

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

APPEAL FROM RICHLAND COUNTY
Honorable Michael G. Nettles, Circuit Court Judge

OCT 26 2016

SC Court of Appeals

Appellate Case No.: 2016-000784
Civil Action Nos. 2015-CP-21-01699, 2015-CP-21-01701,
2015-NI-21-00007, 2015-NI-21-00008

Frances Brown as Personal Representative of the Estate of Alice Queen Ester

Wallace Appellant

v.

Carolina Hospital System and Regency Hospital/Hospice of Florence Respondent

RECORD ON APPEAL

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Attorneys for QHG of South Carolina
d/b/a Carolinas Hospital System

October 26, 2016

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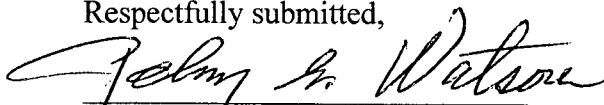
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I certify that this Record on Appeal contains no matter which is irrelevant to this appeal.

Respectfully submitted,



Johnny E. Watson,
Attorney for Frances Brown as Personal
Representative of the Estate of Alice Queen Ester
Wallace

October 26, 2016
Columbia, South Carolina

ORDERS

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)
)
)
)

2015CP2101699
CASE NUMBER

IN THE COURT OF COMMON PLEAS

ORDER

Frances Brown As Personal Representative
PLAINTIFF(S)

Vs

Carolinas Hospital System
DEFENDANT(S)

2015 OCT - 8 PM 1:21
GENNIE REEL-SHEARIN
DCCP & GS
FLORENCE COUNTY, SC
FILED

I. **IT IS ORDERED** that the below MOTION(S) be struck from the active Motion Roster for the following reason:

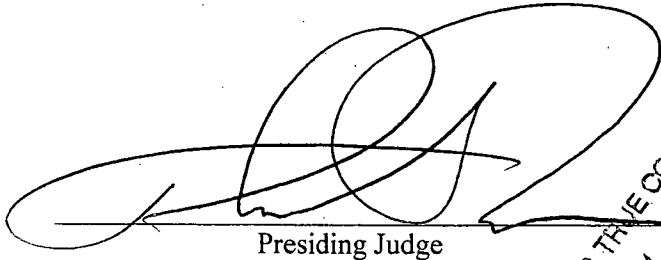
- 1. Plaintiff(s) Motion - Motion to Extend Time to file Affidavit of Expert Witness heard on September 30, 2015 .
- 2. Defendant(s) Motion - heard on .
- 3. Ruling for the above Motion: Plaintiff counsel failed to appear. Motion is dismissed for failure to prosecute.
- 4. Other -

II **IT IS ORDERED** that the within entitled CASE/MOTION(S)/RULE BE:

- 1. Transferred to the Jury/Non-Jury Roster.
- 2. Referred to Special Referee.
- 3. Continued upon request of Plaintiff and/or Defendant beyond the term.
Reason for Continuance:
- 4. Other -

Florence, South Carolina

Friday, October 02, 2015



Presiding Judge

CERTIFIED: A TRUE COPY
C. M. Red. [Signature]
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)
)
)
)
)

2015CP2101701
CASE NUMBER

IN THE COURT OF COMMON PLEAS

ORDER

Frances Brown As Personal
Representative
PLAINTIFF(S)

Vs

Carolinas Hospital System
DEFENDANT(S)

FILED
2015 OCT -2 PM 2:58
CONNIE REEL-SECRETARY
CCOP & GS
FLORENCE COUNTY, S.C.

I. **IT IS ORDERED** that the below MOTION(S) be struck from the active Motion Roster for the following reason:

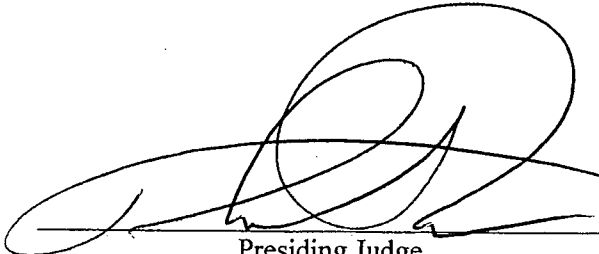
1. Plaintiff(s) Motion to Extend Time to File Affidavit of Expert Witness heard on September 29, 2015.
2. Defendant(s) Motion - heard on .
3. Motion to Extend Time to File Affidavit of Expert Witness is hereby dismissed for failure to prosecute.
4. Other -

II **IT IS ORDERED** that the within entitled CASE/MOTION(S)/RULE BE:

1. Transferred to the Jury/Non-Jury Roster.
2. Referred to Special Referee.
3. Continued upon request of Plaintiff and/or Defendant beyond the term.
Reason for Continuance:
4. Other -

Florence, South Carolina

Tuesday, September 29, 2015


Presiding Judge

CERTIFIED: A TRUE COPY
Connie Reel
CLERK OF COURT, C.P. & G.S.
FLORENCE COUNTY, S.C.

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2015NI2100008

FILED

Frances Brown As Personal Representative
2016 MAR 23 AM 11:28
Carolinus Hospital System
COURT CLERK
CCCP & GS
FLORENCE COUNTY, SC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 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. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; 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:

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:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT 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)
		CERTIFIED: A TRUE COPY
		<i>Cecilia Ruth Warner</i>
		CLEER OF COURT C.P. & G.S. FLORENCE COUNTY, S.C.

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

Judge Code

3/23/2016

Date

For Clerk of Court Office Use Only

This judgment was entered on **March 23, 2016**, and a copy mailed first class or placed in the appropriate attorney's box on **March 23, 2016**, to attorneys of record or to parties (when appearing pro se) as follows:

Johnny Elliot Watson Sr.
PO Box 2305
Columbia, SC 29202

Weldon R. Johnson
PO Box 8448
Columbia, SC 29202

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Connie Reel-Shearin

Court Reporter

Connie Reel-Shearin - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF FLORENCE

Frances Brown as Personal Representative
of the Estate of Alice Queen Ester
Wallace,

2015-CP-21-1699 and 2015-CP-21-1701
2015-NI-21-7 and 2015-NI-21-8

Plaintiff,

v.

Carolinas Hospital System and Regency
Hospital/Hospice of Florence,

Defendants.

ORDER

FILED
2016 MAR 17 PM 2:04
CONNIE REEL-SHEANIN
CLERK OF COURT & G.S.
FLORENCE COUNTY, S.C.

These matters came before me on December 18, 2015, for a hearing on four Motions to Dismiss filed by Defendant Carolinas Hospital System. At the hearing, I requested that Defendant Carolinas Hospital System submit a Memorandum in Support of its Motions to Dismiss on or before January 15, 2016, and I requested that the Plaintiff submit a Memorandum in Opposition to Defendant Carolinas Hospital System's Motions to Dismiss on or before January 30, 2016. After carefully reviewing the pleadings and considering the arguments of counsel and the applicable law, the Court grants Defendants Carolinas Hospital System's Motions to Dismiss Plaintiff's wrongful death Notice of Intent to File Suit, survival Notice of Intent to File Suit, wrongful death Complaint, and survival Complaint as to Defendant Carolinas Hospital System.

FACTUAL BACKGROUND

On June 15, 2015, the Plaintiff, Frances Brown as Personal Representative of the Estate of Alice Queen Ester Wallace, filed a wrongful death Complaint and a survival Complaint alleging medical malpractice against the Defendants. In the Complaints, the Plaintiff alleged the decedent was admitted to Carolinas Hospital System where

CERTIFIED A TRUE COPY
Connie Reel Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

“deficient nursing care...resulted in the decedent, Alice Queen Ester Wallace, getting bed sores which contributed to the decline in her health and contributed to her death.”

Compl. ¶¶ 4, 6. In the Complaints, the Plaintiff did not plead the common knowledge exception to the expert affidavit requirement. Contemporaneously with the Complaints, the Plaintiff filed an affidavit signed by Frances Brown stating that the statute of limitations would expire on June 16, 2015, and “because of the time constraints the affidavit of expert cannot be prepared in time to avoid the expiration of the statute of limitations.” Brown Aff. ¶¶ 3, 4 (June 15, 2015).

On June 18, 2015, the Plaintiff, Frances Brown as Personal Representative of the Estate of Alice Queen Ester Wallace, filed a wrongful death Notice of Intent to File Suit and a survival Notice of Intent to File Suit against the Defendants. According to the two Notices of Intent, the decedent was admitted to Carolinas Hospital System, where “deficient nursing care left her with gross bed sores.” NOI ¶ 2. The decedent was then transferred to another facility “where she was not given possible lifesaving resuscitation as was her living will and she was given the wrong medication or the correct medication in the wrong form which was the proximate cause of her death.” NOI ¶ 2.

The Plaintiff did not contemporaneously file an affidavit of an expert witness with the Notices of Intent to File Suit as required by S.C. Code Ann. § 15-79-125(A). Additionally, the Plaintiff did not allege that an affidavit of an expert witness could not be prepared because of time constraints as required by S.C. Code Ann. § 15-36-100(C), and the Plaintiff did not plead the common knowledge exception to the expert affidavit requirement.

On August 17, 2015, the Plaintiff filed a Motion to Extend Time to File Affidavit of Expert Witness for the wrongful death Complaint and for the survival Complaint. The Plaintiff did not file a similar motion for either of the Notices of Intent to File Suit.

On September 29, 2015 and September 30, 2015, the Motions to Extend Time to File Affidavit of Expert Witness for the Complaints were heard by the court. No motions for a continuance were filed. On September 29, 2015 and October 2, 2015, the court signed Orders dismissing the motions for failure to prosecute.

On October 6, 2015, the two Notices of Intent to File Suit and the two Summonses and Complaints were delivered to Debbie Brace, a Human Resources Specialist at Carolinas Hospital System. On November 5, 2015, Defendant Carolinas Hospital System served and filed its Motions to Dismiss the two Notices of Intent and two Complaints pursuant to South Carolina Rules of Civil Procedure 12(b)(6) and 12(b)(5) by mail.

RULE 12(B)(6) GROUNDS

I. The Plaintiff did not comply with the requirements of S.C. Code Ann. § 15-79-125(A) to initiate an action for medical malpractice.

Prior to filing a medical malpractice claim, S.C. Code Ann. § 15-79-125(A) requires a plaintiff to “contemporaneously file a Notice of Intent to File Suit and an affidavit of an expert witness, subject to the affidavit requirements established in Section 15-36-100.” Section 15-36-100(C)(1) states the contemporaneous filing requirement does not apply if the statute of limitations will expire or there is a good faith basis to believe it will expire “within ten days of the date of filing and, because of the time constraints, the plaintiff alleges that an affidavit of an expert could not be prepared.” If

the plaintiff alleges that an affidavit of an expert could not be prepared, then Section 15-36-100(C)(1) allows the plaintiff “forty-five days after the filing of the complaint to supplement the pleadings with the affidavit.” In Ranucci v. Crain, the Supreme Court held that the affidavit requirements of Section 15-36-100 apply to a notice of intent to file suit in a medical malpractice action, including the forty-five day provision that extended the time for filing a pre-litigation affidavit. 409 S.C. 493, 763 S.E.2d 189 (2014). If the plaintiff does not file an expert affidavit within forty-five days but files a motion to extend time, then Section 15-36-100(C)(1) states the court “after hearing and for good cause, may extend the time as the court determines justice requires.”

However, if an affidavit is not filed within forty-five days or as extended by the court and the defendant raises failure to file an affidavit by motion to dismiss, then Section 15-36-100(F) states “the complaint is not subject to renewal after the expiration of the applicable period of limitation unless the court determines that the plaintiff had the requisite affidavit within the time required...and the failure to file the affidavit is the result of a mistake.” Since Ranucci held that “section 15-79-125(A) incorporates section 15-36-100 in its entirety,” Defendant Carolinas Hospital System appropriately raised the failure to file an affidavit by motions to dismiss as to the wrongful death Notice of Intent to File Suit and the survival Notice of Intent to File Suit. 409 S.C. at 497, 763 S.E.2d at 191.

At the hearing on these Motions to Dismiss, the Plaintiff argued that the common knowledge exception applied to the expert affidavit requirement as to the Notices of Intent to File Suit. Section 15-36-100(C)(2) states that an expert affidavit is not required “to support a pleaded specification of negligence involving subject matter that lies within

the ambit of common knowledge and experience, so that no special learning is needed to evaluate and conduct of the defendant.” However, Plaintiff did not plead the common knowledge exception in either of the Notices of Intent.

In Brouwer v. Sisters of Charity Providence Hospitals, the Supreme Court found that “the negligent exposure of a patient to latex with a known allergy can result in an allergic reaction in that patient” met the common knowledge exception. 409 S.C. 514, 522, 763 S.E.2d 200, 204 (2014). Additionally, the Brouwer plaintiff invoked the common knowledge exception in the Notice of Intent to File Suit. Id. at 518, 763 S.E.2d at 202.

In contrast to Brouwer, the Plaintiff failed to invoke the common knowledge exception in the Notices of Intent to File Suit and the allegations of negligence as to Defendant Carolinas Hospital System are not within the ambit of common knowledge. The Plaintiff alleged “deficient nursing care left her with gross bed sores.” NOI ¶ 2. The average person does not know the standard of care for nurses, so the Plaintiff did not plead a specification of negligence within the ambit of common knowledge.

Furthermore, as to the wrongful death Notice of Intent to File Suit, an individual with common knowledge and experience is not qualified to render an opinion as to cause of death.

In Plaintiff’s Memorandum in Opposition to Defendant’s Motions to Dismiss, but not at the hearing, the Plaintiff argued that the affidavit of Frances Brown and the Motions to Extend Time to File Affidavit of Expert Witness that were filed in 2015-CP-21-1699 and 2015-CP-21-1701 should be applied to 2015-NI-21-7 and 2015-NI-21-8 because all four cases were mailed on the same day. However, as to the two Notices of

Intent to File Suit at issue, the Court finds the Plaintiff did not contemporaneously file an affidavit of an expert witness along with the Notices of Intent to File Suit and did not allege an affidavit could not be prepared as required by Section 15-36-100(C)(1).

Furthermore, the Plaintiff did not supplement the filings with an affidavit within forty-five days or make a motion to extend the time for filing for the Notices of Intent to File Suit. The common knowledge exception would not apply to bed sores or to the cause of death, and the Plaintiff failed to invoke the common knowledge exception when filing the Notices of Intent to File Suit. Lastly, as required by Section 15-36-100(F), Defendant Carolinas Hospital System raised the failure to file an affidavit by motion to dismiss.

Since the statute of limitations ran on June 16, 2015 and the Plaintiff failed to comply with the requirements of Section 15-79-125(A), the Notices of Intent shall be dismissed and not subject to renewal as to Defendant Carolinas Hospital System.

II. The Plaintiff prematurely filed the Complaints and did not comply with the requirements of S.C. Code Ann. § 15-36-100.

In Ranucci, the Supreme Court stated in reference to medical malpractice actions that Sections 15-79-125 and 15-36-100 “establish a unique two-step procedure that filters frivolous claims but permits the filing of potentially meritorious claims.” 409 S.C. at 506, 763 S.E.2d at 196. In these cases, the Plaintiff failed to follow the statutory requirements of Section 15-79-125(A), which state a plaintiff must file a Notice of Intent to File Suit and an affidavit of an expert witness “prior to the filing or initiating a civil action alleging injury or death as a result of medical malpractice.” Therefore, the Plaintiff should have filed the two Notices of Intent to File Suit, along with an expert affidavit, before filing the two Complaints alleging medical malpractice. Instead, the

Plaintiff mailed the two Notices of Intent to File Suit without an expert affidavit and the two Complaints on the June 15, 2015.

Additionally, Section 15-36-100(B) requires the Plaintiff to file with the complaint "an affidavit of an expert witness which must specify at least one negligent act or omission claimed to exist and the factual bases for each claim based on the available evidence at the time of the filing of the affidavit." Because of the time restraints due to the statute of limitations expiring on June 16, 2015, the Plaintiff did not include an expert affidavit with the Complaints. Pursuant to Section 15-36-100(C)(1), the Plaintiff then had forty-five days to supplement with the affidavit, which the Plaintiff did not and has not to this date.

On August 17, 2015, the Plaintiff filed two Motions to Extend Time to File Affidavit of Expert Witness, which were not served on Defendant Carolinas Hospital System. On September 29, 2015 and September 30, 2015, the Motions were heard by the court and dismissed for failure to prosecute. No expert affidavit was filed by the Plaintiff and no motions to reconsider the orders were filed.

Section 15-36-100(F) provides that if a plaintiff fails to file an expert affidavit and the defendant "raises the failure to file an affidavit by motion to dismiss," as done in these cases, "the complaint is not subject to renewal after the expiration of the applicable period of limitation unless the court determines that the plaintiff had the requisite affidavit within the time period required by this section and the failure to file the affidavit is the result of a mistake."

At the hearing on these Motions, the Plaintiff's attorney stated that an expert affidavit had not been obtained because the Plaintiff did not have the funds and did not

want to spend the money on an expert if the Court was going to find that the statute of limitations had expired. Additionally, at the hearing, the Plaintiff alleged that an affidavit was not required because of the common knowledge exception in Section 15-36-100(C)(2). In contrast with Brouwer, the Plaintiff did not invoke the common knowledge exception when filing the Complaints. In his Memorandum, the Plaintiff's attorney responded to this argument by stating that he "filed the case on short notice and did not consider every possibility." Instead in the Complaints, the Plaintiff stated "because of the time constraints the affidavit of expert cannot be prepared in time to avoid the expiration of the statute of limitations." Brown Aff. ¶¶ 3, 4. Furthermore, the Plaintiff filed Motions to Extend Time to File Affidavit of Expert Witness. If the Plaintiff believed the common knowledge exception applied, then the Motions to Extend Time to File Affidavit of Expert Witness were not needed.

Therefore, Defendant's Motions to Dismiss are granted because the Plaintiff failed to comply with Section 15-36-100, the common knowledge exception is not applicable, and the Complaints are not subject to renewal as to Defendant Carolinas Hospital System because the Plaintiff failed to file an expert affidavit and the applicable three year statute of limitations has expired.

RULE 12(B)(5) GROUNDS

In the alternative, the two Notices of Intent and two Complaints must be dismissed pursuant to Rule 12(b)(5), SCRPC. The Plaintiff failed to serve the agent for service of process for Defendant Carolinas Hospital System, correctly known as QHG of South Carolina, Inc. d/b/a Carolinas Hospital System, or any individual in compliance with South Carolina Rule of Civil Procedure 4(d)(3) with the two Notices of Intent and

two Complaints. South Carolina Rule of Civil Procedure 4(d)(3) states that service is accomplished on a corporation “by delivering a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.” On October 6, 2015, the two Notices of Intent to File Suit and the two Summons and Complaints were delivered to Debbie Brace, a Human Resources Specialist at Carolinas Hospital System. She is not the agent for service of process. Ms. Brace is not an officer, managing or general agent or any other agent authorized by appointment or by law to receive service of process on behalf of this Defendant.

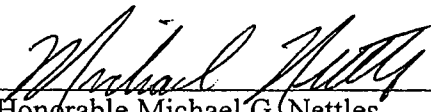
At the hearing and in Plaintiff’s Memorandum, the Plaintiff argued that the Defendant waived the right to assert insufficiency of service of process by filing the Motions to Dismiss. However, South Carolina Rule of Civil Procedure 12(h)(1) states a defense of insufficiency of service of process is waived “if it is neither made by motion under this rule nor included in a responsive pleading or an amendment thereof permitted by Rule 15(a) to be made as a matter of course.” In compliance with the rule, Defendant Carolinas Hospital System filed the Motions to Dismiss pursuant to Rule(b)(5), SCRCF.

IT IS, THEREFORE, ORDERED that Defendant Carolinas Hospital System’s Motions to Dismiss Plaintiff’s wrongful death Notice of Intent to File Suit, survival Notice of Intent to File Suit, wrongful death Complaint, and survival Complaint are granted.

IT IS FURTHER ORDERED the wrongful death Notice of Intent to File Suit, survival Notice of Intent to File Suit, wrongful death Complaint, and survival Complaint

are dismissed with prejudice as to Defendant Carolinas Hospital System and all claims not subject to renewal as to Defendant Carolinas Hospital System.

AND IT IS SO ORDERED.

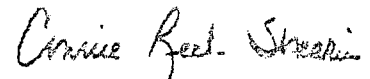


The Honorable Michael G. Nettles
Circuit Court Judge

3-6, 2016

FILED
2016 MAR 17 PM 2:04
CONNIE REEL-SHEPARD
CCCP & GS
FLORENCE COUNTY, SC

CERTIFIED: A TRUE COPY.



CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

PLEADINGS

COUNTY OF FLORENCE

FRANCES BROWN AS PERSONAL REPRESENTATIVE OF THE ESTATE OF ALICE QUEEN ESTER WALLACE

CIVIL ACTION COVERSHEET

Plaintiff(s)

vs.

CAROLINAS HOSPITAL STSYEM AND REGENCY HOSPITAL/HOSPICE FLORENCE

Defendant(s)

2015-CP-21-1699

Submitted By: JOHNNY E. WATSON
Address: P. O. BOX 2305
COLUMBIA, SOUTH CAROLINA 29202

SC Bar #: 5967
Telephone #: 803-400-1600
Fax #:
Other: 803-400-1200
E-mail: watsonlawfirm@sc.twbc.com

FILED
2015 JUN 15 PM 1:36
CONNIE REEL-SHEPHERD
CCCP & G.S.
FLORENCE COUNTY

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), Employment (120), General (130), Breach of Contract (140), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case # 20 -NI-, Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Assault/Slander/Libel (300), Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Administrative Law/Relief: Reinstate Drv. License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order, Other (899)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Confession of Judgment (770), Petition for Workers Compensation Settlement Approval (780), Other (799)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Comm. (990), Employment Security Comm (991), Other (999)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Sexual Predator (510)

Submitting Party Signature: Johnny E. Watson

Date: 6-15-15

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCPP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
OF THE TWELFTH JUDICIAL CIRCUIT

FRANCES BROWN AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
ALICE QUEEN ESTER WALLACE,)

Petitioner,)

v.)

CAROLINAS HOSPITAL SYSTEM AND)
REGENCY HOSPITAL/HOSPICE OF)
FLORENCE,)

Defendant.)

DOCKET #:

AFFIDAVIT OF PLAINTIFF AS TO
§15-36-100 C(1) EXPERT AFFIDAVIT

(WRONGFUL DEATH/MEDICAL
MALPRACTICE ACTION)

(JURY TRIAL DEMANDED)

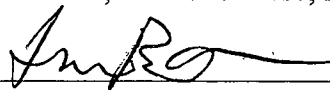
FILED
2015 JUN 15 PM 4:36
GONNIE REEL-SHEARER
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

PERSONALLY APPEARED BEFORE ME, FRANCES BROWN, Personal

Representative of the Estate of Alice Queen Ester Wallace, who, being first duly sworn, deposes
and says that:

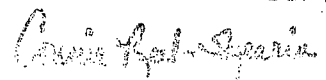
1. She is the Personal Representative of the Estate of Alice Queen Ester Wallace,
2. She is bringing these actions on behalf of the beneficiaries of the decedent, Alice Queen Ester Wallace,
3. The statute of limitation to bring this action will expire on tomorrow, June 16, 2015,
4. Because of the time constraints the affidavit of an expert cannot be prepared in time to avoid the expiration of the statute of limitations and
5. That the foregoing allegations contained herein are true except as to those allegations

which may be alleged upon information and belief, and as to those, she believes them to
be true.



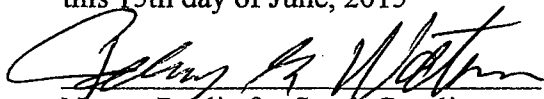
FRANCES BROWN, Personal Representative of
The Estate of Alice Queen Ester Wallace

CERTIFIED: A TRUE COPY



CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Sworn and subscribed before me
this 15th day of June, 2015



Notary Public for South Carolina
My Commission Expires: 1-23-2016

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
OF THE TWELFTH JUDICIAL CIRCUIT

FILED
2015 JUN 15 PM 1:36
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

FRANCES BROWN AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
ALICE QUEEN ESTER WALLACE,)

DOCKET #:

Petitioner,

v.

CAROLINAS HOSPITAL SYSTEM AND)
REGENCY HOSPITAL/HOSPICE OF)
FLORENCE,)

SUMMONS
(WRONGFUL DEATH/ MEDICAL
MAPRACTICE ACTON)

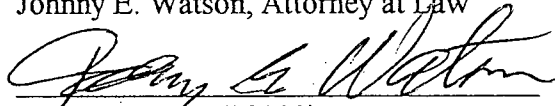
(JURY TRIAL DEMANDED)

Defendant.

TO THE DEFENDANT, ABOVE NAMED:

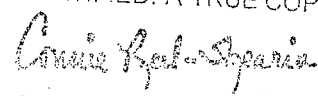
YOU ARE HEREBY SUMMOINED and required to answer the complaint in this action, a copy of which is hereby served upon you, and to serve your response to the said Complaint on the subscriber at his office located at 2715 Edgewood Avenue, City of Columbia, State of South Carolina, 29204 within thirty (30) days after the service hereof, exclusive of the date of such service, and if you fail to respond to the Complaint in the time aforesaid, the Plaintiff in this action will apply to the Court to hold you in default and request the relief demanded in the Complaint.

Respectfully submitted:
Johnny E. Watson, Attorney at Law

BY: 

P. O. Box 2305 (29202)
2715 Edgewood Avenue
Columbia, South Carolina 29204
Phone: (803) 400-1600
Fax: (803) 400-1200

Columbia, South Carolina
Dated: June 15, 2015

CERTIFIED: A TRUE COPY

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) OF THE TWELFTH JUDICIAL CIRCUIT
 COUNTY OF FLORENCE)

FRANCES BROWN AS PERSONAL)
 REPRESENTATIVE OF THE ESTATE OF)
 ALCE QUEEN ESTER WALLACE,)

DOCKET #: 2015 CP 21 1699

Petitioner,

v.

CAROLINAS HOSPTAL SYSTEM AND)
 REGENCY HOSPITAL/HOSPICE OF)
 FLORENCE,)

Defendant.

COMPLANT
 (WRONGFUL DEATH/ MEDICAL
 MALPRACTICE ACTION)
 (JURY TRIAL DEMAND)

FILED
 2015 JUN 15 PM 4:36
 JONNA REEL-SHEARIN
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, SC

Plaintiff complaining of the Defendant herein, would respectively show unto this Court

JURSDICTION

1. That the Petitioner is the executrix of the Estate of Alice Queen Ester Wallace.
2. That the Defendants Carolinas Hospital System and Regency Hospital/Hospice are medical providers which provided care to the decedent prior to her death.
3. That this suit is brought pursuant to South Carolina Code of Laws (1976), section 15-51-

FOR A FIRST CAUSE OF ACTION
 (WRONGFUL DEATH)

4. That the decedent, Alice Queen Ester Wallace, was admitted to the defendant Hospital of the Carolinas on or about _____ where deficient nursing care left her with gross bed sores and she was later transferred to the facilities run by defendant Regency Hospital/Hospice of South Carolina, on or about _____, where she was not given possible lifesaving resuscitation as was her living will and she was given the wrong medication or the correct medication in the wrong form which was the proximate cause of her death.

CERTIFIED: A TRUE COPY

Jonna Reel-Shearin

CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

5. That while a patient at the Hospital of the Carolinas, hospital personnel were grossly deficient in the care given to the decedent, Alice Queen Ester Wallace.

6. That the deficiency in care resulted in the decedent, Alice Queen Ester Wallace, getting bed sores which contributed to the decline in her health and contributed to her death.

7. That the Plaintiff is informed and believes that the defendants gave the decedent, Alice Queen Ester Wallace, the wrong medication or wrong form of an acceptable medication for illness which, along with the deterioration in her health due to was the proximate cause of her death.

FOR A SECOND CAUSE OF ACTION
(PUNITIVE DAMAGES)

8. The allegations of paragraphs of paragraphs 1 through 7 of the Complaint are re-alleged and reasserted as if set forth herein.

9. That as a result of the willful and/or grossly negligent acts or omissions of the Defendants in failing to properly care for the decedent and/or giving her the wrong medication or wrong form of an acceptable medication for illness, and its failing to rotate the decedent enough to prevent bed sores and the great danger such behavior causes to the public, the Defendants should be required to pay the Plaintiff punitive as well as actual damages as a result of their grossly negligent behavior.

WHEREFORE, having fully set forth the allegations, the Plaintiff prays that this court would inquire into the allegations and issue its order awarding the Plaintiff.

- A. General damages in an amount to be determined by a jury,
- B. Medical and incidental expenses according to proof of the same,
- C. Punitive damages for grossly deficient care given to the decedent,
- D. Damages for the Plaintiff's costs, including attorney's fees in this action

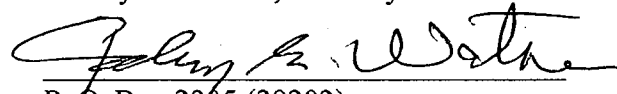
And,

E. For such other relief that the Court may deem just and proper.

Respectfully submitted:

Johnny E. Watson, Attorney at Law

BY:



P. O. Box 2305 (29202)
2715 Edgewood Avenue
Columbia, South Carolina 29204
Phone: (803) 400-1600
Fax: (803) 400-1200

Columbia, South Carolina

Dated: June 15, 2015

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
OF THE TWELFTH JUDICIAL CIRCUIT

FRANCES BROWN AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
ALCE QUEEN ESTER WALLACE,)
)
Petitioner,)
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v.)
)
CAROLINAS HOSPITAL SYSTEM AND)
REGENCY HOSPITAL/HOSPICE OF)
FLORENCE,)
)
Defendant.)

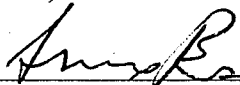
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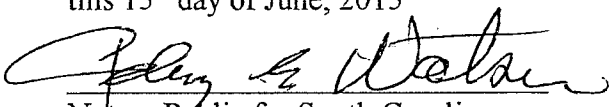
VERIFICATION
(WRONGFUL DEATH/ MEDICAL
MALPRACTICE ACTION)

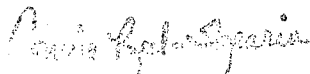
(JURY TRIAL DEMANDED)

2015 JUN 15 PM 14 36
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, S.C.
FILED

PERSONALLY APPEARED BEFORE ME, FRANCES BROWN, personal
representative of the Estate of Alice Queen Ester Wallace, who, being first duly sworn, deposes
and says: that she is the foregoing Plaintiff, and that she has read the foregoing Complaint and
knows that allegations contained therein to be true except as to those allegations which may be
alleged upon information and belief, and as to those, she believes them to be true.


FRANCES BROWN, personal representative of the
Estate of Alice Queen Ester Wallace

Sworn and subscribed before me
this 15th day of June, 2015

Notary Public for South Carolina
My Commission Expires: 1-23-2016

CERTIFIED: A TRUE COPY

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) OF THE TWELFTH JUDICIAL CIRCUIT
 COUNTY OF FLORENCE)

FRANCES BROWN AS PERSONAL)
 REPRESENTATIVE OF THE ESTATE OF)
 ALCE QUEEN ESTER WALLACE,)
)
 Petitioner,)
)
 v.)
)
 CAROLINAS HOSPITAL SYSTEM AND)
 REGENCY HOSPITAL/HOSPICE OF)
 FLORENCE,)
)
 Defendant.)

DOCKET #:
 STANDARD INTERROGATORIES
 TO THE DEFENDANTS
 (WRONGFUL DEATH/ MEDICAL
 MALPRACTICE ACTION)
 (JURY TRIAL DEMAND)

2015 JUN 16 AM 11:57
 CONNOR REEL-SHEARIN
 CLERK OF CP & GS
 FLORENCE COUNTY, SC
FILED

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure the Plaintiff issues the following standard interrogatories to the Defendants:

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witness and indicate who has possession of such statements.
2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relates to the claim or defense in the case.
3. In cases involving personal injury, set forth the names and addresses of all physicians who treated the decedent, Alice Queen Ester Wallace and all hospitals to which the decedent has been committed in connection with the decedent's treatment leading up to her death and also set forth all medical costs involved.
4. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim set forth and set forth the numbers of the policies

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 FLORENCE COUNTY, S.C.

involved and the amounts of liability coverage provided in each policy.

5. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at trial of the case.

6. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

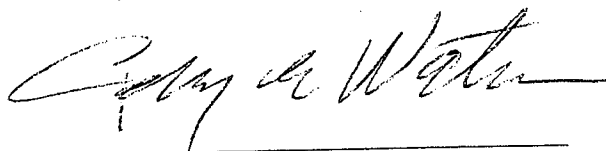
7. List all lawsuits brought either by or against Defendants involving the wrongful death of any patient.

These interrogatories shall be deemed to continue from the time of service until the time of the trial of the case so that information sought which comes to the knowledge of said party, its representative or attorney, after Answers to Interrogatories have been submitted, shall be transmitted to the undersigned.

Respectfully submitted:

Johnny E. Watson, Attorney at Law

BY:



P. O. Box 2305 (29202)
2715 Edgewood Avenue
Columbia, South Carolina 29204
Fifth Judicial Circuit

Columbia, South Carolina
Dated: June 15, 2015

FRANCES BROWN AS PERSONAL REPRESENTATIVE OF THE ESTATE OF ALICE QUEEN ESTER WALLACE

Plaintiff(s)

vs.

CAROLINAS HOSPITAL SYSTEM AND REGENCY HOSPITAL/HOSPICE FLORENCE

Defendant(s)

Submitted By: JOHNNY E. WATSON
Address: P. O. BOX 2305
COLUMBIA, SOUTH CAROLINA 29202

SC Bar #: 5967
Telephone #: 803-400-1600
Fax #:
Other: 803-400-1200
E-mail: watsonlawfirm@sc.twcbc.com

FILED

2015 JUN 15 PM 4:41

CONNIE REEL-SHEARIN
CCCP & G.S.
FLORENCE COUNTY, S.C. - 21 - 1701

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.
NON-JURY TRIAL demanded in complaint.
This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), Employment (120), General (130), Breach of Contract (140), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case # 20 -NI-, Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Assault/Slander/Libel (300), Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Other (399) SURVIVAL ACTION
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Administrative Law/Relief: Reinstate Drv. License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order, Other (899)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Confession of Judgment (770), Petition for Workers Compensation Settlement Approval (780), Other (799)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Comm. (990), Employment Security Comm (991), Other (999)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Sexual Predator (510)

Submitting Party Signature: [Signature]

Date: 6-15-15
CERTIFIED: A TRUE COPY
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

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 - e. Contempt of Court proceedings;
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Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
OF THE TWELFTH JUDICIAL CIRCUIT

FILED
2015 JUN 15 PM 1:41
CONNIE REEL-SHEARIN
CLERK C.C.P. & G.S.
FLORENCE COUNTY, S.C.

FRANCES BROWN AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
ALICE QUEEN ESTER WALLACE,)

DOCKET #:

Petitioner,)

v.)

AFFIDAVIT OF PLANITFF AS TO)
§15-36-100 C(1) EXPERT AFFIDAVIT

CAROLINAS HOSPTAL SYSTEM AND)
REGENCY HOSPITAL/HOSPICE OF)
FLORENCE,)

**(WRONGFUL DEATH/MEDCAL)
SURVIVAL ACTON)**

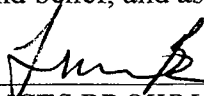
Defendant.)

(JURY TRIAL DEMANDED)

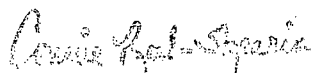
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Representative of the Estate of Alice Queen Ester Wallace, who, being first duly sworn, deposes
and says that:

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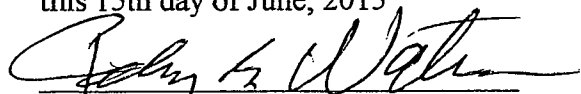

FRANCES BROWN, Personal Representative of
The Estate of Alice Queen Ester Wallace

CERTIFIED: A TRUE COPY



CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Sworn and subscribed before me
this 15th day of June, 2015



Notary Public for South Carolina
My Commission Expires: 1-23-2016

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
OF THE TWELFTH JUDICIAL CIRCUIT

FRANCES BROWN AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
ALICE QUEEN ESTER WALLACE,)

DOCKET #:

Petitioner,)

v.)

CAROLINAS HOSPITAL SYSTEM AND)
REGENCY HOSPITAL/HOSPICE OF)
FLORENCE,)

Defendant.)

**SUMMONS
(WRONGFUL DEATH/ MEDICAL
SURVIVAL ACTION)**

(JURY TRIAL DEMANDED)

2015 JUN 15 PM 1:41
FILED
CONNIE REEL-SHEARIN
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

TO THE DEFENDANT, ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint in this action, a copy of which is hereby served upon you, and to serve your response to the said Complaint on the subscriber at his office located at 2715 Edgewood Avenue, City of Columbia, State of South Carolina, 29204 within thirty (30) days after the service hereof, exclusive of the date of such service, and if you fail to respond to the Complaint in the time aforesaid, the Plaintiff in this action will apply to the Court to hold you in default and request the relief demanded in the Complaint.

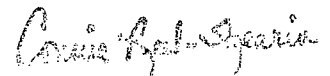
Respectfully submitted:
Johnny E. Watson, Attorney at Law

BY: 

P. O. Box 2305 (29202)
2715 Edgewood Avenue
Columbia, South Carolina 29204
Phone: (803) 400-1600
Fax: (803) 400-1200

Columbia, South Carolina
Dated: June 15, 2015

CERTIFIED: A TRUE COPY



CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
OF THE TWELFTH JUDICIAL CIRCUIT

FRANCES BROWN AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
ALCE QUEEN ESTER WALLACE,)

DOCKET #: 2015 CP 21 1701

Petitioner,)

v.)

CAROLINAS HOSPITAL SYSTEM AND)
REGENCY HOSPITAL/HOSPICE OF)
FLORENCE,)

COMPLANT
(WRONGFUL DEATH/ MEDICAL
SURVIVAL ACTION)

(JURY TRIAL DEMAND)

Defendant.)

FILED
JUN 15 PM 1:41
CONNIE REEL-SHERIN
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Plaintiff complaining of the Defendant herein, would respectively show unto this Court

JURSDICTION

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2. That the Defendants Carolinas Hospital System and Regency Hospital/Hospice are medical providers which provided care to the decedent prior to her death.
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FOR A FIRST CAUSE OF ACTION
(WRONGFUL DEATH)

- 20.
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CERTIFIED: A TRUE COPY

Connie Reel-Sherin

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

5. That while a patient at the Hospital of the Carolinas, hospital personnel were grossly deficient in the care given to the decedent, Alice Queen Ester Wallace.

6. That the deficiency in care resulted in the decedent, Alice Queen Ester Wallace, getting bed sores which contributed to the decline in her health and contributed to her death.

7. That the Plaintiff is informed and believes that the defendants gave the decedent, Alice Queen Ester Wallace, the wrong medication or wrong form of an acceptable medication for illness which, along with the deterioration in her health due to was the proximate cause of her death.

FOR A SECOND CAUSE OF ACTION
(PUNITIVE DAMAGES)

8. The allegations of paragraphs of paragraphs 1 through 7 of the Complaint are re-alleged and reasserted as if set forth herein.

9. That as a result of the willful and/or grossly negligent acts or omissions of the Defendants in failing to properly care for the decedent and/or giving her the wrong medication or wrong form of an acceptable medication for illness, and its failing to rotate the decedent enough to prevent bed sores and the great danger such behavior causes to the public, the Defendants should be required to pay the Plaintiff punitive as well as actual damages as a result of their grossly negligent behavior.

WHEREFORE, having fully set forth the allegations, the Plaintiff prays that this court would inquire into the allegations and issue its order awarding the Plaintiff.

- A. General damages in an amount to be determined by a jury,
- B. Medical and incidental expenses according to proof of the same,
- C. Punitive damages for grossly deficient care given to the decedent,
- D. Damages for the Plaintiff's costs, including attorney's fees in this action

- And,
E. For such other relief that the Court may deem just and proper.

Respectfully submitted:

Johnny E. Watson, Attorney at Law

BY: 

P. O. Box 2305 (29202)
2715 Edgewood Avenue
Columbia, South Carolina 29204
Phone: (803) 400-1600
Fax: (803) 400-1200

Columbia, South Carolina
Dated: June 15, 2015

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
OF THE TWELFTH JUDICIAL CIRCUIT

FRANCES BROWN AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
ALICE QUEEN ESTER WALLACE,)

DOCKET #:

Petitioner,)

v.)

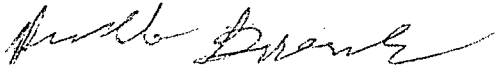
CAROLINAS HOSPITAL SYSTEM AND)
REGENCY HOSPITAL/HOSPICE OF)
FLORENCE,)

Defendant.)

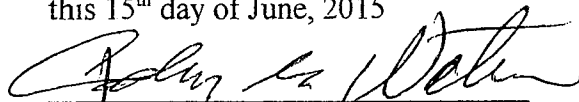
VERIFICATION
(WRONGFUL DEATH/ MEDICAL
SURVIVAL ACTON)

(JURY TRIAL DEMANDED)

PERSONALLY APPEARED BEFORE ME, FRANCES BROWN, personal
representative of the Estate of Alice Queen Ester Wallace, who, being first duly sworn, deposes
and says: that she is the foregoing Plaintiff, and that she has read the foregoing Complaint and
knows that allegations contained therein to be true except as to those allegations which may be
alleged upon information and belief, and as to those, she believes them to be true.


FRANCES BROWN, personal representative of the
Estate of Alice Queen Ester Wallace

Sworn and subscribed before me
this 15th day of June, 2015


Notary Public for South Carolina
My Commission Expires: 1-23-2016

STATE OF SOUTH CAROLINA

COUNTY OF Florence

Frances Brown AS Personal Representative
of The Estate of Alice Queen Plaintiff(s)
Ester Wallace

vs.

Carolinas Hospital System and
Regency Hospital/Hospice Florence

Defendant(s)

(Please Print)

Submitted By: Johnny E. Watson

Address: PO Box 2305
Columbia, SC 29202

IN THE COURT OF COMMON PLEAS

FILED

CIVIL ACTION COVERSHEET

2015 JUN 18 11:25 AM - 7

DOANNE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

SC Bar #: 5967

Telephone #: (803)400-1600

Fax #: (803)410-1200

Other:

E-mail: watsonlawfirm@sc.twdbr.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- JURY TRIAL demanded in complaint.
- NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

Contracts

- Constructions (100)
- Debt Collection (110)
- Employment (120)
- General (130)
- Breach of Contract (140)
- Other (199)

Torts - Professional Malpractice

- Dental Malpractice (200)
- Legal Malpractice (210)
- Medical Malpractice (220)
- Previous Notice of Intent Case # 20-CP-
- Notice/ File Med Mal (230)
- Other (299)

Torts - Personal Injury

- Assault/Slander/Libel (300)
- Conversion (310)
- Motor Vehicle Accident (320)
- Premises Liability (330)
- Products Liability (340)
- Personal Injury (350)
- Wrongful Death (360)
- Other (399)

Real Property

- Claim & Delivery (400)
- Condemnation (410)
- Foreclosure (420)
- Mechanic's Lien (430)
- Partition (440)
- Possession (450)
- Building Code Violation (460)
- Other (499)

Inmate Petitions

- PCR (500)
- Mandamus (520)
- Habeas Corpus (530)
- Other (599)

Administrative Law/Relief

- Reinstate Drv. License (800)
- Judicial Review (810)
- Relief (820)
- Permanent Injunction (830)
- Forfeiture-Petition (840)
- Forfeiture-Consent Order (850)
- Other (899)

Judgments/Settlements

- Death Settlement (700)
- Foreign Judgment (710)
- Magistrate's Judgment (720)
- Minor Settlement (730)
- Transcript of Judgment (740)
- Lis Pendens (750)
- Transfer of Structured Settlement Payment Rights Application (760)
- Confession of Judgment (770)
- Petition for Workers Compensation Settlement Approval (780)
- Other (799)

Appeals

- Arbitration (900)
- Magistrate-Civil (910)
- Magistrate-Criminal (920)
- Municipal (930)
- Probate Court (940)
- SCDOT (950)
- Worker's Comp (960)
- Zoning Board (970)
- Public Service Commission (990)
- Employment Security Commission (991)
- Other (999)

Special/Complex /Other

- Environmental (600)
- Automobile Arb. (610)
- Medical (620)
- Other (699)
- Sexual Predator (510)
- Pharmaceuticals (630)
- Unfair Trade Practices (640)
- Foreign Subpoenas (650)
- Motion to Quash Subpoena in Out-of-County Action (660)

Submitting Party Signature: Johnny E. Watson

Date: 6/16/2015

Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
OF THE TWELFTH JUDICIAL CIRCUIT

2015-NI-21-7

FRANCES BROWN AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
ALICE QUEEN ESTER WALLACE,)

DOCKET #: ~~2015-CP-21-10-97~~

Petitioner,

NOTICE OF INTENT TO FILE SUIT

v.

(WRONGFUL DEATH/ MEDICAL
MALPRACTICE ACTION)

CAROLINAS HOSPITAL SYSTEM AND)
REGENCY HOSPITAL/HOSPICE OF)
FLORENCE,)

(JURY TRIAL DEMANDED)

Defendant.

FILED
2015 JUN 18 PM 1:51
CONNIE REEL-SHEARIN
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

TO THE DEFENDANT, ABOVE NAMED:

YOU ARE HEREBY NOTIFIED of the intent of the Plaintiff to file suits for medical malpractice on behalf of the decedent and her heirs pursuant to S. C. Code of Laws section 15-79-125.

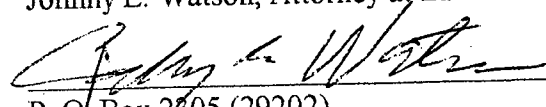
The said suit is based on the fact that the decedent, Alice Queen Ester Wallace, was admitted to the defendant Hospital of the Carolinas on or about _____ where deficient nursing care left her with gross bed sores and she was later transferred to the facilities run by defendant Regency Hospital/Hospice of South Carolina, on or about _____ where she was not given possible lifesaving resuscitation as was her living will and she was given the wrong medication or the correct medication in the wrong form which was the proximate cause of her death.

CERTIFIED: A TRUE COPY
Connie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Respectfully submitted:

Johnny E. Watson, Attorney at Law

BY:



P. O. Box 2805 (29202)
2715 Edgewood Avenue
Columbia, South Carolina 29204
Phone: (803) 400-1600
Fax: (803) 400-1200

Columbia, South Carolina
Dated: June 15, 2015

NOTICE OF ADR/NOTICE OF INTENT TO FILE SUIT

Frances Brown As Personal Representative
Estate Of Alice Queen Ester Wallace
Alice Queen ester Wallace

2015NI2100007

PLAINTIFF(S)

Filing Date: June 18, 2015

VS
Carolina Hospital System
Regency Hospital/Hospice Of Florence

DEFENDANT(S)

NOTICE: This dispute is subject to a mandatory Pre-Suit Mediation Requirement within 120 days as set forth in S.C. Code § 15-79-125(C) and ADR Rule 5 (f). In the event the parties are unable to agree upon a mediator, the Court hereby appoints

David Allan Milliman, PO Box 6642, , Columbia, SC 29260, Phone (803) 386-1350

to serve as mediator. In the event the aforementioned mediator has a conflict of interest or is unable to serve, the alternative mediator is

Harry S. Allen IV, PO Box 1105, , Marion, SC 29571, Phone (843) 423-3003.

Date: June 23, 2015

CLERK OF COURT

NOTICE BY FAX OR MAIL

Notice of this Order was given by facsimile transmission or by first class mail if no fax# is shown, or by e-mail to the attorneys of record on June 23, 2015.

Clerk's Initials _____

Plaintiff Attorney:
Johnny Elliot Watson Sr.
PO Box 2305 (29202)
2715 Edgewood Avenue 29204
Columbia, SC 29204

Defendant Attorney:

ADR Coordinator
Valerie Simon
(843) 665-3031
(843) 665-3097
vsimon@florenceco.org

COUNTY OF Florence

Frances Brown AS Personal Representative
of The Estate of Alice Queen Plaintiff(s)
Ester Wallace

vs.

Carolinas Hospital system and
Regency Hospital/Hospice Florence Defendant(s)

(Please Print)
Submitted By: Johnny E. Watson
Address: PO Box 2305
Columbia, SC 29202

FILED
CIVIL ACTION COVERSHEET
2015 JUN 18 AM 11:25 - 8
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

SC Bar #: 5967
Telephone #: (803)400-1600
Fax #: (803)400-1200
Other:
E-mail: watsonlawfirm@sc.twdk.c

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DOCKETING INFORMATION (Check all that apply)

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NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|--|---|
| <p>Contracts</p> <input type="checkbox"/> Constructions (100)
<input type="checkbox"/> Debt Collection (110)
<input type="checkbox"/> Employment (120)
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<input type="checkbox"/> Other (199) | <p>Torts - Professional Malpractice</p> <input type="checkbox"/> Dental Malpractice (200)
<input type="checkbox"/> Legal Malpractice (210)
<input type="checkbox"/> Medical Malpractice (220)
Previous Notice of Intent Case #
20____-CP-_____
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<input type="checkbox"/> Condemnation (410)
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<input type="checkbox"/> Unfair Trade Practices (640)
<input type="checkbox"/> Foreign Subpoenas (650)
<input type="checkbox"/> Motion to Quash Subpoena in Out-of-County Action (660) | | |

Submitting Party Signature: Johnny E. Watson

Date: 6/16/2015

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FOR MANDATED ADR COUNTIES ONLY

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Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
OF THE TWELFTH JUDICIAL CIRCUIT

2015-NI-21-8

FRANCES BROWN AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
ALICE QUEEN ESTER WALLACE,)

DOCKET #: ~~2015-CP-21-1000~~

Petitioner,

NOTICE OF INTENT TO FILE SUIT

v.

(WRONGFUL DEATH/ MEDICAL
MALPRACTICE ACTION)
Survival

CAROLINAS HOSPITAL SYSTEM AND)
REGENCY HOSPITAL/HOSPICE OF)
FLORENCE,)

(JURY TRIAL DEMANDED)

Defendant.

2015 JUN 18 PM 11:57
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

FILED

TO THE DEFENDANT, ABOVE NAMED:

YOU ARE HEREBY NOTIFIED of the intent of the Plaintiff to file suits for medical malpractice on behalf of the decedent and her heirs pursuant to S. C. Code of Laws section 15-79-125.

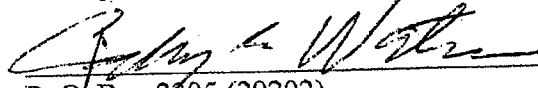
The said suit is based on the fact that the decedent, Alice Queen Ester Wallace, was admitted to the defendant Hospital of the Carolinas on or about _____ where deficient nursing care left her with gross bed sores and she was later transferred to the facilities run by defendant Regency Hospital/Hospice of South Carolina, on or about _____ where she was not given possible lifesaving resuscitation as was her living will and she was given the wrong medication or the correct medication in the wrong form which was the proximate cause of her death.

CERTIFIED: A TRUE COPY
Connie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Respectfully submitted:

Johnny E. Watson, Attorney at Law

BY:



P. O. Box 2505 (29202)
2715 Edgewood Avenue
Columbia, South Carolina 29204
Phone: (803) 400-1600
Fax: (803) 400-1200

Columbia, South Carolina
Dated: June 15, 2015

NOTICE OF ADR/NOTICE OF INTENT TO FILE SUIT

Frances Brown As Personal Representative

2015NI2100008

PLAINTIFF(S)

Filing Date: June 18, 2015

VS
Carolinas Hospital System

DEFENDANT(S)

NOTICE: This dispute is subject to a mandatory Pre-Suit Mediation Requirement within 120 days as set forth in S.C. Code § 15-79-125(C) and ADR Rule 5 (f). In the event the parties are unable to agree upon a mediator, the Court hereby appoints

Harry S. Allen IV, PO Box 1105, , Marion, SC 29571, Phone (843) 423-3003

to serve as mediator. In the event the aforementioned mediator has a conflict of interest or is unable to serve, the alternative mediator is

Francesca Macchiaverna, PO Box 8472, , Savannah, GA 31412-8472, Phone (912) 790-7778.

Date: June 23, 2015

CLERK OF COURT

NOTICE BY FAX OR MAIL

Notice of this Order was given by facsimile transmission or by first class mail if no fax# is shown, or by e-mail to the attorneys of record on June 23, 2015.

Clerk's Initials _____

Plaintiff Attorney:
Johnny Elliot Watson Sr.
PO Box 2305 (29202)
2715 Edgewood Avenue 29204
Columbia, SC 29204

Defendant Attorney:

ADR Coordinator
Valerie Simon
(843) 665-3031
(843) 665-3097
vsimon@florenceco.org

JOHNNY E. WATSON
LAWYER

Post Office Box 2305
Columbia, South Carolina 29202

Johnny E. Watson
PO Box 2305
Columbia, SC 29202-2305



U.S. POSTAGE
\$.71
FCM LETTER
29201
Date of sale
06/11/15
06 2S00
08282331

FOLD HERE

Common Pleas Court
Clerk : Connie Reel-Shearin
M S C -E 180 North Irby Street
Florence, SC 295013456
(843) 665-3031

Received From: Watson, Johnny Elliot Sr.
 PO Box 2305 (29202)
 Columbia, SC 29204

Date: 6/15/2015
 Receipt #: 41074
 Clerk: c21dpappas

Paying for: Frances Brown As Personal Repr

Transaction Type: Payment

Reference #: 852252

Payment Type: Check \$150.00

Comment:

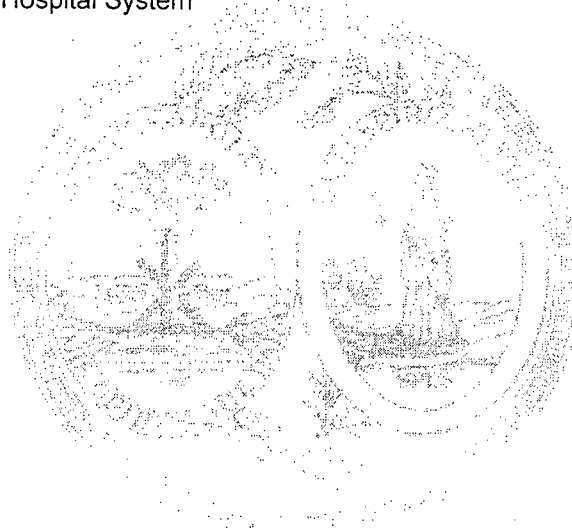
Total Paid: \$150.00

Non-Refundable

Total Received: \$150.00

Change Due: \$0.00

Case #	Caption	Previous Balance	Amount Paid	Balance Due	S/T
2015CP2101701	Frances Brown As Personal Representative VS Carolinas Hospital System	\$150.00	\$150.00	\$0.00	399



Total Cases:	1	\$150.00	\$150.00	\$0.00
---------------------	----------	-----------------	-----------------	---------------

**LAW OFFICE OF JOHNNY E. WATSON
ATTORNEY AND COUNSELOR AT LAW**

2715 Edgewood Avenue
Columbia, South Carolina 29204

Mail Address:
P. O. Box 2305
Columbia, South Carolina 29202
Phone 803-400-1600
Fax 803-400-1200

FAX COVER SHEET

TO: Clerk of court

DATE: 6-15-15 # OF PAGES W/COVER PAGE: _____

PHONE NUMBERS: _____

FAX NUMBERS: _____

RE: Alice Queen Ester Wallace
v. Hospital of the Carolinas

COMMENTS:
Please file the attached
NOTICES and RETURN copies
Thanks.
[Signature]

THE INFORMATION CONTAINED IN THIS FACSIMILE IS ATTORNEY CLIENT PRIVILEGED AND IS CONFIDENTIAL INFORMATION INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. YOU ARE NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU RECEIVE THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS ABOVE VIA THE U. S. POSTAL SERVICE. THANK YOU.



CONNIE REEL-SHEARIN

Clerk of Court
Florence County Complex
180 N. Irby St., MSC-E
Florence, SC 29501
(843)665-3031
Civil Division
Fax (843)676-1212

THE ATTACHED DOCUMENT(S) ARE BEING RETURNED AND NOT RECORDED
FOR THE FOLLOWING REASON(S):

- NOT FLORENCE COUNTY
- ORIGINAL NEEDED FOR FILING
- CHECK MUST BE MADE PAYABLE TO:
FLORENCE COUNTY CLERK OF COURT
- SIGNATURE OF FILING PARTY REQUIRED
- FORM 4 NOT SIGNED BY SPECIAL REFEREE
- \$10 FILING FEE REQUIRED**
- \$150 FILING FEE REQUIRED
- SUMMONS NEEDED; NOT ENCLOSED
- CIVIL ACTION COVERSHEET REQUIRED**
- OTHER

DATED 06/16/2015



CONNIE REEL-SHEARIN

Clerk of Court
Florence County Complex
180 N. Irby St., MSC-E
Florence, SC 29501
(843)665-3031
Civil Division
Fax (843)676-1212

THE ATTACHED DOCUMENT(S) ARE BEING RETURNED AND NOT RECORDED
FOR THE FOLLOWING REASON(S):

- NOT FLORENCE COUNTY
- ORIGINAL NEEDED FOR FILING
- CHECK MUST BE MADE PAYABLE TO:
FLORENCE COUNTY CLERK OF COURT
- SIGNATURE OF FILING PARTY REQUIRED
- FORM 4 NOT SIGNED BY SPECIAL REFEREE
- \$10 FILING FEE REQUIRED
- \$150 FILING FEE REQUIRED
- SUMMONS NEEDED; NOT ENCLOSED
- CIVIL ACTION COVERSHEET REQUIRED
- OTHER

DATED 06/16/2015

Common Pleas Court
Clerk : Connie Reel-Shearin
M S C -E 180 North Irby Street
Florence, SC 295013456
(843) 665-3031

Received From: Watson, Johnny Elliot Sr.
 PO Box 2305 (29202)
 Columbia, SC 29204

Date: 6/18/2015
 Receipt #: 41130
 Clerk: c21dpappas

Paying for: Frances Brown As Personal Repr

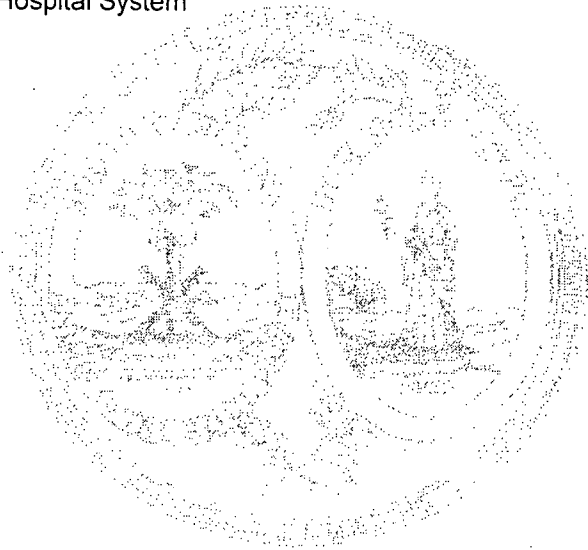
Transaction Type: Payment

Payment Type: Cash \$10.00

Total Paid: \$10.00

Reference #:
 Comment:
 Non-Refundable

<u>Case #</u>	<u>Caption</u>	<u>Previous Balance</u>	<u>Amount Paid</u>	<u>Balance Due</u>
2015NI2100007	Frances Brown As Personal Representative VS Carolina Hospital System	\$10.00	\$10.00	\$0.00



Total Cases: 1		\$10.00	\$10.00	\$0.00
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NOTICE OF ADR/NOTICE OF INTENT TO FILE SUIT

Frances Brown As Personal Representative
Estate Of Alice Queen Ester Wallace
Alice Queen ester Wallace

2015NI2100007

PLAINTIFF(S)

Filing Date: June 18, 2015

VS
Carolina Hospital System
Regency Hospital/Hospice Of Florence

DEFENDANT(S)

NOTICE: This dispute is subject to a mandatory Pre-Suit Mediation Requirement within 120 days as set forth in S.C. Code § 15-79-125(C) and ADR Rule 5 (f). In the event the parties are unable to agree upon a mediator, the Court hereby appoints

David Allan Milliman, PO Box 6642, , Columbia, SC 29260, Phone (803) 386-1350

to serve as mediator. In the event the aforementioned mediator has a conflict of interest or is unable to serve, the alternative mediator is

Harry S. Allen IV, PO Box 1105, , Marion, SC 29571, Phone (843) 423-3003.

Date: June 23, 2015

CLERK OF COURT

NOTICE BY FAX OR MAIL

Notice of this Order was given by facsimile transmission or by first class mail if no fax# is shown, or by e-mail to the attorneys of record on June 23, 2015.

Clerk's Initials _____

Plaintiff Attorney:
Johnny Elliot Watson Sr.
PO Box 2305 (29202)
2715 Edgewood Avenue 29204
Columbia, SC 29204

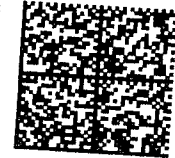
Defendant Attorney:

ADR Coordinator
Valerie Simon
(843) 665-3031
(843) 665-3097
vsimon@florenceco.org

**JOHNNY E. WATSON
LAWYER**

Post Office Box 2305
Columbia, South Carolina 29202

Johnny E. Watson
PO Box 2305
Columbia, SC 29202-2305



U.S. POSTAGE
\$.71
FCM LETTER
29201
Date of sale
06/11/15
06 2S00
08282331

FOLD HERE

Common Pleas Court
Clerk : Connie Reel-Shearin
M S C -E 180 North Irby Street
Florence, SC 295013456
(843) 665-3031


DUPLICATE

Received From:	Watson, Johnny Elliot Sr. PO Box 2305 (29202) Columbia, SC 29204	Date: 6/15/2015
Paying for:	Frances Brown As Personal Repr	Receipt #: 41073
Transaction Type:	Payment	Clerk: c21dpappas
Payment Type:	Check \$150.00	Reference #: 852252
Total Paid:	\$150.00	Comment: Non-Refundable

<u>Case #</u>	<u>Caption</u>	<u>Previous Balance</u>	<u>Amount Paid</u>	<u>Balance Due</u>
2015CP2101699	Frances Brown As Personal Representative VS Carolinas Hospital System	\$150.00	\$150.00	\$0.00

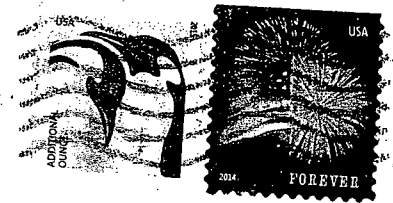



Total Cases: 1		\$150.00	\$150.00	\$0.00
-----------------------	--	-----------------	-----------------	---------------

 Mr. Johnny E. Watson
PO Box 2305
Columbia, SC 29202-2305
★ PROUD SUPPORTER OF THE USO ★

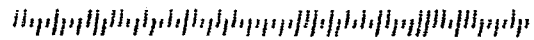
COLUMBIA SC 290

01 AUG 2015 PM 3 L



 Mr. Johnny E. Watson
PO Box 2305
Columbia, SC 29202-2305
★ PROUD SUPPORTER OF THE USO ★

29202230505



MOTIONS

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
12TH JUDICIAL CIRCUIT

CASE NO.: 2015 -CP-21-1699 & 1701

FRANCES BROWN AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
ALICE QUEEN ESTER WALLACE,)

MOTION AND ORDER INFORMATION

Plaintiff,)

FORM AND COVERSHEET

vs.)

CAROLINAS HOSPITAL SYSTEM AND)
REGENCY HOSPITAL/HOSPICE OF)
FLORENCE,)

Defendant.)

FILED
2015 AUG 17 AM 11:11
JENNIE REEL-SHEPARD
CLERK & GS
FLORENCE COUNTY, SC

Plaintiff's Attorney: <u>JOHNNY E. WATSON</u> , Bar No. <u>5967</u> Address: <u>P. O. BOX 2305, COLUMBIA, S. C. 29202</u> Phone: <u>803-400-1600</u> Fax <u>803-400-1200</u> E-mail: <u>watsonlawfirm@sc.twcbc.com</u> Other: _____	Defendant's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: <u>Extension of time to file affidavit of expert witness</u> Estimated Time Needed: <u>30 mins.</u> Court Reporter Needed: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> 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 <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant	
Date submitted: <u>7-30-15</u>	
SECTION III: Motion Fee	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$ <u>25.00</u> <input type="checkbox"/> EXEMPT:	
(check reason) <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCPP) <input type="checkbox"/> 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: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____

CERTIFIED: A TRUE COPY
C. W. Reel
CLERK OF COURT
FLORENCE COUNTY, S.C.

CLERK'S VERIFICATION

Collected by: ~~MM~~ Date Filed: ~~MM~~ \$50.
 MOTION FEE COLLECTED: \$
 CONTESTED - AMOUNT DUE: \$

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
OF THE TWELFTH JUDICIAL CIRCUIT

FRANCES BROWN AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
ALICE QUEEN ESTER WALLACE,)

DOCKET #s: 2015-CP-21-1699 AND 1701

Plaintiff,

NOTICE MOTION AND MOTION
TO EXTEND TIME TO FILE AFFIDAVIT
OF EXPERT WITNESS

v.

CAROLINAS HOSPITAL SYSTEM AND)
REGENCY HOSPITAL/HOSPICE OF)
FLORENCE,)

(JURY TRIAL DEMANDED)

Defendant.

2015 AUG 17 AM 11:11
FILED
JANIE REELE-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

TO THE DEFENDANT, ABOVE NAMED:

PLEASE TAKE NOTICE that the above-named Plaintiff, by and through her counsel, undersigned, will move before the Presiding Judge of the Twelfth, State of South Carolina, within ten (10) days, or as soon as this matter may be heard, for an extending the time for the filing of the affidavit of the expert witness pursuant to S. C. Code of Laws § 15-36-100 (C)(1) based on the statutory and common laws of this state, the Rules of Civil procedure.

Respectfully submitted,

BY: Johnny E. Watson

Johnny E. Watson, Sr.
Attorney at Law, SCB# 5967
P. O. Box 2305 (29202)
2715 Edgewood Avenue
Columbia, South Carolina 29204
(803) 400-1600 Phone
(803) 400-1200 Fax

watsonlawfirm@sc.twcbc.com

Columbia, South Carolina
Dated: July 30, 2015

CERTIFIED A TRUE COPY
Cynthia Reed Watson
CLERK OF COURT CP & GS
FLORENCE COUNTY, S.C.



CONNIE REEL-SHEARIN

Clerk of Court
Florence County Complex
180 N. Irby St., MSC-E
Florence, SC 29501

Civil Division
(843) 665-3031 option 2
Fax (843) 676-1212

THE ATTACHED DOCUMENT(S) ARE BEING RETURNED AND NOT RECORDED
FOR THE FOLLOWING REASON(S):

- NOT FLORENCE COUNTY
- ORIGINAL NEEDED FOR FILING
- CHECK MUST BE MADE PAYABLE TO:
FLORENCE COUNTY CLERK OF COURT
- SIGNATURE OF FILING PARTY REQUIRED
- FORM 4 NOT SIGNED BY SPECIAL REFEREE
- \$25 FILING FEE REQUIRED (FOR EACH CASE)**
- \$150 FILING FEE REQUIRED
- SUMMONS NEEDED; NOT ENCLOSED
- CASE RECORD NOT FOUND
- OTHER

WATSON LAW FIRM ESCROW
2715 EDGEWOOD AVE
COLUMBIA SC 29204

292

67-604/539
115

7-30-15
DATE

PAY TO THE
ORDER OF

Clerk of Court - Florence \$ 25.00

Twenty Five & 00/100

DOLLARS



First Citizens
First Citizens Bank and Trust Company, Inc.

FOR

15-16995-1787

[Signature]

⑆05390604⑆⑆083124911501⑆ 00292 61

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
 12TH JUDICIAL CIRCUIT
 CASE NO.: 2015 -CP-21-1699 & 1701

FRANCES BROWN AS PERSONAL
 REPRESENTATIVE OF THE ESTATE OF
 ALICE QUEEN ESTER WALLACE,

MOTION AND ORDER INFORMATION

Plaintiff,)

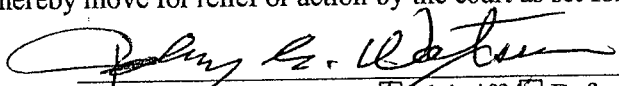
FORM AND COVERSHEET

vs.)

CAROLINAS HOSPITAL SYSTEM AND)
 REGENCY HOSPITAL/HOSPICE OF)
 FLORENCE,)

Defendant.)

FILED
 2015 AUG 17 AM 11:11
 JONNAE REE - SHERMAN
 CCCP & GS
 FLORENCE COUNTY, SC

Plaintiff's Attorney: <u>JOHNNY E. WATSON</u> , Bar No. <u>5967</u> Address: <u>P. O. BOX 2305, COLUMBIA, S. C. 29202</u> Phone: <u>803-400-1600</u> Fax <u>803-400-1200</u> E-mail: <u>watsonlawfirm@sc.twcabc.com</u> Other: _____	Defendant's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: <u>Extension of time to file affidavit of expert witness</u> Estimated Time Needed: <u>30 mins.</u> Court Reporter Needed: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
<div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">  Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant </div> <div style="text-align: center;"> <u>7-30-15</u> Date submitted </div> </div>	
SECTION III: Motion Fee	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$ <u>25.00</u> <input type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCPP) <input type="checkbox"/> 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: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____

CERTIFIED: A TRUE COPY
 Carrie Red. [Signature]
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

CLERK'S VERIFICATION

Collected by: ~~MM~~ NM \$50
Date Filed: ~~MM~~
 MOTION FEE COLLECTED: \$ ~~MM~~
 CONTESTED - AMOUNT DUE: \$

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
OF THE TWELFTH JUDICIAL CIRCUIT

FRANCES BROWN AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
ALICE QUEEN ESTER WALLACE,)

DOCKET #s: 2015-CP-21-1699 AND 1701

Plaintiff,

NOTICE MOTION AND MOTION
TO EXTEND TIME TO FILE AFFIDAVIT
OF EXPERT WITNESS

v.

CAROLINAS HOSPITAL SYSTEM AND)
REGENCY HOSPITAL/HOSPICE OF)
FLORENCE,)

(JURY TRIAL DEMANDED)

Defendant.

FILED
2015 AUG 17 AM 11:11
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, SC

TO THE DEFENDANT, ABOVE NAMED:

PLEASE TAKE NOTICE that the above-named Plaintiff, by and through her counsel, undersigned, will move before the Presiding Judge of the Twelfth, State of South Carolina, within ten (10) days, or as soon as this matter may be heard, for an extending the time for the filing of the affidavit of the expert witness pursuant to S. C. Code of Laws § 15-36-100 (C)(1) based on the statutory and common laws of this state, the Rules of Civil procedure.

Respectfully submitted,

BY: *Johnny E. Watson*

Johnny E. Watson, Sr.
Attorney at Law, SCB# 5967
P. O. Box 2305 (29202)
2715 Edgewood Avenue
Columbia, South Carolina 29204
(803) 400-1600 Phone
(803) 400-1200 Fax

watsonlawfirm@sc.twcbc.com

Columbia, South Carolina
Dated: July 30, 2015

CERTIFIED A TRUE COPY
Christie Red. Watson
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

WELDON R. JOHNSON *
DAVID G. WOLFF
KAY GAFFNEY CROWE *
ALAN J. REYNER †
RICHARD C. THOMAS
ROBERT T. STRICKLAND
CURTIS W. DOWLING
MATTHEW G. GERRALD
EMILY COLLINS BROWN
CATHERINE AVA KOPIEC
JENNIFER I. WAXMAN



BARNES ALFORD

Barnes Alford Stork & Johnson L.L.P.

ATTORNEYS AT LAW

OF COUNSEL
WILLIAM C. STORK
ROGER A. WAY, JR.

* CERTIFIED CIVIL
COURT MEDIATOR

† CERTIFIED SPECIALIST
IN TAXATION

RUDOLPH C. BARNES
(1917-1995)
JAMES W. ALFORD
(1930-2008)

November 5, 2015

The Honorable Connie Reel-Shearin
Florence County Clerk of Court
180 N. Irby St., MSC-E
Florence, SC 29501

Re: Frances Brown as Personal Representative of the Estate of Alice Queen
Ester Wallace v. Carolinas Hospital System and Regency
Hospital/Hospice of Florence
Case No. 2015-CP-21-1699
BASJ File No. 75:20578

Dear Ms. Reel-Shearin:

Enclosed for filing are the original and one copy of Defendant Carolinas Hospital System's Motion to Dismiss. I have also enclosed our motion coversheet and a check in the amount of \$25.00 to cover the filing fee. Please return the clocked copy to me in the envelope provided. By copy of this letter, I am serving the attorney listed below.

With kindest regards, I remain

Very truly yours,

Emily Collins Brown

ECB/ecb
Enclosures

cc: Johnny E. Watson, Esquire

EMILY COLLINS BROWN

POST OFFICE BOX 8448
OFFICE: 803.799.1111

1613 MAIN STREET (29201)
FAX: 803.254.1335
WWW.BARNESALFORD.COM

COLUMBIA, SC 29202
EMILY@BASJLAW.COM

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF FLORENCE

Frances Brown as Personal Representative of the Estate of Alice Queen Ester Wallace

Civil Action No. 2015-CP-21-1699

Plaintiff(s),

MOTION INFORMATION FORM AND COVER SHEET

v.

Carolinas Hospital System and Regency Hospital/Hospice of Florence,

Defendant(s).

Plaintiff's Attorney: Bar No. Johnny E. Watson, PO Box 2305, Columbia, SC 29202

Defendant's Attorney: Bar No. Weldon R. Johnson, Emily Collins Brown, PO Box 8448, Columbia, SC 29202

Phone: 803.400.1600 Fax: 803.400.1200

Phone: 803.799.1111 Fax: 803.254.1335

Email: watsonlawfirm@sc.twcbc.com

Email: Weldon@basjlaw.com Emily@basjlaw.com

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: Rule 12 Motion

Estimated Time Needed: 15 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.

November 5, 2015

Signature of Attorney for Plaintiff / Defendant

Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: \$25

EXEMPT: Rule to Show Cause in Child or Spousal Support

(check reason) 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 Execution (Rule 69, SCRPC)

Motion for Publication

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: _____

CLERK'S VERIFICATION

Collected by: _____

Date Filed: _____

MOTION FEE COLLECTED: _____

CONTESTED - AMOUNT DUE: _____

SCCA/233 (11/03)

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF FLORENCE

Frances Brown as Personal Representative
of the Estate of Alice Queen Ester
Wallace,

Docket No.: 2015-CP-21-1699

Plaintiff,

v.

RULE 12 MOTION

Carolinas Hospital System and Regency
Hospital/Hospice of Florence,

Defendant.

YOU WILL PLEASE TAKE NOTICE that Defendant, Carolinas Hospital System, by and through the undersigned counsel, will move before the Presiding Judge of the Court of Common Pleas for Florence County, on a date and at a time to be established by the Court, for an Order dismissing the Summons and Complaint pursuant to South Carolina Rule of Civil Procedure 12(b)(4), 12(b)(5), and 12(b)(6). This motion is made on the grounds that there was insufficiency of process, insufficiency of service of process, and the Plaintiff failed to follow the statutory requirements of S.C. Code Ann. § 15-79-125(A), which requires a Plaintiff to file a Notice of Intent to File Suit and an affidavit of an expert witness “prior to the filing or initiating a civil action alleging injury or death as a result of medical malpractice.” Additionally, the Plaintiff failed to file an affidavit of an expert witness within forty-five days after the filing of the complaint as required by S.C. Code Ann. § 15-36-100(C)(1).

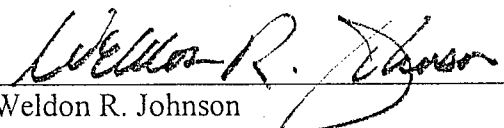
If the Complaint is not dismissed pursuant to South Carolina Rule of Civil Procedure 12(b)(4), 12(b)(5), and 12(b)(6), then this Defendant moves for an Order requiring the Plaintiff to more definitely state the allegations against this Defendant

pursuant to Rule 12(e), SCRPC. This motion is made on the basis that the Complaint is so vague or ambiguous that Defendant, Carolinas Hospital System, cannot reasonably be required to frame a responsive pleading. The Complaint alleges deficient nursing care by this Defendant but does not set forth specifications of negligence, breach of duty, time, date or circumstance of the alleged negligence. The Complaint has blanks for dates and does not include the date of death or the date of Alice Queen Ester Wallace's alleged hospitalization at Carolinas Hospital System.

The Defendant requests that the Court require the Plaintiff to specify the allegations of negligence, to specify how this Defendant is allegedly responsible for any alleged injuries or death, to specify the alleged cause of her death, to identify the alleged negligent healthcare providers, and to set out the dates of Alice Queen Ester Wallace's hospitalization at Carolinas Hospital System, the date of her death, and the dates of the alleged negligence.

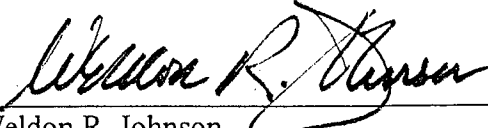
For the above reasons, the Defendant asks this Court to grant its motion.

Barnes, Alford, Stork & Johnson, LLP


Weldon R. Johnson
Emily Collins Brown
1613 Main Street
Post Office Box 8448
Columbia, SC 29202
(803)799-1111
Weldon@basjlaw.com
Emily@basjlaw.com

Date: November 5, 2015

This attorney has attempted to communicate with Mr. Watson to solve this
Motion without success.


Weldon R. Johnson

WELDON R. JOHNSON *
DAVID G. WOLFF
KAY GAFFNEY CROWE *
ALAN J. REYNER †
RICHARD C. THOMAS
ROBERT T. STRICKLAND
CURTIS W. DOWLING
MATTHEW G. GERRALD
EMILY COLLINS BROWN
CATHERINE AVA KOPIEC
JENNIFER I. WAXMAN



BARNES ALFORD

Barnes Alford Stork & Johnson L.L.P.

ATTORNEYS AT LAW

OF COUNSEL
WILLIAM C. STORK
ROGER A. WAY, JR.

* CERTIFIED CIVIL
COURT MEDIATOR

† CERTIFIED SPECIALIST
IN TAXATION

RUDOLPH C. BARNES
(1917-1995)
JAMES W. ALFORD
(1930-2008)

November 5, 2015

The Honorable Connie Reel-Shearin
Florence County Clerk of Court
180 N. Irby St., MSC-E
Florence, SC 29501

Re: Frances Brown as Personal Representative of the Estate of Alice Queen
Ester Wallace v. Carolinas Hospital System and Regency
Hospital/Hospice of Florence
Case No. 2015-CP-21-1701
BASJ File No. 75.20578

Dear Ms. Reel-Shearin:

Enclosed for filing are the original and one copy of Defendant Carolinas Hospital System's Rule 12 Motion. I have also enclosed our motion coversheet and a check in the amount of \$25.00 to cover the filing fee. Please return the clocked copy to me in the envelope provided. By copy of this letter, I am serving the attorney listed below.

With kindest regards, I remain

Very truly yours,

Emily Collins Brown

ECB/ecb
Enclosures

cc: Johnny E. Watson, Esquire

EMILY COLLINS BROWN

POST OFFICE BOX 8448
OFFICE: 803.799.1111

1613 MAIN STREET (29201)
FAX: 803.254.1335
WWW.BARNESALFORD.COM

COLUMBIA, SC 29202
EMILY@BASJLAW.COM

CERTIFICATE OF SERVICE

I, Susan U. Jarrett, an employee of Barnes, Alford, Stork & Johnson, LLP do hereby state that I have, on the date below, served a copy of the below-listed document(s) (together with any appropriate exhibits, attachments, and the like, if applicable) upon all other parties in this matter by depositing same in the United States Mail, first class, sufficient postage prepaid, with the return address clearly noted addressed as below.

Document(s) served:

Party or parties served:

RULE 12 MOTION

Johnny E. Watson, Esquire
2715 Edgewood Avenue (29204)
Post Office Box 2305
Columbia, SC 29202



Signature of Server



Date of Service

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF FLORENCE

Frances Brown as Personal Representative of the Estate of Alice Queen Ester Wallace

Civil Action No. 2015-CP-21-1701

Plaintiff(s),

MOTION INFORMATION FORM AND COVER SHEET

v.

Carolinas Hospital System and Regency Hospital/Hospice of Florence,

Defendant(s).

Plaintiff's Attorney: Bar No. Johnny E. Watson, PO Box 2305, Columbia, SC 29202

Defendant's Attorney: Bar No. Weldon R. Johnson, Emily Collins Brown, PO Box 8448, Columbia, SC 29202

Phone: 803.400.1600 Fax: 803.400.1200

Phone: 803.799.1111 Fax: 803.254.1335

Email: watsonlawfirm@sc.twcbc.com

Email: Weldon@basjlaw.com Emily@basjlaw.com

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: Rule 12 Motion

Estimated Time Needed: 15 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

November 5, 2015
Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: \$25

EXEMPT: Rule to Show Cause in Child or Spousal Support

(check reason) 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: _____

CLERK'S VERIFICATION

Collected by: _____

Date Filed: _____

MOTION FEE COLLECTED: _____

CONTESTED - AMOUNT DUE: _____

SCCA/233 (11/03)

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF FLORENCE

Frances Brown as Personal Representative
of the Estate of Alice Queen Ester
Wallace,

Docket No.: 2015-CP-21-1701

Plaintiff,

v.

RULE 12 MOTION

Carolinas Hospital System and Regency
Hospital/Hospice of Florence,

Defendant.

YOU WILL PLEASE TAKE NOTICE that Defendant, Carolinas Hospital System, by and through the undersigned counsel, will move before the Presiding Judge of the Court of Common Pleas for Florence County, on a date and at a time to be established by the Court, for an Order dismissing the Summons and Complaint pursuant to South Carolina Rule of Civil Procedure 12(b)(4), 12(b)(5), and 12(b)(6). This motion is made on the grounds that there was insufficiency of process, insufficiency of service of process, and the Plaintiff failed to follow the statutory requirements of S.C. Code Ann. § 15-79-125(A), which requires a Plaintiff to file a Notice of Intent to File Suit and an affidavit of an expert witness “prior to the filing or initiating a civil action alleging injury or death as a result of medical malpractice.” Additionally, the Plaintiff failed to file an affidavit of an expert witness within forty-five days after the filing of the complaint as required by S.C. Code Ann. § 15-36-100(C)(1).

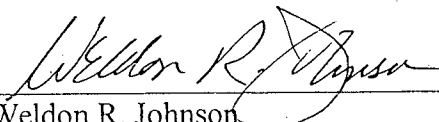
If the Complaint is not dismissed pursuant to South Carolina Rule of Civil Procedure 12(b)(4), 12(b)(5), and 12(b)(6), then this Defendant moves for an Order requiring the Plaintiff to more definitely state the allegations against this Defendant

pursuant to Rule 12(e), SCRCPP. This motion is made on the basis that the Complaint is so vague or ambiguous that Defendant, Carolinas Hospital System, cannot reasonably be required to frame a responsive pleading. The Complaint alleges deficient nursing care by this Defendant but does not set forth specifications of negligence, breach of duty, time, date or circumstance of the alleged negligence. The Complaint has blanks for dates and does not include the date of death or the date of Alice Queen Ester Wallace's alleged hospitalization at Carolinas Hospital System.

The Defendant requests that the Court require the Plaintiff to specify the allegations of negligence, to specify how this Defendant is allegedly responsible for any alleged injuries or death, to specify the alleged cause of her death, to identify the alleged negligent healthcare providers, and to set out the dates of Alice Queen Ester Wallace's hospitalization at Carolinas Hospital System, the date of her death, and the dates of the alleged negligence.

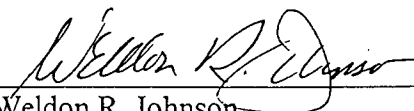
For the above reasons, the Defendant asks this Court to grant its motion.

Barnes, Alford, Stork & Johnson, LLP


Weldon R. Johnson
Emily Collins Brown
1613 Main Street
Post Office Box 8448
Columbia, SC 29202
(803)799-1111
Weldon@basjlaw.com
Emily@basjlaw.com

Date: November 5, 2015

This attorney has attempted to communicate with Mr. Watson to solve this
Motion without success.


Weldon R. Johnson

CERTIFICATE OF SERVICE

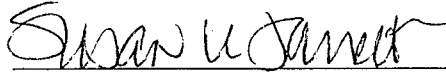
I, Susan U. Jarrett, an employee of Barnes, Alford, Stork & Johnson, LLP do hereby state that I have, on the date below, served a copy of the below-listed document(s) (together with any appropriate exhibits, attachments, and the like, if applicable) upon all other parties in this matter by depositing same in the United States Mail, first class, sufficient postage prepaid, with the return address clearly noted addressed as below.

Document(s) served:

Party or parties served:

RULE 12 MOTION

Johnny E. Watson, Esquire
2715 Edgewood Avenue (29204)
Post Office Box 2305
Columbia, SC 29202



Signature of Server



Date of Service

WELDON R. JOHNSON *
DAVID G. WOLFF
KAY GAFFNEY CROWE *
ALAN J. REYNER †
RICHARD C. THOMAS
ROBERT T. STRICKLAND
CURTIS W. DOWLING
MATTHEW G. GERRALD
EMILY COLLINS BROWN
CATHERINE AVA KOPIEC
JENNIFER I. WAXMAN



BARNES ALFORD

Barnes Alford Stork & Johnson L.L.P.

ATTORNEYS AT LAW

OF COUNSEL
WILLIAM C. STORK
ROGER A. WAY, JR.

* CERTIFIED CIVIL
COURT MEDIATOR

† CERTIFIED SPECIALIST
IN TAXATION

RUDOLPH C. BARNES
(1917-1995)
JAMES W. ALFORD
(1930-2008)

November 5, 2015

The Honorable Connie Reel-Shearin
Florence County Clerk of Court
180 N. Irby St., MSC-E
Florence, SC 29501

Re: Frances Brown as Personal Representative of the Estate of Alice Queen
Ester Wallace v. Carolinas Hospital System and Regency
Hospital/Hospice of Florence
Case No. 2015-NI-21-7
BASJ File No. 75.20578

Dear Ms. Reel-Shearin:

Enclosed for filing are the original and one copy of Defendant Carolinas Hospital System's Motion to Dismiss. I have also enclosed our motion coversheet and a check in the amount of \$25.00 to cover the filing fee. Please return the clocked copy to me in the envelope provided. By copy of this letter, I am serving the attorney listed below.

With kindest regards, I remain

Very truly yours,

Emily Collins Brown

ECB/ecb

Enclosures

cc: Johnny E. Watson, Esquire

EMILY COLLINS BROWN

POST OFFICE BOX 8448
OFFICE: 803.799.1111

1613 MAIN STREET (29201)
FAX: 803.254.1335
WWW.BARNESALFORD.COM

COLUMBIA, SC 29202
EMILY@BASJLAW.COM

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF FLORENCE

Frances Brown as Personal Representative of the Estate of Alice Queen Ester Wallace
 Plaintiff(s),

Civil Action No. 2015-NI-21-7

MOTION INFORMATION FORM AND COVER SHEET

v.

Carolinas Hospital System and Regency Hospital/Hospice of Florence,
 Defendant(s).

Plaintiff's Attorney: Bar No.
Johnny E. Watson, PO Box 2305, Columbia, SC 29202
Phone: 803.400.1600 Fax: 803.400.1200
Email: watsonlawfirm@sc.twcbc.com

Defendant's Attorney: Bar No.
Weldon R. Johnson, Emily Collins Brown, PO Box 8448, Columbia, SC 29202
Phone: 803.799.1111 Fax: 803.254.1335
Email: Weldon@basjlaw.com Emily@basjlaw.com

- 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: Motion to Dismiss
Estimated Time Needed: 15 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

November 5, 2015
Date submitted

SECTION III: Motion Fee

- PAID – AMOUNT: \$25
- EXEMPT:
 - Rule to Show Cause in Child or Spousal Support (check reason)
 - Domestic Abuse or Abuse and Neglect
 - Indigent Status
 - Sexually Violent Predator Act
 - Motion for Stay in Bankruptcy
 - Motion for Publication
 - 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:
- State Agency v. Indigent Party
- Post-Conviction Relief
- Motion for Execution (Rule 69, SCRPC)

JUDGE'S SECTION

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

JUDGE

Code: _____ Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

- MOTION FEE COLLECTED: _____
- CONTESTED – AMOUNT DUE: _____

SCCA/233 (11/03)

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF FLORENCE

Frances Brown as Personal Representative
of the Estate of Alice Queen Ester
Wallace,

Docket No.: 2015-NI-21-7

Plaintiff,

v.

MOTION TO DISMISS

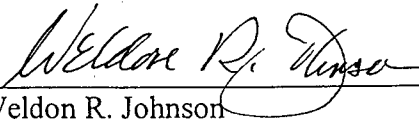
Carolinas Hospital System and Regency
Hospital/Hospice of Florence,

Defendant.

YOU WILL PLEASE TAKE NOTICE that Defendant, Carolinas Hospital System, by and through the undersigned counsel, will move before the Presiding Judge of the Court of Common Pleas for Florence County, on a date and at a time to be established by the Court, for an Order dismissing the Notice of Intent pursuant to South Carolina Rule of Civil Procedure 12(b)(4), 12(b)(5), and 12(b)(6). This motion is made on the grounds that there was insufficiency of process, insufficiency of service of process, and the Plaintiff failed to follow the statutory requirements of S.C. Code Ann. § 15-79-125(A), which requires a Plaintiff to file a Notice of Intent to File Suit and an affidavit of an expert witness “prior to the filing or initiating a civil action alleging injury or death as a result of medical malpractice.” Additionally, the Plaintiff failed to make a Motion or to file an affidavit of an expert witness within forty-five days after the filing of the Notice of Intent.

For the above reasons, the Defendant asks this Court to grant its motion to dismiss.

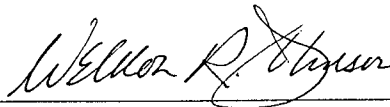
Barnes, Alford, Stork & Johnson, LLP



Weldon R. Johnson
Emily Collins Brown
1613 Main Street
Post Office Box 8448
Columbia, SC 29202
(803)799-1111
Weldon@basjlaw.com
Emily@basjlaw.com

Date: November 5, 2015

This attorney has attempted to communicate with Mr. Watson to solve this Motion without success.



Weldon R. Johnson

CERTIFICATE OF SERVICE

I, Susan U. Jarrett, an employee of Barnes, Alford, Stork & Johnson, LLP do hereby state that I have, on the date below, served a copy of the below-listed document(s) (together with any appropriate exhibits, attachments, and the like, if applicable) upon all other parties in this matter by depositing same in the United States Mail, first class, sufficient postage prepaid, with the return address clearly noted addressed as below.

Document(s) served:

Party or parties served:

MOTION TO DISMISS

Johnny E. Watson, Esquire
2715 Edgewood Avenue (29204)
Post Office Box 2305
Columbia, SC 29202

Susan U. Jarrett

Signature of Server

11-5-15

Date of Service

WELDON R. JOHNSON *
DAVID G. WOLFF
KAY GAFFNEY CROWE *
ALAN J. REYNER †
RICHARD C. THOMAS
ROBERT T. STRICKLAND
CURTIS W. DOWLING
MATTHEW G. GERRALD
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BARNES ALFORD

Barnes Alford Stork & Johnson L.L.P.

ATTORNEYS AT LAW

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* CERTIFIED CIVIL
COURT MEDIATOR

† CERTIFIED SPECIALIST
IN TAXATION

RUDOLPH C. BARNES
(1917-1995)
JAMES W. ALFORD
(1930-2008)

November 5, 2015

The Honorable Connie Reel-Shearin
Florence County Clerk of Court
180 N. Irby St., MSC-E
Florence, SC 29501

Re: Frances Brown as Personal Representative of the Estate of Alice Queen
Ester Wallace v. Carolinas Hospital System and Regency
Hospital/Hospice of Florence
Case No. 2015-NI-21-8
BASJ File No. 75.20578

Dear Ms. Reel-Shearin:

Enclosed for filing are the original and one copy of Defendant Carolinas Hospital System's Motion to Dismiss. I have also enclosed our motion coversheet and a check in the amount of \$25.00 to cover the filing fee. Please return the clocked copy to me in the envelope provided. By copy of this letter, I am serving the attorney listed below.

With kindest regards, I remain

Very truly yours,

Emily Collins Brown

ECB/ecb

Enclosures

cc: Johnny E. Watson, Esquire

EMILY COLLINS BROWN

POST OFFICE BOX 8448
OFFICE: 803.799.1111

1613 MAIN STREET (29201)
FAX: 803.254.1335
WWW.BARNESALFORD.COM

COLUMBIA, SC 29202
EMILY@BASJLAW.COM

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF FLORENCE

Frances Brown as Personal Representative of the Estate of Alice Queen Ester Wallace

Civil Action No. 2015-NI-21-8

Plaintiff(s),

MOTION INFORMATION FORM AND COVER SHEET

v.

Carolinas Hospital System and Regency Hospital/Hospice of Florence,

Defendant(s).

Plaintiff's Attorney: Bar No. Johnny E. Watson, PO Box 2305, Columbia, SC 29202

Defendant's Attorney: Bar No. Weldon R. Johnson, Emily Collins Brown, PO Box 8448, Columbia, SC 29202

Phone: 803.400.1600 Fax: 803.400.1200

Phone: 803.799.1111 Fax: 803.254.1335

Email: watsonlawfirm@sc.twcbc.com

Email: Weldon@basjlaw.com Emily@basjlaw.com

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: Motion to Dismiss

Estimated Time Needed: 15 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.

November 5, 2015

Signature of Attorney for Plaintiff / Defendant

Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: \$25

EXEMPT: Rule to Show Cause in Child or Spousal Support

(check reason) 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 Execution (Rule 69, SCRCP)

Motion for Publication

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: _____

CLERK'S VERIFICATION

Collected by: _____

Date Filed: _____

MOTION FEE COLLECTED: _____

CONTESTED - AMOUNT DUE: _____

SCCA/233 (11/03)

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF FLORENCE

Frances Brown as Personal Representative
of the Estate of Alice Queen Ester
Wallace,

Docket No.: 2015-NI-21-8

Plaintiff,

v.

MOTION TO DISMISS

Carolinas Hospital System and Regency
Hospital/Hospice of Florence,

Defendant.

YOU WILL PLEASE TAKE NOTICE that Defendant, Carolinas Hospital System, by and through the undersigned counsel, will move before the Presiding Judge of the Court of Common Pleas for Florence County, on a date and at a time to be established by the Court, for an Order dismissing the Notice of Intent pursuant to South Carolina Rule of Civil Procedure 12(b)(4), 12(b)(5), and 12(b)(6). This motion is made on the grounds that there was insufficiency of process, insufficiency of service of process, and the Plaintiff failed to follow the statutory requirements of S.C. Code Ann. § 15-79-125(A), which requires a Plaintiff to file a Notice of Intent to File Suit and an affidavit of an expert witness "prior to the filing or initiating a civil action alleging injury or death as a result of medical malpractice." Additionally, the Plaintiff failed to make a Motion or to file an affidavit of an expert witness within forty-five days after the filing of the Notice of Intent.

For the above reasons, the Defendant asks this Court to grant its motion to dismiss.

Barnes, Alford, Stork & Johnson, LLP



Weldon R. Johnson
Emily Collins Brown
1613 Main Street
Post Office Box 8448
Columbia, SC 29202
(803)799-1111
Weldon@basjlaw.com
Emily@basjlaw.com

Date: November 5, 2015

This attorney has attempted to communicate with Mr. Watson to solve this Motion without success.



Weldon R. Johnson

CERTIFICATE OF SERVICE

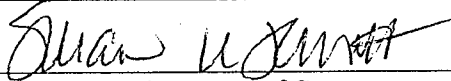
I, Susan U. Jarrett, an employee of Barnes, Alford, Stork & Johnson, LLP do hereby state that I have, on the date below, served a copy of the below-listed document(s) (together with any appropriate exhibits, attachments, and the like, if applicable) upon all other parties in this matter by depositing same in the United States Mail, first class, sufficient postage prepaid, with the return address clearly noted addressed as below.

Document(s) served:

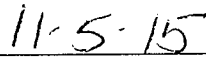
Party or parties served:

MOTION TO DISMISS

Johnny E. Watson, Esquire
2715 Edgewood Avenue (29204)
Post Office Box 2305
Columbia, SC 29202



Signature of Server



Date of Service

MOTION HEARING TRANSCRIPT

STATE OF SOUTH CAROLINA) IN THE 12TH JUDICIAL CIRCUIT
COUNTY OF FLORENCE) IN THE COURT OF COMMON PLEAS
) 2015-CP-21-00007
FRANCES BROWN, as personal)
rep. of the Estate of)
of Alice Q.E. Wallace,)
))
PLAINTIFF,)
))
VERSUS)
))
CAROLINA HOSPITAL SYSTEMS)
and REGENCY HOSPITAL)
HOSPICE OF FLORENCE,)
))
DATE: DECEMBER 18, 2015
DEFENDANT.) PLACE: FLORENCE, SOUTH CAROLINA

TRANSCRIPT OF MOTIONS HEARING

B E F O R E:

THE HONORABLE MICHAEL G. NETTLES

A P P E A R A N C E S:

JOHNNY E. WATSON, ESQUIRE
PLAINTIFF'S ATTORNEY

EMILY C. BROWN, ATTORNEY AT LAW
ATTORNEY FOR THE DEFENDANT

PROVIDED FOR: JOHNNY E. WATSON, ESQUIRE

COURT REPORTER: JO RICE
jrice@sccourts.org
SOUTH CAROLINA JUDICIAL DEPARTMENT

1 THE COURT: Madam court reporter, this is 2015-21-00007,
2 it looks like. Be glad to hear from the moving party.

3 MS. BROWN: Your Honor, I'm Emily Brown and I'm here on
4 behalf of my client, Carolinas Hospital System and we've
5 actually filed four motions to dismiss. The Plaintiff filed,
6 on June 15, 2015, a wrongful death complaint alleging medical
7 malpractice and a survival complaint alleging medical
8 malpractice. On June 18, 2015, the Plaintiff filed a notice
9 of intent, a wrongful death notice of intent, alleging the
10 same allegations of medical malpractice and a survival, a
11 notice of intent alleging the same allegations of medical
12 malpractice.

13 As to the notice of intent, we are moving to dismiss
14 because the Plaintiff failed to follow 15-79-100(a), which
15 requires that the Plaintiff contemporaneously file an expert
16 affidavit with the notice of intent prior to filing a civil
17 action alleging injury or death as a result of medical
18 malpractice and although 15-36-100(c)(1) says that a
19 contemporaneous requirement does not apply if the statute of
20 limitations will expire within 10 days of filing and the
21 Plaintiff alleges an affidavit could not be prepared. There
22 has been 45 days for the Plaintiff to supplement their
23 pleadings with an affidavit. In this case, the 45 days lapsed
24 with no affidavit filed and the Plaintiff ---

25 THE COURT: Was it, indeed, filed within that short

FRANCES BROWN, AS PR, VERSUS CAROLINAS HOSPITAL SYSTEM, et al.

1 window of time before the statute ran?

2 MS. BROWN: No affidavit has ever been filed.

3 THE COURT: Oh, okay.

4 MS. BROWN: In any of the four cases.

5 THE COURT: Okay.

6 MS. BROWN: And so, the Plaintiff did not allege on the
7 notices of intent that an affidavit could not be prepared and
8 they did not file an affidavit and they did not allege the
9 common knowledge exception to the affidavit requirement.

10 THE COURT: Right.

11 MS. BROWN: On the chief complaint, the Plaintiff did
12 allege that an affidavit could not be filed or prepared and
13 said that the statute of limitations was expiring on June 16,
14 2015, which was the next day. Forty-five days then ran and on
15 August 17, 2015, the Plaintiff filed two motions to extend
16 time to file affidavits for the complaints.

17 On September 29th and September 30th, these motions were
18 heard before the Court. My client had not been served at this
19 point in time and so we did not appear, but both motions were
20 dismissed for failure to prosecute.

21 Pursuant to 15-36-100(f), if a plaintiff fails to file
22 an affidavit and then this is raised by a defendant in a
23 motion to dismiss, then the complaint is not subject to
24 renewal after the expiration of the statute of limitations.

25 THE COURT: So, they have to start over.

26 MS. BROWN: Well, you know, in my opinion, if not subject

FRANCES BROWN, AS PR, VERSUS CAROLINAS HOSPITAL SYSTEM, et al.

1 to renewal, they can't re-file it, because the statute of
2 limitations pursuant to the Plaintiff ran on June 16, 2015,
3 which has already passed and we would move to dismiss both
4 notices of intent and the complaint on those grounds.

5 Additionally, we'd move to dismiss pursuant to 12(b)(4)
6 for insufficiency of process, because Rule 4(d)(3) requires
7 that for a corporation or a partnership that an officer,
8 managing or general agent or any other agent authorized by
9 appointment or by law be served with the complaint or notice
10 of intent and in this case, the four documents were delivered
11 to a administrative clerk in human resources at Carolinas
12 Hospital System and not to the agent for service of process
13 as listed under the Secretary of State's office.

14 And if Your Honor chooses to deny our motions to
15 dismiss, then I would also like to move in the alternative
16 for an order requiring the Plaintiff to state their
17 allegations more clearly or definitely pursuant to 12(e). The
18 complaint says that they are alleging negligence against my
19 client, but it does not say any specific allegations of
20 negligence, what duty was breached, the time or circumstances
21 of the alleged negligence, the complaint has blanks for
22 dates. It does not include the date of death of the
23 Plaintiff, nor does it include the date of hospitalization at
24 Carolinas Hospital System and so I believe that Carolinas
25 Hospital Systems cannot reasonably be required to frame a

FRANCES BROWN, AS PR, VERSUS CAROLINAS HOSPITAL SYSTEM, et al.

1 responsive pleading when we don't have this information.

2 THE COURT: All right. Let me hear from Plaintiff's
3 counsel. Yes, sir.

4 MR. WATSON: May it please the Court.

5 THE COURT: Yes, sir.

6 MR. WATSON: The decedent as declared in this case, died
7 on June 16, 2012 so the last date of filing this complaint
8 was on June 15, 2015. At that time, I sent to the clerk of
9 court, the complaint without due notice of intent on June
10 15th. At that time, the clerk indicated that she needed the
11 notice of intent to file it. It was the last day. It was
12 after almost 5:00 when I learned the notice of intent was
13 omitted and so I called the clerk of court and they
14 instructed me to put it in the mail and so it was put in the
15 mail on that day, on June 15th, and it subsequently was filed
16 on June 18th, but it was, in fact, submitted on June 15th.

17 As to the expert witness, Your Honor, we feel that this
18 case is a case about involving bed sores. The statute does
19 not require that you file an affidavit of an expert witness
20 when there is common knowledge. It's a subject that doesn't
21 require expert testimony, because of the -- let me find the
22 exact words -- but of course, bed sores is something that all
23 hospitals are aware of or patients are aware of. It's
24 pervasive and we feel this is a case that doesn't require --
25 everybody can tell if a person has developed sores just by

FRANCES BROWN, AS PR, VERSUS CAROLINAS HOSPITAL SYSTEM, et al.

1 looking at the person and so we feel that an affidavit of an
2 expert is not required pursuant to...

3 THE COURT: Doesn't it require that you allege that, that
4 the affidavit is not required pursuant to common knowledge?

5 MR. WATSON: I don't see anything in the code that
6 requires that you allege that, that an affidavit is not
7 required. It just says it's not required when it's a matter
8 of common knowledge and, of course, that's our position that
9 it is a matter of common knowledge and the affidavit isn't
10 required. However, if an affidavit was required, then it says
11 upon motion the trial court after hearing for good cause may
12 extend the time that the Court determines. We feel that there
13 is no, the requirement for such in this case, but if there
14 is, then we certainly request that the Court grant us
15 sufficient time to file that affidavit.

16 You are probably aware that getting expert testimony in
17 South Carolina in medical malpractice cases is quite
18 difficult. We found the company, Elite, an out-of-state
19 company, and their requirement, they reviewed the facts of
20 the case involving bed sores and everything and they
21 indicated their fee for a nurse, they said that a nurse could
22 testify as to bed sores and there is a fee of \$1900 for the
23 nurse to review the records and make that determination and
24 once the nurse makes that determination, there's a fee of
25 \$3500, all non-refundable, and so a total of \$5400 had to be

FRANCES BROWN, AS PR, VERSUS CAROLINAS HOSPITAL SYSTEM, et al.

1 put up, pronto. Had we placed that money with them and this
2 Court denies this motion, that's just \$5400 thrown out the
3 door and so I would ask the Court and justice to allow us to
4 go ahead and retain that expert, because the ends of justice
5 in this case would certainly require it if we are not able to
6 file again based on the fact that the statute of limitations
7 would have expired.

8 As to the complaint being filed prematurely, well, if
9 the complaint was filed prematurely, we simply withdraw the
10 complaint and leave the notice of intent in place. There's no
11 prohibition against doing that. The statute does say that the
12 time for filing the complaint is tolled and so simply
13 withdrawing it certainly does not put the other side in any
14 worse position so we submit that we could just withdraw that
15 complaint as being premature and then proceed if the Court
16 grants us time -- if the Court, first of all, determines that
17 an expert is necessary, grant us that time to retain one, but
18 again, so it's our position one is not required because
19 everybody knows about bed sores. Anybody you talk to says, if
20 anybody's in the hospital, be sure to go down there because
21 if your family's not paying attention, they won't turn the
22 person. In this case, the victim was an 87-year-old lady,
23 quite strong and active and she was admitted to the hospital
24 and subsequently sent from the hospital, Carolinas, to
25 another hospital that is hard to identify or whether it

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1 merged into the same hospital, we've identified it as Regency
2 Hospital/Hospice of Florence, but they are indicating that my
3 client was not there, but that is sort of a separate issue.

4 But anyway, she was sent in there for a breathing
5 problem and the hospitalization transferred her into what we
6 thought was a nursing facility that ultimately wound up being
7 a hospice facility where my client passed.

8 So, we'd ask again for the Court to rule that no
9 affidavit is required in this case and if a affidavit is
10 required, allow us time as the standards of the court allow
11 us to do to present such an affidavit and, of course, I think
12 the pleadings are clear. It states that the decedent was
13 admitted to the hospital where the patient received nursing
14 care and that resulted in gross bed sores and she was
15 transferred to the other facility where possibly the wrong
16 medication was given in addition to the gross bed sores. I
17 don't see how they cannot understand what we are asking for,
18 but if they want us to make that ---

19 THE COURT: Do you have the date of hospitalization and
20 the date of the death in the complaint?

21 MR. WATSON: No, I don't have those dates of the death.
22 The date of death I have is, the date of death is -- it's not
23 in the complaint.

24 THE COURT: Okay. I was just asking if it was in the
25 complaint.

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1 MR. WATSON: Right. The date of death was June 23, 2012,
2 excuse me, June 16, 2012, that's why we were up against the
3 deadline of June 15th.

4 And, of course, my client could not possibly come up
5 with the monies at the time. I don't know if you know my
6 client, Dr. Deloris Brown, and this is her mother. Dr.
7 Deloris Brown was in charge of the Lake City Charter School
8 which was undergoing revocation proceedings and we had our
9 hands full at that point and so at the last minute, we filed
10 in time to go ahead and submit this so we could get it in and
11 the statute wouldn't run, and her husband developed cancer at
12 the same time and had to be treated and so she couldn't come
13 up with financials at that time and so if the Court allows
14 this case to go through the normal development process, I'm
15 sure she will be able to come up with the funds to retain an
16 expert should the Court feel that one is necessary, but I
17 think bed sores are certainly not something that requires an
18 expert.

19 All federal and state regulations are quite specific
20 about the duties of the hospital when it comes to bed sores.
21 As a matter of fact, a patient that develops bed sores is
22 most likely, per se, negligence when it is determined that
23 they disobeyed and didn't keep adequate records of the bed
24 sores and when she was taken to the new facility the first
25 thing they did was note all the bed sores and start

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1 distancing themselves from it and documented everything that
2 the hospital transferred to them and had not documented. To
3 me, that's per se negligence and, again, another reason to
4 not require an expert witness.

5 THE COURT: Yes, ma'am.

6 MS. BROWN: Your Honor, although the Plaintiff may state
7 today that this, the allegations are common knowledge, that
8 was not what was pled in the complaints or notice of intent.
9 In fact, the affidavits to the complaints stating that the
10 statute of limitations was going to run actually say that
11 because of time restraints, the affidavits of an expert
12 cannot be prepared in time to avoid the expiration of the
13 statute of limitations and it's signed by Frances Brown, the
14 PR.

15 Also, 15-36-100(c)(2) states that the contemporaneous
16 filing requirement is not required to support a pleaded
17 specification of negligence involving subject matter that
18 lies within the ambit of common knowledge and experience. So,
19 my position is that it would have had to have been pled in
20 the complaints and in the notice of intent and it was not
21 pled in any of them and I believe that a motion to dismiss is
22 limited to the ---

23 THE COURT: So, are you saying that in the statute, it is
24 required to be pled?

25 MS. BROWN: Yes, sir.

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1 THE COURT: It isn't?

2 MS. BROWN: Yes. 15-36-100(c)(2) requires that you plead
3 a specification of negligence involving subject matter that
4 lies within the ambit of common knowledge and experience and
5 if the Plaintiff stated that an affidavit cannot be prepared
6 in the time period, then at that point in time, our position
7 would be that the Plaintiff felt that it is not common
8 knowledge, because they would need an expert affidavit and we
9 have, I mean, every medical malpractice suit that I've ever
10 seen that alleged bed sores requires an affidavit from the
11 nurse as to standard of care.

12 THE COURT: All right. The common knowledge thing would
13 be, perhaps, that if you had a healthy kidney and a malignant
14 kidney and you take out the healthy kidney, that would be
15 common knowledge, perhaps. Maybe?

16 MS. BROWN: Yes, sir. I think it would be a standard---

17 THE COURT: What would be some of the other types of
18 common knowledge things that would be exempt from an
19 affidavit?

20 MS. BROWN: I've seen before, if the Plaintiff has a
21 known allergy, let's say to latex, and then the Plaintiff is
22 exposed to latex and has an allergic reaction, then it is
23 considered common knowledge that you don't need an expert to
24 say that if a Plaintiff who has an allergy to latex is
25 exposed to latex, that they had an allergic reaction.

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1 THE COURT: Okay.

2 MS. BROWN: Or if you were to operate on an incorrect
3 foot.

4 THE COURT: Right.

5 MR. WATSON: May I, Your Honor?

6 THE COURT: Yes.

7 MR. WATSON: In the section (f) of 15-36-100, it states
8 that if a Plaintiff, and again, our position is that an
9 affidavit is not required in this case, but if it were, it
10 says that if a Plaintiff were to file an affidavit as
11 required by this section and the Defendant raises the failure
12 to file an affidavit by motion to dismiss filed
13 contemporaneously with its initial responsive pleading, that
14 there has been no responsive pleading in this case and so
15 their motion should be denied on that basis, alone. The
16 responsive pleading being, the complaint, the answer in reply
17 would be referred to as a responsive pleading.

18 THE COURT: Yes, ma'am?

19 MS. BROWN: Your Honor, if you look at 12(b)(6), it gives
20 you the option to file a motion to dismiss with an answer. We
21 didn't feel one was necessary in this case because the
22 statute of limitations had expired, the failure to file an
23 affidavit, and additionally, if the Plaintiff believes that
24 an affidavit is not necessary and this complies with the
25 common knowledge exception, then why did he file two motions

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1 to extend the time to file an affidavit back in August 17,
2 2015, which was actually after the 45 days had already
3 elapsed to file an affidavit and those motions were heard
4 before the Court, but the Plaintiff did not appear to argue
5 on their behalf and we could not appear, because at that
6 point in time, we were not aware of the lawsuits.

7 MR. WATSON: And, Your Honor, quite frankly, that's why I
8 did not appear because the other party had not been served
9 and I didn't know who -- the other party didn't make an
10 appearance in the case until November and so there was nobody
11 on the other side and so it shouldn't have been necessary to
12 file, but again, our position is that was not necessary.

13 THE COURT: You are also maintaining it was also not
14 properly served?

15 MS. BROWN: Yes, Your Honor, because you are required,
16 for a corporation to served, to serve either an officer,
17 managing or general agent, or any other agent authorized by
18 appointment or by law pursuant to Rule 43 and in this case,
19 the documents were delivered to an administrative clerk in
20 human resources which does not fit this Rule. It was then
21 ultimately passed to us, but we contend that was not proper
22 service, because if you go to The Secretary of State's
23 website, we have an agent for service of process.

24 MR. WATSON: May I?

25 THE COURT: Yes, sir.

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1 MR. WATSON: First of all, when I called the Secretary of
2 State, they indicated at the time that there was no
3 registered agent for the hospital. I don't know how they are
4 now saying that there is, but even so, they made an
5 appearance, they are here. So, that voids improper service
6 and they didn't make an appearance in a timely fashion.

7 MS. BROWN: Your Honor, may I respond to that?

8 THE COURT: Yes.

9 MS. BROWN: Probably the reason he got that answer is
10 that he didn't actually sue the correct entity. The correct
11 legal entity is QHG of South Carolina, Inc. and it does
12 business as Carolinas Hospital System and so for him to say
13 there is no registered agent, there is, in fact, a registered
14 agent for the corporation and for him saying that we appeared
15 and that would make it no longer grounds for this motion,
16 12(b)(4) specifically allows for a motion to dismiss for
17 insufficiency of process.

18 MR. WATSON: Again, if you call the Secretary of State, I
19 don't know how you are supposed to know who this QVXYZ thing
20 is. They told us they have no Hospital of the Carolinas, no
21 registered agent of the Carolinas Hospital.

22 THE COURT: Ms. Brown, I'm going to ask that you prepare
23 a memorandum setting forth each one of the arguments;
24 starting off with sufficiency of service of process, address
25 the issue of the notice of intent and the timeliness of it,

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1 the chronology of events, address the issue about an
2 affidavit and common knowledge and the circumstances of this
3 case and I'm going to give you until January 15th to do that,
4 and by January 30th you can send in your response, and then I
5 will make a dispositive order after that. I want an
6 opportunity to review it and think about this. The
7 ramifications are serious and final and I want to study it
8 and see -- might counsel approach the bench?

9 (Bench conference off the record)

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(1917-1995)
JAMES W. ALFORD
(1930-2008)

January 15, 2016

The Honorable Michael G. Nettles
Florence City-County Complex
180 North Irby Street, MSC-XX
Florence, SC 29501

Re: Frances Brown as Personal Representative of the Estate of Alice Queen
Ester Wallace v. Carolinas Hospital System and Regency
Hospital/Hospice of Florence
Case Numbers: 2015-CP-21-1699, 2015-CP-21-1701, 2015-NI-21-7, and
2015-NI-21-8
BASJ File No. 75.20578

Dear Judge Nettles:

Pursuant to your request, enclosed is a Memorandum in Support of Defendant Carolinas Hospital System's Motions to Dismiss in the above referenced cases. These Motions were heard before you on December 18, 2015. If you have any questions or need additional information, please do not hesitate to contact me.

By copy of this letter, I am serving the attorney for the Plaintiff. Additionally, we will file a hard copy with the Florence County Clerk of Court in each of the four cases.

With kindest regards, I remain

Very truly yours,

A handwritten signature in cursive script that reads "Emily C. Brown".

Emily Collins Brown

ECB/suj

Enclosure

cc: ✓ Johnny E. Watson, Esquire

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STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF FLORENCE

Frances Brown as Personal Representative
of the Estate of Alice Queen Ester
Wallace,

Plaintiff,

v.

Carolinas Hospital System and Regency
Hospital/Hospice of Florence,

Defendant.

2015-CP-21-1699 and 2015-CP-21-1701
2015-NI-21-7 and 2015-NI-21-8

**MEMORANDUM IN SUPPORT OF
DEFENDANT CAROLINAS
HOSPITAL SYSTEM'S MOTIONS
TO DISMISS**

The Defendant, Carolinas Hospital System, by and through its undersigned counsel, submits the following memorandum in support of its Motions to Dismiss to Plaintiff's wrongful death Notice of Intent to File Suit, survival Notice of Intent to File Suit, wrongful death Complaint, and survival Complaint pursuant to Rule 12(b)(5) and Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

TIMELINE

- June 15, 2015 – Both Summonses and Complaints were filed contemporaneously with an Affidavit from Frances Brown stating an expert affidavit could not be prepared due to the time constraints and the statute of limitations would expire on June 16, 2015.
- June 18, 2015 – Both Notices of Intent to File Suit were filed without an affidavit of an expert witness. The Plaintiff did not allege that an expert affidavit could not be prepared.
- August 17, 2015 – Plaintiff filed a Motion to Extend Time to File Affidavit of Expert Witness for both Complaints only.
- September 29, 2015 and September 30, 2015 – The Motions to Extend Time to File Affidavit of Expert Witness for the Complaints were heard and dismissed for failure to prosecute.

FACTS

On June 15, 2015, the Plaintiff, Frances Brown as Personal Representative of the Estate of Alice Queen Ester Wallace, filed a wrongful death Complaint and a survival Complaint alleging medical malpractice against the Defendants. In the Complaints, the Plaintiff alleged the decedent was admitted to Carolinas Hospital System where “deficient nursing care...resulted in the decedent, Alice Queen Ester Wallace, getting bed sores which contributed to the decline in her health and contributed to her death.” Compl. ¶¶ 4, 6. Contemporaneously with the Complaints, the Plaintiff filed an affidavit signed by Frances Brown stating that the statute of limitations would expire on June 16, 2015, and “because of the time constraints the affidavit of expert cannot be prepared in time to avoid the expiration of the statute of limitations.” Brown Aff. ¶¶ 3, 4 (June 15, 2015).

On June 18, 2015, the Plaintiff, Frances Brown as Personal Representative of the Estate of Alice Queen Ester Wallace, filed a wrongful death Notice of Intent to File Suit and a survival Notice of Intent to File Suit against the Defendants. According to the two Notices of Intent, the decedent was admitted to Carolinas Hospital System, where “deficient nursing care left her with gross bed sores.” NOI ¶ 2. The decedent was then transferred to another facility “where she was not given possible lifesaving resuscitation as was her living will and she was given the wrong medication or the correct medication in the wrong form which was the proximate cause of her death.” NOI ¶ 2.

The Plaintiff did not contemporaneously file an affidavit of an expert witness with the Notices of Intent to File Suit as required by S.C. Code Ann. § 15-79-125(A).

Additionally, the Plaintiff did not allege that an affidavit of an expert witness could not be prepared because of time constraints as required by S.C. Code Ann. § 15-36-100(C).

On August 17, 2015, the Plaintiff filed a Motion to Extend Time to File Affidavit of Expert Witness for the wrongful death Complaint and for the survival Complaint. The Plaintiff did not file a similar motion for either of the Notices of Intent to File Suit.

On September 29, 2015 and September 30, 2015, the Motions to Extend Time to File Affidavit of Expert Witness for the Complaints were heard by the court. No motions for a continuance were filed. On September 29, 2015 and October 2, 2015, the court signed Orders dismissing the motions for failure to prosecute.

On October 6, 2015, the two Notices of Intent to File Suit and the two Summonses and Complaints were delivered to Debbie Brace, a Human Resources Specialist at Carolinas Hospital System. On November 5, 2015, this Defendant served and filed its Motions to Dismiss by mail. On November 9, 2015, the Florence County Clerk of Court filed this Defendant's Motions to Dismiss the two Notices of Intent and two Complaints pursuant to South Carolina Rules of Civil Procedure 12(b)(5) and 12(b)(6).

ARGUMENT

I. The Plaintiff did not comply with the requirements of S.C. Code Ann. § 15-79-125(A) to initiate an action for medical malpractice.

Prior to filing a medical malpractice claim, S.C. Code Ann. § 15-79-125(A) requires a plaintiff to "contemporaneously file a Notice of Intent to File Suit and an affidavit of an expert witness, subject to the affidavit requirements established in Section 15-36-100." Section 15-36-100(C)(1) states the contemporaneous filing requirement

does not apply if the statute of limitations will expire or there is a good faith basis to believe it will expire “within ten days of the date of filing and, because of the time constraints, the plaintiff alleges that an affidavit of an expert could not be prepared.” If the plaintiff alleges that an affidavit of an expert could not be prepared, then Section 15-36-100(C)(1) allows the plaintiff “forty-five days after the filing of the complaint to supplement the pleadings with the affidavit.” In Ranucci v. Crain, the Supreme Court held that the affidavit requirements of Section 15-36-100 apply to a notice of intent to file suit in a medical malpractice action, including the forty-five day provision that extended the time for filing a pre-litigation affidavit. 409 S.C. 493, 763 S.E.2d 189 (2014). If the plaintiff does not file an expert affidavit within forty-five days but files a motion to extend time, then Section 15-36-100(C)(1) states the court “after hearing and for good cause, may extend the time as the court determines justice requires.”

However, if an affidavit is not filed within forty-five days or as extended by the court and the defendant raises failure to file an affidavit by motion to dismiss, then Section 15-36-100(F) states “the complaint is not subject to renewal after the expiration of the applicable period of limitation unless the court determines that the plaintiff had the requisite affidavit within the time required...and the failure to file the affidavit is the result of a mistake.” Since Ranucci held that “section 15-79-125(A) incorporates section 15-36-100 in its entirety,” this Defendant raised the failure to file an affidavit by motion to dismiss as to the wrongful death Notice of Intent to File Suit and the survival Notice of Intent to File Suit. 409 S.C. at 497, 763 S.E.2d at 191.

At the hearing on these Motions to Dismiss, the Plaintiff argued that the common knowledge exception applied to the expert affidavit requirement as to the Notices of

Intent to File Suit. Section 15-36-100(C)(2) states that an expert affidavit is not required “to support a pleaded specification of negligence involving subject matter that lies within the ambit of common knowledge and experience, so that no special learning is needed to evaluate and conduct of the defendant.” However, Plaintiff did not plead the common knowledge exception in either the Complaints or Notices of Intent.

In Brouwer v. Sisters of Charity Providence Hospitals, the Supreme Court found that “the negligent exposure of a patient to latex with a known allergy can result in an allergic reaction in that patient” met the common knowledge exception. 409 S.C. 514, 522, 763 S.E.2d 200, 204 (2014). Additionally, the Brouwer plaintiff invoked the common knowledge exception in the Notice of Intent to File Suit. Id. at 518, 763 S.E.2d at 202.

In contrast to Brouwer, the Plaintiff failed to invoke the common knowledge exception in the Notices of Intent to File Suit and the allegations of negligence are not within the ambit of common knowledge. The Plaintiff alleged “deficient nursing care left her with gross bed sores.” NOI ¶ 2. The average person does not know the standard of care for nurses, so the Plaintiff did not plead a specification of negligence within the ambit of common knowledge. Furthermore, as to the wrongful death Notice of Intent to File Suit, an individual with common knowledge and experience is not qualified to render an opinion as to cause of death.

As to the two Notices of Intent to File Suit at issue, the Plaintiff did not contemporaneously file an affidavit of an expert witness along with the Notices of Intent to File Suit and did not allege an affidavit could not be prepared as required by Section 15-36-100(C)(1). Furthermore, the Plaintiff did not supplement the filings with an

affidavit within forty-five days or make a motion to extend the time for filing. The common knowledge exception would not apply to bed sores or to the cause of death, and the Plaintiff failed to invoke the common knowledge exception when filing the Notices of Intent to File Suit. Lastly, as required by Section 15-36-100(F), this Defendant raised the failure to file an affidavit by motion to dismiss. Since the statute of limitations ran on June 16, 2015 and the Plaintiff failed to comply with the requirements of Section 15-79-125(A), the Notices of Intent should be dismissed and not subject to renewal.

II. The Plaintiff prematurely filed the Complaints and did not comply with the requirements of S.C. Code Ann. § 15-36-100.

In Ranucci, the Supreme Court stated in reference to medical malpractice actions that Sections 15-79-125 and 15-36-100 “establish a unique two-step procedure that filters frivolous claims but permits the filing of potentially meritorious claims.” 409 S.C. at 506, 763 S.E.2d at 196. In these cases, the Plaintiff failed to follow the statutory requirements of Section 15-79-125(A), which state a plaintiff must file a Notice of Intent to File Suit and an affidavit of an expert witness “prior to the filing or initiating a civil action alleging injury or death as a result of medical malpractice.” Therefore, the Plaintiff should have filed the two Notices of Intent to File Suit, along with an expert affidavit, before filing the two Complaints alleging medical malpractice. Instead, the Plaintiff mailed the two Notices of Intent to File Suit without an expert affidavit and the two Complaints on the June 15, 2015.

Additionally, Section 15-36-100(B) requires the Plaintiff to file with the complaint “an affidavit of an expert witness which must specify at least one negligent act or omission claimed to exist and the factual bases for each claim based on the available

evidence at the time of the filing of the affidavit.” Because of the time restraints due to the statute of limitations expiring on June 16, 2015, the Plaintiff did not include an expert affidavit with the Complaints. Pursuant to Section 15-36-100(C)(1), the Plaintiff then had forty-five days to supplement with the affidavit, which the Plaintiff did not and has not to this date.

On August 17, 2015, the Plaintiff filed two Motions to Extend Time to File Affidavit of Expert Witness. Neither was served on the Defendants. On September 29, 2015 and September 30, 2015, the Motions were heard by the court and dismissed for failure to prosecute. No expert affidavit was filed by the Plaintiff and no motions to reconsider the orders were filed.

Section 15-36-100(F) provides that if a plaintiff fails to file an expert affidavit and the defendant “raises the failure to file an affidavit by motion to dismiss,” as done in these cases, “the complaint is not subject to renewal after the expiration of the applicable period of limitation unless the court determines that the plaintiff had the requisite affidavit within the time period required by this section and the failure to file the affidavit is the result of a mistake.”

A hearing was held before the Court on December 18, 2015. At the hearing, the Plaintiff’s attorney stated that an expert affidavit had not been obtained because the Plaintiff did not have the funds and did not want to spend the money on an expert if the Court was going to find that the statute of limitations had expired. Additionally, the Plaintiff alleged that an affidavit was not required because of the common knowledge exception in Section 15-36-100(C)(2). In contrast with Brouwer, the Plaintiff did not invoke the common knowledge exception when filing the Complaints. Instead, the

Plaintiff stated “because of the time constraints the affidavit of expert cannot be prepared in time to avoid the expiration of the statute of limitations.” Brown Aff. ¶¶ 3, 4.

Furthermore, the Plaintiff filed Motions to Extend Time to File Affidavit of Expert Witness. If the Plaintiff believed the common knowledge exception applied, then the Motions to Extend Time to File Affidavit of Expert Witness were not needed.

Therefore, this Defendant’s Motions to Dismiss should be granted because the common knowledge exception is not applicable and the Complaints are not subject to renewal as to this Defendant because the Plaintiff failed to file an expert affidavit and the applicable three year statute of limitations has expired.

III. The Plaintiff failed to serve the agent for service of process.

South Carolina Rule of Civil Procedure 4(d)(3) states that service is accomplished on a corporation “by delivering a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.” On October 6, 2015, the two Notices of Intent to File Suit and the two Summons and Complaints were delivered to Debbie Brace, a Human Resources Specialist at Carolinas Hospital System. She is not the agent for service of process. Ms. Brace is not an officer, managing or general agent or any other agent authorized by appointment or by law to receive service of process on behalf of this Defendant.

At the hearing, the Plaintiff argued that the Defendant waived the right to assert insufficiency of service of process by filing the Motions to Dismiss. However, South Carolina Rule of Civil Procedure 12(h)(1) states a defense of insufficiency of service of process is waived “if it is neither made by motion under this rule nor included in a

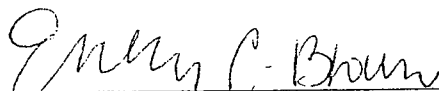
responsive pleading or an amendment thereof permitted by Rule 15(a) to be made as a matter of course.” In compliance with the rule, this Defendant filed the Motions to Dismiss pursuant to South Carolina Rule of Civil Procedure 12(b)(5).

Additionally, counsel for the Plaintiff argued that he called the Secretary of State’s office and was told that there is no registered agent for service of process. However, the Plaintiff still did not serve an individual in compliance with South Carolina Rule of Civil Procedure 4(d)(3). The Plaintiff was likely told there was no agent for service of process because he asked about the incorrect entity. The correct legal entity for this Defendant is QHG of South Carolina, Inc. d/b/a Carolinas Hospital System which does have a registered agent listed with the Secretary of State.

CONCLUSION

For the above stated reasons, the Defendant, Carolinas Hospital System, requests that its Motions to Dismiss be granted and the claims not be subject to renewal.

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Date: January 15, 2016

CERTIFICATE OF SERVICE

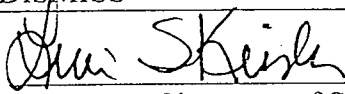
I, Lisa S. Keisler, an employee of Barnes, Alford, Stork & Johnson, LLP do hereby state that I have, on the date below, served a copy of the below-listed document(s) (together with any appropriate exhibits, attachments, and the like, if applicable) upon all other parties in this matter by depositing same in the United States Mail, first class, sufficient postage prepaid, with the return address clearly noted addressed as below.

Document(s) served:

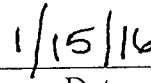
Party or parties served:

MEMORANDUM IN SUPPORT OF
DEFENDANT CAROLINAS
HOSPITAL SYSTEM'S MOTIONS TO
DISMISS

Johnny E. Watson, Esquire
Post Office Box 2305
Columbia, SC 29202



Signature of Server



Date of Service

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) OF THE TWELFTH JUDICIAL CIRCUIT
 COUNTY OF FLORENCE)

FRANCES BROWN AS PERSONAL) DOCKET #: 2015-CP-21-1699 and
 REPRESENTATIVE OF THE ESTATE OF) 2015-CP-21-1701; and 2015-NI-21-7
 ALICE QUEEN ESTER WALLACE,) AND 2015-NI-21-8
)

Petitioner,)

v.)

CAROLINAS HOSPITAL SYSTEM AND)
 REGENCY HOSPITAL/HOSPICE OF)
 FLORENCE,)

Defendant.)

PLAINTIFF'S
 RETURN TO DEFENDANT'S
 MEMORANDUM IN SUPPORT OF
 DEFENDANT CAROLINAS HOSPITAL
 SYSTEM'S MOTION TO DISMISS

The Plaintiff, Frances Brown, as Personal Representative of the Estate of Alice Queen Ester Wallace, by and through its under signed counsel, submits the following memorandum in opposition to Defendant's Motion to Dismiss Plaintiff's wrongful death Notice of Intent to file Suit, survival Notice of Intent to file Suit, wrongful death Complaint and survival action Complaint pursuant to Rule 12(b)(5) and Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

MODIFIED TIMELINE

1. June 15, 2015 – Both Summonses and Complaints were filed contemporaneously with an Affidavit from Frances Brown stating an expert affidavit could not be prepared due to the time constraints and statute of Limitations would expire on June 16, 2015. *When the Plaintiff's attorney had the Complaints in the wrongful death and survival actions delivered for filing on June 15, 2015 the Clerk indicated that the Notices of Intent needed to be filed also. The attorney for the Plaintiff then filed, on that same day, the two Notices of Intent*

under one Civil Action Cover Sheet and put them in the U. S. mail, postage prepaid on June 15, 2015 along with the \$10.00 filing fee. The clerk then held up the filing for an additional \$10.00 and mandated that the Notices be split into separate actions. The Clerk then filed the Notices on June 18, 2018.

2. June 18, 2015 – Both Notices of Intent to File Suit were filed without an affidavit of an expert witness. The Plaintiff did not allege that an expert affidavit could not be prepared. *As indicated above, the Complaints and Notices of Intent were all filed on the same day or placed in the mail for filing on the same day, to wit: June 15, 2015. Therefore, the affidavit of Frances Brown as to the imminent running of the statute of limitation on June 16, 2015 applied to both the premature Complaints and the Notices of Intent.*
3. August 17, 2017 – Plaintiff filed a Motion to Extend Time to File Affidavit of Expert Witness for both Complaints only. *As indicated above, the Motion to Extend time to file the Affidavit of an Expert witness applied to both the Notices of Intent and the prematurely filed Complaints.*
4. September 29, 2015 and September 30, 2015 – The Motions to Extend Time to File Affidavits of Expert Witness for the Complaints were heard and dismissed for failure to prosecute. *The Defendants were not served until October 6, 2015 after the great floods in Columbia and the surrounding communities so there was no one to argue the motions against. To do so could be construed as communication with the Court without the other party being aware or able to participate so the attorney for the Plaintiff did not attend the hearing but planned to re-file the motions as needed.*

FACTS

The Defendant alleges that, “On June 15, 2015, the Plaintiff, Frances Brown, as Personal Representative of the Estate of Alice Queen Ester Wallace, filed a wrongful death Complaint and a survival Complaint alleging medical malpractice against the Defendants. In the Complaints, the Plaintiff alleged the decedent was admitted to Carolinas Hospital System where “deficient nursing care ... resulted in the decedent Alice Queen Ester Wallace, getting bed sores which contributed to the decline in her health and contributed to her death.” Compl. ¶¶ 4, 6.

Contemporaneously with her Complaints, the Plaintiff filed an affidavit signed by Frances Brown stating the statute of limitations would expire on June 16, 2015, and “because of the time constraints the affidavit of expert cannot be prepared in time to avoid the expiration of the statute of limitations.” Brown Aff. ¶¶ 3, 4 (June 15, 2015).

On June 18, 2015, the Plaintiff, Frances Brown, as Personal Representative of the Estate of Alice Queen Ester Wallace, filed a wrongful death Notice of Intent to File Suit and a survival Notice of Intent to File Suit against the Defendants *as supplemented by the Plaintiff's additional explanation in the timeline*. According to two of the Notices of Intent, the decedent was admitted to Carolinas Hospital System, where “deficient nursing care left her with gross bed sores.” NOI ¶ 2. The decedent was then transferred to another facility “where she was not given possible lifesaving resuscitation as was her living will and she was given the wrong medication or the correct medication in the wrong form which was the proximate cause of her death. NOI ¶ 2.

The Plaintiff did not contemporaneously file an affidavit of an expert witness with the Notices of Intent to File Suit as required by S. C. Code Ann. § 15-79-125(A).” *However, see the modified timeline changes of the Plaintiff which disputes that assertion.*

The Defendant went to say, “Additionally, the Plaintiff did not allege that an affidavit of

an expert witness could not be prepared because of time constraints as required by S. C. Code Ann § 15-36-100(C).” *However, see the italicised modified timeline changes of the Plaintiff which disputes that assertion.*

The Defendant went to say, “On August 17, 2015, the Plaintiff filed a Motion to Extend Time to File Affidavit of Expert Witness for the wrongful death Complaint and for the survival Complaint. The Plaintiff did not file a similar motion for either of the Notices of Intent to File Suit.” *However, see the italicised modified timeline changes of the Plaintiff disputes that assertion.*

The Defendant went to say, “On September 29, 2015 and September 30, 2015, the Motions to Extend Time to File Affidavit of Expert Witness for the Complaints were heard by the Court. No Motions for a continuance were filed. On September 29, 2015 and on October 2, 2015, the court signed Orders dismissing the motions for failure to prosecute.” *However, see the italicised timeline changes of the Plaintiff disputes that assertion and raises ethics concerns for the Plaintiff to address the court when the Defendants had not been served.*

The Defendant went to say, “On October 6, 2015 the two Notices of Intent to File Suit and the two Summonses and Complaints were delivered to Debbie Brace, a Human Resources Specialist at Carolinas Hospital System.” *The papers were delivered to Ms. Brace after the Plaintiff’s attorney called the Secretary of State and was told that there was no registered agent for Carolinas Hospital System on record. Thereafter, the Plaintiff’s attorney contacted the administrative office of Carolina Hospital and was told by Karen _____ that she could receive the documents. Ms. Bracey thereafter indicated that she could accept the papers for Karen and she did.*

The first appearance of the attorney for the defendant in the case was their Motion to

Dismiss that they filed on November 5, 2015.

The Defendant went to say, “On November 5, 2015, this Defendant served and filed its Motion to Dismiss by mail. On November 9, 2015, the Florence County Clerk of Court filed the Defendant’s Motions to Dismiss the Notices of Intent and two Complaints pursuant to 12(b)(5) and 12(b)(6).” *The plaintiff agrees with that assertion.*

ARGUMENTS

I. **The Plaintiff did comply with the requirements of S. C. Code Anno. § 15-79-125(A) to initiate an action for medical malpractice.**

The Defendant argues that, “Prior to filing a malpractice claim, S. C. Code Ann. § 15-79-125(A) requires a Plaintiff to “contemporaneously file a Notice of Intent and an affidavit of an expert witness, subject to the affidavit requirement established in Section 15-36-100.” *However, the Plaintiff agrees that such is the case where a malpractice claim/complaint is filed but the Plaintiff withdraws his complaints as being premature since the Plaintiff also filed the Notices of Intent to file suit on June 15, 2015 by depositing it in the US mail, postage prepaid on January 15, 2015 and the NOI tolled the statute of limitations.*

The Defendant argues that, “Section 15-36-100(C)(1) states the contemporaneous filing requirement does not apply if the statute of limitations will expire”... In this case the statute was to expire the day after the filing of the NOI. ... “or there is a good faith basis to believe it will expire and, because of the time constraints, the Plaintiff alleges that an affidavit of an expert could not be prepared, then Section 15-36-100(C)(1) allows the Plaintiff “forty-five days after the filing of the complaint to supplement the pleadings with the affidavit.” The Plaintiff agrees if the affidavit is required at all.

The Defendant argues that, “In Ranucci v Crain, the Supreme Court held that the affidavit

requirements of Section 15-36-100 apply to the notice of intent to file suit in a medical malpractice action, including the forty-five day provision that extended the time for filing a pre-litigation affidavit”, 409 S. C. 493, 763 S. E. 2d 189 (2014). *Plaintiff agrees subject to the common sense provision that the Plaintiff alleges in this case as to the bed sores and the fact that no expert is needed to determine whether the decedent's livivig will requirements , which included resusitation as needed, were cfarried out.* The Defendant asserts that, “If the Plaintiff does not file an expert affidavit within forty-five days but files a motion to extend time, then Section 15-36-100(C)(1) states the court “after hearing and for good cause, may extend the time as the court deems justice requires.” *The Plaintiff that the Motion to extend time to file the Affidavit of the Expert witness in this case was filed within the requisite 45 days but was not pursued because there was no appearance of attorneys for the Defendant until after the motions were scheduled to be heard. Then when the attorneys for the Defendant did make an appearance it was in the form of this Motion to Dismiss. The Plaintiff therefore respectfully requests an additional 30 days, post motion, to present the requisite expert affidavit if such is required in this case.*

The Defendant asserts that, “However, if an affidavit is not filed within forty-five days or as extended by the court (*where an affidavit is required*) and the Defendant raises failure to file an affidavit by motion to dismiss, then Section 15-36-100(F) states “the complaint is not subject to renewal after the expiration of the applicable period of limitation unless the court determines that the Plaintiff had the requisite affidavit within the required time ... and the failure to file the affidavit is the result of a mistake.” Since Ranucci held that “section 15-79-125(A) incorporates section 15-36-100 in its entirety, “this Defendant raised the failure to file an affidavit by motion to dismiss as to the wrongful death Notice of Intent to File Suit and the survival Notice of Intent

to File Suit. 409 S. C. 497, 763 S. E. 2d at 191.” *However, In this case the Plaintiff asserts that bed sores and /or the question of whether the decedent's living will was carried out are within the ambit of common knowledge but if this Court determines that it is not then the Plaintiff requests 30 days to submit the affidavit to keep this meritorious case from being dismissed on technical grounds rather than being adjudicated on the merits.*

The Defendant asserts that, “At the hearing on these Motions to Dismiss, the Plaintiff argued that the common knowledge exception applied to the expert affidavit requirement of the Notices of Intent to File Suit. Section 15-36-100(C)(1) states that an expert affidavit is not required “to support a pleaded specification of negligence involving subject matter that lies within the ambit of common knowledge and experience, so that no special learning is needed to evaluate the conduct of the Defendant.” However, the Plaintiff did not plead the common knowledge exception in either the Complaint or Notices of Intent.” *The Plaintiff would note that as the nonmoving party the Court should construe the motion in the light most favorable to the Plaintiff and determine, after considering all the evidence in the case, even the assertions made at the December 18, 2018 motions hearing as well as those included here as to the the living will violation being within the ambit of common knowledge, that the facts alleged in the record as a whole and the inferences reasonably deducible from the pleadings would not entitle the Plaintiff to relief for dismissal to be appropriate.*

The Defendant asserts that, “In Brouwer v. Sisters of Charity Providence Hospital, the Supreme Court found that “the negligence exposure of a patient to latex with a known allergy can result in an allergic reaction in that patient” met the common knowledge exception. 409 S. C. 514, 522, 763 S. E. 2d 200, 204 (2014). Additionally, the Brouwer Plaintiff invoked the common knowledge exception in the Notice of Intent to File Suit. Id. At 518, 763 S. E. 2d at

202.

In contrast to Brouwer, The Plaintiff failed to invoke the common knowledge exception in the Notices of Intent to File Suit and the allegations of negligence are not within the ambit of common knowledge. The Plaintiff alleged “deficient nursing care left her with gross bed sores.” NOI § 2. The average person does not know the standard of care for nurses, so the Plaintiff did not plead a specification of negligence within the ambit of common knowledge. Furthermore, as to the wrongful death Notice of Intent to File Suit, an individual with common knowledge and experience is not qualified to render an opinion as to cause of death.” *However, the Plaintiff would assert that everyone has sufficient familiarity with bed sores in hospitals and nursing homes to know that they are not good for a person’s well being and can contribute to a patient’s death. But surely there is no need for an expert to determine if the decedents living will wishes were carried out.*

The Defendant asserts that, “As to the two Notices of Intent to File Suit at issue, the Plaintiff did not contemporaneously file an affidavit of an expert witness along with the Notices of Intent to File Suit and did not allege an affidavit could not be prepared as required by Section 15-36-100(C)(1).” *However, this is disputed as indicated in the Plaintiff’s modifications to the timeline.* The Defendant asserts that, “Furthermore, the Plaintiff did not supplement the filings with an affidavit within forty-five days or make a motion to extend the time for filing. The common Knowledge exception would not apply to bed sores or to the cause of death, and the Plaintiff failed to invoke the common knowledge exception when filing the Notices of Intent to File Suit. Lastly, as required by Section 15-36-100(F), this Defendant raised the failure to file an affidavit by motion to dismiss. Since the statute of limitation ran on June 16, 2015 and the Plaintiff failed to comply with the requirements of Section 15-36-125(A), the Notices of Intent

should be dismissed and not subject to renewal.” *However, the plaintiff would assert that the filing of the NOI’s tolled the running of the Statute of limitations and the Plaintiff should be given 30 days to file the affidavits if the Court determines that such is required in this case.*

II. The Plaintiff did comply with the requirements of S. C. Code Anno. § 15-79-125(A) to initiate an action for medical malpractice.

The Defendant asserts that, “In Ranucci, the Supreme Court stated in reference to medical malpractice actions that Sections 15-79-125 and 15-36-100 “establish a unique two step procedure that filters frivolous claims but permits the filing of potentially meritorious claims.” 409 S. C. at 506, 763 S. E. 2d at 196. In these cases, The Plaintiff failed to follow the statutory requirements of Section 15-79-125(A), which state a Plaintiff must file a Notice of Intent to File Suit and an affidavit of an expert witness “prior to the filing or initiating a civil action alleging injury or death as a result of medical malpractice.” Therefore, the Plaintiff should have filed the two Notices of Intent to File Suit, along with an expert affidavit, before filing the two Complaints alleging medical malpractice. Instead, the Plaintiff mailed the two Notices of Intent to File Suit without an expert affidavit and the two Complaints of June 15, 2015.” *The plaintiff would show that all documents were filed on June 15, 2015 as outlined in the modified timeline. Further, the Plaintiff withdraws the Complaints as being premature.*

The Defendant asserts that, “Additionally, Section 15-36-100(B), requires the Plaintiff to file with the complaint “an affidavit of an expert witness which must specify at least one negligent act or omission claimed to exist and the factual bases for each claim based on the available evidence at the time of filing of the affidavit.” Because of the time restraints due to the statute of limitations expiring on June 16, 2015, the Plaintiff did not include an

expert affidavit with the Complaints. Pursuant to Section 15-36-100(C)(1), the Plaintiff then had forty-five days to supplement with the affidavit, which the Plaintiff did not and has not to this date.” *However, this has been clarified by the modified timeline which tolled of the statute of limitations when the NOI’s were filed.*

The Defendant asserts that, “On August 17, 2015, the Plaintiff filed two Motions to Extend Time to File Affidavit of Expert Witness. Neither was served on the Defendants.” *The Plaintiff agrees since an agent to receive service of process had not been determined at that time.* The Defendant asserts that, “On September 29, 2015 and September 30, 2015, the Motions were heard by the court and dismissed for failure to prosecute.” *The Plaintiff agrees, therefore the Plaintiff seeks leave of the court to re-file the motions now that the defendant and its attorneys have entered that case.* The Defendant asserts that, “No expert affidavit was filed by the Plaintiff and no motions to reconsider were filed”. *The Plaintiff agrees for the reasons stated above but the plaintiff seeks leave file any affidavits the court deems is needed.*

The Defendant asserts that, “Section 15-36-100(F) provides that if a plaintiff fails to file an expert affidavit and the defendant “raises the failure to file an affidavit by motion to dismiss,” as done in these cases, “the complaint is not subject to renewal after the expiration of the applicable period of limitation unless the court determines that the plaintiff had the requisite affidavit within the time period required by this section and the failure to file the affidavit is the result of a mistake”. *The Plaintiff agrees that such is the case if an affidavit is undisputedly required even than the Court may specify a period of time to get the affidavit in if the Court deems that justice requires it.*

The Defendant asserts that, “A hearing was held before the Court on December 18,

2015. At the hearing, the Plaintiff's attorney stated that an expert affidavit had not been obtained because the Plaintiff did not have the funds and did not want to spend money on an expert." However, *the Plaintiff's attorney tried to show that his client are of meager means and Dr. delores Brown, who is prosecuting the case on behalf of her sister, Frances Brown, is without funds to spend on an expert that may not be needed. However, if the Court determines that an expert affidavit is needed justice requires that the Plaintiff be given time to acquire those affidavits since the statute of limitation has expired and the case cannot be re-filed.*

The Defendant asserts that, "Additionally, the Plaintiff alleged that an affidavit was not required because of the common knowledge exception in Section 15-36-100(C)(2). In contrast with Brouwer, the Plaintiff did not invoke the common knowledge exception when filing the Complaints. Instead, the Plaintiff stated "because of time constraints the affidavit of the expert cannot be prepared in time to avoid the expiration of the statute of limitations. Brown Aff. ¶¶ 3, 4. Furthermore, the Plaintiff filed Motions to Extend Time to File Affidavit of Expert Witness. If the Plaintiff believed the common knowledge exception applied, then the Motions to Extend Time to File Affidavit of Expert Witness were not needed. *The Plaintiff attorney filed the case on short notice and did not consider every possibility. However, if the Court deemed the affidavits were needed the Plaintiff requests 30 days to provide them.*

The Defendant asserts that, "Therefore, this Defendant's Motion to Dismiss should be granted because the common knowledge exception is not applicable and the Complaints are not subject to renewal as to this defendant because the Plaintiff failed to file an expert affidavit and the applicable three year statute of limitations has expired. *However, the*

Complaints.

The plaintiff alleges two common sense grounds which obviates the need to file expert affidavits. Those allegations are that the decedent had visible bed sores which hastened her death and the Nursing facility did not provide resuscitation as the decedant's living will required. Surely no expert affidavit is need as to whether resuscitation was provided or not.

However, if the court deems that expert affidavits are needed the Plaintiff requests 30 days from the date of any order on this motion to provide the affidavits.

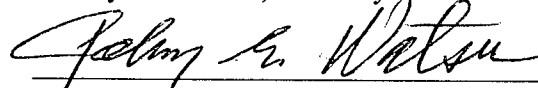
The Court has long had a preference for settling cases on the merits rather than on mere technical grounds as explained in Brouwer.

For the above stated reasons, the Plaintiff, Frances Brown, requests that the Defendant's Motion to Dismiss be denied and the case be allowed to continue in pre-litigation status with the Plaintiff being given 30 days to submit any expert affidavits deemed necessary by the Court.

Respectfully submitted:

Johnny E. Watson, Attorney at Law

BY:



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Columbia, South Carolina

Dated: February 1, 2016

NOTICE OF APPEAL

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

FROM THE SOUTH CAROLINA COURT OF COMMON PLEAS
Honorable Michael G. Nettles, Judge

RECEIVED

APR 15 2016

SC Court of Appeals

Case Nos.: 2015-CP-21-1699 & 1701
AND 2015-NI-21-7 & 8

Frances Brown as Prersonal Representative of the Estate of Alice Queen Ester
Wallace..... APPELLANT

v.

Carolina Hospital System and Regency Hospital/Hospice of Florence RESPONDENT


NOTICE OF APPEAL

Frances Brown as Prersonal Representative of the Estate of Alice Queen Ester Wallace hereby appeals an order from the South Carolina Court of Common Pleas, issued by Honorable Michael G. Nettles, Judge on March 8, 2016 and filed on March 15, 2016 and received by Appellant thereafter. A copy of the order is attached hereto.

ISSUE ON APPEAL

Whether the trial judge erred in his decision to grant summary judgement to the Respondent in the Appellant's cases seeking damages from the Respondent in her wrongful death and survivor actions against the Respondent.

BY:


Johnny E. Watson, Sr.

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APR 15 2016

SC Court of Appeals

Columbia, South Carolina
Dated: April 15, 2016

CERTIFICATE OF SERVICE

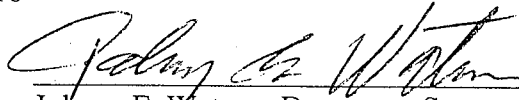
I, Johnny E. Watson, hereby certify that I have served the individual named below with a copy of the document described herein by delivering it to him via US mail, postage prepaid to the address below on the date listed herein below:

TO: Clerk of Court
S. C. Court of Appeals
1220 Senate Street
1205 Pendleton Street
Columbia, South Carolina 29201

Ms. Emily Collins Brown
Barnes, Alford, Staock & Johnson, LLP
1613 Main Street (29201)
P. O. Box 8448
Columbia, South Carolina 29202

DOCUMENT: **NOTICE OF APPEAL AND CERTIFICATE OF SERVICE**

DATE SERVED: April 15, 2016



Johnny E. Watson, Document Server

Columbia, South Carolina
Date: April 15, 2016