

2013-88



## The South Carolina Court of Appeals

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July 06, 2015

The Honorable Julie J. Armstrong  
100 Broad St Ste 106  
Charleston SC 29401-2210

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JUL 16 2015

SC Court of Appeals

### REMITTITUR

Re: Beverly Moore-Rowe v. Bon Secours  
Lower Court Case No. 2013CP1000088  
Appellate Case No. 2013-001673

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

Enclosure

cc: Beverly C. Moore-Rowe  
Darren Kent Sanders, Esquire  
Fred W. Suggs, III, Esquire

Jack G Gresh, Esquire  
Andrew Steven Halio, Esquire  
Jonathan Hopkins Dunlap, Esquire  
James Bernard Hood, Esquire  
Christine Kent Toporek, Esquire  
Russell Grainger Hines, Esquire  
Joseph John Tierney, Jr., Esquire  
Stephen Lynwood Brown, Esquire  
Deborah Harrison Sheffield, Esquire  
Robert H. Hood, Esquire  
The Honorable R. Markley Dennis, Jr.

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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Beverly C. Moore-Rowe, Appellant,

v.

SC Court of Appeals

Bon Secours-St. Francis Xavier Hospital, Inc., d/b/a Bon  
Secours St. Francis Xavier Hospital, Bon Secours St.  
Francis Hospital and Roper St. Francis Healthcare, Bon  
Secours St. Francis Health System, Inc., d/b/a Bon  
Secours St. Francis Xavier Hospital, Bon Secours St.  
Francis Hospital and Roper St. Francis Healthcare, Bon  
Secours Health System, Inc., d/b/a Bon Secours St.  
Francis Hospital and Roper St. Francis Healthcare, Roper  
St. Francis Foundation, d/b/a Roper St. Francis  
Healthcare, Bon Secours-St. Francis Health System  
Foundation, Inc., d/b/a Roper St. Francis Healthcare,  
Roper Hospital, Inc., d/b/a Roper St. Francis Healthcare,  
Byron N. Bailey, M.D., Christine C. Thompson, M.D.,  
a/k/a Christine Thompson, M.D., Charleston  
Neurosurgical Associates, LLC, Mt. Pleasant Anesthesia  
Associates, PA, Charleston Surgery Center Limited  
Partnership, d/b/a Charleston Surgery Center, Tammy  
McGraw, CRNA, a/k/a Tammy McGraw Speicher,  
CRNA, Nurse Anesthesia of South Carolina, LLC,  
Jeffery S. Wager, CRNA, Tricoastal Healthcare Billing  
and Management, Inc., and Steven Heath Cobb,  
Respondents.

FILED  
2015 JUL -8 PM 03  
JULIE J. ANSTRONG  
CLERK OF COURT  
Clocked in by [unclear] Canceled

Appellate Case No. 2013-001673

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Appeal From Charleston County

Roper St. Francis Foundation, d/b/a Roper St. Francis  
Healthcare, Roper St. Francis Healthcare, and Roper  
Hospital, Inc., d/b/a Roper St. Francis Healthcare.

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**PER CURIAM:** Beverly Moore-Rowe appeals a circuit court order dismissing her medical malpractice case for failure to file an expert witness affidavit with her Notice of Intent to File Suit (NOI) pursuant to section 15-79-125 of the South Carolina Code (Supp. 2014). Moore-Rowe argues the circuit court judge erred in (1) dismissing the NOI for her failure to contemporaneously file an expert witness affidavit, (2) finding the exception to the contemporaneous filing requirement codified in section 15-36-100(C)(1) of the South Carolina Code (Supp. 2014) was inapplicable, and (3) not recusing himself. We affirm.

1. As to issues one and two, we affirm because the record does not indicate that Moore-Rowe ever filed or otherwise produced an expert witness affidavit at any time or that she requested an extension to file an expert affidavit. *See* Rule 220(c), SCACR ("The appellate court may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal."); *Wilkinson v. E. Cooper Cmty. Hosp., Inc.*, 410 S.C. 163, 169-70, 763 S.E.2d 426, 430 (2014) ("On appeal from the dismissal of a case pursuant to Rule 12(b)(6), an appellate court applies the same standard of review as the [circuit] court. That standard requires the [c]ourt to construe the complaint in a light most favorable to the nonmovant and determine if the facts alleged and the inferences reasonably deducible from the pleadings would entitle the plaintiff to relief on any theory of the case." (internal citation and quotation marks omitted)); *Ranucci v. Crain*, 409 S.C. 493, 497, 763 S.E.2d 189, 191 (2014) (holding "section 15-79-125(A) incorporates section 15-36-100 [of the South Carolina Code (Supp. 2014)] in its entirety"); § 15-79-125(A) ("Prior to filing or initiating a civil action alleging injury or death as a result of medical malpractice, the plaintiff shall contemporaneously file a [NOI] and an affidavit of an expert witness, subject to the affidavit requirements established in [s]ection 15-36-100 . . ."); § 15-36-100(B) (requiring a plaintiff alleging professional negligence to submit an expert witness affidavit that "must specify at least one negligent act or omission claimed to exist and the factual basis for each claim based on the available evidence at the time of the filing of the affidavit"); § 15-36-100(C)(1) (allowing a plaintiff additional time to file an expert affidavit after filing her NOI: forty-five days or as extended by the circuit court upon motion); *id.* ("If an affidavit is not filed within the period specified in this subsection or as extended by the [circuit] court and the defendant against whom an

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From: Clerk of Court, Charleston County, South Carolina.

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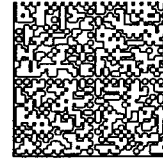
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CHARLESTON COUNTY

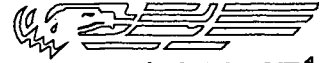
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