she was required to report to work the same day because she was unable to find coverage.

20. Claimant's demanding schedule imposed by the actions or inactions of Respondents put patients' safety at risk and took a physical and mental toll on Claimant.

WORK ENVIRONMENT & FACILITIES

21. Respondents failed to provide Claimant with an adequately equipped workspace, essential personal protective equipment, and properly maintained medical tools and equipment.

22. Upon information and belief, Respondents' medical equipment and sterile-processing practices were deficient and dangerous. These deficiencies include, but are not limited to:

- a. Routinely broken essential instruments;
- b. No maintenance service plans for equipment;
- c. Outdated equipment;
- d. Nonsterile exam rooms; and
- e. Lack of essential instruments and equipment.

23. On or about November 30, 2020, Claimant contacted Wayne Winney and Patrick Downes, East Cooper's Chief Executive Officer, to notify them of her concerns regarding the broken equipment. Her communication specifically addressed concerns regarding:

- a. Damaged flexible ureteroscope during sterilization process;
- b. Finding a semi-rigid Wolf ureteroscope broken while patient was intubated;
- c. Rescheduling patient multiple times because of inadequate equipment;
- d. Unacceptable patient care; and
- e. Patient safety concerns.

24. During the COVID-19 pandemic, Claimant was denied essential personal protective equipment ("PPE").

25. In April of 2020, Claimant contacted Patrick Downes regarding her inability to obtain essential PPE to which Mr. Downes responded that Claimant was not qualified for

essential PPE.

26. In her Urology practice, Claimant was exposed to bodily fluids and aerosols on a daily basis and was often called to the emergency room for consultations.

27. Patrick Downes took no action to address Claimant's inability to obtain PPE.

28. Subsequently, Claimant contacted Wayne Winney regarding the same concerns, but she was still not provided essential PPE for several weeks and then was only provided a few masks.

FAILURE TO RESPOND

29. From the beginning of her employment, Claimant contacted several representatives of Respondents regarding her concerns and complaints about patient safety, faulty and broken medical equipment, lack of PPE, and dangerous and unfair coverage issues and on-call schedules without any intervention or action from Respondents.

30. On or about August 24, 2020, Claimant again contacted Mr. Winney and included Warren Stowell, Corporate Vice President of Operations, regarding her concerns and complaints outlined herein above. Claimant received no response to her communication.

31. On or about September 23, 2020, Claimant was called to meet with Mr. Winney in his office during which Mr. Winney acknowledged and confirmed the accuracy of Claimant's concerns but stated that he could not do anything to address her concerns.

32. On or about December 6, 2020, Claimant contacted Dr. Saum Sutaria, Respondents' President and Chief Operating Officer, outlining the concerns she had continuously expressed to Respondents without response or action.

33. Claimant and Dr. Sutaria spoke on the phone regarding her email on the following day on December 7, 2020, but Dr. Sutaria offered no solutions or interest in Claimant's concerns

of complaints.

TERMINATION OF EMPLOYMENT

34. Four days after Claimant's phone call with Dr. Sutaria, Claimant was given a letter of termination without cause. The letter dated December 11, 2020, is attached hereto as **Exhibit B**.

35. Claimant's final day of employment at East Cooper was March 12, 2021.

36. Respondents' actions and omissions described herein directly caused Claimant to suffer financial, emotional, and professional loss.

37. During her employment with Respondents, Claimant suffered anxiety, loss of sleep, and fatigue all of which were the result of her dangerous schedule, unsafe working conditions, and patient safety concerns.

38. The Agreement provided for a five-year term of employment of which Claimant was only employed for less than two (2) years.

39. Pursuant to the Agreement, Claimant was to earn an annual salary of \$400,000.00 for the first three years of employment.

40. Beginning with the thirty-seventh month of employment, Claimant was to be paid based on productivity to be calculated by the terms set forth in the agreement.

41. Respondents failed to engage in marketing or advertising activities to market Claimant's services severely affecting her productivity and development of her practice.

42. However, Respondents arranged and paid for television interviews, print articles, magazine interviews, and billboards for other physicians, particularly male surgeons.

43. Respondents' failure to market and advertise her services and practices severely affected her potential compensation which would have been calculated by the productivity

calculation pursuant to the Agreement.

44. Claimant's specialization in robotic surgery requires her to specifically perform robotic surgery to stay practiced and experienced as a robotics surgeon. However, East Cooper failed to provide her with the amount of robotics surgeries which she had been promised when Respondents offered her employment.

45. Claimant's lack of robotics surgeries during her time with East Cooper has and will continue to detrimentally impact her career prospects and have a permanent negative affect on her future compensation.

46. As direct and proximate result of Respondents' misrepresentations, actions, failures, and omissions, Claimant has incurred actual, consequential, and incidental damages, all of which are recoverable from Respondents, including attorney's fees and costs in having to prosecute this action.

47. Claimant is entitled to an award in her favor against Respondents for all actual, consequential, and incidental damages, including attorneys' fees and costs, along with pre-judgment interest at the legal rate.

48. The actions, or inaction, on the part of Respondents was willful, wanton and in reckless disregard to Claimant, entitling Claimant to recover punitive damages against Respondents.

FOR A FIRST CAUSE OF ACTION
(Breach of Contract)

49. The allegations of the above Paragraphs are alleged as if they were restated verbatim herein.

50. The Agreement between Claimant and Respondents provided for a five-year term of employment.

51. As set forth above, the Agreement between Claimant and Respondents required Claimant to be paid \$400,000.00 for the first three years of employment and an annual salary based on a productivity calculation beginning at the thirty seventh month of employment until the end of the five-year employment term.

52. Respondents' terminated Claimant's employment prematurely without cause and without compensation.

53. By terminating Claimant's employment before the end of the five-year term and failing to pay Claimant the compensation for her full term of employment set forth in the Agreement, Respondents breached the Agreement existing between the parties.

54. As a direct and proximate result of the aforementioned breach of contract by the Respondents, Plaintiff has been damaged as set forth above.

55. Based upon the breach of contract, Claimant is informed and believes she is entitled to judgment against Respondents for actual, incidental, and consequential damages, along with pre-judgment interest at the legal rate.

56. FOR A SECOND CAUSE OF ACTION
(Breach of Implied Covenant of Good Faith and Fair Dealing)

57.

58. The allegations of the above Paragraphs are alleged as if they were restated verbatim herein.

59. A valid contract existed between Claimant and Respondents as set forth in the Agreement (Exhibit "A").

60. Upon information and belief, Respondents' termination of Claimant was not undertaken in good faith.

61. Upon information and belief, Respondent breached the implied covenant of good faith and fair dealing by failing and refusing to pay Claimant's salary as set forth in the Agreement.

62. As a direct and proximate result of Respondents' breach, Claimant has been damaged as alleged above.

63. Based on the foregoing breach by Respondents, Claimant is informed and believes she is entitled to judgment against Respondents for actual and punitive damages in an amount to be determined by a jury.

64.

FOR A SECOND CAUSE OF ACTION
(Wrongful Termination in Violation of Public Policy)

65. The allegations in the above Paragraphs are alleged as if they were restated verbatim herein.

66. Respondents' actions constitute wrongful termination in violation of public policy.

67. During Claimant's employment, Claimant observed and reported her concerns with patient safety; faulty, broken, and inadequate medical equipment; insufficient PPE; and dangerous and unfair coverage issues and on-call schedules all of which caused dangerous conditions for both physicians and patients.

68. Claimant reported her concerns and complaints to several representatives of Respondents as set forth above.

69. On December 7, 2021, Claimant reported her concerns and complaints to Dr. Sutaria, President and Chief Operating Officer of Respondents. Four days after she spoke with Dr. Sutaria, Claimant was terminated without cause and without explanation.

70. Respondents retaliated against Claimant and terminated her while she was pursuing important rights related to her role as an employee, including, but not limited to, the following:

- a. Opposing violations of laws, statutes, regulations, standards, and/or policies and procedures; and
- b. Ensuring the patients of Respondents were safe and protected by enforcing laws, statutes, regulations, standards, and/or policies and procedures.

71. As a direct and proximate result of Respondents' retaliation of Claimant's reporting unsafe work environment conditions and requirements, Claimant was wrongfully terminated from her employment.

72. As a direct and proximate result of Claimant's wrongful termination, Claimant is entitled to recover damages for emotional distress, mental anguish, pain and suffering, loss of employment, economic loss, punitive damages, reasonable attorney's fees and costs, and any other relief the Court deems just and proper.

WHEREFORE, Claimant respectfully prays that the appointed Arbitrator inquire into the matters set forth herein and render an award in favor of Claimant against Respondents as follows:

- (1) For all of Claimant's actual, consequential, and incidental damages;
- (2) For pre-judgment interest at the statutory rate;
- (3) For punitive damages;
- (4) For Claimant's attorneys' fees, expert fees, and other costs;
- (5) For Claimant's American Arbitration Association filing fees and administrative expenses; and

(6) For all other relief deemed appropriate.

ROSEN & HAGOOD, LLC

By: _____
James A. Bruorton, IV, Esq.
Elizabeth F. Nicholson, Esq.
151 Meeting St., Suite 400
P.O. Box 893
Charleston, S.C. 29402
(843) 266-8140
cbruorton@rosenhagood.com
enicholson@rosenhagood.com

ATTORNEYS FOR CLAIMANT

Charleston, South Carolina
June ____, 2021

PHYSICIAN EMPLOYMENT AGREEMENT

BY AND BETWEEN

EAST COOPER PHYSICIAN NETWORK, LLC

AND

STEFANIE A. SEIXAS-MIKELUS, M.D.

EXHIBIT A

ROA_197

**THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO § 15-48-10, ET
SEQ. OF THE SOUTH CAROLINA CODE OF LAWS, AS AMENDED.**

PHYSICIAN EMPLOYMENT AGREEMENT

THIS PHYSICIAN EMPLOYMENT AGREEMENT ("Agreement") is made and entered into as of the later of March 29, 2019, or the execution of the Agreement by both parties (the "Effective Date") by and between East Cooper Physician Network, LLC ("Employer") and Stefanie A. Seixas-Mikelus, M.D. ("Physician").

RECITALS:

A. Employer provides for the care and treatment of patients at one or more clinics located in Charleston, South Carolina (the "Area"), and Employer desires Physician to provide physician services at one or more of such clinics in the Area.

B. Physician is or will be licensed to practice medicine prior to the Commencement Date (as defined in Section 2 below) in the State of South Carolina ("State"), is qualified in the specialty of Urology ("Specialty"), and desires to become a bona fide employee of Employer under the terms and conditions outlined below and is willing to provide such Specialty services.

C. Employer desires to employ Physician under the terms and conditions outlined below.

AGREEMENT

In consideration of the above recitals, which are incorporated herein, and the mutual agreements set forth herein, the parties hereto agree as follows:

1. **EMPLOYMENT.** Employer hereby employs Physician for the practice of medicine in the care and treatment of patients at TBD or at such other clinic sites in the Area as Employer and Physician may designate (collectively referred to as the "Practice Sites"). It is expressly understood and agreed Employer shall have reasonable discretion to consolidate and relocate clinics operated by Employer in the Area and to redesignate Practice Sites served by Physician from time to time, upon consultation with Physician; provided, however, that Employer shall not assign Physician to any Practice Site outside of Charleston County or Berkeley County, South Carolina, without her consent. Physician shall be subject to Employer's employment policies, directives, rules and regulations ("Employer Policies") as promulgated by Employer from time to time, including, but not limited to, those pertaining to employees; provided, however, in the event of any inconsistency between the Employer Policies and this Agreement, the provisions of this Agreement shall prevail. Physician shall retain the right to exercise Physician's independent medical judgment in providing care and treatment to patients.

2. **TERM.** The term of this Agreement ("Term") shall be for a period commencing as of "Commencement Date" and ending the last calendar day of the month five (5) years after the Commencement Date. For purposes of this Agreement, "Commencement Date" shall mean the day Physician becomes credentialed and a member of all the managed care plans listed in Schedule 2 attached hereto and meets all employment criteria established by Employer or at such other time as mutually agreed to by the parties. Commencement Date will be confirmed in a writing signed

by both parties. As used herein, an "Employment Year" shall mean the annual period beginning on the Commencement Date and each annual period thereafter; provided, however, if Commencement Date falls on a date other than the first day of a calendar month, "Employment Year One" shall then include the first partial calendar month of employment beginning on the Commencement Date and the twelve full calendar months thereafter. Subsequent Employment Years shall be the annual periods following the conclusion of Employment Year One. Further, if Commencement Date falls on a date other than the first of the calendar month, then "Month One" of Term shall include the first partial and first full calendar month of employment.

3. PHYSICIAN'S OBLIGATIONS.

a. **Use of Premises.** Physician shall use the Practice Sites as designated by Employer exclusively for the practice of medicine in the care and treatment of patients, and for any associated administrative tasks, and shall comply with all applicable federal, state, and local laws, rules and regulations.

b. **Medical Practice.** Physician shall engage in the practice of medicine on a full-time basis exclusively as an exempt employee of Employer, subject to time off discussed in Schedule 6.a. (the "Practice") and provide the duties and responsibilities set forth in this Agreement and in Schedule 3.b. attached hereto and incorporated herein by reference. In addition, Physician shall be responsible for a proportionate amount of after-hours, holiday and weekend call coverage for the Practice Sites, which shall be sufficient to serve the Practice Sites' patients in a high quality, professional manner. Except as otherwise provided herein, while this Agreement is in effect, Physician shall not enter into any other physician employment contract or otherwise engage in the practice of medicine, directly or indirectly, except as Employer's employee. Physician acknowledges employees in the Practice Site are under the direct supervision of Employer and/or Employer's designated management staff, for non-clinical services and human resource matters.

c. **Professional Qualifications.** Physician shall be and remain duly licensed to practice medicine in the State. Upon request of Employer throughout Term, Physician, at Employer's expense, shall obtain a self-query report from the National Practitioner Data Bank ("NPDB") and provide a copy of same to Employer or its designee.

d. **Medical Staff Privileges.** Physician shall obtain and maintain in good standing such medical staff membership and privileges as required by the medical staff bylaws of each hospital and/or facility in the Area at which Employer requires Physician to maintain medical staff membership and privileges, including but not limited to, providing emergency department call coverage. Physician shall obtain and maintain, in good standing, medical staff membership and appropriate privileges based on Physician's Specialty and services to be provided under this Agreement at East Cooper Medical Center ("Hospital"). Any action taken with respect to Physician's medical staff privileges shall be solely within the prerogative of Hospital or its medical staff.

e. **Identifiers.** Physician will obtain and/or maintain an Individual Medicare Provider Number and a National Provider Identifier ("NPI") number prior to Commencement Date and throughout Term.

f. **Managed Care Organizations and Government Programs.** For and on behalf of Physician, Employer shall have the sole and exclusive right and authority to enter into contractual relationships with HMOs, IPAs, PPOs, PHOs, employer groups, provider networks and other managed care organizations (collectively "Managed Care Organizations"). Physician shall provide the same quality of care to patients from Managed Care Organizations as is provided to other patients in the Practice. Upon request from Employer, Physician shall execute Managed Care Organization documents as "provider" if deemed necessary or advisable by Employer. Physician shall not contract with any Managed Care Organization without Employer's prior written consent in each instance. Additionally, for and on behalf of Physician, Employer shall have the sole and exclusive right and authority to complete any healthcare payor enrollment applications on behalf of Physician and Physician agrees to grant Employer access to enrollment systems to facilitate same.

g. **Professional Fees.** Employer shall have the exclusive right and authority to set, collect and retain all fees, including professional fees, to be charged to patients of the Practice. All professional fees generated by Physician (including, without limitation, capitated risk pool fees, professional retainer fees, honoraria, medical director fees, clinical research payments, professional consulting and teaching fees, on-call fees, incentive payments from the government for implementing electronic health record ("EHR") technology, shared savings, and fees for expert testimony, but excluding Physician's private investment and non-professional income) while an employee of Employer, including both cash collections and accounts receivable, will be the sole and exclusive property of Employer, whether received by Employer or by Physician and whether received during the Term or any time thereafter. Physician hereby assigns all rights to said fees and accounts to Employer and shall execute all documents required from time to time by Employer and otherwise fully cooperate with Employer to enable Employer to collect accounts from patients and third party payors. Notwithstanding the foregoing, Employer hereby agrees Physician may retain any fees which may be related to those certain activities set forth on Schedule 3.g. attached hereto and made a part hereof ("Outside Activities") or from additional Outside Activities with prior written approval of Employer, subject to the following requirements: (1) Outside Activities must be performed by Physician on Physician's own time; (2) Outside Activities must not interfere with the performance of Physician's duties under this Agreement, or result in diminution in the quality or amount of Physician's service to Employer under this Agreement; (3) Physician may not hold Physician out as Employer's employee while engaged in Outside Activities; (4) Physician agrees to indemnify, defend and hold harmless Employer for any claims, causes of action, damages, losses, attorney's fees, etc., Employer may incur as a result of the Outside Activities; (5) Physician must obtain and maintain a separate malpractice policy for Outside Activities involving the practice of medicine because Physician will not be covered by Employer's policy when engaged in Outside Activities as they are outside the scope of employment; (6) Physician may not utilize any company assets, employees, services, etc., while performing Outside Activities and will not perform such Outside Activities on Employer's premises or while performing services on behalf of Employer; and (7) Physician shall be solely responsible for any applicable federal, state, and local income tax, self-employment tax, and all other taxes related to income generated by Physician for Physician's own account in accordance with Outside Activities.

h. **Authorization to Release Information.** Physician hereby authorizes Managed Care Organizations, government programs, hospitals and other healthcare entity third parties to release to Employer and its agents any information requested by Employer or its agents from time to time relating to Physician's professional qualifications or competency. Physician

agrees to execute the Authorization to Release Information in the form set forth in Schedule 3.h, attached hereto and incorporated herein by reference and to otherwise fully cooperate with Employer to enable Employer and its agents to obtain such information from third parties, provided that such cooperation shall be at no cost to Employee.

i. **Additional Physicians.** Employer and Physician agree as an essential term of this Agreement that it is the intent of the parties to develop a comprehensive medical practice. It is further understood Employer intends to negotiate and enter into employment relationships with additional qualified physicians. Physician agrees to use reasonable best efforts to forge and establish an ongoing relationship and team approach with such additional physicians for the furnishing of professional medical and related services to patients.

j. **Use of Electronic Health Records.** Physician hereby agrees to use all electronic health records, electronic prescribing, voice recognition dictation, and any other electronic or automation acquired and implemented by Employer. Moreover, as applicable at Hospital, Physician will: utilize Computerized Provider Order Entry; enter all orders in Hospital's electronic health record; and do what is necessary to comply with the meaningful use provision of the HITECH Act including, but not limited to, entering orders, performing medication reconciliation, viewing results and nursing documentation, and performing electronic physician documentation, if available.

k. **Coding Compliance.** Timely, accurate and thorough medical record documentation is Physician's responsibility. It is Physician's responsibility to accurately code Physician's services with CPT, HCPS, modifiers, ICD-10 codes, or diagnoses in narrative, for accurate reporting to patients and third party payors. Physician understands submitted codes will represent the services are medically necessary, delivered and documented. Physician agrees to comply with Employer's compliance policies and procedures, including those related to documentation and billing, and to use Physician's best efforts to accurately code Physician's services with the goal of attaining and maintaining a coding error rate of no more than five percent (5%). Physician will participate in coding compliance training, education and audit programs. Upon initial employment, Employer will perform a coding audit covering the first 30 days following Commencement Date. A coding improvement plan will be developed with Physician to address error identified in the audit. If Physician's coding error rate exceeds five percent (5%), the plan will include re-audit within three (3) to six (6) months with re-audit until an error rate of five percent (5%) or less is achieved. Thereafter, Physician may be selected for audit on a random basis. Compensation (as set forth in Schedule 5.a, attached) will be reduced by the actual amount of compensation earned by or attributed to Physician due to Physician's coding errors.

4. **SPACE AND SUPPORT.** Employer shall provide Physician with office and clinic space, equipment, supplies, and personnel at the Practice Sites (or, in the case of certain support services, at other locations) as Employer determines to be necessary, after consultation with Physician, to enable Physician to provide medical services to patients consistent with recognized medical standards. Physician will utilize only equipment and supplies provided by Employer in the Practice Site and will not order additional equipment and supplies without Employer's prior consent.

5. **PHYSICIAN'S COMPENSATION.**

a. **Compensation.** Physician shall be compensated as stated in Schedule 5.a., attached hereto.

b. **Additional Payments.** In addition to the compensation in Schedule 5.a., Physician shall be entitled to the following additional payments ("Additional Payments"):

(1) **Sign-on Bonus.** Physician shall be paid a one-time Sign-On Bonus of Twenty Thousand and No/100 Dollars (\$20,000.00). Such bonus shall be paid within thirty (30) days from Commencement Date.

(2) **Relocation Expenses.** Physician shall be reimbursed for actual relocation expenses incurred as described in Schedule 5.b., (the "Relocation Addendum"), attached hereto and incorporated herein by this reference, at a cost not to exceed Fifteen Thousand and No/100 Dollars (\$15,000.00). Physician acknowledges he/she may incur tax withholding on relocation benefits which are taxable under IRS relocation tax guidelines as described in Schedule 5.b. attached hereto and incorporated herein by reference.

c. **Early Termination.** Should Employer terminate Physician for cause under Section 8.a. below (with the exception of Section 8.a.(ii)) or Physician voluntarily terminates employment within twelve (12) months of Commencement Date, Physician will be required to re-pay Employer in full for any Additional Payments. Should Employer terminate Physician for cause under Section 8.a. below (with the exception of Section 8.a.(ii) below) or Physician voluntarily terminates employment at any time after the first twelve (12) months from Commencement Date, Physician will be required to re-pay Employer a pro rata portion of any Additional Payments based on the number of months remaining during the Term divided by the number of months in the Term. For example, assuming a five (5) year or sixty (60) month term, Additional Payments of \$30,000, and Physician voluntarily terminated employment in month twenty-four (24) of Agreement, Physician would be obligated to re-pay Employer \$18,000 (i.e., \$30,000 total Additional Payments multiplied by the quotient of 36 months remaining in the Term divided by 60 total months in the Term) ($\$30,000 \times 36/60 = \$18,000$). Further, Physician agrees Employer may deduct the repayment amount due Employer from Physician's final pay periods including accrued benefits, if any. To the extent additional amounts are still owed, Employer and Physician agree any remaining repayment amount shall be paid by Physician in six (6) equal monthly installments or as otherwise agreed to by the Parties in writing.

6. **PHYSICIAN'S BENEFITS.** Physician will receive employee benefits only as provided in this Agreement. Benefits are subject to amendment from time to time by Employer in accordance with its practices generally applicable to other employees.

a. **General Benefits.** Physician shall receive those general benefits described in Schedule 6.a. attached hereto and incorporated herein by reference. Benefits are subject to the terms of the plan documents or insurance contracts, as applicable, and may be changed at the discretion of Employer in accordance with changes that are generally applicable to other employees. To the extent Employer's benefit plans allow, Physician may be given credit (as established by Employer) for prior service with Practice for eligibility and vesting purposes (but not benefit accrual purposes) under Employer's benefit plans in which Physician is eligible for and offered participation as described in Schedule 6.a.

b. **Seminars, Professional Dues and Subscriptions, Etc.** Physician shall be entitled to attend medical seminars paid for or reimbursed by Employer, so long as they are approved in advance by Employer. All related seminar expenses such as travel, meals, and lodging shall be in accordance with and limited by Tenet policy which in most cases requires submission of actual receipts. Employer will not reimburse or pay for seminars outside of the contiguous United States, unless otherwise pre-approved in writing by Employer; or during any period of time following either party having given notice to terminate Agreement; and only during periods of re-negotiation or extension at Employer's sole discretion. The cost of such attendance, and the cost of Physician's professional dues (excluding medical staff dues pursuant to Section 3.d.) and subscriptions, and books shall be paid by Employer, in an amount not to exceed Five Thousand and No/100 Dollars (\$5,000.00) in the aggregate in each Employment Year. CME days are to be scheduled with Employer's approval in advance and subject to the needs of the Practice Sites, which shall not be unreasonably withheld by Employer. Any such expenses incurred by Physician in excess of such sum set forth herein shall be the sole and exclusive responsibility of Physician and must be paid by Physician. Physician shall submit to Employer the necessary documentation within sixty (60) days from the end of the month the expense was incurred as required by Employer Policies prior to reimbursement of any expenses. Physician agrees not to receive any cash, cash equivalent (e.g., gift card), or any item of value in exchange for attending CME seminars reimbursed or paid for by Employer and if received, further agrees to give the cash equivalent of any such item of value to Employer. Additionally, Employer shall pay expenses for state medical and DEA licenses and controlled substance registrations necessary for the performance of Physician's services during Term and, Physician shall receive reimbursement for expenses of state medical and DEA licenses and controlled substance registrations if obtained specifically for purposes of entering into this Agreement, with such reimbursement to be paid after Commencement Date.

7. PHYSICIAN'S COVENANTS.

a. **Covenants.** During the Term of this Agreement and for a period of one (1) year after the expiration or termination of this Agreement (unless such termination is by Physician for cause pursuant to Section 9 below), Physician, unless otherwise permitted by the written consent of Employer or listed as an Outside Activity on Schedule 3.g., shall not, on Physician's own account or as an employee, landlord, lender, trustee, associate, consultant, partner, agent, principal, contractor, owner, officer, director, investor, member or stockholder of any other person, or in any other capacity, directly or indirectly, in whole or in part:

(1) Engage in any activities in competition with Employer, including the operation of any medical practice or offering of any medical services similar to services offered at the Practice Sites, within ten (10) miles of Physician's primary Practice Site where Physician provides medical services to patients of Employer;

(2) Have any financial interest in any hospital, surgery center, imaging center, outpatient therapy center, or other facility that is competitive with any activity engaged in by Employer or Hospital, within ten (10) miles of Physician's primary Practice Site or Hospital (collectively, "Competitor(s)"). A "financial interest" includes, without limitation, any direct or indirect ownership or investment interest in a Competitor (except for ownership of securities traded on a recognized stock exchange in which quotations are published daily).

(3) Solicit or encourage the resignation of any employee of Employer or a third-party, including but not limited to, the practice management service provider, with whom Physician had a working relationship during Physician's employment with Employer;

(4) Solicit or divert patients with whom Physician had personal contact during such employment; or

(5) Influence or attempt to influence any payor, provider or other person or entity to cease, reduce or alter any business relationship with Employer relating to the Practice Sites.

b. **Construction and Enforcement.** The covenants on the part of Physician in Subsection 7.a. above shall be construed as an agreement independent of any other provision in this Agreement, and the existence of any other claims or causes of action by Physician against Employer, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by Employer of said covenants. Physician acknowledges and agrees the restrictions set forth in Subsection 7.a. above are necessary for the protection of Employer's legitimate business and professional interests and are reasonable in scope and content. The parties recognize if the provisions in Subsection 7.a. above are breached or threatened to be breached by Physician, the extent of actual damages sustained by Employer will be difficult to ascertain, although great and irreparable, and compensation at law will be inadequate, and money damages alone may not be an appropriate measure of the harm to Employer from such continuing breach, especially because Physician's employment is part of a long range business plan. Therefore, the parties expressly agree Employer shall have the right to injunctive relief for breach or threatened breach of such provisions, in addition to any other available legal or equitable remedies. Physician shall indemnify and hold Employer harmless with respect to all of Employer's costs and expenses (including attorneys' fees and costs) in successfully enforcing such provisions. If any portion of any covenant or its application is construed to be invalid, illegal or unenforceable then the other portions or their application shall not be affected thereby and shall be enforceable without regard thereto. If any covenant is determined to be unenforceable because of its scope, duration, geographic area or similar factor, then the court or arbitrator making such determination shall have the power to reduce or limit such scope, duration, geographic area or other factor and such covenant shall then be enforceable in its reduced or limited form.

8. TERMINATION.

a. **Termination Without Right of Cure.** Employer may terminate this Agreement effective immediately upon written notice to Physician under the following circumstances: (i) the failure to obtain and maintain, or the denial, suspension, revocation, termination, restriction, lapse or voluntary relinquishment (under threat of disciplinary action) of Physician's membership or medical staff privileges at any health care facility including Hospital for any reason, or Physician's license to practice medicine in any jurisdiction including the State, (ii) Physician's death, (iii) Physician's failure or inability to perform Physician's duties under this Agreement for ninety (90) consecutive days, (iv) Physician's acts or conduct materially detrimental to patient care or to the reputation or operations of Employer and/or the Practice Sites, (v) Physician's failure to follow Employer's policies and procedures and other rules of conduct applicable to all employees of Employer; (vi) Physician's conviction of an offense related to health care or Physician's listing by a federal agency as being debarred, excluded, or otherwise ineligible for Federal program participation, (vii) the termination, revocation, restriction or relinquishment

of Physician's Drug Enforcement Agency number, (viii) the breach by Physician of the representations and warranties set forth in Section 14 hereof, (ix) the breach by Physician of the confidentiality provisions of this Agreement, and (x) the breach by Physician of any covenant set forth in Section 7 above.

The causes for termination described in this Subsection 8.a. do not require thirty (30) days' notice nor give the right of a thirty (30) day cure.

b. **Termination With Right of Cure.** Employer may terminate this Agreement with cause by written notice to Physician upon the failure by Physician to observe or perform any of the material covenants, conditions or provisions of this Agreement including the duties and responsibilities described in Schedule 3.b. (other than the circumstances set forth in Subsection 8.a. above), where such failure shall continue for a period of thirty (30) days after written notice thereof has been given by Employer; provided, however, if the nature of the non-compliance is such that more than thirty (30) days is reasonably required for its cure, then Physician shall not be deemed to be in default if Physician has commenced such cure within the said thirty (30) days and thereafter is diligently pursuing such cure to completion.

c. **Termination Without Cause.** Either party may terminate this Agreement without cause by giving the other party hereto at least ninety (90) days' prior written notice. If such notice is given by Employer, Employer may, in its sole discretion, at any time prior to the effective date of such termination, remove Physician from Physician's position hereunder, as long as Employer continues to pay Physician all compensation and benefits due under this Agreement until the effective date of such termination. If such notice is given by Employer during Productivity Compensation Period, Employer will set Physician's remaining compensation at the Draw Amount in effect on the date of notice.

d. **Termination for Changes in Law.** In the event any governmental or nongovernmental agency, or any court or administrative tribunal passes, issues or promulgates any new, or change to any existing, law, rule, regulation, standard, interpretation, order, decision or judgment (individually or collectively, "Legal Event"), which a party (the "Noticing Party") reasonably believes (i) materially and adversely effects either party's licensure, accreditation, certification, or ability to refer, to accept any referral, to present a bill or claim, or to receive payment or reimbursement from any governmental or non-governmental payor, or (ii) implicates a Legal Event with which the Noticing Party desires further compliance, then, in either event, the Noticing Party may give the other party thirty (30) days prior written notice of its intent to amend or terminate this Agreement. Notwithstanding the foregoing, the Noticing Party may propose an amendment to the Agreement to take into account the Legal Event and, if accepted by the other party prior to the end of the thirty (30) day notice period, the Agreement shall be amended as of the date of such acceptance and if not amended shall automatically terminate.

9. **TERMINATION BY PHYSICIAN.** Physician may terminate this Agreement with cause by written notice to Employer upon the failure by Employer to observe or perform any of the material covenants, conditions or provisions of this Agreement, when such failure shall continue for a period of thirty (30) days after written notice thereof has been given by Physician; provided, however, if the nature of the non-compliance is such that more than thirty (30) days is reasonably required for its cure, then Employer shall not be deemed to be in default if Employer has commenced such cure within the said thirty (30) days and thereafter is diligently pursuing such cure to completion.

10. **PATIENT MEDICAL RECORDS.** All patient medical records of the Practice, including, without limitation, patient medical records generated during the Term, shall be the property of Employer subject always to the rights of the respective patients. Upon the expiration of this Agreement or the termination of this Agreement by either party for any reason, Employer will retain custody and control of such patient medical records and, at Employer's discretion, Employer shall be responsible to send required notices to patients.

11. **PHYSICIAN/PATIENT RELATIONSHIP.** Physician shall always be mindful of and use best efforts to facilitate an overall positive patient experience. Physician shall be responsible for the quality of medical care rendered to patients by Physician in the Practice. Physician shall perform all services with respect to the diagnosis and treatment of patients in such manner as the Physician, in the independent exercise of Physician's medical judgment, deems to be in the best interests of the patients, subject only to a quality assurance and peer review program of Employer. Employer shall not, except as provided in this Agreement, exercise control or supervision over patient care and medical judgment of Physician.

12. **MISCELLANEOUS.**

a. **Schedules, Headings, Inclusive Words, Severability.** The schedules attached hereto constitute a part of this Agreement and are incorporated herein by reference in their entirety as if fully set forth in the Agreement at the point where first mentioned herein. The headings of this Agreement are inserted for convenience only and are not to be considered in the construction of the provisions hereof and shall not in any way limit the scope or modify the substance or context of any section or paragraph hereof. Unless the context otherwise requires, any terms of the Agreement which indicate the neuter of any gender shall be held to include the neuter and the other gender, as the case may be; and the words in singular shall be held and construed to include the plural and vice versa. The provisions of this Agreement shall be severable. The unenforceability of any provision of this Agreement shall not affect the validity of the remaining provisions hereof, unless either party should determine in its sole and complete discretion such term or provision materially or adversely affects the benefit of its bargain under this Agreement in which case said party may terminate this Agreement without further liability to the other party hereto. To the extent the time or geographic boundaries of any provision are deemed unreasonable by a Court or arbitrator, the parties agree the Agreement shall be amended to set forth the maximum limits allowed by law.

b. **Confidentiality.** Physician agrees to maintain and hold as confidential and to not disclose the terms of this Agreement or any confidential or proprietary information Physician may be provided during the Term of this Agreement to any other person (with the exception of Physician's legal counsel, accountant, or financial advisors), unless disclosure thereof is required by law or otherwise authorized by the Agreement or consented to in writing by Employer. With respect to any patient or medical record information regarding the Practice Site or hospital patients, Physician shall comply with all federal and state laws and regulations, and all rules, regulations, and policies of Employer and Hospital and its medical staff, regarding the confidentiality of such information, including, without limitation, all applicable provisions and regulations of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). The provisions of this Subsection shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

c. **Marketing and Advertising.** Employer may engage in marketing or advertising activities respecting the Practice and the Practice Sites and Physician shall participate as reasonably requested.

d. **Proprietary Information and Intellectual Property.**

(1) Physician acknowledges during Physician's employment hereunder Physician will have contacts with and develop and service the patients of Employer and referring sources of business of Employer. In all of Physician's activities, Physician, through the nature of Physician's work, will have access to and will acquire confidential information related to the business and operations of Employer, including, without limiting the generality of the foregoing, patient lists and confidential information relating to processes, plans, methods of doing business and special needs of referring doctors and patients. Physician acknowledges all such information is solely the property of Employer and constitutes proprietary and confidential information of Employer; and the disclosure thereof would cause substantial loss to the goodwill of Employer; and disclosure to Physician is being made only because of the position of trust and confidence Physician will occupy. The parties agree Confidential Information does not include information (i) generally known and used by persons with expertise comparable to Physician; (ii) common knowledge in the industry; (iii) available in the public domain; or (iv) that Physician is required to disclose pursuant to governmental or court order.

(2) Physician covenants, except as required by law, Physician will not, at any time during the Term or any time thereafter, disclose to any person, hospital, firm, partnership, entity or organization (except when authorized in writing by Employer) any Confidential Information whatsoever pertaining to the business or operations of Employer, any affiliate thereof or of any other physician employed by Employer, including, without limitation, any of the kinds of information described in this Subsection. The parties agree throughout the Term and at all times thereafter not to make any disparaging remarks to any third party concerning Physician, Employer, or any of its officers or directors or any other comments to any third party which would be reasonably expected to damage or adversely affect the reputation, goodwill or business of Physician, Employer, or any of its officers or directors. The parties agree any disclosures or reports made by the other party to a government agency, regulatory board, or similar public entity with authority to regulate Physician, Physician's profession, Employer, or aspects of Employer's business shall not be in violation of this Agreement.

(3) Physician acknowledges and agrees all Work Product (as defined below) is the exclusive property of Employer as a work made for hire, as that term is defined under federal copyright law. Title to any Work Product, including, but not limited to, any inventions or discoveries, is the property of Employer. Physician shall promptly disclose to Employer in writing such Work Product and, upon request of Employer, will execute all documents and take all actions reasonably necessary to assist Employer in protecting its intellectual property rights in such Work Product. Additionally, Physician shall not publish or publicly distribute or disseminate any such Work Product without Employer's prior written consent, which shall not be unreasonably withheld. For purposes of this provision, "Work Product" means all rights, title and interest in and to any reports, documents, plans, data, inventions, discoveries, or other work product prepared, developed, or resulting from, or arising out of, or relating to, the Practice or Physician's obligations under this Agreement, including, without limitation: all documentation, materials, notes, outlines, and the like created in connection therewith; all formulas, processes, algorithms, ideas, inventions, know how, techniques, and other information generated by Physician in the course of, and for the

purpose of, Physician's performance of services required to be performed under this Agreement as set forth in Schedule 3b; the copyright, patent, trademark, trade secret, and other proprietary rights therein; and any intermediate and partial versions thereof or derivative works created there from. Work Product shall not include any reports, documents, plans, data, inventions, discoveries or other work product existing prior to the Effective Date (or arising out of such pre-existing work product) or prepared, developed, or resulting from, or arising out of, or relating to, Physician's efforts with respect to Outside Activities (Schedule 3.g) or outside the scope of this Agreement and without utilizing Employer's resources. Employer agrees that all revenues, rights, title and interest from, in and to all reports, documents, plans, data, inventions, discoveries or other work product prepared, developed, or resulting from, or arising out of, or relating to, Physician's efforts with respect to Outside Activities (Schedule 3.g) or Physician's pre-existing intellectual property, or outside the scope of this Agreement and without utilizing Employer's resources, shall remain the exclusive property of Physician, person, or entity for whom Physician developed, prepared, or assisted in the development or preparation of such reports, documents, plans, data, inventions, discoveries or other work product.

(4) The provisions of this Subsection shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

13. **ARBITRATION.** Excluding any action for injunctive relief only, any dispute or controversy arising under, out of or in connection with, or in relation to this Agreement, or any amendment hereof, or the breach hereof shall be determined and settled by arbitration in Charleston County, in State, in accordance with the Tenet's Fair Treatment Process ("FTP"), a comprehensive method for affording fair procedure and resolving employment-related disputes, as detailed in Tenet's Human Resources Policy and Procedures manual Policy No. HR.ERW.05, and applying the laws of the State. Policy No. HR.ERW.05 is available at https://portal.etenet.com/Lists/Policies/HR.ERW.05_Open_Door_and_Fair_Treatment.pdf or in Human Resources. **Physician further acknowledges receipt of the Open Door Policy and Fair Treatment Process, including the arbitration process, prior to executing this Agreement.** It is understood and mutually agreed Physician shall be considered a Facility Management employee at the Department Head level or above for purposes of processing grievances pursuant to the FTP. It is further understood and mutually agreed, to the extent permitted by law, Physician may not join any such claim or dispute with the dispute of another employee in a class, collective, representative or group action. Arbitration under the Fair Treatment Process is limited to individual disputes, claims or controversies a court of law would be authorized or have jurisdiction over to grant relief, and by agreeing to the use of arbitration to resolve disputes, the parties agree to forego any right to a jury trial on issues covered by the Fair Treatment Process. If the provisions of this section conflict with the provision of the FTP, the provision of this section shall prevail. Any award rendered by the arbitrator shall be final and binding upon each of the parties, and judgment thereof may be entered in any court having jurisdiction thereof. The costs of arbitration shall be borne equally by both parties, provided each party shall bear the fees and costs of attorneys or other persons representing the interests of such party. During the pendency of any such arbitration and until final judgment hereon has been entered, this Agreement shall remain in full force and effect unless otherwise terminated as provided hereunder.

14. **REPRESENTATIONS AND WARRANTIES.** Physician represents and warrants to Employer, upon execution and throughout the Term of this Agreement, as follows: (a) Physician is not bound by any Agreement or arrangement which would preclude Physician from entering into, or from fully performing the services required under this Agreement; (b) Physician's license

to practice medicine or Drug Enforcement Agency Number in the State or in any other jurisdiction has never been denied, suspended, revoked, terminated, voluntarily relinquished, under threat of disciplinary action, or restricted in any way; (c) Physician's medical staff privileges at any health care facility have never been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or made subject to terms of probation or any other restriction; (d) Physician shall perform the services required hereunder in accordance with (i) all applicable federal, state, and local laws, rules and regulations; (ii) all applicable standards of The Joint Commission or other relevant accrediting organizations; and (iii) all applicable Bylaws, Rules, and Regulations of Hospital and its medical staff; (e) Physician has not in the past conducted and is not presently conducting, Physician's medical practice in such a manner as to cause Physician to be suspended, excluded, debarred or sanctioned under the Medicare or Medicaid Programs or any government licensing agency, and has never been convicted of an offense related to health care, or listed by a federal agency as debarred, excluded or otherwise ineligible for federal program participation; (f) Physician has, and shall maintain throughout the Term of this Agreement, an unrestricted license to practice medicine in the State and staff membership and privileges at Hospital; (g) Physician shall immediately notify Employer if Physician is required to pay damages in any malpractice action by way of judgment or settlement; (h) Physician shall immediately notify Employer if Physician becomes the subject of a disciplinary or other proceeding or action before any governmental, professional, medical staff, or peer review body; (i) Physician shall notify Employer within five (5) business days of the receipt of a healthcare liability claim or upon learning Physician is under investigation by a governmental agency or licensing board; (j) other than as disclosed in writing to Employer, Physician has not had an action or claim against Physician based on an allegation of malpractice by Physician which has been settled or otherwise resolved by the patient to a plaintiff or claimant of any amount of money during the five-year period preceding the Commencement Date; (k) other than as disclosed in writing to Employer, a final judgment in a malpractice action awarding money has not been entered against Physician during the five-year period preceding the Commencement Date; and (l) Physician shall disclose in writing to Employer any arrest, charge, or criminal conviction, excluding misdemeanor traffic tickets, within five (5) business days. Each of the representations and warranties set forth herein shall be continuing and in the event any such representation or warranty fails to remain true and accurate during the Term, Physician shall immediately notify Employer.

15. ENTIRE AGREEMENT; MODIFICATIONS; GOVERNING LAW; COUNTERPARTS; NOTICES; WAIVER; ASSIGNMENT; THIRD PARTY BENEFICIARIES. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the parties relating to such subject matter. This Agreement may not be amended or modified except by mutual written agreement. This Agreement shall be construed in accordance with the laws of the State and, those provisions where provided for herein shall survive the expiration or other termination of this Agreement. This Agreement may be executed in one or more counterparts, all of which together shall constitute only one Agreement. All notices hereunder shall be in writing, delivered personally, by certified or registered mail, return receipt requested, or by overnight courier, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid, or deposited with the overnight courier, addressed at the place identified on the signature page below. A waiver by either party of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure. Physician shall not assign or transfer, in whole or in part, this Agreement or any of Physician's rights, duties or obligations under this Agreement without the prior written consent of Employer, and any assignment or transfer by Physician without such consent shall be null and void. This Agreement

is assignable by Employer without consent or notice. Nothing in this Agreement, either expressly or implicitly, confers, or intends to confer, any rights or remedies upon any person or entity not a party to this Agreement, except as otherwise specifically stated herein.

16. **COMPLIANCE OBLIGATIONS.** Physician represents Physician shall abide by Tenet's Standards of Conduct. Physician shall comply with Tenet's Compliance Program and Tenet's policies and procedures related to the Deficit Reduction Act of 2005, Anti-Kickback Statute and the Stark Law. Tenet's Standards of Conduct, summary of Compliance Program, and policies and procedures, including a summary of the Federal False Claims Act and applicable state false claims laws (collectively "False Claims Laws") with descriptions of penalties and whistleblower protections pertaining to such laws, are available at: <https://www.tenethealth.com/about/ethics-compliance>. Further, the parties to this Agreement certify they shall not violate the Anti-Kickback Statute and Stark Law, and shall abide the Deficit Reduction Act of 2005, as applicable, in performing services to Employer or Hospital. Hardcopies of any information shall be made available upon request.

17. **AFFIRMATION OF STARK AND ANTI-KICKBACK COMPLIANCE.** By signing this Agreement, Physician affirms to the best of his/her knowledge and understanding, the employment under this Agreement and the compensation set forth herein, is not conditioned upon or determined based on the volume or value of any referrals to Employer or its affiliates. Physician further affirms he/she has not solicited or received any offer to be paid any compensation by Employer and/or Employer's affiliates, directly or indirectly, overtly or covertly, in cash or in-kind to induce or reward the referral, purchase, order, lease or recommendation of any item or service payable under a federal healthcare program. Each of the affirmations set forth herein shall be continuing and in the event any such representation or warranty fails to remain true and accurate during the Term, Physician shall immediately notify Employer.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

EAST COOPER PHYSICIAN NETWORK, LLC:

By: _____
Name: Wayne O. Winney, DHA
Title: CEO, SC Physician Operations
Date: _____
Address: 1445 Ross Avenue, Suite 1400
Dallas, TX 75202

PHYSICIAN:

Stefanie A. Seixas-Mikelus
Stefanie A. Seixas-Mikelus, MD
Date: 3/30/19
Address: 72 Independence Way
Morrisstown, New Jersey 07960

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

EAST COOPER PHYSICIAN NETWORK, LLC:

By: 

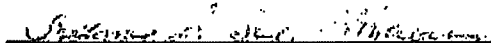
Name: Wayne O. Winney, DHA

Title: CEO, SC Physician Operations

Date: 3/31/19

Address: 1445 Ross Avenue, Suite 1400
Dallas, TX 75202

PHYSICIAN:



Stefanie A. Seixas-Mikelus, MD

Date: 3/30/19

Address: 2 Independence Blvd
Missouri, MO 67901

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

EAST COOPER PHYSICIAN NETWORK, LLC:

By: [Signature]
Name: Wayne O. Winney, DHA
Title: CEO, SC Physician Operations
Date: 3/31/19
Address: 1445 Ross Avenue, Suite 1400
Dallas, TX 75202

PHYSICIAN:

[Signature]
Stefanie A. Seixas-Mikelus, MD
Date: 3/30/19
Address: FL Independence Blvd
Westchester, New York 10796

SCHEDULE 2,

1. Medicare
2. Medicaid
3. Blue Cross/ Blue Shield
4. Medcost
5. United Healthcare
6. Cigna
7. Aetna

SCHEDULE 3.b.**DESCRIPTION OF DUTIES AND RESPONSIBILITIES**

Physician agrees the duties and responsibilities listed below are reasonable, and agrees to abide by such during the Term of the Agreement. Physician acknowledges and agrees additional duties not contemplated below may arise from time to time while providing medical care for his/her patients. To the extent additional duties arise during the course of and in connection with Physician's employment, Physician agrees to use his/her best efforts to carry out those obligations, whether originated by Physician or requested by Employer.

1. Physician is expected to have an average of no less than forty (40) available clinical patient care hours per week in the Practice Site, Hospital, and other practice locations as scheduled by Employer. Physician acknowledges it will take more than forty (40) hours per week to complete required clinical activities due to other associated activities, including but not limited to, documentation and coordination of patient care.
2. Physician is expected to see patients as they reasonably present in the Practice Site.
3. Physician is expected to see same day walk-in patients as reasonable patient demand dictates.
4. Physician will reschedule or cancel patients only in unavoidable or emergency situations.
5. Physician will make every effort to maintain patient schedule in an efficient manner such that patients are seen promptly and without unreasonable delays. Physician will see urgent patients, or make arrangements for all urgent patients, to be seen and treated promptly regardless of time of arrival.
6. Physician will complete all patient medical records in accordance with applicable by-laws, policies, and procedures of Employer and/or the applicable facility. Physician agrees to document patient visits in accordance with Federal, State, and payor regulations. Patient visit documentation will be completed by Physician by the end of the visit day.
7. Physician shall utilize the Electronic Health Record System in place or to be put in place at the Practice Site and shall use all electronic prescribing, voice recognition dictation, and any other electronic or automation acquired and implemented by Employer and Hospital's Computerized Physician Order Entry ("CPOE") as applicable.
8. Hospital fee slips shall be turned into the Practice manager or designee on the first work day following the hospital visit. Office fee slips shall be completed by the Physician and submitted on the day of the patient visit. If an electronic medical record is used by Employer, Physician will document all office and hospital visits within the timeframes outlined in Employer's procedures.

9. Physician agrees to utilize Practice Site's electronic medical record, take all required training and timely enter all required documentation. Practice Site's physical medical records shall not be removed from Practice Site.
10. Physician will consistently treat Practice employees, colleagues, patients and their families and others who accompany patients to office and hospital visits in a professional, respectful manner.
11. Physician is expected to see all patients presenting to the Practice, without regard to race, sex, religion, financial status, sexual orientation, or insurance class.
12. Physician will not fire and/or dismiss patients from the Practice without prior conversation with the Employer or Employer's practice manager. Procedures will be established on how to resolve conflicts among providers and patients and Physician may not transfer care to another provider without ensuring continuity of care for the patient.
13. Physician will participate in and cooperate with the peer review, Quality Improvement and Quality Management programs and procedures of Employer.
14. Physician shall comply with all rules, regulations, and policies established by Employer, the Occupational Health and Safety Administration, all Federal, State, and local agencies, and other accreditation organizations. Physician will comply with all Medicare, Medicaid, and other third party payor reimbursement rules and OIG compliance standards. Physician shall comply with and participate in any Ethics Training Programs and Compliance Training Programs established by Employer and Hospital.
15. Physician shall assist Employer in the investigation, documentation, and resolution of any issue arising out of Employer's dealings with peer review and all regulatory agencies having jurisdiction relating to the Practice Site.
16. Physician will exercise best efforts to assist Employer to build the Practice patient base through networking, emergency room coverage, community education, extended/weekend hours and other reasonable marketing activities as requested by Employer and in accordance with Employer's policies and procedures.
17. Physician shall cooperate fully with Employer and facility credentialing office, including providing, in a timely manner, the information necessary to process credentialing materials relating to Physician for health insurers, state and federal agencies, and other health organizations.
18. Physician shall review and acknowledge by signature Physician's annual performance targets and shall use best efforts to meet or exceed those targets.
19. If required, Physician will actively participate in Hospital medical staff committees as assigned by the medical staff.

20. Physician will strive to maintain five (5) Star Patient satisfaction.
21. Physician will work actively with Hospital case management to efficiently follow patient care plans and discharge patients when medically appropriate, if applicable.
22. If applicable, Physicians will cooperate with Hospital's physician advisor or delegate from the utilization management plan for the Hospital in complying with Hospital policies regarding appropriate bed placement and admission criteria.
23. If mutually agreed upon, Physician will actively participate in new program development for Hospital. Physician involvement may include meetings, development of evidence based protocols, collaboration with Hospital and non-Hospital employed physician groups.
24. To the extent Physician provides patient care at Hospital, Physician will participate in Hospital's performance excellence initiatives and other performance management and innovation initiatives as they pertain to increasing quality, efficiency and effectiveness for care delivered to patients. Participation may include meetings, development and adoption of evidence based protocols and review of practitioner and group data.
25. Physician will take all training and education courses reasonably required by Employer.
26. If approved by Employer, Physician may participate in clinical research studies. Employer must approve participation in each study, in writing.
27. Physician will use means of electronic communication provided or otherwise approved by Employer, including but not limited to an Employer-issued email account, to communicate regarding work-related matters. Physician further acknowledges and agrees Physician shall be deemed to have constructively received any email communications from Employer sent to Physician's Employer-issued email account.
28. Physician shall not block the patient appointment schedule and shall accept same day, next day, and new patient appointments timely and make himself/herself available for patient visits throughout the hours of operation of Practice Site ("Open Schedule").

SCHEDULE 3.g.

OUTSIDE ACTIVITIES

1. Expert Testimony Fees (e.g., medical malpractice expert) so long as not adverse to Employer or related entities.
2. Consulting Services, Speaking engagements, or Writing (provided any such activities for vendors, pharmaceutical companies, or medical device manufacturers requires specific, written approval of Employer).
3. Business activities, ventures, and investments which do not involve the practice of medicine.
4. Activities related to or involving Catalyze Health LLC.

SCHEDULE 3.h.

AUTHORIZATION TO RELEASE INFORMATION

Stefanie A. Selxas-Mikelus, M.D.

I, the undersigned physician, hereby authorize East Cooper Physician Network, LLC ("Employer") and its duly authorized representatives to obtain information from time to time about my professional education, training, licensure, competence, ethics and character from any source having such information. This information may include, without limitation, peer review information, DRG analysis, ancillary usage information and other utilization and quality related data.

I hereby release Employer, its authorized representatives and any third parties from any liability for actions, recommendations, statements, reports, records or disclosures, including privileged and confidential information, involving me that are made, requested, taken or received by Employer or its authorized representatives to, from or by any third parties in good faith and relating to or arising from my professional conduct, character and capabilities.

I agree this authorization to release information shall remain effective until termination of my employment by Employer. A duplicate of this authorization may be relied upon to the same degree as the original by any third party providing information pursuant to Employer's request.

Stefanie A. Selxas-Mikelus
Signature

3/30/19
Date

SCHEDULE 3.h.

AUTHORIZATION TO RELEASE INFORMATION

Stefanie A. Seixas-Mikelus, M.D.

I, the undersigned physician, hereby authorize East Cooper Physician Network, LLC ("Employer") and its duly authorized representatives to obtain information from time to time about my professional education, training, licensure, competence, ethics and character from any source having such information. This information may include, without limitation, peer review information, DRG analysis, ancillary usage information and other utilization and quality related data.

I hereby release Employer, its authorized representatives and any third parties from any liability for actions, recommendations, statements, reports, records or disclosures, including privileged and confidential information, involving me that are made, requested, taken or received by Employer or its authorized representatives to, from or by any third parties in good faith and relating to or arising from my professional conduct, character and capabilities.

I agree this authorization to release information shall remain effective until termination of my employment by Employer. A duplicate of this authorization may be relied upon to the same degree as the original by any third party providing information pursuant to Employer's request.

Stefanie A. Seixas-Mikelus
Signature

9/26/19
Date

3.h.-1

SCHEDULE 3.h.

AUTHORIZATION TO RELEASE INFORMATION

Stefanie A. Seixas-Mikelus, M.D.

I, the undersigned physician, hereby authorize East Cooper Physician Network, LLC ("Employer") and its duly authorized representatives to obtain information from time to time about my professional education, training, licensure, competence, ethics and character from any source having such information. This information may include, without limitation, peer review information, DRG analysis, ancillary usage information and other utilization and quality related data.

I hereby release Employer, its authorized representatives and any third parties from any liability for actions, recommendations, statements, reports, records or disclosures, including privileged and confidential information, involving me that are made, requested, taken or received by Employer or its authorized representatives to, from or by any third parties in good faith and relating to or arising from my professional conduct, character and capabilities.

I agree this authorization to release information shall remain effective until termination of my employment by Employer. A duplicate of this authorization may be relied upon to the same degree as the original by any third party providing information pursuant to Employer's request.

Stefanie A. Seixas-Mikelus
Signature

3/30/19
Date

SCHEDULE 5.a.

PHYSICIAN COMPENSATION

1. **Months 1 through 36 of Term ("Base Salary Period").** During Base Salary Period, Physician shall receive an annual base salary of Four Hundred Thousand and No/100 Dollars (\$400,000.00) ("Base Salary"). Notwithstanding the foregoing, Physician shall be entitled to additional compensation if during any Employment Year of the Base Salary Period, Productivity Salary (as defined hereinafter) exceeds Base Salary paid to Physician. Productivity Salary calculation shall be determined based on the formula shown below. If Productivity Salary exceeds Base Salary at the end of any Employment Year of the Base Salary Period, Employer shall compensate Physician the excess within forty five (45) days of the end of the applicable Employment Year.

2. **Month 37 through the remainder of Term ("Productivity Compensation Period").** During Productivity Compensation Period, Physician shall be solely compensated based on Physician's production ("Productivity Salary") in accordance with a work RVU productivity calculation ("wRVU Productivity Calculation"). The wRVU Productivity Calculation shall be a product of the number of wRVUs, as more fully defined hereinafter, generated by Physician multiplied by the Conversion Factor (defined hereinafter) of Sixty and No/100 Dollars (\$60.00).

During Productivity Compensation Period, Physician shall receive a bi-weekly draw ("Draw Amount"), calculated as follows: Expected Annual Compensation divided by 26 (number of pay periods in an Employment Year). Expected Annual Compensation is defined as the most current wRVU production which supports and represents what is expected to be achieved during the upcoming Employment Year as determined in Employer's discretion, multiplied by the appropriate Conversion Factor.

Such amount shall be paid out in equal bi-weekly installments or otherwise in accordance with Employer's payroll policies. Notwithstanding, Employer may at any time in its discretion, increase or decrease Draw Amount to more accurately reflect the professional services being performed by Physician.

Within thirty (30) days of the end of each Employment Year quarter ("Employment Quarter"), Employer shall determine whether Draw Amount for the prior Employment Quarter either exceeded or was less than the actual wRVU Productivity Calculation for the applicable Employment Quarter. If Draw Amount exceeds the actual wRVU Productivity Amount (an "Overpayment"), Overpayment shall be carried forward for consideration in the annual wRVU Productivity Calculation reconciliation. If Draw Amount was less than the actual wRVU Productivity Amount (an "Underpayment"), fifty percent (50%) of Underpayment shall be payable to Physician within forty-five (45) days of the end of such Employment Quarter or in the next paycheck following the expiration of forty-five (45) days. Any remaining amount owed Physician may be paid following completion of the annual Employment Year reconciliation as stated below.

Employer shall conduct an annual wRVU Productivity Calculation reconciliation. Such reconciliation shall occur within forty-five (45) days following each Employment Year. The process shall be the same as the Employment Quarter reconciliation except any annual Underpayment shall be paid to Physician within sixty (60) days of the end of Employment Year.

Upon completion of the annual reconciliation, any annual Overpayment shall be deducted from Physician's salary over the next six (6) pay periods. If there are not six (6) pay periods remaining in Term of Agreement, any annual Overpayment shall be deducted equally from Physician's salary in the remaining pay periods, if any, or the amount shall be paid back to Employer within thirty (30) days of completion of the annual reconciliation and notification of Overpayment.

In the event of early termination of Agreement, a final pro-rated reconciliation will be performed within thirty (30) days of termination. Any Underpayment shall be made to Physician within thirty (30) days of the date of reconciliation. Any Overpayment shall be returned to Employer within thirty (30) days of the date of the notice to Physician of the amount of the Overpayment.

3. **wRVU defined.** As used herein, wRVU means the work relative value units determined by Employer in accordance with below. Notwithstanding anything to the contrary, Physician shall not be credited with the generation of a wRVU until all required documentation is complete and has been properly submitted to Employer, in accordance with this Agreement, Employer's policies and procedures, and the applicable payor's policies and procedures. If Physician is inadvertently given wRVU credit for a professional service lacking such documentation, Employer, in its sole discretion, may recoup such compensation overpayment including by adjusting Physician's Draw Amount for the then current quarter.

a. **Listed Codes.** Regardless of the applicable patient or payor associated with a professional service, the most recent RVU table published by Centers for Medicare and Medicaid Services ("CMS"), as updated from time to time by CMS ("CMS RVU Table"), will be used to determine wRVU weights for all codes listed therein.

b. **Unlisted Clinical Codes.** For any professional services provided that are not included in the CMS RVU Table, Employer, in its sole discretion, may utilize a certified professional coder ("CPC") to determine the appropriate wRVU based on the procedure performed.

(1) A reconciliation will be performed at the end of each Employment Year quarter or earlier at discretion of Employer to identify professional services performed with no corresponding wRVU. To appropriately assign the wRVU value for the unlisted code, the CPC will review the medical record documentation and identify a similar procedure as described in the most recent Current Procedural Terminology ("CPT") Professional Edition. The wRVU amount associated with the similar CPT code will be utilized to populate the wRVU amount for the unlisted code(s) during the end of quarter reconciliation.

(2) While choice of wRVU is at the sole discretion of Employer, Employer shall reasonably consult with Physician prior to loading an unlisted code wRVU amount into the Work RVU Productivity Calculation Model database.

c. **Modifiers.** If Physician performs a professional service requiring the use of a modifier under CMS' then-current coding requirements, Employer, in its sole discretion, may adjust the wRVU amount credited to Physician for such professional service in a manner equal to the applicable payment or wRVU modification described in CMS' then-current billing and coding policies and procedures, as determined and interpreted by Employer in its sole and absolute discretion. If Physician is inadvertently given unmodified wRVU credit and compensation for

such professional service, Employer, in its sole discretion, may recoup such compensation overpayment including by adjusting Physician's Draw Amount for the then current quarter. Without limiting the generality of the foregoing, based on Employer's interpretation of CMS' current billing and coding policies and procedures (as of Effective Date), the following is a description of the effect some of the more common modifiers will have on the amount of wRVUs credited to Physician. Please note this is not an exhaustive list of modifiers that may apply to the wRVU amount credited to Physician.

(1) **Modifier 51 (Multiple Procedures):** In the event same-day multiple procedures subject to standard multiple procedure discount rules are performed, the highest value CPT code will receive 100% wRVU credit and all subsequent codes may be reduced to 50% wRVU credit.

(2) **Modifier 62 (Co-Surgical Services):** If Physician provides a professional service as part of an allowable co-surgery, Physician may be credited at sixty-two and one-half percent (62.5%) of the wRVU amount. If multiple co-surgical procedures subject to standard multiple procedure discount rules are performed, Physician may be credited at sixty-two and one-half percent (62.5%) for the highest value CPT code and all subsequent codes may be credited at thirty-one and one-quarter percent (31.25%).

(3) **Modifiers 80, 81, or 82 (Assistant Surgeon):** If Physician provides assistant surgeon services, Physician may be credited at sixteen percent (16%) of the wRVU amount.

d. **Non-Clinical Services.** Except as otherwise provided in Agreement, for any practice income received for non-clinical professional services (e.g. Medical Directorship, ED on-call, etc.), Employer shall determine whether to pass through the payments in part or in whole; or Employer, in its discretion, may assign a wRVU amount after consultation with Physician.

e. **Denied or Rejected Claims.** Employer, in its sole discretion, may adjust wRVUs granted to Physician for claims denied or rejected (due to Physician actions or inactions) because: (i) a required Medicare Advance Beneficiary Notice was not properly executed; (ii) the service is deemed medically unnecessary by the payor and, therefore, not eligible for reimbursement; (iii) the service is deemed to be a duplicate billed service by the payor and, therefore, not eligible for reimbursement; or (iv) the claim was denied due to the services inclusion as part of a global billing episode. To the extent Employer elects to make such adjustment, Employer, each Employment Year quarter, will reconcile any Overpayment to Physician made as a result of such denied claim(s) by adjusting Physician's Draw Amount for the then current quarter. Employer also will maintain a log of such denied claims (with ANSI reason codes), which will be made available to Physician upon request. Employer, in its reasonable discretion, also will provide all necessary information to any payor in order to substantiate any denied claim. If a payor subsequently approves payment, the Work RVU Productivity Calculation Model calculation will be adjusted accordingly for the period the services were provided.

f. **Personally Performed Services.** wRVUs shall only include wRVUs generated for Physician that are billed by or on behalf of Employer for professional and ancillary services personally performed by Physician, but shall not include wRVUs for services performed incident to Physician's personally performed services, each within the meaning of 42 U.S.C. § 1395nn and regulations promulgated pursuant thereto. Notwithstanding anything to the contrary,

Employer, in its sole discretion, may elect to exclude from Physician's productivity any wRVUs generated from professional services where there is no expectation to bill or collect payment for such services, such as indigent patients seen in a free or charity care clinic or where professional courtesy discounts are applied. Notwithstanding the above, wRVUs shall include professional services to non-insured or indigent patients to the extent such patients were scheduled by Employer or otherwise treated by Physician as part of the ordinary course of the Practice (and not at the specific request of Physician), including, without limitation, patients who originated in a hospital emergency department or pursuant to a consult at Hospital (including those patients seen by the emergency medicine physician and sent to Physician for follow up as Physician was on-call for the hospital emergency department that day).

4. **Conversion Factor defined.** "Conversion Factor" represents the fair market value of one physician wRVU for the applicable specialty. Conversion Factor may be adjusted by Employer upon sixty (60) days prior notice to Physician in order to reflect the financial performance of Physician's practice, including but not limited to (i) a change in reimbursement of five percent (5%) or more by one of the top seven (7) payors, (ii) hiring of additional support personnel or other increases in the expenses of Practice, (iii) market changes impacting Employer's ability to collect for services and, (iv) changes to the CMS RVU table. Notwithstanding the preceding, Employer shall not adjust Conversion Factor during the first twenty-four (24) months of Term.

5. **Benefits Salary.** Notwithstanding anything to the contrary above, for the term of this Agreement, for purposes of Physician's employment benefits calculations, the Employment Year One annual Base Salary is considered to be the base salary amount.

6. **Payment.** The Base Salary or Draw Amounts shall be payable monthly or bi-weekly in accordance with Employer's policy.

Schedule 5.b.**RELOCATION ADDENDUM**

Employer, through its affiliate ("Tenet") will arrange for direct-bill or reimburse Physician for the following relocation expenses up to a maximum of Fifteen Thousand and No/100 Dollars \$15,000.00.

SHIPMENT OF HOUSEHOLD GOODS

- packing, moving and unpacking of personal and household goods from principal residence to the new residence
- insurance of household goods cargo up to One hundred Thousand and No/100 Dollars (\$100,000) full replacement coverage through the company preferred third-party insurer in conjunction with a Tenet contracted household goods carrier
- third-party service fees to disconnect and reconnect the following household appliances: washer, dryer, refrigerator, icemaker and grandfather clock
- storage 'in-transit' up to a maximum of thirty (30) days
- shipment of automobile(s) via car carrier or moving van, whichever is more economical, for distances in excess of two hundred fifty (250) miles

Tenet *will not* pay for:

- storage of automobiles
- shipment of recreational vehicles, hot tubs, motorcycles, animals, building materials, firewood, small outdoor structures (storage sheds, playhouses), plants/trees (except ordinary house plants at owner's own risk), and large satellite dishes
- exclusive use of carrier's van or excessive crating
- excess insurance above company-provided coverage
- gratuities/meals for moving crew
- waiting time during normal delivery spread if Physician is unable to be located or unavailable
- overtime charges such as weekend loading or delivery unless performed at carrier's convenience and no cost to Tenet

Reimbursement Method: Tenet's Relocation Services will assign a company-preferred moving company and arrange direct billing to Tenet.

Temporary Housing

Temporary lodging costs (actual expense).

Reimbursement Method: Tenet's Relocation Services will make arrangements for temporary housing and rent will be direct billed to Tenet. If Physician arranges for housing (including hospital quarters), Relocation Services must be notified in writing so rent paid on Physician's behalf can be reported in Physician's wages per IRS regulations. Applicable taxes will be withheld at the time expenses are reported to payroll.

FINAL TRAVEL TO NEW LOCATION

Transportation, lodging and meal costs will be reimbursed for Physician and Physician's family for the final move to the new location. The IRS definition of 'final move' is the trip taken to start work. Tenet will pay designated expenses during the trip and on the day preceding the actual move of Physician and Physician's family. Expenses covered are:

- one-way transportation costs at either coach airfare, or if by car, at the established corporate mileage reimbursement rate (measured by the shortest, most direct route)
- reasonable lodging
- reasonable meals (not to exceed Fifty and No/100 Dollars (\$50) per day per adult and twenty four and No/100 Dollars (\$24) per day per child under sixteen (16); tear tabs are not acceptable as meal receipts)

Expenses incurred as a result of side excursions taken while traveling to the new location are not reimbursable.

Reimbursement Method: Submit Relocation Expense Report and attach original receipts for transportation expenses (other than mileage), lodging and meals. If air travel is utilized, original passenger receipts must be attached (even when electronic tickets are used). An Automobile Mileage Record form is completed for mileage reimbursement.

Tax Issues

Under current tax laws, relocation expenses reimbursed or paid on Physician's behalf are considered taxable income. However, some of the reimbursed expenses or those paid on Physician's behalf are excludable from income if certain IRS requirements are met:

- The distance from the former home to the new work place is fifty (50) miles further than the distance from the former home to the former work place.
- Physician works in the new location for at least thirty nine (39) weeks.
- Moving expenses are incurred within one year of the start date in the new location.

If the above IRS requirements are met, the following expenses, if applicable, will be excluded from Physician's income:

- The packing and shipping of household goods and shipment of auto.
- If incurred, in-transit storage of household goods up to thirty (30) days.
- Final move expenses entailing one-way transportation and lodging when moving from the old home to the new home. Meal expenses are not excludable. Lodging expenses in the area of the former home are excludable if incurred within one day after the household goods have been moved. Lodging expenses in the new location are limited to the day of arrival. Lodging expenses incurred while driving to the new area are also excludable.

If Tenet does not pay for or reimburse Physician for the expenses outlined above, Physician can deduct these expenses. Physician is advised to retain all receipts for expenses incurred. IRS Form 3903 needs to be completed to take any of the above deductions.

All other reimbursements are taxable and will be reported as wages. Physician will receive a form at the end of the calendar year itemizing both taxable and excludable expenses. Tenet strongly recommends Physician contact his/her own personal tax advisor to learn of any additional tax impact.

BENEFIT TERM

Benefit eligibility and reimbursement provisions expire twelve (12) months from Physician's start date in the new work location. According to IRS regulations, for certain relocation benefits to be tax deductible, reimbursements must occur within one year of the start date in the new position unless there are extenuating circumstances making this time frame impossible. If Tenet reimburses expenses occurring after twelve (12) months, Physician should provide the IRS with justification on why these expenses exceeded the time test.

EXPENSE REPORTING AND REIMBURSEMENT

To receive reimbursement for eligible relocation expenses, please complete a Relocation Expense Report form. All relocation forms can be obtained from Relocation Services or found on eTenet. Forward the approved Relocation Expense Report to Senior Relocation Specialist at Tenet, 1445 Ross Avenue, Suite 1400, Dallas, TX 75202-2703 for compliance review. Relocation reimbursements will be paid according to payroll cycle. To be reimbursed in a timely manner, Tenet's Relocation Department, or its designee, must receive the approved expense report at least 10 days prior to Physician's pay day.

A Mileage Requirement Form should also be submitted with Physician's first relocation expense report.

To initiate benefits, call Relocation Services at 469-893-2947

SCHEDULE 6.a.**GENERAL BENEFITS**

1. **Employee Benefits.** Physician shall be entitled to participate in benefits maintained by Employer, pursuant to the terms and conditions of such plans, which may be changed at the sole discretion of Employer. The following is a listing of current benefits available to physicians at this time:

a. **Tenet Physicians Time Off Plan.** During Base Salary Period, Physician is entitled to take part in a time-off program providing income replacement, when taking approved time off from scheduled work in each Employment Year for vacation, sick time, continuing medical education ("CME") and holidays. Although no set amount of time off is provided or guaranteed and may be changed in Employer's sole discretion at any time, at the time of the execution of Agreement, physicians are generally entitled to take up to 30 days of time off per calendar year (pro-rated based on start date). The thirty (30) days includes Employer recognized Holidays and CME days. In addition, Physician shall be entitled to five (5) days of time off per calendar year which may only be used for CME. Vacation and CME days are to be scheduled with Employer's approval in advance and subject to the needs of the Practice Sites. If Physician does not take off all of the days to which Physician is entitled under this plan during an Employment Year, Physician shall not be entitled to receive any compensation for such unused days nor may any such unused days be used in any other Employment Year. If this Agreement is terminated for any reason by either party or expires, Physician shall forfeit any accrued but unused paid time off, to the extent permitted by applicable law.

During the non-Base Salary Period, Physician acknowledges compensation is dependent on Physician's productivity and Physician will not receive any benefits under the paid time-off plan for Holidays, vacation, CME and sick days not worked, except as provided under Federal, State, or local laws. Employer will adhere to applicable Federal and State leave laws. Physician must still adhere to the allowable days off parameters and procedures in the above paragraph.

b. **Tenet Employee Benefit Plan,** which is a comprehensive welfare benefit plan providing various benefits including, medical benefits, dental benefits, vision benefits, life insurance benefits, long-term disability benefits, accidental death and dismemberment benefits and health care and dependent day care flexible spending account benefits. If applicable, Physician is entitled to Practice years of service credit (as established in Section 6.a. of Agreement) for purposes of determining plan eligibility.

c. **Tenet Healthcare Corporation 401(k) Retirement Savings Plan,** which is a qualified retirement plan, including a cash or deferred arrangement described in section 401(k) of the Internal Revenue Code with an employer matching contribution feature. If applicable, Physician is entitled to Practice years of service credit (as established in Section 6.a. of Agreement) for purposes of plan vesting requirements, but not for benefit accrual purposes.

d. **Tenet 2006 Deferred Compensation Plan**, which is a nonqualified deferred compensation plan within the meaning of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code.

2. **Wireless Communications.** At the discretion of Employer, Physician may be provided with a cellular telephone or other mobile device to be used in accordance with relevant policies and procedures as updated from time to time.

3. **Medical Staff Dues.** The cost of medical staff application fees and medical staff dues at Hospital shall be paid by Employer after the Effective Date of this Agreement or, if any such fees and dues are paid by Physician prior to the Effective Date, shall be reimbursed by Employer to Physician within thirty (30) days following receipt of documentation evidencing payment.

4. **Medical Malpractice Insurance.**

a. During the Term, Physician shall be provided with claims made or occurrence medical malpractice insurance coverage under primary and excess policies in minimum amounts of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) annual aggregate. Unless otherwise provided herein, Employer shall have no responsibility for providing coverage for Physician's acts prior to the Commencement Date of this Agreement or any prior physician employment agreement between Physician and Employer, provided there was no lapse in employment. Further, Employer shall have no responsibility for providing coverage for services rendered outside the scope of this Agreement. This coverage shall apply to all services rendered regardless of location provided the Physician is acting within the scope of his or her employment. If the coverage maintained during the Term was at any time claims-made coverage, then upon expiration of this Agreement, Employer will purchase at its cost an extended reporting period policy or "tail" policy on behalf of Physician for medical malpractice claims arising out of medical malpractice incidents occurring during Physician's employment.

b. During the Term of this Agreement and thereafter, the parties recognize certain risk management issues, legal issues, claims or actions may arise which involve or could potentially involve the parties and their respective affiliates, other employees and agents. The parties further recognize the importance of cooperating with each other in good faith when such issues, claims, or actions arise, to the extent such cooperation does not violate any applicable laws, cause the breach of any duties created by any policies of insurance, or otherwise compromise the confidentiality of communications or information regarding the issues, claims or actions.

FIRST AMENDMENT TO PHYSICIAN EMPLOYMENT AGREEMENT

THIS FIRST AMENDMENT TO PHYSICIAN EMPLOYMENT AGREEMENT ("First Amendment") is made and entered into as of the later of the 20 day of November, 2019 or the date of execution of the First Amendment by both parties, by and between East Cooper Physician Network, LLC ("Employer") and Stefanie A. Seixas-Mikelus, M.D. ("Physician").

RECITALS

WHEREAS, Employer and Physician entered into that certain Physician Employment Agreement effective as of March 31, 2019 which is incorporated herein by this reference (the "Agreement"); and

WHEREAS, the parties hereby agree to enter into this First Amendment in order to revise the compensation provisions of the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and intending to be legally bound, Employer and Physician hereby agree to further amend the Agreement as follows:

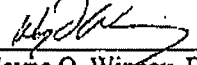
1. The following shall be inserted as Section 7 at the end of Schedule 5.a. to the Agreement:

"7. Hospital On-Call Compensation. Notwithstanding anything to the contrary herein, in addition to the compensation above, Physician may be eligible to receive compensation for taking call at Employer-contracted outside entities. Physician shall be paid one hundred percent (100%) of the rate Employer is compensated for each shift Physician provides on-call coverage. Payment to Physician is contingent upon Employer receiving payment from the outside entity, the on-call compensation shall be paid in the next biweekly payment or the next payment in accordance with Employer's policy. For purposes of on-call coverage, one (1) shift is defined as a twenty-four (24) hour period. Moreover, to receive payment, Physician must comply with the terms contained in the Agreement with the outside entity contracting for the services. Employer will advise Physician of all such requirements."

2. Except as herein provided, the Agreement and all of the terms and conditions contained therein, are hereby ratified and reaffirmed by the parties.

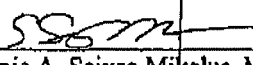
3. This First Amendment represents the complete agreement between the parties regarding the subject matter hereof, and no other changes or modifications of the Agreement are intended nor shall any such other changes or modifications exist. In the event of a conflict between the terms of the Agreement and this First Amendment, the terms of this First Amendment shall control to the extent applicable.

EAST COOPER PHYSICIAN
NETWORK, LLC

By: 
Wayne O. Winney, DHA
CEO, SC Physician Operations

Date: 12/5/19

PHYSICIAN


Stefanie A. Seixas-Mikelus, M.D.

Date: 12/5/19



December 11, 2020

Stefanie A Seixas-Mikelus, MD

Via Hand Delivery

Re: Notice of Termination of Physician Employment Agreement dated March 31, 2019 ("Agreement") between Stefanie A. Seixas-Mikelus, MD ("Physician") and East Cooper Physician Network, LLC ("Employer")

Dear Dr. Seixas-Mikelus:

In accordance with Section 8.c. of the above referenced Agreement, this letter shall serve as written notice that Employer is terminating the Agreement and your employment without cause effective Ninety (90) days from the date of your receipt of this letter (the "Termination Date"). Accordingly (unless the parties mutually agree otherwise), the Termination Date will be March 12, 2021.

Employer reminds you of the other current and ongoing obligations and covenants contained in the Agreement, including, but not limited to, those non-waived covenants contained in Sections 7 (non-solicitation and non-compete during remaining Term of Agreement), 12.b. (confidentiality), and 12.d. (proprietary information and non-disparaging remarks) of the Agreement. Additionally, Employer reserves the right to immediately terminate the Agreement in the event one of the circumstances described in Section 8.a. of the Agreement were to arise.

We appreciate your cooperation during this transition period and respectfully request you direct all communications related to this matter to me at 843-606-4022 or wayne.winney@tenethealth.com. On behalf of East Cooper Physician Network, LLC, I wish you the best in your future endeavors.

Sincerely,

Wayne O. Winney, DHA
CEO, SC Physician Operations

The undersigned hereby acknowledges receipt of this letter.

Stefanie A. Seixas-Mikelus, MD

Date

EXHIBIT 5

Resp. Answer

AMERICAN ARBITRATION ASSOCIATION

Honorable Kristine Cato, Arbitrator

AAA Case No. 01-21-0004-6490

Stefanie Seixas-Mikelus, M.D.,)
)
 Claimant,)
)
 vs.)
)
 Tenet Healthcare Corporation, Tenet)
 Physician Resources, LLC, and East)
 Cooper Physician Network, LLC,)
)
 Respondents.

RESPONSE TO DEMAND

Respondents Tenet Healthcare Corporation (“Tenet”), Tenet Physician Resources, LLC (“TPR”), and East Cooper Physician Network, LLC (“ECPN”) (collectively, “Respondents”) hereby respond to Claimant Stefanie Seixas-Mikelus’s Demand for Arbitration (“Demand”).

As was expressly permitted under the terms of Claimant’s employment agreement with East Cooper Physician Network, LLC, and as it advised her in its December 11, 2020 letter (Demand Ex. B), Claimant was terminated without cause. Claimant was given 90 days’ notice (Demand ¶ 7), the only prerequisite for “no cause” termination under section 8.c of the agreement, and she was paid until her employment terminated at the end of that notice period. Claimant’s contract claims have no viable legal foundation and should be dismissed. In addition, Claimant’s employment agreement was with ECPN—not Tenet or TPR.

Further, Claimant herself failed to meet the obligations of her employment agreement in that she did not meet the duties and responsibilities imposed upon her by the employment agreement, including but not limited to the following:

- “Physician is expected to see patients as they reasonably present to the Practice Site.” (Agreement Schedule 3.b.2, Demand Ex. A.)
- “Physician will exercise best efforts to assist Employer to build the Practice patient base through networking, emergency room coverage, community education, extended/weekend hours and other reasonable marketing activities as requested by Employer and in accordance with Employer’s policies and procedures.” (Agreement, Schedule 3.b.16, Demand Ex. A.)

Instead of recognizing that her own failure to meet these and other legal obligations caused her problems, Claimant alleges a parade of faults against Respondents. Contrary to her allegations, however, Claimant’s failure to perform was caused primarily by her unilateral choice to limit the scope of her practice. Indeed, Claimant admits that she expected a more limited scope of practice:

- “Claimant was employed as a urology oncologist who specialized in robotic surgery.” (Demand ¶ 7.)
- “Claimant would focus on robotics, oncological, and surgical issues.” (Demand ¶ 11.)

Thus, her own allegations show that she considered her services to be a limited scope of Urology practice and that another person “would be primarily responsible for treating patients experiencing traditional urological issues.” (Demand ¶ 11.) Despite Claimant’s preference, however, Claimant agreed that she was willing to provide Urology services (Agreement at 1), and she and ECPN did not agree to any narrower category of Urology services or a limited scope of Urology services.

As the evidence will show, in keeping with her preferences, Claimant chose to divert to other providers patients who did not meet her preferred limited scope of practice. She marketed herself to other providers as wanting referrals only in her preferred, limited scope of practice. In these and other ways, she failed in her obligations and did not use her best efforts to build the comprehensive practice that she agreed to support when she accepted employment with ECPN.

The other alleged wrongs Claimant asserts in her Demand are belied by the terms of the employment agreement and by the evidence:

1. First, while she asserts her acceptance of the position was conditioned on the presence of another physician at the practice, nothing in her agreement or employment required any of Respondents to hire a second physician for the Urology practice.
2. Second, though she complains of unfair and unsafe coverage arrangements, Claimant was responsible for her own coverage and made unreasonable demands on other physicians that made it difficult for them to work with Claimant.
3. Third, Claimant's allegations about inadequate practice resources, including PPE, are not supported by the evidence.
4. Fourth, the allegations regarding Respondents' failure to respond to Claimant's complaints are contradicted by the evidence and also are countered by her continuing failure to meet her own obligations, as described above.
5. Fifth, Claimant's allegations regarding Respondents' failure to support her in marketing or advertising efforts are contradicted by the evidence, which will show not only Respondents' ample support for Claimant's appropriate marketing efforts but also her violation of Tenet's physician advertising policies, among other things.
6. Finally, Claimant complains that "East Cooper failed to provide her with the amount of robotics surgeries which she had been promised when Respondents offered her employment"; however, nowhere in her agreement is there any such promise, nor is there any evidence to support this allegation. Indeed, the agreement expressly contradicts that Claimant was promised any sort of arrangement. She was expected to perform physician services in a comprehensive Urology practice, not the narrower, limited scope of services she indicated she preferred.

As to her claimed damages, any problems Claimant has suffered have not been caused by Respondents. She has been paid in accordance with the employment agreement. All other damages are hereby denied.

Respondents Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network, LLC individually and collectively deny Claimant's claims and allegations and will seek judgment in their favor and against Claimant. Based upon the facts stated herein, Respondents are informed and believe that Claimant has failed to state a claim upon which relief can be granted and that the Claim should be dismissed. Respondents further deny that Claimant is entitled to recover any damages whatsoever.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Carmen Harper Thomas
 Carmen Harper Thomas
 Federal Bar 10170
carmen.thomas@nelsonmullins.com
 Sue Erwin Harper
 Federal Bar 737
corky.harper@nelsonmullins.com
 1320 Main Street, 17th Floor
 Columbia, SC 29201
 803.799.2000

*Attorneys for Tenet Healthcare Corporation, Tenet
 Physician Resources, LLC, and East Cooper Physician
 Network, LLC*

Columbia, South Carolina

August 12, 2021

EXHIBIT 6

Final Award

Caroline Warner

From: AAA Stacey Coe <StaceyCoe@adr.org>
Sent: Friday, May 26, 2023 11:41 AM
To: Carmen Thomas; 'Chip Bruorton'; 'Jessica McDonald'; Caroline Warner; Corky Harper; 'Elizabeth Nicholson'
Subject: Case No. 01-21-0004-6490 Seixas-Mikelus v. Tenet Healthcare
Attachments: Final Award.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

◀External Email▶ - From: prvs=751091b490=staceycoe@adr.org

Good Morning,

By direction of the Arbitrator we herewith transmit to you the duly executed Award in the above matter. This serves as a reminder that there is to be no direct communication with the Arbitrator. All communication shall be directed to the Association.

At this time we have verified with the arbitrator that they have submitted all requests for compensation and expenses in this matter. Accordingly, we have conducted a final reconciliation of the finances. If a party had any unused compensation deposits, we will issue a refund check that will arrive in the mail shortly. If a party has an outstanding balance, that party will continue to receive cyclical invoices until the balance is paid.

In the normal course of our administration, the AAA may maintain certain documents in our electronic records system. Such electronic records will be destroyed 18 months after the date of this letter and do not constitute a complete case file.

We appreciate your selection of the AAA as your alternative dispute resolution provider in this matter. As always, please do not hesitate to contact me if you have any questions.

Thank you,

Stacey



AAA Stacey Coe
Manager of ADR Services

American Arbitration Association

T: 972 779 0764 F: 855 267 4082 E: StaceyCoe@adr.org
 13727 Noel Road, Suite 1025, Dallas, TX 75240
adr.org | icdr.org | aaamediation.org



The information in this transmittal (including attachments, if any) is privileged and/or confidential and is intended only for the recipient(s) listed above. Any review, use, disclosure, distribution or copying of this transmittal is prohibited except by or on behalf of the intended recipient. If you have received this transmittal in error, please notify me immediately by reply email and destroy all copies of the transmittal. Thank you.

AMERICAN ARBITRATION ASSOCIATION
Employment Arbitration Tribunal

AAA Case No. 01-21-0004-6490

Stefanie Seixas-Mikelus, M.D.,	)	
	)	
Claimant,	)	
	)	FINAL AWARD
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC,	)	
	)	
Respondents.	)	
_____	)	

INTRODUCTION

I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the personnel manual or employment agreement entered into by the above-named parties and dated March 30, 2019, and having been duly sworn and having duly heard the proofs and allegations of the parties, and Claimant being represented by James Bruorton and Elizabeth Nicholson of Rosen & Hagood, and Respondents being represented by Sue Erwin Harper and Carmen Harper Thomas of Nelson Mullins Riley & Scarborough, hereby AWARD, as follows:

A hearing in this matter took place on February 1 and 2, 2023. The parties reconvened virtually on March 2, 2023 to complete witness testimony. At the conclusion of the hearing, Claimant moved to amend the pleadings to conform to the evidence and assert a cause of action for breach of contract accompanied by a fraudulent act, and Respondent moved to strike Claimant's claim for negligent misrepresentation. After denying the motion to amend and granting the motion to strike, the causes of action left to be ruled upon are 1) breach of contract, 2) breach of covenant of good faith and fair dealing, and 3) wrongful termination in violation of public policy. For the reasons set forth below, Claimant has not sustained her burden on any of the three claims and as such, they are dismissed, with judgment entered in favor of Respondent.

FACTS

Claimant presents as a competent, intelligent and professional physician who entered into negotiations with Respondent and moved her family from the Northeast to create a start-up urology practice (the “Practice”) under Tenet Healthcare in Charleston, South Carolina. Prior to entering into the Physician Employment Agreement (“PEA” or the “Agreement”) she ultimately signed on March 30, 2019, she met with and had multiple conversations with numerous officials of Respondents, including Wayne Winney, CEO of Physician Operations (“Winney”) and Patrick Downes, East Cooper Medical Center’s CEO (“Downes”). It is undisputed that of importance to Claimant was that another physician be hired into the office so that the office would not be a “single-physician” office, leaving her with an inability to take time off and, instead, be wholly and solely responsible for call coverage. Testimony from all witnesses substantiated that this was a topic of conversation before and after she was hired.

The PEA the parties entered into was for a term of five years, with various provisions for termination of the Agreement, including termination by Respondent without cause under Section 8c. with a 90-day notice period.

The relevant language in the PEA related to Claimant’s and Respondents’ obligations is the following.

- 1) Under 3. **Physician’s Obligations**, section i., the following is stated:

Additional Physicians. Employer and Physician agree as an essential term of this Agreement that it is the intent of the parties to develop a comprehensive medical practice. It is further understood Employer intends to negotiate and enter into employment relationships with additional qualified physicians. Physician agrees to use reasonable best efforts to forge and establish an ongoing relationship and team approach with such additional physicians for the furnishing or professional medical and related services to patients.

- 2) Under 4. **Space and Support**, the Agreement provides the following:

Employer shall provide Physician with office and clinic space, equipment, supplies, and personnel at the Practice Sites (or, in the case of certain support services, at other locations) as Employer determines to be necessary, after consultation with Physician, to enable Physician to provide medical services to patients consistent with recognized medical standards. Physician will utilize only equipment and supplies provided by Employer in the Practice Site and will not order additional equipment and supplies without Employer's prior consent.

- 3) Under 12. **Miscellaneous**, section c, the following is stated:

Marketing and Advertising. Employer may engage in marketing or advertising activities respecting the Practice and the Practice Sites and Physician shall participate as reasonably requested.

Throughout her employment, Claimant complained on numerous occasions to Winney and others regarding Respondents' failure to hire another physician in accordance with the pre- and post-hire discussions, primarily because of the excessive call she felt it required of her, and time off she felt she could not take. Respondent attempted to hire additional support, but at least one of the candidates it proffered to Claimant for hire was unacceptable to her. Respondents took steps to assist her with getting her call covered by exploring call coverage with Dr. Gwen Choi, and by contacting a competitor to assist with call. A second physician was ultimately not hired during Claimant's tenure.

During her tenure, Claimant also requested additional equipment, some, but not all, of which she was provided. She asserts that the office space she was provided was insufficient and that she was not provided with a credentialed robotics assistant. She further asserts that she was not provided with the robotics referrals and other referral volume of patients she believes were promised to her.

Claimant testified that she did not file any complaints or concerns regarding safety issues with OSHA, although she did complain to Respondents that her call requirements, as well as the

insufficient office space, support and equipment jeopardized, or at least were not in the best interest of, patient safety.

During the course of her employment, several primary care physicians that were part of the Tenet referral network from which Claimant's practice received referral patients left the Tenet network, which resulted in fewer referrals to Claimant.

Prior to her termination, Claimant wrote to Respondents' CEO, outlining her concerns in detail that she had raised throughout her employment.

Throughout her employment, and at the end of it, Claimant's productivity, for whatever reason, was never the volume expected. Respondents made the decision to close the Practice and terminated Claimant on December 12, 2021 pursuant to Section 8.c., Termination Without Cause. In lieu of the 90 days' notice the provision included, Respondent paid her 90 days of pay.

Claimant's specific claims regarding Respondents' various breaches center primarily around representations she asserts that Winney, Downes and others made before and after entering into the PEA regarding the hiring of another physician into the Practice, but also include other claims regarding Respondents' failure meet their obligations to her.

LEGAL ANALYSIS

A. Claimant's Breach of Contract Claim

In order to determine whether a breach of contract exists, it is necessary to look only at the promises contained within the four corners of the Agreement – not representations made outside of the Agreement. Such representations, to the extent they contradict what is in the Agreement, would be considered parole evidence, and cannot be considered in determining a breach of contract claim.

In support of her claim for breach of contract, Claimant asserts that Respondents failed in the following areas:

- 1) to hire additional physicians;
- 2) to provide a safe and healthy call schedule;
- 3) to provide adequate support for Claimant's PTO;
- 4) to provide a credentialed independent robotics assistant;
- 5) to provide adequate clinical space;
- 6) to provide resources for equipment to perform necessary practice-related procedure and performance of necessary surgical procedures;
- 7) to provide sufficient robotic volume and referral volume to develop a program; and
- 8) to effectively market Claimant's robotics practice.

Claimant's primary argument is that the Agreement specifically required Respondents to hire another physician for the Practice. Her arguments revolve in large part around the fact that there had been numerous pre-contract discussions regarding her concerns and desires regarding hiring another physician. When presented with the Agreement, Claimant had it reviewed by her counsel, who suggested revisions to the contract, but which were rejected by Respondents.

Ultimately, Claimant signed the Agreement provided by Respondents. With regard to the breach that Claimant asserts regarding additional physicians, the provision at issue is located in the Agreement under the section entitled **3. Physician's Obligations**. Section 3.i provides specifically, as identified above, **"Employer and Physician agree as an essential term of this Agreement that it is the intent of the parties to develop a comprehensive medical practice. It is further understood Employer intends to negotiate and enter into employment relationships with additional qualified physicians."**

The provision is unambiguous. First, it is contained within the Section identifying the **physician's** obligations, not the employer's obligations. Second, the essential term that Claimant continually has asserted was a promise to hire additional physicians is not what is identified as an "essential term." The "essential term" of the provision is clear – that "it is the intent of the parties to develop a comprehensive medical practice." Nowhere in that provision, or anywhere in the Agreement for that matter, do Respondents contractually agree to hire additional physicians. The plain language of the provision includes no promises on the part of Respondents to hire additional physicians. The following sentence states only that the employer "intends" to negotiate and enter into employment relationships with qualified physicians. An "intent" to take an action is entirely distinct from a "promise" or "covenant" to take an action.

While Claimant asserts that she believed that the provision meant that Respondent was promising to hire multiple physicians, and that's what she believed the essential term of that provision to be, that is not what the language says. In fact, the following provision very clearly states that hiring multiple physicians was the "intent," not the promise.

Therefore, Respondents' failure to hire additional physicians does not constitute a breach of contract.

With regard to the remaining allegations of breach, but without belaboring the specifics, nowhere within the four corners of the Agreement do Respondents make the promises identified above that Claimant asserts they breached.

Since Claimant has not sustained her burden of proof to establish a breach of contract, her claim for breach of covenant of good faith and fair dealing likewise fails.

B. Claimant's Wrongful Termination in Violation of Public Policy Claim

In order for Claimant to prevail on a claim for wrongful termination in violation of public policy, Claimant must first show that she was an “at-will” employee. Based upon the claims asserted, it was unclear whether Claimant believed she was an “at-will” employee or one with a contract of a definite duration. She has asserted various contractual claims coupled with the present one asserting that she should prevail on a tort claim as an at-will employee.

While Claimant asserts that Respondents “can’t have it both ways,” Respondents have never asserted that Claimant was an at-will employee. Claimant relies on her Agreement to support her breach of contract claim, her breach of covenant of good faith and fair dealing claim, and her breach of contract accompanied by a fraudulent act claim.

To then assert a tort claim as an at-will employee is difficult to reconcile. The argument Claimant makes that the “termination with a notice provision” provision in the Agreement converts the contractual relationship to an at-will relationship is interesting and creative, and one definitely worth considering. However, Claimant cites no authority supporting the theory. Indeed, South Carolina courts have determined that an employment contract with a definite duration and a notice provision for termination remains a contract with a definite duration. Therefore, Claimant was not an at-will employee.

Since Claimant was not an at-will employee, further analysis regarding any retaliatory action based upon Claimant engaging in protected activity or Respondent acting in violation of public policy is unnecessary since her claim must fail since she cannot establish the primary element of the analysis. Nevertheless, based upon the testimony and other evidence presented at the hearing, Respondents’ actions in terminating Claimant were not demonstrated to be retaliatory or in violation of public policy. Therefore, Claimant has not sustained her burden of proof in this matter.

CONCLUSION

For the reasons set forth above, Claimant has not sustained her burden of proof in this matter and her remaining claims are dismissed, with judgment to be entered in favor of Respondent.

The administrative fees and expenses of the American Arbitration Association totaling \$2,950.00 shall be borne as incurred, and the compensation and expenses of the arbitrator totaling \$41,154.47 shall be borne as incurred.

This Award is in full settlement of all claims submitted to this Arbitration. All claims not expressly granted herein are hereby, denied.

May 26, 2023

/s/ Kristine L. Cato, Arbitrator

EXHIBIT 7

**AAA Ltr. to Parties and Kris Cato
resume excerpted from
list of candidates (July 23, 2021)**



AMERICAN
ARBITRATION
ASSOCIATION[®]

INTERNATIONAL CENTRE
FOR DISPUTE RESOLUTION[®]

Central Case Management Center
13727 Noel Road
Suite 700
Dallas, TX 75240
Telephone: (972)702-8222
Fax: (855)267-4082

July 23, 2021

Via Email to: enicholson@rosenhagood.com

Elizabeth Nicholson
Rosen Hagood LLC
151 Meeting Street, Suite 400
Charleston, SC 29401

Via Email to: corky.harper@nelsonmullins.com

Sue E. Harper, Esq.
Nelson Mullins Riley & Scarborough LLP
1320 Main Street
17th Floor
Columbia, SC 29201

Case Number: 01-21-0004-6490

Stephanie Seixas-Mikelus
-vs-
Tenet Healthcare Corporation

Dear Parties:

The American Arbitration Association (the AAA) acknowledges receipt on July 7, 2021, of a Demand for Arbitration dated July 7, 2021, which has been filed with us in accordance with the employment plan or contract containing a clause providing for administration by the AAA.

As of October 1, 2017, the AAA applies the Employment/Workplace Fee Schedule to employment disputes as well as any dispute between an individual (who has provided services as an individual and not incorporated) and a business or organization. The outcome of our preliminary administrative review, which is subject to review by the arbitrator, is to apply the Employment Arbitration Rules and Employment/Workplace Fee Schedule to this dispute, a copy of which is located on our website at www.adr.org. Please also review the *AAA-ICDR® Best Practices Guide for Maintaining Cybersecurity and Privacy* and *AAA-ICDR Cybersecurity Checklist* that is attached to this correspondence.

Please make note of the Case Management Fee referenced in the Employment/Workplace fee schedule. Should the parties wish to mediate with the AAA prior to the assessment of this fee, the AAA will waive the fee if the parties settle or defer the fee until after impasse. In the event this matter closes for any reason prior to the Case Management Fee being due, it will not be charged.

Mediation is a private, non-binding process under which the parties submit their dispute to a third-party neutral. The mediator may suggest ways of resolving the dispute, but may not impose a settlement on the parties; the

parties attempt to negotiate their own settlement agreement. Please contact me for further details regarding mediation.

Please note the following:

- The Respondent has until **August 9, 2021** to file an answer to the claim. If an answer is not received, we will assume a general denial. Please reference the Rules if filing a counterclaim.
- A request has been made for the hearing to be held in Charleston County, SC. Please refer to Section 10 of the Rules.
- Attached is a list for your selection of the arbitrator. Please see the attached list for further instruction on this process. This list is due on **August 9, 2021**.
- We ask that the attached Checklist for Conflicts be returned to the AAA by **August 9, 2021**. Further instructions are also located on the enclosed sheet.
- We also ask the parties to provide the applicable version of Tenet's Fair Treatment Process by **August 9, 2021**.
- Provided that the AAA has email addresses for all parties, the AAA will communicate with the parties via email for all AAA communications, unless notified otherwise.

Finally, the AAA can provide interested parties and the arbitrator with videoconferencing services through Zoom. Zoom is a user friendly application that can be used on your desktop (with webcam)/laptop/tablet or phone and allows for screen sharing to display exhibits, as well as breakout rooms for private sessions, etc. Of course, if the parties and arbitrator have another videoconferencing platform they are comfortable using, you should feel free to proceed with that platform. Please notify your case manager if your hearings are proceeding through videoconferencing platform so we can continue to provide the appropriate administrative services.

If the parties and arbitrator wish to use the Zoom service, we would be happy to schedule and set up a test meeting(s) in advance to make sure all are comfortable using the technology. To find out more about Zoom's functionality, because it is a commercial product, professionally produced tutorials/written instructions can be found on its website at <https://support.zoom.us/hc/en-us/articles/206618765-Zoom-Video-Tutorials>.

If you have any questions or need clarification on any of the enclosed documents, please feel free to call or email me at any time.

Sincerely,

Mary Jara

Mary Jara
Manager of ADR Services
Direct Dial: (866)440-1796
Email: AAAMaryJara@adr.org
Fax: (855)267-4082
qr

Enclosure

cc: James A. Bruorton, IV, Esq. *Via Email to: cbruorton@rosenhagood.com*

**AMERICAN ARBITRATION ASSOCIATION
CHECKLIST FOR CONFLICTS**

In the Matter of the Arbitration between:

Case Number: 01-21-0004-6490

Stephanie Seixas-Mikelus

-vs-

Tenet Healthcare Corporation

DATE LIST DUE: AUGUST 9, 2021

The AAA must advise each neutral, upon appointment, complete names of all entities and persons involved in this matter. You should be aware that arbitrators will need to divulge any relevant information in order to make appropriate and necessary disclosures in accordance with the applicable arbitration rules. In order to do so we ask that you complete this attached list including the following:

Witnesses

Consultants

Attorneys

Subsidiaries

Any other related entities or persons

This form will only be used as a list for conflicts, not a preliminary or final witness list. Please note that the AAA will not divulge this information to the opposing party and the parties are not required to exchange this list.

For your convenience, this form may be completed online through AAA's WebFile. If you do not have a WebFile account, please contact your case manager. You may then complete the Conflicts Checklist as part of this case's online record.

FULL NAME

AFFILIATION

ADDRESS

DATED: _____

PARTY: _____

Please Print

AMERICAN ARBITRATION ASSOCIATION
LIST FOR SELECTION OF ARBITRATOR

In the Matter of the Arbitration between:

Case Number: 01-21-0004-6490

Stephanie Seixas-Mikelus

-vs-

Tenet Healthcare Corporation

CASE MANAGER: Mary Jara

DATE LIST SUBMITTED: July 23, 2021

DATE LIST DUE: AUGUST 9, 2021

In accordance with the Rules we are providing you a list of arbitrators who are members of our Employment Dispute Resolution Roster. Along with this list are the attached Biographical Information Sheets on each arbitrator listed. We encourage parties to review the following list of arbitrators and if possible, agree to a single arbitrator from this list. Should parties not be able to agree to an arbitrator please review and independently submit the attached list to me by **August 9, 2021**. In accordance with the Rules:

Strike any names that you have an objection on
Number the remaining names in order of preference
Return list to AAA upon completion

Should you not return your list by the above date all names will be deemed acceptable.

Note: If appointment cannot be made from this list the AAA may appoint without the submission of an additional list, in accordance with the rules. For your convenience, this form may be completed online through AAA's WebFile at www.adr.org.

Kristine L. Cato
Denise Smith Cline, Esq.
Hon. William (Bill) Constangy
William H. Floyd III, Esq.
Angela N. Gray, Esq.
David B. McCormack, Esq.
Dennis R. Nolan
Joseph A. Seiner, Esq.
H. Landis Wade, Jr.
Reagan H. Weaver, Esq.

Arbitrators are compensated at the rate stated on their biographical data. The compensation is an independent obligation of the parties and it is understood that the American Arbitration Association has no liability, direct or indirect, for such payments. Deposits shall be made promptly with the AAA as required by the case manager, pursuant to the Rules, subject to final appointment by the arbitrator in the award. If you have any questions, please call or email me.

Party: _____

By: _____

Title: _____

ARBITRATION INFORMATION SHEET

This document provides information about your upcoming arbitration and the expectations concerning each party's conduct throughout the process. Please save this information sheet so that you may refer to it throughout the arbitration.

Administrative Conference

The AAA may conduct an Administrative Conference with the parties to discuss issues that will assist the AAA in administering the case as efficiently as possible. This is also a good time for the parties to discuss ways to conduct the arbitration to meet their specific needs. Please be prepared to discuss the following:

- estimates on the expected duration of the case;
- method of appointment of arbitrators, if applicable;
- your views on the qualifications of the arbitrators to be proposed;
- the possibility of submitting this dispute to mediation;
- the handling of extension requests;
- means of communication between the AAA and the parties;
- AAA-ICDR® Best Practices Guide for Maintaining Cybersecurity and Privacy and AAA-ICDR Cybersecurity Checklist

Exchange of Correspondence and Documents

It is also important to note that the parties must exchange copies of all correspondence during the course of the arbitration. The two exceptions are the Checklist for Conflicts mentioned above and the party's arbitrator ranking list, which you will receive further information on during the course of the arbitrator appointment process. The parties only need to send copies of documents, such as discovery, to the AAA if the document is to be transmitted to the arbitrator for a determination.

Communications with Arbitrator

It is very important that parties do not engage in any ex-parte communications with the arbitrator. So as to minimize the potential of such communications, this case will be administered by facilitating the exchange of appropriate written documents through the AAA. To ensure the proper handling of all case-related documents, the parties are asked not to submit correspondence directly to the arbitrator. Correspondence should be submitted to your case manager for transmittal to the arbitrator, copying the other party.

Timeliness of Filings

Please pay particular attention to response dates included on any correspondence I send you. Untimely filings or responses will not be considered by the AAA. Therefore, if you need an extension to any deadline, please contact the other party to reach an agreement. In the event you are unable to agree, the AAA or the arbitrator will determine if an extension will be granted.

Locale of the Arbitration

The parties may agree to a locale for the arbitration. This agreement can be made in the parties' agreement or contract, or when the arbitration is submitted to the AAA. The AAA will place the arbitration within the agreed upon locale.

If the parties' contract or agreement does not specify a locale and the parties cannot agree on a locale, the AAA's Rules empower the AAA to determine the locale, subject to the power of the arbitrator, after his or her appointment, to make a final determination. In these circumstances, the claimant will generally request that the hearing be held in a specific locale. If the respondent fails to file an objection to the locale requested by the claimant within 15 calendar days after the notice of the request has been sent to it by the AAA, the AAA will confirm the locale requested by the claimant is agreeable.

When a locale objection is filed, each party is requested to submit written statements regarding its reasons for preferring a specific locale. In preparing their written statements, the parties are asked by the administrator to address the following issues:

- Location of parties & attorneys.
- Location of witness and documents.
- Location of records.
- If construction, location of site, place or materials and the necessity of an on-site inspection.
- Consideration of relative difficulty in traveling and cost to the parties.
- Place of performance of contract.
- Place of previous court actions.
- Location of most appropriate panel.
- Any other reasonable arguments that might affect the locale determination.

AAA WebFile

We invite the parties to visit our website to learn more about how to file and manage your cases online. As part of our administrative service, AAA's WebFile allows parties to perform a variety of case related activities, including:

- File additional claims
- Complete the Checklist for Conflicts form
- View invoices and submit payment
- Share and manage documents
- Strike and rank listed neutrals
- Review case status or hearing dates and times
- Upload hearing exhibits in a dedicated space activated by the arbitrator

AAA WebFile provides flexibility because it allows you to work online as your schedule permits - day or night. Cases originally filed in the traditional offline manner can also be viewed and managed online. If the case does not show up when you log in, please contact your AAA case manager to request access.

Refund Schedule

For disputes proceeding under the Employment/Workplace Fee Schedule, the AAA administrative fees are nonrefundable.



Kristine L. Cato

Blair Cato Pickren Casterline, LLC

Current Employer-Title Blair Cato Pickren Casterline, LLC – Member

Profession Attorney; Mediator; Arbitrator

Work History Member, Blair Cato Pickren Casterline, LLC, 2014 – Present; Member, Rogers Townsend & Thomas, 2009 – 2014; Member, McAngus Goudelock & Courie, 2006 – 2009; Shareholder, Rogers Townsend & Thomas, 2003 – 2006; Special Counsel, Haynsworth Sinkler Boyd, 2000 – 2003; Partner, Ellzey and Brooks, 1997 – 2000; Constangy Brooks & Smith, 1989 – 1997; Human Resources Manager, Westinghouse Electric Corporation, 1989 – 1997.

Experience Professional experience includes over 30 years of practice in labor and employment law and business immigration law. Certified by the South Carolina Supreme Court as a Specialist in Labor and Employment Law. Labor and employment law. Has represented individuals and companies from many industry sectors, including but not limited to: manufacturing, distribution, banking and finance, health care (including medical, dental and special needs providers), as well as insurance carriers in general liability matters in which medical claims have been asserted.

Background includes all aspects of employment and other business contracts, FLSA, FMLA, ADA, ADEA, Title VII, affirmative action, union avoidance and campaigns, non-compete contracts, employment discrimination, disciplinary action, employee benefits, reductions-in-force, group terminations, contract disputes, employee relations, internal dispute resolution policies, separation agreements, and unemployment compensation. Has represented primarily employers; however, has also represented individuals with regard to certain discrimination matters, employment and severance agreements. Extensive experience in dealing with the South Carolina Human Affairs Commission, the Equal Employment Opportunity Commission, the USDOL, and other state and federal administrative agencies. Has represented health care providers before governmental entities on complaints and audit matters.

Experience in business immigration law includes assisting employers with obtaining temporary visas for employees to work in the United States. Provided extensive compliance advice, day-to-day counsel and litigated matters for clients on labor, employment and contract matters.

Experience includes representing parties in consumer issues, including, but not limited to vehicle leases and purchases, care for special needs individuals, many medical and dental practices and medical-related practices.

Kristine L. Cato
Neutral ID : 156904

The AAA provides arbitrators to parties on cases administered by the AAA under its various Rules, which delegate authority to the AAA on various issues, including arbitrator appointment and challenges, general oversight, and billing. Arbitrations that proceed without AAA administration are not considered "AAA arbitrations," even if the parties were to select an arbitrator who is on the AAA's Roster.

Alternative Dispute Resolution Experience	Extensive experience representing parties as an advocate at mediation in all types of employment matters. Mediated extensively with administrative agencies on discrimination claims. Acted as neutral in many American Arbitration Association Labor and Employment and Commercial Dispute arbitrations, including collective actions. Certified by South Carolina Supreme Court as Specialist in Labor and Employment Law. Certified by the South Carolina Bar as Certified Mediator. Has mediated many cases as neutral, both employment and non-employment. Has taught mediation training to organizations.
Alternative Dispute Resolution Training	ACE21 Impartiality: Do You Know Where Your Biases Are? 2021; AAA ACE19 Case Finances: What Arbitrators Need to Know, 2019; ACE20 Cyber Security: A Shared Responsibility, 2019; AAA Arbitrator Performance and Demeanor: Meeting Participant Expectations, 2018; AAA Employment and Labor Case Law Update: What Arbitrators and Practitioners Need to Know, 2017; ACE 08 - Principled Deliberations ~ Decision-Making Skills for Arbitrators, 2016; AAA Avoiding Ten Common Missteps Arbitrators Make ACE10, 2015; AAA Arbitration Fundamentals and Best Practices for New Arbitrators, 2010; South Carolina Bar Association, 40-Hour Mediator Training, 2008
Professional Licenses	Admitted to the Bar: South Carolina, 1989; U.S. District Court: District of South Carolina; U.S. Court of Appeals, Fourth Circuit; U.S. Supreme Court
Professional Associations	South Carolina Bar Association (Employment and Labor Law Section, past Chair); Has been a member of and/or served on the board of Richland County Bar Association; Lexington County Bar Association; American Bar Association (Construction Forum, Labor & Employment Division, Steering Committee); South Carolina Economic Developers Association; Greenwood County Chamber of Commerce; South Carolina Diversity Council (Past Treasurer); Committee of 100; South Carolina Family Service Center (Board Member; First Vice Chair); Palmetto Center for Women (Board of Directors and Past Chair); YMCA of the Midlands (Board of Directors; PCW Liaison).
Education	University of South Carolina (JD-1989); University of Georgia (BA, Journalism-1979)
Publications and Speaking Engagements	<p>Has spoken extensively for the last 27 years at seminars sponsored by national organizations such as Lorman, NBI, Council on Management, National Federation of Independent Business (NFIB) as well as state and local organizations such as the University of South Carolina, the state and local Chambers of Commerce, Human Resources organizations, South Carolina Association of CPA's, South Carolina Dental Association. Has also testified in front of the South Carolina House of Representatives Judiciary Committee on pending legislation, and assisted in drafting proposed legislation.</p> <p>Published a paper and spoken on qui tam actions to Construction Forum of the American Bar Association; Fourth Circuit Updates for the South Carolina Bar Association.</p> <p>Prepared extensive curriculum, materials and power point presentations on all labor</p>

Kristine L. Cato
Neutral ID : 156904

The AAA provides arbitrators to parties on cases administered by the AAA under its various Rules, which delegate authority to the AAA on various issues, including arbitrator appointment and challenges, general oversight, and billing. Arbitrations that proceed without AAA administration are not considered "AAA arbitrations," even if the parties were to select an arbitrator who is on the AAA's Roster.

and employment topics, such as employment law updates, extensive management training on union avoidance, harassment and discrimination and wage and hour laws. Has also prepared curriculum and conducted SHRM credited continuing seminars on all labor and employment topics.

Awards and Honors

Listed in the 2009 – 2020 editions of South Carolina Super Lawyers; 2010-2016 Midlands Legal Elite; named to 2013 – 2020 Best Lawyers in America; AV rated by Martindale Hubbell

Citizenship

United States of America

Languages

English

Locale

Columbia, South Carolina, United States of America

Compensation

Hearing:

Study:

Travel:

Cancellation:

Cancellation Period:

Comment:



1 Days

Includes study, preparation and travel time. Cancellation policy: 24 hour cancellation policy, but must pay for time already spent in preparation. Will also charge for any hotel expenses for overnight travel. Associates - \$[REDACTED] Per Hour. Law Clerks and Paralegals \$[REDACTED] Per Hour.

Multiple party litigation - \$[REDACTED]/per hour.

Kristine L. Cato
Neutral ID : 156904

The AAA provides arbitrators to parties on cases administered by the AAA under its various Rules, which delegate authority to the AAA on various issues, including arbitrator appointment and challenges, general oversight, and billing. Arbitrations that proceed without AAA administration are not considered "AAA arbitrations," even if the parties were to select an arbitrator who is on the AAA's Roster.

EXHIBIT 8

**Email from E. Nicholson Email to
C. Thomas, S. Harper (Aug. 6, 2021)**

Carmen Thomas

From: Elizabeth Nicholson <enicholson@rosenhagood.com>
Sent: Friday, August 6, 2021 11:21 AM
To: Carmen Thomas
Cc: Corky Harper
Subject: RE: Seixas-Mikelus arbitrator

Good morning, Carmen,

We'd like to propose Kristin Cato first and David McCormack second if she has a conflict.

Thanks,

Elizabeth Nicholson
 [Attorney at Law]
 151 Meeting Street, Suite 400
 Charleston, SC29401
 Office:(843) 577-6726 |
 Fax:(843) 724-8036
 Direct Phone:(843) 266-8140
 |
 Direct Fax:(843) 266-2225
 enicholson@rosenhagood.com
 www.rosenhagood.com

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-----Original Message-----

From: Carmen Thomas <Carmen.Thomas@nelsonmullins.com>
 Sent: Friday, August 6, 2021 11:05 AM

To: Elizabeth Nicholson <enicholson@rosenhagood.com>
Cc: Corky Harper <corky.harper@nelsonmullins.com>
Subject: Seixas-Mikelus arbitrator

Elizabeth,
Good morning. I wanted to check in about the arbitrator y'all want to propose. Have you decided?

Thank you.

Carmen

803-255-9385

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EXHIBIT 9

**Email from E. Nicholson to Mary Jara
(AAA), C. Thomas
(Aug. 16, 2021)**

Carmen Thomas

From: Elizabeth Nicholson <enicholson@rosenhagood.com>
Sent: Monday, August 16, 2021 1:11 PM
To: Carmen Thomas; AAA Mary Jara
Cc: Chip Bruorton; Corky Harper; Laura Croft
Subject: RE: Stephanie Seixas-Mikelus v. Tenet Healthcare Corporation - Case 01-21-0004-6490

Quasha,

I confirm that we have agreed on Cato.

Thanks,

Elizabeth Nicholson

[Attorney at Law]

151 Meeting Street, Suite 400
 Charleston, SC 29401

Office: (843) 577-6726 | Fax: (843) 724-8036

Direct Phone: (843) 266-8140 | Direct Fax: (843) 266-2225

enicholson@rosenhagood.com

www.rosenhagood.com



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From: Carmen Thomas <Carmen.Thomas@nelsonmullins.com>

Sent: Monday, August 16, 2021 1:10 PM

To: AAA Mary Jara <AAAMaryJara@adr.org>

Cc: Chip Bruorton <cbruorton@rosenhagood.com>; Corky Harper <corky.harper@nelsonmullins.com>; Elizabeth Nicholson <enicholson@rosenhagood.com>; Laura Croft <lcroft@rosenhagood.com>

Subject: RE: Stephanie Seixas-Mikelus v. Tenet Healthcare Corporation - Case 01-21-0004-6490

Quasha,

The parties agreed on Kris Cato. Please let us know if you need any more information. If we need to provide a second choice, please let us know. Thanks.

Best regards,
Carmen Thomas

Counsel for Respondents



CARMEN HARPER THOMAS PARTNER
carmen.thomas@nelsonmullins.com

MERIDIAN | 17TH FLOOR
1320 MAIN STREET | COLUMBIA, SC 29201
T 803.255.9385 F 803.255.5932
NELSONMULLINS.COM VCARD VIEW BIO

From: AAA Mary Jara <AAAMaryJara@adr.org>

Sent: Monday, August 16, 2021 11:17 AM

To: cbruerton@rosenhagood.com; Corky Harper <corky.harper@nelsonmullins.com>; enicholson@rosenhagood.com; Carmen Thomas <Carmen.Thomas@nelsonmullins.com>; lcroft@rosenhagood.com

Subject: Stephanie Seixas-Mikelus v. Tenet Healthcare Corporation - Case 01-21-0004-6490

◀External Email▶ - From: prvs=6862422f58=aaamaryjara@adr.org

Good Morning,

As a reminder, the arbitrator selection lists were due last week, on August 12, 2021. Please submit these documents by the end of day, if not already submitted.

Thank You,
Quasha on behalf of Mary



AAA Mary Jara
Manager of ADR Services

American Arbitration Association

T: 866 440 1796 F: 855 267 4082 E: AAAMaryJara@adr.org
13727 Noel Road, Suite 700, Dallas, TX 75240
adr.org | icdr.org | aaamediation.org



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EXHIBIT 10

Email from AAA to Parties (Sept. 1, 2021)

Carmen Thomas

From: AAA Mary Jara <AAAMaryJara@adr.org>
Sent: Wednesday, September 1, 2021 4:06 PM
To: Carmen Thomas; 'cbruorton@rosenhagood.com'; Corky Harper; 'enicholson@rosenhagood.com'; 'lcroft@rosenhagood.com'
Subject: Stephanie Seixas-Mikelus v. Tenet Healthcare Corporation - Case 01-21-0004-6490 - Arbitrator Appointment
Attachments: Oath-20-Aug-21_28038311.pdf; Notice of Compensation Arrangements-20-Aug-21_28038312.pdf

◀External Email▶ - From: prvs=787836dd96=aaamaryjara@adr.org

Dear Parties:

Pursuant to the agreement of the parties, the American Arbitration Association (the AAA) has appointed Kristine Cato as arbitrator. Arbitrator Cato has accepted the appointment and has agreed to serve at the rate of \$450.00 per hour, as established on the resume. Enclosed please find copies of the arbitrator's duly executed Notice of Appointment and Notice of Compensation Arrangements.

Arbitrator Cato made a disclosure, as detailed on the enclosed Notice of Appointment. As clarification to the disclosure, Arbitrator Cato provided the following statement, which may also be found in her email below:

"According to my records, there have been 2 arbitrations that Ms. Harper has appeared before me in at hearings – one completed in 2010 and one completed in 2014. There have been 2 others, in 2016 and 2017, where there were limited preliminary appearances and the matters resolved early in the process and without a hearing."

Please advise the AAA of any objections to the appointment of Arbitrator Cato by **September 8, 2021**, copying the other side. The arbitrator shall not be copied on any comments related to the disclosure.

If any objections to this arbitrator's appointment are raised, the other party may respond **within five business days**. The AAA will make a determination regarding the arbitrator's appointment, in accordance with the Rules.

As requested by the arbitrator, if either party or their counsel knows of any contact or conflict that may be relevant, please communicate this information to the AAA immediately.

Please do not hesitate to contact us with any questions and/or concerns.

Sincerely,
 Quasha on behalf of Mary



AAA Mary Jara
Manager of ADR Services

American Arbitration Association

T: 866 440 1796 F: 855 267 4082 E: AAAMaryJara@adr.org
13727 Noel Road, Suite 700, Dallas, TX 75240
adr.org | icdr.org | aaamediation.org



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General Arbitrator Oath Form

American Arbitration Association

Stephanie Seixas-Mikelus
Vs.
Tenet Healthcare Corporation

Case# 01-21-0004-6490

Notice of Appointment for Kristine Cato

Disclosure Obligations

It is most important that the parties have complete confidence in the arbitrator's impartiality. Therefore, please disclose any past or present relationship with the parties, their counsel, or potential witnesses, direct or indirect, whether financial, professional, social or of any other kind. This is a continuing obligation throughout your service on the case and should any additional direct or indirect contact arise during the course of the arbitration or if there is any change at any time in the biographical information that you have provided, it must also be disclosed. Any doubts should be resolved in favor of disclosure. If you are aware of direct or indirect contact with such individuals, please describe it below. Failure to make timely disclosures may forfeit your ability to collect compensation. All disclosures will be brought to the attention of the parties.

Instructions

You will not be able to serve until this duly executed Notice of Appointment has been completed and submitted. Please review the *Disclosure Guidelines* found by navigating to the *My Tasks* screen from the menu on the left, and after conducting a conflicts check, answer the following questions and complete the remainder of this Notice of Appointment.

Should the answer to any of the following questions be "Yes", or if you are aware of any other information that may lead to a justifiable doubt as to your impartiality or independence or create an appearance of partiality, then describe the nature of the potential conflict(s) in the space provided.

1. Do you or your law firm presently represent any person in a proceeding involving any party to the arbitration?

Answer : NO

2. Have you represented any person against any party to the arbitration?

Answer : NO

3. Have you had any professional or social relationship with counsel for any party in this proceeding or the firms for which they work?

Answer : NO

4. Have you had any professional or social relationship with any parties or witnesses identified to date in this proceeding or the entities for which they work?

Answer : NO

5. Have you had any professional or social relationship of which you are aware with any relative of any of the

General Arbitrator Oath Form

parties to this proceeding, or any relative of counsel to this proceeding, or any of the witnesses identified to date in the proceeding?

Answer : NO

6. Have you, any member of your family, or any close social or business associate ever served as a neutral in a proceeding in which any of the identified witnesses or named individual parties gave testimony?

Answer : YES

Comments : In 2014, I served as a neutral in which one or more witnesses from Respondent gave testimony.

7. Have you, any member of your family, or any close social or business associate been involved in the last five years in a dispute involving the subject matter contained in the case which you are assigned?

Answer : NO

8. Have you ever served as an expert witness or consultant to any party, attorney, witness or other arbitrator identified in this case?

Answer : NO

9. Have any of the party representatives, law firms or parties appeared before you in past arbitration cases?

Answer : YES

Comments : I have served as a neutral in several arbitrations in which Ms. Harper represented one of the parties.

10. Are you a member of any organization that is not listed on your panel biography that may be relevant to this arbitration?

Answer : NO

11. Have you ever sued or been sued by either party or its representative?

Answer : NO

12. Do you or your spouse own stock in any of the companies involved in this arbitration?

Answer : NO

13. If there is more than one arbitrator appointed to this case, have you had any professional or social relationships with any of the other arbitrators?

Answer : NO

14. Are there any connections, direct or indirect, with any of the case participants that have not been covered by the above questions?

Answer : YES

Comments : Indirectly. My husband is a governmental relations consultant and contracts with Nelson Mullins to perform some governmental relations consulting for some of their clients, although NOT the defendant in this matter. He is not an attorney and provides consulting and lobbying work only. This will not affect my ability to act

General Arbitrator Oath Form

impartially in this matter.

15. Are you aware of any other information that may lead to a justifiable doubt as to your impartiality or independence or create an appearance of partiality?

Answer : NO

Arbitrator's Oath

I attest that I have reviewed my biographical information provided to the parties on this case and confirm it is current, accurate and complete.

I attest that I have diligently conducted a conflicts check, including a thorough review of the information provided to me about this case to date, and that I have performed my obligations and duties to disclose in accordance with the Rules of the American Arbitration Association, Code of Ethics for Arbitrators in Commercial Disputes, the parties' agreement, and applicable law pertaining to arbitrator disclosures.

I further affirm that consistent with the applicable Rules of the American Arbitration Association, the Code of Ethics for Arbitrators in Commercial Disputes, the parties' agreement, and applicable law:

- That I am fit to serve on the above-referenced arbitration and able to fully execute my responsibilities during all phases of the case;
- That I will keep confidential all matters relating to the above-referenced arbitration;
- That I will maintain a professional demeanor and appearance of impartiality during all phases of this case;
- That I will endeavor to effectively manage all phases of this case with a commitment to speed, economy and just resolution in a manner consistent with the parties' expectations;
- That I will bill parties responsibly and ethically and will review my bills for reasonableness relative to the nature and scope of the activity performed prior to submitting them to the AAA.

The arbitrator being duly sworn, hereby accepts this appointment.

Terms of Compensation

Before proceeding, please indicate that you have reviewed the Notice of Compensation Arrangements for this case.



Once completed, please indicate your acceptance of this appointment as arbitrator by entering your initials in the space provided.

(klc)

Kristine Cato
20-Aug-21

Notice of Compensation Arrangements

American Arbitration Association

Stephanie Seixas-Mikelus
Vs.
Tenet Healthcare Corporation

Case# 01-21-0004-6490

Notice of Compensation Arrangements for Kristine Cato

You have been invited to serve as an arbitrator in the above matter. It is important that you understand the terms of your compensation and the role you play in ensuring that you receive payment for fees and expenses that you may incur during your service.

This invitation to serve is based on our assumption that you are willing to comply with the American Arbitration Association's (AAA) *Arbitrator Billing Guidelines*, which is attached to this document and also available in Panelist eCenter at www.adr.org. If you expect to assess charges that are not detailed on your AAA Resume and referenced below, (or if you are a non-AAA arbitrator and such charges are not reflected below), you must notify the AAA prior to accepting your appointment so that the parties can determine whether they still seek your services as an arbitrator.

Your Compensation

Rules: "Employment Arbitration Rules"
Procedures: "Regular"

You will be compensated at the following rates, per the rate structure indicated on your AAA resume or in accordance with a fixed rate as prescribed in the rules and/or procedures. If you are a non-AAA arbitrator, you will be compensated based upon the rates provided to your case administrator and shared with the parties or if applicable in accordance with a fixed-rate prescribed in the rules and/or procedures.

Rate Type	Rate Frequency	Rate
Hearing Rate	HOURLY	\$450.00
Study Rate	HOURLY	\$450.00
Travel Rate	HOURLY	\$450.00
Cancellation Rate	DAY	\$450.00
Cancellation Period	1 Days	
Rate Comment	Includes study, preparation and travel time. Cancellation policy: 24 hour cancellation policy, but must pay for time already spent in preparation. Will also charge for any hotel expenses for overnight travel. Associates - \$150 Per Hour. Law Clerks and Paralegals \$100 Per Hour.	

Multiple party litigation - \$550/per hour.

In as much as you are agreeing to serve in this matter at the above rate, any subsequent change to your published rate after your appointment will not apply to this case.

Commercial Expedited and Construction Fast Track Fixed Rates

On cases administered under the Expedited and Fast Track Procedures of the rules, the arbitrator will receive compensation at rates established by the AAA. Generally, the hearing shall not exceed one day. *If during the preliminary hearing you determine that this matter requires more than one day of hearing,*

Notice of Compensation Arrangements

please consult with your case administrator about billing for the additional day(s). Your case administrator will discuss and facilitate any necessary changes to your terms of compensation.

If the matter concludes after the preliminary hearing and prior to the final hearing, you will be compensated at half of the established rate. Under the Expedited and Fast Track Procedures, you receive no compensation for study time, travel time, or cancellations.

Consumer Arbitration Rules Fixed Rates

On cases administered under the Consumer Arbitration Rules, the AAA has established fixed rates with the expectation the case should not require more than one day of hearing. If during the preliminary management hearing you determine that this matter requires more than one day of hearing, please consult with your case administrator about billing for the additional day(s). This case will remain under the Consumer Arbitration Rules regardless of the number of days of hearing or the amount or complexity of any claim. Under the Consumer Arbitration Rules you receive no compensation for study time, travel time, or cancellations.

Your Expenses

On most cases, your expenses should be nominal and will be reimbursed immediately after you submit them. For any single expense over \$75, please include a receipt with your request for reimbursement.

If you anticipate that you will incur significant expenses, such as airfare or hotel room costs, please advise your case administrator in advance so that the parties can be asked to make deposits prior to you incurring the expense.

Deposits and Payment

Payment for your compensation is the obligation of the parties and it is understood that the American Arbitration Association has no liability, direct or indirect, for such payment. During the course of the proceeding the case administrator will ask that you provide an estimate of the amounts needed to cover your fees. Generally this occurs immediately after the preliminary hearing, although on longer or more complex cases it can occur immediately upon appointment or after each series of hearings.

Unless you specify otherwise, the parties are advised that deposits are due 30 days prior to the first hearing. No later than two weeks prior to the hearing, the case administrator will advise you of the total amount on deposit. Should the parties fail to make deposits in a timely manner, you must determine whether to go forward, suspend or terminate the proceedings until such time as deposits have been made. Please see the applicable rules for Remedies for Nonpayment (i.e., Commercial Rule R-57, Construction Rule R-59, and Consumer Rule R-54). If you decide to go forward without full deposits, you may not subsequently delay the rendering of the award for lack of payment of your fees. The time to deal with this issue is prior to the commencement of the hearings. Should you decide to suspend the proceedings, your case administrator can assist you in issuing an appropriate order to the parties.

If you realize that you are spending more time on this matter than you originally estimated, it is your obligation to inform the case administrator prior to exhausting the current deposit. The case administrator will then make arrangements with the parties for additional deposits per your instructions.

In order to receive payment, please submit bills promptly. Your bills should be submitted in a format that is presentable to the parties, should detail the dates on which the charges were incurred with a description of the activity performed, and must correspond with the terms of compensation outlined herein. Bills should be submitted on a regular basis, as appropriate, and should reflect any balance forward. Upon receipt, the AAA will release payment from the amounts deposited by the parties. Should there be insufficient funds on deposit you will not receive payment until the parties have made additional deposits. Further, we will not use one party's deposit to cover another party's obligation without written permission to do so.

Notice of Compensation Arrangements

In the event your Award is delivered prior to payment by the parties of the agreed upon compensation, the AAA is authorized but not obligated to seek to collect these monies on your behalf by all lawful means, to represent you in any action or proceeding for such recovery and to file a claim in any bankruptcy or insolvency proceeding for such monies. The AAA may prosecute and receive any recovery on your behalf and has full authority to compromise or settle such claims as may be, in its discretion, appropriate. However, under no circumstances whatsoever will the AAA be liable for any failure to collect any or all the monies due. The AAA is authorized to subtract a reasonable amount for collection and attorney's fees.

Failure to Disclose and Forfeiting Compensation

As an arbitrator in this matter, you have an ongoing obligation to disclose any direct or indirect relationship with the case participants. Your failure to make disclosures in a timely manner would be a serious transgression and may be grounds for your removal as arbitrator from this case and/or from the AAA's Roster. Should this occur, you may be required to forfeit the compensation for the time you spent on this matter after you should have made such disclosures.

IRS Reporting Requirement (For U.S. Residents)

Compensation payments, and the corresponding IRS reporting, will be made either to you individually (attributed to your Social Security Number) or to your employer (attributed to the Employer Identification Number), based on the preference you indicated and as recorded in your panel record. If you are unsure of your current payment preference, you may contact your case administrator or AAA Panel Relations. Promptly inform the AAA if this information is incorrect or changes during the case, or if an address correction is necessary.

If the AAA does not have the payee's tax information on record, we must withhold 31% of compensation payments, as required by the IRS. Reimbursements of expenses are not subject to withholding and are not reported to the IRS.

Please note that in accordance with Section 7 of the *Standards and Responsibilities for Members of the AAA Roster of Arbitrators and Mediators*, compensation AAA Panelists receive on an AAA-administered case will not be disbursed by the AAA to another ADR Provider Organization. If the undersigned is not on the AAA Roster, this provision is not applicable.

IRS Reporting Requirement (For Non-U.S. Residents)

Compensation payments, and the corresponding IRS reporting, will be made either to you individually (attributed to your Social Security Number) or to your employer (attributed to the Employer Identification Number), based on the preference you indicated and as recorded in your panel record. If you are unsure of your current payment preference, you may contact your case administrator or AAA Panel Relations. Promptly inform the ICDR if this information is incorrect or changes during the case, or if an address correction is necessary.

If the ICDR does not have the payee's tax information on record, we must withhold 31% of compensation payments, as required by the IRS.

Please also note that if you reside outside of the United States and perform work (e.g., attending a hearing) in the United States you are required by the IRS to complete either Form 8233 (Exemption from Withholding on Compensation for Independent Personal Services of a Nonresident Alien Individual) or Form W-BEN (Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding). These forms have to be completed and filed with the ICDR annually regardless if a copy is on file. Failure to file these forms with the ICDR will result in withholding 31% of compensation payments, as required by IRS. Reimbursements of expenses are not subject to withholding and are not reported to the IRS.

Acknowledgement

If you are willing to serve on this matter per the compensation terms detailed above, please check the box

Notice of Compensation Arrangements

below and proceed with completing your oath.



I acknowledge the terms of compensation for this case.

(klc)

Kristine Cato

August 20, 2021

EXHIBIT 11

**Email from AAA to Parties
(Sept. 14, 2021)**

Carmen Thomas

From: AAA Mary Jara <AAAMaryJara@adr.org>
Sent: Tuesday, September 14, 2021 2:23 PM
To: Carmen Thomas; 'cbruorton@rosenhagood.com'; Corky Harper; 'enicholson@rosenhagood.com'; 'lcroft@rosenhagood.com'; Jessica Trautman
Subject: Stephanie Seixas-Mikelus v. Tenet Healthcare Corporation - Case 01-21-0004-6490 - Management Conference Call
Attachments: Management Conference Guide.rtf

◀External Email▶ - From: aaamaryjara@adr.org

Dear Parties:

Inasmuch as there were no objections to the appointment of Kristine L. Cato, her appointment is hereby confirmed.

The Arbitrator has scheduled a telephonic Arbitration Management Conference for **September 30, 2021 at 11:00 a.m., Eastern Time**. The call-in information is as follows:

Telephone: (855) 633-2040
 Security Code: 2816709

The American Arbitration Association encourages you to share this initial letter with your client and invite them to participate in this Arbitration Management Conference. Many topics that have a direct bearing on the timeliness and efficiency of this arbitration will be discussed. All participants should have their calendars available during the conference call.

Enclosed is the Management Conference Guide which covers items to be discussed during the Arbitration Management Conference. The parties are further encouraged to discuss any additional items they deem necessary. Participants will select a date for the Arbitration Hearing during the conference call. All dates established should be realistic dates that work for the parties, their representatives, and their witnesses.

We ask the parties to confer, agree on as many deadlines as applicable, and submit a proposed scheduling order by **September 27, 2021**, in advance of the conference call. In the experience of the AAA, we have found that this greatly assists in the efficiency and cost of the process. If both parties can agree on dates that are in line with the expedited nature of arbitration, the Arbitration Management Conference will be used to confirm these arrangements.

In an effort to assist the parties in creating an efficient and cost-effective plan for exchanging discovery in this matter, we are providing a link to the AAA's Initial Discovery Protocols for Employment Arbitration Cases. To review the new Discovery Protocols, [click here](#).

On behalf of the AAA, we look forward to serving as a resource throughout the course of this matter.

Thank You,
 Quasha on behalf of Mary



AAA Mary Jara
Manager of ADR Services

American Arbitration Association

T: 866 440 1796 F: 855 267 4082 E: AAAMaryJara@adr.org
13727 Noel Road, Suite 700, Dallas, TX 75240
adr.org | icdr.org | aaamediation.org



The information in this transmittal (including attachments, if any) is privileged and/or confidential and is intended only for the recipient(s) listed above. Any review, use, disclosure, distribution or copying of this transmittal is prohibited except by or on behalf of the intended recipient. If you have received this transmittal in error, please notify me immediately by reply email and destroy all copies of the transmittal. Thank you.

EXHIBIT 12

**SC Ethics Commission Lobbyist
Disclosures, Metro Treatment of SC**

SOUTH CAROLINA

State Ethics Commission

Public Disclosure and Accountability Reporting System

Individual Reports

Lobbyist Disclosure

2021, June 1 - December 31

Name: Harry Cato

Report Period: 2021, June 1 - December 31

Report Deadline: January 31, 2022

Filing Type: Original, Filed

Select a tab to view more.

Summary

Income

Itemized Expenditures

More »

Demographic Information

Harry Cato

1422 Gadsden Street

Columbia, SC 29201

864.444.4895

Lobbyist's Principal

Metro Treatment of South Carolina

Report Period

2021, June 1 - December 31

I. Total Income Received For Lobbying	Amount	YTD Amount
Income	\$28,000.00	\$40,500.00

II. Expenditures	Amount	YTD Amount
A. Registration Fees	\$0.00	\$104.00
B. Supplies	\$17.00	\$34.00
C. Rent	\$746.00	\$1,492.00
D. Utilities	\$42.00	\$84.00
E. Compensation of Support Personnel	\$2,148.00	\$4,296.00
F. Other Expenditures	\$0.00	\$0.00
G. Expenditures made on behalf of Judiciary	\$0.00	\$0.00
Total Other Expenditures (II)	\$2,953.00	\$6,010.00

III. Total	Amount	YTD Amount
Total of Sections I and II	\$30,953.00	\$46,510.00

SOUTH CAROLINA

State Ethics Commission

Public Disclosure and Accountability Reporting System

Individual Reports

Lobbyist Disclosure

2022, January 1 - May 31

Name: Harry Cato

Report Period: 2022, January 1 - May 31

Report Deadline: June 30, 2022

Filing Type: Original, Filed

Select a tab to view more.

Summary

Income

Itemized Expenditures

More »

Demographic Information

Harry Cato

1422 Gadsden Street

Columbia, SC 29201

864.444.4895

Lobbyist's Principal

Metro Treatment of South Carolina

Report Period

2022, January 1 - May 31

I. Total Income Received For Lobbying	Amount	YTD Amount
Income	\$12,500.00	\$12,500.00

II. Expenditures	Amount	YTD Amount
A. Registration Fees	\$104.00	\$104.00
B. Supplies	\$16.00	\$16.00
C. Rent	\$846.00	\$846.00
D. Utilities	\$33.00	\$33.00
E. Compensation of Support Personnel	\$2,138.00	\$2,138.00
F. Other Expenditures	\$0.00	\$0.00
G. Expenditures made on behalf of Judiciary	\$0.00	\$0.00
Total Other Expenditures (II)	\$3,137.00	\$3,137.00
III. Total	Amount	YTD Amount
Total of Sections I and II	\$15,637.00	\$15,637.00

SOUTH CAROLINA

State Ethics Commission

Public Disclosure and Accountability Reporting System

Individual Reports

Lobbyist Disclosure

2022, June 1 - December 31

Name: Harry Cato

Report Period: 2022, June 1 - December 31

Report Deadline: January 31, 2023

Filing Type: Original, Filed

Select a tab to view more.

Summary

Income

Itemized Expenditures

More »

Demographic Information

Harry Cato

314 Clambank Lane

Lexington, SC 29072

864.444.4895

Lobbyist's Principal

Metro Treatment of South Carolina

Report Period

2022, June 1 - December 31

I. Total Income Received For Lobbying

	Amount	YTD Amount
Income	\$28,000.00	\$40,500.00

II. Expenditures	Amount	YTD Amount
A. Registration Fees	\$0.00	\$0.00
B. Supplies	\$16.00	\$32.00
C. Rent	\$846.00	\$1,692.00
D. Utilities	\$33.00	\$66.00
E. Compensation of Support Personnel	\$2,138.00	\$4,276.00
F. Other Expenditures	\$0.00	\$0.00
G. Expenditures made on behalf of Judiciary	\$0.00	\$0.00
Total Other Expenditures (II)	\$3,033.00	\$6,170.00
III. Total	Amount	YTD Amount
Total of Sections I and II	\$31,033.00	\$46,670.00

SOUTH CAROLINA

State Ethics Commission

Public Disclosure and Accountability Reporting System

Individual Reports

Lobbyist Disclosure

2023, January 1 - May 31

Name: Harry Cato

Report Period: 2023, January 1 - May 31

Report Deadline: June 30, 2023

Filing Type: Original, Filed

Select a tab to view more.

Summary

Income

Itemized Expenditures

More »

Demographic Information

Harry Cato

314 Clambank Lane

Lexington, SC 29072

864.444.4895

Lobbyist's Principal

Metro Treatment of South Carolina

Report Period

2023, January 1 - May 31

I. Total Income Received For Lobbying

	Amount	YTD Amount
Income	\$18,750.00	\$18,750.00

II. Expenditures	Amount	YTD Amount
A. Registration Fees	\$104.00	\$104.00
B. Supplies	\$17.00	\$17.00
C. Rent	\$916.00	\$916.00
D. Utilities	\$35.00	\$35.00
E. Compensation of Support Personnel	\$2,405.00	\$2,405.00
F. Other Expenditures	\$0.00	\$0.00
G. Expenditures made on behalf of Judiciary	\$0.00	\$0.00
Total Other Expenditures (II)	\$3,477.00	\$3,477.00
III. Total	Amount	YTD Amount
Total of Sections I and II	\$22,227.00	\$22,227.00

SOUTH CAROLINA
State Ethics Commission
Public Disclosure and Accountability Reporting System

Individual Reports
Lobbyist Disclosure

2023, June 1 - December 31

Name: Harry Cato
Report Period: 2023, June 1 - December 31
Report Deadline: January 31, 2024
Filing Type: Original, Filed

Select a tab to view more.

Summary

Income

Itemized Expenditures

More »

Demographic Information

Harry Cato
314 Clambank Lane
Lexington, SC 29072
864.444.4895

Lobbyist's Principal

Metro Treatment of South Carolina

Report Period

2023, June 1 - December 31

I. Total Income Received For Lobbying	Amount	YTD Amount
Income	\$0.00	\$18,750.00

II. Expenditures	Amount	YTD Amount
A. Registration Fees	\$0.00	\$0.00
B. Supplies	\$0.00	\$17.00
C. Rent	\$0.00	\$916.00
D. Utilities	\$0.00	\$35.00
E. Compensation of Support Personnel	\$0.00	\$2,405.00
F. Other Expenditures	\$0.00	\$0.00
G. Expenditures made on behalf of Judiciary	\$0.00	\$0.00
Total Other Expenditures (II)	\$0.00	\$3,477.00

III. Total	Amount	YTD Amount
Total of Sections I and II	\$0.00	\$22,227.00

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	Case No.: 2023-CP-100-3391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	<u>RESPONDENTS' MOTION TO</u>
	)	<u>CONFIRM ARBITRATION AWARD</u>
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East Cooper	)	
Physician Network, LLC.	)	
	)	
Respondents.	)	

Petitioner moved to vacate the arbitration award in this matter. In addition to opposing the motion to vacate, which should be denied, Respondents request that the arbitration award be confirmed pursuant to 9 U.S.C § 9 or S.C. Code Ann. § 15-48-120¹ because the parties agreed to arbitrate their dispute; the arbitration resulted in an award; the parties agreed that judgment may be entered on the arbitration award pursuant to the arbitration agreement and the American

¹ Petitioner's motion to vacate cites to the S.C. Uniform Arbitration Act ("SC UAA") as support. (Mot. Vacate at 7-8.) Pursuant to the Physician Employment Agreement between Petitioner and Respondent East Cooper Physician Network, LLC, however, the parties explicitly agreed to follow the Federal Arbitration Act ("FAA") to resolve disputes. (Physician Employment Agmt. at ¶ 13, attached as Exhibit 1 (citing Tenet Open Door Policy and Fair Treatment Process at ¶ 5(a) attached as Exhibit 2.)) However, the application of the FAA or SC UAA here makes little difference as both statutes provide that after a party applies for an order confirming an arbitration, a court must grant the application unless the award is vacated, modified or corrected. 9 U.S.C. § 9; S.C. Code Ann. § 15-48-120. "A court's mandate under the plain language of both acts is that confirmation 'shall' or 'must' be made in the absence of grounds for warranting vacating, modifying, or correcting the award. *Henderson v. Summerville Ford-Mercury Inc.*, (citing *Hall Street Associates, L.L.C. v. Mattel, Inc.*, 552 U.S. 576, 587, 128 S. Ct. 1396, 170 L. Ed. 2d 254, 2008 A.M.C. 1058 (2008)).

Arbitration Association Employment Arbitration Rules; Respondents applied to confirm the award within the time prescribed; and as argued in Respondents' opposition to the motion to vacate and incorporated herein, the award has not been and should not be vacated, modified, or corrected.

Respondents Tenet Healthcare Corporation ("Tenet"), Tenet Physician Resources, LLC ("TPR"), and East Cooper Physician Network, LLC ("ECPN") (collectively, "Respondents"), hereby move to confirm the arbitration award and to incorporate its terms into a final judgment.

JURISDICTION

This Court has subject matter jurisdiction over this matter pursuant to the Order Remanding this case from S.C. District Court.

VENUE

Venue for confirmation of the Award is proper in this Court pursuant to pursuant to 9 U.S.C. § 9 and the Order Remanding this case from S.C. District Court.

ARGUMENT

Pursuant to 9 U.S.C. § 9 of the FAA, a court must confirm a domestic arbitration award if the parties agreed to arbitrate their dispute; the arbitration resulted in an award; the parties' agreed that judgment may be entered on the arbitration award; the petitioner applied to confirm the award within the time prescribed; and the award has not been and should not be vacated, modified, or corrected. Similarly, under S.C. Code Ann. § 15-48-120 of the SC UAA, a court shall confirm an award unless timely "grounds are urged for vacating or modifying or correcting the award." As described below, these requirements have been met, and the arbitration award should be confirmed.

1. The parties agreed to arbitrate their dispute.

Petitioner entered into the Physician Employment Agreement (“PEA”) with Respondent East Cooper Physician Network, LLC prior to Petitioner’s employment as a urologist with East Cooper Urology in Mt. Pleasant, South Carolina. (Physician Employment Agmt. at ¶ 13, attached as Exhibit 1.) The PEA contains a provision (the “arbitration agreement”) whereby Petitioner agreed that “any dispute or controversy arising under, out of or in connection with, or in relation to this [PEA], or any amendment hereof, or the breach hereof shall be determined and settled by arbitration. . . . (*Id.*) Pursuant to the arbitration agreement, upon Petitioner’s filing of her demand for arbitration, the parties agreed to arbitrate their dispute. Also pursuant to the arbitration agreement, Petitioner agreed that “[a]ny award rendered by the arbitrator shall be final and binding upon each of the parties, and judgment thereof may be entered in any court having jurisdiction thereof.” (*Id.*)

2. The arbitration resulted in an award.

On May 26, 2023, after the parties concluded arbitration, Arbitrator Kris Cato issued an award finding in favor of Respondents on all of Petitioner’s claims. (Final Award, Ex. 1 Mot. Vacate.) The American Arbitration Association (“AAA”) transmitted the duly executed award to the parties via email. (Email from Stacey Coe (AAA) to Parties with Final Award attached (May 26, 2023), attached as Exhibit 3.)

As stated in the award, Arbitrator Cato found that Petitioner failed to sustain her burden of proof and dismissed her claims for breach of contract, breach of covenant of good faith and fair dealing, and wrongful termination in violation of public policy. (Final Award, Ex. 1 to Mot. to Vacate at 8.) The award also provides that judgment is to be entered in favor of Respondents. (*Id.*)

Additionally, the award included the amount for the incurred administrative fees and expenses of the AAA and the compensation and expenses of the arbitrator. (*Id.*)

3. The parties agreed judgment may be entered on an award.

As noted above, pursuant to the arbitration agreement, the parties agreed that a judgment may be entered after the arbitrator rendered an award. (Physician Employment Agmt. at ¶ 13, attached as Exhibit 1 (“Any award rendered by the arbitrator shall be final and binding upon each of the parties, and judgment thereof may be entered in any court having jurisdiction thereof.”).)

The FAA authorizes courts to enter a judgment on an arbitration award “[i]f the parties in their agreement have agreed that a judgment of the court shall be entered upon the award.” 9 U.S.C. § 9. The SC UAA allows that “[u]pon the granting of an order confirming . . . an award, judgment or decree shall be entered in conformity therewith and be enforced as any other judgment or decree.” S.C. Code Ann. § 15-48-150. While the arbitration agreement explicitly contains language that indicates the parties’ contemplation of judicial enforcement of an arbitration award, the Fourth Circuit has held that a specific arbitration clause with the statutory language from 9 U.S.C. § 9 is not required. *Qorvis Commc’ns, LLC v. Wilson*, 549 F.3d 303, 311 (4th Cir. 2008) (rejecting argument that district court was not authorized by the FAA to enter judgment on arbitration award where the language of the arbitration clause, the provisions of the arbitration rules incorporated by it, and the conduct of the parties in pursuing arbitration indicated an agreement to and contemplated final, binding arbitration enforceable in a court thus satisfying § 9 of the FAA); *Rainwater v. Nat’l Home Ins. Co.*, 944 F.2d 190, 194 (4th Cir. 1991) (holding that arbitration award should be confirmed where parties agreed that arbitration should be final and binding which may be implied by parties’ consent to AAA rules and entry of judgment).

The parties' agreement to conduct arbitration pursuant to the AAA Employment Arbitration Rules serves as another indicator that the parties contemplated judicial enforcement of the arbitration award. This is evident in Tenet's Fair Treatment Policy, cited in the arbitration agreement, which provides that "[t]he applicable Employment Arbitration Rules of the AAA will govern the procedures to be used in such arbitrations, unless the parties have agreed otherwise." (Tenet Open Door Policy and Fair Treatment Process at ¶5(a), attached as Exhibit 2.) The AAA Employment Arbitration Rules in turn provide that "[p]arties to these procedures shall be deemed to have consented that judgment upon the arbitration award may be entered in any federal or state court having jurisdiction." (AAA Employment Arbitration Rules and Mediation Procedures at ¶ 42(c).)

The language of the arbitration agreement anticipates the enforceability of the award which is additionally supported by the AAA Rules, and Petitioner pursued arbitration pursuant to the arbitration agreement and the AAA Rules. Thus, the parties agreed that judgment may be entered on the arbitration award.

4. The petitioner applied to confirm the award in the time prescribed.

The FAA provides that [a]ny party to an arbitration may apply to a court for confirmation of an award within a year after the award is made. 9 U.S.C. § 9. The Final Award was issued on May 26, 2023, and thus the motion is timely as Respondents originally filed their motion to confirm in federal court on August 11, 2023.

The SC UAA does not similarly require a party to file an application to confirm an arbitration award within a certain amount of time.

5. The award has not been and should not be vacated, modified, or corrected.

While Petitioner asserts the award should be vacated, Petitioner cannot meet the heavy burden to vacate an arbitration award because no evidence does or can support evident partiality by the arbitrator. Respondents separately filed a Response in Opposition to Claimant's Motion to Vacate requesting Claimant's Motion to Vacate be denied.

The FAA instructs that the Court "must" grant an order confirming an arbitration award "unless the award is vacated, modified, or corrected as prescribed in sections 10 and 11" of the FAA. 9 U.S.C. § 9. The SC UAA similarly requires confirmation: "Upon application of a party, the court shall confirm an award, unless within the time limits hereinafter imposed grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in Sections 15-48-130 and 15-48-140." S.C. Code Ann. § 15-48-120. Accordingly, an arbitration award "confirmation proceeding is intended to be summary: confirmation can only be denied if an award has been corrected, vacated, or modified in accordance with the Federal Arbitration Act." *Atl. Shores Resort Joint Venture v. Martin*, 731 F. Supp. 1279, 1281 (D.S.C. 1990) (citing *Taylor v. Nelson*, 788 F.2d 220, 225 (4th Cir.1986)); *see also Trident Tech. Coll. v. Lucas & Stubbs, Ltd.*, 286 S.C. 98, 105, 333 S.E.2d 781, 785 (1985) ("In order to advance the underlying purposes of arbitration, the scope of judicial review is necessarily restricted. The court's function in confirming or vacating an arbitration award is severely limited."). "Significantly, 'the showing required to avoid summary confirmation is high.'" *Id.* (citing *Ottley v. Schwartzberg*, 819 F.2d 373, 376 (2d Cir.1987)).

The arbitrator's award is not subject to correction, vacatur, or modification, because none of the grounds in 9 U.S.C. §§ 10–11 or S.C. Code Ann. §§ 15-48-130-140 exist. Review of an arbitration award generally is limited to the grounds for review identified in 9 U.S.C. §§ 10–11 and S.C. Code Ann. §§ 15-48-130-140, and the standard of review of an arbitrator's decision is very

narrow. *See Hall Street Assocs., LLC v. Mattel, Inc.*, 552 U.S. 576, 583 (2008) (“We now hold §§ 10 and 11 respectively provide the FAA’s exclusive grounds for expedited vacatur and modification.”).

The grounds for vacatur are addressed in the briefing on Petitioner’s motion to vacate, which Respondents oppose. Respondents fully incorporate their arguments opposing the motion to vacate here to support this motion to confirm the arbitration award.

Courts also consider the policy of favoring arbitration in confirming arbitration awards. *See Qorvis Commc’ns, LLC v. Wilson*, 549 F.3d 303, 308 (4th Cir. 2008) (noting the importance of policy preference for arbitration in examining arbitration agreement in decision on motion to confirm arbitration award); *see also Trident Tech. Coll. v. Lucas & Stubbs, Ltd.*, 286 S.C. 98, 105, 333 S.E.2d 781, 785 (1985) (citing *Amicizia Societa Navigazione v. Chilean Nitrate & Iodine Sales Corp.*, 274 F.2d 805, 808 (2d Cir.1960), *cert. denied*, 363 U.S. 843, 80 S.Ct. 1612(1960) (“[T]he court’s function in confirming or vacating an arbitration award is severely limited. If it were otherwise, the ostensible purpose for resort to arbitration, i.e., avoidance of litigation, would be frustrated....”). “The FAA reflects a liberal policy favoring arbitration and the enforcement of arbitration agreements.” *O’Bryan v. Flowers Foods, Inc.*, 629 F.Supp.3d 377, 381 (2022) (citations omitted). Furthermore, “[a]n arbitrator’s award is entitled to a special degree of deference on judicial review.” *Upshur Coals Corp. v. United Mine Workers of Am.*, Dist. 31, 933 F.2d 225, 228 (4th Cir. 1991); *see also Grp. III Mgmt., Inc. v. Suncrete of Carolina, Inc.*, 425 S.C. 141, 151, 819 S.E.2d 781, 786 (Ct. App. 2018) (citing *In re Marine Pollution Serv., Inc.*, 857 F.2d 91, 94 (2d Cir. 1988) (“An arbitrator’s decision is entitled to substantial deference”).

CONCLUSION

Wherefore, Respondents respectfully request that this Court:

1. Issue an order pursuant to 9 U.S.C. § 9 or S.C. Code Ann. § 15-48-120 confirming the May 26, 2023 arbitration award by Arbitrator Kris Cato;
2. Enter judgment thereon pursuant to 9 U.S.C. § 13 or S.C. Code Ann. § 15-48-150.
3. Deny Petitioner's motion to vacate the arbitration award;
4. Award Respondents fees and costs for filing this motion; and
5. Award Respondents such other and further relief as this Court deems just and proper.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Caroline Warner
Carmen Harper Thomas
SC Bar 76012
carmen.thomas@nelsonmullins.com
Caroline Warner
SC Bar 104280
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1320 Main Street, 17th Floor
Columbia, SC 29201
803.799.2000

*Attorneys for Tenet Healthcare Corporation, Tenet
Physician Resources, LLC, and East Cooper Physician
Network, LLC*

Columbia, South Carolina

September 18, 2024

EXHIBIT 1

Physician Employment Agmt.

PHYSICIAN EMPLOYMENT AGREEMENT

BY AND BETWEEN

EAST COOPER PHYSICIAN NETWORK, LLC

AND

STEFANIE A. SEIXAS-MIKELUS, M.D.

EXHIBIT A

ROA_298

**THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO § 15-48-10, ET
SEQ. OF THE SOUTH CAROLINA CODE OF LAWS, AS AMENDED.**

PHYSICIAN EMPLOYMENT AGREEMENT

THIS PHYSICIAN EMPLOYMENT AGREEMENT ("Agreement") is made and entered into as of the later of March 29, 2019, or the execution of the Agreement by both parties (the "Effective Date") by and between East Cooper Physician Network, LLC ("Employer") and Stefanie A. Seixas-Mikelus, M.D. ("Physician").

RECITALS:

A. Employer provides for the care and treatment of patients at one or more clinics located in Charleston, South Carolina (the "Area"), and Employer desires Physician to provide physician services at one or more of such clinics in the Area.

B. Physician is or will be licensed to practice medicine prior to the Commencement Date (as defined in Section 2 below) in the State of South Carolina ("State"), is qualified in the specialty of Urology ("Specialty"), and desires to become a bona fide employee of Employer under the terms and conditions outlined below and is willing to provide such Specialty services.

C. Employer desires to employ Physician under the terms and conditions outlined below.

AGREEMENT

In consideration of the above recitals, which are incorporated herein, and the mutual agreements set forth herein, the parties hereto agree as follows:

1. **EMPLOYMENT.** Employer hereby employs Physician for the practice of medicine in the care and treatment of patients at TBD or at such other clinic sites in the Area as Employer and Physician may designate (collectively referred to as the "Practice Sites"). It is expressly understood and agreed Employer shall have reasonable discretion to consolidate and relocate clinics operated by Employer in the Area and to redesignate Practice Sites served by Physician from time to time, upon consultation with Physician; provided, however, that Employer shall not assign Physician to any Practice Site outside of Charleston County or Berkeley County, South Carolina, without her consent. Physician shall be subject to Employer's employment policies, directives, rules and regulations ("Employer Policies") as promulgated by Employer from time to time, including, but not limited to, those pertaining to employees; provided, however, in the event of any inconsistency between the Employer Policies and this Agreement, the provisions of this Agreement shall prevail. Physician shall retain the right to exercise Physician's independent medical judgment in providing care and treatment to patients.

2. **TERM.** The term of this Agreement ("Term") shall be for a period commencing as of "Commencement Date" and ending the last calendar day of the month five (5) years after the Commencement Date. For purposes of this Agreement, "Commencement Date" shall mean the day Physician becomes credentialed and a member of all the managed care plans listed in Schedule 2 attached hereto and meets all employment criteria established by Employer or at such other time as mutually agreed to by the parties. Commencement Date will be confirmed in a writing signed

by both parties. As used herein, an "Employment Year" shall mean the annual period beginning on the Commencement Date and each annual period thereafter; provided, however, if Commencement Date falls on a date other than the first day of a calendar month, "Employment Year One" shall then include the first partial calendar month of employment beginning on the Commencement Date and the twelve full calendar months thereafter. Subsequent Employment Years shall be the annual periods following the conclusion of Employment Year One. Further, if Commencement Date falls on a date other than the first of the calendar month, then "Month One" of Term shall include the first partial and first full calendar month of employment.

3. PHYSICIAN'S OBLIGATIONS.

a. **Use of Premises.** Physician shall use the Practice Sites as designated by Employer exclusively for the practice of medicine in the care and treatment of patients, and for any associated administrative tasks, and shall comply with all applicable federal, state, and local laws, rules and regulations.

b. **Medical Practice.** Physician shall engage in the practice of medicine on a full-time basis exclusively as an exempt employee of Employer, subject to time off discussed in Schedule 6.a. (the "Practice") and provide the duties and responsibilities set forth in this Agreement and in Schedule 3.b. attached hereto and incorporated herein by reference. In addition, Physician shall be responsible for a proportionate amount of after-hours, holiday and weekend call coverage for the Practice Sites, which shall be sufficient to serve the Practice Sites' patients in a high quality, professional manner. Except as otherwise provided herein, while this Agreement is in effect, Physician shall not enter into any other physician employment contract or otherwise engage in the practice of medicine, directly or indirectly, except as Employer's employee. Physician acknowledges employees in the Practice Site are under the direct supervision of Employer and/or Employer's designated management staff, for non-clinical services and human resource matters.

c. **Professional Qualifications.** Physician shall be and remain duly licensed to practice medicine in the State. Upon request of Employer throughout Term, Physician, at Employer's expense, shall obtain a self-query report from the National Practitioner Data Bank ("NPDB") and provide a copy of same to Employer or its designee.

d. **Medical Staff Privileges.** Physician shall obtain and maintain in good standing such medical staff membership and privileges as required by the medical staff bylaws of each hospital and/or facility in the Area at which Employer requires Physician to maintain medical staff membership and privileges, including but not limited to, providing emergency department call coverage. Physician shall obtain and maintain, in good standing, medical staff membership and appropriate privileges based on Physician's Specialty and services to be provided under this Agreement at East Cooper Medical Center ("Hospital"). Any action taken with respect to Physician's medical staff privileges shall be solely within the prerogative of Hospital or its medical staff.

e. **Identifiers.** Physician will obtain and/or maintain an Individual Medicare Provider Number and a National Provider Identifier ("NPI") number prior to Commencement Date and throughout Term.

f. **Managed Care Organizations and Government Programs.** For and on behalf of Physician, Employer shall have the sole and exclusive right and authority to enter into contractual relationships with HMOs, IPAs, PPOs, PHOs, employer groups, provider networks and other managed care organizations (collectively "Managed Care Organizations"). Physician shall provide the same quality of care to patients from Managed Care Organizations as is provided to other patients in the Practice. Upon request from Employer, Physician shall execute Managed Care Organization documents as "provider" if deemed necessary or advisable by Employer. Physician shall not contract with any Managed Care Organization without Employer's prior written consent in each instance. Additionally, for and on behalf of Physician, Employer shall have the sole and exclusive right and authority to complete any healthcare payor enrollment applications on behalf of Physician and Physician agrees to grant Employer access to enrollment systems to facilitate same.

g. **Professional Fees.** Employer shall have the exclusive right and authority to set, collect and retain all fees, including professional fees, to be charged to patients of the Practice. All professional fees generated by Physician (including, without limitation, capitated risk pool fees, professional retainer fees, honoraria, medical director fees, clinical research payments, professional consulting and teaching fees, on-call fees, incentive payments from the government for implementing electronic health record ("EHR") technology, shared savings, and fees for expert testimony, but excluding Physician's private investment and non-professional income) while an employee of Employer, including both cash collections and accounts receivable, will be the sole and exclusive property of Employer, whether received by Employer or by Physician and whether received during the Term or any time thereafter. Physician hereby assigns all rights to said fees and accounts to Employer and shall execute all documents required from time to time by Employer and otherwise fully cooperate with Employer to enable Employer to collect accounts from patients and third party payors. Notwithstanding the foregoing, Employer hereby agrees Physician may retain any fees which may be related to those certain activities set forth on Schedule 3.g. attached hereto and made a part hereof ("Outside Activities") or from additional Outside Activities with prior written approval of Employer, subject to the following requirements: (1) Outside Activities must be performed by Physician on Physician's own time; (2) Outside Activities must not interfere with the performance of Physician's duties under this Agreement, or result in diminution in the quality or amount of Physician's service to Employer under this Agreement; (3) Physician may not hold Physician out as Employer's employee while engaged in Outside Activities; (4) Physician agrees to indemnify, defend and hold harmless Employer for any claims, causes of action, damages, losses, attorney's fees, etc., Employer may incur as a result of the Outside Activities; (5) Physician must obtain and maintain a separate malpractice policy for Outside Activities involving the practice of medicine because Physician will not be covered by Employer's policy when engaged in Outside Activities as they are outside the scope of employment; (6) Physician may not utilize any company assets, employees, services, etc., while performing Outside Activities and will not perform such Outside Activities on Employer's premises or while performing services on behalf of Employer; and (7) Physician shall be solely responsible for any applicable federal, state, and local income tax, self-employment tax, and all other taxes related to income generated by Physician for Physician's own account in accordance with Outside Activities.

h. **Authorization to Release Information.** Physician hereby authorizes Managed Care Organizations, government programs, hospitals and other healthcare entity third parties to release to Employer and its agents any information requested by Employer or its agents from time to time relating to Physician's professional qualifications or competency. Physician

agrees to execute the Authorization to Release Information in the form set forth in Schedule 3.h, attached hereto and incorporated herein by reference and to otherwise fully cooperate with Employer to enable Employer and its agents to obtain such information from third parties, provided that such cooperation shall be at no cost to Employee.

i. **Additional Physicians.** Employer and Physician agree as an essential term of this Agreement that it is the intent of the parties to develop a comprehensive medical practice. It is further understood Employer intends to negotiate and enter into employment relationships with additional qualified physicians. Physician agrees to use reasonable best efforts to forge and establish an ongoing relationship and team approach with such additional physicians for the furnishing of professional medical and related services to patients.

j. **Use of Electronic Health Records.** Physician hereby agrees to use all electronic health records, electronic prescribing, voice recognition dictation, and any other electronic or automation acquired and implemented by Employer. Moreover, as applicable at Hospital, Physician will: utilize Computerized Provider Order Entry; enter all orders in Hospital's electronic health record; and do what is necessary to comply with the meaningful use provision of the HITECH Act including, but not limited to, entering orders, performing medication reconciliation, viewing results and nursing documentation, and performing electronic physician documentation, if available.

k. **Coding Compliance.** Timely, accurate and thorough medical record documentation is Physician's responsibility. It is Physician's responsibility to accurately code Physician's services with CPT, HCPS, modifiers, ICD-10 codes, or diagnoses in narrative, for accurate reporting to patients and third party payors. Physician understands submitted codes will represent the services are medically necessary, delivered and documented. Physician agrees to comply with Employer's compliance policies and procedures, including those related to documentation and billing, and to use Physician's best efforts to accurately code Physician's services with the goal of attaining and maintaining a coding error rate of no more than five percent (5%). Physician will participate in coding compliance training, education and audit programs. Upon initial employment, Employer will perform a coding audit covering the first 30 days following Commencement Date. A coding improvement plan will be developed with Physician to address error identified in the audit. If Physician's coding error rate exceeds five percent (5%), the plan will include re-audit within three (3) to six (6) months with re-audit until an error rate of five percent (5%) or less is achieved. Thereafter, Physician may be selected for audit on a random basis. Compensation (as set forth in Schedule 5.a, attached) will be reduced by the actual amount of compensation earned by or attributed to Physician due to Physician's coding errors.

4. **SPACE AND SUPPORT.** Employer shall provide Physician with office and clinic space, equipment, supplies, and personnel at the Practice Sites (or, in the case of certain support services, at other locations) as Employer determines to be necessary, after consultation with Physician, to enable Physician to provide medical services to patients consistent with recognized medical standards. Physician will utilize only equipment and supplies provided by Employer in the Practice Site and will not order additional equipment and supplies without Employer's prior consent.

5. **PHYSICIAN'S COMPENSATION.**

a. **Compensation.** Physician shall be compensated as stated in Schedule 5.a., attached hereto.

b. **Additional Payments.** In addition to the compensation in Schedule 5.a., Physician shall be entitled to the following additional payments ("Additional Payments"):

(1) **Sign-on Bonus.** Physician shall be paid a one-time Sign-On Bonus of Twenty Thousand and No/100 Dollars (\$20,000.00). Such bonus shall be paid within thirty (30) days from Commencement Date.

(2) **Relocation Expenses.** Physician shall be reimbursed for actual relocation expenses incurred as described in Schedule 5.b., (the "Relocation Addendum"), attached hereto and incorporated herein by this reference, at a cost not to exceed Fifteen Thousand and No/100 Dollars (\$15,000.00). Physician acknowledges he/she may incur tax withholding on relocation benefits which are taxable under IRS relocation tax guidelines as described in Schedule 5.b., attached hereto and incorporated herein by reference.

c. **Early Termination.** Should Employer terminate Physician for cause under Section 8.a. below (with the exception of Section 8.a.(ii)) or Physician voluntarily terminates employment within twelve (12) months of Commencement Date, Physician will be required to re-pay Employer in full for any Additional Payments. Should Employer terminate Physician for cause under Section 8.a. below (with the exception of Section 8.a.(ii) below) or Physician voluntarily terminates employment at any time after the first twelve (12) months from Commencement Date, Physician will be required to re-pay Employer a pro rata portion of any Additional Payments based on the number of months remaining during the Term divided by the number of months in the Term. For example, assuming a five (5) year or sixty (60) month term, Additional Payments of \$30,000, and Physician voluntarily terminated employment in month twenty-four (24) of Agreement, Physician would be obligated to re-pay Employer \$18,000 (i.e., \$30,000 total Additional Payments multiplied by the quotient of 36 months remaining in the Term divided by 60 total months in the Term) ($\$30,000 \times 36/60 = \$18,000$). Further, Physician agrees Employer may deduct the repayment amount due Employer from Physician's final pay periods including accrued benefits, if any. To the extent additional amounts are still owed, Employer and Physician agree any remaining repayment amount shall be paid by Physician in six (6) equal monthly installments or as otherwise agreed to by the Parties in writing.

6. **PHYSICIAN'S BENEFITS.** Physician will receive employee benefits only as provided in this Agreement. Benefits are subject to amendment from time to time by Employer in accordance with its practices generally applicable to other employees.

a. **General Benefits.** Physician shall receive those general benefits described in Schedule 6.a. attached hereto and incorporated herein by reference. Benefits are subject to the terms of the plan documents or insurance contracts, as applicable, and may be changed at the discretion of Employer in accordance with changes that are generally applicable to other employees. To the extent Employer's benefit plans allow, Physician may be given credit (as established by Employer) for prior service with Practice for eligibility and vesting purposes (but not benefit accrual purposes) under Employer's benefit plans in which Physician is eligible for and offered participation as described in Schedule 6.a.

b. **Seminars, Professional Dues and Subscriptions, Etc.** Physician shall be entitled to attend medical seminars paid for or reimbursed by Employer, so long as they are approved in advance by Employer. All related seminar expenses such as travel, meals, and lodging shall be in accordance with and limited by Tenet policy which in most cases requires submission of actual receipts. Employer will not reimburse or pay for seminars outside of the contiguous United States, unless otherwise pre-approved in writing by Employer; or during any period of time following either party having given notice to terminate Agreement; and only during periods of re-negotiation or extension at Employer's sole discretion. The cost of such attendance, and the cost of Physician's professional dues (excluding medical staff dues pursuant to Section 3.d.) and subscriptions, and books shall be paid by Employer, in an amount not to exceed Five Thousand and No/100 Dollars (\$5,000.00) in the aggregate in each Employment Year. CME days are to be scheduled with Employer's approval in advance and subject to the needs of the Practice Sites, which shall not be unreasonably withheld by Employer. Any such expenses incurred by Physician in excess of such sum set forth herein shall be the sole and exclusive responsibility of Physician and must be paid by Physician. Physician shall submit to Employer the necessary documentation within sixty (60) days from the end of the month the expense was incurred as required by Employer Policies prior to reimbursement of any expenses. Physician agrees not to receive any cash, cash equivalent (e.g., gift card), or any item of value in exchange for attending CME seminars reimbursed or paid for by Employer and if received, further agrees to give the cash equivalent of any such item of value to Employer. Additionally, Employer shall pay expenses for state medical and DEA licenses and controlled substance registrations necessary for the performance of Physician's services during Term and, Physician shall receive reimbursement for expenses of state medical and DEA licenses and controlled substance registrations if obtained specifically for purposes of entering into this Agreement, with such reimbursement to be paid after Commencement Date.

7. PHYSICIAN'S COVENANTS.

a. **Covenants.** During the Term of this Agreement and for a period of one (1) year after the expiration or termination of this Agreement (unless such termination is by Physician for cause pursuant to Section 9 below), Physician, unless otherwise permitted by the written consent of Employer or listed as an Outside Activity on Schedule 3.g., shall not, on Physician's own account or as an employee, landlord, lender, trustee, associate, consultant, partner, agent, principal, contractor, owner, officer, director, investor, member or stockholder of any other person, or in any other capacity, directly or indirectly, in whole or in part:

(1) Engage in any activities in competition with Employer, including the operation of any medical practice or offering of any medical services similar to services offered at the Practice Sites, within ten (10) miles of Physician's primary Practice Site where Physician provides medical services to patients of Employer;

(2) Have any financial interest in any hospital, surgery center, imaging center, outpatient therapy center, or other facility that is competitive with any activity engaged in by Employer or Hospital, within ten (10) miles of Physician's primary Practice Site or Hospital (collectively, "Competitor(s)"). A "financial interest" includes, without limitation, any direct or indirect ownership or investment interest in a Competitor (except for ownership of securities traded on a recognized stock exchange in which quotations are published daily).

(3) Solicit or encourage the resignation of any employee of Employer or a third-party, including but not limited to, the practice management service provider, with whom Physician had a working relationship during Physician's employment with Employer;

(4) Solicit or divert patients with whom Physician had personal contact during such employment; or

(5) Influence or attempt to influence any payor, provider or other person or entity to cease, reduce or alter any business relationship with Employer relating to the Practice Sites.

b. **Construction and Enforcement.** The covenants on the part of Physician in Subsection 7.a. above shall be construed as an agreement independent of any other provision in this Agreement, and the existence of any other claims or causes of action by Physician against Employer, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by Employer of said covenants. Physician acknowledges and agrees the restrictions set forth in Subsection 7.a. above are necessary for the protection of Employer's legitimate business and professional interests and are reasonable in scope and content. The parties recognize if the provisions in Subsection 7.a. above are breached or threatened to be breached by Physician, the extent of actual damages sustained by Employer will be difficult to ascertain, although great and irreparable, and compensation at law will be inadequate, and money damages alone may not be an appropriate measure of the harm to Employer from such continuing breach, especially because Physician's employment is part of a long range business plan. Therefore, the parties expressly agree Employer shall have the right to injunctive relief for breach or threatened breach of such provisions, in addition to any other available legal or equitable remedies. Physician shall indemnify and hold Employer harmless with respect to all of Employer's costs and expenses (including attorneys' fees and costs) in successfully enforcing such provisions. If any portion of any covenant or its application is construed to be invalid, illegal or unenforceable then the other portions or their application shall not be affected thereby and shall be enforceable without regard thereto. If any covenant is determined to be unenforceable because of its scope, duration, geographic area or similar factor, then the court or arbitrator making such determination shall have the power to reduce or limit such scope, duration, geographic area or other factor and such covenant shall then be enforceable in its reduced or limited form.

8. TERMINATION.

a. **Termination Without Right of Cure.** Employer may terminate this Agreement effective immediately upon written notice to Physician under the following circumstances: (i) the failure to obtain and maintain, or the denial, suspension, revocation, termination, restriction, lapse or voluntary relinquishment (under threat of disciplinary action) of Physician's membership or medical staff privileges at any health care facility including Hospital for any reason, or Physician's license to practice medicine in any jurisdiction including the State, (ii) Physician's death, (iii) Physician's failure or inability to perform Physician's duties under this Agreement for ninety (90) consecutive days, (iv) Physician's acts or conduct materially detrimental to patient care or to the reputation or operations of Employer and/or the Practice Sites, (v) Physician's failure to follow Employer's policies and procedures and other rules of conduct applicable to all employees of Employer; (vi) Physician's conviction of an offense related to health care or Physician's listing by a federal agency as being debarred, excluded, or otherwise ineligible for Federal program participation, (vii) the termination, revocation, restriction or relinquishment

of Physician's Drug Enforcement Agency number, (viii) the breach by Physician of the representations and warranties set forth in Section 14 hereof, (ix) the breach by Physician of the confidentiality provisions of this Agreement, and (x) the breach by Physician of any covenant set forth in Section 7 above.

The causes for termination described in this Subsection 8.a. do not require thirty (30) days' notice nor give the right of a thirty (30) day cure.

b. **Termination With Right of Cure.** Employer may terminate this Agreement with cause by written notice to Physician upon the failure by Physician to observe or perform any of the material covenants, conditions or provisions of this Agreement including the duties and responsibilities described in Schedule 3.b. (other than the circumstances set forth in Subsection 8.a. above), where such failure shall continue for a period of thirty (30) days after written notice thereof has been given by Employer; provided, however, if the nature of the non-compliance is such that more than thirty (30) days is reasonably required for its cure, then Physician shall not be deemed to be in default if Physician has commenced such cure within the said thirty (30) days and thereafter is diligently pursuing such cure to completion.

c. **Termination Without Cause.** Either party may terminate this Agreement without cause by giving the other party hereto at least ninety (90) days' prior written notice. If such notice is given by Employer, Employer may, in its sole discretion, at any time prior to the effective date of such termination, remove Physician from Physician's position hereunder, as long as Employer continues to pay Physician all compensation and benefits due under this Agreement until the effective date of such termination. If such notice is given by Employer during Productivity Compensation Period, Employer will set Physician's remaining compensation at the Draw Amount in effect on the date of notice.

d. **Termination for Changes in Law.** In the event any governmental or nongovernmental agency, or any court or administrative tribunal passes, issues or promulgates any new, or change to any existing, law, rule, regulation, standard, interpretation, order, decision or judgment (individually or collectively, "Legal Event"), which a party (the "Noticing Party") reasonably believes (i) materially and adversely effects either party's licensure, accreditation, certification, or ability to refer, to accept any referral, to present a bill or claim, or to receive payment or reimbursement from any governmental or non-governmental payor, or (ii) implicates a Legal Event with which the Noticing Party desires further compliance, then, in either event, the Noticing Party may give the other party thirty (30) days prior written notice of its intent to amend or terminate this Agreement. Notwithstanding the foregoing, the Noticing Party may propose an amendment to the Agreement to take into account the Legal Event and, if accepted by the other party prior to the end of the thirty (30) day notice period, the Agreement shall be amended as of the date of such acceptance and if not amended shall automatically terminate.

9. **TERMINATION BY PHYSICIAN.** Physician may terminate this Agreement with cause by written notice to Employer upon the failure by Employer to observe or perform any of the material covenants, conditions or provisions of this Agreement, when such failure shall continue for a period of thirty (30) days after written notice thereof has been given by Physician; provided, however, if the nature of the non-compliance is such that more than thirty (30) days is reasonably required for its cure, then Employer shall not be deemed to be in default if Employer has commenced such cure within the said thirty (30) days and thereafter is diligently pursuing such cure to completion.

10. **PATIENT MEDICAL RECORDS.** All patient medical records of the Practice, including, without limitation, patient medical records generated during the Term, shall be the property of Employer subject always to the rights of the respective patients. Upon the expiration of this Agreement or the termination of this Agreement by either party for any reason, Employer will retain custody and control of such patient medical records and, at Employer's discretion, Employer shall be responsible to send required notices to patients.

11. **PHYSICIAN/PATIENT RELATIONSHIP.** Physician shall always be mindful of and use best efforts to facilitate an overall positive patient experience. Physician shall be responsible for the quality of medical care rendered to patients by Physician in the Practice. Physician shall perform all services with respect to the diagnosis and treatment of patients in such manner as the Physician, in the independent exercise of Physician's medical judgment, deems to be in the best interests of the patients, subject only to a quality assurance and peer review program of Employer. Employer shall not, except as provided in this Agreement, exercise control or supervision over patient care and medical judgment of Physician.

12. **MISCELLANEOUS.**

a. **Schedules, Headings, Inclusive Words, Severability.** The schedules attached hereto constitute a part of this Agreement and are incorporated herein by reference in their entirety as if fully set forth in the Agreement at the point where first mentioned herein. The headings of this Agreement are inserted for convenience only and are not to be considered in the construction of the provisions hereof and shall not in any way limit the scope or modify the substance or context of any section or paragraph hereof. Unless the context otherwise requires, any terms of the Agreement which indicate the neuter of any gender shall be held to include the neuter and the other gender, as the case may be; and the words in singular shall be held and construed to include the plural and vice versa. The provisions of this Agreement shall be severable. The unenforceability of any provision of this Agreement shall not affect the validity of the remaining provisions hereof, unless either party should determine in its sole and complete discretion such term or provision materially or adversely affects the benefit of its bargain under this Agreement in which case said party may terminate this Agreement without further liability to the other party hereto. To the extent the time or geographic boundaries of any provision are deemed unreasonable by a Court or arbitrator, the parties agree the Agreement shall be amended to set forth the maximum limits allowed by law.

b. **Confidentiality.** Physician agrees to maintain and hold as confidential and to not disclose the terms of this Agreement or any confidential or proprietary information Physician may be provided during the Term of this Agreement to any other person (with the exception of Physician's legal counsel, accountant, or financial advisors), unless disclosure thereof is required by law or otherwise authorized by the Agreement or consented to in writing by Employer. With respect to any patient or medical record information regarding the Practice Site or hospital patients, Physician shall comply with all federal and state laws and regulations, and all rules, regulations, and policies of Employer and Hospital and its medical staff, regarding the confidentiality of such information, including, without limitation, all applicable provisions and regulations of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). The provisions of this Subsection shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

c. **Marketing and Advertising.** Employer may engage in marketing or advertising activities respecting the Practice and the Practice Sites and Physician shall participate as reasonably requested.

d. **Proprietary Information and Intellectual Property.**

(1) Physician acknowledges during Physician's employment hereunder Physician will have contacts with and develop and service the patients of Employer and referring sources of business of Employer. In all of Physician's activities, Physician, through the nature of Physician's work, will have access to and will acquire confidential information related to the business and operations of Employer, including, without limiting the generality of the foregoing, patient lists and confidential information relating to processes, plans, methods of doing business and special needs of referring doctors and patients. Physician acknowledges all such information is solely the property of Employer and constitutes proprietary and confidential information of Employer; and the disclosure thereof would cause substantial loss to the goodwill of Employer; and disclosure to Physician is being made only because of the position of trust and confidence Physician will occupy. The parties agree Confidential Information does not include information (i) generally known and used by persons with expertise comparable to Physician; (ii) common knowledge in the industry; (iii) available in the public domain; or (iv) that Physician is required to disclose pursuant to governmental or court order.

(2) Physician covenants, except as required by law, Physician will not, at any time during the Term or any time thereafter, disclose to any person, hospital, firm, partnership, entity or organization (except when authorized in writing by Employer) any Confidential Information whatsoever pertaining to the business or operations of Employer, any affiliate thereof or of any other physician employed by Employer, including, without limitation, any of the kinds of information described in this Subsection. The parties agree throughout the Term and at all times thereafter not to make any disparaging remarks to any third party concerning Physician, Employer, or any of its officers or directors or any other comments to any third party which would be reasonably expected to damage or adversely affect the reputation, goodwill or business of Physician, Employer, or any of its officers or directors. The parties agree any disclosures or reports made by the other party to a government agency, regulatory board, or similar public entity with authority to regulate Physician, Physician's profession, Employer, or aspects of Employer's business shall not be in violation of this Agreement.

(3) Physician acknowledges and agrees all Work Product (as defined below) is the exclusive property of Employer as a work made for hire, as that term is defined under federal copyright law. Title to any Work Product, including, but not limited to, any inventions or discoveries, is the property of Employer. Physician shall promptly disclose to Employer in writing such Work Product and, upon request of Employer, will execute all documents and take all actions reasonably necessary to assist Employer in protecting its intellectual property rights in such Work Product. Additionally, Physician shall not publish or publicly distribute or disseminate any such Work Product without Employer's prior written consent, which shall not be unreasonably withheld. For purposes of this provision, "Work Product" means all rights, title and interest in and to any reports, documents, plans, data, inventions, discoveries, or other work product prepared, developed, or resulting from, or arising out of, or relating to, the Practice or Physician's obligations under this Agreement, including, without limitation: all documentation, materials, notes, outlines, and the like created in connection therewith; all formulas, processes, algorithms, ideas, inventions, know how, techniques, and other information generated by Physician in the course of, and for the

purpose of, Physician's performance of services required to be performed under this Agreement as set forth in Schedule 3b; the copyright, patent, trademark, trade secret, and other proprietary rights therein; and any intermediate and partial versions thereof or derivative works created therefrom. Work Product shall not include any reports, documents, plans, data, inventions, discoveries or other work product existing prior to the Effective Date (or arising out of such pre-existing work product) or prepared, developed, or resulting from, or arising out of, or relating to, Physician's efforts with respect to Outside Activities (Schedule 3.g) or outside the scope of this Agreement and without utilizing Employer's resources. Employer agrees that all revenues, rights, title and interest from, in and to all reports, documents, plans, data, inventions, discoveries or other work product prepared, developed, or resulting from, or arising out of, or relating to, Physician's efforts with respect to Outside Activities (Schedule 3.g) or Physician's pre-existing intellectual property, or outside the scope of this Agreement and without utilizing Employer's resources, shall remain the exclusive property of Physician, person, or entity for whom Physician developed, prepared, or assisted in the development or preparation of such reports, documents, plans, data, inventions, discoveries or other work product.

(4) The provisions of this Subsection shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

13. **ARBITRATION.** Excluding any action for injunctive relief only, any dispute or controversy arising under, out of or in connection with, or in relation to this Agreement, or any amendment hereof, or the breach hereof shall be determined and settled by arbitration in Charleston County, in State, in accordance with the Tenet's Fair Treatment Process ("FTP"), a comprehensive method for affording fair procedure and resolving employment-related disputes, as detailed in Tenet's Human Resources Policy and Procedures manual Policy No. HR.ERW.05, and applying the laws of the State. Policy No. HR.ERW.05 is available at https://portal.etenet.com/Lists/Policies/HR.ERW.05_Open_Door_and_Fair_Treatment.pdf or in Human Resources. **Physician further acknowledges receipt of the Open Door Policy and Fair Treatment Process, including the arbitration process, prior to executing this Agreement.** It is understood and mutually agreed Physician shall be considered a Facility Management employee at the Department Head level or above for purposes of processing grievances pursuant to the FTP. It is further understood and mutually agreed, to the extent permitted by law, Physician may not join any such claim or dispute with the dispute of another employee in a class, collective, representative or group action. Arbitration under the Fair Treatment Process is limited to individual disputes, claims or controversies a court of law would be authorized or have jurisdiction over to grant relief, and by agreeing to the use of arbitration to resolve disputes, the parties agree to forego any right to a jury trial on issues covered by the Fair Treatment Process. If the provisions of this section conflict with the provision of the FTP, the provision of this section shall prevail. Any award rendered by the arbitrator shall be final and binding upon each of the parties, and judgment thereof may be entered in any court having jurisdiction thereof. The costs of arbitration shall be borne equally by both parties, provided each party shall bear the fees and costs of attorneys or other persons representing the interests of such party. During the pendency of any such arbitration and until final judgment hereon has been entered, this Agreement shall remain in full force and effect unless otherwise terminated as provided hereunder.

14. **REPRESENTATIONS AND WARRANTIES.** Physician represents and warrants to Employer, upon execution and throughout the Term of this Agreement, as follows: (a) Physician is not bound by any Agreement or arrangement which would preclude Physician from entering into, or from fully performing the services required under this Agreement; (b) Physician's license

to practice medicine or Drug Enforcement Agency Number in the State or in any other jurisdiction has never been denied, suspended, revoked, terminated, voluntarily relinquished, under threat of disciplinary action, or restricted in any way; (c) Physician's medical staff privileges at any health care facility have never been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or made subject to terms of probation or any other restriction; (d) Physician shall perform the services required hereunder in accordance with (i) all applicable federal, state, and local laws, rules and regulations; (ii) all applicable standards of The Joint Commission or other relevant accrediting organizations; and (iii) all applicable Bylaws, Rules, and Regulations of Hospital and its medical staff; (e) Physician has not in the past conducted and is not presently conducting, Physician's medical practice in such a manner as to cause Physician to be suspended, excluded, debarred or sanctioned under the Medicare or Medicaid Programs or any government licensing agency, and has never been convicted of an offense related to health care, or listed by a federal agency as debarred, excluded or otherwise ineligible for federal program participation; (f) Physician has, and shall maintain throughout the Term of this Agreement, an unrestricted license to practice medicine in the State and staff membership and privileges at Hospital; (g) Physician shall immediately notify Employer if Physician is required to pay damages in any malpractice action by way of judgment or settlement; (h) Physician shall immediately notify Employer if Physician becomes the subject of a disciplinary or other proceeding or action before any governmental, professional, medical staff, or peer review body; (i) Physician shall notify Employer within five (5) business days of the receipt of a healthcare liability claim or upon learning Physician is under investigation by a governmental agency or licensing board; (j) other than as disclosed in writing to Employer, Physician has not had an action or claim against Physician based on an allegation of malpractice by Physician which has been settled or otherwise resolved by the patient to a plaintiff or claimant of any amount of money during the five-year period preceding the Commencement Date; (k) other than as disclosed in writing to Employer, a final judgment in a malpractice action awarding money has not been entered against Physician during the five-year period preceding the Commencement Date; and (l) Physician shall disclose in writing to Employer any arrest, charge, or criminal conviction, excluding misdemeanor traffic tickets, within five (5) business days. Each of the representations and warranties set forth herein shall be continuing and in the event any such representation or warranty fails to remain true and accurate during the Term, Physician shall immediately notify Employer.

15. ENTIRE AGREEMENT; MODIFICATIONS; GOVERNING LAW; COUNTERPARTS; NOTICES; WAIVER; ASSIGNMENT; THIRD PARTY BENEFICIARIES. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the parties relating to such subject matter. This Agreement may not be amended or modified except by mutual written agreement. This Agreement shall be construed in accordance with the laws of the State and, those provisions where provided for herein shall survive the expiration or other termination of this Agreement. This Agreement may be executed in one or more counterparts, all of which together shall constitute only one Agreement. All notices hereunder shall be in writing, delivered personally, by certified or registered mail, return receipt requested, or by overnight courier, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid, or deposited with the overnight courier, addressed at the place identified on the signature page below. A waiver by either party of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure. Physician shall not assign or transfer, in whole or in part, this Agreement or any of Physician's rights, duties or obligations under this Agreement without the prior written consent of Employer, and any assignment or transfer by Physician without such consent shall be null and void. This Agreement

is assignable by Employer without consent or notice. Nothing in this Agreement, either expressly or implicitly, confers, or intends to confer, any rights or remedies upon any person or entity not a party to this Agreement, except as otherwise specifically stated herein.

16. **COMPLIANCE OBLIGATIONS.** Physician represents Physician shall abide by Tenet's Standards of Conduct. Physician shall comply with Tenet's Compliance Program and Tenet's policies and procedures related to the Deficit Reduction Act of 2005, Anti-Kickback Statute and the Stark Law. Tenet's Standards of Conduct, summary of Compliance Program, and policies and procedures, including a summary of the Federal False Claims Act and applicable state false claims laws (collectively "False Claims Laws") with descriptions of penalties and whistleblower protections pertaining to such laws, are available at: <https://www.tenethealth.com/about/ethics-compliance>. Further, the parties to this Agreement certify they shall not violate the Anti-Kickback Statute and Stark Law, and shall abide the Deficit Reduction Act of 2005, as applicable, in performing services to Employer or Hospital. Hardcopies of any information shall be made available upon request.

17. **AFFIRMATION OF STARK AND ANTI-KICKBACK COMPLIANCE.** By signing this Agreement, Physician affirms to the best of his/her knowledge and understanding, the employment under this Agreement and the compensation set forth herein, is not conditioned upon or determined based on the volume or value of any referrals to Employer or its affiliates. Physician further affirms he/she has not solicited or received any offer to be paid any compensation by Employer and/or Employer's affiliates, directly or indirectly, overtly or covertly, in cash or in-kind to induce or reward the referral, purchase, order, lease or recommendation of any item or service payable under a federal healthcare program. Each of the affirmations set forth herein shall be continuing and in the event any such representation or warranty fails to remain true and accurate during the Term, Physician shall immediately notify Employer.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

EAST COOPER PHYSICIAN NETWORK, LLC:

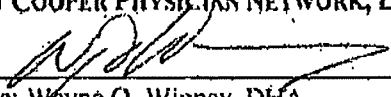
By: _____
Name: Wayne O. Winney, DHA
Title: CEO, SC Physician Operations
Date: _____
Address: 1445 Ross Avenue, Suite 1400
Dallas, TX 75202

PHYSICIAN:

Stefanie A. Seixas-Mikelus
Stefanie A. Seixas-Mikelus, MD
Date: 3/30/19
Address: 72 Independence Way
Morristown, New Jersey 07960

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

EAST COOPER PHYSICIAN NETWORK, LLC:

By: 

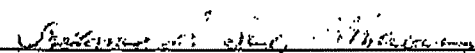
Name: Wayne O. Winney, DHA

Title: CEO, SC Physician Operations

Date: 3/31/19

Address: 1445 Ross Avenue, Suite 1400
Dallas, TX 75202

PHYSICIAN:



Stefanie A. Seixas-Mikelus, MD

Date: 3/30/19

Address: #2 Independence Way

11111111111111111111 6796

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EAST COOPER PHYSICIAN NETWORK, LLC:

By: [Signature]
Name: Wayne O. Winney, DHA
Title: CEO, SC Physician Operations
Date: 3/31/19
Address: 1445 Ross Avenue, Suite 1400
Dallas, TX 75202

PHYSICIAN:

[Signature]
Stefanie A. Seixas-Mikelus, MD
Date: 3/30/19
Address: FL Independence Blvd
Westchester, New York 07960

SCHEDULE 2.

1. Medicare
2. Medicaid
3. Blue Cross/ Blue Shield
4. Medco
5. United Healthcare
6. Cigna
7. Aetna

SCHEDULE 3.b.**DESCRIPTION OF DUTIES AND RESPONSIBILITIES**

Physician agrees the duties and responsibilities listed below are reasonable, and agrees to abide by such during the Term of the Agreement. Physician acknowledges and agrees additional duties not contemplated below may arise from time to time while providing medical care for his/her patients. To the extent additional duties arise during the course of and in connection with Physician's employment, Physician agrees to use his/her best efforts to carry out those obligations, whether originated by Physician or requested by Employer.

1. Physician is expected to have an average of no less than forty (40) available clinical patient care hours per week in the Practice Site, Hospital, and other practice locations as scheduled by Employer. Physician acknowledges it will take more than forty (40) hours per week to complete required clinical activities due to other associated activities, including but not limited to, documentation and coordination of patient care.
2. Physician is expected to see patients as they reasonably present in the Practice Site.
3. Physician is expected to see same day walk-in patients as reasonable patient demand dictates.
4. Physician will reschedule or cancel patients only in unavoidable or emergency situations.
5. Physician will make every effort to maintain patient schedule in an efficient manner such that patients are seen promptly and without unreasonable delays. Physician will see urgent patients, or make arrangements for all urgent patients, to be seen and treated promptly regardless of time of arrival.
6. Physician will complete all patient medical records in accordance with applicable by-laws, policies, and procedures of Employer and/or the applicable facility. Physician agrees to document patient visits in accordance with Federal, State, and payor regulations. Patient visit documentation will be completed by Physician by the end of the visit day.
7. Physician shall utilize the Electronic Health Record System in place or to be put in place at the Practice Site and shall use all electronic prescribing, voice recognition dictation, and any other electronic or automation acquired and implemented by Employer and Hospital's Computerized Physician Order Entry ("CPOE") as applicable.
8. Hospital fee slips shall be turned into the Practice manager or designee on the first work day following the hospital visit. Office fee slips shall be completed by the Physician and submitted on the day of the patient visit. If an electronic medical record is used by Employer, Physician will document all office and hospital visits within the timeframes outlined in Employer's procedures.

9. Physician agrees to utilize Practice Site's electronic medical record, take all required training and timely enter all required documentation. Practice Site's physical medical records shall not be removed from Practice Site.
10. Physician will consistently treat Practice employees, colleagues, patients and their families and others who accompany patients to office and hospital visits in a professional, respectful manner.
11. Physician is expected to see all patients presenting to the Practice, without regard to race, sex, religion, financial status, sexual orientation, or insurance class.
12. Physician will not fire and/or dismiss patients from the Practice without prior conversation with the Employer or Employer's practice manager. Procedures will be established on how to resolve conflicts among providers and patients and Physician may not transfer care to another provider without ensuring continuity of care for the patient.
13. Physician will participate in and cooperate with the peer review, Quality Improvement and Quality Management programs and procedures of Employer.
14. Physician shall comply with all rules, regulations, and policies established by Employer, the Occupational Health and Safety Administration, all Federal, State, and local agencies, and other accreditation organizations. Physician will comply with all Medicare, Medicaid, and other third party payor reimbursement rules and OIG compliance standards. Physician shall comply with and participate in any Ethics Training Programs and Compliance Training Programs established by Employer and Hospital.
15. Physician shall assist Employer in the investigation, documentation, and resolution of any issue arising out of Employer's dealings with peer review and all regulatory agencies having jurisdiction relating to the Practice Site.
16. Physician will exercise best efforts to assist Employer to build the Practice patient base through networking, emergency room coverage, community education, extended/weekend hours and other reasonable marketing activities as requested by Employer and in accordance with Employer's policies and procedures.
17. Physician shall cooperate fully with Employer and facility credentialing office, including providing, in a timely manner, the information necessary to process credentialing materials relating to Physician for health insurers, state and federal agencies, and other health organizations.
18. Physician shall review and acknowledge by signature Physician's annual performance targets and shall use best efforts to meet or exceed those targets.
19. If required, Physician will actively participate in Hospital medical staff committees as assigned by the medical staff.

20. Physician will strive to maintain five (5) Star Patient satisfaction.
21. Physician will work actively with Hospital case management to efficiently follow patient care plans and discharge patients when medically appropriate, if applicable.
22. If applicable, Physicians will cooperate with Hospital's physician advisor or delegate from the utilization management plan for the Hospital in complying with Hospital policies regarding appropriate bed placement and admission criteria.
23. If mutually agreed upon, Physician will actively participate in new program development for Hospital. Physician involvement may include meetings, development of evidence based protocols, collaboration with Hospital and non-Hospital employed physician groups.
24. To the extent Physician provides patient care at Hospital, Physician will participate in Hospital's performance excellence initiatives and other performance management and innovation initiatives as they pertain to increasing quality, efficiency and effectiveness for care delivered to patients. Participation may include meetings, development and adoption of evidence based protocols and review of practitioner and group data.
25. Physician will take all training and education courses reasonably required by Employer.
26. If approved by Employer, Physician may participate in clinical research studies. Employer must approve participation in each study, in writing.
27. Physician will use means of electronic communication provided or otherwise approved by Employer, including but not limited to an Employer-issued email account, to communicate regarding work-related matters. Physician further acknowledges and agrees Physician shall be deemed to have constructively received any email communications from Employer sent to Physician's Employer-issued email account.
28. Physician shall not block the patient appointment schedule and shall accept same day, next day, and new patient appointments timely and make himself/herself available for patient visits throughout the hours of operation of Practice Site ("Open Schedule").

SCHEDULE 3.g.

OUTSIDE ACTIVITIES

1. Expert Testimony Fees (e.g., medical malpractice expert) so long as not adverse to Employer or related entities.
2. Consulting Services, Speaking engagements, or Writing (provided any such activities for vendors, pharmaceutical companies, or medical device manufacturers requires specific, written approval of Employer).
3. Business activities, ventures, and investments which do not involve the practice of medicine.
4. Activities related to or involving Catalyze Health LLC.

SCHEDULE 3.h.

AUTHORIZATION TO RELEASE INFORMATION

Stefanie A. Seixas-Mikelus, M.D.

I, the undersigned physician, hereby authorize East Cooper Physician Network, LLC ("Employer") and its duly authorized representatives to obtain information from time to time about my professional education, training, licensure, competence, ethics and character from any source having such information. This information may include, without limitation, peer review information, DRG analysis, ancillary usage information and other utilization and quality related data.

I hereby release Employer, its authorized representatives and any third parties from any liability for actions, recommendations, statements, reports, records or disclosures, including privileged and confidential information, involving me that are made, requested, taken or received by Employer or its authorized representatives to, from or by any third parties in good faith and relating to or arising from my professional conduct, character and capabilities.

I agree this authorization to release information shall remain effective until termination of my employment by Employer. A duplicate of this authorization may be relied upon to the same degree as the original by any third party providing information pursuant to Employer's request.

Stefanie A. Seixas-Mikelus
Signature

3/30/19
Date

SCHEDULE 3.h.

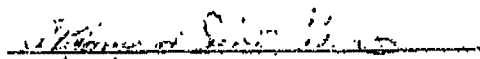
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Stefanie A. Seixas-Mikelus, M.D.

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I agree this authorization to release information shall remain effective until termination of my employment by Employer. A duplicate of this authorization may be relied upon to the same degree as the original by any third party providing information pursuant to Employer's request.


Signature3/30/19
Date

3.h.-1

SCHEDULE 3.h.

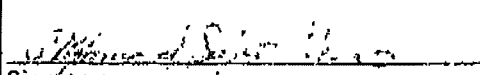
AUTHORIZATION TO RELEASE INFORMATION

Stefanie A. Seixas-Mikelus, M.D.

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I hereby release Employer, its authorized representatives and any third parties from any liability for actions, recommendations, statements, reports, records or disclosures, including privileged and confidential information, involving me that are made, requested, taken or received by Employer or its authorized representatives to, from or by any third parties in good faith and relating to or arising from my professional conduct, character and capabilities.

I agree this authorization to release information shall remain effective until termination of my employment by Employer. A duplicate of this authorization may be relied upon to the same degree as the original by any third party providing information pursuant to Employer's request.


Signature3/30/19
Date

3.h.-1

ROA_322

SCHEDULE 5.a.**PHYSICIAN COMPENSATION**

1. **Months 1 through 36 of Term ("Base Salary Period").** During Base Salary Period, Physician shall receive an annual base salary of Four Hundred Thousand and No/100 Dollars (\$400,000.00) ("Base Salary"). Notwithstanding the foregoing, Physician shall be entitled to additional compensation if during any Employment Year of the Base Salary Period, Productivity Salary (as defined hereinafter) exceeds Base Salary paid to Physician. Productivity Salary calculation shall be determined based on the formula shown below. If Productivity Salary exceeds Base Salary at the end of any Employment Year of the Base Salary Period, Employer shall compensate Physician the excess within forty five (45) days of the end of the applicable Employment Year.

2. **Month 37 through the remainder of Term ("Productivity Compensation Period").** During Productivity Compensation Period, Physician shall be solely compensated based on Physician's production ("Productivity Salary") in accordance with a work RVU productivity calculation ("wRVU Productivity Calculation"). The wRVU Productivity Calculation shall be a product of the number of wRVUs, as more fully defined hereinafter, generated by Physician multiplied by the Conversion Factor (defined hereinafter) of Sixty and No/100 Dollars (\$60.00).

During Productivity Compensation Period, Physician shall receive a bi-weekly draw ("Draw Amount"), calculated as follows: Expected Annual Compensation divided by 26 (number of pay periods in an Employment Year). Expected Annual Compensation is defined as the most current wRVU production which supports and represents what is expected to be achieved during the upcoming Employment Year as determined in Employer's discretion, multiplied by the appropriate Conversion Factor.

Such amount shall be paid out in equal bi-weekly installments or otherwise in accordance with Employer's payroll policies. Notwithstanding, Employer may at any time in its discretion, increase or decrease Draw Amount to more accurately reflect the professional services being performed by Physician.

Within thirty (30) days of the end of each Employment Year quarter ("Employment Quarter"), Employer shall determine whether Draw Amount for the prior Employment Quarter either exceeded or was less than the actual wRVU Productivity Calculation for the applicable Employment Quarter. If Draw Amount exceeds the actual wRVU Productivity Amount (an "Overpayment"), Overpayment shall be carried forward for consideration in the annual wRVU Productivity Calculation reconciliation. If Draw Amount was less than the actual wRVU Productivity Amount (an "Underpayment"), fifty percent (50%) of Underpayment shall be payable to Physician within forty-five (45) days of the end of such Employment Quarter or in the next paycheck following the expiration of forty-five (45) days. Any remaining amount owed Physician may be paid following completion of the annual Employment Year reconciliation as stated below.

Employer shall conduct an annual wRVU Productivity Calculation reconciliation. Such reconciliation shall occur within forty-five (45) days following each Employment Year. The process shall be the same as the Employment Quarter reconciliation except any annual Underpayment shall be paid to Physician within sixty (60) days of the end of Employment Year.

Upon completion of the annual reconciliation, any annual Overpayment shall be deducted from Physician's salary over the next six (6) pay periods. If there are not six (6) pay periods remaining in Term of Agreement, any annual Overpayment shall be deducted equally from Physician's salary in the remaining pay periods, if any, or the amount shall be paid back to Employer within thirty (30) days of completion of the annual reconciliation and notification of Overpayment.

In the event of early termination of Agreement, a final pro-rated reconciliation will be performed within thirty (30) days of termination. Any Underpayment shall be made to Physician within thirty (30) days of the date of reconciliation. Any Overpayment shall be returned to Employer within thirty (30) days of the date of the notice to Physician of the amount of the Overpayment.

3. **wRVU defined.** As used herein, wRVU means the work relative value units determined by Employer in accordance with below. Notwithstanding anything to the contrary, Physician shall not be credited with the generation of a wRVU until all required documentation is complete and has been properly submitted to Employer, in accordance with this Agreement, Employer's policies and procedures, and the applicable payor's policies and procedures. If Physician is inadvertently given wRVU credit for a professional service lacking such documentation, Employer, in its sole discretion, may recoup such compensation overpayment including by adjusting Physician's Draw Amount for the then current quarter.

a. **Listed Codes.** Regardless of the applicable patient or payor associated with a professional service, the most recent RVU table published by Centers for Medicare and Medicaid Services ("CMS"), as updated from time to time by CMS ("CMS RVU Table"), will be used to determine wRVU weights for all codes listed therein.

b. **Unlisted Clinical Codes.** For any professional services provided that are not included in the CMS RVU Table, Employer, in its sole discretion, may utilize a certified professional coder ("CPC") to determine the appropriate wRVU based on the procedure performed.

(1) A reconciliation will be performed at the end of each Employment Year quarter or earlier at discretion of Employer to identify professional services performed with no corresponding wRVU. To appropriately assign the wRVU value for the unlisted code, the CPC will review the medical record documentation and identify a similar procedure as described in the most recent Current Procedural Terminology ("CPT") Professional Edition. The wRVU amount associated with the similar CPT code will be utilized to populate the wRVU amount for the unlisted code(s) during the end of quarter reconciliation.

(2) While choice of wRVU is at the sole discretion of Employer, Employer shall reasonably consult with Physician prior to loading an unlisted code wRVU amount into the Work RVU Productivity Calculation Model database.

c. **Modifiers.** If Physician performs a professional service requiring the use of a modifier under CMS' then-current coding requirements, Employer, in its sole discretion, may adjust the wRVU amount credited to Physician for such professional service in a manner equal to the applicable payment or wRVU modification described in CMS' then-current billing and coding policies and procedures, as determined and interpreted by Employer in its sole and absolute discretion. If Physician is inadvertently given unmodified wRVU credit and compensation for

such professional service, Employer, in its sole discretion, may recoup such compensation overpayment including by adjusting Physician's Draw Amount for the then current quarter. Without limiting the generality of the foregoing, based on Employer's interpretation of CMS' current billing and coding policies and procedures (as of Effective Date), the following is a description of the effect some of the more common modifiers will have on the amount of wRVUs credited to Physician. Please note this is not an exhaustive list of modifiers that may apply to the wRVU amount credited to Physician.

(1) **Modifier 51 (Multiple Procedures):** In the event same-day multiple procedures subject to standard multiple procedure discount rules are performed, the highest value CPT code will receive 100% wRVU credit and all subsequent codes may be reduced to 50% wRVU credit.

(2) **Modifier 62 (Co-Surgical Services):** If Physician provides a professional service as part of an allowable co-surgery, Physician may be credited at sixty-two and one-half percent (62.5%) of the wRVU amount. If multiple co-surgical procedures subject to standard multiple procedure discount rules are performed, Physician may be credited at sixty-two and one-half percent (62.5%) for the highest value CPT code and all subsequent codes may be credited at thirty-one and one-quarter percent (31.25%).

(3) **Modifiers 80, 81, or 82 (Assistant Surgeon):** If Physician provides assistant surgeon services, Physician may be credited at sixteen percent (16%) of the wRVU amount.

d. **Non-Clinical Services.** Except as otherwise provided in Agreement, for any practice income received for non-clinical professional services (e.g. Medical Directorship, ED on-call, etc.), Employer shall determine whether to pass through the payments in part or in whole; or Employer, in its discretion, may assign a wRVU amount after consultation with Physician.

e. **Denied or Rejected Claims.** Employer, in its sole discretion, may adjust wRVUs granted to Physician for claims denied or rejected (due to Physician actions or inactions) because: (i) a required Medicare Advance Beneficiary Notice was not properly executed; (ii) the service is deemed medically unnecessary by the payor and, therefore, not eligible for reimbursement; (iii) the service is deemed to be a duplicate billed service by the payor and, therefore, not eligible for reimbursement; or (iv) the claim was denied due to the services inclusion as part of a global billing episode. To the extent Employer elects to make such adjustment, Employer, each Employment Year quarter, will reconcile any Overpayment to Physician made as a result of such denied claim(s) by adjusting Physician's Draw Amount for the then current quarter. Employer also will maintain a log of such denied claims (with ANSI reason codes), which will be made available to Physician upon request. Employer, in its reasonable discretion, also will provide all necessary information to any payor in order to substantiate any denied claim. If a payor subsequently approves payment, the Work RVU Productivity Calculation Model calculation will be adjusted accordingly for the period the services were provided.

f. **Personally Performed Services.** wRVUs shall only include wRVUs generated for Physician that are billed by or on behalf of Employer for professional and ancillary services personally performed by Physician, but shall not include wRVUs for services performed incident to Physician's personally performed services, each within the meaning of 42 U.S.C. § 1395nn and regulations promulgated pursuant thereto. Notwithstanding anything to the contrary,

Employer, in its sole discretion, may elect to exclude from Physician's productivity any wRVUs generated from professional services where there is no expectation to bill or collect payment for such services, such as indigent patients seen in a free or charity care clinic or where professional courtesy discounts are applied. Notwithstanding the above, wRVUs shall include professional services to non-insured or indigent patients to the extent such patients were scheduled by Employer or otherwise treated by Physician as part of the ordinary course of the Practice (and not at the specific request of Physician), including, without limitation, patients who originated in a hospital emergency department or pursuant to a consult at Hospital (including those patients seen by the emergency medicine physician and sent to Physician for follow up as Physician was on-call for the hospital emergency department that day).

4. **Conversion Factor defined.** "Conversion Factor" represents the fair market value of one physician wRVU for the applicable specialty. Conversion Factor may be adjusted by Employer upon sixty (60) days prior notice to Physician in order to reflect the financial performance of Physician's practice, including but not limited to (i) a change in reimbursement of five percent (5%) or more by one of the top seven (7) payors, (ii) hiring of additional support personnel or other increases in the expenses of Practice, (iii) market changes impacting Employer's ability to collect for services and, (iv) changes to the CMS RVU table. Notwithstanding the preceding, Employer shall not adjust Conversion Factor during the first twenty-four (24) months of Term.

5. **Benefits Salary.** Notwithstanding anything to the contrary above, for the term of this Agreement, for purposes of Physician's employment benefits calculations, the Employment Year One annual Base Salary is considered to be the base salary amount.

6. **Payment.** The Base Salary or Draw Amounts shall be payable monthly or bi-weekly in accordance with Employer's policy.

Schedule 5.b.**RELOCATION ADDENDUM**

Employer, through its affiliate ("Tenet") will arrange for direct-bill or reimburse Physician for the following relocation expenses up to a maximum of Fifteen Thousand and No/100 Dollars \$15,000.00.

SHIPMENT OF HOUSEHOLD GOODS

- packing, moving and unpacking of personal and household goods from principal residence to the new residence
- insurance of household goods cargo up to One hundred Thousand and No/100 Dollars (\$100,000) full replacement coverage through the company preferred third-party insurer in conjunction with a Tenet contracted household goods carrier
- third-party service fees to disconnect and reconnect the following household appliances: washer, dryer, refrigerator, icemaker and grandfather clock
- storage 'in-transit' up to a maximum of thirty (30) days
- shipment of automobile(s) via car carrier or moving van, whichever is more economical, for distances in excess of two hundred fifty (250) miles

Tenet *will not* pay for:

- storage of automobiles
- shipment of recreational vehicles, hot tubs, motorcycles, animals, building materials, firewood, small outdoor structures (storage sheds, playhouses), plants/trees (except ordinary house plants at owner's own risk), and large satellite dishes
- exclusive use of carrier's van or excessive crating
- excess insurance above company-provided coverage
- gratuities/meals for moving crew
- waiting time during normal delivery spread if Physician is unable to be located or unavailable
- overtime charges such as weekend loading or delivery unless performed at carrier's convenience and no cost to Tenet

Reimbursement Method: Tenet's Relocation Services will assign a company-preferred moving company and arrange direct billing to Tenet.

Temporary Housing

Temporary lodging costs (actual expense).

Reimbursement Method: Tenet's Relocation Services will make arrangements for temporary housing and rent will be direct billed to Tenet. If Physician arranges for housing (including hospital quarters), Relocation Services must be notified in writing so rent paid on Physician's behalf can be reported in Physician's wages per IRS regulations. Applicable taxes will be withheld at the time expenses are reported to payroll.

FINAL TRAVEL TO NEW LOCATION

Transportation, lodging and meal costs will be reimbursed for Physician and Physician's family for the final move to the new location. The IRS definition of 'final move' is the trip taken to start work. Tenet will pay designated expenses during the trip and on the day preceding the actual move of Physician and Physician's family. Expenses covered are:

- one-way transportation costs at either coach airfare, or if by car, at the established corporate mileage reimbursement rate (measured by the shortest, most direct route)
- reasonable lodging
- reasonable meals (not to exceed Fifty and No/100 Dollars (\$50) per day per adult and twenty four and No/100 Dollars (\$24) per day per child under sixteen (16); tear tabs are not acceptable as meal receipts)

Expenses incurred as a result of side excursions taken while traveling to the new location are not reimbursable.

Reimbursement Method: Submit Relocation Expense Report and attach original receipts for transportation expenses (other than mileage), lodging and meals. If air travel is utilized, original passenger receipts must be attached (even when electronic tickets are used). An Automobile Mileage Record form is completed for mileage reimbursement.

Tax Issues

Under current tax laws, relocation expenses reimbursed or paid on Physician's behalf are considered taxable income. However, some of the reimbursed expenses or those paid on Physician's behalf are excludable from income if certain IRS requirements are met:

- The distance from the former home to the new work place is fifty (50) miles further than the distance from the former home to the former work place.
- Physician works in the new location for at least thirty nine (39) weeks.
- Moving expenses are incurred within one year of the start date in the new location.

If the above IRS requirements are met, the following expenses, if applicable, will be excluded from Physician's income:

- The packing and shipping of household goods and shipment of auto.
- If incurred, in-transit storage of household goods up to thirty (30) days.
- Final move expenses entailing one-way transportation and lodging when moving from the old home to the new home. Meal expenses are not excludable. Lodging expenses in the area of the former home are excludable if incurred within one day after the household goods have been moved. Lodging expenses in the new location are limited to the day of arrival. Lodging expenses incurred while driving to the new area are also excludable.

If Tenet does not pay for or reimburse Physician for the expenses outlined above, Physician can deduct these expenses. Physician is advised to retain all receipts for expenses incurred. IRS Form 3903 needs to be completed to take any of the above deductions.

All other reimbursements are taxable and will be reported as wages. Physician will receive a form at the end of the calendar year itemizing both taxable and excludable expenses. Tenet strongly recommends Physician contact his/her own personal tax advisor to learn of any additional tax impact.

BENEFIT TERM

Benefit eligibility and reimbursement provisions expire twelve (12) months from Physician's start date in the new work location. According to IRS regulations, for certain relocation benefits to be tax deductible, reimbursements must occur within one year of the start date in the new position unless there are extenuating circumstances making this time frame impossible. If Tenet reimburses expenses occurring after twelve (12) months, Physician should provide the IRS with justification on why these expenses exceeded the time test.

EXPENSE REPORTING AND REIMBURSEMENT

To receive reimbursement for eligible relocation expenses, please complete a Relocation Expense Report form. All relocation forms can be obtained from Relocation Services or found on eTenet. Forward the approved Relocation Expense Report to Senior Relocation Specialist at Tenet, 1445 Ross Avenue, Suite 1400, Dallas, TX 75202-2703 for compliance review. Relocation reimbursements will be paid according to payroll cycle. To be reimbursed in a timely manner, Tenet's Relocation Department, or its designee, must receive the approved expense report at least 10 days prior to Physician's pay day.

A Mileage Requirement Form should also be submitted with Physician's first relocation expense report.

To initiate benefits, call Relocation Services at 469-893-2947

SCHEDULE 6.a.**GENERAL BENEFITS**

1. **Employee Benefits.** Physician shall be entitled to participate in benefits maintained by Employer, pursuant to the terms and conditions of such plans, which may be changed at the sole discretion of Employer. The following is a listing of current benefits available to physicians at this time:

a. **Tenet Physicians Time Off Plan.** During Base Salary Period, Physician is entitled to take part in a time-off program providing income replacement, when taking approved time off from scheduled work in each Employment Year for vacation, sick time, continuing medical education ("CME") and holidays. Although no set amount of time off is provided or guaranteed and may be changed in Employer's sole discretion at any time, at the time of the execution of Agreement, physicians are generally entitled to take up to 30 days of time off per calendar year (pro-rated based on start date). The thirty (30) days includes Employer recognized Holidays and CME days. In addition, Physician shall be entitled to five (5) days of time off per calendar year which may only be used for CME. Vacation and CME days are to be scheduled with Employer's approval in advance and subject to the needs of the Practice Sites. If Physician does not take off all of the days to which Physician is entitled under this plan during an Employment Year, Physician shall not be entitled to receive any compensation for such unused days nor may any such unused days be used in any other Employment Year. If this Agreement is terminated for any reason by either party or expires, Physician shall forfeit any accrued but unused paid time off, to the extent permitted by applicable law.

During the non-Base Salary Period, Physician acknowledges compensation is dependent on Physician's productivity and Physician will not receive any benefits under the paid time-off plan for Holidays, vacation, CME and sick days not worked, except as provided under Federal, State, or local laws. Employer will adhere to applicable Federal and State leave laws. Physician must still adhere to the allowable days off parameters and procedures in the above paragraph.

b. **Tenet Employee Benefit Plan,** which is a comprehensive welfare benefit plan providing various benefits including, medical benefits, dental benefits, vision benefits, life insurance benefits, long-term disability benefits, accidental death and dismemberment benefits and health care and dependent day care flexible spending account benefits. If applicable, Physician is entitled to Practice years of service credit (as established in Section 6.a. of Agreement) for purposes of determining plan eligibility.

c. **Tenet Healthcare Corporation 401(k) Retirement Savings Plan,** which is a qualified retirement plan, including a cash or deferred arrangement described in section 401(k) of the Internal Revenue Code with an employer matching contribution feature. If applicable, Physician is entitled to Practice years of service credit (as established in Section 6.a. of Agreement) for purposes of plan vesting requirements, but not for benefit accrual purposes.

d. **Tenet 2006 Deferred Compensation Plan**, which is a nonqualified deferred compensation plan within the meaning of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code.

2. **Wireless Communications.** At the discretion of Employer, Physician may be provided with a cellular telephone or other mobile device to be used in accordance with relevant policies and procedures as updated from time to time.

3. **Medical Staff Dues.** The cost of medical staff application fees and medical staff dues at Hospital shall be paid by Employer after the Effective Date of this Agreement or, if any such fees and dues are paid by Physician prior to the Effective Date, shall be reimbursed by Employer to Physician within thirty (30) days following receipt of documentation evidencing payment.

4. **Medical Malpractice Insurance.**

a. During the Term, Physician shall be provided with claims made or occurrence medical malpractice insurance coverage under primary and excess policies in minimum amounts of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) annual aggregate. Unless otherwise provided herein, Employer shall have no responsibility for providing coverage for Physician's acts prior to the Commencement Date of this Agreement or any prior physician employment agreement between Physician and Employer, provided there was no lapse in employment. Further, Employer shall have no responsibility for providing coverage for services rendered outside the scope of this Agreement. This coverage shall apply to all services rendered regardless of location provided the Physician is acting within the scope of his or her employment. If the coverage maintained during the Term was at any time claims-made coverage, then upon expiration of this Agreement, Employer will purchase at its cost an extended reporting period policy or "tail" policy on behalf of Physician for medical malpractice claims arising out of medical malpractice incidents occurring during Physician's employment.

b. During the Term of this Agreement and thereafter, the parties recognize certain risk management issues, legal issues, claims or actions may arise which involve or could potentially involve the parties and their respective affiliates, other employees and agents. The parties further recognize the importance of cooperating with each other in good faith when such issues, claims, or actions arise, to the extent such cooperation does not violate any applicable laws, cause the breach of any duties created by any policies of insurance, or otherwise compromise the confidentiality of communications or information regarding the issues, claims or actions.

FIRST AMENDMENT TO PHYSICIAN EMPLOYMENT AGREEMENT

THIS FIRST AMENDMENT TO PHYSICIAN EMPLOYMENT AGREEMENT ("First Amendment") is made and entered into as of the later of the 20 day of November, 2019 or the date of execution of the First Amendment by both parties, by and between East Cooper Physician Network, LLC ("Employer") and Stefanie A. Seixas-Mikelus, M.D. ("Physician").

RECITALS

WHEREAS, Employer and Physician entered into that certain Physician Employment Agreement effective as of March 31, 2019 which is incorporated herein by this reference (the "Agreement"); and

WHEREAS, the parties hereby agree to enter into this First Amendment in order to revise the compensation provisions of the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and intending to be legally bound, Employer and Physician hereby agree to further amend the Agreement as follows:

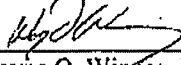
1. The following shall be inserted as Section 7 at the end of Schedule 5.a. to the Agreement:

"7. Hospital On-Call Compensation. Notwithstanding anything to the contrary herein, in addition to the compensation above, Physician may be eligible to receive compensation for taking call at Employer-contracted outside entities. Physician shall be paid one hundred percent (100%) of the rate Employer is compensated for each shift Physician provides on-call coverage. Payment to Physician is contingent upon Employer receiving payment from the outside entity, the on-call compensation shall be paid in the next biweekly payment or the next payment in accordance with Employer's policy. For purposes of on-call coverage, one (1) shift is defined as a twenty-four (24) hour period. Moreover, to receive payment, Physician must comply with the terms contained in the Agreement with the outside entity contracting for the services. Employer will advise Physician of all such requirements."

2. Except as herein provided, the Agreement and all of the terms and conditions contained therein, are hereby ratified and reaffirmed by the parties.

3. This First Amendment represents the complete agreement between the parties regarding the subject matter hereof, and no other changes or modifications of the Agreement are intended nor shall any such other changes or modifications exist. In the event of a conflict between the terms of the Agreement and this First Amendment, the terms of this First Amendment shall control to the extent applicable.

**EAST COOPER PHYSICIAN
NETWORK, LLC**

By: 
Wayne O. Winney, DHA
CEO, SC Physician Operations
Date: 12/5/19

PHYSICIAN

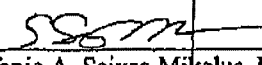

Stefanie A. Seixas-Mikelus, M.D.
Date: 12/5/19

EXHIBIT 2

Tenet Open Door Policy and Fair Treatment Process

	Human Resource Policy Employee Relations & Workplace Expectations		No. HR.ERW.05¹
	Title: OPEN DOOR POLICY AND FAIR TREATMENT PROCESS	Page:	1 of 8
		Effective Date:	01-14-19
		Retires Policy Dated:	06-25-14
		Previous Versions Dated:	12-10-13; 11-21-13; 09-27-11; 01-22-07; 08-01-00; 01-01-93

I. SCOPE:

This policy applies to (1) Tenet Healthcare Corporation and its wholly-owned subsidiaries and affiliates (each, an "Affiliate"); (2) any other entity or organization in which Tenet Healthcare Corporation or an Affiliation owns a direct or indirect equity interest greater than 50%; and (3) any hospital or healthcare entity in which an Affiliate either manages or controls the day-to-day operations of the entity (each, a "Tenet Entity") (collectively, "Tenet").

II. PURPOSE:

To provide leaders and employees with appropriate directions for addressing and resolving employee problems, concerns and disputes.

III. POLICY:

We believe that positive employee relations and morale can be best achieved and maintained in a working environment that promotes ongoing and open communication between supervisors and employees, including open and candid discussions of employee problems, concerns and disputes. Tenet, its consolidated subsidiaries, hospitals, healthcare operations and other entities owned or operated by Tenet's consolidated subsidiaries ("Tenet") encourages employees to openly express their problems, concerns and opinions on any issue related to their employment.

Tenet sincerely hopes that its employees will never have a dispute relating to their employment with the Company. However, Tenet recognizes that disputes sometimes arise between the Company and its employees relating to the employment relationship. Tenet believes that it is in the best interests of both its employees and the Company to resolve employment-related disputes in a forum that provides the fastest and fairest method for resolving such disputes. Therefore Tenet has established the Fair Treatment Process ("FTP"), to provide for review of employment-related disputes between the Company and its employees, culminating in final and binding arbitration of such disputes if they cannot be resolved through the optional internal step. Employees can use the FTP without fear of retaliation or reprisal.

IV. GENERAL

A. Applicability and Coverage

The FTP applies to all employees, regardless of length of service or status, and the agreement to arbitrate covers all disputes relating to or arising out of an employee's employment with the Company or the termination of employment. The only disputes or claims not covered by the FTP are those listed in the Exclusions section below. Examples of the type of disputes or claims covered by the FTP and the

¹Prior to June 1, 2013, the policy number was HR-110.

Unnecessary Pages Omitted

	Human Resource Policy Employee Relations & Workplace Expectations	No. HR.ERW.05¹
	Title: OPEN DOOR POLICY AND FAIR TREATMENT PROCESS	Page: 5 of 8
		Effective Date: 01-14-19
		Retires Policy Dated: 06-25-14
		Previous Versions Dated: 12-10-13; 11-21-13; 09-27-11; 01-22-07; 08-01-00; 01-01-93

state agencies, are not subject to exclusive review under the FTP. This means that employees may file such non-waivable statutory claims with the appropriate agency that has jurisdiction over them if they wish, regardless of whether they decide to use the FTP to resolve them. However, if such agency completes its processing of an employee's claim and the employee decides to pursue further remedies on such claims in a civil action against the Company, the employee must use the FTP (although Step 1 may be skipped). In addition, the FTP does not apply to employees covered by a collective bargaining agreement, unless otherwise agreed to by such employees.

5. Other Important Information

- a. Applicable Law and Procedural Rules: The Federal Arbitration Act, 9 U.S.C. § 1, et seq., will govern arbitrations under the FTP. The applicable Employment Arbitration Rules of the AAA will govern the procedures to be used in such arbitrations, unless the parties have agreed otherwise.
- b. Discovery and Amendment of Claims: All discovery shall be conducted in accordance with the Employment Arbitration Rules of the AAA. The arbitrator shall have the authority to order discovery sufficient to enable a full and fair exploration of the issues in dispute consistent with the expedited nature of arbitration.
- c. Limitations Periods: Any request for arbitration under the FTP must be made within one year after the event giving rise to the dispute. If the claim was submitted to a federal, state or local agency, then a request for arbitration of that claim must be made within 90 days of the receipt of the agency's decision. However, if a longer limitations period is provided by a statute governing the claim, then the claim will be subject to the longer limitations period provided by the statute.
- d. Authority of Arbitrator: The arbitrator has the authority to award any remedy that would have been available to the employee had the employee litigated the dispute in court under applicable law, which includes attorney's fees and costs for the prevailing party, if those would be an available remedy in court.

Unnecessary Pages Omitted

EXHIBIT 3

**Email from Stacey Coe (AAA) to Parties
With Final Award attached
(May 26, 2023)**

Caroline Warner

From: AAA Stacey Coe <StaceyCoe@adr.org>
Sent: Friday, May 26, 2023 11:41 AM
To: Carmen Thomas; 'Chip Bruorton'; 'Jessica McDonald'; Caroline Warner; Corky Harper; 'Elizabeth Nicholson'
Subject: Case No. 01-21-0004-6490 Seixas-Mikelus v. Tenet Healthcare
Attachments: Final Award.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

◀External Email▶ - From: prvs=751091b490=staceycoe@adr.org

Good Morning,

By direction of the Arbitrator we herewith transmit to you the duly executed Award in the above matter. This serves as a reminder that there is to be no direct communication with the Arbitrator. All communication shall be directed to the Association.

At this time we have verified with the arbitrator that they have submitted all requests for compensation and expenses in this matter. Accordingly, we have conducted a final reconciliation of the finances. If a party had any unused compensation deposits, we will issue a refund check that will arrive in the mail shortly. If a party has an outstanding balance, that party will continue to receive cyclical invoices until the balance is paid.

In the normal course of our administration, the AAA may maintain certain documents in our electronic records system. Such electronic records will be destroyed 18 months after the date of this letter and do not constitute a complete case file.

We appreciate your selection of the AAA as your alternative dispute resolution provider in this matter. As always, please do not hesitate to contact me if you have any questions.

Thank you,

Stacey



AAA Stacey Coe
Manager of ADR Services

American Arbitration Association

T: 972 779 0764 F: 855 267 4082 E: StaceyCoe@adr.org
 13727 Noel Road, Suite 1025, Dallas, TX 75240
adr.org | icdr.org | aaamediation.org



The information in this transmittal (including attachments, if any) is privileged and/or confidential and is intended only for the recipient(s) listed above. Any review, use, disclosure, distribution or copying of this transmittal is prohibited except by or on behalf of the intended recipient. If you have received this transmittal in error, please notify me immediately by reply email and destroy all copies of the transmittal. Thank you.

**AMERICAN ARBITRATION ASSOCIATION
Employment Arbitration Tribunal**

AAA Case No. 01-21-0004-6490

Stefanie Seixas-Mikelus, M.D.,	)	
	)	
Claimant,	)	
	)	FINAL AWARD
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC,	)	
	)	
Respondents.	)	
	)	

INTRODUCTION

I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the personnel manual or employment agreement entered into by the above-named parties and dated March 30, 2019, and having been duly sworn and having duly heard the proofs and allegations of the parties, and Claimant being represented by James Bruorton and Elizabeth Nicholson of Rosen & Hagood, and Respondents being represented by Sue Erwin Harper and Carmen Harper Thomas of Nelson Mullins Riley & Scarborough, hereby AWARD, as follows:

A hearing in this matter took place on February 1 and 2, 2023. The parties reconvened virtually on March 2, 2023 to complete witness testimony. At the conclusion of the hearing, Claimant moved to amend the pleadings to conform to the evidence and assert a cause of action for breach of contract accompanied by a fraudulent act, and Respondent moved to strike Claimant's claim for negligent misrepresentation. After denying the motion to amend and granting the motion to strike, the causes of action left to be ruled upon are 1) breach of contract, 2) breach of covenant of good faith and fair dealing, and 3) wrongful termination in violation of public policy. For the reasons set forth below, Claimant has not sustained her burden on any of the three claims and as such, they are dismissed, with judgment entered in favor of Respondent.

FACTS

Claimant presents as a competent, intelligent and professional physician who entered into negotiations with Respondent and moved her family from the Northeast to create a start-up urology practice (the “Practice”) under Tenet Healthcare in Charleston, South Carolina. Prior to entering into the Physician Employment Agreement (“PEA” or the “Agreement”) she ultimately signed on March 30, 2019, she met with and had multiple conversations with numerous officials of Respondents, including Wayne Winney, CEO of Physician Operations (“Winney”) and Patrick Downes, East Cooper Medical Center’s CEO (“Downes”). It is undisputed that of importance to Claimant was that another physician be hired into the office so that the office would not be a “single-physician” office, leaving her with an inability to take time off and, instead, be wholly and solely responsible for call coverage. Testimony from all witnesses substantiated that this was a topic of conversation before and after she was hired.

The PEA the parties entered into was for a term of five years, with various provisions for termination of the Agreement, including termination by Respondent without cause under Section 8c. with a 90-day notice period.

The relevant language in the PEA related to Claimant’s and Respondents’ obligations is the following.

- 1) Under 3. **Physician’s Obligations**, section i., the following is stated:

Additional Physicians. Employer and Physician agree as an essential term of this Agreement that it is the intent of the parties to develop a comprehensive medical practice. It is further understood Employer intends to negotiate and enter into employment relationships with additional qualified physicians. Physician agrees to use reasonable best efforts to forge and establish an ongoing relationship and team approach with such additional physicians for the furnishing or professional medical and related services to patients.

- 2) Under 4. **Space and Support**, the Agreement provides the following:

Employer shall provide Physician with office and clinic space, equipment, supplies, and personnel at the Practice Sites (or, in the case of certain support services, at other locations) as Employer determines to be necessary, after consultation with Physician, to enable Physician to provide medical services to patients consistent with recognized medical standards. Physician will utilize only equipment and supplies provided by Employer in the Practice Site and will not order additional equipment and supplies without Employer's prior consent.

- 3) Under 12. **Miscellaneous**, section c, the following is stated:

Marketing and Advertising. Employer may engage in marketing or advertising activities respecting the Practice and the Practice Sites and Physician shall participate as reasonably requested.

Throughout her employment, Claimant complained on numerous occasions to Winney and others regarding Respondents' failure to hire another physician in accordance with the pre- and post-hire discussions, primarily because of the excessive call she felt it required of her, and time off she felt she could not take. Respondent attempted to hire additional support, but at least one of the candidates it proffered to Claimant for hire was unacceptable to her. Respondents took steps to assist her with getting her call covered by exploring call coverage with Dr. Gwen Choi, and by contacting a competitor to assist with call. A second physician was ultimately not hired during Claimant's tenure.

During her tenure, Claimant also requested additional equipment, some, but not all, of which she was provided. She asserts that the office space she was provided was insufficient and that she was not provided with a credentialed robotics assistant. She further asserts that she was not provided with the robotics referrals and other referral volume of patients she believes were promised to her.

Claimant testified that she did not file any complaints or concerns regarding safety issues with OSHA, although she did complain to Respondents that her call requirements, as well as the

insufficient office space, support and equipment jeopardized, or at least were not in the best interest of, patient safety.

During the course of her employment, several primary care physicians that were part of the Tenet referral network from which Claimant's practice received referral patients left the Tenet network, which resulted in fewer referrals to Claimant.

Prior to her termination, Claimant wrote to Respondents' CEO, outlining her concerns in detail that she had raised throughout her employment.

Throughout her employment, and at the end of it, Claimant's productivity, for whatever reason, was never the volume expected. Respondents made the decision to close the Practice and terminated Claimant on December 12, 2021 pursuant to Section 8.c., Termination Without Cause. In lieu of the 90 days' notice the provision included, Respondent paid her 90 days of pay.

Claimant's specific claims regarding Respondents' various breaches center primarily around representations she asserts that Winney, Downes and others made before and after entering into the PEA regarding the hiring of another physician into the Practice, but also include other claims regarding Respondents' failure meet their obligations to her.

LEGAL ANALYSIS

A. Claimant's Breach of Contract Claim

In order to determine whether a breach of contract exists, it is necessary to look only at the promises contained within the four corners of the Agreement – not representations made outside of the Agreement. Such representations, to the extent they contradict what is in the Agreement, would be considered parole evidence, and cannot be considered in determining a breach of contract claim.

In support of her claim for breach of contract, Claimant asserts that Respondents failed in the following areas:

- 1) to hire additional physicians;
- 2) to provide a safe and healthy call schedule;
- 3) to provide adequate support for Claimant's PTO;
- 4) to provide a credentialed independent robotics assistant;
- 5) to provide adequate clinical space;
- 6) to provide resources for equipment to perform necessary practice-related procedure and performance of necessary surgical procedures;
- 7) to provide sufficient robotic volume and referral volume to develop a program; and
- 8) to effectively market Claimant's robotics practice.

Claimant's primary argument is that the Agreement specifically required Respondents to hire another physician for the Practice. Her arguments revolve in large part around the fact that there had been numerous pre-contract discussions regarding her concerns and desires regarding hiring another physician. When presented with the Agreement, Claimant had it reviewed by her counsel, who suggested revisions to the contract, but which were rejected by Respondents.

Ultimately, Claimant signed the Agreement provided by Respondents. With regard to the breach that Claimant asserts regarding additional physicians, the provision at issue is located in the Agreement under the section entitled **3. Physician's Obligations**. Section 3.i provides specifically, as identified above, **"Employer and Physician agree as an essential term of this Agreement that it is the intent of the parties to develop a comprehensive medical practice. It is further understood Employer intends to negotiate and enter into employment relationships with additional qualified physicians."**

The provision is unambiguous. First, it is contained within the Section identifying the **physician's** obligations, not the employer's obligations. Second, the essential term that Claimant continually has asserted was a promise to hire additional physicians is not what is identified as an "essential term." The "essential term" of the provision is clear – that "it is the intent of the parties to develop a comprehensive medical practice." Nowhere in that provision, or anywhere in the Agreement for that matter, do Respondents contractually agree to hire additional physicians. The plain language of the provision includes no promises on the part of Respondents to hire additional physicians. The following sentence states only that the employer "intends" to negotiate and enter into employment relationships with qualified physicians. An "intent" to take an action is entirely distinct from a "promise" or "covenant" to take an action.

While Claimant asserts that she believed that the provision meant that Respondent was promising to hire multiple physicians, and that's what she believed the essential term of that provision to be, that is not what the language says. In fact, the following provision very clearly states that hiring multiple physicians was the "intent," not the promise.

Therefore, Respondents' failure to hire additional physicians does not constitute a breach of contract.

With regard to the remaining allegations of breach, but without belaboring the specifics, nowhere within the four corners of the Agreement do Respondents make the promises identified above that Claimant asserts they breached.

Since Claimant has not sustained her burden of proof to establish a breach of contract, her claim for breach of covenant of good faith and fair dealing likewise fails.

B. Claimant's Wrongful Termination in Violation of Public Policy Claim

In order for Claimant to prevail on a claim for wrongful termination in violation of public policy, Claimant must first show that she was an “at-will” employee. Based upon the claims asserted, it was unclear whether Claimant believed she was an “at-will” employee or one with a contract of a definite duration. She has asserted various contractual claims coupled with the present one asserting that she should prevail on a tort claim as an at-will employee.

While Claimant asserts that Respondents “can’t have it both ways,” Respondents have never asserted that Claimant was an at-will employee. Claimant relies on her Agreement to support her breach of contract claim, her breach of covenant of good faith and fair dealing claim, and her breach of contract accompanied by a fraudulent act claim.

To then assert a tort claim as an at-will employee is difficult to reconcile. The argument Claimant makes that the “termination with a notice provision” provision in the Agreement converts the contractual relationship to an at-will relationship is interesting and creative, and one definitely worth considering. However, Claimant cites no authority supporting the theory. Indeed, South Carolina courts have determined that an employment contract with a definite duration and a notice provision for termination remains a contract with a definite duration. Therefore, Claimant was not an at-will employee.

Since Claimant was not an at-will employee, further analysis regarding any retaliatory action based upon Claimant engaging in protected activity or Respondent acting in violation of public policy is unnecessary since her claim must fail since she cannot establish the primary element of the analysis. Nevertheless, based upon the testimony and other evidence presented at the hearing, Respondents’ actions in terminating Claimant were not demonstrated to be retaliatory or in violation of public policy. Therefore, Claimant has not sustained her burden of proof in this matter.

CONCLUSION

For the reasons set forth above, Claimant has not sustained her burden of proof in this matter and her remaining claims are dismissed, with judgment to be entered in favor of Respondent.

The administrative fees and expenses of the American Arbitration Association totaling \$2,950.00 shall be borne as incurred, and the compensation and expenses of the arbitrator totaling \$41,154.47 shall be borne as incurred.

This Award is in full settlement of all claims submitted to this Arbitration. All claims not expressly granted herein are hereby, denied.

May 26, 2023

/s/ Kristine L. Cato, Arbitrator

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	NINTH JUDICIAL CIRCUIT
	)	
Stefanie Seixas-Mikelus, M.D.,	)	Case No. 2023-CP-10-03391
	)	
Petitioner,	)	
	)	
vs.	)	
	)	
Tenet Healthcare Corporation, Tenet Physician	)	
Resources, LLC and East Cooper Physician Network,	)	
LLC,	)	
	)	
Respondents.	)	

HARRY CATO'S MOTION TO QUASH PETITIONER'S DEPOSITION SUBPOENA

Harry Cato, through his undersigned counsel, moves for an order pursuant to South Carolina Rules of Civil Procedure 45 and 4 for an order quashing the deposition subpoena issued by the Charleston County Court of Common Pleas on the grounds that Cato was not served with a valid subpoena requiring his appearance for a deposition scheduled to take place at Rosen Hagood, LLC located at 40 Calhoun Street, Suite 450, Charleston South Carolina.

This motion is based upon the South Carolina Rules of Civil Procedure and any other matters properly presented at the hearing.

GALLIVAN, WHITE & BOYD, P.A.

By: s/A. Johnston Cox
 John T. Lay, Jr., (SC bar)
 A. Johnston Cox, (SC Bar 9081)
 1201 Main Street, Suite 1200 (29201)
 Post Office Box 7368
 Columbia, South Carolina 29202
 (803) 779-1833
 jlay@gwblawfirm.com
 jcox@gwblawfirm.com

ROSEN | HAGOOD

Elizabeth F. Nicholson
enicholson@rosenhagood.com

September 25, 2024

VIA CERTIFIED MAIL

Mr. Harry F. Cato
Nelson Mullins
1320 Main Street, 17th Floor
Columbia, SC 29201

Re: Stéfanie Seixas-Mikelus, M.D. v. Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network
Case No.: 2023-CP-10-03391

Dear Mr. Cato:

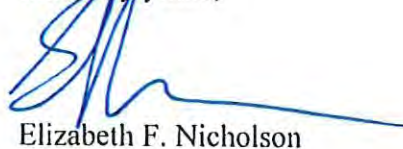
We represent Stéfanie Seixas-Mikelus, M.D. in the above matter. Enclosed please find a Subpoena for your Deposition and Notice of Deposition. Your deposition is scheduled for November 6, 2024 at 1:30 p.m. at Rosen Hagood located at 40 Calhoun Street, Suite 450, Charleston, SC 29401. Please note that the Subpoena requires you produce documents pursuant to Exhibit "A" by October 9, 2024. The documents can be produced electronically.

Please contact our office if you have a conflict with the date of your deposition so that we can discuss an alternate date.

Thank you in advance for your cooperation.

With kindest regards, I am

Sincerely yours,



Elizabeth F. Nicholson

EFN/jbm

Enclosure

Cc: All Counsel (via email w/ enclosures)

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF CHARLESTON

Stéfanie Seixas-Mikelus, M.D., Petitioner

v.

SUBPOENA IN A CIVIL CASE

Tenet Healthcare Corporation, Tenet Physician
Resources, LLC, and East Cooper Physician Network,
LLC

Case Number: 2023-CP-10-03391

Pending in Charleston County

TO: Harry F. Cato
Nelson Mullins
1320 Main Street, 17th Floor
Columbia, SC 29201☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

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

PLACE OF DEPOSITION Rosen Hagood, LLC 40 Calhoun Street, Suite 450 Charleston, SC 29401	DATE AND TIME November 6, 2024 1:30 p.m.
--	---

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

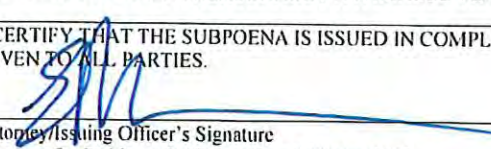
PLACE Rosen Hagood, LLC 40 Calhoun Street, Suite 450 Charleston, SC 29401	DATE AND TIME October 9, 2024 5:00 p.m.
--	--

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

PREMISES	DATE AND TIME , AM
----------	--------------------

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

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.


 Attorney/Issuing Officer's Signature
 Attorney for Petitioner Stéfanie Seixas-Mikelus, M.D.
 Attorney's Address and Telephone Number :
 Rosen Hagood, LLC, 40 Calhoun Street, Suite 450
 Charleston, SC 29401
 (843) 577-6726

9/25/2024
DateElizabeth F. Nicholson
Print NameClerk of Court/Issuing Officer's Signature
Pro Se Litigant's Name, Address and Telephone Number :

Date

Print Name

PROOF OF SERVICE

SERVED	DATE September 25, 2024	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE 1320 Main Street, 17 th Floor, Columbia, SC 29201	
SERVED ON Harry F. Calo		MANNER OF SERVICE Certified U.S. Mail
SERVED BY Jessica McDonald		TITLE Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on September 25, 2024

SIGNATURE OF SERVER
40 Calhoun Street, Suite 450, Charleston, SC 29401
ADDRESS OF SERVER

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

(c) Protection of Persons Subject to Subpoenas.

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

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

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

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

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

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

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

(iv) subjects a person to undue burden.

(B) If a subpoena:

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

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

(III) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties In Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT A TO SUBPOENA TO
HARRY F. CATO

DOCUMENTS TO BE PRODUCED

I. Documents Related to Nelson Mullins Riley & Scarborough, LLP:

1. Contractor Agreement

All agreements, contracts, or any other documents governing the relationship between Nelson Mullins Riley & Scarborough LLP or Nelson Mullins Government Policy Strategies, LLC (jointly "Nelson Mullins") and Harry F. Cato, including, but not limited to, independent contractor agreements, amendments, or renewals.

2. Payment Records

Copies of all records reflecting payments made to you by Nelson Mullins, including invoices, receipts, bank records, or any other documentation of compensation from January 1, 2020, to May 26, 2023.

3. Work Assignment Records

Documents or communications that describe or relate to the work or services performed by you for Nelson Mullins, including job orders, work assignments, and task descriptions from January 1, 2020, to May 26, 2023.

4. Communications

All written communications, including emails, letters, text messages, or any other form of communication between Nelson Mullins and you concerning work assignments, payment, performance, or termination of services from January 1, 2020, to May 26, 2023.

5. Tax Documents

All 1099 forms, tax records, or other documents submitted to or received from you related to income, tax withholdings, or reporting of income from Nelson Mullins from January 1, 2020, to May 26, 2023.

II. Documents Related to Social Events Attended by Harry F. Cato and Kris Cato:

1. Invitations

Copies of all invitations, RSVPs, or any other documentation related to social events or gatherings attended by you and Kris Cato that were organized, sponsored, or facilitated by Nelson Mullins, its employees, or affiliates.

2. Event Records

All documents related to the attendance of you and/or Kris Cato at any social events that were organized, sponsored, or facilitated by Nelson Mullins, its employees, or affiliates.

3. Communications Regarding Social Events

All written communications, including emails, text messages, letters, or any other form of communication, concerning you and/or Kris Cato's attendance or participation in social events sponsored by or involving Nelson Mullins or its employees.

4. Expense Records

All records reflecting expenses, reimbursements, or payments made by Nelson Mullins to you and/or Kris Cato related to social events attended by you and Kris Cato, including travel, lodging, meals, and entertainment.

5. Photographs and Media

Any photographs, videos, or other media capturing you and/or Kris Cato at social events organized or attended by Nelson Mullins or its employees.

III. Others

1. Referrals

All documents and communications, including emails, letters, text messages, and any other form of communication between you and employees of Blair Cato Pickren Casterline, LLC regarding case and client referrals.

2. All documents and communications, including emails, letters, text messages, and any other form of communication between you and employees of Nelson Mullins regarding case and client referrals.

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	NOTICE OF DEPOSITION OF
	)	HARRY F. CATO, ESQUIRE
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	

**TO: CARMEN THOMAS, ESQUIRE AND CAROLINE WATNER, ESQUIRE,
ATTORNEYS FOR RESPONDENTS AND HARRY F. CATO:**

YOU WILL PLEASE TAKE NOTICE that on November 6, 2024, at 1:30 p.m. EST, at the office of Rosen Hagood, 40 Calhoun Street, Suite 450, Charleston, SC 29401, the undersigned attorney for Stefanie Seixas-Mikelus, M.D., will take the deposition of Harry F. Cato, on oral examination, pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, before a notary public or some other officer duly authorized by law to take depositions, for purposes of discovery and for use at trial.

Pursuant to Rule 30(j)(8), counsel for the Petitioner identifies and reserves the right to use any and all documents produced or made available in discovery by any party during this deposition. The deposition will continue from day to day until completed. You are invited to attend and take such part as is fit and proper.

ROSEN HAGOOD, LLC

s/ Elizabeth F. Nicholson

James A. Bruorton, IV, Esquire

Elizabeth F. Nicholson, Esquire

40 Calhoun Street, Suite 450

Charleston, SC 29401

(843) 577-6726

cbruorton@rosenhagood.com

enicholson@rosenhagood.com

ATTORNEYS FOR STEFANIE SEIXAS-
MIKELUS, M.D.

September 25, 2024
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO. 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.,	)	
	)	
Petitioner,	)	CERTIFICATE OF SERVICE
	)	
vs.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	
	)	

The undersigned states that on September 26, 2024, she served a copy of Petitioner's Notice of Deposition of Harry Cato by electronic transmission to the following:

Carmen Harper Thomas, Esquire
 Caroline Watner, Esquire
 Nelson Mullins Riley & Scarborough LLP
 1320 Main Street, 17th Floor
 Columbia, SC 29201
Carmen.thomas@nelsonmullins.com
Caroline.warner@nelsonmullins.com

Attorneys for Respondents

s/ Jessica McDonald
 Jessica McDonald, Paralegal
 Rosen Hagood
 40 Calhoun Street, Suite 450
 Charleston, SC 29401
jmcdonald@rosenhagood.com

September 26, 2024

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	Case No.: 2023-CP-100-3391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	<u>RESPONDENTS' AMENDED MOTION</u>
	)	<u>FOR PROTECTIVE ORDER AND TO</u>
v.	)	<u>QUASH PETITIONER'S SUBPOENAS</u>
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East Cooper	)	
Physician Network, LLC.	)	
	)	
Respondents.	)	

On October 9, 2024, Respondents filed the initial motion for protective order and to quash Petitioner's subpoenas dated September 25, 2024. On October 30, 2024, Petitioner's Counsel notified Respondents' Counsel that Petitioner was serving amended subpoenas and deposition notices which have different dates, a different method of service, a different location for the depositions, and for certain subpoenas, a different issuing county. (Subpoenas (October 30, 2024), attached as **Exhibit 9**.) Pursuant to Rule 45(c)(3)(A), Respondents amend, supplement, and renew their previously filed motion for protection and to quash the subpoenas and deposition notices, as amended, based on similar grounds as stated in Respondents' original motion.

Despite that Petitioner is not authorized to conduct discovery in this action she brought to vacate an arbitration award, Petitioner has served six subpoenas on nonparties for documents and included depositions with two of those six subpoenas. The subpoenas are directed to the arbitrator, the arbitrator's husband, the arbitrator's law firm, the non-party hospital for which the arbitrator serves on the board of directors, the law firm of Respondents' counsel, and another entity related

to Respondents' counsel's firm. Respondents oppose these subpoenas and seek relief from the Court because (1) Petitioner is not entitled to discovery on her motion to vacate; (2) the subpoenas were not served properly; and (3) Petitioner's subpoenas are unduly burdensome because they seek information not relevant to this case, and the subpoenas can only be intended to subject the subpoena recipients and Respondents to harassment, annoyance, embarrassment, and oppression.

Accordingly, pursuant to Rules 26(c) and 45, SCRCF, Respondents Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network, LLC (collectively, "Respondents") hereby move the Court for a Protective Order preventing Petitioner from taking depositions and requesting documents and an Order quashing Petitioner Dr. Stéfanie Seixas-Mikelus' subpoenas to (1) Kris Cato, Esq., (2) Harry Cato, (3) Blair Cato Pickren Casterline, LLC, (4) Lexington Medical Center, (5) Nelson Mullins Riley & Scarborough, LLP, and (6) Nelson Mullins Government Policy Strategies, attached hereto as **Exhibit 1**.

FACTUAL AND PROCEDURAL HISTORY

The following facts and procedural history are provided for background and context and also to demonstrate the scope of the issues in play for Petitioner's motion to vacate, underscoring why these subpoenas are improper.

In July 2021, Petitioner initiated arbitration by filing with the American Arbitration Association ("AAA") an Arbitration Demand against the Respondents for breach of contract, breach of implied covenant of good faith and fair dealing, and wrongful termination in violation of public policy. (Petitioner served a different version of the demand on Respondents.) (AAA Demand, attached as **Exhibit 2**.) AAA presented the parties with options for potential arbitrators, including each person's resume, thus beginning the process of selecting an arbitrator.

A. Petitioner chose Arbitrator Cato as her first choice for arbitrating her claims.

On August 6, 2021, Petitioner proposed Kris Cato as her first choice from the list of potential arbitrators circulated by AAA. (AAA Ltr. To Parties and Kris Cato resume excerpted from list of candidates (July 23, 2021), attached as **Exhibit 3**; Email from E. Nicholson to C. Thomas, S. Harper (Aug. 6, 2021), attached as **Exhibit 4**.) Petitioner even noted a second choice in the event Arbitrator Cato had a conflict. (Email from E. Nicholson to C. Thomas, S. Harper (Aug. 6, 2021), attached as **Exhibit 4**.) Ten days later, on August 16, 2021, in a communication to AAA, Petitioner's counsel confirmed Arbitrator Cato as Petitioner's choice. (Email from E. Nicholson to Mary Jara (AAA) (August 16, 2021), to C. Thomas, attached as **Exhibit 5**.)

B. Petitioner was aware of Arbitrator Cato's husband's background, and Petitioner submitted no objections to her appointment as Arbitrator.

After notifying the Parties that Arbitrator Cato was appointed "[p]ursuant to the agreement of the parties," AAA set a deadline of September 8, 2021, for the Parties to submit any objections to Arbitrator Cato's appointment. (Email from AAA to Parties with Arbitrator Disclosures (Sept. 1, 2021), attached as **Exhibit 6**.) Arbitrator Cato's September 1, 2021 disclosures conveyed the following information that Petitioner contests in her motion to vacate the arbitration award:

3. Have you had any professional or social relationship with counsel for any party in this proceeding or the firms which they work?

Answer: NO.

5. Have you had any professional or social relationship of which you are aware with any relative of any of the parties to this proceeding, or any relative of counsel to this proceeding, or any of the witnesses identified to date in the proceeding?

Answer: NO.

14. Are there any connections, direct or indirect, with any of the case participants that have not been covered by the above questions?

Answer: YES.

Comments: Indirectly. My husband is a government relations consultant and contracts with Nelson Mullins to perform some governmental relations consulting for some of their clients, although NOT the defendant in this matter. He is not an attorney and provides consulting and lobbying work only. This will not affect my ability to act impartially in this matter.

15. Are you aware of any other information that may lead to a justifiable doubt as to your impartiality or independence or create and appearance of partiality?

Answer: NO

(*Id.* at 3-5 (emphasis added).)

After these disclosures were received on September 1, 2021, Petitioner asked no questions, sought no additional information about the disclosures from Arbitrator Cato, AAA, Respondents, or Respondents' counsel, and submitted no objections to Arbitrator Cato or to her disclosures. Accordingly, on September 14, 2021, AAA notified the parties that no objections had been made to Arbitrator Cato's disclosures. (Email from AAA to Parties (Sept. 14, 2021), attached as **Exhibit 7.**)

C. Petitioner received a fair and impartial proceeding.

Following the selection by Petitioner of Arbitrator Cato, the Parties engaged in substantial discovery, depositions, discovery motions, and a dispositive motion over a year and almost eight months. During the course of arbitration, Petitioner received fair and equal treatment by Arbitrator Cato. For example, Arbitrator Cato granted Petitioner's request to take the deposition of Respondent Tenet's CEO after the scheduling order deadline for depositions despite Respondents' motion for protection from that deposition occurring. Arbitrator Cato also denied Respondent's motion for Summary Judgment in favor of Petitioner despite strong evidence in support of Respondent's position. Additionally, during the hearing it was revealed that Petitioner had failed

to appropriately supplement her discovery responses prior to the hearing, and Arbitrator Cato allowed Petitioner to supplement her discovery responses despite the additional time and expense to Respondents. The arbitration occurred at Petitioner's counsels' office in Charleston.

On May 26, 2023, after supplemental submissions and post-hearing briefs from both parties, Arbitrator Cato issued an award in favor of Respondents on all of Petitioner's claims, thus awarding Petitioner \$0. (AAA Final Award, attached as **Exhibit 8**.)

D. Following the decision in favor of Respondents, Petitioner moved to vacate the arbitration award and for limited discovery and an evidentiary hearing.

Petitioner filed her motion to vacate on July 13, 2023, requesting that this court vacate the arbitrator's award and *permit Petitioner limited discovery* and an evidentiary hearing. (Pet.'s Mot. to Vacate.) The sole ground for Petitioner's motion to vacate was that Arbitrator Cato acted with evident partiality in favor of Respondents, and the only evidence in support of Petitioner's motion was Arbitrator Cato's alleged insufficient disclosure of her husband's contract with Nelson Mullins and Arbitrator Cato's alleged non-disclosure of her own appointment to the Lexington Medical Center Board of Directors in 2023. (*Id.*)

Respondents removed Petitioner's motion to vacate to the United States District Court for the District of South Carolina, Charleston Division, and the District Court issued an order remanding this case to state court. On September 18, 2024, Respondents filed their brief in opposition to Petitioner's motion to vacate the arbitration award in this court and also moved to confirm the arbitration award. These motions are still pending before this court.

E. Pending her motion to vacate and motion for limited discovery and an evidentiary hearing, Petitioner attempted to serve subpoenas on several non-parties.

On September 25, 2024, following Respondents' state court filings, Petitioner's Counsel emailed Respondents' Counsel copies of subpoenas it "intend[ed] to serve" on the following entities and individuals:

1. Blair Cato Pickren Casterline, LLC;
2. Kris Cato, Esq.;
3. Harry Cato;
4. Lexington Medical Center Auxiliary;
5. Nelson Mullins Riley & Scarborough LLP; and
6. Nelson Mullins Government Policy Strategies, LLC.

The subpoenas requested that all six non-parties produce documents by October 9, 2024, and the subpoenas demanded depositions of arbitrator Kris Cato, Esq. and her husband Harry Cato on November 6, 2024. (*Id.*)

On September 26, Respondents' Counsel notified Petitioner's Counsel that the subpoenas were deficient due to their lack of compliance with the South Carolina Rules of Civil Procedure. Specifically, the subpoenas: (1) each lacked an "Exhibit A" which included necessary information regarding the scope of documents and information requested; and (2) were served via "certified mail" instead of "certified mail, return receipt requested and delivery restricted to the addressee" required under SCRCP 4(d)(8). After Respondents' Counsel notified Petitioner's Counsel regarding the deficiencies, Petitioner's counsel replied the same day that the "corrected" subpoenas "went out in today's mail." However, although Petitioner's Counsel emailed the Exhibit A attachments to Respondents' Counsel in a separate email, Petitioner has yet to prove effective service in compliance with SCRCP 45 and SCRCP 4.

Following Respondents' filing a motion for protective order and to quash Petitioner's subpoena, Petitioner's Counsel notified Respondents' Counsel on October 30, 2024, that Petitioner planned to serve amended subpoenas and deposition notices with a new service date of October 30, 2024. The amended subpoenas had a new document production deadline of November 15, 2024, and for the subpoenas to Kris Cato and Harry Cato, a new deposition date of November 19, 2024. The amended subpoenas also differ from the September 26th subpoenas in that they have an acceptance of service form, they list "Certified U.S. Mail, Return Receipt, Delivery Restricted" as the new method of service, they indicate Columbia, SC as the new location for the depositions, and they are all issued from Richland County except for the subpoena to LMC Auxiliary which was issued from Lexington County. (Subpoenas (October 30, 2024), attached as **Exhibit 9**.)

LEGAL STANDARD

Rule 45(c)(3)(A), SCRPC provides that the Court must quash or modify a subpoena that "subjects a person to undue burden," "fails to allow reasonable time for compliance," and "requires disclosure of privileged or otherwise protected matter." Moreover, where discovery threatens to become abusive or create a particularized harm, the trial judge may issue an order "to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense." Rule 26(c), SCRPC; *Hamm v. S.C. Pub. Serv. Comm'n*, 312 S.C. 238, 439 S.E.2d 852 (1994). Included among the types of protection are orders providing that "the discovery not be had" or that "discovery . . . be had only by a method of discovery other than selected by the party seeking discovery." Rule 26(c)(1), SCRPC. When issuing such an order, the Court has "broad latitude in limiting the scope of discovery" upon good cause shown. *Gattison v. S.C. State Univ.*, 318 S.C. 148, 456 S.E.2d 414, 415 (Ct. App. 1995).

ARGUMENT

I. Petitioner is not entitled to discovery as of right on a motion to vacate and cannot show that it is warranted.

Neither the FAA nor the S.C. Uniform Arbitration Act provide for any discovery in the context of a motion to vacate, and Petitioner has failed to cite to any cases in this jurisdiction where a court recognized a right to limited discovery, including subpoenas for documents and depositions, to decide a motion to vacate. Accordingly, because no statute establishes a right to discovery for proceedings to confirm or vacate an arbitration award, courts routinely decide motions to vacate without discovery, particularly in situations where the movant does not specify “how such discovery will overcome the heavy burden of proving evident partiality,” identify the specific discovery sought, or simply state that discovery is needed to verify whether there is evident partiality.¹ “While courts hold that the question of evident partiality is a ‘fact intensive inquiry,’ discovery and an evidentiary hearing are not always required.”²

Petitioner is not entitled to discovery on her motion to vacate, because the evidence already attached to the motion shows Arbitrator Cato did not exhibit evident partiality, and no further

¹ See *Jackson v. Conifer Revenue Cycle Sols., LLC*, No. 4:19-CV-256, 2020 WL 1242448, at *3 (E.D. Tex. Mar. 16, 2020) (“Simply stating discovery is needed to verify whether there is or was partiality for Defendant is not enough.”); see also *Deluxe Lab’ys, Inc. v. Int’l All. of Theatrical Stage Emps.*, No. CV 01-3469 RJK, 2001 WL 1158591, at *6 (C.D. Cal. Aug. 31, 2001) (deciding case after “considering the papers submitted by the parties, the case file and argument of counsel”); *ANR Coal Co. v. Cogentrix of N. Carolina, Inc.*, 173 F.3d 493, 502 (4th Cir. 1999); *Consol. Coal Co. v. Loc. 1643, United Mine Workers of Am.*, 48 F.3d 125, 127 (4th Cir. 1995); *Sheet Metal Workers’ Int’l Ass’n, Loc. 399, AFL-CIO v. Maximum Air Flow Co.*, 877 F. Supp. 2d 392 (D.S.C. 2012), *aff’d sub nom. Sheet Metal Workers’ Int’l Ass’n, Loc. 399, AFL-CIO v. McLemore*, 541 F. App’x 321 (4th Cir. 2013).

² *Grupo Unidos por el Canal, S.A. v. Autoridad del Canal de Panama*, No. 20-24867-CIV-SCOLA, 2021 WL 5834296, at *11 (S.D. Fla. Dec. 9, 2021) (citing *Perez v. Cigna Health and Life Ins. Co.*, No. 20-12730, 2021 WL 2935260, at *3, n.5 (11th Cir. July 13, 2021) (holding that it is not an abuse of discretion to deny discovery and an evidentiary hearing where the movant fails to allege sufficient evidence to vacate an arbitration award)).

evidence would change that result. Petitioner also should not be permitted to circumvent the court's pending decision on her motion for discovery by serving subpoenas. Lastly, Petitioner has failed to meet her burden in proving that post-arbitration discovery should be permitted.

A. To obtain post-arbitration discovery, Petitioner must show sufficient evidence of impropriety by the arbitrator.

Post-arbitration discovery is rare, and courts are reluctant to allow it because it “increase[s] the cost and undermine[s] the finality of arbitration, contrary to the purpose of the United States Arbitration Act of making arbitration a swift, inexpensive, and effective substitute for judicial dispute resolution.”³ While discovery in post-arbitration hearing proceedings is rare, some courts make an exception to permit post-arbitration discovery where there is “evidence giving rise to a reasonable inference of partiality . . . while other courts require clear evidence of impropriety or bias . . . At a minimum, however, the party seeking testimony from an arbitral entity must provide more than a conclusory allegation of partiality.”⁴

Accordingly, “any discovery into arbitrator bias *is handled pursuant to judicial supervision* and only then in the limited situation where the movant presents *clear evidence of impropriety*.”⁵ The clear evidence of impropriety standard provides that “only non-speculative,

³ *In re Subpoenas Issued to Albert*, No. 5:17-CV-150-D, 2017 WL 4976443, at *3–5 (E.D.N.C. Nov. 1, 2017) (citing *Merit Ins. Co. v. Leatherby Ins. Co.*, 714 F.2d 673, 683 (7th Cir. 1983)).

⁴ *Int’l Union, United Mine Workers of Am. v. CONSOL Energy Inc.*, No. 1:20-CV-01475 (CJN), 2020 WL 7042815, at *6 (D.D.C. Dec. 1, 2020) (internal citations omitted.); *see also* *Midwest Generation EME, LLC v. Continuum Chem. Corp.*, 768 F. Supp. 2d 939, 957 (N.D. Ill. 2010) (“A more relaxed standard would be incompatible with, and would undercut, the long standing, national policy favoring arbitration of claims that parties contract to settle in that manner ‘with just the limited review needed to maintain arbitration’s essential virtue of resolving disputes straightaway.’”).

⁵ *Van Pelt v. UBS Fin. Servs.*, No. 3:05CV477, 2006 WL 1698861, at *2 (W.D.N.C. June 14, 2006) (emphasis added); *see also* *In re Subpoenas Issued to Albert*, No. 5:17-CV-150-D, 2017 WL 4976443 (E.D.N.C. Nov. 1, 2017) (citing *Van Pelt v. UBS Fin. Servs.*, No. 3:05-CV-477, 2006 WL 1698861, at *2 (W.D.N.C. June 14, 2006)) (“Notwithstanding, the weight of persuasive case law demands a heightened showing of ‘clear evidence of impropriety’ to obtain discovery from a

reasonably certain evidence of impropriety will suffice to allow post-arbitration discovery.”⁶ Furthermore, “[t]he cases make clear that where the evidence of claimed impropriety is speculative, attenuated, uncertain, or indirect, discovery will not be allowed.”⁷

As an example of a court’s supervision and denial of post-award discovery, in *Van Pelt v. UBS Financial Services*, the Western District of North Carolina denied a party’s request for post-arbitration discovery, specifically discovery of the arbitrator’s employment records.⁸ The *Van Pelt* court applied the clear evidence of impropriety standard when a party sought post-award discovery of the prior employment records of the arbitrator in support of the party’s claim of evident partiality.⁹ The party seeking discovery argued that the arbitrator may have been biased in an arbitration involving involuntary termination because the arbitrator failed to disclose the circumstances of his retirement.¹⁰ The court held that the party seeking discovery had not offered sufficient evidence of impropriety because the party’s “asserted need to investigate further” into “the appearance of bias [was] remote, circular, and speculative, and [was] insufficient on its face” to justify a subpoena.¹¹ Furthermore, and especially applicable to the facts of this case, the court held that the party seeking post-arbitration discovery waived the right to challenge the decision based on evident partiality because the party received an amended disclosure with the arbitrator’s employment information, but the party did not request any additional information, or express any

non-party arbitrator.”). The Fourth Circuit Court of Appeals in *Albert* noted that “[t]he Fourth Circuit Court of Appeals has previously characterized the decisions of the Second Circuit as “preeminent in arbitration law[.]” *In re Subpoenas Issued to Albert*, No. 5:17-CV-150-D, 2017 WL 4976443, at *4 (citing *Glass v. Kidder Peabody & Co.*, 114 F.3d 446, 456 (4th Cir. 1997)).

⁶ *Midwest Generation EME, LLC v. Continuum Chem. Corp.*, 768 F. Supp. 2d 939, 946 (N.D. Ill. 2010)

⁷ *Id.* at 957.

⁸ *Van Pelt v. UBS Fin. Servs.*, No. 3:05CV477, 2006 WL 1698861 (W.D.N.C. June 14, 2006).

⁹ *Id.* at *2.

¹⁰ *Id.*

¹¹ *Id.* at *3.

concern, regarding the disclosure until after they lost at arbitration.¹² The court's analysis in *Van Pelt* shows how difficult it is for a Petitioner seeking to vacate an arbitration award to justify any discovery to do so, particularly when the person already had the opportunity to and did not investigate the purported ground for the motion.

B. Petitioner cannot show sufficient evidence of impropriety to warrant any discovery, much less the premature subpoenas.

1. Petitioner cannot show any evidence of impropriety related to her disclosure of her husband's nonlawyer contractor relationship.

Petitioner's subpoenas should be quashed and protected against because the alleged appearance of bias between Arbitrator Cato and the firm which contracts with her husband, who has never worked for Respondents and whom Respondents' Counsel has never met, is remote and speculative. Furthermore, although Petitioner contends that the disclosure about Arbitrator Cato's husband was not specific enough to gauge any potential bias, she offers no evidence that it was not sufficiently specific for Petitioner "to gauge a potential bias that additional fact-finding is now warranted."¹³

In comparison to Petitioner's position, a prior disclosure of the relationship provides an opportunity for the parties to investigate the potential for bias or partiality and to make a determination about whether to proceed. By way of example, in *In re Subpoenas Issued to Albert*, the court granted a motion to quash subpoena duces tecum served on non-parties that were the arbitrators in the underlying arbitration.¹⁴ In *Albert*, the party that filed a motion to vacate alleged that one of the arbitrators demonstrated evident partiality in favor of the opposing party when the

¹² *Id.* at *4.

¹³ *See id.*

¹⁴ *In re Subpoenas Issued to Albert*, No. 5:17-CV-150-D, 2017 WL 4976443, at *4 (E.D.N.C. Nov. 1, 2017).

arbitrator failed to disclose a previous relationship with an attorney representing the opposing party in the underlying arbitration on the checklist forms until a subsequent arbitration involving the same counsel.¹⁵ The party seeking discovery served document subpoenas on all the arbitrators involved. In deciding to quash the subpoenas, the court applied the clear evidence of impropriety standard in finding that the undisclosed relationship was “strictly professional” and “the circumstances surrounding [the arbitrator’s] nondisclosures [did] not give the impression of clear impropriety” because the arbitrator disclosed her relationship almost six months before the party seeking post-arbitration discovery first alleged any impropriety.¹⁶

Similarly, Petitioner seeks discovery regarding Arbitrator Cato’s husband’s relationship with Respondents’ counsel, and Arbitrator Cato disclosed that information from the beginning. (Email from AAA to Parties with Arbitrator Disclosures (Sept. 1, 2021), attached as **Exhibit 6.**) Furthermore, the evidence provided by Petitioner and available publicly shows the disclosed relationship between Arbitrator Cato’s husband and Respondents’ Counsel is only “strictly professional,” as in *Albert*. The documents already in the record show that Arbitrator Cato’s husband is a government relations contractor at Nelson Mullins and also has his own separate firm, Blue Moon Strategies.¹⁷ Furthermore, as argued in Respondents’ response opposing the motion to vacate, Petitioner’s counsel witnessed Respondents’ counsel meeting Arbitrator Cato for the first time during the underlying arbitration. (Resp.’s Brief in Opp. at 5.) Based on the evidence already available and in the record, Respondents’ Counsel has a strictly professional relationship with Arbitrator Cato that extends no further than the underlying arbitration.

¹⁵ *Id.* at *1-2.

¹⁶ *Id.* at *4.

¹⁷ See *Clemson Administration: Board of Visitors Leadership*, <https://www.clemson.edu/administration/bov/members.html> (last visited October 8, 2024.)

2. Petitioner cannot show impropriety related to the disclosure of Arbitrator Cato's appointment to the Lexington Medical Center Board of Directors.

In addition to alleging that Arbitrator Cato's disclosures related to her husband are insufficient, Petitioner alleges that Arbitrator Cato did not disclose her appointment to the Lexington Medical Center Board of Directors. (Pet.'s Mot. to Vacate at 17.) Petitioner does not adequately assert clear impropriety to warrant discovery. Courts have held that even if an arbitrator does not include certain information in her disclosures, "what is not disclosed must have significance apart from the mere fact of non-disclosure" in order to permit post-arbitration discovery.¹⁸ Arbitrator Cato's appointment has no significance apart from the mere fact of non-disclosure because Lexington Medical Center was not a party to the underlying arbitration and has no connection to it. Further, Petitioner's assertion that Lexington Medical Center is somehow similar to Respondents because they are hospitals fails because Lexington Medical Center is a hospital in Lexington, SC, while Respondents are not hospitals, but instead are healthcare entities wholly unrelated from Lexington Medical Center.

Furthermore, as noted above, courts, like the one in *Van Pelt*, have held that the party seeking discovery had not offered sufficient evidence of impropriety because the party's "asserted need to investigate further" into "the appearance of bias [was] remote, circular, and speculative, and [was] insufficient on its face" to justify a subpoena.¹⁹ Likewise, the alleged appearance of bias by Arbitrator Cato based on her appointment to the Lexington Medical Center Board of Directors is beyond remote because Lexington Medical Center is not a party to the underlying arbitration and the only potential bias Petitioner alleges is that Lexington Medical Center is a healthcare entity

¹⁸ *Midwest Generation EME, LLC v. Continuum Chem. Corp.*, 768 F. Supp. 2d 939, 957 (N.D. Ill. 2010).

¹⁹ *Van Pelt v. UBS Fin. Servs.*, No. 3:05CV477, 2006 WL 1698861, at *3 (W.D.N.C. June 14, 2006).

like Respondents. Petitioner cannot assert any actual evidence of bias because there is and was none.

As argued by Respondents in their brief in opposition to Petitioner's motion to vacate, the information in the record and in public documents is sufficient to establish conclusively that Petitioner cannot meet the high burden for a motion to vacate. In further support of this contention, Rule 26(a), SCRCPP provides that a court should first look for less burdensome ways to obtain the same information.²⁰

Furthermore, courts have held that post-arbitration discovery, such as a deposition of the arbitrator, is not permitted when it is not necessary to establish any element of Petitioner's causes of action.²¹ Based on the information in the record and in public documents in this case, Petitioner has not demonstrated that the discovery she seeks via the subpoenas are a necessary to establish any element of her motion to vacate.

C. Petitioner agreed not to seek discovery from the arbitrator when she agreed to participate in arbitration.

Petitioner has issued a subpoena to Arbitrator Cato for documents and her deposition. (Subpoena to Kris Cato (Sept. 27, 2024), attached as **Exhibit 1**.) This discovery is prohibited based on Petitioner's agreement to follow the AAA Employment Arbitration Rules. The Parties have agreed to and have followed the AAA Employment Arbitration Rules in the underlying arbitration pursuant to the arbitration agreement. (Physician Employment Agreement, attached as **Exhibit 2**.) Under the AAA Employment Arbitration Rules, Petitioner is prohibited from involving the arbitrator "in any court cases to enforce or challenge an arbitration award."²² This includes a

²⁰ Rule 26(a), SCRCPP.

²¹ See *Hollman v. Woolfson*, 384 S.C. 571, 581, 683 S.E.2d 495, 500 (2009).

²² AAA, *What Happens After the Arbitrator Issues an Award*, https://www.adr.org/sites/default/files/document_repository/AAA229-After_Award_Issued.pdf.

prohibition against the arbitrator being called “as a witness in any litigation or any other proceeding relating to the arbitration.”²³ Therefore, Petitioner is prohibited from calling Arbitrator Cato or involving her in this proceeding.

D. Petitioner has a motion for discovery currently pending before this court.

In addition, Petitioner has acknowledged that she is not entitled to discovery in this proceeding without leave of court. Petitioner has requested discovery in her motion to vacate and motion for limited discovery and evidentiary hearing. Petitioner’s previous “motion for limited discovery” thus indicates that she is aware that discovery is not automatically permitted (much less rarely granted) on a motion to vacate, and instead, discovery on a motion to vacate an arbitration award must be requested from and granted by a court prior to any discovery taking place.²⁴

II. Respondents reserve the right to object to Petitioner’s October 30th subpoenas based on any procedural deficiencies.

As argued in Respondents’ initial motion, Petitioner’s September 26th subpoenas were procedurally deficient due to insufficient notice of the subpoenas pursuant to SCRPC 45(a)(4), and non-compliance with SCRPC 45(b). Although Petitioner’s amended subpoenas appear to have corrected these issues, Respondents reserve any objections, including but not limited to those that may be asserted by the subpoena recipients.

²³ *Id.*

²⁴ *See Admin. Dist. Council 1 of Illinois of Int’l Union of Bricklayers & Allied Craftworkers, AFL-CIO v. Masonry Co.*, 941 F. Supp. 2d 912, 917 (N.D. Ill. 2012) (holding that a court must evaluate certain factors to determine whether to compel an arbitrator to submit to discovery); *Midwest Generation EME, LLC v. Continuum Chem. Corp.*, 768 F. Supp. 2d 939, 943–44 (N.D. Ill. 2010) (“Post-arbitration discovery is rare, and courts have been extremely reluctant to allow it . . . It is only allowed where there is “clear evidence of impropriety.”).

III. The subpoenas are objectionable because they are unduly burdensome.

A. The requested documents and information are irrelevant and therefore are burdensome.

Rule 45(c)(1), SCRCF, imposes a duty on the party or “attorney responsible for the issuance and service of a subpoena [to] take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena.” Rule 45(c)(3)(A) provides that the Court must quash or modify a subpoena that “subjects a person to undue burden.” Moreover, where discovery threatens to become abusive or create a particularized harm, the trial judge may issue an order “to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense.”²⁵ Included among the types of protection are orders in Rule 26(c)(1), SCRCF, are providing that “the discovery not be had” or that “discovery . . . be had only by a method of discovery other than selected by the party seeking discovery.”

“[U]ndue burden” means requesting materials **that are not relevant** to the matter before the court.²⁶ As described above and in Respondents’ response in opposition to the motion to vacate, the materials and information regarding Arbitrator Cato’s relationship with Respondents and with Lexington Medical Center that are sought by Petitioner are irrelevant. (Resp.’s Brief in Opp. at 20-22.)

Specifically, Arbitrator Cato’s alleged relationship with Respondents is nonexistent and so attenuated that it is immaterial and does not support Petitioner’s claim of evident partiality on its face. Arbitrator Cato’s husband is a nonlawyer contractor with Nelson Mullins as disclosed by Arbitrator Cato prior to arbitration. Petitioner does not allege that he consulted for or advised

²⁵ Rule 26(c), SCRCF; *Hamm v. S.C. Pub. Serv. Comm’n*, 312 S.C. 238, 439 S.E.2d 852 (1994).

²⁶ *Taylor v. Taylor*, 434 S.C. 307, 324, 863 S.E.2d 335, 344 (Ct. App. 2021) (emphasis added) (citing *Ex parte Smith*, 407 S.C. 422, 422–23, 756 S.E.2d 386, 386 (2014)).

Respondents himself, only that he has allegedly worked with other healthcare-related entities not a party to this case. No evidence exists that this relationship is at all relevant because he has not performed work for Respondents, as shown by his public lobbying disclosures available to Petitioner.

Again, Arbitrator Cato's appointment to the board of directors of Lexington Medical Center is wholly irrelevant because Petitioner's argument that Lexington Medical Center and Respondents are similar healthcare entities is not supported and untrue. In fact, even Petitioner herself indicates that alone this appointment is not enough to show evident partiality, even with documents she requests. (Pet.'s Mot. to Vacate at 18.)

Furthermore, the requests in Petitioner's subpoenas themselves are irrelevant and overly broad and therefore burdensome. For instance, in the subpoena to Nelson Mullins, Petitioner requests "Documents Related to Social Events Attended by Kris Cato." (Subpoena to Nelson Mullins Riley & Scarborough, LLP (Sept. 27, 2024), attached as part of **Exhibit 1**.) This includes records of any events "organized, sponsored, or facilitated by NMRS, its employees, or affiliates" that Harry Cato and Kris Cato have attended together. (*Id.*) Without confirming or denying Kris Cato has ever been to any event that may fall under this wide description, not only is this request extremely broad and without any limitations on time period, but the fact of an invitation to a social event does not indicate any special relationship with the firm. If this were the case, no attorney or judge would ever be able to attend or speak at a program coordinated by any law firm, and this is not the law.

Another example is the subpoena to Lexington Medical Center which requests irrelevant and confidential Board of Director's and Shareholder meeting minutes in addition to documents detailing board election processes, board election nomination records, promotional or campaign

records, eligibility and qualification records for Kris Cato, and conflict of interest disclosures. (Subpoena to Lexington Medical Center, attached as part of **Exhibit 1.**) Petitioner's argument regarding Arbitrator Cato's appointment to the Lexington Medical Center Board of Directors is her appointment alone to a "healthcare entity" like Lexington Medical Center is enough to support her contention of evident partiality. (Pet.'s Mot. to Vacate at 17-18.) Therefore, this overly broad request for documents from Lexington Medical Center is unnecessary and therefore burdensome.

B. Petitioner's subpoenas create a harm to both Respondents and the non-parties because they are irrelevant, and Petitioner already has a pending motion for discovery before this court.

If the discovery process threatens to become abusive or create a particularized harm to a litigant or third party, the trial judge may issue an order "to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense."²⁷ If a person requesting a protective order shows a particularized harm which will be caused by allowing the discovery, the opposing party has the burden of showing the information sought is "relevant and necessary" to the case.²⁸ In determining whether a protective order is necessary, the trial judge is required to weigh the factors of whether the information sought is "relevant and necessary" evidence against any particularized harm the opposing party may suffer.²⁹ In determining whether information is necessary, the party seeking the information must "demonstrate with specificity exactly how the lack of information will impair the presentation of the case on the merits to the point that an unjust result is a real, rather than a merely possible, threat."³⁰

²⁷ Rule 26(c), SCRCPP; *Hamm v. S.C. Pub. Serv. Comm'n*, 312 S.C. 238, 439 S.E.2d 852 (1994); see also *Hollman v. Woolfson*, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009).

²⁸ *Hamm v. S.C. Pub. Serv. Comm'n*, 312 S.C. 238, 241–42, 439 S.E.2d 852, 854 (1994).

²⁹ *Id.*

³⁰ *Id.* at 241, 439 S.E.2d at 854.

As noted above, the information and documents sought by Petitioner are not “relevant and necessary” because Petitioner has failed to demonstrate with specificity how the lack of information will impair the presentation on her motion to vacate.

Respondents will suffer particularized harm if Petitioner’s subpoenas are allowed at this time or any time. Petitioner cannot and has not shown any proof of evident partiality, and the result of the arbitration proceeding should be upheld. Respondents relied on Petitioner’s and her counsels’ selection of Arbitrator Cato as their preferred choice of arbitrator. Petitioner and her counsel had ample time and information to consider Arbitrator Cato and her husband’s nonlawyer contractor relationship to Respondents’ counsels’ law firm. The arbitration proceeding progressed based on Petitioner’s selection of Arbitrator Cato, and Respondents have already been subjected to an excessive amount of discovery in the underlying proceeding, including a deposition of its Chief Executive Officer. Having to continue to be subjected to Petitioner’s overly broad and unduly burdensome discovery—including having to file this motion for protective order—incurs costs for Respondents. Arbitration is meant to achieve a streamlined and final process, and Petitioner’s unfounded post-award proceeding and these subpoenas threatens the foundation of arbitration as an alternative to litigation in court.

Furthermore, courts “will give extra consideration to the objections of a non-party, non-fact witness in weighing burdensomeness versus relevance.”³¹ Undue burden may be found where a subpoena is directed at information held by a non-party and the information is available from another source.³² As Respondents have explained, the information in the record and publicly

³¹ *In re Subpoenas Issued to Albert*, No. 5:17-CV-150-D, 2017 WL 4976443, at *2 (E.D.N.C. Nov. 1, 2017) (quoting *Indem. Ins. Co. of N. Am. v. Am. Eurocopter LLC*, 227 F.R.D. 421, 426 (M.D.N.C. 2005) (internal citations omitted)).

³² *Id.* at *5, n.1.

accessible are sufficient to decide this matter, and thus, the subpoenas requesting this information from non-parties are unduly burdensome.

C. Petitioner's subpoenas are unduly burdensome because they do not allow reasonable time for compliance pursuant to Rule 45(c)(3)(A), SCRPC.

Rule 45(c)(3)(A), SCRPC provides that the Court must quash or modify a subpoena that "fails to allow reasonable time for compliance." As explained above, Petitioner's insufficient service of the subpoenas ultimately left fewer than 12 days for responses to the subpoenas because Petitioner kept the original October 9, 2024 compliance deadline even after days later re-serving the subpoenas. The mail would have decreased the timeframe for compliance, and the disruption caused by Hurricane Helene also affected the time period. In conjunction with Hurricane Helene, which left many South Carolinians without power and internet for several days, this time period is not a reasonable time for compliance.

CONCLUSION

Pursuant to Rule 11(a), SCRPC, the undersigned counsel affirms that they have communicated with opposing counsel and have attempted in good faith to resolve the matter contained in this motion prior to filing the motion. Petitioner's counsel was unwilling to withdraw the subpoenas.

For the reasons above, Respondents ask that this Court grant their Motion for Protective Order and to Quash Subpoenas and prohibit Petitioner from seeking discovery on her motion to vacate. Further, due to the motion to vacate having not yet been heard, Respondents respectfully

request that the court stay any compliance with the subpoenas until Petitioner's motion to vacate and for limited discovery and an evidentiary hearing is decided.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Network, LLC*

Columbia, South Carolina

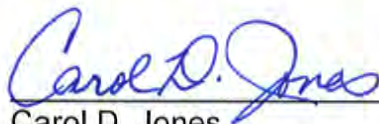
November 14, 2024

CERTIFICATE OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Respondents Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network, LLC, do hereby certify that I have served all counsel in this action with a courtesy copy of the pleading(s) via electronic mail to the following address(es):

Pleadings: **RESPONDENTS' AMENDED MOTION FOR PROTECTIVE ORDER AND TO QUASH PETITIONER'S SUBPOENA**

Counsel Served:	James Bruorton, IV, Esquire Elizabeth F. Nicholson, Esquire Rosen & Hagood, LLC 151 Meeting Street, Suite 400 P.O. Box 893 Charleston, SC 29402 cbruorton@rosenhagood.com enicholson@rosenhagood.com Jessica McDonald jmcdonald@rosenhagood.com Trenholm Walker, Esquire Walker Gressette Freeman Linton, LLC 66 Hasell Street Charleston, SC 29401 walker@wglfirm.com
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Carol D. Jones
Administrative Assistant

November 14, 2024

Subpoenas sent on September 27, 2024, attached as Exhibit 1

ROSEN | HAGOOD

Elizabeth F. Nicholson
enicholson@rosenhagood.com

September 26, 2024

VIA CERTIFIED MAIL

Lexington Medical Center Auxiliary
Attn: Tod Augsburg, Registered Agent
2720 Sunset Blvd.
W. Columbia, SC 29169

Re: Stéfanie Seixas-Mikelus, M.D. v. Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network
Case No.: 2023-CP-10-03391

Dear Mr. Augsburg:

We represent Stéfanie Seixas-Mikelus, M.D. in the above matter. Enclosed please find a Subpoena Duces Tecum for service upon you. A description of the requested documents and information may be found on Exhibit A to the Subpoena.

Also enclosed is a Certificate of Authenticity which we would appreciate your returning with the documents.

We do agree to reimburse you for any reasonable charges associated with this request. Please contact me if you expect the charges to exceed \$50.00. We are happy to accept the requested documents electronically.

Thank you in advance for your cooperation.

With kindest regards, I am

Sincerely yours,

s/ Elizabeth F. Nicholson

Elizabeth F. Nicholson

EFN/jbm

Enclosure

Cc: All Counsel (via email w/ enclosures)

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF CHARLESTON

Stéfanie Seixas-Mikelus, M.D., Petitioner

v.

SUBPOENA IN A CIVIL CASE

Tenet Healthcare Corporation, Tenet Physician
Resources, LLC, and East Cooper Physician Network,
LLC

Case Number: 2023-CP-10-03391

Pending in Charleston County

TO: Lexington Medical Center Auxiliary
Attn: Tod Augsburg, Registered Agent
2720 Sunset Blvd.
W. Columbia, SC 29169

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

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

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

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

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

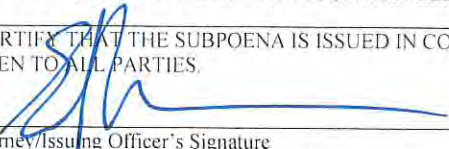
PLACE Rosen Hagood, LLC 40 Calhoun Street, Suite 450 Charleston, SC 29401	DATE AND TIME October 9, 2024 5:00 p.m.
--	--

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

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

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.


Attorney/Issuing Officer's Signature
Attorney for Petitioner Stéfanie Seixas-Mikelus, M.D.
Attorney's Address and Telephone Number :
Rosen Hagood, LLC, 40 Calhoun Street, Suite 450
Charleston, SC 29401
(843) 577-6726

9/25/2024
Date

Elizabeth F. Nicholson
Print Name

Clerk of Court/Issuing Officer's Signature
Pro Se Litigant's Name, Address and Telephone Number :

Date

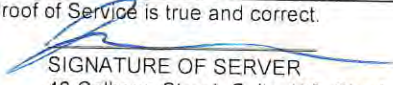
Print Name

PROOF OF SERVICE

SERVED	DATE September 25, 2024	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE 2720 Sunset Blvd., W. Columbia, SC 29169	
SERVED ON	Lexington Medical Center c/o Tod Augsburg, Registered Agent	MANNER OF SERVICE Certified U.S. Mail
SERVED BY	Jessica McDonald	TITLE Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on September 25, 2024


SIGNATURE OF SERVER
40 Calhoun Street, Suite 450, Charleston, SC 29401
ADDRESS OF SERVER

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

(c) Protection of Persons Subject to Subpoenas.

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

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

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

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

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

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

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

(iv) subjects a person to undue burden.

(B) If a subpoena:

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

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

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a

substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT A TO SUBPOENA TO
LEXINGTON MEDICAL CENTER
DOCUMENTS TO BE PRODUCED

Documents Related to the Election of Board Member Kris Cato:

1. Election Process Documents

All documents detailing the election process for the position of Kris Cato, including notices of election, nomination procedures, eligibility criteria, and any other documents setting forth the rules governing the election.

2. Nomination Records

Copies of all documents related to the nomination of Kris Cato, including nomination forms, recommendations, or endorsements received from other board members, shareholders, or other parties.

3. Minutes of Meetings

All minutes of any board meetings, shareholder meetings, or other organizational meetings where the election of Kris Cato was discussed or voted on.

4. Promotional or Campaign Materials

Copies of any promotional or campaign materials circulated on behalf of Kris Cato, including flyers, brochures, emails, social media posts, or any other media.

5. Eligibility and Qualification Records

All documents showing the eligibility, qualifications, or background of Kris Cato that were considered as part of the election process. This includes résumés, references, and any documentation submitted by Kris Cato in support of their candidacy.

6. Conflict of Interest Disclosures

Any documents reflecting conflict of interest disclosures made by Kris Cato or others in connection with their candidacy or election.

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	CERTIFICATE OF AUTHENTICITY
	)	
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	

PERSONALLY APPEARED BEFORE ME, _____, who first
being duly sworn deposes and states:

1. I am the Records Custodian for Lexington Medical Center Auxiliary.
2. I have reviewed the records of this office relative to a document subpoena dated September 27, 2024, served upon Lexington Medical Center Auxiliary by Elizabeth F. Nicholson, attorney for Petitioner in the above-captioned lawsuit.
3. The enclosed records are a complete and accurate copy of all records of in the possession, custody, or control of Lexington Medical Center Auxiliary meeting the description in "Exhibit A" to the said document subpoena dated September 27, 2024.
4. All of the attached records are copies of records which are kept in the regular and ordinary course of business by this office.

[SIGNATURE AND NOTARY ON FOLLOWING PAGE]

Signature

Printed Name

Title

Sworn to before me this

_____ day of _____, 2024

Notary Public for South Carolina

My commission expires _____

ROSEN | HAGOOD

Elizabeth F. Nicholson
enicholson@rosenhagood.com

September 25, 2024

VIA CERTIFIED MAIL

Kris Cato, Esquire
700 Huger Street, Suite 102
Columbia, SC 29201

Re: Stéfanie Seixas-Mikelus, M.D. v. Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network
Case No.: 2023-CP-10-03391

Dear Ms. Cato:

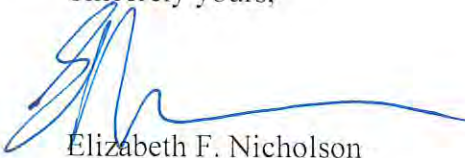
As you know, we represent Stéfanie Seixas-Mikelus, M.D. in the above matter. Enclosed please find a Subpoena for your Deposition and Notice of Deposition. Your deposition is scheduled for November 6, 2024 at 10:00 a.m. at Rosen Hagood located at 40 Calhoun Street, Suite 450, Charleston, SC 29401. Please note that the Subpoena requires you produce documents pursuant to Exhibit "A" by October 9, 2024. The documents can be produced electronically.

Please contact our office if you have a conflict with the date of your deposition so that we can discuss an alternate date.

Thank you in advance for your cooperation.

With kindest regards, I am

Sincerely yours,



Elizabeth F. Nicholson

EFN/jbm

Enclosure

Cc: All Counsel (via email w/ enclosures)

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF CHARLESTON

Stéfanie Seixas-Mikelus, M.D., Petitioner

v.

SUBPOENA IN A CIVIL CASE

Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network, LLC

Case Number: 2023-CP-10-03391

Pending in Charleston County

TO: Kris Cato, Esquire
700 Huger Street, Suite 102
Columbia, SC 29201

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

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

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

PLACE OF DEPOSITION	DATE AND TIME
Rosen Hagood, LLC 40 Calhoun Street, Suite 450 Charleston, SC 29401	November 6, 2024 10:00 a.m.

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

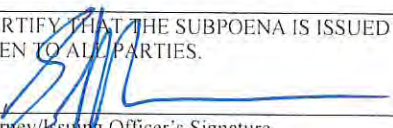
PLACE	DATE AND TIME
Rosen Hagood, LLC 40 Calhoun Street, Suite 450 Charleston, SC 29401	October 9, 2024 5:00 p.m.

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

PREMISES	DATE AND TIME , AM
----------	--------------------

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

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.


Attorney/Issuing Officer's Signature
Attorney for Petitioner Stéfanie Seixas-Mikelus, M.D.
Attorney's Address and Telephone Number :
Rosen Hagood, LLC, 40 Calhoun Street, Suite 450
Charleston, SC 29401
(843) 577-6726

9/25/2024
Date

Elizabeth F. Nicholson
Print Name

Clerk of Court/Issuing Officer's Signature
Pro Se Litigant's Name, Address and Telephone Number :

Date

Print Name

PROOF OF SERVICE

SERVED	DATE September 25, 2024	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE 700 Huger Street, Suite 102, Columbia, SC 29201	
SERVED ON Kris Cato, Esquire		MANNER OF SERVICE Certified U.S. Mail
SERVED BY Jessica McDonald		TITLE Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on September 25, 2024

SIGNATURE OF SERVER
40 Calhoun Street, Suite 450, Charleston, SC 29401
ADDRESS OF SERVER

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

(c) Protection of Persons Subject to Subpoenas.

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

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

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

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

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

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

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

(iv) subjects a person to undue burden.

(B) If a subpoena:

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

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

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT A TO SUBPOENA TO
KRIS CATO

DOCUMENTS TO BE PRODUCED

I. Documents Related to Social Events Attended by Kris Cato:

1. Invitations

Copies of all invitations, RSVPs, or any other documentation related to social events or gatherings attended by you that were organized, sponsored, or facilitated by Nelson Mullins Riley & Scarborough LLP, Nelson Mullins Government Policy Strategies, LLC (jointly "NMRS") or its employees, or affiliates.

2. Event Records

All documents related to the attendance of you at any social events facilitated by NMRS or its employees, or affiliates

3. Communications Regarding Social Events

All written communications, including emails, text messages, letters, or any other form of communication, concerning your attendance or participation in social events sponsored by or involving NMRS, and its employees.

4. Expense Records

All records reflecting expenses, reimbursements, or payments made by NMRS to Harry F. Cato and/or Kris Cato related to social events attended by you, including travel, lodging, meals, and entertainment.

5. Photographs and Media

Any photographs, videos, or other media capturing you at social events organized or attended by NMRS or its employees.

II. Documents Related to the Election as Board Member of Lexington Medical Center:

1. Election Process Documents

All documents detailing the election process for the Board Member position, including notices of election, nomination procedures, eligibility criteria, and any other documents setting forth the rules governing the election.

2. Nomination Records

Copies of all documents related to the nomination of you as a Board Member, including nomination forms, recommendations, or endorsements received from other board members, shareholders, or other parties.

3. Promotional or Campaign Materials

Copies of any promotional or campaign materials circulated on behalf of you, including flyers, brochures, emails, social media posts, or any other media.

4. Eligibility and Qualification Records

All documents showing the eligibility, qualifications, or background provided by you that were considered as part of the election process. This includes résumés, references, and any documentation in support of your candidacy.

5. Conflict of Interest Disclosures

Any documents reflecting conflict of interest disclosures made by you or others in connection with your candidacy or election.

III. Other

1. Referrals

All documents and communications related to referrals made by you to Harry F. Cato and/or NMRS.

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	NOTICE OF DEPOSITION OF
	)	KRIS CATO, ESQUIRE
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	

**TO: CARMEN THOMAS, ESQUIRE AND CAROLINE WATNER, ESQUIRE,
ATTORNEYS FOR RESPONDENTS AND KRIS CATO, ESQUIRE:**

YOU WILL PLEASE TAKE NOTICE that on November 6, 2024, at 10:00 a.m. EST, at the office of Rosen Hagood, 40 Calhoun Street, Suite 450, Charleston, SC 29401, the undersigned attorney for Stefanie Seixas-Mikelus, M.D., will take the deposition of Kris Cato, Esquire, on oral examination, pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, before a notary public or some other officer duly authorized by law to take depositions, for purposes of discovery and for use at trial.

Pursuant to Rule 30(j)(8), counsel for the Petitioner identifies and reserves the right to use any and all documents produced or made available in discovery by any party during this deposition. The deposition will continue from day to day until completed. You are invited to attend and take such part as is fit and proper.

ROSEN HAGOOD, LLC

s/ Elizabeth F. Nicholson

James A. Bruorton, IV, Esquire

Elizabeth F. Nicholson, Esquire

40 Calhoun Street, Suite 450

Charleston, SC 29401

(843) 577-6726

cbruorton@rosenhagood.com

enicholson@rosenhagood.com

ATTORNEYS FOR STEFANIE SEIXAS-
MIKELUS, M.D.

September 25, 2024
Charleston, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Stéfanie Seixas-Mikelus, M.D.,)
))
Petitioner,)
))
vs.)
))
Tenet Healthcare Corporation, Tenet)
Physician Resources, LLC, and East)
Cooper Physician Network, LLC.)
))
Respondents.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-10-03391

CERTIFICATE OF SERVICE

The undersigned states that on September 25, 2024, she served a copy of Petitioner's Notice of Deposition of Kris Cato, Esq. by electronic transmission to the following:

Carmen Harper Thomas, Esquire
Caroline Watner, Esquire
Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Columbia, SC 29201
Carmen.thomas@nelsonmullins.com
Caroline.warner@nelsonmullins.com

Attorneys for Respondents

s/ Jessica McDonald
Jessica McDonald, Paralegal
Rosen Hagood
40 Calhoun Street, Suite 450
Charleston, SC 29401
jmcdonald@rosenhagood.com

September 25, 2024

ROSEN | HAGOOD

Elizabeth F. Nicholson
enicholson@rosenhagood.com

September 25, 2024

VIA CERTIFIED MAIL

Mr. Harry F. Cato
Nelson Mullins
1320 Main Street, 17th Floor
Columbia, SC 29201

Re: Stéfanie Seixas-Mikelus, M.D. v. Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network
Case No.: 2023-CP-10-03391

Dear Mr. Cato:

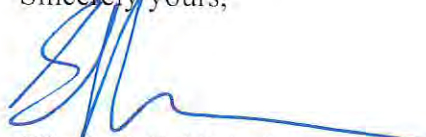
We represent Stéfanie Seixas-Mikelus, M.D. in the above matter. Enclosed please find a Subpoena for your Deposition and Notice of Deposition. Your deposition is scheduled for November 6, 2024 at 1:30 p.m. at Rosen Hagood located at 40 Calhoun Street, Suite 450, Charleston, SC 29401. Please note that the Subpoena requires you produce documents pursuant to Exhibit "A" by October 9, 2024. The documents can be produced electronically.

Please contact our office if you have a conflict with the date of your deposition so that we can discuss an alternate date.

Thank you in advance for your cooperation.

With kindest regards, I am

Sincerely yours,



Elizabeth F. Nicholson

EFN/jbm

Enclosure

Cc: All Counsel (via email w/ enclosures)

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF CHARLESTON

Stéfanie Seixas-Mikelus, M.D., Petitioner

v.

SUBPOENA IN A CIVIL CASE

Tenet Healthcare Corporation, Tenet Physician
Resources, LLC, and East Cooper Physician Network,
LLC

Case Number: 2023-CP-10-03391

Pending in Charleston County

TO: Harry F. Cato
Nelson Mullins
1320 Main Street, 17th Floor
Columbia, SC 29201

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

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

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

PLACE OF DEPOSITION	DATE AND TIME
Rosen Hagood, LLC 40 Calhoun Street, Suite 450 Charleston, SC 29401	November 6, 2024 1:30 p.m.

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

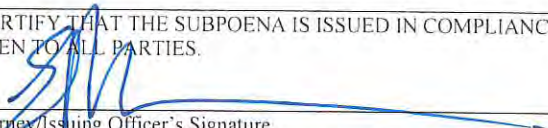
PLACE	DATE AND TIME
Rosen Hagood, LLC 40 Calhoun Street, Suite 450 Charleston, SC 29401	October 9, 2024 5:00 p.m.

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

PREMISES	DATE AND TIME , AM
----------	--------------------

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

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.


Attorney/Issuing Officer's Signature
Attorney for Petitioner Stéfanie Seixas-Mikelus, M.D.
Attorney's Address and Telephone Number :
Rosen Hagood, LLC, 40 Calhoun Street, Suite 450
Charleston, SC 29401
(843) 577-6726

9/25/2024
Date

Elizabeth F. Nicholson
Print Name

Clerk of Court/Issuing Officer's Signature
Pro Se Litigant's Name, Address and Telephone Number :

Date

Print Name

PROOF OF SERVICE

SERVED	DATE September 25, 2024	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE 1320 Main Street, 17 th Floor, Columbia, SC 29201	
SERVED ON Harry F. Cato		MANNER OF SERVICE Certified U.S. Mail
SERVED BY Jessica McDonald		TITLE Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on September 25, 2024

SIGNATURE OF SERVER
40 Calhoun Street, Suite 450, Charleston, SC 29401
ADDRESS OF SERVER

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

(c) Protection of Persons Subject to Subpoenas.

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

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

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

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

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

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

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

(iv) subjects a person to undue burden.

(B) If a subpoena:

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

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

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties In Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT A TO SUBPOENA TO
HARRY F. CATO

DOCUMENTS TO BE PRODUCED

I. Documents Related to Nelson Mullins Riley & Scarborough, LLP:

1. Contractor Agreement

All agreements, contracts, or any other documents governing the relationship between Nelson Mullins Riley & Scarborough LLP or Nelson Mullins Government Policy Strategies, LLC (jointly "Nelson Mullins") and Harry F. Cato, including, but not limited to, independent contractor agreements, amendments, or renewals.

2. Payment Records

Copies of all records reflecting payments made to you by Nelson Mullins, including invoices, receipts, bank records, or any other documentation of compensation from January 1, 2020, to May 26, 2023.

3. Work Assignment Records

Documents or communications that describe or relate to the work or services performed by you for Nelson Mullins, including job orders, work assignments, and task descriptions from January 1, 2020, to May 26, 2023.

4. Communications

All written communications, including emails, letters, text messages, or any other form of communication between Nelson Mullins and you concerning work assignments, payment, performance, or termination of services from January 1, 2020, to May 26, 2023.

5. Tax Documents

All 1099 forms, tax records, or other documents submitted to or received from you related to income, tax withholdings, or reporting of income from Nelson Mullins from January 1, 2020, to May 26, 2023.

II. Documents Related to Social Events Attended by Harry F. Cato and Kris Cato:

1. Invitations

Copies of all invitations, RSVPs, or any other documentation related to social events or gatherings attended by you and Kris Cato that were organized, sponsored, or facilitated by Nelson Mullins, its employees, or affiliates.

2. Event Records

All documents related to the attendance of you and/or Kris Cato at any social events that were organized, sponsored, or facilitated by Nelson Mullins, its employees, or affiliates.

3. Communications Regarding Social Events

All written communications, including emails, text messages, letters, or any other form of communication, concerning you and/or Kris Cato's attendance or participation in social events sponsored by or involving Nelson Mullins or its employees.

4. Expense Records

All records reflecting expenses, reimbursements, or payments made by Nelson Mullins to you and/or Kris Cato related to social events attended by you and Kris Cato, including travel, lodging, meals, and entertainment.

5. Photographs and Media

Any photographs, videos, or other media capturing you and/or Kris Cato at social events organized or attended by Nelson Mullins or its employees.

III. Others

1. Referrals

All documents and communications, including emails, letters, text messages, and any other form of communication between you and employees of Blair Cato Pickren Casterline, LLC regarding case and client referrals.

2. All documents and communications, including emails, letters, text messages, and any other form of communication between you and employees of Nelson Mullins regarding case and client referrals.

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	NOTICE OF DEPOSITION OF
	)	HARRY F. CATO, ESQUIRE
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	

**TO: CARMEN THOMAS, ESQUIRE AND CAROLINE WATNER, ESQUIRE,
ATTORNEYS FOR RESPONDENTS AND HARRY F. CATO:**

YOU WILL PLEASE TAKE NOTICE that on November 6, 2024, at 1:30 p.m. EST, at the office of Rosen Hagood, 40 Calhoun Street, Suite 450, Charleston, SC 29401, the undersigned attorney for Stefanie Seixas-Mikelus, M.D., will take the deposition of Harry F. Cato, on oral examination, pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, before a notary public or some other officer duly authorized by law to take depositions, for purposes of discovery and for use at trial.

Pursuant to Rule 30(j)(8), counsel for the Petitioner identifies and reserves the right to use any and all documents produced or made available in discovery by any party during this deposition. The deposition will continue from day to day until completed. You are invited to attend and take such part as is fit and proper.

ROSEN HAGOOD, LLC

s/ Elizabeth F. Nicholson

James A. Bruorton, IV, Esquire

Elizabeth F. Nicholson, Esquire

40 Calhoun Street, Suite 450

Charleston, SC 29401

(843) 577-6726

cbruorton@rosenhagood.com

enicholson@rosenhagood.com

ATTORNEYS FOR STEFANIE SEIXAS-
MIKELUS, M.D.

September 25, 2024
Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-10-03391

Stéfanie Seixas-Mikelus, M.D.,

Petitioner,

vs.

Tenet Healthcare Corporation, Tenet
Physician Resources, LLC, and East
Cooper Physician Network, LLC.

Respondents.

CERTIFICATE OF SERVICE

The undersigned states that on September 25, 2024, she served a copy of Petitioner's Notice of Deposition of Harry Cato by electronic transmission to the following:

Carmen Harper Thomas, Esquire
Caroline Watner, Esquire
Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Columbia, SC 29201
Carmen.thomas@nelsonmullins.com
Caroline.warner@nelsonmullins.com

Attorneys for Respondents

s/ Jessica McDonald
Jessica McDonald, Paralegal
Rosen Hagood
40 Calhoun Street, Suite 450
Charleston, SC 29401
jmcdonald@rosenhagood.com

September 25, 2024

ROSEN | HAGOOD

Elizabeth F. Nicholson
enicholson@rosenhagood.com

September 26, 2024

VIA CERTIFIED MAIL

Nelson Mullins Riley & Scarborough LLP
c/o CT Corporation System, Registered Agent
2 Office Park Court, Suite 103
Columbia, SC 29223

Re: Stéfanie Seixas-Mikelus, M.D. v. Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network
Case No.: 2023-CP-10-03391

Dear Sir or Madam:

We represent Stéfanie Seixas-Mikelus, M.D. in the above matter. Enclosed please find a Subpoena Duces Tecum for service upon you. A description of the requested documents and information may be found on Exhibit A to the Subpoena.

Also enclosed is a Certificate of Authenticity which we would appreciate your returning with the documents.

We do agree to reimburse you for any reasonable charges associated with this request. Please contact me if you expect the charges to exceed \$50.00. We are happy to accept the requested documents electronically.

Thank you in advance for your cooperation.

With kindest regards, I am

Sincerely yours,

s/ Elizabeth F. Nicholson

Elizabeth F. Nicholson

EFN/jbm

Enclosure

Cc: All Counsel (via email w/ enclosures)

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF CHARLESTON

Stéfanie Seixas-Mikelus, M.D., Petitioner

v.

SUBPOENA IN A CIVIL CASE

Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network, LLC

Case Number: 2023-CP-10-03391

Pending in Charleston County

TO: Nelson Mullins Riley & Scarborough LLP
c/o CT Corporation System, Registered Agent
2 Office Park Court, Suite 103
Columbia, SC 29223

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

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME , AM

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

PLACE OF DEPOSITION

DATE AND TIME

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

PLACE

Rosen Hagood, LLC
40 Calhoun Street, Suite 450
Charleston, SC 29401

DATE AND TIME

October 9, 2024 5:00 p.m.

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

PREMISES

DATE AND TIME , AM

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

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(e)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature

Attorney for Petitioner Stéfanie Seixas-Mikelus, M.D.

Attorney's Address and Telephone Number :

Rosen Hagood, LLC, 40 Calhoun Street, Suite 450

Charleston, SC 29401

(843) 577-6726

9/25/2024

Date

Elizabeth F. Nicholson

Print Name

Clerk of Court/Issuing Officer's Signature

Pro Se Litigant's Name, Address and Telephone Number :

Date

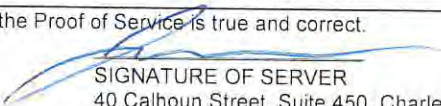
Print Name

PROOF OF SERVICE

SERVED	DATE September 25, 2024	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE 2 Office Park Court, Suite 103, Columbia, SC 29223	
SERVED ON Nelson Mullins Riley & Scarborough LLC c/o CT Corporation System, Registered Agent		MANNER OF SERVICE Certified U.S. Mail
SERVED BY Jessica McDonald		TITLE Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on September 25, 2024


 SIGNATURE OF SERVER
 40 Calhoun Street, Suite 450, Charleston, SC 29401
 ADDRESS OF SERVER

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

(c) Protection of Persons Subject to Subpoenas.

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

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

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

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

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

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

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

(iv) subjects a person to undue burden.

(B) If a subpoena:

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

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

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a

substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT A TO SUBPOENA TO
NELSON MULLINS RILEY & SCARBOROUGH LLP & NELSON MULLINS
GOVERNMENT POLICY STRATEGIES, LLC

DOCUMENTS TO BE PRODUCED

I. Documents Related to Harry F. Cato:

1. Contractor Agreement

All agreements, contracts, or any other documents governing the relationship between Nelson Mullins Riley & Scarborough LLP and/or Nelson Mullins Government Policy Strategies, LLC (jointly “NMRS”) and Harry F. Cato, including, but not limited to, independent contractor agreements, amendments, or renewals.

2. Payment Records

Copies of all records reflecting payments made by NMRS to Harry F. Cato, including invoices, receipts, bank records, or any other documentation of compensation from January 1, 2020, to May 26, 2023.

3. Work Assignment Records

Documents or communications that describe or relate to the work or services performed by Harry F. Cato for NMRS, including job orders, work assignments, and task descriptions from January 1, 2020, to May 26, 2023.

4. Communications

All written communications, including emails, letters, text messages, or any other form of communication between NMRS and Harry F. Cato concerning work assignments, payment, performance, or termination of services from January 1, 2020, to May 26, 2023.

5. Tax Documents

All 1099 forms, tax records, or other documents of NMRS submitted to or received from Harry F. Cato related to income, tax withholdings, or reporting from January 1, 2020, to May 26, 2023.

II. Documents Related to Social Events Attended by Kris Cato:

1. Invitations

Copies of all invitations, RSVPs, or any other documentation related to social events or gatherings attended by Harry F. Cato and Kris Cato that were organized, sponsored, or facilitated by NMRS, its employees, or affiliates.

2. Event Records

All documents related to the attendance of Harry F. Cato and Kris Cato at any social events organized, sponsored, or facilitated by NMRS, its employees, or affiliates.

3. Communications Regarding Social Events

All written communications, including emails, text messages, letters, or any other form of communication, concerning Harry F. Cato and Kris Cato’s attendance or participation in social events sponsored by or involving NMRS.

4. Expense Records

All records reflecting expenses, reimbursements, or payments made by NMRS to Harry

F. Cato and/or Kris Cato related to social events attended by the Harry F. Cato and Kris Cato, including travel, lodging, meals, and entertainment.

5. **Photographs and Media**

Any photographs, videos, or other media capturing Harry F. Cato and/or Kris Cato at social events organized or attended by NMRS or its employees.

6. **Event Reports or Notes**

Any internal reports, meeting minutes, or notes regarding the presence of Harry F. Cato and Kris Cato at such events.

III. Others

1. **Referrals**

All documents and communications, including emails, letters, text messages, and any other form of communication between employees or contractors of NMRS and employees of Blair Cato Pickren Casterline, LLC regarding case and client referrals from January 1, 2020, to May 26, 2023.

2. **Communications**

All written communications, including emails, letters, text messages, or any other form of communication between NMRS, its representatives and employees, and Kris Cato from May 26, 2023, to the present regarding the arbitration and subsequent motion to vacate the arbitration award filings.

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	CERTIFICATE OF AUTHENTICITY
	)	
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	

PERSONALLY APPEARED BEFORE ME, _____, who first
being duly sworn deposes and states:

1. I am the Records Custodian for Nelson Mullins Riley & Scarborough LLP.
2. I have reviewed the records of this office relative to a document subpoena dated September 27, 2024, served upon Nelson Mullins Riley & Scarborough LLP by Elizabeth F. Nicholson, attorney for Petitioner in the above-captioned lawsuit.
3. The enclosed records are a complete and accurate copy of all records of in the possession, custody, or control of Nelson Mullins Riley & Scarborough LLP meeting the description in "Exhibit A" to the said document subpoena dated September 27, 2024.
4. All of the attached records are copies of records which are kept in the regular and ordinary course of business by this office.

[SIGNATURE AND NOTARY ON FOLLOWING PAGE]

Signature

Printed Name

Title

Sworn to before me this

_____ day of _____, 2024

Notary Public for South Carolina

My commission expires _____



Elizabeth F. Nicholson
enicholson@rosenhagood.com

September 26, 2024

VIA CERTIFIED MAIL

Nelson Mullins Government Policy Strategies, LLC
c/o Thomas F. Moran, Registered Agent
3751 Robert M. Grissom Parkway, Suite 300
Myrtle Beach, SC 29577

Re: Stéfanie Seixas-Mikelus, M.D. v. Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network
Case No.: 2023-CP-10-03391

Dear Mr. Moran:

We represent Stéfanie Seixas-Mikelus, M.D. in the above matter. Enclosed please find a Subpoena Duces Tecum for service upon you. A description of the requested documents and information may be found on Exhibit A to the Subpoena.

Also enclosed is a Certificate of Authenticity which we would appreciate your returning with the documents.

We do agree to reimburse you for any reasonable charges associated with this request. Please contact me if you expect the charges to exceed \$50.00. We are happy to accept the requested documents electronically.

Thank you in advance for your cooperation.

With kindest regards, I am

Sincerely yours,

s/ Elizabeth F. Nicholson

Elizabeth F. Nicholson

EFN/jbm

Enclosure

Cc: All Counsel (via email w/ enclosures)

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF CHARLESTON

Stéfanie Seixas-Mikelus, M.D., Petitioner

v.

SUBPOENA IN A CIVIL CASE

Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network, LLC

Case Number: 2023-CP-10-03391

Pending in Charleston County

TO: Nelson Mullins Government Policy Strategies, LLC
c/o Thomas F. Moran, Registered Agent
3751 Robert M. Grissom Parkway, Suite 300
Myrtle Beach, SC 29577

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

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

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

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

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

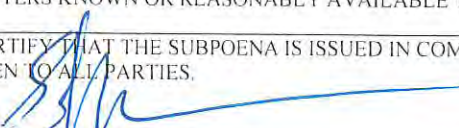
PLACE Rosen Hagood, LLC 40 Calhoun Street, Suite 450 Charleston, SC 29401	DATE AND TIME October 9, 2024 5:00 p.m.
--	--

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

PREMISES	DATE AND TIME , AM
----------	--------------------

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

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature  Attorney for Petitioner Stéfanie Seixas-Mikelus, M.D. Attorney's Address and Telephone Number : Rosen Hagood, LLC, 40 Calhoun Street, Suite 450 Charleston, SC 29401 (843) 577-6726	9/25/2024 Date	Elizabeth F. Nicholson Print Name
--	-------------------	--------------------------------------

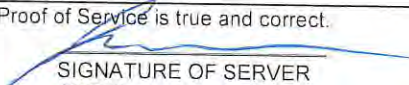
Clerk of Court/Issuing Officer's Signature Pro Se Litigant's Name, Address and Telephone Number :	Date	Print Name
--	------	------------

PROOF OF SERVICE

SERVED	DATE September 25, 2024	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE 3751 Robert M. Grissom Parkway, Suite 300 Myrtle Beach, SC 29577	
SERVED ON Nelson Mullins Government Policy Strategies, LLC c/o Thomas F. Moran, Registered Agent		MANNER OF SERVICE Certified U.S. Mail
SERVED BY Jessica McDonald		TITLE Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.
 Executed on September 25, 2024


 SIGNATURE OF SERVER
 40 Calhoun Street, Suite 450, Charleston, SC 29401
 ADDRESS OF SERVER

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

(c) Protection of Persons Subject to Subpoenas.

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

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

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

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

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

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

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

(iv) subjects a person to undue burden.

(B) If a subpoena:

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

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

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, in

protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties In Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT A TO SUBPOENA TO
NELSON MULLINS RILEY & SCARBOROUGH LLP & NELSON MULLINS
GOVERNMENT POLICY STRATEGIES, LLC

DOCUMENTS TO BE PRODUCED

I. Documents Related to Harry F. Cato:

1. Contractor Agreement

All agreements, contracts, or any other documents governing the relationship between Nelson Mullins Riley & Scarborough LLP and/or Nelson Mullins Government Policy Strategies, LLC (jointly “NMRS”) and Harry F. Cato, including, but not limited to, independent contractor agreements, amendments, or renewals.

2. Payment Records

Copies of all records reflecting payments made by NMRS to Harry F. Cato, including invoices, receipts, bank records, or any other documentation of compensation from January 1, 2020, to May 26, 2023.

3. Work Assignment Records

Documents or communications that describe or relate to the work or services performed by Harry F. Cato for NMRS, including job orders, work assignments, and task descriptions from January 1, 2020, to May 26, 2023.

4. Communications

All written communications, including emails, letters, text messages, or any other form of communication between NMRS and Harry F. Cato concerning work assignments, payment, performance, or termination of services from January 1, 2020, to May 26, 2023.

5. Tax Documents

All 1099 forms, tax records, or other documents of NMRS submitted to or received from Harry F. Cato related to income, tax withholdings, or reporting from January 1, 2020, to May 26, 2023.

II. Documents Related to Social Events Attended by Kris Cato:

1. Invitations

Copies of all invitations, RSVPs, or any other documentation related to social events or gatherings attended by Harry F. Cato and Kris Cato that were organized, sponsored, or facilitated by NMRS, its employees, or affiliates.

2. Event Records

All documents related to the attendance of Harry F. Cato and Kris Cato at any social events organized, sponsored, or facilitated by NMRS, its employees, or affiliates.

3. Communications Regarding Social Events

All written communications, including emails, text messages, letters, or any other form of communication, concerning Harry F. Cato and Kris Cato’s attendance or participation in social events sponsored by or involving NMRS.

4. Expense Records

All records reflecting expenses, reimbursements, or payments made by NMRS to Harry

F. Cato and/or Kris Cato related to social events attended by the Harry F. Cato and Kris Cato, including travel, lodging, meals, and entertainment.

5. **Photographs and Media**

Any photographs, videos, or other media capturing Harry F. Cato and/or Kris Cato at social events organized or attended by NMRS or its employees.

6. **Event Reports or Notes**

Any internal reports, meeting minutes, or notes regarding the presence of Harry F. Cato and Kris Cato at such events.

III. Others

1. **Referrals**

All documents and communications, including emails, letters, text messages, and any other form of communication between employees or contractors of NMRS and employees of Blair Cato Pickren Casterline, LLC regarding case and client referrals from January 1, 2020, to May 26, 2023.

2. **Communications**

All written communications, including emails, letters, text messages, or any other form of communication between NMRS, its representatives and employees, and Kris Cato from May 26, 2023, to the present regarding the arbitration and subsequent motion to vacate the arbitration award filings.

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	CERTIFICATE OF AUTHENTICITY
	)	
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	

PERSONALLY APPEARED BEFORE ME, _____, who first
being duly sworn deposes and states:

1. I am the Records Custodian for Nelson Mullins Government Policy Strategies, LLC.
2. I have reviewed the records of this office relative to a document subpoena dated September 27, 2024, served upon Nelson Mullins Government Policy Strategies, LLC by Elizabeth F. Nicholson, attorney for Petitioner in the above-captioned lawsuit.
3. The enclosed records are a complete and accurate copy of all records of in the possession, custody, or control of Nelson Mullins Government Policy Strategies, LLC meeting the description in "Exhibit A" to the said document subpoena dated September 27, 2024.
4. All of the attached records are copies of records which are kept in the regular and ordinary course of business by this office.

[SIGNATURE AND NOTARY ON FOLLOWING PAGE]

Signature

Printed Name

Title

Sworn to before me this

_____ day of _____, 2024

Notary Public for South Carolina

My commission expires _____

ROSEN | HAGOOD

Elizabeth F. Nicholson
enicholson@rosenhagood.com

September 26, 2024

VIA CERTIFIED MAIL

Blair Cato Pickren Casterline, LLC
c/o Bru Pender, Registered Agent
925 E. Main Street, Unit A
Lexington, SC 29072

Re: Stéfanie Seixas-Mikelus, M.D. v. Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network
Case No.: 2023-CP-10-03391

Dear Mr. Pender:

We represent Stéfanie Seixas-Mikelus, M.D. in the above matter. Enclosed please find a Subpoena Duces Tecum for service upon you. A description of the requested documents and information may be found on Exhibit A to the Subpoena.

Also enclosed is a Certificate of Authenticity which we would appreciate your returning with the documents.

We do agree to reimburse you for any reasonable charges associated with this request. Please contact me if you expect the charges to exceed \$50.00. We are happy to accept the requested documents electronically.

Thank you in advance for your cooperation.

With kindest regards, I am

Sincerely yours,

s/ Elizabeth F. Nicholson

Elizabeth F. Nicholson

EFN/jbm

Enclosure

Cc: All Counsel (via email w/ enclosures)

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF CHARLESTON

Stéfanie Seixas-Mikelus, M.D., Petitioner

v.

SUBPOENA IN A CIVIL CASE

Tenet Healthcare Corporation, Tenet Physician
Resources, LLC, and East Cooper Physician Network,
LLC

Case Number: 2023-CP-10-03391

Pending in Charleston County

TO: Blair Cato Pickren Casterline, LLC
c/o Bru Pender, Registered Agent
925 E. Main Street, Unit A
Lexington, SC 29072

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

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

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

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

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

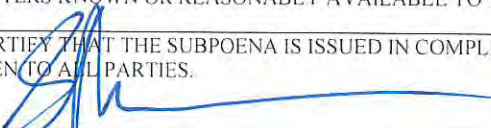
PLACE Rosen Hagood, LLC 40 Calhoun Street, Suite 450 Charleston, SC 29401	DATE AND TIME October 9, 2024 5:00 p.m.
--	--

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

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

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature 	9/25/2024 Date	Elizabeth F. Nicholson Print Name
Attorney for Petitioner Stéfanie Seixas-Mikelus, M.D. Attorney's Address and Telephone Number : Rosen Hagood, LLC, 40 Calhoun Street, Suite 450 Charleston, SC 29401 (843) 577-6726		

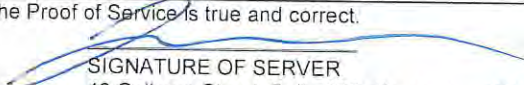
Clerk of Court/Issuing Officer's Signature Pro Se Litigant's Name, Address and Telephone Number :	Date	Print Name
--	------	------------

PROOF OF SERVICE

SERVED	DATE September 25, 2024	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE 925 E. Main Street, Unit A, Lexington, SC 29072	
SERVED ON Blair Cato Pickren Casterline, LLC c/o Bru Pender, Registered Agent		MANNER OF SERVICE Certified U.S. Mail
SERVED BY Jessica McDonald		TITLE Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on September 25, 2024


SIGNATURE OF SERVER
40 Calhoun Street, Suite 450, Charleston, SC 29401
ADDRESS OF SERVER

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

(c) Protection of Persons Subject to Subpoenas.

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

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

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

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

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

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

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

(iv) subjects a person to undue burden.

(B) If a subpoena:

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

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

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a

substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties In Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT A TO SUBPOENA TO
BLAIR CATO PICKERN & CASTERLINE, LLC

DOCUMENTS TO BE PRODUCED

I. Documents Related to Social Events Attended by Harry F. Cato:

1. Invitations

Copies of all invitations, RSVPs, or any other documentation related to social events or gatherings attended by Harry F. Cato that were organized, sponsored, or facilitated by Blair Cato Pickern & Casterline, LLC (“Blair Cato”), its employees or affiliates.

2. Event Records

All documents related to the attendance of Harry F. Cato at any social events that were organized, sponsored, or facilitated by Blair Cato, its employees or affiliates.

3. Communications Regarding Social Events

All written communications, including emails, text messages, letters, or any other form of communication, concerning Harry F. Cato’s attendance or participation in social events sponsored by or involving Blair Cato or its employees.

4. Expense Records

All records reflecting expenses, reimbursements, or payments made by Blair Cato to Harry F. Cato and/or Kris Cato related to social events attended by the Harry F. Cato, including travel, lodging, meals, and entertainment.

5. Photographs and Media

Any photographs, videos, or other media capturing Harry F. Cato at social events organized or attended by Blair Cato’s employees.

6. Event Reports or Notes

Any internal reports, meeting minutes, or notes regarding the presence of Harry F. Cato at such events.

II. Others

1. Referrals

All documents and communications, including emails, letters, text messages, and any other form of communication between Blair Cato Pickern Casterline, LLC and Harry F. Cato regarding case and client referrals from January 1, 2020 to May 26, 2023.

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	CERTIFICATE OF AUTHENTICITY
	)	
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	

PERSONALLY APPEARED BEFORE ME, _____, who first
being duly sworn deposes and states:

1. I am the Records Custodian for Blair Cato Pickren & Casterline, LLC.
2. I have reviewed the records of this office relative to a document subpoena dated September 27, 2024, served upon Blair Cato Pickren & Casterline, LLC by Elizabeth F. Nicholson, attorney for Petitioner in the above-captioned lawsuit.
3. The enclosed records are a complete and accurate copy of all records of in the possession, custody, or control of Blair Cato Pickren & Casterline, LLC meeting the description in "Exhibit A" to the said document subpoena dated September 27, 2024.
4. All of the attached records are copies of records which are kept in the regular and ordinary course of business by this office.

[SIGNATURE AND NOTARY ON FOLLOWING PAGE]

Signature

Printed Name

Title

Sworn to before me this

_____ day of _____, 2024

Notary Public for South Carolina

My commission expires _____

**Letters and Subpoenas sent on October 30, 2024,
attached as Exhibit 9**

ROSEN | HAGOOD

Elizabeth F. Nicholson
enicholson@rosenhagood.com

October 30, 2024

VIA CERTIFIED MAIL, RETURN RECEIPT, DELIVERY RESTRICTED

Blair Cato Pickren Casterline, LLC
c/o Haley Hubbard, Esquire
Ballard & Watson Attorneys at Law
226 State Street
West Columbia, SC 29169

Re: Stéfanie Seixas-Mikelus, M.D. v. Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network
Case No.: 2023-CP-10-03391

Dear Haley:

We represent Stéfanie Seixas-Mikelus, M.D. in the above matter. Enclosed please find a Subpoena Duces Tecum for service upon you. A description of the requested documents and information may be found on Exhibit A to the Subpoena.

Also enclosed is a Certificate of Authenticity which we would appreciate your returning with the documents.

We do agree to reimburse you for any reasonable charges associated with this request. Please contact me if you expect the charges to exceed \$50.00. We are happy to accept the requested documents electronically.

Thank you in advance for your cooperation.

With kindest regards, I am

Sincerely yours,

s/ Elizabeth F. Nicholson

Elizabeth F. Nicholson

EFN/jbm

Enclosure

Cc: All Counsel (via email w/ enclosures)

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF RICHLAND

Stéfanie Seixas-Mikelus, M.D., Petitioner

v.

SUBPOENA IN A CIVIL CASE

Tenet Healthcare Corporation, Tenet Physician
Resources, LLC, and East Cooper Physician Network,
LLC

Case Number: 2023-CP-10-03391

Pending in Charleston County

TO: Blair Cato Pickren Casterline, LLC
c/o Haley Hubbard, Esquire
Ballard & Watson Attorneys at Law
226 State Street
West Columbia, SC 29169

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

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

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

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

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

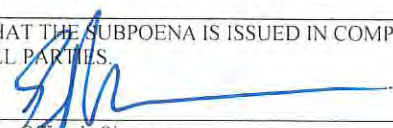
PLACE Rosen Hagood, LLC 40 Calhoun Street, Suite 450 Charleston, SC 29401	DATE AND TIME November 15, 2024 5:00 p.m.
--	--

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

PREMISES	DATE AND TIME , AM
----------	--------------------

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

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

 Attorney/Issuing Officer's Signature Attorney for Petitioner Stéfanie Seixas-Mikelus, M.D. Attorney's Address and Telephone Number : Rosen Hagood, LLC, 40 Calhoun Street, Suite 450 Charleston, SC 29401 (843) 577-6726	10/30/2024 Date	Elizabeth F. Nicholson Print Name
--	--------------------	--------------------------------------

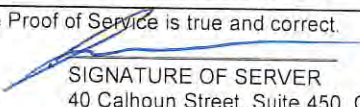
Clerk of Court/Issuing Officer's Signature Pro Se Litigant's Name, Address and Telephone Number :	Date	Print Name
--	------	------------

PROOF OF SERVICE

SERVED	DATE October 30, 2024	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE 226 State Street, West Columbia, SC 29169	
SERVED ON Blair Cato Pickren Casterline, LLC c/o Haley Hubbard, Esquire, Ballard & Watson Attorneys at Law		MANNER OF SERVICE Certified U.S. Mail, Return Receipt, Delivery Restricted
SERVED BY Jessica McDonald		TITLE Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on October 30, 2024


SIGNATURE OF SERVER
40 Calhoun Street, Suite 450, Charleston, SC 29401
ADDRESS OF SERVER

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

(c) Protection of Persons Subject to Subpoenas.

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

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

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

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

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

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

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

(iv) subjects a person to undue burden.

(B) If a subpoena:

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

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

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT A TO SUBPOENA TO
BLAIR CATO PICKERN & CASTERLINE, LLC

DOCUMENTS TO BE PRODUCED

I. Documents Related to Social Events Attended by Harry F. Cato:

1. Invitations

Copies of all invitations, RSVPs, or any other documentation related to social events or gatherings attended by Harry F. Cato that were organized, sponsored, or facilitated by Blair Cato Pickern & Casterline, LLC ("Blair Cato"), its employees or affiliates.

2. Event Records

All documents related to the attendance of Harry F. Cato at any social events that were organized, sponsored, or facilitated by Blair Cato, its employees or affiliates.

3. Communications Regarding Social Events

All written communications, including emails, text messages, letters, or any other form of communication, concerning Harry F. Cato's attendance or participation in social events sponsored by or involving Blair Cato or its employees.

4. Expense Records

All records reflecting expenses, reimbursements, or payments made by Blair Cato to Harry F. Cato and/or Kris Cato related to social events attended by the Harry F. Cato, including travel, lodging, meals, and entertainment.

5. Photographs and Media

Any photographs, videos, or other media capturing Harry F. Cato at social events organized or attended by Blair Cato's employees.

6. Event Reports or Notes

Any internal reports, meeting minutes, or notes regarding the presence of Harry F. Cato at such events.

II. Others

1. Referrals

All documents and communications, including emails, letters, text messages, and any other form of communication between Blair Cato Pickern Casterline, LLC and Harry F. Cato regarding case and client referrals from January 1, 2020 to May 26, 2023.

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	CERTIFICATE OF AUTHENTICITY
	)	
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	

PERSONALLY APPEARED BEFORE ME, _____, who first
being duly sworn deposes and states:

1. I am the Records Custodian for Blair Cato Pickren & Casterline, LLC.
2. I have reviewed the records of this office relative to a document subpoena dated October 30, 2024, served upon Blair Cato Pickren & Casterline, LLC by Elizabeth F. Nicholson, attorney for Petitioner in the above-captioned lawsuit.
3. The enclosed records are a complete and accurate copy of all records of in the possession, custody, or control of Blair Cato Pickren & Casterline, LLC meeting the description in "Exhibit A" to the said document subpoena dated October 30, 2024.
4. All of the attached records are copies of records which are kept in the regular and ordinary course of business by this office.

[SIGNATURE AND NOTARY ON FOLLOWING PAGE]

Signature

Printed Name

Title

Sworn to before me this

_____ day of _____, 2024

Notary Public for South Carolina

My commission expires _____

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Stéfanie Seixas-Mikelus, M.D.,

Petitioner,

vs.

Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network, LLC.

Respondents.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-10-03391

**ACCEPTANCE OF SERVICE OF
SUBPOENA TO BLAIR CATO
PICKREN CASTERLINE, LLC**

On behalf of Blair Cato Pickren Casterline, LLC, the undersigned hereby acknowledges and accepts service of the subpoena issued to Blair Cato Pickren Casterline, LLC in the above-captioned matter on this _____ day of _____, 2024.

Haley Hubbard, Esquire
Ballard & Watson Attorneys at Law
226 State Street
West Columbia, SC 29169
haley@desaballard.com

ROSEN | HAGOOD

Elizabeth F. Nicholson
enicholson@rosenhagood.com

October 30, 2024

VIA CERTIFIED MAIL, RETURN RECEIPT, DELIVERY RESTRICTED

Lexington Medical Center Auxiliary
c/o Nikole Setzler Mergo, Esquire
Maynard Nexsen PC
1230 Main Street, Suite 700
Columbia, SC 29201

Re: Stéfanie Seixas-Mikelus, M.D. v. Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network
Case No.: 2023-CP-10-03391

Dear Nikole:

We represent Stéfanie Seixas-Mikelus, M.D. in the above matter. Enclosed please find a Subpoena Duces Tecum for service upon you. A description of the requested documents and information may be found on Exhibit A to the Subpoena.

Also enclosed is a Certificate of Authenticity which we would appreciate your returning with the documents.

We do agree to reimburse you for any reasonable charges associated with this request. Please contact me if you expect the charges to exceed \$50.00. We are happy to accept the requested documents electronically.

Thank you in advance for your cooperation.

With kindest regards, I am

Sincerely yours,

s/ Elizabeth F. Nicholson

Elizabeth F. Nicholson

EFN/jbm

Enclosure

Cc: All Counsel (via email w/ enclosures)

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF LEXINGTON

Stéfanie Seixas-Mikelus, M.D., Petitioner

v.

SUBPOENA IN A CIVIL CASE

Tenet Healthcare Corporation, Tenet Physician
Resources, LLC, and East Cooper Physician Network,
LLC

Case Number: 2023-CP-10-03391

Pending in Charleston County

TO: Lexington Medical Center Auxiliary
c/o Nikole Setzler Mergo, Esquire
Maynard Nexsen PC
1230 Main Street, Suite 700
Columbia, SC 29201

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

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME , AM

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

PLACE OF DEPOSITION

DATE AND TIME

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

PLACE

Rosen Hagood, LLC
40 Calhoun Street, Suite 450
Charleston, SC 29401

DATE AND TIME

November 15, 2024 5:00 p.m.

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

PREMISES

DATE AND TIME , AM

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

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature

10/30/2024

Elizabeth F. Nicholson

Date

Print Name

Attorney for Petitioner Stéfanie Seixas-Mikelus, M.D.

Attorney's Address and Telephone Number :

Rosen Hagood, LLC, 40 Calhoun Street, Suite 450
Charleston, SC 29401

(843) 577-6726

Clerk of Court/Issuing Officer's Signature

Date

Print Name

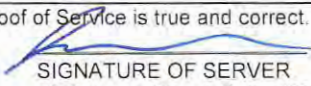
Pro Se Litigant's Name, Address and Telephone Number :

PROOF OF SERVICE

SERVED	DATE October 30, 2024	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE 1230 Main Street, Suite 700, Columbia, SC 29201	
SERVED ON Lexington Medical Center c/o Nikole Setzler Mergo, Esquire, Maynard Nexsen, PC		MANNER OF SERVICE Certified U.S. Mail, Return Receipt, Delivery Restricted
SERVED BY Jessica McDonald		TITLE Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on October 30, 2024


SIGNATURE OF SERVER
40 Calhoun Street, Suite 450, Charleston, SC 29401
ADDRESS OF SERVER

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

(c) Protection of Persons Subject to Subpoenas.

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

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

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

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

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

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

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

(iv) subjects a person to undue burden.

(B) If a subpoena:

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

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

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

**EXHIBIT A TO SUBPOENA TO
LEXINGTON MEDICAL CENTER**

DOCUMENTS TO BE PRODUCED

Documents Related to the Election of Board Member Kris Cato:

1. Election Process Documents

All documents detailing the election process for the position of Kris Cato, including notices of election, nomination procedures, eligibility criteria, and any other documents setting forth the rules governing the election.

2. Nomination Records

Copies of all documents related to the nomination of Kris Cato, including nomination forms, recommendations, or endorsements received from other board members, shareholders, or other parties.

3. Minutes of Meetings

All minutes of any board meetings, shareholder meetings, or other organizational meetings where the election of Kris Cato was discussed or voted on.

4. Promotional or Campaign Materials

Copies of any promotional or campaign materials circulated on behalf of Kris Cato, including flyers, brochures, emails, social media posts, or any other media.

5. Eligibility and Qualification Records

All documents showing the eligibility, qualifications, or background of Kris Cato that were considered as part of the election process. This includes résumés, references, and any documentation submitted by Kris Cato in support of their candidacy.

6. Conflict of Interest Disclosures

Any documents reflecting conflict of interest disclosures made by Kris Cato or others in connection with their candidacy or election.

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	CERTIFICATE OF AUTHENTICITY
	)	
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	

PERSONALLY APPEARED BEFORE ME, _____, who first
being duly sworn deposes and states:

1. I am the Records Custodian for Lexington Medical Center Auxiliary.
2. I have reviewed the records of this office relative to a document subpoena dated October 30, 2024, served upon Lexington Medical Center Auxiliary by Elizabeth F. Nicholson, attorney for Petitioner in the above-captioned lawsuit.
3. The enclosed records are a complete and accurate copy of all records of in the possession, custody, or control of Lexington Medical Center Auxiliary meeting the description in "Exhibit A" to the said document subpoena dated October 30, 2024.
4. All of the attached records are copies of records which are kept in the regular and ordinary course of business by this office.

[SIGNATURE AND NOTARY ON FOLLOWING PAGE]

Signature

Printed Name

Title

Sworn to before me this

_____ day of _____, 2024

Notary Public for South Carolina

My commission expires _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

Stéfanie Seixas-Mikelus, M.D.,)
)
Petitioner,)
)
vs.)
)
Tenet Healthcare Corporation, Tenet)
Physician Resources, LLC, and East)
Cooper Physician Network, LLC.)
)
Respondents.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-10-03391

**ACCEPTANCE OF SERVICE OF
SUBPOENA TO LEXINGTON
MEDICAL CENTER AUXILIARY**

On behalf of Lexington Medical Center Auxiliary, the undersigned hereby acknowledges and accepts service of the subpoena issued to Lexington Medical Center Auxiliary in the above-captioned matter on this _____ day of _____, 2024.

Nikole Setzler Mergo, Esquire
Maynard Nexsen PC
1230 Main Street, Suite 700
Columbia, SC 29201
nmergo@nexsenpruet.com

ROSEN | HAGOOD

Elizabeth F. Nicholson
enicholson@rosenhagood.com

October 30, 2024

VIA CERTIFIED MAIL, RETURN RECEIPT, DELIVERY RESTRICTED

Nelson Mullins Government Policy Strategies, LLC
c/o William C. Wood, Jr., Esquire
Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Columbia, SC 29201

Re: Stéfanie Seixas-Mikelus, M.D. v. Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network
Case No.: 2023-CP-10-03391

Dear William:

We represent Stéfanie Seixas-Mikelus, M.D. in the above matter. Enclosed please find a Subpoena Duces Tecum for service upon you. A description of the requested documents and information may be found on Exhibit A to the Subpoena.

Also enclosed is a Certificate of Authenticity which we would appreciate your returning with the documents.

We do agree to reimburse you for any reasonable charges associated with this request. Please contact me if you expect the charges to exceed \$50.00. We are happy to accept the requested documents electronically.

Thank you in advance for your cooperation.

With kindest regards, I am

Sincerely yours,

s/ Elizabeth F. Nicholson

Elizabeth F. Nicholson

EFN/jbm

Enclosure

Cc: All Counsel (via email w/ enclosures)

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF RICHLAND

Stéfanie Seixas-Mikelus, M.D., Petitioner

v.

SUBPOENA IN A CIVIL CASE

Tenet Healthcare Corporation, Tenet Physician
Resources, LLC, and East Cooper Physician Network,
LLC

Case Number: 2023-CP-10-03391

Pending in Charleston County

TO: Nelson Mullins Government Policy Strategies, LLC
c/o William C. Wood, Jr., Esquire
Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Columbia, SC 29201

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

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME , AM

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

PLACE OF DEPOSITION

DATE AND TIME

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

PLACE

Rosen Hagood, LLC
40 Calhoun Street, Suite 450
Charleston, SC 29401

DATE AND TIME

November 15, 2024 5:00 p.m.

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

PREMISES

DATE AND TIME , AM

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

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature

10/30/2024

Elizabeth F. Nicholson

Date

Print Name

Attorney for Petitioner Stéfanie Seixas-Mikelus, M.D.

Attorney's Address and Telephone Number :

Rosen Hagood, LLC, 40 Calhoun Street, Suite 450
Charleston, SC 29401

(843) 577-6726

Clerk of Court/Issuing Officer's Signature

Date

Print Name

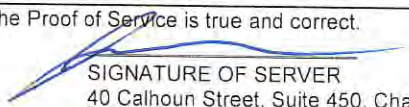
Pro Se Litigant's Name, Address and Telephone Number :

PROOF OF SERVICE

SERVED	DATE October 30, 2024	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE 1320 Main Street, 17 th Floor, Columbia, SC 29201	
SERVED ON Nelson Mullins Government Policy Strategies, LLC c/o William C. Wood, Jr., Esquire, Nelson Mullins Riley & Scarborough LLP		MANNER OF SERVICE Certified U.S. Mail, Return Receipt, Delivery Restricted
SERVED BY Jessica McDonald		TITLE Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on October 30, 2024


SIGNATURE OF SERVER
40 Calhoun Street, Suite 450, Charleston, SC 29401
ADDRESS OF SERVER

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

(c) Protection of Persons Subject to Subpoenas.

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

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

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

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

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

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

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

(iv) subjects a person to undue burden.

(B) If a subpoena:

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

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

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT A TO SUBPOENA TO
NELSON MULLINS RILEY & SCARBOROUGH LLP & NELSON MULLINS
GOVERNMENT POLICY STRATEGIES, LLC

DOCUMENTS TO BE PRODUCED

I. Documents Related to Harry F. Cato:

1. Contractor Agreement

All agreements, contracts, or any other documents governing the relationship between Nelson Mullins Riley & Scarborough LLP and/or Nelson Mullins Government Policy Strategies, LLC (jointly "NMRS") and Harry F. Cato, including, but not limited to, independent contractor agreements, amendments, or renewals.

2. Payment Records

Copies of all records reflecting payments made by NMRS to Harry F. Cato, including invoices, receipts, bank records, or any other documentation of compensation from January 1, 2020, to May 26, 2023.

3. Work Assignment Records

Documents or communications that describe or relate to the work or services performed by Harry F. Cato for NMRS, including job orders, work assignments, and task descriptions from January 1, 2020, to May 26, 2023.

4. Communications

All written communications, including emails, letters, text messages, or any other form of communication between NMRS and Harry F. Cato concerning work assignments, payment, performance, or termination of services from January 1, 2020, to May 26, 2023.

5. Tax Documents

All 1099 forms, tax records, or other documents of NMRS submitted to or received from Harry F. Cato related to income, tax withholdings, or reporting from January 1, 2020, to May 26, 2023.

II. Documents Related to Social Events Attended by Kris Cato:

1. Invitations

Copies of all invitations, RSVPs, or any other documentation related to social events or gatherings attended by Harry F. Cato and Kris Cato that were organized, sponsored, or facilitated by NMRS, its employees, or affiliates.

2. Event Records

All documents related to the attendance of Harry F. Cato and Kris Cato at any social events organized, sponsored, or facilitated by NMRS, its employees, or affiliates.

3. Communications Regarding Social Events

All written communications, including emails, text messages, letters, or any other form of communication, concerning Harry F. Cato and Kris Cato's attendance or participation in social events sponsored by or involving NMRS.

4. Expense Records

All records reflecting expenses, reimbursements, or payments made by NMRS to Harry

F. Cato and/or Kris Cato related to social events attended by the Harry F. Cato and Kris Cato, including travel, lodging, meals, and entertainment.

5. **Photographs and Media**

Any photographs, videos, or other media capturing Harry F. Cato and/or Kris Cato at social events organized or attended by NMRS or its employees.

6. **Event Reports or Notes**

Any internal reports, meeting minutes, or notes regarding the presence of Harry F. Cato and Kris Cato at such events.

III. Others

1. **Referrals**

All documents and communications, including emails, letters, text messages, and any other form of communication between employees or contractors of NMRS and employees of Blair Cato Pickren Casterline, LLC regarding case and client referrals from January 1, 2020, to May 26, 2023.

2. **Communications**

All written communications, including emails, letters, text messages, or any other form of communication between NMRS, its representatives and employees, and Kris Cato from May 26, 2023, to the present regarding the arbitration and subsequent motion to vacate the arbitration award filings.

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	CERTIFICATE OF AUTHENTICITY
	)	
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	

PERSONALLY APPEARED BEFORE ME, _____, who first
being duly sworn deposes and states:

1. I am the Records Custodian for Nelson Mullins Government Policy Strategies, LLC.
2. I have reviewed the records of this office relative to a document subpoena dated October 30, 2024, served upon Nelson Mullins Government Policy Strategies, LLC by Elizabeth F. Nicholson, attorney for Petitioner in the above-captioned lawsuit.
3. The enclosed records are a complete and accurate copy of all records of in the possession, custody, or control of Nelson Mullins Government Policy Strategies, LLC meeting the description in "Exhibit A" to the said document subpoena dated October 30, 2024.
4. All of the attached records are copies of records which are kept in the regular and ordinary course of business by this office.

[SIGNATURE AND NOTARY ON FOLLOWING PAGE]

Signature

Printed Name

Title

Sworn to before me this

_____ day of _____, 2024

Notary Public for South Carolina

My commission expires _____

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Stéfanie Seixas-Mikelus, M.D.,

Petitioner,

vs.

Tenet Healthcare Corporation, Tenet
Physician Resources, LLC, and East
Cooper Physician Network, LLC.

Respondents.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-10-03391**ACCEPTANCE OF SERVICE OF
SUBPOENA TO NELSON MULLINS
GOVERNMENT POLICY
STRATEGIES, LLC**

On behalf of Nelson Mullins Government Policy Strategies, LLC, the undersigned hereby acknowledges and accepts service of the subpoena issued to Nelson Mullins Government Policy Strategies, LLC in the above-captioned matter on this ____ day of _____, 2024.

William C. Wood, Jr., Esquire
Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Columbia, SC 29201
Bill.wood@nelsonmullins.com

ROSEN | HAGOOD

Elizabeth F. Nicholson
enicholson@rosenhagood.com

October 30, 2024

VIA CERTIFIED MAIL, RETURN RECEIPT, DELIVERY RESTRICTED

Nelson Mullins Riley & Scarborough LLP
c/o William C. Wood, Jr., Esquire
Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Columbia, SC 29201

Re: Stéfanie Seixas-Mikelus, M.D. v. Tenet Healthcare Corporation, Tenet Physician Resources, LLC, and East Cooper Physician Network
Case No.: 2023-CP-10-03391

Dear William:

We represent Stéfanie Seixas-Mikelus, M.D. in the above matter. Enclosed please find a Subpoena Duces Tecum for service upon you. A description of the requested documents and information may be found on Exhibit A to the Subpoena.

Also enclosed is a Certificate of Authenticity which we would appreciate your returning with the documents.

We do agree to reimburse you for any reasonable charges associated with this request. Please contact me if you expect the charges to exceed \$50.00. We are happy to accept the requested documents electronically.

Thank you in advance for your cooperation.

With kindest regards, I am

Sincerely yours,

s/ Elizabeth F. Nicholson

Elizabeth F. Nicholson

EFN/jbm

Enclosure

Cc: All Counsel (via email w/ enclosures)

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF RICHLAND

Stéfanie Seixas-Mikelus, M.D., Petitioner

v.

SUBPOENA IN A CIVIL CASE

Tenet Healthcare Corporation, Tenet Physician
Resources, LLC, and East Cooper Physician Network,
LLC

Case Number: 2023-CP-10-03391

Pending in Charleston County

TO: Nelson Mullins Riley & Scarborough LLP
c/o William C. Wood, Jr., Esquire
Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Columbia, SC 29201

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

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME , AM

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

PLACE OF DEPOSITION

DATE AND TIME

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

PLACE

Rosen Hagood, LLC
40 Calhoun Street, Suite 450
Charleston, SC 29401

DATE AND TIME

November 15, 2024 5:00 p.m.

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

PREMISES

DATE AND TIME , AM

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

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature

10/30/2024

Elizabeth F. Nicholson

Date

Print Name

Attorney for Petitioner Stéfanie Seixas-Mikelus, M.D.

Attorney's Address and Telephone Number :

Rosen Hagood, LLC, 40 Calhoun Street, Suite 450
Charleston, SC 29401

(843) 577-6726

Clerk of Court/Issuing Officer's Signature

Date

Print Name

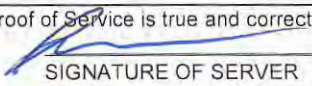
Pro Se Litigant's Name, Address and Telephone Number :

PROOF OF SERVICE

SERVED	DATE October 30, 2024	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☒ NO AMOUNT \$
	PLACE 1320 Main Street, 17 th Floor, Columbia, SC 29201	
SERVED ON Nelson Mullins Riley & Scarborough LLC c/o William C. Wood, Jr., Esquire, Nelson Mullins Riley & Scarborough LLP		MANNER OF SERVICE Certified U.S. Mail, Return Receipt, Delivery Restricted
SERVED BY Jessica McDonald		TITLE Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on October 30, 2024


SIGNATURE OF SERVER
40 Calhoun Street, Suite 450, Charleston, SC 29401
ADDRESS OF SERVER

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

(c) Protection of Persons Subject to Subpoenas.

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

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

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

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

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

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

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

(iv) subjects a person to undue burden.

(B) If a subpoena:

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

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

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT A TO SUBPOENA TO
NELSON MULLINS RILEY & SCARBOROUGH LLP & NELSON MULLINS
GOVERNMENT POLICY STRATEGIES, LLC

DOCUMENTS TO BE PRODUCED

I. Documents Related to Harry F. Cato:

1. **Contractor Agreement**

All agreements, contracts, or any other documents governing the relationship between Nelson Mullins Riley & Scarborough LLP and/or Nelson Mullins Government Policy Strategies, LLC (jointly "NMRS") and Harry F. Cato, including, but not limited to, independent contractor agreements, amendments, or renewals.

2. **Payment Records**

Copies of all records reflecting payments made by NMRS to Harry F. Cato, including invoices, receipts, bank records, or any other documentation of compensation from January 1, 2020, to May 26, 2023.

3. **Work Assignment Records**

Documents or communications that describe or relate to the work or services performed by Harry F. Cato for NMRS, including job orders, work assignments, and task descriptions from January 1, 2020, to May 26, 2023.

4. **Communications**

All written communications, including emails, letters, text messages, or any other form of communication between NMRS and Harry F. Cato concerning work assignments, payment, performance, or termination of services from January 1, 2020, to May 26, 2023.

5. **Tax Documents**

All 1099 forms, tax records, or other documents of NMRS submitted to or received from Harry F. Cato related to income, tax withholdings, or reporting from January 1, 2020, to May 26, 2023.

II. Documents Related to Social Events Attended by Kris Cato:

1. **Invitations**

Copies of all invitations, RSVPs, or any other documentation related to social events or gatherings attended by Harry F. Cato and Kris Cato that were organized, sponsored, or facilitated by NMRS, its employees, or affiliates.

2. **Event Records**

All documents related to the attendance of Harry F. Cato and Kris Cato at any social events organized, sponsored, or facilitated by NMRS, its employees, or affiliates.

3. **Communications Regarding Social Events**

All written communications, including emails, text messages, letters, or any other form of communication, concerning Harry F. Cato and Kris Cato's attendance or participation in social events sponsored by or involving NMRS.

4. **Expense Records**

All records reflecting expenses, reimbursements, or payments made by NMRS to Harry

F. Cato and/or Kris Cato related to social events attended by the Harry F. Cato and Kris Cato, including travel, lodging, meals, and entertainment.

5. **Photographs and Media**

Any photographs, videos, or other media capturing Harry F. Cato and/or Kris Cato at social events organized or attended by NMRS or its employees.

6. **Event Reports or Notes**

Any internal reports, meeting minutes, or notes regarding the presence of Harry F. Cato and Kris Cato at such events.

III. Others

1. **Referrals**

All documents and communications, including emails, letters, text messages, and any other form of communication between employees or contractors of NMRS and employees of Blair Cato Pickren Casterline, LLC regarding case and client referrals from January 1, 2020, to May 26, 2023.

2. **Communications**

All written communications, including emails, letters, text messages, or any other form of communication between NMRS, its representatives and employees, and Kris Cato from May 26, 2023, to the present regarding the arbitration and subsequent motion to vacate the arbitration award filings.

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	CERTIFICATE OF AUTHENTICITY
	)	
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	

PERSONALLY APPEARED BEFORE ME, _____, who first
being duly sworn deposes and states:

1. I am the Records Custodian for Nelson Mullins Riley & Scarborough LLP.
2. I have reviewed the records of this office relative to a document subpoena dated October 30, 2024, served upon Nelson Mullins Riley & Scarborough LLP by Elizabeth F. Nicholson, attorney for Petitioner in the above-captioned lawsuit.
3. The enclosed records are a complete and accurate copy of all records of in the possession, custody, or control of Nelson Mullins Riley & Scarborough LLP meeting the description in "Exhibit A" to the said document subpoena dated October 30, 2024.
4. All of the attached records are copies of records which are kept in the regular and ordinary course of business by this office.

[SIGNATURE AND NOTARY ON FOLLOWING PAGE]

Signature

Printed Name

Title

Sworn to before me this

_____ day of _____, 2024

Notary Public for South Carolina

My commission expires _____

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO. 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.,	)	
	)	
Petitioner,	)	ACCEPTANCE OF SERVICE OF
	)	SUBPOENA TO NELSON MULLINS
vs.	)	RILEY & SCARBOROUGH LLP
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	
	)	

On behalf of Nelson Mullins Riley & Scarborough LLP, the undersigned hereby
acknowledges and accepts service of the subpoena issued to Nelson Mullins Riley &
Scarborough LLP in the above-captioned matter on this ____ day of _____, 2024.

William C. Wood, Jr., Esquire
Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Columbia, SC 29201
Bill.wood@nelsonmullins.com

ROSEN | HAGOOD

Elizabeth F. Nicholson
enicholson@rosenhagood.com

October 30, 2024

VIA CERTIFIED MAIL, RETURN RECEIPT, DELIVERY RESTRICTED

Mr. Harry F. Cato
c/o A. Johnston Cox, Esquire and
John T. Lay, Jr., Esquire
Gallivan, White & Boyd, P.A.
1201 Main Street, Suite 1200
Columbia, SC 29201

Re: Stéfanie Seixas-Mikelus, M.D. v. Tenet Healthcare Corporation, Tenet Physician
Resources, LLC, and East Cooper Physician Network
Case No.: 2023-CP-10-03391

Dear Counsel:

As you know, we represent Stéfanie Seixas-Mikelus, M.D. in the above matter. Enclosed please find a Subpoena for the Deposition of Harry Cato and Amended Notice of Deposition of Harry Cato. The deposition is scheduled for November 19, 2024 at 1:30 p.m. at Southern Reporting located at 844 St. Andrews Road, Suite A, Columbia, SC 29201. Please note that the Subpoena requires the production of documents pursuant to Exhibit "A" by November 13, 2024. The documents can be produced electronically.

Please contact our office if you have a conflict with the date of your deposition so that we can discuss an alternate date.

Thank you in advance for your cooperation.

With kindest regards, I am

Sincerely yours,

s/ Elizabeth F. Nicholson

Elizabeth F. Nicholson

EFN/jbm

Enclosure

Cc: All Counsel (via email w/ enclosures)

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF RICHLAND

Stéfanie Seixas-Mikelus, M.D., Petitioner

v.

SUBPOENA IN A CIVIL CASE

Tenet Healthcare Corporation, Tenet Physician
Resources, LLC, and East Cooper Physician Network,
LLC

Case Number: 2023-CP-10-03391

Pending in Charleston County

TO: Mr. Harry F. Cato
c/o A. Johnston Cox, Esquire and
John T. Lay, Jr., Esquire
Gallivan, White & Boyd, P.A.
1201 Main Street, Suite 1200
Columbia, SC 29201

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

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME , AM

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

PLACE OF DEPOSITION

Southern Reporting
844 St. Andrews Road, Suite A
Columbia, SC 29210

DATE AND TIME

November 19, 2024 1:30 p.m.

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

PLACE

Rosen Hagood, LLC
40 Calhoun Street, Suite 450
Charleston, SC 29401

DATE AND TIME

November 15, 2024 5:00 p.m.

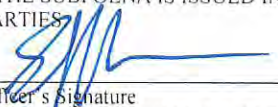
☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME , AM

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

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.


Attorney/Issuing Officer's Signature
Attorney for Petitioner Stéfanie Seixas-Mikelus, M.D.
Attorney's Address and Telephone Number :
Rosen Hagood, LLC, 40 Calhoun Street, Suite 450
Charleston, SC 29401
(843) 577-6726

10/30/2024

Date

Elizabeth F. Nicholson

Print Name

PROOF OF SERVICE

SERVED	DATE October 30, 2024	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☒ YES ☐ NO AMOUNT \$ TBD
	PLACE 1201 Main Street, Suite 1200, Columbia, SC 29201	
SERVED ON Harry F. Cato c/o A. Johnston Cox, Esquire and John T. Lay, Jr., Esquire, Gallivan, White & Boyd, P.A.		MANNER OF SERVICE Certified U.S. Mail, Return Receipt, Delivery Restricted
SERVED BY Jessica McDonald		TITLE Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on October 30, 2024

SIGNATURE OF SERVER
40 Calhoun Street, Suite 450, Charleston, SC 29401
ADDRESS OF SERVER

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

(c) Protection of Persons Subject to Subpoenas.

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

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

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

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

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

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

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

(iv) subjects a person to undue burden.

(B) If a subpoena:

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

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

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT A TO SUBPOENA TO
HARRY F. CATO

DOCUMENTS TO BE PRODUCED

I. Documents Related to Nelson Mullins Riley & Scarborough, LLP:

1. Contractor Agreement

All agreements, contracts, or any other documents governing the relationship between Nelson Mullins Riley & Scarborough LLP or Nelson Mullins Government Policy Strategies, LLC (jointly "Nelson Mullins") and Harry F. Cato, including, but not limited to, independent contractor agreements, amendments, or renewals.

2. Payment Records

Copies of all records reflecting payments made to you by Nelson Mullins, including invoices, receipts, bank records, or any other documentation of compensation from January 1, 2020, to May 26, 2023.

3. Work Assignment Records

Documents or communications that describe or relate to the work or services performed by you for Nelson Mullins, including job orders, work assignments, and task descriptions from January 1, 2020, to May 26, 2023.

4. Communications

All written communications, including emails, letters, text messages, or any other form of communication between Nelson Mullins and you concerning work assignments, payment, performance, or termination of services from January 1, 2020, to May 26, 2023.

5. Tax Documents

All 1099 forms, tax records, or other documents submitted to or received from you related to income, tax withholdings, or reporting of income from Nelson Mullins from January 1, 2020, to May 26, 2023.

II. Documents Related to Social Events Attended by Harry F. Cato and Kris Cato:

1. Invitations

Copies of all invitations, RSVPs, or any other documentation related to social events or gatherings attended by you and Kris Cato that were organized, sponsored, or facilitated by Nelson Mullins, its employees, or affiliates.

2. Event Records

All documents related to the attendance of you and/or Kris Cato at any social events that were organized, sponsored, or facilitated by Nelson Mullins, its employees, or affiliates.

3. Communications Regarding Social Events

All written communications, including emails, text messages, letters, or any other form of communication, concerning you and/or Kris Cato's attendance or participation in social events sponsored by or involving Nelson Mullins or its employees.

4. Expense Records

All records reflecting expenses, reimbursements, or payments made by Nelson Mullins to you and/or Kris Cato related to social events attended by you and Kris Cato, including travel, lodging, meals, and entertainment.

5. Photographs and Media

Any photographs, videos, or other media capturing you and/or Kris Cato at social events organized or attended by Nelson Mullins or its employees.

III. Others

1. Referrals

All documents and communications, including emails, letters, text messages, and any other form of communication between you and employees of Blair Cato Pickren Casterline, LLC regarding case and client referrals.

2. All documents and communications, including emails, letters, text messages, and any other form of communication between you and employees of Nelson Mullins regarding case and client referrals.

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	AMENDED NOTICE OF DEPOSITION
	)	OF HARRY F. CATO
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	

TO: CARMEN THOMAS, ESQUIRE AND CAROLINE WARNER, ESQUIRE, ATTORNEYS FOR RESPONDENTS AND A. JOHNSTON COX, ESQUIRE AND JOHN T. LAY, ESQUIRE, ATTORNEYS FOR HARRY F. CATO:

YOU WILL PLEASE TAKE NOTICE that on November 19, 2024, at 1:30 p.m. EST, at the office of Southern Reporting, 844 St. Andrews Road, Suite A, Columbia, SC 29201, the undersigned attorney for Stefanie Seixas-Mikelus, M.D., will take the deposition of Harry F. Cato, on oral examination, pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, before a notary public or some other officer duly authorized by law to take depositions, for purposes of discovery and for use at trial.

Pursuant to Rule 30(j)(8), counsel for the Petitioner identifies and reserves the right to use any and all documents produced or made available in discovery by any party during this deposition. You are invited to attend and take such part as is fit and proper.

ROSEN HAGOOD, LLC

s/ Elizabeth F. Nicholson

James A. Bruorton, IV, Esquire

Elizabeth F. Nicholson, Esquire

40 Calhoun Street, Suite 450

Charleston, SC 29401

(843) 577-6726

cbruorton@rosenhagood.com

enicholson@rosenhagood.com

ATTORNEYS FOR STEFANIE SEIXAS-
MIKELUS, M.D.

October 30, 2024
Charleston, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-10-03391

Stéfanie Seixas-Mikelus, M.D.,)
))
Petitioner,)

CERTIFICATE OF SERVICE

vs.)

Tenet Healthcare Corporation, Tenet)
Physician Resources, LLC, and East)
Cooper Physician Network, LLC.)
))
Respondents.)

The undersigned states that on October 30, 2024, she served a copy of Petitioner's Amended Notice of Deposition of Harry Cato by electronic transmission to the following:

Carmen Harper Thomas, Esquire
Caroline Warner, Esquire
Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Columbia, SC 29201
Carmen.thomas@nelsonmullins.com
Caroline.warner@nelsonmullins.com

Attorneys for Respondents

A. Johnston Cox, Esquire
John T. Lay, Jr., Esquire
Gallivan, White & Boyd, P.A.
1201 Main Street, Suite 1200
Columbia, SC 29201
jlay@gwblawfirm.com
jcox@gwblawfirm.com

Attorneys for Harry F. Cato

s/ Jessica McDonald
Jessica McDonald, Paralegal
Rosen Hagood
40 Calhoun Street, Suite 450
Charleston, SC 29401
jmcdonald@rosenhagood.com

October 30, 2024

ROA_472

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

Stéfanie Seixas-Mikelus, M.D.,)
)
Petitioner,)
)
vs.)
)
Tenet Healthcare Corporation, Tenet)
Physician Resources, LLC, and East)
Cooper Physician Network, LLC.)
)
Respondents.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-10-03391

**ACCEPTANCE OF SERVICE OF
SUBPOENA TO HARRY F. CATO**

On behalf of Harry F. Cato, the undersigned hereby acknowledges and accepts service of
the subpoena issued to Harry F. Cato in the above-captioned matter on this _____ day of
_____, 2024.

A. Johnston Cox, Esquire
John T. Lay, Jr., Esquire
Gallivan, White & Boyd, P.A.
1201 Main Street, Suite 1200
Columbia, SC 29201
jlay@gwblawfirm.com
jcox@gwblawfirm.com

ROSEN | HAGOOD

Elizabeth F. Nicholson
enicholson@rosenhagood.com

October 30, 2024

VIA CERTIFIED MAIL, RETURN RECEIPT, DELIVERY RESTRICTED

Kris Cato, Esquire
c/o Haley Hubbard, Esquire
Ballard & Watson Attorneys at Law
226 State Street
West Columbia, SC 29169

Re: Stéfanie Seixas-Mikelus, M.D. v. Tenet Healthcare Corporation, Tenet Physician
Resources, LLC, and East Cooper Physician Network
Case No.: 2023-CP-10-03391

Dear Haley:

As you know, we represent Stéfanie Seixas-Mikelus, M.D. in the above matter. Enclosed please find a Subpoena for the Deposition of Kris Cato, Esquire and Amended Notice of Deposition of Kris Cato. The deposition is scheduled for November 19, 2024 at 10:00 a.m. at Southern Reporting located at 844 St. Andrews Road, Suite A, Columbia, SC 29201. Please note that the Subpoena requires the production of documents pursuant to Exhibit "A" by November 13, 2024. The documents can be produced electronically.

Please contact our office if you have a conflict with the date of the deposition so that we can discuss an alternate date.

Thank you in advance for your cooperation.

With kindest regards, I am

Sincerely yours,

s/ Elizabeth F. Nicholson

Elizabeth F. Nicholson

EFN/jbm

Enclosure

Cc: All Counsel (via email w/ enclosures)

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF RICHLAND

Stéfanie Seixas-Mikelus, M.D., Petitioner

v.

SUBPOENA IN A CIVIL CASE

Tenet Healthcare Corporation, Tenet Physician
Resources, LLC, and East Cooper Physician Network,
LLC

Case Number: 2023-CP-10-03391

Pending in Charleston County

TO: Kris Cato, Esquire
c/o Haley Hubbard, Esquire
Ballard & Watson Attorneys at Law
226 State Street
West Columbia, SC 29169

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

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME , AM

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

PLACE OF DEPOSITION

Southern Reporting
844 St. Andrews Road, Suite A
Columbia, SC 29210

DATE AND TIME

November 19, 2024 10:00 a.m.

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

PLACE

Rosen Hagood, LLC
40 Calhoun Street, Suite 450
Charleston, SC 29401

DATE AND TIME

November 15, 2024 5:00 p.m.

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

PREMISES

DATE AND TIME , AM

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

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature
Attorney for Petitioner Stéfanie Seixas-Mikelus, M.D.
Attorney's Address and Telephone Number:
Rosen Hagood, LLC, 40 Calhoun Street, Suite 450
Charleston, SC 29401
(843) 577-6726

10/30/2024

Date

Elizabeth F. Nicholson

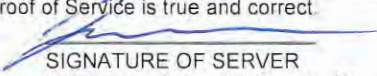
Print Name

PROOF OF SERVICE

SERVED	DATE October 30, 2024	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☒ YES ☐ NO AMOUNT \$ TBD
	PLACE 226 State Street, West Columbia, SC 29169	
SERVED ON Kris Cato, Esquire c/o Haley Hubbard, Esquire, Ballard & Watson Attorneys at Law		MANNER OF SERVICE Certified U.S. Mail, Return Receipt, Delivery Restricted
SERVED BY Jessica McDonald		TITLE Paralegal

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.
Executed on October 30, 2024


SIGNATURE OF SERVER
40 Calhoun Street, Suite 450, Charleston, SC 29401
ADDRESS OF SERVER

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

(c) Protection of Persons Subject to Subpoenas.

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

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

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

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

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

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

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

(iv) subjects a person to undue burden.

(B) If a subpoena:

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

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

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT A TO SUBPOENA TO
KRIS CATO
DOCUMENTS TO BE PRODUCED

I. Documents Related to Social Events Attended by Kris Cato:

1. Invitations

Copies of all invitations, RSVPs, or any other documentation related to social events or gatherings attended by you that were organized, sponsored, or facilitated by Nelson Mullins Riley & Scarborough LLP, Nelson Mullins Government Policy Strategies, LLC (jointly "NMRS") or its employees, or affiliates.

2. Event Records

All documents related to the attendance of you at any social events facilitated by NMRS or its employees, or affiliates

3. Communications Regarding Social Events

All written communications, including emails, text messages, letters, or any other form of communication, concerning your attendance or participation in social events sponsored by or involving NMRS, and its employees.

4. Expense Records

All records reflecting expenses, reimbursements, or payments made by NMRS to Harry F. Cato and/or Kris Cato related to social events attended by you, including travel, lodging, meals, and entertainment.

5. Photographs and Media

Any photographs, videos, or other media capturing you at social events organized or attended by NMRS or its employees.

II. Documents Related to the Election as Board Member of Lexington Medical Center:

1. Election Process Documents

All documents detailing the election process for the Board Member position, including notices of election, nomination procedures, eligibility criteria, and any other documents setting forth the rules governing the election.

2. Nomination Records

Copies of all documents related to the nomination of you as a Board Member, including nomination forms, recommendations, or endorsements received from other board members, shareholders, or other parties.

3. Promotional or Campaign Materials

Copies of any promotional or campaign materials circulated on behalf of you, including flyers, brochures, emails, social media posts, or any other media.

4. Eligibility and Qualification Records

All documents showing the eligibility, qualifications, or background provided by you that were considered as part of the election process. This includes résumés, references, and any documentation in support of your candidacy.

5. Conflict of Interest Disclosures

Any documents reflecting conflict of interest disclosures made by you or others in connection with your candidacy or election.

III. Other

1. Referrals

All documents and communications related to referrals made by you to Harry F. Cato and/or NMRS.

STATE OF SOUTH CAROLINA	)	IN THE NINTH JUDICIAL CIRCUIT FOR
	)	THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2023-CP-10-03391
Stéfanie Seixas-Mikelus, M.D.	)	
	)	
Petitioner,	)	AMENDED NOTICE OF DEPOSITION
	)	OF KRIS CATO, ESQUIRE
v.	)	
	)	
Tenet Healthcare Corporation, Tenet	)	
Physician Resources, LLC, and East	)	
Cooper Physician Network, LLC.	)	
	)	
Respondents.	)	

TO: CARMEN THOMAS, ESQUIRE AND CAROLINE WARNER, ESQUIRE, ATTORNEYS FOR RESPONDENTS AND HALEY HUBBARD, ESQUIRE, ATTORNEY FOR KRIS CATO, ESQUIRE:

YOU WILL PLEASE TAKE NOTICE that on November 19, 2024, at 10:00 a.m. EST, at the office of Southern Reporting, 844 St. Andrews Road, Suite A, Columbia, SC 29201, the undersigned attorney for Stefanie Seixas-Mikelus, M.D., will take the deposition of Kris Cato, Esquire, on oral examination, pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, before a notary public or some other officer duly authorized by law to take depositions, for purposes of discovery and for use at trial.

Pursuant to Rule 30(j)(8), counsel for the Petitioner identifies and reserves the right to use any and all documents produced or made available in discovery by any party during this deposition. You are invited to attend and take such part as is fit and proper.

ROSEN HAGOOD, LLC

s/ Elizabeth F. Nicholson

James A. Bruorton, IV, Esquire

Elizabeth F. Nicholson, Esquire

40 Calhoun Street, Suite 450

Charleston, SC 29401

(843) 577-6726

cbruorton@rosenhagood.com

enicholson@rosenhagood.com

ATTORNEYS FOR STEFANIE SEIXAS-
MIKELUS, M.D.

October 30, 2024
Charleston, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-10-03391

Stéfanie Seixas-Mikelus, M.D.,)
Petitioner,)

CERTIFICATE OF SERVICE

vs.)

Tenet Healthcare Corporation, Tenet)
Physician Resources, LLC, and East)
Cooper Physician Network, LLC.)
Respondents.)

The undersigned states that on October 30, 2024, she served a copy of Petitioner's Amended Notice of Deposition of Kris Cato, Esq. by electronic transmission to the following:

Carmen Harper Thomas, Esquire
Caroline Warner, Esquire
Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Columbia, SC 29201
Carmen.thomas@nelsonmullins.com
Caroline.warner@nelsonmullins.com

Attorneys for Respondents

Haley Hubbard, Esquire
Ballard & Watson Attorneys at Law
226 State Street
West Columbia, SC 29169
haley@desaballard.com

Attorney for Kris Cato, Esquire

s/ Jessica McDonald
Jessica McDonald, Paralegal
Rosen Hagood
40 Calhoun Street, Suite 450
Charleston, SC 29401
jmcdonald@rosenhagood.com

October 30, 2024

ROA_482

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

Stéfanie Seixas-Mikelus, M.D.,)
)
Petitioner,)
)
vs.)
)
Tenet Healthcare Corporation, Tenet)
Physician Resources, LLC, and East)
Cooper Physician Network, LLC.)
)
Respondents.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-10-03391

**ACCEPTANCE OF SERVICE OF
SUBPOENA TO KRIS CATO, ESQ.**

On behalf of Kris Cato, Esquire, the undersigned hereby acknowledges and accepts
service of the subpoena issued to Kris Cato, Esquire in the above-captioned matter on this _____
day of _____, 2024.

Haley Hubbard, Esquire
Ballard & Watson Attorneys at Law
226 State Street
West Columbia, SC 29169
haley@desaballard.com