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STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

DEC 30 2015

SC Court of Appeals

IN THE COURT OF COMMON PLEAS

Sandra Gilbert,
Plaintiff

v.

Carenet, Inc. Of Lancaster, Nimal A. Perera, M.D.
Defendant.

CASE NO.
2013-CP-29-1339

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney: D. Cravens Ravenel, Bar No. 4642
Defendant's Attorney: George C. Beighley, Bar No.
MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
SECTION I: Hearing Information
SECTION II: Motion/Order Type
SECTION III: Motion Fee
JUDGE'S SECTION
CLERK'S VERIFICATION

FILED
OFFICE OF CLERK
COURT
2015 SEP -8 AM 11:31
LANCASTER, SC

<input type="checkbox"/> MOTION FEE COLLECTED: _____
<input type="checkbox"/> CONTESTED - AMOUNT DUE: _____

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SEC 30 2015
SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LANCASTER)
)
 Johnnie Mae Reed, as Personal)
 Representative of the Estate of)
 Sandra Gilbert,)
)
 Plaintiff,)
)
 vs.)
)
 CareNet, Inc. of Lancaster and)
 Nimal A. Perera, M.D.,)
)
 Defendants.)
)

IN THE COURT OF COMMON PLEAS
 Case No.: 2013-CP-29-1339

PLAINTIFF'S MOTION FOR A NEW TRIAL

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 LANCASTER, SC

COME NOW, the movant, Plaintiff, by and through her undersigned attorneys, and pursuant to Rule 59, SCRCPC, files this Motion for a New Trial. Plaintiff is basing this Motion on the grounds that this Court improperly granted Defendants' Motion in Limine as to topics 1, 2, 4, and 5. The topics sought to be excluded in the Defendants' Motion in Limine are set forth below:

1. Any reference to prior cases against Dr. Perera/CareNet by other Plaintiffs.
2. Any reference to changes made to a medical record in a prior unrelated case.
3. Any reference to Dr. Perera's reprimand by the NC medical board for failure to supervise a physician assistant.
4. Any reference to the circumstances surrounding Dr. Perera's resignation from CareNet.
5. Any reference to Dr. Perera's attempt to have a nurse fill a prescription for his son and his allegedly improper attempt to fill a second prescription.

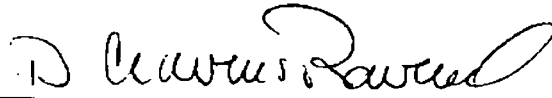
The Plaintiff agreed prior to trial to not contest the third topic regarding Dr. Perera's reprimand for failing to supervise a physician assistant. Plaintiff's objection to the exclusion of testimony for topics 1, 2, 4, and 5, is rooted in Rule 608(b), SCRE, which provides that specific instances of the conduct of a witness may be inquired into at trial if they are probative of the witness' character for truthfulness or untruthfulness. The Plaintiff's specific arguments for why it should

have been entitled to question the Defendants about topics 1, 2, 4, and 5, are set forth in Plaintiff's Memorandum in Opposition to the Defendants' Motion in Limine. Plaintiff hereby incorporates and refers to that memorandum in support hereof for why it is entitled to a new trial based on this Court's granting of the Defendants Motion in Limine for topics 1, 2, 4, and 5.

This Court initially denied the Motion in Limine for topic 4 but later granted the Motion in Limine as to topic 4 upon a renewed objection at trial after making a finding that Defendant Perera's forced resignation from Defendant CareNet was not due to a standard of care violation. The undersigned attorneys unsuccessfully argued at trial that adopting the argument proffered by the Defendants as to topic 4 would require this Court to simultaneously adopt the untenable conclusion that Defendant CareNet forced the resignation of a primary care physician over what it considered to be a frivolous lawsuit. That is the only logical conclusion to be drawn from the Defendants' argument that Defendant CareNet forced the resignation of Defendant Perera because it felt the filing of this lawsuit had put the organization at risk, but that Defendant CareNet did not believe a standard of care violation occurred. Plaintiff argues that it was for the jury to decide whether it believed that Defendant CareNet forced the resignation of Defendant Perera because of this lawsuit despite the fact that it did not believe a standard of care violation had occurred.

Based on the foregoing, Plaintiff submits that its Motion for a New Trial should be granted.

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Columbia, South Carolina
September 2nd, 2015