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April 24, 2012

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

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APR 24 2012

S.C. Supreme Court

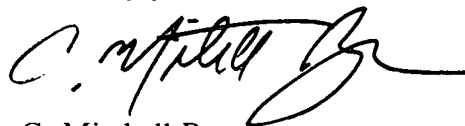
RE: Vernon Sulton and Willie Mae Scott v. HealthSouth Corporation d/b/a
HealthSouth of SC, Inc., d/b/a HealthSouth Rehabilitation Hospital, et al.
Civil Action No. 2009-CP-40-1477
HealthSouth File No. 0G0414-08
Our File No. 04992/01500

Dear Mr. Shearouse:

Enclosed please find the original and seven copies of a Joint Motion to Certify Appeal in regard to the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via our courier. Also enclosed are two checks in the amount of \$25.00 each as the required filing fees for both parties. By copy of this letter to counsel of record, we are serving them with a copy of this motion.

With kind regards, I remain

Sincerely yours,



C. Mitchell Brown

CMB:lpw
Enclosures

cc: The Honorable Jenny Abbott Kitchings
John S. Nichols, Esquire
Carmelo B. Sammataro, Esquire
Chad A. McGowan, Esquire
William Jones Andrews, Jr., Esquire

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APR 24 2012

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

S.C. Supreme Court

Casey L. Manning, Circuit Court Judge

Case No. 2009-CP-40-1477

Vernon Sulton and Willie Mae Scott,..... Respondents,

v.

HealthSouth Corporation d/b/a HealthSouth of SC, Inc.
d/b/a HealthSouth Rehabilitation Hospital, Kathy
Hoover, RN, Lisa Page RN, Sharon Miller, RN, Kim
Harris, RN, Betty Casteal, RN, and Norine Corbin, RN, Appellants.

JOINT MOTION TO CERTIFY APPEAL

Pursuant to Rule 204(b), SCACR, Appellants HealthSouth Corporation (“HealthSouth”), Kathy Hoover, Lisa Page Sharon Miller, Kim Harris, Betty Casteal, and Norine Corbin, (collectively “Appellants”) and Respondents Willie Mae Scott, individually and as Personal Representative of the Estate of Vernon Sulton (collectively “Respondents”), hereby jointly request that this Court certify this appeal for review by this Court before the matter has been determined by the Court of Appeals.

Appellants have appealed the circuit court’s Orders entering a judgment on the jury verdict and denying Appellants’ motions for judgment notwithstanding the verdict, new trial absolute, and, alternatively, new trial *nisi remittitur*. This appeal involves a medical malpractice action involving Respondent Vernon Sulton’s hospitalization at

HealthSouth Rehabilitation Hospital, with over \$12.3 million in dispute. The Estate of Vernon Sulton asserted a claim for negligence and Willie Mae Scott asserted a claim for loss of consortium.

ARGUMENT

Certification of a case to the South Carolina Supreme Court is “normally appropriate where the case involves an issue of significant public interest or a legal principle of major importance.” Rule 204(b), SCACR; see also Steinke v. South Carolina Dep’t of Labor, Licensing, & Regulation, 336 S.C. 373, 520 S.E.2d 142 (1999) (transferring a case under Rule 204(b)). This matter involves legal principles of major importance that will impact numerous cases throughout South Carolina.

Specifically, the issues presented by this appeal include: (1) the effect of this Court’s decision in Pittman v. Stevens, 346 S.C. 337, 613 S.E.2d 378 (2005) regarding the propriety of a heightened duty charge, and whether, in a medical malpractice case, the existence of a great degree of danger imposes a heightened duty of care; (2) whether existing South Carolina case law which holds that punitive damages are not recoverable for loss of consortium has been modified by the codification of this claim in S.C. Code Ann. § 15-75-20; (3) the effect of this Court’s decision in Branham v. Ford Motor Co., 390 S.C. 203, 701 S.E.2d 5 (2010), and whether a punitive damages analysis can extend beyond consideration of net worth and extrapolations from net worth to include net revenue; (4) the proper procedures for addressing verdict form issues and whether the verdict form in this case was flawed; (5) the appropriate standard for imposing punitive damages where such damages are based upon a theory of vicarious liability and whether that standard was met; and (6) the proper application

of the test set forth by this Court in Mitchell v. Fortis Ins. Co., 385 S.C. 570, 686 S.E.2d 176 (2009) for reviewing punitive damages awards.

Further, given the size of the possible total verdict, it is important to both parties for the appellate process to be concluded quickly. It is respectfully submitted that it would involve unnecessary delay for the Court of Appeals to rule on this appeal in the first instance, because irrespective of that Court's decision, it is highly probable that at least one of the parties will petition this Court for certiorari, because of the importance of the issues and size of the financial stakes involved. Further, because of the significant and novel issues involved it is highly probable that this Court would grant the petition and review that decision. The parties have filed their final briefs and the record on appeal with the Court of Appeals, but that Court has not yet scheduled oral argument or taken any action as to this appeal. Thus, this Court should certify the appeal from the Court of Appeals.

CONCLUSION

For the reasons set forth above, the both Appellants and Respondents in this appeal respectfully requests that their joint motion to certify be granted.

SIGNATURE PAGES ATTACHED

Respectfully submitted,

By:  _____

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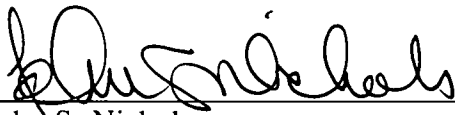
Attorneys for Appellants

Columbia, South Carolina
April 24th, 2012

RESPONDENTS' CONSENT

Respondents Willie Mae Scott, individually and as Personal Representative of the Estate of Vernon Sulton, hereby consent to and join in this request to certify this case to the Supreme Court for review.

Respectfully submitted,

By: 
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Attorneys for Respondents

Columbia, South Carolina
April 24, 2012

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
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L. Casey Manning, Circuit Court Judge

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d/b/a HealthSouth Rehabilitation Hospital, Kathy
Hoover, RN, Lisa Page, RN, Sharon Miller, RN, Kim
Harris, RN, Betty Casteal, RN, and Norine Corbin,
RN, Appellants.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellants, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

Joint Motion to Certify Appeal

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Lisa P. Whitehurst
Administrative Assistant

April 24, 2012