

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas

S. Jackson Kimball, Special Circuit Court Judge

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JUN - 2 2014

Opinion No. 4935 (S.C. Ct. App. filed Jan. 25, 2012) **S.C. Supreme Court**

Shannon Ranucci, Petitioner

vs.

Corey K. Crain, M.D., Respondent

**PETITIONER'S RESPONSE TO THE SOUTH CAROLINA HOSPITAL
ASSOCIATION'S AMICUS BRIEF**

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TABLE OF CONTENTS

| | |
|------------------|---|
| ARGUMENT | 1 |
| CONCLUSION | 3 |

TABLE OF AUTHORITIES

Statutes
S.C. Code Ann. §15-36-100 (Supp. 2012)2

ARGUMENT

Petitioner, Shannon Ranucci, through her counsel, has had the opportunity to review the Amicus Brief as well as the letter from counsel for the Wilkinson party in the Wilkinson v. East Cooper Community Hospital appeal dated May 28, 2014 and submitted to the Court through the Clerk of Court's office.

Like counsel for Wilkinson, the Petitioner in this action likewise views the last minute Amicus Brief as not raising any meritorious issues to respond to outside of the general claim which has already been made by the Defendant/Respondent Crain in this matter, generally alleging that the statutes are easily interpreted, clear on their face, and preclude any Plaintiff from ever being able to file a Notice of Intent, without also filing an Affidavit of an Expert Witness at the exact same time that they filed the Notice of Intent. This petitioner relies upon her previously filed Briefs and arguments of her counsel at Oral Argument in opposition to those matters included in the Amicus Brief.

It appears that the 100 or so member hospitals of the South Carolina Hospital Association, would like to have a "gotcha" interpretation of South Carolina law, that two confusing statutes should be read by lay people and they understand that the common law right to pursue a medical malpractice claim without an expert witness, when the acts of negligence (as in this case in fact) are within the ambit of common knowledge, have been abrogated and do not

protect them in any fashion from being able to pursue a claim, although S.C. Code Ann. §15-36-100 (Supp. 2012) would clearly allow them to pursue the claim in a court of law, POST Notice of Intent, without an expert affidavit.

Further, they would like to have those same persons who have been maimed or injured, or whose loved ones have lost their lives by the negligence of those hospitals be forever barred from filing suit because of confusing statutes and technical nuances.

The Hospitals ask the Court to issue an opinion that the only interpretation of the statutes is that a poor plaintiff must hire an expert witness to file a Notice of Intent in a medical malpractice claim, but does not need to do so when they later file a lawsuit following a failed mediation, nor would they be required to incur this expense in any suit where the negligence of the defendant falls within "the ambit of common knowledge and experience" but is against a lawyer, CPA, land surveyor or other professionals named in Section 15-36-100(G). Such a result as requested by the Hospitals is absurd, should be beneath the dignity of this Association, and should not be allowed.

A fair reading of the relevant statutes, allows for an understanding that the legislature intended for a person filing a Notice of Intent, to be able to read subsection (C) of Section 15-36-100, as including a preservation of the common law right to pursue a claim without an expert witness, including in a Notice of Intent filing as well as a grace period to locate an expert witness when the Statute of Limitations is within 10 days of running, in the good faith belief of the individual or their counsel. These Hospitals would have the Court allow the Hospital

Association members to avoid meritorious claims by claiming technical defenses arising from a forced interpretation of statutes not easily understood by lawyers and judges alike and abrogating the common law.

CONCLUSION

For the reasons previously stated and the arguments of counsel and the briefs filed on behalf of the Petitioner, the Ranucci decision should be reversed and the case remanded to allow further proceedings in pursuit of the claim, and in particular, the Defendant in Ranucci should be required to participate in a mediation and failing resolution of the case in the mediation, the Plaintiff (Ms. Ranucci) be permitted to file her claim following the failed mediation in accordance with the provisions of the statutes, allowing for tolling and filing.

Respectfully submitted,

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PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below the Petitioner's Response to the South Carolina Hospital Association's Amicus Brief was served to the attorneys of record below by mailing a copy of the same by United States Mail with first class postage prepaid to the following addresses, unless otherwise noted via email only:

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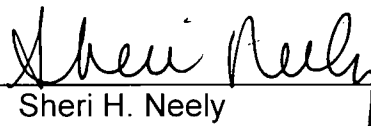
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