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S.C. Supreme Court

The Honorable Daniel E. Shearouse
Clerk of Court
Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

Re: Wilkinson v. East Cooper Community Hospital; Case Tracking No.: 2012-213464

Dear Mr. Shearouse:

Please accept this letter as the appellant's response to the Hospital Association's amicus brief. As I am sure the Court expects, we adhere to the arguments contained in *our* briefs.

The central premise of the amicus brief is that the language of section 15-79-125 is clear and unambiguous. We believe in the view we have already attempted to articulate, which is that although individual parts of section 15-36-100 and section 15-79-125 may seem clear when they are considered in isolation, it is impossible to examine the full scope of these statutes and reach an unequivocal interpretation of how they operate. Because the procedure is open to multiple interpretations, these statutes are *not* clear. They are poorly-drafted, and they are ambiguous.

We also continue to believe that the best way to reconcile these ambiguities is to read these statutes as incorporating each other completely. This amounts to reading the term "affidavit requirements" as a term of art that describes *all* of the affidavit statute (section 15-36-100) rather than selective provisions. This is not a "re-write" of these statutes. Instead, this assumes that the legislature did not overlook obvious issues like grace periods, enforcement mechanisms, and penalties for non-compliance when it was writing section 15-79-125. The Court will decide for itself, but it seems more likely that the legislature intended to take action that was complete and coherent, but was inartful in its reference language, rather than that the legislature deliberately created a nebulous procedure and left these issues open for later interpretation.

Yours sincerely,

Blake A. Hewitt

cc: James B. Hood, Esquire
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