

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas

Letitia H. Verdin, Circuit Court Judge

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Case No. 2010-CP-5743

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Gregory J. Feldman, MD, Joseph A. Boscia, III, MD,  
Upstate Lung & Critical Care Specialists, PC, and  
Devendra Shantha, MD,

Appellants,

v.

William Mark Casey, Ray E. "Chuck" Thompson,  
And Charles M. Fogarty,

Respondents.

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NOTICE OF APPEAL

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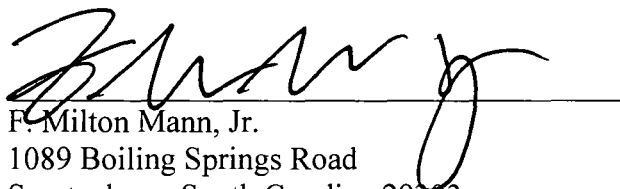
Gregory J. Feldman, MD, Joseph A. Boscia, III, MD, Upstate Lung & Critical Care Specialists, PC, and Devendra Shantha, MD, appeal the Orders of the Honorable Letitia H. Verdin dated January 30, 2012, March 21, 2012, and April 30, 2012. Appellants received written notice of entry of the January 30, 2012 Form 4 Order (Exhibit A), indicating a formal order to follow, on February 7, 2012. Appellants received written notice of entry of the March 21, 2012 Order (Exhibit B) on March, 28, 2012. Appellants timely filed their Notice of Motion and Motion for Reconsideration and to Amend (Exhibit C) on April 9, 2012. Appellants received written notice of entry of the April 30, 2012 Form 4 Order (Exhibit D), indicating a formal order to follow, on May 16, 2012. Appellants inquired of the Court, by letter (Exhibit E), on August 24, 2012, as to when a formal order might be expected. Appellants received email notice (Exhibit F) on August 24, 2012, that no formal order would be forthcoming and that a clerical error had occurred indicating a formal order would follow the Form 4 Order dated April 30, 2012.

SC Court of Appeals

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A handwritten signature in black ink, appearing to read "F. Mann, Jr.", written over a horizontal line.

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Attorney for Respondent Fogarty

# **EXHIBIT A**

FORM 4

STATE OF SOUTH CAROLINA  
 COUNTY OF SPARTANBURG  
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2010CP4205743

Gregory J. Feldman, MD Upstate Lung and Critical Care Specialists PC	Joseph A. Boscia, III Devendra T. Shantha, MD	William Mark Casey Charles M. Fogarty MD	Ray E. "Chuck" Thompson
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PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Court	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant
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DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):  Rule 12(b), SCRCP;  Rule 41(a), SCRCP (Vol. Nonsuit);  
 Rule 43(k), SCRCP (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):  Rule 40(j), SCRCP;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other: \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  
 Affirmed;  Reversed;  Remanded;  Other: \_\_\_\_\_

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 SPARTANBURG COUNTY

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court.  
 This matter comes before the Court on Motions to Dismiss of all Defendants. This Court finds that the Plaintiffs had notice of a potential claim for abuse of process and for civil conspiracy before October 27, 2007. This action was filed on October 27, 2010. Therefore, the claim is time-barred by the statute of limitations. Defendants' Motions to Dismiss are granted in full. Defendants are requested to submit a single proposed order consistent with these findings.

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk:

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**INFORMATION FOR THE PUBLIC INDEX**

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

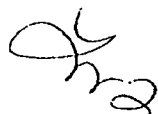
The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

  
Circuit Court Judge

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Judge Code

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**For Clerk of Court Office Use Only**

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This judgment was entered on, and a copy mailed first class or placed in the appropriate attorney's box on, to attorneys of record or to parties (when appearing pro se) as follows:

**Franklin Milton Mann, Jr.**, F. Milton Mann, Jr Atty at Law,  
1089 Boiling Springs Road, Spartanburg, SC 29303

**Joe Mooneyham**, Mooneyham Flowers Berry & Karow, P.O.  
Box 8359, Greenville, SC 29604  
**Matthew Holmes Henrikson**, Henrikson Law Firm, LLC,  
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**Michael B.T. Wilkes**, Michael Wilkes Law Firm, PA, 127  
Dunbar Street #200 Spartanburg, SC 29306  
**Ellen S. Cheek**, Michael Wilkes Law Firm, PA, 127 Dunbar  
Street, Suite 200, Spartanburg, SC 29306

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

**ATTORNEY(S) FOR THE DEFENDANT(S)**

*Hope Blackley*

Hope Blackley - Spartanburg County Clerk Of Court

*Pat DeKoster*

**Court Reporter**

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# **EXHIBIT B**

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STATE OF SOUTH CAROLINA )  
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 Gregory J. Feldman, MD, Joseph A. )  
 Boscia, III, MD, Upstate Lung & Critical )  
 Care Specialists, PC, and Devendra )  
 Shantha, MD, )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 William Mark Casey, Ray E. "Chuck" )  
 Thompson, and Charles M. Fogarty, MD, )  
 )  
 Defendants. )

IN THE COURT OF COMMON PLEAS

C.A. No.: 2010-CP-5743

**ORDER GRANTING DEFENDANTS' MOTIONS TO DISMISS SECOND AMENDED COMPLAINT**

This action came for hearing before me on January 18, 2012, on the Motions to Dismiss Plaintiffs' Second Amended Complaint filed by Defendants William Mark Casey ("Casey"), Ray E. "Chuck" Thompson ("Thompson"), and Charles M. Fogarty, MD ("Fogarty") (collectively referred to herein as "Defendants"). Plaintiffs were represented by Milton Mann. Casey was represented by Joe Mooneyham; Thompson was represented by Matt Henrikson; and Fogarty was represented by Ellen Cheek. Defendants submitted or rested on previously submitted briefs, which the Court has considered in addition to the parties' oral argument. For the reasons stated below, Defendants' respective Motions to Dismiss Plaintiffs' Second Amended Complaint are granted, Plaintiffs' abuse of process claim is dismissed with prejudice, and Plaintiffs are barred from reasserting at any time in the future their civil conspiracy claim.

**Motion to Dismiss Standard**

Under Rule 12(b)(6), SCRCP, a defendant may move to dismiss a plaintiff's pleading based on a failure to state facts sufficient to constitute a cause of action. Rule 12(b)(6), SCRCP. The circuit court properly dismisses a claim when the defendant demonstrates that the facts stated in plaintiff's pleading fail to establish an actionable claim. *Hambrick v. GMAC Mortg.*

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*Corp.*, 370 S.C. 118, 121, 634 S.E.2d 5, 7 (Ct. App. 2006). In considering a 12(b)(6) motion, the trial court must base its ruling solely upon allegations set forth on the face of the complaint. *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 602 (1995).

**Plaintiffs' Claims**

Plaintiffs' Second Amended Complaint asserts causes of action against all Defendants for abuse of process and civil conspiracy arising from an underlying medical malpractice suit, *William Mark Casey v. Gregory J. Feldman, M.D., Joseph A. Boscia, III, M.D., Devendra Shantlia, M.D. and Upstate Lung and Critical Care Specialists, PC*, filed in the Court of Common Pleas for Spartanburg County, Seventh Judicial Circuit, Case No. 2006-CP-42-1728 (the "Medical Malpractice Action"). See Second Amended Complaint at ¶ 4. According to the Second Amended Complaint:

Plaintiffs provided medical services and treatment to Casey between May 28, 2004, and June 3, 2004, with respect to chest pain Casey experienced at work on May 28, 2004. See Second Amended Complaint at ¶¶ 6-13. After Casey was admitted to the hospital, a chest x-ray was taken that showed a small metallic foreign body in the x-ray field. See Second Amended Complaint at ¶ 8. To "clinical[ly] correlate" (or investigate) the foreign body shown on the x-ray, Plaintiffs performed on Casey a flexible bronchoscopy followed by a rigid bronchoscopy. See Second Amended Complaint at ¶¶ 8-12. During the rigid bronchoscopy, Casey suffered a pneumothorax. See Second Amended Complaint at ¶¶ 9-13.

After Casey was discharged from the hospital, he complained to Plaintiffs that he suffered from forgetfulness, short-term memory loss, personality changes and permanent disability caused by the rigid bronchoscopy and resulting pneumothorax. See Second Amended Complaint at ¶¶ 14-17. Plaintiffs rejected Casey's complaints and refused to support his resulting attempt to obtain disability benefits, and declined to continue treating Casey. See

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Second Amended Complaint at ¶ 18, 56.

In 2004, after Plaintiffs refused to continue treating Casey, Casey began treating with a psychologist and therapist in Spartanburg. See Second Amended Complaint at ¶¶ 58-59. Also in 2004, Casey became a patient of Fogarty, who previously had been medical partners with Plaintiff Gregory Feldman. See Second Amended Complaint at ¶¶ 18, 20, 28, 48, 58. In the course of assuming Casey's treatment, Fogarty reviewed Casey's medical records, including those relating to Casey's bronchoscopies and pneumothorax, and saw Casey at Fogarty's medical office and Fogarty's medical research facility. See Second Amended Complaint at ¶ 18, 34, 40, 48. Based thereon, Fogarty developed the medical opinion that Casey had suffered a cerebral air embolism and resulting permanent brain injury during the rigid bronchoscopy Plaintiffs performed on Casey, and that Plaintiffs had deviated from the applicable standard of medical care in treating Casey. See Second Amended Complaint at ¶¶ 28, 31, 33-36, 39-40. Fogarty did not order a MRI of Casey's brain. See Second Amended Complaint at ¶ 34. On July 21, 2005, in Fogarty's medical chart for Casey, Fogarty noted his opinion that Casey had suffered a "permanent brain injury." See Second Amended Complaint at ¶¶ 28, 36. As Casey's treating's physician, Fogarty's opinion regarding Casey's medical condition and his office notes regarding same also were provided in relation to Casey's application for private disability insurance benefits, as well as Social Security disability benefits. See Second Amended Complaint at ¶¶ 37, 74-76.

In 2005 and 2006, Thompson, a Spartanburg lawyer who went to high school with Casey, provided Casey legal assistance in relation to Casey's applications for disability benefits. See Second Amended Complaint at ¶¶ 49, 75, 77. Thompson also consulted with Fogarty regarding Fogarty's opinion that Casey had suffered a permanent brain injury as a result of Plaintiffs' having violated their standard of care with respect to Casey's medical treatment. See Amended

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Complaint at ¶¶ 28, 44, 51.

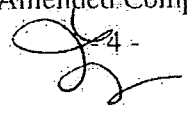
Also in 2006, Thompson filed the Medical Malpractice Action on behalf of Casey.<sup>1</sup> See Second Amended Complaint at ¶ 5. In that suit, Casey alleged that Plaintiffs in the present case breached the standard of care with respect to Casey's medical treatment between May 28, 2004, and June 3, 2004, causing him damages, including neurological injury and permanent disability. See Second Amended Complaint at ¶ 6. Fogarty was identified and deposed in the Medical Malpractice Action as an expert witness, and was consulted by Thompson on occasions with respect to medical matters relating to the Medical Malpractice Action, and with respect to Casey's independent applications for disability coverage. See Second Amended Complaint at ¶¶ 41-42, 48, 76.

During the course of discovery in the Medical Malpractice Action, Thompson arranged for Casey to obtain an MRI under a fictitious name and date of birth from Thompson's brother-in-law. See Second Amended Complaint at ¶¶ 86-90. Thompson and Casey did not reveal the MRI, which was negative, to Plaintiffs during discovery in the Medical Malpractice Action. See Second Amended Complaint at ¶¶ 90-91. Fogarty was not involved in Casey's having the MRI, or Thompson's and Casey's discovery-related efforts with respect to the MRI. See Second Amended Complaint. Plaintiffs learned of the MRI after one of Plaintiffs' lawyers in the Medical Malpractice Action received an anonymous letter regarding it. See Second Amended Complaint at ¶ 92.

The Medical Malpractice Action was tried before a Spartanburg County jury beginning on May 11, 2010. See Second Amended Complaint at ¶ 99. On May 28, 2010, after a 14-day trial, the jury returned a defense verdict in favor of Plaintiffs in this case. See Second Amended

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<sup>1</sup> Plaintiffs' Second Amended Complaint does not specify the date that the Medical Malpractice Case was filed; but the case number Plaintiffs cite (2006-CP-42-1728) indicates that the suit was filed in 2006. See Second Amended Complaint at ¶ 4.



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Complaint at ¶ 100.

Plaintiffs filed their original Complaint in this case on October 27, 2010, claiming that Defendants engaged in abuse of process and civil conspiracy in relation to the Medical Malpractice Action. See Complaint; see also Second Amended Complaint. After Defendants moved to dismiss Plaintiffs' original Complaint in lieu of answering same, Plaintiffs filed an Amended Complaint as of right, reasserting against Defendants their claims for abuse of process and civil conspiracy. See Amended Complaint. When Defendants moved to dismiss the Amended Complaint, Plaintiffs moved for and received leave of court to file their Second Amended Complaint, again asserting against Defendants claims for abuse of process and civil conspiracy. See Second Amended Complaint.

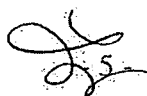
On January 18, 2012, at the hearing on Defendants' Motions to Dismiss Plaintiffs' Second Amended Complaint, Plaintiffs withdrew their civil conspiracy claim, expressly reserving the right to re-file such claim if additional facts were discovered during discovery in this case that Plaintiffs believed supported that claim.

Because this Court finds that Plaintiffs' claims for abuse of process and civil conspiracy are time-barred, which fact necessitates the dismissal of the Second Amended Complaint and prevents Plaintiffs from re-filing their civil conspiracy claim at any time in the future, this Order addresses both of these causes of action.

**Analysis**

The facts alleged in Plaintiffs' Second Amended Complaint show that Plaintiffs had notice of a potential claim for abuse of process more than three years before this action was filed on October 27, 2010. Therefore, Plaintiffs' abuse of process claim is time-barred by the statute of limitations, and Plaintiffs' Second Amended Complaint is dismissed with prejudice pursuant to Rule 12(b)(6), SCRPC. Further, because Plaintiffs' pleading also demonstrates that Plaintiffs

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had notice of a potential claim for civil conspiracy more than three years before this action was filed, Plaintiffs are time-barred from re-asserting such claim at any time in the future.

**I. Plaintiffs' Claims Are Time-Barred.**

This action is governed by a three-year statute of limitations period. S.C.Code Ann. § 15-3-530 (2005); see *Whitfield Const. Co. v. Bank of Tokyo Trust Co.*, 338 S.C. 207, 525 S.E.2d 888 (Ct. App. 1999) (applying three-year statute of limitations in abuse of process action); *Burgess v. American Cancer Soc., South Carolina Div., Inc.*, 300 S.C. 182, 386 S.E.2d 798 (Ct. App. 1989) (recognizing that Section 15-3-530's limitations period (which previously was six years) applies to conspiracy claims).

"A statute of limitations is a procedural device that operates as a defense to limit the remedy available from an existing cause of action." *Capco of Summerville, Inc. v. J.H. Gayle Const. Co., Inc.*, 368 S.C. 137, 142, 628 S.E.2d 38, 41 (2006). Significantly, South Carolina courts recognize that "[s]tatutes of limitations are not simply technicalities." *Moates v. Bobb*, 322 S.C. 172, 176, 470 S.E.2d 402, 404 (Ct. App. 1996). "Statutes of limitations embody important public policy considerations in that they stimulate activity, punish negligence, and promote repose by giving security and stability to human affairs." *Id.* Statutes of limitations relieve courts of the burden of trying stale claims of those who have slept on their rights, and are intended to "ensure litigation is brought within a reasonable time in order that evidence be reasonably available and there be some end to litigation." *Transportation Ins. Co. and Flagstar Corp. v. South Carolina Second Injury Fund*, 389 S.C. 422, 428, 699 S.E.2d 687, 690 (2010) (citations and internal punctuation omitted).

In determining when a cause of action arose under an applicable statute of limitations, South Carolina courts apply the "discovery rule." *Rumpf v. Massachusetts Mut. Life Ins. Co.*, 357 S.C. 386, 394, 593 S.E.2d 183, 187 (Ct. App. 2004). Under the discovery rule, the statute of

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limitations begins to run from the date the party either knew, or by the exercise of reasonable diligence should have known, that some legal right had been invaded. *City of Newberry v. Newberry Elec. Co-op., Inc.*, 387 S.C. 254, 260, 692 S.E.2d 510, 513 (2010). The exercise of reasonable diligence means simply that an injured party must act with some promptness where the facts and circumstances of an injury would put a person of common knowledge and experience on notice that some right of his has been invaded or that some claim against another party might exist. *Snell v. Columbia Gun Exchange, Inc.*, 276 S.C. 301, 303, 278 S.E.2d 333, 334 (1981).

The discovery rule thus focuses upon whether the complaining party acquired knowledge of any existing facts sufficient to put the party on inquiry which, if developed, would disclose alleged wrongdoing. *Burgess*, 300 S.C. at 186-87, 386 S.E.2d at 800. "Moreover, although a party claims ignorance of existing facts and circumstances, the same result [*i.e.*, the statute of limitation's running] follows if such facts and circumstances could have been known to the party through the exercise of ordinary care and reasonable diligence." *Id.* Thus, the statute of limitations begins to run from the date a plaintiff knew or should have known that he had a claim, and not when the plaintiff sought advice of counsel, or developed a full-blown theory of recovery, or discovered a witness to support or prove his case, or "obtain[ed] actual knowledge of either the potential claim or the facts giving rise thereto." *Gibson v. Bank of America, N.A.*, 383 S.C. 399, 406, 680 S.E.2d 778, 782 (Ct. App. 2009) (citations omitted). "Moreover, the focus is upon the date of discovery of the injury, not the date of discovery of the wrongdoer:

The important date under the discovery rule is the date that a plaintiff discovers the injury, not the date of the discovery of the identity of another alleged wrongdoer. If, on the date of injury, a plaintiff knows or should know that she had some claim against someone else, the statute of limitations begins to run for all claims based on that injury.

*Wiggins v. Edwards*, 314 S.C. 126, 128, 442 S.E.2d 169, 170 (1994) (quoting *Tollison* &

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*Machinery Co., Inc.*, 812 F.Supp. 618, 620 (D.S.C.1993).

The date on which discovery of the cause of action should have been made is an objective question. *Joubert v. S.C. Dep't of Soc. Servs.*, 341 S.C. 176, 191, 534 S.E.2d 1, 9 (Cl. App. 2000).

In other words, whether the particular plaintiff actually knew he had a claim is not the test. Rather, courts must decide whether the circumstances of the case would put a person of common knowledge and experience on notice that some right of his has been invaded, or that some claim against another party might exist.

*Young v. South Carolina Department of Corrections*, 333 S.C. 714, 719, 511 S.E.2d 413, 416 (Cl. App. 1999).

In this case, Plaintiffs' abuse of process and conspiracy claims are time-barred because the facts alleged in Plaintiffs' Second Amended Complaint, when taken in the light most favorable to Plaintiffs, clearly demonstrate that Plaintiffs knew or should have known that their claims for abuse of process and civil conspiracy existed in 2006, when the Medical Malpractice Action was filed against them. See Second Amended Complaint at ¶ 4. These facts mandate the dismissal of Plaintiffs' abuse of process claim in the current action, which Plaintiffs filed more than three years after 2006, on October 27, 2010, and prevent Plaintiffs from re-asserting their voluntarily-dismissed civil conspiracy claim at any time in the future.

**A. The Statute Of Limitations Expired On Plaintiffs' Abuse of Process Claim.**

**1. Plaintiffs' Abuse of Process Claim Arose at Least When the Medical Malpractice Action was filed in 2006.**

Plaintiffs' abuse of process claim is time barred, because that claim arose at least when the Medical Malpractice Action was filed in 2006 -- more than three years before Plaintiffs filed their current suit. According to the Second Amended Complaint, and construing those allegations in the light most favorable to Plaintiffs:

- In 2004, before the Medical Malpractice Action was filed, Plaintiffs knew that

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Casey claimed that he had suffered brain injury and permanent disability as a result of the pneumothorax Casey experienced during the rigid bronchoscopy. Plaintiffs did not believe Casey's injury or permanent disability claims were true or legitimate, and they did not support Casey's theory or Casey's attempt to obtain resulting disability benefits. See Second Amended Complaint at ¶¶ 13-18.

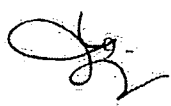
In 2006, when the Medical Malpractice Action was filed, Plaintiffs knew that Casey and Thompson had filed a medical malpractice lawsuit against them, which suit Plaintiffs believed was for a purpose other than to redress legitimate medical injuries sustained by Casey. Plaintiffs knew Casey and Thompson were claiming that Plaintiffs had committed medical malpractice in the course of Casey's treatment. See Second Amended Complaint at ¶¶ 4-5.

Plaintiffs contend that Casey's motivation for filing the Medical Malpractice Action was to obtain prescription pain medication and disability benefits. See Second Amended Complaint at ¶¶ 106-107.

Thus, when Casey sued Plaintiffs for malpractice in 2006, Plaintiffs believed that the suit was an abuse of process, because Plaintiffs already had determined that Casey had sustained no permanent injury, and because Plaintiffs believed that Casey was simply seeking to obtain prescription narcotics and disability benefits. The statute of limitations on Plaintiffs' abuse of process claim thus began to run at least from the date the Medical Malpractice Action was filed in 2006, and prevents Plaintiffs from maintaining such claims in the present case, which Plaintiffs filed in 2010. See *Gibson*, 383 S.C. at 406, 680 S.E.2d at 782.

Significantly, the discovery rule bars Plaintiffs' claims regardless of the fact that Plaintiffs' Second Amended Complaint appears to allege that Plaintiffs were not aware of Fogarty's involvement in the Medical Malpractice Action until sometime during the pendency of

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that case.<sup>2</sup> As explained above, the discovery rule focuses on the date a plaintiff discovers an injury – in this case, the fact that the Medical Malpractice Action was filed against them – “not the date of the discovery of the wrongdoer.” *Wiggins*, 314 S.C. at 128, 442 S.E.2d at 170. Although Plaintiffs’ pleading alleges that Fogarty’s “involvement” in the Medical Malpractice Action was concealed from Plaintiffs until the “11<sup>th</sup> hour” of that case, see Second Amended Complaint at ¶ 42, the claimed fact that Plaintiffs did not know the identity of all alleged wrongdoers in that suit did not prevent the statute of limitations from running. See *id.* This is because the filing of the Medical Malpractice Action reasonably put Plaintiffs— who believed the suit to be meritless and only interposed to harm them, see Second Amended Complaint at ¶¶ 18, 30, 56 – on notice that some right of theirs may have been invaded, regardless of whether Plaintiffs knew the identity of the alleged wrongdoer(s) other than Casey and Thompson, whose names appeared on the pleading. See *Young*, 333 S.C. at 719, 511 S.E.2d at 416. “[T]he requirement of presenting expert testimony to meet the burden of proof on subjects beyond the knowledge and understanding of lay jurors is by no means new,” especially in medical malpractice cases. *5 Star, Inc. v. Ford Motor Co.*, 395 S.C. 392, 399, 718 S.E.2d 220, 224 n.3 (Ct. App. 2011). A reasonable person in Plaintiffs’ position would have known that Casey and Thompson had consulted with and/or were working with a medical expert in relation to the Medical Malpractice Action prior to and upon its filing; and because Plaintiffs believed the suit to be baseless, Plaintiffs knew or should have known that some alleged claim against that medical expert might exist. Because Fogarty’s identity and alleged “role” in the Medical Malpractice Action were facts and circumstances that could have been known to Plaintiffs

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<sup>2</sup> The Second Amended Complaint does not specify when Plaintiffs became aware that Fogarty was Casey’s treating physician, or when Fogarty was identified as an expert witness. See Second Amended Complaint. Plaintiffs allege simply that Fogarty’s “role as an expert witness was concealed until the 11<sup>th</sup> hour” from Plaintiffs and their counsel. See Second Amended Complaint at ¶ 42.

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through the exercise of ordinary care and reasonable diligence, when the Medical Malpractice Action was filed in 2006 – more than three years before Plaintiffs instituted this suit – Plaintiffs' Second Amended Complaint is time-barred.

**2. When The Medical Malpractice Action Terminated Is Irrelevant To The Application Of The Discovery Rule And The Time-Barring Of Plaintiffs' Abuse of Process Claim.**

Perhaps notably, facts pled in Plaintiffs' Second Amended Complaint indicate that Plaintiffs intentionally waited to file their abuse of process claim until after the disposition of the Medical Malpractice Action. See Second Amended Complaint at ¶ 98 (alleging that Thompson sought to protract the Medical Malpractice Action in order to "forestall a counter lawsuit" from Plaintiffs). Significantly, when the Medical Malpractice Action ultimately was resolved is of no relevance to the application of the discovery rule bar to Plaintiffs' abuse of process claim. Unlike a claim for malicious prosecution, an abuse of process claim does not require the termination of the underlying proceedings in the plaintiffs' favor, see *McBride v. School Dist. of Greenville County*, 389 S.C. 546, 565, 698 S.E.2d 845, 855 (Ct. App. 2010),<sup>3</sup> and instead begins to run when the plaintiffs knew or should have known that the alleged abuse had occurred, see *Wiggins*, 314 S.C. at 128, 442 S.E.2d at 170.

**B. Plaintiffs' Civil Conspiracy Claim Is Time-Barred.**

The three-year statute of limitations also time-bars Plaintiffs civil conspiracy claim, which Plaintiffs voluntarily dismissed at the hearing on Defendants' Motions to Dismiss with the expressly reserved right to reassert such claim should discovery in this case produce facts which Plaintiffs believe support such claim.

A civil conspiracy becomes actionable only "once overt acts occur which proximately

<sup>3</sup> The elements of malicious prosecution are (1) the institution or continuation of original judicial proceedings; (2) by or at the instance of the defendant; (3) termination of such proceedings in plaintiff's favor; (4) malice in instituting such proceedings; (5) lack of probable cause; and (6) resulting injury or damage." *McBride*, 389 S.C. at 565, 698 S.E.2d at 855.

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cause damage to the plaintiff.” *Hackworth v. Greywood at Hamnett, LLC*, 385 S.C. 110, 115, 682 S.E.2d 871, 874 (Ct. App. 2009). As discussed above, in South Carolina, the statute of limitations for conspiracy claims is governed by the “discovery rule,” and therefore begins to run upon discovery of the conspiracy itself or of “such facts as would have led to the knowledge thereof, if pursued with reasonable diligence.” *See Burgess*, 300 S.C. at 187, 386 S.E.2d at 800-01. A party cannot escape the application of this rule by claiming ignorance of existing facts and circumstances, or ignorance of the identity of an alleged tortfeasor. *Wiggins*, 314 S.C. at 128, 442 S.E.2d at 170.

Any claim by Plaintiffs for civil conspiracy is time-barred because more than three years have elapsed since the filing of the Medical Malpractice Action – which is the date when Plaintiffs knew that an alleged conspiracy existed, or when Plaintiffs knew or could have known pertinent facts sufficient to apprise themselves of their claim’s alleged existence. Specifically, according to the Second Amended Complaint, Fogarty was the author of the “permanent brain injury scheme” and indispensable for Thompson in “their common scheme to manufacture a pretext for the lawsuit and disability claim.” *See* Second Amended Complaint at ¶¶ 199-221. Thus, the alleged conspiracy was to manufacture a pretext to sue Plaintiffs for malpractice, and the overt “act” in furtherance of the conspiracy was the filing of that suit. Accordingly, once Plaintiffs were sued for malpractice – *i.e.*, once the Medical Malpractice Action was filed in 2006 – they were damaged by the alleged conspiracy, and the statute of limitations on that claim began to run, regardless of whether Plaintiffs claim that they only later learned of Fogarty’s “involvement” in the alleged scheme. *See Hackworth*, 385 S.C. at 115, 682 S.E.2d at 874. When the Medical Malpractice Action was filed against Plaintiffs in 2006, Plaintiffs knew the identity of two of the alleged conspirators, Casey and Thompson, and because medical malpractice claims require expert medical testimony, the filing of the suit put Plaintiffs on notice

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SOUTH CAROLINA  
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that some other physician was involved in the alleged case-filing conspiracy, thus tolling the statute of limitations. Because the three-year statute of limitations on Plaintiffs' civil conspiracy claim expired in 2009, such claim is and will remain time-barred.

**II. The Court Does Not Reach Defendants' Arguments That Plaintiffs' Second Amended Complaint Fails To State A Claim Upon Which Relief Can Be Granted.**

Because this Court finds that Plaintiffs' claims against Defendants for abuse of process and civil conspiracy are time-barred by the statute of limitations, the Court has not reached or ruled upon Defendants' additional arguments that Plaintiffs have failed to plead actionable claims for abuse of process or civil conspiracy.

**Conclusion**

Because Plaintiffs had notice of a potential claim abuse of process and civil conspiracy when the underlying Medical Malpractice Action was filed in 2006, and because more than three years have expired since that date, Plaintiffs' claims for abuse of process and civil conspiracy are time-barred by the statute of limitations. Therefore, this Court grants in full Defendants' Motions to Dismiss Plaintiffs' Second Amended Complaint, and dismisses with prejudice the abuse of process claim asserted therein; and Plaintiffs are barred from re-asserting at any time in the future their claim for civil conspiracy.

IT IS SO ORDERED.

3/21, 2012



Letitia H. Verdin  
Presiding Judge

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# **EXHIBIT C**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

CASE NO.: 2010-CP-42-5743

Gregory J. Feldman, MD, Joseph A. Boscia,  
MD, Upstate Lung and Critical Care  
Specialists PC, and Devendra Shantha, MD,

MOTION AND ORDER INFORMATION

Plaintiffs, )

FORM AND COVERSHEET

vs. )

William Mark Casey, Ray E. "Chuck"  
Thompson, and Charles M. Fogarty, MD,

Defendants. )

Plaintiffs' Attorney:  
F. Milton Mann, Jr., Bar No. 68250  
Address:  
1089 Boiling Springs Road, Spartanburg  
Phone: 864/680-5079 Fax 866/452-2276  
E-mail: \_\_\_\_\_ Other: \_\_\_\_\_

Defendant's Attorney: \*SEE DEFENSE  
ATTORNEY'S LISTED BELOW  
\_\_\_\_\_, Bar No. \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax \_\_\_\_\_  
E-mail: \_\_\_\_\_ Other: \_\_\_\_\_

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)  
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)  
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Reconsideration of March 21, 2012 Order and to Amend

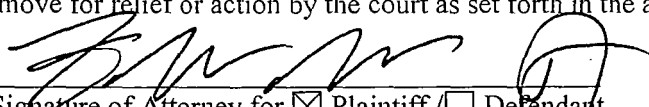
Estimated Time Needed: 30 Minutes

Court Reporter Needed:  YES /  NO

SECTION II: Motion/Order Type

- Written motion attached  
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

  
Signature of Attorney for  Plaintiff /  Defendant

04/09/2012  
Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: \$ \_\_\_\_\_

EXEMPT:

(check reason)

- Rule to Show Cause in Child or Spousal Support  
 Domestic Abuse or Abuse and Neglect  
 Indigent Status  State Agency v. Indigent Party  
 Sexually Violent Predator Act  Post-Conviction Relief  
 Motion for Stay in Bankruptcy  
 Motion for Publication  Motion for Execution (Rule 69, SCRCP)  
 Proposed order submitted at request of the court; or,  
reduced to writing from motion made in open court per judge's instructions  
Name of Court Reporter: \_\_\_\_\_  
 Other: \_\_\_\_\_

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached  
order.

Other: \_\_\_\_\_

JUDGE CODE \_\_\_\_\_

Date: \_\_\_\_\_

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SPARTANBURG COUNTY  
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CLERK'S VERIFICATION

Collected by: \_\_\_\_\_ Date Filed: \_\_\_\_\_  
 MOTION FEE COLLECTED: \$ \_\_\_\_\_  
 CONTESTED – AMOUNT DUE: \$ \_\_\_\_\_

SCCA 233 (11/2003)

**\*DEFENSE ATTORNEYS**

Joe Mooneyham, Esquire

Post Office Box 8359

Greenville, South Carolina 29605

Phone: 864/421-0036

Fax: 864/421-9060

Attorney for Defendant Mr: Casey

Matthew H. Henrikson, Esquire

Henrickson Law Firm

1164 Woodruff Road

Greenville, South Carolina 29607

Phone: 864/672-7106

Fax: 864/235-4399

Attorney for Defendant Mr. Thompson

Ellen Cheek, Esquire

Wilkes Law Firm

127 Dunbar Street, Suite 200

Spartanburg, SC 29306

Phone: 864/591-1113

Fax: 864/591-1767

Attorney for Defendant Dr. Fogarty

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SPARTANBURG COUNTY  
2012 APR -9 AM 11:57  
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

IN THE COURT OF COMMON PLEAS

Gregory J. Feldman, MD, Joseph A. )  
Boscia, III, MD, Upstate Lung and Critical )  
Care Specialists PC, and Devendra )  
Shantha, MD, )

Plaintiffs, )

vs. )

William Mark Casey, Ray E. "Chuck" )  
Thompson, and Charles M. Fogarty, MD, )

Defendants. )

NOTICE OF MOTION AND  
MOTION FOR RECONSIDERATION  
AND TO AMEND

C.A. NO.: 2010-CP-42-5743

**TO: THE HONORABLE LETITIA VERDIN, JOE MOONEYHAM, ATTORNEY FOR  
DEFENDANT, WILLIAM MARK CASEY, MATTHEW H. HENRICKSON,  
ATTORNEY FOR DEFENDANT RAY E. "CHUCK" THOMPSON AND ELLEN  
CHEEK, ATTORNEY FOR DEFENDANT CHARLES M. FOGARTY, M.D.:**

YOU WILL PLEASE TAKE NOTICE that on the \_\_\_\_\_ day of

\_\_\_\_\_, 2012, at \_\_\_\_\_ .m. or as soon thereafter as the matter

can be heard, the Plaintiffs will move before the Honorable Letitia Verdin, for an Order granting

a rehearing or in the alternative for an Order allowing the amendment of the Court's Order

Granting Defendants' Motions to Dismiss Second Amended Complaint as it relates to Plaintiffs'

claims being time-barred and issued by the Honorable Letitia Verdin, signed on March 21, 2012,

clocked by the Spartanburg County Clerk of Court on March 23, 2012, and received by the

Plaintiffs' attorney by U.S. Mail on March 28, 2012. That such motion shall be based upon

federal case law, statutory case law in the State of South Carolina including, but not limited to,

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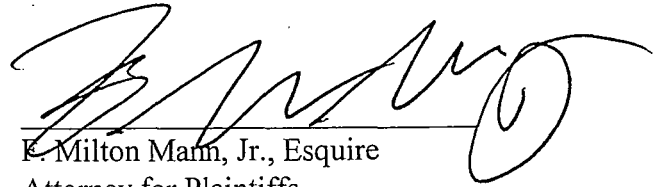
South Carolina Rules of Civil Procedure 52(b) and 59(e) and shall be made upon such grounds as it may appear at the hearing on such motion and any supporting memorandum.

In addition, the Plaintiffs will move for an order allowing Plaintiffs to amend their Complaint pursuant to Rule 15(b) of the South Carolina Rules of Civil Procedure. More specifically, this motion is based on the grounds that justice requires necessary dates be included for clarification, efficiency, and in the interest of justice. That such motion shall be based upon federal case law, the statutory case law in the State of South Carolina, including but not limited to South Carolina Rules of Civil Procedure 15(b) and shall be made upon such grounds as it may appear at the hearing on such motion and any supporting memorandum. Defendants will not be prejudiced by Plaintiffs being allowed to amend their Complaint due to the fact that Defendants are fully aware of all pertinent dates and justice will be served by such amendments.

In addition, the Plaintiffs will move for an order allowing Plaintiffs to amend their Complaint pursuant to Rule 15 of the South Carolina Rules of Civil Procedure, more specifically, this motion is based on the grounds that justice requires Equitable Tolling where the Plaintiffs, by exercising reasonable diligence, could not have discovered essential information bearing on their claims. That such motion shall be based upon federal case law, the statutory case law in the State of South Carolina, including but not limited to South Carolina Rules of Civil Procedure 15 and shall be made upon such grounds as it may appear at the hearing on such motion and any supporting memorandum. Defendants will not be prejudiced by Plaintiffs being allowed to amend their Complaint because Defendants' alleged illegal actions of suborning perjury making

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material misrepresentations to the Court, and concealing evidence, caused Plaintiffs to be actively misled and prevented the Plaintiffs in extraordinary ways from discovering the facts essential to the filing of their Complaint and justice will be served by such amendment.



E. Milton Mann, Jr., Esquire  
Attorney for Plaintiffs  
1089 Boling Springs Road  
Spartanburg, SC 29303  
864-680-5079

Spartanburg, SC  
April 9, 2012

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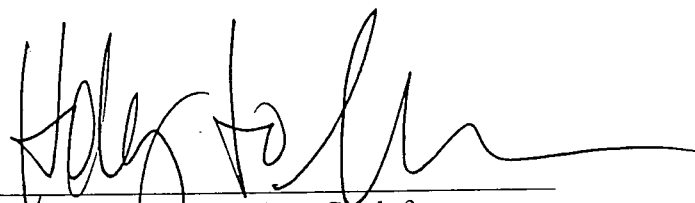
**CERTIFICATE OF SERVICE**

I, Holly Jo Mann, do hereby certify that I have served a copy of the **Motion and Order Information Form and Coversheet and Notice of Motion and Motion for Reconsideration and to Amend** by email and by placing copies in the U.S. Mail, first class postage prepaid, to the following addresses, on this 9<sup>th</sup> day of April, 2012:

Joe Mooneyham, Esquire  
Mooneyham, Barry & Karow, LLC  
PO Box 8359  
Greenville, South Carolina 29604  
Phone: 864/421-0036  
Fax: 864/421-9060  
joe@upstatetriallawyers.com  
Attorney for Defendant Mr. Casey

Matthew H. Henrikson, Esquire  
Henrickson Law Firm  
1164 Woodruff Road  
Greenville, South Carolina 29607  
Phone: 864/672-7106  
Fax: 864/235-4399  
matt@henriksonlaw.com  
Attorney for Defendant Mr. Thompson

Ellen Cheek, Esquire  
Wilkes Law Firm  
127 Dunbar Street, Suite 200  
Spartanburg, SC 29306  
Phone: 864/591-1113  
Fax: 864/591-1767  
ECheek@wilkeslaw.com  
Attorney for Defendant Dr. Fogarty

  
\_\_\_\_\_  
Holly Jo Mann, JD – Law Clerk for  
F. Milton Mann, Jr., Esquire  
Attorney for Plaintiffs  
1090 Boiling Springs Road  
Spartanburg, SC 29302  
Phone: 864/680-5076  
Fax: 866/452/2276  
Milton.Mann@gmail.com

# **EXHIBIT D**

FORM 4

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2010CP4205743

Gregory J. Feldman, MD Upstate Lung and Critical Care Specialists PC	Joseph A. Boscia, III Devendra T Shantha, MD	William Mark Casey Charles M Fogarty MD	Ray E "Chuck" Thompson
PLAINTIFF(S)		DEFENDANT(S)	

Submitted by: Court	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant
---------------------	---

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):  Rule 12(b), SCRCP;  Rule 41(a), SCRCP (Vol. Nonsuit);  
 Rule 43(k), SCRCP (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):  Rule 40(j) SCRCP;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other: \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  
 Affirmed;  Reversed;  Remanded;  Other: \_\_\_\_\_

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 2012 MAY 14 AM 9:12  
 M. HOPE BLACKEY  
 CLERK OF COURT

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order; (formal order to follow)  Statement of Judgment by the Court:  
This matter comes before the Court on Plaintiff's Motion to Reconsider pursuant to Rule 59(e) SCRCP. Plaintiff's Motion to Reconsider and for Rehearing is denied.

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk:

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**INFORMATION FOR THE PUBLIC INDEX**

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

  
Circuit Court Judge

2162  
Judge Code

4/30/2012  
Date

5/14/12 For Clerk of Court Office Use Only

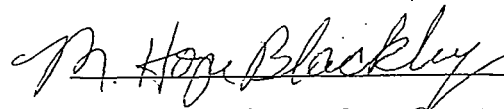

This judgment was entered on 5/14/12, and a copy mailed first class or placed in the appropriate attorney's box on 5/14/12, to attorneys of record or to parties (when appearing pro se) as follows:

Franklin Milton Mann, Jr., F. Milton Mann, Jr Atty at Law,  
1089 Boiling Springs Road, Spartanburg, SC 29303

Joe Mooneyham, Mooneyham Flowers Berry & Karow, P.O.  
Box 8359, Greenville, SC 29604  
Matthew Holmes Henrikson, Henrikson Law Firm, LLC,  
P.O. Box 26554, Greenville, SC 29616  
Michael B.T. Wilkes, Michael Wilkes Law Firm, PA, 127  
Dunbar Street #200 Spartanburg, SC 29306  
Ellen S. Cheek, Michael Wilkes Law Firm, PA, 127 Dunbar  
Street, Suite 200, Spartanburg, SC 29306

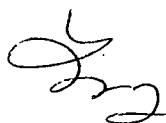
ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

  
Hope Blackley, Spartanburg County Clerk Of Court  


Court Reporter

M. HOPE BLACKLEY  
2012 MAY 14 AM 9:12



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CLERK OF COURT

# **EXHIBIT E**

F. MILTON MANN, JR.

ATTORNEY AT LAW  
LICENSED IN SC, GA & FL

August 24, 2012

Honorable Letitia Verdin  
Greenville County  
305 E. North Street, Suite 318  
Greenville, SC 29601

**BY EMAIL & U.S. MAIL**

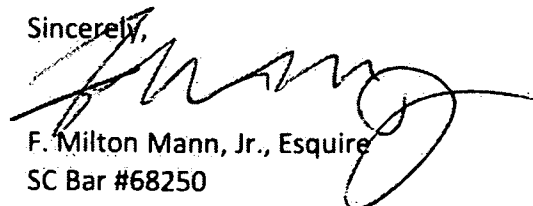
Re: Gregory Feldman, MD, et al v. William Mark Casey, et al  
Case No. 2010-CP-42-5743

Dear Judge Verdin:

I hope this letter finds you well. We are in receipt of your Form 4 Order clocked May 14, 2012, which indicates that a formal Order will follow. To-date, we have not received said Order. May we have a time-frame in which we might expect the formal Order?

Thank you for your assistance in this matter.

Sincerely,



F. Milton Mann, Jr., Esquire  
SC Bar #68250  
Attorney for the Plaintiffs

CC: Ellen Cheek, Esquire  
Matt Henrickson, Esquire  
Joe Mooneyham, Esquire  
Mr. Overby - **by email only**

1089 BOILING SPRINGS ROAD • SPARTANBURG, SOUTH CAROLINA 29303  
864-208-0359 • FAX 864-208-0233 • CELL 864-680-5079  
EMAIL: MILTON.MANN@GMAIL.COM

# **EXHIBIT F**



holly mann < holly.jo.mann@gmail.com >

---

**Gregory Feldman, MD, et al v. William Mark Casey, et al - Case No. 2010-CP-42-5743**

---

**Verdin, Letitia H. Law Clerk ()** < lverdinlc@sccourts.org > Fri, Aug 24, 2012 at 11:15 AM  
To: holly mann <holly.jo.mann@gmail.com>, Milton Mann <milton.mann@gmail.com>, "ECheek@wilkeslaw.com" <ECheek@wilkeslaw.com>, "matt@henriksonlaw.com" <matt@henriksonlaw.com>, "Joe Mooneyham(Joe@upstatetriallawyers.com)" <Joe@upstatetriallawyers.com>

No formal order will follow on Judge Verdin's ruling on Plaintiff's Motion to Reconsider. That is a clerical error.

Thank you.

Stan Overby  
Law Clerk to the Honorable Letitia H. Verdin

---

From: holly mann [holly.jo.mann@gmail.com]  
Sent: Friday, August 24, 2012 10:03 AM  
To: Milton Mann; ECheek@wilkeslaw.com; matt@henriksonlaw.com; Joe Mooneyham (Joe@upstatetriallawyers.com); Verdin, Letitia H. Law Clerk ()  
Subject: Gregory Feldman, MD, et al v. William Mark Casey, et al - Case No. 2010-CP-42-5743

Good Morning!

Please see attached.

Thank you.

--

holly mann, j.d.  
1089 boiling springs road  
spartanburg, sc 29303  
cell: 864/384-0421 <tel:864%2F384-0421>  
fax: 866/452-2276 <tel:866%2F452-2276>

**CERTIFICATE OF SERVICE**

I, Holly Jo Mann, do hereby certify that I have served a copy of the **Notice of Appeal** by placing copies in the U.S. Mail, first class postage prepaid, to the following addresses, on this 28th day of August, 2012:

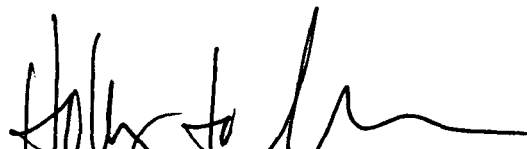
Joe Mooneyham, Esquire  
Mooneyham, Barry & Karow, LLC  
PO Box 8359  
Greenville, South Carolina 29604  
Phone: 864/421-0036

Matthew H. Henrikson, Esquire  
Henrickson Law Firm  
1164 Woodruff Road  
Greenville, South Carolina 29607  
Phone: 864/672-7106

Ellen Cheek, Esquire  
Wilkes Law Firm  
127 Dunbar Street, Suite 200  
Spartanburg, SC 29306  
Phone: 864/591-1113

By hand-delivery to:

Hope M. Blackely,  
Spartanburg County Clerk of Court  
180 Magnolia Street  
Spartanburg, SC 29306



---

Holly Jo Mann, JD – Law Clerk for  
F. Milton Mann, Jr., Esquire  
Attorney for Appellants  
1090 Boiling Springs Road  
Spartanburg, SC 29302  
Phone: 864/680-5076  
Fax: 866/452/2276  
Milton.Mann@gmail.com

F. MILTON MANN, JR.

ATTORNEY AT LAW  
LICENSED IN SC, GA & FL

65362  
100

August 28, 2012

Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
PO Box 11629  
Columbia, SC 29211

Re: Gregory J. Feldman, MD, Joseph A. Boscia, III, MD,  
Upstate Lung & Critical Care Specialists, PC, and  
Devendra Shantha, MD, Appellants, v. William Mark  
Casey, Ray E. "Chuck" Thompson, and Charles M.  
Fogarty, Respondents – Case No. 2010-CP-5743

Dear Ms. Kitchings:

Enclosed for filing is a Notice of Appeal in the above-referenced case. Also enclosed are the following:

- (1) Proof of Service of the Notice of Appeal on the Respondents.
- (2) A copy of the Orders which are to be challenged on Appeal.
- (3) A filing fee of \$100.00.

Respectfully submitted,

F. Milton Mann, Jr.



Enclosures

RECEIVED  
AUG 29 2012  
SC COURT OF APPEALS

cc: Hope M. Blackely, Spartanburg County Clerk of Court (Enclosures)  
Joe Mooneyham, Esquire (Enclosures)  
Matthew H. Henrikson, Esquire (Enclosures)  
Ellen Cheek, Esquire (Enclosures)

1089 BOILING SPRINGS ROAD • SPARTANBURG, SOUTH CAROLINA 29303  
864-208-0359 • FAX 864-208-0233 • CELL 864-680-5079  
EMAIL: MILTON.MANN@GMAIL.COM