

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Appellate Case No. 2012-212832

RECEIVED

MAR - 5 2014

S.C. Supreme Court

Ann P. Adams, as Personal Representative of the Estate
of Jacob E. Adams, Deceased, Petitioner,

v.

Amisub of South Carolina, Inc., d/b/a Piedmont Medical Center and d/b/a Piedmont Healthcare System; Staci L. Versen-Rampey, NP, Individually and as Agent, Servant, Employee of South Carolina Emergency Physicians, LLC, and as Agent, Servant, or Employee of Amisub of South Carolina, Inc. d/b/a Piedmont Healthcare System; Jason Price, Radiologic Technologist, Individually and as Agent, Servant, or Employee of Amisub of South Carolina, Inc., d/b/a Piedmont Medical Center and d/b/a Piedmont Healthcare System; James E. Reinhardt, Jr., M.D., Individually and as Agent Servant or Employee of Rock Hill Radiology Associates, PA. and as Agent, Servant or Employee of Amisub of South Carolina, Inc., d/b/a Piedmont Medical Center and d/b/a Piedmont Healthcare System, and Rock Hill Radiology Associates, P.A. South Carolina Emergency Physicians, LLC, Defendants,

Of whom Amisub of South Carolina, Inc., d/b/a Piedmont Medical Center and d/b/a Piedmont Healthcare System; Staci L. Versen-Rampey, NP, Individually and as Agent, Servant, Employee of South Carolina Emergency Physicians, LLC, and as Agent, Servant, or Employee of Amisub of South Carolina, Inc. d/b/a Piedmont Healthcare System; Jason Price, Radiologic Technologist, Individually and as Agent, Servant, or Employee of Amisub of South Carolina, Inc., d/b/a Piedmont Medical Center and d/b/a Piedmont Healthcare System are Respondents.

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

- I. DID THE COURT OF APPEALS ERR IN HOLDING THAT SOUTH CAROLINA CODE OF LAW SECTION 15-36-100 IS NOT APPLICABLE TO THE FILING OF AN EXPERT AFFIDAVIT.**

STATEMENT OF THE CASE

On October 20, 2011, the Plaintiff filed a Notice to File Suit alleging medical negligence against the Defendants, Amisub of South Carolina, Inc., Staci L. Versen-Rampey, NP, South Carolina Emergency Physicians, LLC and Jason Price. The Plaintiff thereafter on December 1, 2011, filed an Amended Notice of Intent to File Suit adding James E. Reinhardt, Jr., MD and Rock Hill Radiology Associates, PA as Defendants in this matter.

Each Defendant thereafter filed a Motion to Dismiss. The Defendants' Motions to Dismiss were heard before the Court on June 27, 2012. On July 12, 2012 the Court issued an Order dismissing Defendants' Amisub of South Carolina, Inc., Staci L. Versen-Rampey, NP, South Carolina Emergency Physicians, LLC and Jason Price as Defendants in this case. On July 31, 2012, the Court issued its Order dismissing James E. Reinhardt, Jr., MD and Rock Hill Radiology Associates, PA as Defendants in this action. On August 2, 2012, the Plaintiff filed a Notice of Intent to Appeal on the Defendants, James E. Reinhardt, Jr., MD and Rock Hill Radiology Associates, PA. On September 24, 2012, the Plaintiff filed a Notice of Intent to Appeal on the Defendants, Amisub of South Carolina, Inc., Staci L. Versen-Rampey, NP, South Carolina Emergency Physicians, LLC and Jason Price.

The Court of appeals affirmed the judgment of the Circuit Court. Ann P. Adams, the Personal Representative of Jacob E. Adams, deceased v. Amisub of South Carolina, Inc., et al, Number: 2012-212832 (SC Court Appellate filed December 11, 2013). Petitioner seeks a Writ of Certiorari to review that decision.

ARGUMENT

I. SOUTH CAROLINA CODE OF LAW SECTION 15-36-100(C)(1) DOES APPLY TO SOUTH CAROLINA CODE 15-79-125.

In *Ranucci v. Crain*, 723 S.E. 2d 242; 397 S.C. 168 (S.C. App. 2012), the Court of Appeals wrote adversely to the position on this issue. In *Ranucci* the Court of appeals held that § 15-79-125(A) invokes on the provisions of §15-36-100 governing the preparation and content of the Affidavit. The Court held that the remaining portions of §15-36-100 and §15-79-125 operate independently of one another. This Court has granted certiorari to hear the *Ranucci* Case and this Court's ruling on *Ranucci* will be dispositive of the issue in the present case. This case involves a novel question of law pursuant to Rule 226(b)(1).

South Carolina Code §15-36-100 is clearly applicable to the filing of the expert affidavit, and modifies the requirements of §15-79-125 regarding the contemporaneous filing of the expert affidavit when the Notice of Intent to File Suit is filed within ten (10) days of the statute of limitations for the actions which are the basis of the lawsuit. Section 15-79-125 is the only applicable statute relating to the filing of an expert affidavit, where a medical doctor is a defendant in the case. The language in the final §15-36-100 specifically states that the statute is applicable to medical doctors. The plain meaning of §15-79-125 which incorporates §15-36-100 combined with the clear language of this statute is applicable to medical doctors and means that the enlargement of time to file the expert affidavit is applicable to this case. Any other reading of the statute would create a special right to medical doctors that was denied to all other professions discovered by the applicable statute. Section 15-79-125 clearly sets forth that the requirements for an affidavit are contained in §15-36-100. The statute §15-79-125 does not limit the parts of §15-36-100 that applies to §15-79-125. Had the legislature intended to limit the

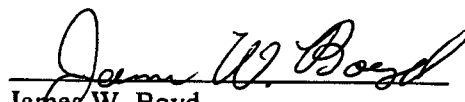
parts of §15-36-100 that apply to §15-79-125 it could have done so by setting it forth in the statutes.

In the event that the Court in *Ranucci* is correct that §15-79-125(A) involves only the provisions of §15-36-100 governing the preparation and content of the affidavit, then the provision of §15-36-100 allowing 45 days for the supplementation of the pleading with an affidavit, would lead to a Plaintiff being allowed to wait until 10 days prior to the expiration of the statute of limitations and skip the Notice of Intent. This could not be the result the legislature intended.

CONCLUSION

For the reasons stated, Petitioner asks this Court to grant the Petition for a Writ of Certiorari.

Respectfully submitted,


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February 25, 2014
Rock Hill, South Carolina

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM YORK COUNTY

Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

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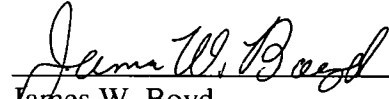
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Of whom Amisub of South Carolina, Inc., d/b/a Piedmont Medical Center and d/b/a Piedmont Healthcare System; Staci L. Versen-Rampey, NP, Individually and as Agent, Servant, Employee of South Carolina Emergency Physicians, LLC, and as Agent, Servant, or Employee of Amisub of South Carolina, Inc. d/b/a Piedmont Healthcare System; Jason Price, Radiologic Technologist, Individually and as Agent, Servant, or Employee of Amisub of South Carolina, Inc., d/b/a Piedmont Medical Center and d/b/a Piedmont Healthcare System are Respondents.

CERTIFICATE OF COUNSEL

The Counsel for Petitioner certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on February 3, 2014.

March 4, 2014


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THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

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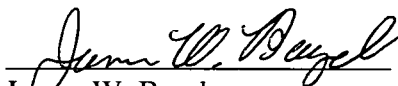
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PROOF OF SERVICE

I, James W. Boyd, certify that I served the within Petition for a Writ of Certiorari on Respondents by depositing a copies of the same in the United States mail, postage prepaid, on March 4, 2014, addressed to the Respondents' attorney of record, N. Heyward Clarkson, III, PO Box 6728, Greenville, SC 29606, and William U. Gunn & Kyle T. Clelland, PO Box 1897, Spartanburg, SC 29304.


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March 4, 2014