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**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

RECEIVED

MAR 31 2016

The Honorable R. Markley Dennis, Jr.  
Circuit Court Judge

SC Court of Appeals

Case No. 2011-CP-10-8318  
Appellate Case No. 2015-001463

Clair Craver Johnson.....Appellant

v.

The Medical University of South Carolina.....Respondent

Case No. 2012-CP-10-2867

Clair Craver Johnson.....Appellant

v.

John Roberts, M.D.....Respondent

**JOINT MOTION TO SUPPLEMENT RECORD ON APPEAL**

William P. Early, SC Bar #15657  
Kristen B. Fehsenfeld, SC Bar #76971  
PIERCE, HERNS, SLOAN & WILSON, LLC  
P.O. Box 22437  
Charleston, SC 29402  
Phone: (843)722-7733; Fax: (843)722-7732  
willearly@phswlaw.com  
kristenfehsefeld@phswlaw.com  
*Attorneys for the Respondent the Medical  
University of South Carolina*

COUNSEL OF RECORD:

D. Cravens Ravenel  
BAKER, RAVENEL, & BENDER, LLP  
3710 Landmark Drive, Suite 400  
Post Office Box 8057  
Columbia, South Carolina 29202  
Phone: (803)799-9091; Fax (803)779-3423  
cravenel@brblegal.com  
*Attorneys for Appellant Clair Craver Johnson*

James Edward Scott, IV  
Donald Jay Davis, Jr.  
Stephen L. Brown  
Russell G. Hines  
Young Clement Rivers, LLP  
25 Calhoun Street, Suite 400  
P.O. Box 993  
Charleston, SC 29402  
Phone: (843)720-5406  
jdavid@ycrlaw.com; jscott@ycrlaw.com;  
sbrown@ycrlaw.com; rhines@ycrlaw.com  
*Attorneys for Respondent John Roberts, M.D.*


Respondent, the Medical University of South Carolina (“MUSC”), with the consent of the Appellant, Clair Craver Johnson, hereby moves pursuant to Rule 240 of the South Carolina Appellate Court Rules, to supplement the Record on Appeal with several documents which were mistakenly omitted from Appellant’s Record on Appeal.

On March 16, 2016, Respondent MUSC received a copy of Appellant’s Record on Appeal, consisting of 535 pages and spanning two volumes. When Respondent designated its Motion for Summary Judgment to be incorporated in the Record on Appeal it presumed that the supporting memorandum and all referenced exhibits were likewise included. However, upon review of the Record, it was discovered that exhibits D through G to the Memorandum in Support were missing (while Exhibits A through C were included). Respondent immediately conferred with Appellant and both agreed that the omission was inadvertent and due to administrative error.

The four omitted exhibits, consisting of a total of twenty pages, are referenced in Respondent’s Brief at pages 11 and 12, and are, therefore, critical to the issues raised on appeal. (See Exhibits D through G to MUSC’s Memo in Support of Motion for Summary Judgment, attached hereto as Exhibit “A”). Consequently, Respondent MUSC and Appellant Johnson respectfully request that the Record on Appeal be supplemented to include the remaining four exhibits to MUSC’s Memorandum in Support of Motion for Summary Judgment.

-- Signature page to follow --

Respectfully submitted,



William P. Early, SC Bar #15657  
Kristen B. Fehsenfeld, SC Bar #76971  
PIERCE, HERNS, SLOAN & WILSON, LLC  
P.O. Box 22437  
Charleston, SC 29402  
Phone: (843)722-7733; Fax: (843)722-7732  
willearly@phswlaw.com  
kristenfehsefeld@phswlaw.com  
*Attorneys for the Respondent the Medical  
University of South Carolina*



D. Cravens Ravenel  
BAKER, RAVENEL, & BENDER, LLP  
3710 Landmark Drive, Suite 400  
Post Office Box 8057  
Columbia, South Carolina 29202  
Phone: (803)799-9091; Fax (803)779-3423  
cravenel@brblegal.com  
*Attorney for Appellant Clair Craver Johnson*

March 29, 2016

**RECEIVED**

MAR 31 2016

SC Court of Appeals

(COPY)

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 Clair Craver Johnson, )  
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 Plaintiff, )  
 )  
 v. )  
 )  
 John Roberts, M.D., )  
 )  
 Defendant. )  
 ----- )

COURT OF COMMON PLEAS  
 C/A #: 12-CP-10-8318  
 COURT OF COMMON PLEAS  
 C/A #: 11-CP-10-8318

STATE OF SOUTH CAROLINA )  
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 Plaintiff, )  
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 v. )  
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 Medical University of )  
 South Carolina, )  
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 Defendant. )  
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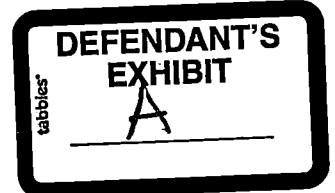
**VIDEO DEPOSITION OF  
 CLAIR CRAVER JOHNSON**

\*\*\*\*\*

Friday, March 22, 2013  
 10:12 a.m. - 1:25 p.m.



**CREEL COURT REPORTING, INC.**  
 1230 Richland Street / Columbia, SC 29201  
 (803) 252-3445 / (800) 822-0896



1 Foust, other than that, what memory or memories  
2 do you have regarding any of your ECT  
3 treatments at MUSC, whether they're inpatient  
4 or outpatient?

5 A: The only memories I have is when it was  
6 outpatient and I have one other memory, like  
7 when you go, I can't remember if you have to  
8 change or not.

9 Q: Well, before, can you tell me what date that  
10 was or what time?

11 A: No.

12 Q: '06 to '08?

13 A: '06 to '08.

14 Q: And is it just one time you remember or more  
15 than one time?

16 A: Well, I remember these, the one instance that  
17 I refused to sign and then I remember another  
18 instance, well, I guess I have three memories.

19 Q: Well, we've already talked about the one you  
20 refused to sign.

21 A: Right. One time the anaesthesiologist had to  
22 stick me like ten times. And Dr. Foust had to  
23 let me go. I remember that. And then one time  
24 I remember, prior to going in, he had two  
25 nurses and I was upset, in tears, crying that,

1           that I -- something I just remember telling  
2           them that I had no way to support myself and  
3           that it was since the ECT had started, I was,  
4           you know, I was aware that, what was happening  
5           and described it to them and I just remember  
6           one of the nurses saying yes you can or  
7           something like that.

8       Q:    What do you mean by that?  You were aware of  
9           what was happening.  Are you talking about  
10          memory loss?

11       A:   I guess so.  I mean, I just remember being  
12          upset and talking about the fact that I was no  
13          longer capable of supporting myself in any way.

14       Q:    Well, did you attribute that to the ECT or to  
15          other things?

16       A:    To the ECT.

17       Q:    So, just so I understand, you told a nurse  
18          during one of your ECT treatments that you were  
19          upset with the ECT because it was causing you  
20          to not be able to support yourself, is that  
21          right?

22       A:    Well, I don't remember verbatim exactly.  I  
23          just, you know, remember that I was crying.

24       Q:    And you were upset because of the ECT?

25       A:    Correct.

1 stuff like that.

2 Q: Did you ever tell any of your physicians  
3 whether it be Dr. Roberts, private physician,  
4 somebody at MUSC, that you had forgotten how to  
5 take care of your activities of daily living?  
6 Did you ever tell anybody that?

7 A: Well, I don't recall. I didn't see anyone for  
8 quite a while after I stopped talking to Dr.  
9 Roberts and even then, see I don't, we just  
10 talked on the phone. I never even saw him. So,

11 Q: Let me ask it this way. It's my understanding  
12 from reading your records and I can show you  
13 the log book again that your last ECT treatment  
14 at MUSC would have been in June of 2008.

15 A: Okay.

16 Q: Do you agree with that? Want me to show you?

17 A: I know it was '08.

18 Q: Okay.

19 A: But I didn't realize it was June.

20 Q: At what point did you lose the ability to stop  
21 taking care of the activities of daily living  
22 on your own and have to seek other people to  
23 help you do that? When was it after June of  
24 2008?

25 A: It was probably that ---

- 1 Q: So it was during your ECT?
- 2 A: I mean the divorce went on for three and a half  
3 years.
- 4 Q: I understand. But just so the record's clear,  
5 you lost your ability to take care of your  
6 activities of daily living prior to, before  
7 your last treatment of ECT?
- 8 A: (Nods head affirmatively.)
- 9 Q: Is that a yes?
- 10 A: Right.
- 11 Q: And you attributed that to the ECT?
- 12 A: Oh, absolutely. I mean ---
- 13 Q: You did then and you do now?
- 14 A: (Nods head affirmatively.)
- 15 Q: Is that a yes?
- 16 A: Yes.
- 17 Q: And that was because of memory? You had  
18 forgotten how to do those things?
- 19 A: It was not only memory, it was a much more of  
20 a physical deterrent that I was going through.  
21 I mean physically, it effected everything.
- 22 Q: That's the first I've heard of anything  
23 physical now. Tell me what affected you  
24 physically.
- 25 A: Well, I mean, like I mentioned, well, I

1 any research, look into what happens, you know,  
2 get two or three opinions from other doctors.  
3 I mean, you know, with my dog, he wants to take  
4 my dog to different vet and things of that  
5 sort, but didn't care enough, you know, to do  
6 that for me.

7 Q: Okay.

8 A: But I, particularly since my mother died, I  
9 just keep my thoughts to myself. But I mean I  
10 think that they -- well it just shouldn't have  
11 happened. And it just is what it is.

12 Q: All right. A few questions about the lawsuit.  
13 Let me ask you this. When do you, when did you  
14 first start believing that ECT was causing you  
15 some memory problems?

16 A: During the maintenance ECT.

17 Q: Okay. And did you express that to these folks  
18 that we're talking about?

19 A: I did.

20 Q: Who all did you tell?

21 A: The two nurses, which I don't remember their  
22 names, but they were always the same two  
23 nurses.

24 Q: And just to be clear, I think we've already  
25 talked, you're talking about the two nurses

1           you're upset that what you consider to be the  
2           effect of the ECT, that it had on you and my  
3           question is simply, is that, is this a  
4           reiteration of what you're talking about from  
5           that complaint you had with the nurses about  
6           the ECT?

7           A:    I guess.

8           Q:    Ma'am?

9           A:    I would -- yeah, I mean pretty much.

10          Q:    All right. I, I saw a reference somewhere that  
11          you were concerned, and this was around the  
12          summer of 2010, I believe, that you were  
13          concerned your husband, you ex-husband  
14          threatened to reduce your alimony or something  
15          like that?

16          A:    Right.

17          Q:    You remember that? What was that about?

18          A:    Well, it was when I was diagnosed with my eye  
19          disorder and I went to him to ask if he would,  
20          if -- that would be the last time I've seen him  
21          in person. So, if you have the date, that  
22          would be when it was.

23          Q:    I actually don't, but I apologize.

24          A:    Oh.

25          Q:    I think it was around the summer of 2010, but

1           that you described earlier from MUSC?

2   A:    Right.

3   Q:    Okay.    Anybody else that you've told?    Your  
4           dad, your mom?

5   A:    I have no idea.    I would -- whoever, very few  
6           people I may have talked to I'm sure I told.

7   Q:    And that's -- well, strike that.    Bear with me  
8           for one second.    I --there's a note from, if  
9           y'all don't mind, I'm just going to stand  
10          because I don't have any extra copies, but this  
11          is Roberts 051 it's from Dr. John Roberts'  
12          chart.    Can I walk over?

13   A:    Sure.

14   **MR. SCOTT:**   And this is dated, Cravens, 1/6/09.    Oh,  
15           you've got it.    37.    Okay.

16   **MR. EARLY:**    Cravens, it's in your stack.

17   **MR. RAVENEL:**   Is it?

18   **MR. EARLY:**    Exhibit 37.

19   Q:    I've highlighted, ma'am, I don't mind if you  
20           just look at the highlighted portion.    That's  
21           what I'm interested in.    And just let me know  
22           when you're finished.

23   A:    Yeah, that's pretty much still what's going on  
24           now.

25   Q:    My question to you is, Dr. Roberts notes that

CLAIR  
JOHNSON

1-6-09

"Nothin... I cancelled out almost all my work outs last month... but I started up this month and I started back on my metabolic diet."

Upset is what she considers to be the effect ECT has had on her.

- feels she has no self-confidence
- feels she has no motivation

∴ processed her feelings and explored options

Mood stable & euthymic.

sleep, appetite & energy OK

starting diet again

working out 3/wk

not ambivalent, hopeless or suicidal

Having trouble seeing a positive future tends to dwell on the negative & it inhibits her

∴ processed her feelings about the situation & explored options

Maintain meals

Flu of wks.



00255

# LIFE CARE PLANNING ASSOCIATES, LLC

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150 Oakland Avenue, Suite 215 ~ PO Box 2528, Rock Hill, South Carolina, 29732  
(803) 329-4114 fax (803) 329-4771

## Life Care Plan

**Date:** January 30, 2007

**To:** Shannon Jones  
Attorney at Law

**From:** Wendy J. Garland, OTR/L, CLCP, MSCC  
Certified Life Care Planner  
Medicare Set Aside Consultant Certified

**DOB:** 08/25/1966

**SS#:** 247.33.0359

**RE:** Clair Johnson

**LCPA File No:** G1184

### Reason for Referral

Ms. Clair Johnson is a 40 year old female referred to Life Care Planning Associates, LLC for development of a Life Care Plan. The purpose of this evaluation is to assess the degree to which Ms. Johnson's limitations impede activities of daily living (ADLs). The Life Care Plan will include recommendations for related goods and services required to life expectancy.

### Demographic Data

**Address:** 1835 Omni Boulevard, Mount Pleasant, South Carolina 29466

**County:** Charleston

**Phone:** 803.781.8078 (parents)

**Marital Status:** Separated

**Birthplace:** Knox County, Tennessee

**Citizen:** United States

**Glasses:** No

**Height:** 5 feet 4 inches

**Weight:** 150 lbs.



Re: Clair Johnson G1184

**Records Reviewed**

In completing this Life Care Plan, my opinion is based on the listed records and is subject to modification if other evidence presents itself.

**Defendant's Answers to  
Plaintiff's First Interrogatories**

07/06/2006

**Medical University of South Carolina  
Institute of Psychiatry  
Letter**

03/09/2006

Milton J. Foust, Jr., MD

Admission  
Discharge Summary  
Physician's Order Sheet  
Admission Database  
Nurses' Notes  
Progress Notes  
Electroconvulsive Therapy Notes  
Anesthesia Records

11/26 - 12/23/2003

Stephen McLeod-Bryant, MD

Admission  
Discharge Summary  
Physician Orders  
Medication Administration  
Progress Notes

09/24 - 10/21/2003

Stephen McLeod-Bryant, MD

**Piedmont Medical Center  
Admission  
Discharge Summary  
Psychosocial Assessment  
Physician Orders  
Progress Notes  
Nurses' Progress Notes  
History & Physical**

09/16 - 09/24/2003

Delfin F. Valite, MD

**Palmetto Baptist Center  
Admission  
Discharge Summary  
Progress Notes  
Radiology Reports**

12/09 - 12/23/2003

Timothy D. Malone, MD

**Brooks Eckerd Pharmacy  
Pharmacy Records**

01/27/2003 - 04/17/2006

**Medical Bills**

Re: Clair Johnson G1184

**Brief Chronology of Events**

Ms. Clair Johnson is a 40 year old Caucasian woman with a history of Bipolar Affective Disorder. Per record review, she has been hospitalized numerous times for severe escalation of symptoms including paranoia, grandiose thoughts with flight of ideas, pressured speech, irritability, delusional ideas, manic behavior, and psychosis with threat of harm to self or others. As well, she has a long history of medication noncompliance.

Most recently, she has been receiving outpatient electroconvulsive therapy (ECT) on a routine basis for maintenance. Per Dr. Foust's assessment, among the greatest difficulties with Ms. Johnson's care has been the frequency and severity of her relapses, her noncompliance with medication, and her failure to maintain stability despite frequent ECT treatments. Because of the unstable nature of Ms. Johnson's illness with frequent relapses, the possibility of rehospitalization is present. He further described her prognosis for full recovery as poor.

**Diagnoses**

- Bipolar affective disorder, manic with episodes of psychosis
- Hypothyroidism

**Present Treatment Program**

**TREATING PHYSICIANS/THERAPISTS**

<u>Provider</u>	<u>Specialty</u>	<u>Frequency</u>
John M. Roberts, MD	Psychiatry	1 -2 times a week
Milton J. Foust, MD	Psychiatry/ECT	Varies; 4-6 times per month

**MEDICATION**

<u>Medication</u>	<u>Dosage</u>	<u>Frequency</u>	<u>Purpose</u>	<u>Prescribing MD</u>
Synthroid	.1 mg	1 per day	Thyroid product	Roberts, MD
Geodon	40 mg	2 per day	Antipsychotic	Roberts, MD
Ambien	10 mg	1-2 per day	Sedative hypnotic	Roberts, MD

**Medical History**

- Vascular headaches/migraines
- Functional heart murmur
- Eczema
- Urinary tract infections
- Alcohol and marijuana abuse in remote past

**Surgical History**

Surgical history is unremarkable.

Re: Clair Johnson G1184

### Assessment Summary

Wendy Jensen Garland OTR/L, CLCP, MSCC of Life Care Planning Associates, LLC interviewed Clair Johnson's parents, Hope and Sandra Craver, at their home in Irmo, South Carolina on September 7, 2006. Both Mr. and Mrs. Craver were open and cooperative recalling information concerning Ms. Johnson's history and resultant functional status. The Craver's are Ms. Johnson's Guardian Ad Litem and provide financial management, as well as transportation, and periodic care for Ms. Johnson.

### IDENTIFYING INFORMATION

Clair Johnson is a 40 year old Caucasian female. She is approximately five feet four inches tall and currently weights 150 pounds. The Craver's adopted Clair when she was approximately six weeks old; she was born in Knox County, Tennessee. Her parents are Sandra and Hope Craver. She has one sister, Elizabeth Woodward, and one brother, Hope Craver, Jr., both of the Columbia, South Carolina area.

### PRESENT COMPLAINTS

Clair Johnson lives alone in her home in Mt. Pleasant, South Carolina. Per her parents report, a typical day begins at 6:00 a.m., when she arises and lets her dogs out. She may drink one or two Coca Colas, unconcerned of the hour telephone someone, smoke, and go back to bed for three to four hours. She usually gets up at midday, may go to the grocery store, drinks more Coca Cola, smokes cigarettes, watches television, listens to music, and looks out the window. Generally, she will telephone someone in the afternoon and talk on the telephone for one to two hours.

Per Mrs. Craver's report, it is difficult to maintain a telephone conversation with Clair, because her thoughts are disorganized and she skips from topic to topic. If a subject comes up that Clair does not want to discuss, she can be discourteous on the phone.

Ms. Johnson usually stays up late watching television or a movie. At night, she takes her medication, has to give her dogs heart medication, and then goes to bed around midnight. She never sleeps more than three or four hours at a time, and is up again. Her sleep has become more erratic lately, per Mrs. Craver's observations.

Ms. Johnson has maid service twice a month; otherwise, does not attend to household cleaning or laundry. She has been having increasing problems with her memory; she does not maintain her medication regime, complaining of being unable to find her medication. She frequently calls her parents, unable to find her cell phone, certain clothes, jewelry, etc., believing that someone has stolen her things. Her parents will go to her house, look through her things, and find these items for her.

Her parents also transport her to her ECT treatments, as she is unable to drive following a treatment. Her parents oversee her finances and medical management. Clair will come to stay with them for one week to one month periods of time. When she is at the Craver's home, they take her to the recreational center to exercise, otherwise, she does not exercise independently.

The Craver's stated they were committed to taking care of Clair the rest of their lives, clearly acknowledging that caring for Clair did not mean that she would be able to live with them. Their primary concern is Clair's well being and safety, as she is unable to care for herself because of her mental illness.

### FUNCTIONAL ACTIVITIES

The following assessment of functional activities is based on Mr. and Mrs. Craver's assessment of Ms. Johnson's functional abilities:

Feeling/Sensation      Denied difficulty

Re: Clair Johnson G1184

Reaching	Denied difficulty
Lifting	Denied difficulty
Grip	Denied difficulty
Sitting	Denied difficulty
Walking	Denied difficulty
Bending/Twisting	Denied difficulty
Kneeling	Denied difficulty
Stooping/Squatting	Denied difficulty
Push/Pull	Denied difficulty
Climbing	Denied difficulty
Balance	Denied difficulty
Endurance	Physically deconditioned; has gained 30 lbs. in the past few months

#### ACTIVITIES OF DAILY LIVING

Dressing	Denied difficulty
Feeding	Denied difficulty
Grooming	Neglects grooming
Bathing	Denied difficulty
Toileting	Denied difficulty
Transfers	Denied difficulty
Mobility	Denied difficulty
Driving	Afraid to drive due to increased problems with memory; afraid of getting lost around Charleston; does not drive at night because of this; does drive self to psychiatrist appointments and to grocery store; parents drive to and from ECT treatments
Housework	Neglects; has maid twice a month for house cleaning
Meal Preparation	Eats frozen dinners, orders out for home delivery
Laundry	Neglects; has maid service twice a month for laundry
Yard Work	Neglects; parents manage having yard work done

Re: Clair Johnson G1184

#### BODY SYSTEMS

Breathing	Denied difficulty
Headaches	History of migraine headaches since childhood; does not have headaches currently
Vision	Denied difficulty
Hearing	Denied difficulty
Speech	Denied difficulty
Bowel	Reported constipation related to diet; takes laxative several times a week
Bladder	Denied difficulty

#### PERSONAL HABITS

Smoking	Currently smokes one pack per day
Alcohol	Denied use
Drugs	Reportedly self medicates with Tylenol, Advil, and Relpax for migraines

#### ENVIRONMENTAL INFLUENCE

Air Conditioning	Denied difficulty
Heat	Denied difficulty
Cold	Denied difficulty
Wet/Humid	Denied difficulty
Noise	Denied difficulty
Stress	Multiple daily stressors related to mood instability and delusional thoughts

#### SOCIOECONOMIC STATUS

Ms. Johnson qualified for Social Security Disability Income (SSDI) in February 2005, with regular checks beginning in February 2006. She also receives money from her husband for living expenses. Her parents manage her finances and pay her bills from her monthly income.

#### BEHAVIORAL OBSERVATIONS

Ms. Johnson was not present for the interview; therefore, no behavioral observations were made by the interviewer.

#### SOCIAL ACTIVITIES

Per the Craver's observation, Ms. Johnson is presently depressed and has become a recluse. She does not leave her house unless she has to go to the doctor and rarely goes to the grocery store. She will not let

Re: Clair Johnson G1184

anyone see her, as she is ashamed of her weight. Historically, Clair's depression has lasted for six to eight month periods.

#### OTHER AGENCY INVOLVEMENT

There is no agency involvement in Ms. Johnson's medical management.

#### EDUCATION AND TRAINING

Ms. Johnson completed a Bachelor of Arts Degree in Public Affairs from Columbia College in 1993. She worked for approximately two years as a pharmaceutical representative. She last worked in 1997.

#### MILITARY EXPERIENCE

Ms. Johnson has no military experience.

### **LIFE CARE PLAN ~ GENERAL COMMENTS**

A Life Care Plan is a dynamic document based upon published standards of practice, comprehensive assessment, data analysis and research, which provides an organized concise plan for current and future needs with associated costs, for individuals who have experienced catastrophic injury or have chronic health care needs.

According to the South Carolina 2004 Code of Laws 19-1-150 Life Expectancy Tables, Clair Johnson's life expectancy at age 40 years 1-month is 42.00 years. Because of other possible health related conditions that may reduce her life expectancy, an expert in this field should be consulted to determine her adjusted life expectancy.

### **LIFE CARE PLAN - NARRATIVE SUMMARY OF TABLES**

This section is a narrative description of the recommended incident-related goods and services, as they appear in the Life Care Plan Tables.

### **LIFE CARE PLAN - TABLES**

Following the Narrative Summary are the Life Care Plan Tables. Each table outlines all of the recommendations, along with the current cost associated with each item. The figures exhibited in the Life Care Plan Tables are presented as current day costs. They do not reflect inflation rates or future price increases. An economist should be consulted to compute the present day value of the future medical and care costs set forth in this assessment. Allowances have not been made for future technological advancements in equipment, supplies, medications, treatment etc.

### **POTENTIAL COMPLICATIONS (For informational purposes only)**

The final section of the Life Care Plan is the list of potential complications associated with Clair Johnson's diagnoses. This section of the Life Care Plan is for educational purposes only; there is no projection of frequency of occurrence available. In developing this Life Care Plan, I have made every effort to include goods and services to reduce the likelihood of development of complications. However, there are no guarantees that Clair Johnson's life will remain free of difficulties even if all of the recommendations in the Life Care Plan are instituted. Treatment costs are not factored into the overall figures of the Life Care Plan but the potential complications indicated in this section should, at least, be a consideration when looking into the future.

### **CONCLUSION**

Careful consideration has been given to all of the physical, medical, and psychosocial data contained within this report.

Ms. Johnson has many needs that require management and coordination of services. Her parents have been handling all of this, maintaining proactive involvement in her medical and psychological well-being. Undeniably, Ms. Johnson's instability requires inclusive comprehensive care as well as supervision for safety, organization and executive functions. Her quality of life is dependent upon the scope and quality of services she receives.

It should be noted that at no time in this Life Care Plan do we rely solely upon family members to provide supportive intervention. Should the family chose to provide services, these services have a value, and the best way to determine this value is to indicate what those services would cost on the open labor market. These are identified in the Life Care Plan.<sup>1</sup>

This Life Care Plan is a dynamic document representing Clair Johnson's current and future needs and associated costs specific to her defined disabilities. It is my opinion to within a reasonable degree of professional certainty that the attached Life Care Plan Charts outline appropriate service needs and

Re: Clair Johnson G1184

current costs. The costs and reduction to present day value are not calculated and would require analysis by a qualified economist.

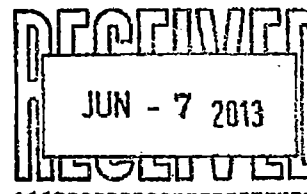
Respectfully submitted,

Wendy Jensen Garland, OTR/L, CLCP, MSCC  
Certified Life Care Planner  
Medicare Set-Aside Consultant Certified

<sup>1</sup> Winkler, TM. Spinal cord injury and life care planning. In: Deutsch, PM, Sawyer, HW, eds. *A Guide to Rehabilitation*. White Plains, NY: AHAB Press, Inc., 2004: §16.01 – §16A200.

STATE OF SOUTH CAROLINA )  
 COUNTY OF CHARLESTON )  
 )  
 Clair Craver Johnson, )  
 )  
 Plaintiff, )  
 v. )  
 John Roberts, M.D., )  
 )  
 Defendant. )

COURT OF COMMON PLEAS  
 C/A #: 2012-CP-10-2867



STATE OF SOUTH CAROLINA )  
 COUNTY OF CHARLESTON )  
 )  
 Clair Craver Johnson, )  
 )  
 Plaintiff, )  
 v. )  
 Medical University of )  
 South Carolina, )  
 )  
 Defendant. )

COURT OF COMMON PLEAS  
 C/A #: 11-CP-10-8318

This is the Examination Before Trial of  
 PETER R. BREGGIN, M.D.  
 held on the 21st day of May, 2013,  
 held at Cornell University, 140 Garden  
 Avenue, Kingshaw Hall, Ithaca, New York.

REPORTED BY: CHRISTINE FERGUSON  
 Shorthand Reporter  
 Notary Public



1 took her off stimulants and antidepressants which  
2 was a good practice, correct?

3 A Yes.

4 Q And going back to the exhibit the last  
5 two pages, you called it a negligence list, I  
6 think there are 17; would you look at that for  
7 me?

8 A Yep.

9 Q And I have actually, the list I have  
10 doesn't include a number 14. Does yours have a  
11 14?

12 A No, it doesn't have a 14.

13 Q So there are actually 16?

14 A Yeah.

15 Q And are there any opinions that you have  
16 as we sit here today, and I just explored what I  
17 think you might have. Are there any opinions  
18 about MUSC, as we sit here today, against MUSC in  
19 the Clair Johnson case?

20 A I would like to say, first I'm going to  
21 read the list over, but I'm including in my  
22 negligence everything we have said today and the  
23 chronology. So, not just this list, we have done  
24 a lot more since this list.

1 Q I understand.

2 A I wanted to correct that. Let me read it  
3 over, okay?

4 Q Sure. I know we have talked about some  
5 things already on the list.

6 A Uh-huh. I'd like to refine number two  
7 where I talked about --

8 Q I'm going to through them all.

9 A Oh, God, all right. I would add not  
10 informing the husband, who shouldn't have been  
11 involved, and the parents about the true  
12 risk/benefit issues with ECT.

13 Q What number are you looking at when you  
14 talk about that?

15 A Eight, I say not adequately informing the  
16 patient. She was involuntary, so it's really  
17 about not adequately warning the father who  
18 shouldn't haven't been involved -- I mean the  
19 husband that shouldn't have been involved. And  
20 in my opinion, the parents shouldn't have been  
21 involved. But they didn't give them informed  
22 consent. Okay.

23 Q Do you have any further, other than you  
24 said some might be in your chronology, other than

1 what we talked about today and this list, is that  
2 inclusive of all of your opinions as we sit here  
3 today against MUSC in this case?

4 A If we include my testimony today,  
5 generally.

6 Q The chronology itself, do you have  
7 anything in your chronology that is an indictment  
8 towards anybody at MUSC that is not included  
9 what's on your negligence list that has those 16  
10 or 17 bullet point?

11 A I can't be certain about that. I can  
12 take a look at it and think about it. But I'm  
13 not certain.

14 Q Let's venture through your list the first  
15 point on your list is "using ECT to treat or  
16 cover up flawed psychiatric treatment including  
17 medical malpractice by Dr. Roberts." Did I read  
18 that right?

19 A Yes.

20 Q We talked extensively what you believed  
21 to be that medical malpractice, and I believe  
22 you're talking about here the prescription of  
23 Wellbutrin to a patient who had mania in the  
24 past?

1 A And mania at the time.

2 Q And if, in your opinion, if Wellbutrin  
3 had not been prescribed to Ms. Johnson, do you  
4 believe that she would have had a need for  
5 hospitalization at MUSC in 2003 and 2005?

6 A You know, it's very hard to approach it  
7 in that direction, but I would say more probably  
8 not, that she would not, but she certainly would  
9 not have ended up losing her life to ECT.

10 Q Just so I understand that, if the  
11 prescription of the Wellbutrin had not been made,  
12 in your opinion, she would not have had the need  
13 for or the perceived need for ECT treatment; is  
14 that right?

15 A Yes.

16 Q Is a hospital under some type of duty to  
17 assume or speculate that a treating physician  
18 outside its walls is committing medical  
19 malpractice as you say Dr. Roberts was?

20 A Not to determine if he was giving  
21 malpractice but whether his medical treatment was  
22 causing the problem and that that should be  
23 addressed rather than giving shock treatment.

24 Q In that first hospitalization, you agree

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable R. Markley Dennis, Jr.  
Circuit Court Judge

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Case No. 2011-CP-10-8318  
Appellate Case No. \_\_\_\_\_

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MAR 31 2016

**SC Court of Appeals**  
Appellant

Clair Craver Johnson.....Appellant

v.

The Medical University of South Carolina.....Respondent

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Case No. 2012-CP-10-2867

Clair Craver Johnson.....Appellant

v.

John Roberts, M.D.....Respondent

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**PROOF OF SERVICE**

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I certify that on the 29<sup>th</sup> day of March, 2016, I served a copy of Respondent MUSC's and Appellant Johnson's Joint Motion to Supplement the Record on Appeal to counsel of record by mailing copies of same via United States Mail, postage pre-paid and return address clearly indicated on said envelope, to counsel at the following addresses:

D. Cravens Ravenel  
BAKER, RAVENEL, & BENDER, LLP  
3710 Landmark Drive, Suite 400  
Post Office Box 8057  
Columbia, South Carolina 29202  
Phone: (803)799-9091; Fax (803)779-3423  
cravenel@brblegal.com  
*Attorneys for Appellant Clair Craver Johnson*

James Edward Scott, IV  
Donald Jay Davis, Jr.  
Stephen L. Brown  
Russell G. Hines  
Young Clement Rivers, LLP  
25 Calhoun Street, Suite 400  
P.O. Box 993  
Charleston, SC 29402  
Phone: (843)720-5406  
jdavid@ycrlaw.com; jscott@ycrlaw.com;  
sbrown@ycrlaw.com; rhines@ycrlaw.com  
*Attorneys for Respondent John Roberts, M.D.*



---

William P. Early, SC Bar #15657  
Kristen B. Fehsenfeld, SC Bar #76971  
PIERCE, HERNS, SLOAN & WILSON, LLC  
P.O. Box 22437  
Charleston, SC 29402  
Phone: (843)722-7733; Fax: (843)722-7732  
willearly@phswlaw.com  
kristenfehsefeld@phswlaw.com

*Attorneys for the Respondent the Medical University  
of South Carolina*

**PIERCE, HERNS, SLOAN & WILSON, LLC**

ATTORNEYS AND COUNSELORS AT LAW

THE BLAKE HOUSE • 321 EAST BAY STREET  
CHARLESTON, SOUTH CAROLINA 29401

POST OFFICE BOX 22437  
CHARLESTON, SOUTH CAROLINA 29413

(843) 722-7733

(843) 722-7732 FAX

www.phswlaw.com

M. TODD RAINSFORD  
KRISTEN B. FEHSENFELD  
CHRISTINA L. PERRIN  
WHIDBEE S. PERRIN  
BENJAMIN C. SMOOT, II ✠  
J. MORGAN FORRESTER

✠ MEMBER SC & VA BAR

CARL E. PIERCE, II  
LOUIS P. HERNS  
ALLAN P. SLOAN, III \*◆  
JOSEPH C. WILSON, IV †  
JAMES G. KENNEDY  
WILLIAM P. EARLY  
SONALY K. HENDRICKS †

\* MEMBER SC & FL BAR  
◆ CERTIFIED SC CIRCUIT COURT MEDIATOR  
† MEMBER SC, FL & GA BAR  
‡ SPECIAL COUNSEL

Direct Dial: (843) 725-7715  
E-mail:marygrondines@phswlaw.com

March 29, 2016

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**SC Court of Appeals**

Honorable Jenny Abbott Kitchings  
Clerk of Court, S.C. Court of Appeals  
PO Box 11629  
Columbia, SC 29211

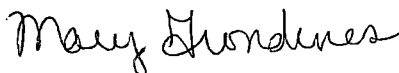
Re: Clair C. Johnson v. Medical University of South Carolina  
Case No. 2011-CP-10-8318  
Clair Craver Johnson v. John Roberts, M.D.  
Case No. 2012-CP-10-2867  
Appellate Case No. 2015-001463  
Our File Number: D2286.00

Dear Ms. Kitchings:

Enclosed please find the original and six copies of the Joint Motion to Supplement Record on Appeal, concerning the above-referenced matter

Kind regards,

Sincerely,



Mary K. Grondines  
Paralegal to Kristen B. Fehsenfeld

WPE/kds  
cc: D. Cravens Ravenel, Esquire  
James E. Scott IV, Esquire



UNITED STATES  
02 1  
0000  
MAIL

PIERCE, HERNS, SLOAN & WILSON, LLC  
ATTORNEYS AND COUNSELORS AT LAW

THE BLAKE HOUSE • 321 EAST BAY STREET  
POST OFFICE BOX 22437  
CHARLESTON, SOUTH CAROLINA 29413

Honorable Jenny Abbott Kitchings  
Clerk of Court, S.C. Court of Appeals  
PO Box 11629  
Columbia, SC 29211

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