

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas

George C. James, Jr., Circuit Court Judge

Case No. 2009-CP-14-439

Ronald Grubb as PR of the Estate of Joyce Grubb,

Appellant,

v.

Clarendon Memorial Hospital,

Respondent.

RECORD ON APPEAL

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Attorney for Respondent

Deborah Harrison Sheffield, Esquire
117 Brook Valley Road
Columbia, South Carolina 29223
(803) 419-7837
Attorney for Respondent

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STATE OF SOUTH CAROLINA)

COUNTY OF CLARENDON)

Ronald Grubb as PR of the Estate of Joyce Grubb)
Plaintiff(s))

vs.)

CLARENDON MEMORIAL HOSPITAL and)
D. MAXWELL EGBONIM)

Defendant(s))

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2008-CP - 14-472

(Please Print)

Submitted By: John W. Carrigg, Jr.

Address: 1492 Lake Murray Blvd., Suite A

Columbia, South Carolina 29212

SC Bar #: 015239

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Other:

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NOTE: The cover sheet 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 cover sheet must be served on the defendant(s) along with the Summons and Complaint.

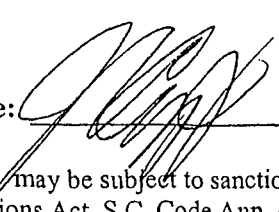
DOCKETING INFORMATION (Check all that apply)

**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 | Torts - Professional Malpractice | Torts - Personal Injury | Real Property |
| ☐ Constructions (100) | ☐ Dental Malpractice (200) | ☐ Assault/Slander/Libel (300) | ☐ Claim & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Conversion (310) | ☐ Condemnation (410) |
| ☐ Employment (120) | ☐ Medical Malpractice (220) | ☐ Motor Vehicle Accident (320) | ☐ Foreclosure (420) |
| ☐ General (130) | ☒ Notice/ File Med Mal (230) | ☐ Premises Liability (330) | ☐ Mechanic's Lien (430) |
| ☐ Breach of Contract (140) | ☐ Other (299) | ☐ Products Liability (340) | ☐ Partition (440) |
| ☐ Other (199) | | ☐ Personal Injury (350) | ☐ Possession (450) |
| | | ☐ Wrongful Death (360) | ☐ Building Code Violation (460) |
| | | ☐ Other (399) | ☐ Other (499) |
-
- | | | | |
|--|--|---|--|
| Inmate Petitions | Judgments/Settlements | Administrative Law/Relief | Appeals |
| ☐ PCR (500) | ☐ Death Settlement (700) | ☐ Reinstate Driver's License (800) | ☐ Arbitration (900) |
| ☐ Sexual Predator (510) | ☐ Foreign Judgment (710) | ☐ Judicial Review (810) | ☐ Magistrate-Civil (910) |
| ☐ Mandamus (520) | ☐ Magistrate's Judgment (720) | ☐ Relief (820) | ☐ Magistrate-Criminal (920) |
| ☐ Habeas Corpus (530) | ☐ Minor Settlement (730) | ☐ Permanent Injunction (830) | ☐ Municipal (930) |
| ☐ Other (599) | ☐ Transcript Judgment (740) | ☐ Forfeiture (840) | ☐ Probate Court (940) |
| | ☐ Lis Pendens (750) | ☐ Other (899) | ☐ SCDOT (950) |
| | ☐ Other (799) | | ☐ Worker's Comp (960) |
| | | | ☐ Zoning Board (970) |
| | | | ☐ Administrative Law Judge (980) |
| | | | ☐ Public Service Commission (990) |
| | | | ☐ Employment Security Comm (991) |
| | | | ☐ Other (999) |
-
- | | |
|--|---|
| Special/Complex /Other | |
| ☐ Environmental (600) | ☐ Pharmaceuticals (630) |
| ☐ Automobile Arb. (610) | ☐ Unfair Trade Practices (640) |
| ☐ Medical (620) | ☐ Out-of State Depositions (650) |
| ☐ Other (699) | |

Submitting Party Signature: 

Date: 9-12-08

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, 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

Allendale, Anderson, Beaufort, Colleton, Florence, Greenville,
Hampton, Horry, Jasper, Lexington, Pickens (Family Court Only), and Richland

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 CLARENDON

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Ronald Grubb as PR of the Estate of,
Joyce Grubb

Plaintiff,

-vs.-

Clarendon Memorial Hospital and
D. Maxwell Egbonim, M.D.

Defendant.

C/A No.: 2008-CP-14-472

**NOTICE OF INTENT TO
FILE SUIT**

The Plaintiff, by and through his undersigned counsel, for his Notice of Intent to File Suit against the Defendants, does hereby respectfully allege as follows:

1. The Plaintiff, Ronald Grubb as personal representative of the estate of Joyce Grubb, were citizens and residents of the County of Clarendon, State of South Carolina
2. Upon information and belief, Clarendon Memorial Hospital (hereinafter referred to as "CMH") is a corporation organized and existing under the laws of the State of South Carolina.
3. That D. Maxwell Egbonim, M.D. is a citizen and resident of the State of South Carolina (hereinafter referred to as "Egbonim"). That Egbonim is a medical doctor, registered with the State of South Carolina. The plaintiff is informed and believes that at all times relevant hereto Egbonim was operating within the course and scope of his employment and/or agency with Clarendon Memorial Hospital.
4. That the nursing staff and various medical providers at CMH were agents, servants and employees of CMH at all times alleged herein.

9/12/08

5. On or about September 1, 2006, Plaintiff Joyce Grubb, a 29 year old female presented herself to the Emergency Department at CMH with complaints of right sided chest pain for two weeks with shortness of breath for a week.

6. During the Emergency Department examination, the Plaintiff was diagnosed with right lower lobe pneumonia and was admitted to the hospital.

7. Plaintiff was transferred to Richland Memorial Hospital on September 8, 2006 where she passed away on September 14, 2006.

FOR A FIRST CAUSE OF ACTION

8. That Defendants did undertake the duty to render medical services to Plaintiff in accordance with the prevailing and acceptable professional standards of care for hospitals and its employees and agents in the national community.

9. Notwithstanding said undertaking and while Plaintiff was under the care of the Defendants, said Defendants by and through its agents, servants and employees departed from prevailing and acceptable professional standards of care and treatment of Plaintiff and were thereby negligent, careless, willful, wanton, grossly negligent, reckless and in violation of the duties owed to Plaintiff, in that they were guilty of one or more of the following acts or omission or commission, any or all of which were departures from the prevailing and acceptable professional standards of care:

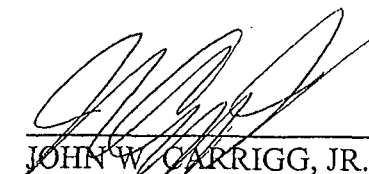
- a. By failing to completely document all medical care and treatment rendered to the patient; by failing to properly notify medical doctors and other specialists of her condition; in failing to provide adequate medical care to plaintiff;
- b. By tampering with the patient's medical record;
- c. By failing to supply an accurate non-tampered medical record to the personal representative of the estate;

- d. By failing to accurately diagnosis the patient; and notifying the appropriate medical providers of her condition;
- e. By failing to accurately treat the patient due to the failure of accurately diagnosing the patient;
- f. By failing to effectively monitor patient during her course of stay; and in failing to notify the appropriate medical providers of her condition;
- g. By failing to establish and follow a hospital policy/protocol for documenting patient's progress and notifying family members of same;
- h. Along with such other particulars of negligence that may be proven at the trial of the case.

10. As a direct and proximate result of the acts of omissions or commissions of the Defendants by and through its agents, servants, physicians and employees, the Plaintiff suffered physical pain and permanent injury and emotional damage causing her death.

WHEREFORE HAVING FULLY COMPLAINED OF THE DEFENDANTS, the Plaintiff would pray for actual and punitive damages in an amount to be determined, the costs of this action, and such other and further relief as the Court deems just and proper.

Respectfully Submitted By:



JOHN W. CARRIGG, JR.
1492 Lake Murray Blvd.
Columbia, South Carolina 29212
Phone (803) 407-5354

9-12, 2008
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Ronald Grubb as PR of the Estate of)
Joyce Grubb)
Plaintiff,)

C/A No.: 2008-CP-14-472

-vs.-

AFFIDAVIT OF
TAMMY J. GASKINS, RN, BSN, CLNC

CLARENDON MEMORIAL HOSPITAL)
And D. Maxwell Egbonim)
Defendants.)
_____)

Personally appeared before me Tammy J. Gaskins, RN, BSN, CLNC, who after being
duly sworn deposes and says as follows,

1. That I am Tammy J. Gaskins, and I have been retained to review an incident that
occurred to Joyce Grubb at Clarendon Memorial Hospital for the period of September 1, 2006
through September 8, 2006.

2. I am a registered nurse, registered with the State of South Carolina since 1990. I
have a Bachelor of Science degree in nursing conferred by the Medical University of South
Carolina in 1990. I am a certified legal nurse consultant and was certified in November of 2005.
I have attached my Curriculum Vitae hereto and incorporate the same herein.

3. I have reviewed the triage assessment and physical exam, labs, nurses' notes, ED
order sheet, physician's order sheets, MAR sheets, admission and discharge summaries along
with any and all information provided by Clarendon Memorial Hospital for the period in
question.

9/12/08

4. On September 1, 2006, Joyce Grubb presented to the Emergency Department at Clarendon Memorial Hospital with complaints of "pain from scapula region radiating into chest and shoulder", she also had complaints of nausea and vomiting "3 x last night" along with shortness of breath. She was diagnosed with right lower lobe pneumonia, uncontrolled type II diabetes mellitus and pleuritic chest pain. She was admitted into the hospital on September 1, 2006.

5. In my opinion to a reasonable degree of nursing certainty the nurses at Clarendon Memorial Hospital deviated from the accepted standard of care in properly documenting the medical record and notifying the physicians of changes occurring with the patient for the time period of September 1, 2006 through September 8, 2006.

6. In particular the nurses deviated from the accepted standard of care by not notifying the physician and/or documenting the medical file for certain circumstances that the patient was having includes but is not limited to the following:

- a) On September 3, 2006, the RN on duty noted that there was decreased/diminished under the respiratory assessment, however no where is it documented that this was brought to the physician's attention.
- b) Referring to the above incident, it could have been brought to the physician's attention and an order given however, the according to the physician's order sheet, there is a "black block out" on that date. On the same date there is also a "black block out" on the M.A.R. sheet.
- c) Patient progress notes from 09/04/06 06:10 to 09/05/06 06:18 shift summary missing.
- d) Again on September 5, 2006, the RN on duty noted that there was decreased/diminished under the respiratory assessment, however no where is it documented that this was brought to the physician's attention
- e) Again, there is a "black block out" on the physician's order sheet for what appears to be the dates of 09/07/06 and 09/08/06.

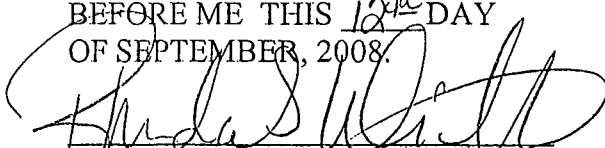
- f) On September 6, 2006, the same assessment is made under respiratory with no documentation that the physician is notified.
- g) Patient progress notes dated 09/07/06 through 09/08/06 time stamp 20:13; patient complains of chest tightness all the time. Again, no physician is called or there is no documentation of a physician being notified. It is also noted that the patient's cheeks are red and warm to the touch, there is generalized weakness, and dyspnea on exertion, and the patient has sputum that is thick and tan in color. Again, there is no documentation that the physician was notified.
- h) 09/08/06 at 00:47 patient continues to cough up large amount of tan color sputum. 01:56 comfort measures administered to assist patient with rest.
- i) 09/08/06 at 07:57 blood pressure 120/66; O2 sat is 98% no other comments are made by the nurse just vital signs taken. At 8:40 a.m. patient's physician is called about the emesis from the night shift and a CBC is ordered "now". 9:00 a.m. physician calls and orders PT/PTT/INR type and cross for 2 units PRBC's. At 09:35 nurse is in to do neuro checks and vital signs. Blood pressure is now 82/62 and the O2 sat is 70%. Physician calls in another order for a chest x-ray and NG tube, however, do not know what time this was as the chart is not properly documented. By 12:00 then next a nurse documents the patient progress notes for 09/08/06 the patient is intubated on ventilator and non-responsive. No explanation as to how this came about from nurses or physician.

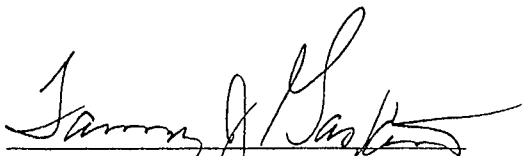
6. In this case the nurses that were administering care and treatment to the patient deviated from the accepted nursing standard of care in the following particulars, among others:

- a) Failed to completely document all medical care and treatment rendered to the patient.
- b) Tampered with the patient's medical record.
- c) Failed to effectively monitor the patient during her course of stay.
- e) Failed to establish and follow a hospital policy/protocol for documenting patient's progress.
- f) Failed to notify physician of all changes that were occurring which lead up to the death of the patient.
- g) Failed to effectively monitor the patient.

Further affiant sayeth not.

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 12th DAY
OF SEPTEMBER, 2008.


NOTARY PUBLIC FOR SC
MY COMM EXP. 06/21/2016


Tammy J. Gaskins, RN, BSN, CLNC

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Ronald Grubb as the PR of the Estate of,)
Joyce Grubb)
Plaintiff,)

C/A No.: 2008-CP-14-472

-vs.-

**PLAINTIFF'S ANSWERS TO
STANDARD INTERROGATORIES**

CLARENDON MEMORIAL HOSPITAL)
D. MAXWELL EGBONIM)
Defendant.)

The plaintiff answers Standard Interrogatories as follows:

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 witnesses and indicate who has possession of such statements.

ANSWER:

Medical Providers
Clarendon Memorial Hospital
Post Office Box 550
Manning, SC 29102
(Medical records and reports in possession of Plaintiff)

Witness is a treating physician of Plaintiff and will testify regarding Plaintiff's injuries and damages and the treatment administered to Plaintiff on account thereof. Witness will testify as to his or her knowledge of the accident and to his or her opinion based upon his or her examinations and treatment of Plaintiff.

Medical Providers
Black River Healthcare-Manning
12 W. South Street
Manning, South Carolina 29102
(Medical records and reports in possession of Plaintiff)

Witness is a treating physician of Plaintiff and will testify regarding Plaintiff's injuries and damages and the treatment administered to Plaintiff on account thereof. Witness will testify

as to his or her knowledge of the accident and to his or her opinion based upon his or her examinations and treatment of Plaintiff.

Medical Providers
Palmetto Richland
Five Richland Medical Park
Columbia, SC 29203

Witness is a treating physician of Plaintiff and will testify regarding Plaintiff's injuries and damages and the treatment administered to Plaintiff on account thereof. Witness will testify as to his or her knowledge of the accident and to his or her opinion based upon his or her examinations and treatment of Plaintiff.

Ronald Grubb
(address to be provided)
(No statement in possession of Plaintiff)

Witness is the Husband of the Plaintiff and will testify regarding the facts and circumstances of the injury and to the damages incurred by plaintiff along with other facts and circumstances which she observed.

Rebecca Turner
(address to be provided)
(No statement in possession of Plaintiff)

Witness is the Sister of the Plaintiff and will testify regarding the facts and circumstances of the injury and to the damages incurred by plaintiff along with other facts and circumstances which he observed.

Crissy Miles
(address to be provided)
(No statement in possession of Plaintiff)

Witness is the Sister of the Plaintiff and will testify regarding the facts and circumstances of the injury and to the damages incurred by plaintiff along with other facts and circumstances which he observed.

Charlene Barkley
(address to be provided)
(No statement in possession of Plaintiff)

Witness is the Sister of the Plaintiff and will testify regarding the facts and circumstances of the injury and to the damages incurred by plaintiff along with other facts and circumstances which she observed.

Kimberly Rogers
(address to be provided)
(No statement in possession of Plaintiff)

Witness is the Sister of the Plaintiff and will testify regarding the facts and circumstances of the injury and to the damages incurred by plaintiff along with other facts and circumstances which he observed.

All medical providers who treated plaintiff for injuries

All witnesses now known or later identified

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.

ANSWER:

Death Certificate, Certificate of Appointment

Medical records, reports and bills

Affidavit of Tammy J. Gaskins, RN, BSN, CLNC

3. Set forth the names and addresses of all physicians who have treated the party and all hospitals to which the party has been committed in connection with said injuries and also set forth a statement of all medical costs involved.

ANSWER:

Clarendon Memorial Hospital
Post Office Box 550
Manning, SC 29102

Black River Healthcare-Manning
12 W. South Street
Manning, South Carolina 29102

Palmetto Richland
Five Richland Medical Park
Columbia, SC 29203

Additional medical bills of the Plaintiff will be submitted once the final bills are received. Plaintiff reserves the right to supplement this interrogatory as may become necessary.

4. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers of the policies involved and the amounts of liability coverage provided in each policy.

ANSWER:

N/A

5. Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained by the party.

ANSWER:

See the medical expenses above; as well as permanent injury, emotional distress, and loss of life.

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

ANSWER:

Tammy Gaskins, RN, BSN, CLNC
1 Fenlaw Court
Irmo, SC 29063

(Affidavit in possession of Plaintiff)

Witness is a registered nurse, registered with the State of South Carolina, and will testify regarding her opinions in this matter.

Plaintiff further reserves the right to call medical providers as expert witnesses.

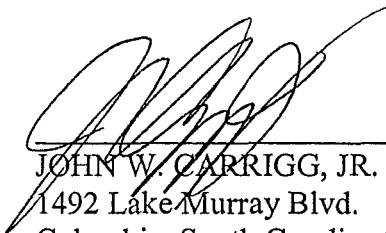
7. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witness.

ANSWER:

See answer to interrogatory number one (1).

{signature page to follow}

Respectfully Submitted By:



JOHN W. CARRIGG, JR.
1492 Lake Murray Blvd.
Columbia, South Carolina 29212
Phone (803) 407-5354

9-12-, 2008
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Ronald Grubb as PR of the Estate of,)
Joyce Grubb)
Plaintiff,)

C/A No.: 2008-CP-14-472

-vs.-

**INTERROGATORIES TO DEFENDANT
CLARENDON MEMORIAL HOSPITAL**

CLARENDON MEMORIAL HOSPITAL)
AND D. MAXWELL EGBONIM, M.D.)
)
Defendants.)

9/12/08

TO:

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, the Plaintiff's hereby serve the following Interrogatories on the Defendants and request that these Interrogatories be answered and answers be served upon the undersigned attorney for the Plaintiffs. After so answering the following Interrogatories, should further information called for therein come to the Defendant's knowledge, the Defendants are required to promptly transmit such information, by supplemental answers to the Interrogatories, to the undersigned attorney in accordance with Rule 26(e) of the South Carolina Rules of Civil Procedure.

DEFINITIONS

I. "Document(s)" include with limitation all writings, notes, letters, reports, memoranda, drawings, graphs, charts, correspondence, photographs, x-rays, phone-records, tapes and other data compilations of whatsoever kind and description from which information can be obtained, in the actual or constructive possession, custody, care of control of defendants or their attorney.

II. "Identify" when used with respect to a document means to state the type of document (e.g. letter), author, addressee, date and its present location and custodian. When used with

respect to a person it means to state his or her name, last known address, and last known place of employment.

INTERROGATORIES

III. Give the names and complete addresses and places of employment of all persons known to the parties or counsel who are witnesses concerning the facts of the case and:

- (a) indicate whether or not written or recorded statements have been taken from the witnesses. If written, please attach a copy of same to your answer. If recorded, please make available for inspection and copying pursuant to Rule 34 of the South Carolina Rules of Civil Procedure at a convenient time and place;
- (b) indicate who has possession of such statements;
- (c) include the names and addresses of all persons known to you, your attorneys, or anyone acting in your behalf who investigated the incident alleged in the Complaint, who have or may have knowledge or information relative to matters alleged in the Complaint.

AS TO DEFENDANTS CLARENDON MEMORIAL HOSPITAL

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, the Plaintiff's hereby serve the following Interrogatories on the Defendants and request that these Interrogatories be answered and answers be served upon the undersigned attorney for the Plaintiffs. After so answering the following Interrogatories, should further information called for therein come to the Defendant's knowledge, the Defendants are required to promptly transmit such information, by supplemental answers to the Interrogatories, to the undersigned attorney in accordance with Rule 26(e) of the South Carolina Rules of Civil Procedure.

- 1. State the full name and address of the person answering and, if different, the full name and address of the individual signing the answers.
- 2. Do you know of any statements made by any person relating to the care and treatment of the plaintiff or the damages alleged of in the complaint? If so, give the name and

address of each such witness and the date of the statement, and state whether such statement was written or oral and if written the present location of each such statement.

3. Has Clarendon Memorial Hospital been named as a defendant in a lawsuit arising from alleged malpractice or professional negligence during the 8 year period preceding the filing of this lawsuit? If so, state the court, the caption and the case number for such lawsuit.

4. State whether Clarendon Memorial Hospital was named or covered under any policy or policies of medical liability insurance at the time of the care or treatment alleged in the complaint? If so, state for each policy:

- a. The name of the insurance company;
- b. The policy number;
- c. The effective policy period;
- d. The maximum liability limits for each person and each occurrence, including umbrella and excess liability coverage; and
- e. The named insured(s) under each policy.

5. State whether any hearing was held regarding the care and treatment of the plaintiff alleged in the Complaint.

6. State the name, author, publisher, title, date of publication and specific provision of all medical texts, books, journals or other medical literature which you or your attorney intend to use as authority or reference in defending any of the allegations set forth in the Complaint.

7. Identify each and every rule, regulation, by-law or other document of any hospital, association, licensing authority, accrediting authority or other private body which you, or your attorneys, may use at trial in defense of the allegations contained in the Complaint..

8. State whether there were any policies, procedures, guidelines, rules or protocols for the nursing staff in contacting physicians and or other medical providers, specialists, etc., in

maintaining and providing medical treatment and care to patients in effect at Clarendon Memorial Hospital at the time of the care and/or treatment of the plaintiff alleged in the Complaint. If so, state:

- a. Whether such policies, procedures, opinions, rules or protocols are published and by whom;
- b. The effective date of said policies, procedures, guidelines, rules or protocols;
- c. Which medical professionals are bound by said policies, procedures, guidelines, rules or protocols;
- d. Who is the administrator of any such policies, procedures, guidelines, rules or protocols;
- e. Whether the policies, procedures, guidelines, rules or protocols in effect at the time of the occurrence alleged in the Complaint have been changed, amended or altered after the occurrence. If so, state the change(s) and the date(s) of any such change(s).

9. Were any of the Defendants an employee, agent, servant, shareholder or partner of Clarendon Memorial Hospital at the time of the care or treatment of the plaintiff alleged in the Complaint? If so, state with specificity the nature of the relationship.

10. State for each person who directly or indirectly was involved in the care or treatment of the plaintiff alleged in the Complaint:

- a. That person's full name and current residence address;
- b. The name and current address of that person's employer;
- c. The employment relationship of that person with Clarendon Memorial Hospital;
- d. The date(s) of such person's care or treatment, including a description of the care or treatment;
- e. The name and current address of any other individual present when the care or treatment was rendered.

11. Were any photographs, movies and/or videotapes taken of the plaintiff or of the procedures complained of? If so, state the date(s) on which such photographs, movies and/or

videotapes were taken, who is displayed therein, who now has custody of them, and the name, address, occupation and employer of the person taking them.

12. Have you (or has anyone acting on your behalf) had any conversations with any person at any time with regard to the manner in which the care and treatment alleged in the complaint was provided, or have you overheard any statement made by any persons at any time with regard to the injuries complained of by the plaintiff or the manner in which the care and treatment alleged in the complaint was provided? If so, state:

- a. The date or dates of such conversation(s) and/or statements(s);
- b. The place of such conversation(s) and/or statement(s);
- c. All persons present for the conversation(s) and/or statement(s);
- d. The matters and things stated by the person in the conversation(s) and/or statement(s);
- e. Whether the conversation(s) was oral, written and/or recorded; and
- f. Who has possession of the statement(s) if written and/or recorded.

13. Do you have any information:

- a. That the plaintiff was, within the 10 years immediately prior to the care and treatment alleged in the complaint, confined in a hospital and/or clinic, treated by a physician and/or other health professional, or x-rayed for any reason other than personal injury? If so, state the name of each plaintiff so involved, the name and address of each such hospital and/or clinic, physician, technician and/or other health care professional, the approximate date of such confinement or service and state the reason for such confinement or service.
- b. That the plaintiff has suffered any serious personal injury and/or illness within 10 years prior to the date of the occurrence? If so, state the name of each plaintiff so involved and state when, where and how he or she was injured and/or ill and describe the injuries and/or illness suffered.
- c. That the plaintiff has suffered any serious personal injury and/or illness since the date of the occurrence? If so, state the name of each plaintiff so involved and state when, where and how he or she was injured and/or ill and describe the injuries and/or illness suffered.

d. That any other suit has been filed for any plaintiff's personal injuries? If so, state the name of each plaintiff involved, the nature of the injuries claimed, the court(s) and caption(s) in which filed, the year(s) filed, and the title(s) and docket number(s) of the suit(s).

e. That any claim for workers' compensation benefits has been filed for any plaintiff? If so, state the name and address of the employer, the date(s) of the accident(s), the identity of the insurance company that paid any such benefits and the case number(s) and jurisdiction(s) where filed.

14. Provide the name and address of each witness who will testify at trial and state the subject of each witnesses' testimony.

15. Provide the name and address of each opinion witness who will offer any testimony and state:

a. The subject matter on which each opinion witness is expected to testify;

b. The conclusions and/or opinions of each opinion witness and the basis therefore, including whether reports have been prepared by each such witness and, if so, attach copies of the reports, if any;

c. The qualifications of each opinion witness, including a curriculum vitae and/or résumé and attach copies, if any; and

d. Whether or not the opinion witness has been retained by you to testify at trial.

16. Have you retained any others expert(s), or consultants to testify on your behalf at trial or to assist you in any other way. If so, for each retained expert, state:

a. The expert's area(s) of expertise;

b. The expert's qualifications, including a curriculum vitae and/or résumé, if any; and

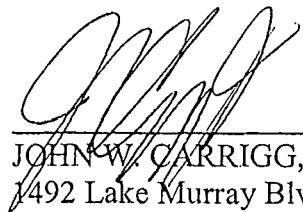
c. The conclusions and/or opinions and bases therefore, including whether written reports have been prepared by the expert(s) and, if so, attach copies of the reports, if any.

17. Identify any statements, information and/or documents known to you and requested by any of the foregoing interrogatories which you claim to be work product or subject

to any common law or statutory privilege, and with respect to each interrogatory, specify the legal basis for the claim.

18. List the name and address of all persons (other than yourself and persons heretofore listed) who have knowledge of the facts of the care and treatment complained of in the complaint filed herein and/or of the injuries claimed to have resulted therefrom.

By:



JOHN W. CARRIGG, JR.
1492 Lake Murray Blvd.
Columbia, South Carolina 29212
Phone (803) 407-5354
Attorney for Defendant

9/12, 2008
Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

Ronald Grubb as PR of the Estate of,
Joyce Grubb

Plaintiff,

-vs.-

CLARENDON MEMORIAL HOSPITAL;
D. MAXWELL EGBONIM, M.D.

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

C/A No.: 2008-CP-14-472

**INTERROGATORIES TO DEFENDANT
D. MAXWELL EGBONIM, M.D.**

FILED IN THE CLERK'S OFFICE

9/12/08

TO:

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, the Plaintiff's hereby serve the following Interrogatories on the Defendants and request that these Interrogatories be answered and answers be served upon the undersigned attorney for the Plaintiffs. After so answering the following Interrogatories, should further information called for therein come to the Defendant's knowledge, the Defendants are required to promptly transmit such information, by supplemental answers to the Interrogatories, to the undersigned attorney in accordance with Rule 26(e) of the South Carolina Rules of Civil Procedure.

DEFINITIONS

1. "Document(s)" include with limitation all writings, notes, letters, reports, memoranda, drawings, graphs, charts, correspondence, photographs, x-rays, phone-records, tapes and other data compilations of whatsoever kind and description from which information can be obtained, in the actual or constructive possession, custody, care of control of defendants or their attorney.
2. "Identify" when used with respect to a document means to state the type of document (e.g. letter), author, addressee, date and its present location and custodian. When used with

respect to a person it means to state his or her name, last known address, and last known place of employment.

INTERROGATORIES

1. Give the names and complete addresses and places of employment of all persons known to the parties or counsel to witnesses concerning the facts of the case and:

- (a) indicate whether or not written or recorded statements have been taken from the witnesses. If written, please attach a copy of same to your answer. If recorded, please make available for inspection and copying pursuant to Rule 34 of the South Carolina Rules of Civil Procedure at a convenient time and place;
- (b) indicate who has possession of such statements;
- (c) include the names and addresses of all persons known to you, your attorneys, or anyone acting in your behalf who investigated the incident alleged in the Complaint, who have or may have knowledge or information relative to matters alleged in the Complaint.

AS TO DEFENDANTS

1. What is the name and address of each medical school of which you attended, the degrees received and the inclusive dates you attended each school?

2. In what states are you now, or have you been licensed to practice medicine and in what year did you receive your license to practice in each state?

3. Did you ever make an oral agreement with the plaintiff concerning his treatment? If so, for each oral agreement, state:

- a. The date and place it was made;
- b. A description of each promise made by you under the agreement;
- c. A description of each promise made by the plaintiff under the agreement;
- d. The name and address of each person present at the time it was made; and
- e. Whether a written record was made of the agreement, and if so, the name and addresses of the person who has custody of any written record.

4. Did you make a written agreement with plaintiff concerning his treatment? If so, for each written agreement, state:

- a. The date and place it was made;
- b. A description of the subject matter of the agreement; and
- c. The name and address of each person who has custody of it.

5. Did you ever refuse to attend plaintiff or indicate that you were unable to do so? If so, for each such occasion, state:

- a. Whether you refused or whether you were unable to attend to plaintiff;
- b. The date and time of such refusal or inability; and
- c. The reason you refused or were unable to attend plaintiff.

6. Did you obtain any information concerning plaintiff's medical history prior to [date of incident]. If so, for each occasion when you obtained such information, state:

- a. Whether you obtained the information from plaintiff;
- b. Whether you obtained the information from a person other than plaintiff, and, if so, the name, address and relationship to plaintiff of each such person;
- c. The date and place you obtained the information;
- d. A description of the information you obtained; and
- e. Whether you made any record of the information, and, if so, identify each record you made.

7. Did you make a diagnosis, either preliminary or final, prior to [date of incident] of plaintiff's condition? If so, for each diagnosis, state:

- a. The date and time you made it;
- b. Whether it was a final or preliminary diagnosis;
- c. A description of the diagnosis you made;
- d. A description of the symptoms or facts on which you based your diagnosis;
- e. Whether you consulted anyone or studied some medical treatise in arriving at the diagnosis, and, if so, the name and address of each person consulted and the title, name of author and page reference of each medical treatise you consulted;
- f. Whether you made a record of the diagnosis, and, if so, whether the record is in your custody or control; and
- g. Whether plaintiff was informed.

8. Did you ever consult with any other medical practitioner concerning the diagnosis and treatment of plaintiff's condition? If so, for each practitioner you consulted, state:

- a. His name and address, specialty and qualifications;
- b. Each date you consulted him;
- c. The method by which you communicated with him;
- d. The reason that you consulted him;
- e. A description of each matter concerning plaintiff about which you consulted him;
- f. A description of each opinion and piece of advice he gave;
- g. Whether you agreed with his opinion or advice, and, if not, a description of each matter in which you disagreed and of the reason you disagreed; and
- h. Whether a record was made of the consultation, and, if so, identify each record and the name and address of the person who has custody of it.

9. Did you ever refer plaintiff to another medical practitioner? If so, for each such referral, state:

- a. The name, address, specialty and qualifications of each practitioner to whom you referred the plaintiff;
- b. The date; and
- c. A description of the reason that prompted you to refer plaintiff to each such practitioner.

10. Did you ever knowingly withhold any fact from plaintiff concerning your opinion of his condition or of the treatment necessary? If so, state:

- a. A description of each fact you withheld; and
- b. The reason you withheld each such fact.

11. Were you aware that there was a risk involved in the type of treatment you proposed to give to plaintiff? If so, state:

- a. A description of each risk of which you were aware;
- b. Whether you were aware of each risk at the time you undertook the treatment, and, if no, the date and time you became aware of each risk;
- c. Whether the standard of practice of medical practitioners in the area in which you practice is to warn patients of such risk; and
- d. Whether you warned plaintiff.

12. Did you advise or warn plaintiff concerning the possible risk or result of the treatment? If so, for each such occasion when you so advised or warned plaintiff, state:

- a. The date, time and place;
- b. A description of the advice or warning given plaintiff;
- c. What plaintiff said in reply;
- d. The reason you gave the advice or warning; and
- e. The name and address of each person present at the time you gave the advice or warning.

13. Did any other physician or surgeon assist with each treatment? If so, for each such person, state:

- a. His name, address and specialty;
- b. A description of the assistance he gave; and
- c. The reason he assisted.

14. What precautions should a medical practitioner take in performing the type of treatment which you performed on plaintiff?

15. Did you take these precautions or any of them? If so, describe each precaution taken by you.

16. Describe plaintiff's condition immediately after each operation.

17. Had you previously performed treatments identical or similar to the treatments performed on plaintiff? If so, state:

- a. The total number of such treatments you had performed;
- b. The name and address of each hospital in which you performed each such treatment and the total number of said treatments you performed in each hospital;
- c. Whether any such treatment was not considered successful and the name and address of each person on whom an unsuccessful treatment was performed; and
- d. Whether a record was made of any such treatment, and, if so, identify each such record and the name and address of the person who has custody of it.

18. Was a clinical record or other record or report of plaintiff's operation made? If so, for each such record or report, state:

- a. Its name, designation or description; and
- b. The name, address and capacity of the person who made it.

19. Did you prescribe or administer any drug or medication to the plaintiff? If so, for each such drug or medication, state:

- a. Its name, designation or description;
- b. The name of its manufacturer;
- c. The date and time of each occasion when you prescribed or administered it;
- d. For what length of time you prescribed or administered it;
- e. The dosage and concentration you prescribed or administered;
- f. Whether you made each prescription in writing or by telephone;
- g. A description of the purpose for which you prescribed or administered it;
- h. A description of the effect it had on plaintiff;
- i. Whether it has been known to produce any side effects, and, if so, a description of such effects;
- j. Whether you warned plaintiff of the risks of any side effects from taking it, and, if so, a description of what you warned plaintiff; and
- k. Whether it is the general practice among physicians of your specialty in the community in which you practice to use the drug or medication for the purpose for which you used it on plaintiff.

20. Were you ever aware that plaintiff's condition was not responding satisfactorily to your treatment? If so, for each occasion that led to such awareness, state:

- a. The date and time;
- b. The means by which you received the notice;

- c. The name and address of each person who gave you notice; and
- d. Whether you changed the treatment or took any other action, and, if so, indicate the change made or action taken, the date and the result.

21. Did the plaintiff or anyone in his behalf consent to the treatment you performed on him? If so, for each such consent, state:

- a. The name of each person who gave it;
- b. The date and place it was given;
- c. The type and extent of the treatment to which it was given;
- d. The form in which each person gave it; and
- e. Whether given in writing, and, if so, the name and address of the person who has custody of such writing.

22. Did any complication manifest itself in the course of or subsequent to any treatment given by you to plaintiff? If so, for each complication, state:

- a. A description of it;
- b. The date and time it manifested itself;
- c. The date and time you first became aware of it;
- d. The means by which you became aware of it;
- e. A description of the steps or action you took in dealing with it;
- f. The date and time you took such steps or action;
- g. Whether you have any opinion as to the cause of it, and, if so, give your opinion, the facts on which you base such opinion, and the title of each medical writing which supports such opinion; and
- h. Whether a record was made of the complication, and, if so, identify each record and the name and address of the person who has custody of it.

23. Did you examine plaintiff on completion of your treatment? If so, state the date of the examination.

24. Did plaintiff make any complaint about the treatment of his condition, and, if so, indicate the complaint made.

25. Did you have notice of any disability suffered by plaintiff which was allegedly caused by your treatment? If so, for each notice, state:

- a. The date you received it;
- b. A description of each disability of which you had notice; and
- c. The means by which you received the notice.

26. Did you feel that the type of treatment performed by you on plaintiff was the correct one? If not, for what reason did you consider it an incorrect treatment?

27. Were you satisfied with the result of the treatment performed by you on plaintiff?
If not, state:

- a. The reason you were dissatisfied;
- b. The date you became dissatisfied; and
- c. Whether you took any steps or action as a result of your dissatisfaction, and, if so, describe the steps or action taken.

28. Did you suffer from any physical defect at the time of the occurrences complained of in this action? If so, for each physical defect, state:

- a. A description of it;
- b. Whether it incapacitated you in any way, and, if so, in what way and to what extent; and
- c. Whether because of it you had more difficulty in performing plaintiff's treatment than would have been the case had such defect not been present.

29. Had you taken any drug in the 24 hours preceding any occasion you attended plaintiff? If so, for each occasion, state:

- a. The name, quantity and strength of each drug taken;
- b. The date and time of each dosage;
- c. The date and time you attended plaintiff; and
- d. Whether you were affected physically or mentally by the drug, and, if so, in what way and to what extent.

30. Had you consumed an alcoholic beverage in the 24 hours preceding any occasion you attended plaintiff? If so, for each occasion, state:

- a. The name, type and quantity of alcoholic beverage consumed;
- b. The date and time you consumed each drink;
- c. The date and time you attended plaintiff; and
- d. The name and address of each person in your company or near you at the time you consumed the alcohol.

31. At the time of the occurrences complained of in this action, was there a policy of insurance covering you against claims arising out of malpractice? If so, for each policy, state:

- a. The name and address of the insurer;
- b. The number of the policy;
- c. The effective dates of the policy;
- d. The limits of liability; and
- e. The name and address of the custodian of the policy.

32. Did you make any oral or written report or give any other notice concerning any of the occurrences complained of in this action to any insurance company or broker? If so, for each report or notification, state:

- a. The date it was given;
- b. The name and address of the person to whom it was given;
- c. Whether written or oral; and
- d. The contents of the report or notification.

33. Do you have any office records or notes concerning plaintiff? If so, for each record or note, state:

- a. Its identity and subject matter;
- b. The dates it covered;
- c. The name and address of each person who made it;
- d. Whether it is complete, and, if not, what information is missing and for what reason;
- e. Whether an alteration has been made in it, and, if so, a description of each alteration, the date on which made, and the reason it was made;
- f. Whether recorded; immediately or after a delay and, if so, its identity, the length of delay and the reason for each such record; and
- g. Whether it has been kept in your custody at all times, and, if so, the name and address of each other person who has had custody of it and the date of each such custody.

34. Have you ever been a party to any lawsuit, civil or criminal, other than the present one? If so, for each lawsuit, state:

- a. The name of the suit;
- b. Your status therein;
- c. The kind of suit involved;
- d. The court in which it was filed; and
- e. The date it was filed.

35. Have you ever had a claim presented for any matter arising out of your medical practice? If so, for each claim, state:

- a. The date and place it was made;
- b. The name and address of the person who made it;
- c. The basis of the claim, indicating the type and extent of each injury claimed; and
- d. The outcome of it.

36. Do you have an opinion as to the cause of any disability which plaintiff alleges was caused by your malpractice? If so, state:

- a. What your opinion is; and
- b. The facts on which you base your opinion.

37. Do you contend that in treating plaintiff you did all that other doctors of your training, experience and specialty would have done?

38. If not, in what respects do you admit that you did not measure up to the general standard of medical practitioners in your community?

39. Do you contend that a person other than yourself was responsible for plaintiff's injuries? If so, for each such person, state:

- a. His name, address and job title or capacity; and
- b. The facts on which you base your contention that he was responsible for plaintiff's injuries.

By: _____


JOHN W. CARRIGG, JR.
1492 Lake Murray Blvd., Suite A
Columbia, South Carolina 29212
Phone (803) 407-5354
ATTORNEY FOR PLAINTIFF

Columbia, South Carolina

9/12, 2008

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

Ronald Grubb as PR of the Estate of Joyce Grubb

Plaintiff(s)

vs.

CLARENDON MEMORIAL HOSPITAL and
D. MAXWELL EGBONIM

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

~~2008 CP 14-472~~

2009-CP-14-439

2009 AUG -7 PM 4:12

CLERK OF COURT
CLARENDON COUNTY, SC

(Please Print)

Submitted By: John W. Carrigg, Jr.

Address: 1492 Lake Murray Blvd., Suite A

Columbia, South Carolina 29212

SC Bar #:

015239

Telephone #:

803-407-5354

Fax #:

803-407-5754

Other:

E-mail:

jcarrigg@carrigglaw.com

NOTE: The cover sheet 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 cover sheet 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 | Torts - Professional Malpractice | Torts - Personal Injury | Real Property |
| ☐ Constructions (100) | ☐ Dental Malpractice (200) | ☐ Assault/Slander/Libel (300) | ☐ Claim & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Conversion (310) | ☐ Condemnation (410) |
| ☐ Employment (120) | ☒ Medical Malpractice (220) | ☐ Motor Vehicle Accident (320) | ☐ Foreclosure (420) |
| ☐ General (130) | ☐ Notice/ File Med Mal (230) | ☐ Premises Liability (330) | ☐ Mechanic's Lien (430) |
| ☐ Breach of Contract (140) | ☐ Other (299) | ☐ Products Liability (340) | ☐ Partition (440) |
| ☐ Other (199) | | ☐ Personal Injury (350) | ☐ Possession (450) |
| | | ☐ Wrongful Death (360) | ☐ Building Code Violation (460) |
| | | ☐ Other (399) | ☐ Other (499) |

- | | | | |
|--|--|---|--|
| Inmate Petitions | Judgments/Settlements | Administrative Law/Relief | Appeals |
| ☐ PCR (500) | ☐ Death Settlement (700) | ☐ Reinstate Driver's License (800) | ☐ Arbitration (900) |
| ☐ Sexual Predator (510) | ☐ Foreign Judgment (710) | ☐ Judicial Review (810) | ☐ Magistrate-Civil (910) |
| ☐ Mandamus (520) | ☐ Magistrate's Judgment (720) | ☐ Relief (820) | ☐ Magistrate-Criminal (920) |
| ☐ Habeas Corpus (530) | ☐ Minor Settlement (730) | ☐ Permanent Injunction (830) | ☐ Municipal (930) |
| ☐ Other (599) | ☐ Transcript Judgment (740) | ☐ Forfeiture (840) | ☐ Probate Court (940) |
| | ☐ Lis Pendens (750) | ☐ Other (899) | ☐ SCDOT (950) |
| | ☐ Other (799) | | ☐ Worker's Comp (960) |
| | | | ☐ Zoning Board (970) |
| | | | ☐ Administrative Law Judge (980) |
| | | | ☐ Public Service Commission (990) |
| | | | ☐ Employment Security Comm (991) |
| | | | ☐ Other (999) |

CERTIFIED TRUE COPY

OF ORIGINAL FILED IN THIS OFFICE

- Special/Complex /Other**
- | | |
|--|---|
| ☐ Environmental (600) | ☐ Pharmaceuticals (630) |
| ☐ Automobile Arb. (610) | ☐ Unfair Trade Practices (640) |
| ☐ Medical (620) | ☐ Out-of State Depositions (650) |
| ☐ Other (699) | |

DATE: 8/17/09

Beverly S. Roberts

CLERK OF COURT
CLARENDON COUNTY, SC

Submitting Party Signature: _____

Date: 8/5/09

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

Allendale, Anderson, Beaufort, Colleton, Florence, Greenville,
Hampton, Horry, Jasper, Lexington, Pickens (Family Court Only), and Richland

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 CLARENDON

Ronald Grubb as PR of the Estate of,
Joyce Grubb

Plaintiff,

-vs.-

Clarendon Memorial Hospital and
D. Maxwell Egbonim, M.D.

Defendant.

IN THE COURT OF COMMON PLEAS

FOR THE THIRD JUDICIAL CIRCUIT

C/A No.: ~~08-CP-14-472~~

2009-CP-14-439

SUMMONS

2009 AUG -7 PM 4: 13

RECEIVED
CLERK OF COURT
CLARENDON COUNTY, SC

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Complaint on the subscriber at his offices, located at 1492 Lake Murray Blvd., Suite D (Post Office Box 2086, Irmo, South Carolina 29063) Columbia, South Carolina 29212, within thirty (30) days after the service hereof, exclusive of the date of such service; and if you fail to answer, appear and defend within thirty (30) days after service hereof, exclusive of the date of such service, judgment by default will be rendered against you for the relief demanded in the Complaint.

By:

JOHN CARRIGG

Post Office Box 2086

Irmo, South Carolina 29063

(803) 407-5354

ATTORNEY FOR PLAINTIFF

Columbia, South Carolina

Dated: 8/13/09

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

DATE

8/17/09

Beverly S. Roberts

CLERK OF COURT
CLARENDON COUNTY, SC

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Ronald Grubb as PR of the Estate of,
Joyce Grubb)
Plaintiff,)

C/A No.: ~~08-CP-14-472~~
2009-CP-14-439

-vs.-

COMPLAINT

Clarendon Memorial Hospital and
D. Maxwell Egbonim, M.D.)
Defendant.)

RECEIVED
CLERK OF COURT
CLARENDON COUNTY, SC
2009 AUG -7 PM 4:13

The Plaintiff, by and through his undersigned counsel, does hereby respectfully allege as follows:

1. The Plaintiff, Ronald Grubb as personal representative of the estate of Joyce Grubb, were citizens and residents of the County of Clarendon, State of South Carolina

2. Upon information and belief, Clarendon Memorial Hospital (hereinafter referred to as "CMH") is a corporation organized and existing under the laws of the State of South Carolina.

3. That D. Maxwell Egbonim, M.D. is a citizen and resident of the State of South Carolina (hereinafter referred to as "Egbonim"). That Egbonim is a medical doctor, registered with the State of South Carolina. The plaintiff is informed and believes that at all times relevant hereto Egbonim was operating within the course and scope of his employment and/or agency with Clarendon Memorial Hospital.

4. That the nursing staff and various medical providers at CMH were agents, servants and employees of CMH at all times alleged herein.

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE
DATE 8/7/09
Barbara S. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

5. On or about September 1, 2006, Plaintiff Joyce Grubb, a 29 year old female presented herself to the Emergency Department at CMH with complaints of right sided chest pain for two weeks with shortness of breath for a week.

6. During the Emergency Department examination, the Plaintiff was diagnosed with right lower lobe pneumonia and was admitted to the hospital.

7. Plaintiff was transferred to Richland Memorial Hospital on September 8, 2006 where she passed away on September 14, 2006.

FOR A FIRST CAUSE OF ACTION

8. That Defendants did undertake the duty to render medical services to Plaintiff in accordance with the prevailing and acceptable professional standards of care for hospitals and its employees and agents in the national community.

9. Notwithstanding said undertaking and while Plaintiff was under the care of the Defendants, said Defendants by and through its agents, servants and employees departed from prevailing and acceptable professional standards of care and treatment of Plaintiff and were thereby negligent, careless, willful, wanton, grossly negligent, reckless and in violation of the duties owed to Plaintiff, in that they were guilty of one or more of the following acts or omission or commission, any or all of which were departures from the prevailing and acceptable professional standards of care:

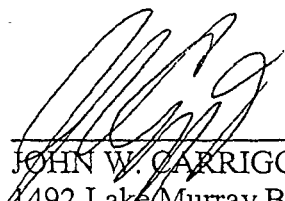
- a. By failing to completely document all medical care and treatment rendered to the patient; by failing to properly notify medical doctors and other specialists of her condition; in failing to provide adequate medical care to plaintiff;
- b. By tampering with the patient's medical record;
- c. By failing to supply an accurate non-tampered medical record to the personal representative of the estate;

- d. By failing to accurately diagnosis the patient; and notifying the appropriate medical providers of her condition;
- e. By failing to accurately treat the patient due to the failure of accurately diagnosing the patient;
- f. By failing to effectively monitor patient during her course of stay; and in failing to notify the appropriate medical providers of her condition;
- g. By failing to establish and follow a hospital policy/protocol for documenting patient's progress and notifying family members of same;
- h. Along with such other particulars of negligence that may be proven at the trial of the case.

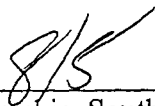
10. As a direct and proximate result of the acts of omissions or commissions of the Defendants by and through its agents, servants, physicians and employees, the Plaintiff suffered physical pain and permanent injury and emotional damage causing her death.

WHEREFORE HAVING FULLY COMPLAINED OF THE DEFENDANTS, the Plaintiff would pray for actual and punitive damages in an amount to be determined, the costs of this action, and such other and further relief as the Court deems just and proper.

Respectfully Submitted By:



JOHN W. CARRIGG, JR.
1492 Lake Murray Blvd.
Columbia, South Carolina 29212
Phone (803) 407-5354


_____, 2009
Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CLARENDON	)	THIRD JUDICIAL CIRCUIT
	)	
Ronald Grubb as PR of the Estate of, Joyce Grubb,	)	C/A No. 09-CP-14-439
	)	
	)	
Plaintiff,	)	ANSWER
	)	(Jury Trial Demanded)
Versus	)	
	)	
Clarendon Memorial Hospital and D. Maxwell Egbonim, M.D.,	)	
	)	
	)	
Defendants.	)	

COMES NOW the Defendant, Clarendon Memorial Hospital (hereinafter "this Defendant"), by and through its undersigned counsel, answering the Complaint of the Plaintiff, subject to the Motion to Dismiss filed herewith, as follows:

1. Defendant denies each and every allegation of the Plaintiff's Complaint that is not hereinafter specifically admitted.
2. The allegations of Paragraph 1 state conclusions of law which require no response.
3. In response to the allegations of Paragraph 2, this Defendant admits only so much as alleges that the Clarendon Memorial Hospital is a governmental healthcare facility as defined by the South Carolina Tort Claims Act and operates pursuant to statutory authority of the State of South Carolina. All remaining and inconsistent allegations are denied.
4. In response to the allegations of Paragraph 3, this Defendant admits only so much as alleges that Dr. Egbonim is a citizen and resident of the State of South Carolina and is a medical doctor registered with the State of South Carolina. All remaining and inconsistent allegations are denied.
5. This Defendant denies as written the vague allegations of Paragraph 4 of the Plaintiff's Complaint.

6. In response to the allegations of Paragraphs 5, 6, and 7, this Defendant admits only that on or about September 1, 2006, Joyce Grubb presented to the emergency department at Clarendon Memorial Hospital and was subsequently transferred to Richland Memorial Hospital. Further reference is made to the medical records, testimony of treating healthcare providers, and witness statements for a complete factual basis of all care, treatment, and diagnosis throughout the hospitalizations.

AS TO THE FIRST CAUSE OF ACTION

7. The allegations of Paragraph 8 state conclusions of law which require no response.

8. This Defendant denies the allegations of Paragraph 9, including subparts (a) through (h), and 10 being all the remaining allegations of the Complaint.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE

THIS DEFENDANT ALLEGE:

(Governmental Immunity/Tort Claims Act)

9. This Defendant realleges and incorporates by reference all its responses in Paragraphs 1 through 8 above as if fully repeated herein verbatim.

10. The provisions of the South Carolina Tort Claims Act, South Carolina Code Ann. § 15-78-10, et seq., including all subparts, apply to this action. This Defendant is a governmental entity as defined by South Carolina Code Ann. § 15-78-30 and as such immune from liability for any tort except as specifically waived by the South Carolina Tort Claims Act pursuant to South Carolina Code Ann. § 15-78-60, including all subparts. The South Carolina Tort Claims Act constitutes the exclusive remedy for any tort committed by the employee of the governmental entity who is acting within the scope of his or her employment. While this Defendant specifically denies that the Plaintiff is entitled to recover any damages as set out in the preceding paragraphs of this Answer, the limitations on liability provided in South Carolina Code Ann. § 15-78-120 apply to this action, including apportionment of damages. Accordingly, the Plaintiff is not entitled to recover

any award for damages that exceeds the limitation of liability set forth in S. C. Code Ann. § 15-78-120. Also, the Plaintiff is not entitled to recover punitive or exemplary damages or pre-judgment interest as set forth in S. C. Code Ann. § 15-78-120. Finally, this Defendant is not authorized to waive the State of South Carolina's sovereign immunity from suit for purposes of any claim by the Plaintiff which may be governed by the South Carolina Tort Claims Act. This Defendant has not intended to waive, and have not waived, the State of South Carolina's sovereign immunity.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
THIS DEFENDANT ALLEGES:
(No Deviation from Standard of Care)

11. This Defendant realleges and incorporates by reference all of its responses in Paragraphs 1 through 10 above as if fully repeated herein verbatim.

12. That the care and treatment administered by this Defendant conformed to and was in full compliance with the standard of care. All care and treatment administered by this Defendant was within acceptable medical standards and methods, and, at no time pertinent hereto, did this Defendant deviate from any medical standard while caring for or tending to the Plaintiff. Consequently, the Plaintiff is barred from recovery against this Defendant.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
THIS DEFENDANT ALLEGES:
(No Proximate Cause)

13. This Defendant realleges and incorporates by reference all of its responses in Paragraphs 1 through 12 above as if fully repeated herein verbatim.

14. That, even if this Defendant was negligent, as alleged in the Complaint, which is specifically denied, the negligence of this Defendant was not the direct or proximate cause of any injury alleged by the Plaintiff and therefore this Defendant is not liable for any damages allegedly sustained by the Plaintiff.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE
THIS DEFENDANT ALLEGES:
(Punitive Damages Unconstitutional)

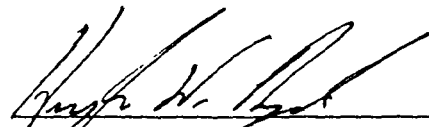
15. This Defendant realleges and incorporates by reference all of its responses in Paragraphs 1 through 14 above as if fully repeated herein verbatim.

16. That any award or assessment of punitive damages as prayed for by the Plaintiff would violate this Defendant's constitutional rights under the Fifth, Sixth and Fourteenth Amendments of the United States Constitution and comparable provisions of the South Carolina Constitution.

WHEREFORE having answered all of the allegations of the Plaintiff's Complaint and asserting the affirmative Defenses herein, this Defendant, Clarendon Memorial Hospital, hereby moves the Court for a dismissal of all claims, for costs and fees associated with the Defense of this action and for such other relief as the Court deems appropriate.

Respectfully submitted,

BUYCK & SANDERS LAW FIRM, LLC
757 Johnnie Dodds Blvd., Ste. 100
P.O. Box 2424
Mt. Pleasant, SC 29465-2424
Telephone: (843) 377-1400
Facsimile: (843) 377-1403
Email: hwb@buyckfirm.com



Hugh W. Buyck (S.C. Bar # 66462)
G. Wade Cooper (S.C. Bar # 69692)

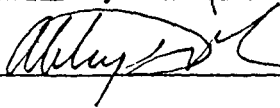
Attorneys for the Defendant
Clarendon Memorial Hospital

September 21, 2009
Mt. Pleasant, South Carolina
T:\15.36\Pleadings\Answer.doc

CERTIFICATE OF SERVICE

I certify that on this date a copy of the foregoing was served on each party or counsel of record by ☒ mailing, ☐ emailing, ☐ facsimile, or ☐ hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 21 day of September, 2009.



STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

Ronald Grubb as PR of the Estate of, Joyce Grubb,

☐ Plaintiff,

Versus

Clarendon Memorial Hospital and D. Maxwell
Egbonim, M.D.,

☒ Defendants.

) IN THE COURT OF COMMON PLEAS

) THIRD JUDICIAL CIRCUIT

) CASE NO. 09-CP-14-439

) NOTICE OF MOTION AND
) MOTION TO DISMISS

2009 SEP 22 AM 10:01

BEULAH S. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC

check box above indicating submitting party

Plaintiff's attorney:

John W. Carrigg, Jr., Esquire
Carrigg Law Firm
1492 Lake Murray Blvd., Ste. A
Columbia, SC 29212
Phone: (803) 407-5354
Fax: (803) 407-5754
Email: jcarrigg@carrigglaw.com

Defendant's attorney:

Hugh W. Buyck (S.C. Bar # 66462)
Buyck & Sanders Law Firm, LLC
757 Johnnie Dodds Blvd., Ste. 100
P.O. Box 2424
Mt. Pleasant, SC 29465-2424
Phone: (843) 377-1400; Fax: (843) 377-1403
Email: hwb@buyckfirm.com

- ☒ MOTION HEARING REQUESTED (attach written motion and complete SECTION 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: 20 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 ☐ Plaintiffs/☒ Defendants

Date submitted 9/21/09

SECTION III: Motion Fee

- ☒ PAID - AMOUNT: \$25
☐ EXEMPT: (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
☐ Other:

JUDGE'S SECTION

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

JUDGE

CODE: _____

DATE: _____

CLERK'S VERIFICATION

DATE FILED

Collected by: _____
(print name)

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

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE
DATE 9/22/09

T:\15.36\Pleadings\Motions\Motion slip (MTD).doc

Beulah S. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

Ronald Grubb as PR of the Estate of, Joyce
Grubb,

Plaintiff,

Versus

Clarendon Memorial Hospital and D. Maxwell
Egbonim, M.D.,

Defendants.

) IN THE COURT OF COMMON PLEAS

) THIRD JUDICIAL CIRCUIT

) C/A No. 09-CP-14-439

) **NOTICE OF MOTION AND**
) **CERTIFICATE OF DISMISS**
) **OF ORIGINAL FILED IN THIS OFFICE**

) DATE

9/22/09

Beulah S. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

2009 SEP 22 AM 10:01

BEULAH S. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC

TO: JOHN W. CARRIGG, JR., ATTORNEY FOR THE PLAINTIFF:

COMES NOW the Defendant, Clarendon Memorial Hospital, (hereinafter "this Defendant"), pursuant to Rule 12(b)(6) hereby moves to dismiss the Complaint of the Plaintiff as a matter of law.

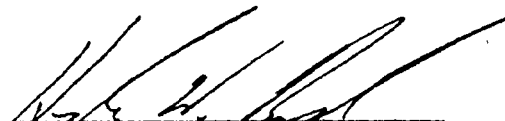
Clarendon Memorial Hospital System was established pursuant to statute as provided by Act and Joint Resolution 1947 Act No. 375, § 2, as amended. As such, it is a governmental healthcare facility as defined by South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10 et. seq., and the two year Statute of Limitations included within S.C. Code Ann. § 15-78-110 apply to this action unless a verified claim has been filed in accordance with S.C. Code Ann. § 15-78-80.

Upon information and belief, no verified claims have been provided by the Plaintiff in accordance with the Tort Claims Act. Therefore, the two year Statute of Limitations applies and this claim should forever be barred given the allegations of the Complaint.

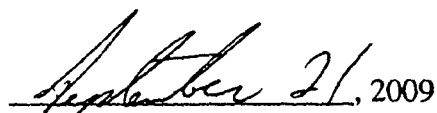
This Motion may be supported by additional Memorandum and evidentiary materials provided in accordance with the South Carolina Rules of Civil Procedure. This Defendant further reserves the right to convert this Motion to a Motion for Summary Judgment, with Notice hereby given.

Respectfully submitted,

BUYCK & SANDERS LAW FIRM, LLC
757 Johnnie Dodds Blvd., Ste. 100
P.O. Box 2424
Mt. Pleasant, SC 29465-2424
Telephone: (843) 377-1400
Facsimile: (843) 377-1403
Email: hwb@buyckfirm.com


Hugh W. Buyck (S.C. Bar # 66462)
G. Wade Cooper (S.C. Bar # 69692)

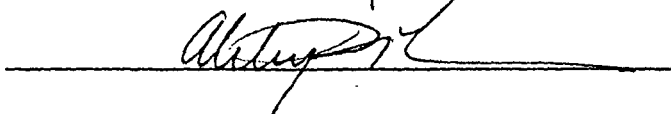
Attorneys for the Defendant
Clarendon Memorial Hospital


September 21, 2009
Mt. Pleasant, South Carolina
T:\15.36\Pleadings\Motions\MTD.doc

CERTIFICATE OF SERVICE

I certify that on this date a copy of the foregoing was served on each party or counsel of record by ☒ mailing, ☐ emailing, ☐ facsimile, or ☐ hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 21 day of September, 2009.



STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Ronald Grubb as PR of the Estate of,)
Joyce Grubb)
Plaintiff,)

C/A No.: 2008-CP-14-472

09-CP-14-439

-vs.-

Clarendon Memorial Hospital and)
D. Maxwell Egbonim, M.D.)
Defendant.)

CONSENT SCHEDULING ORDER

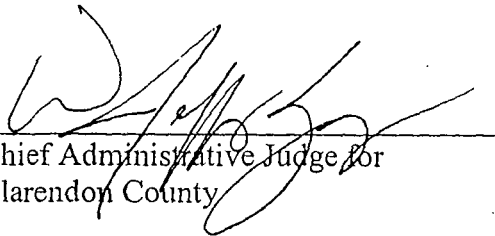
This matter comes before me on the consent of the parties for a scheduling order in the above-captioned matter. The parties need to conduct additional discovery and a mediation in the case. In addition, the Counsel for Defendant Clarendon Memorial Hospital filed a dispositive motion that needs to be heard and decided on prior to the parties moving further in discovery and mediation. Accordingly I find that good cause exists for this order, and therefore, the following deadlines are established in this matter:

1. Trial in this matter shall not be before six months after the disposition of the current Motion to Dismiss on file with this Court. Nothing in this deadline shall prevent a party from moving to amend this deadline upon extenuating or exceptional circumstances.

IT IS HEREBY SO ORDERED.

Sumter, South Carolina

March 8, 2011.

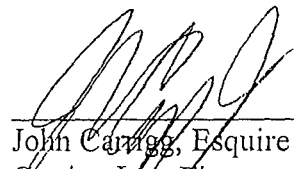

Chief Administrative Judge for
Clarendon County

-Signatures Next Page-

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OF ORIGINAL FILED IN THIS OFFICE
DATE 3/18/11

Brenda S. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

WE SO MOVE:

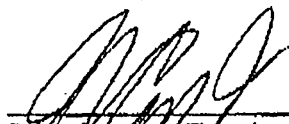


John Carrigg, Esquire
Carrigg Law Firm
137 E. Butler Street, Suite 6
Lexington, South Carolina 29072
Attorney for Plaintiff

WE SO CONSENT:

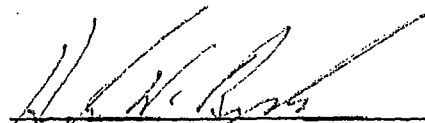
Hugh W. Buyck, Esquire
Buyck & Sanders Law Firm, LLC
757 Johnnie Dodds Blvd., Suite 100
Mt. Pleasant, South Carolina 29465
Attorney for Defendant Clarendon Memorial Hospital

WE SO MOVE:



John Carrigg, Esquire
Carrigg Law Firm
137 E. Butler Street, Suite 6
Lexington, South Carolina 29072
Attorney for Plaintiff

WE SO CONSENT:



Hugh W. Buyck, Esquire
Buyck & Sanders Law Firm, LLC
757 Johnnie Dodds Blvd., Suite 100
Mt. Pleasant, South Carolina 29465
Attorney for Defendant Clarendon Memorial Hospital

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

COURT OF COMMON PLEAS

Ronald Grubb as PR of the
Estate of Joyce Grubb,

PLAINTIFF,

v.

Clarendon Memorial Hospital,

DEFENDANT.

TRANSCRIPT OF RECORD
C/A #: 2009-CP-14-439

July 27, 2011
Clarendon County Courthouse
Manning, South Carolina

BEFORE:

HONORABLE GEORGE C. JAMES, PRESIDING

APPEARANCES:

Hugh W. Buyck, Esquire
Attorney for Defendant Clarendon Memorial Hospital

John Carrigg, Esquire
Attorney for Plaintiff, Ronald Grubb

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

INDEX

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EXHIBITS

(There were no exhibits marked at this motion hearing)

1 The Court: Grubb against Clarendon Memorial. This
2 is a medical negligence case?

3 Mr. Buyck: That's correct.

4 The Court: Okay. Who's motion is it?

5 Mr. Buyck: It's my motion.

6 The Court: Okay.

7 Mr. Buyck: Your Honor, it's a statute of limitations
8 motion based upon the Complaint and the issues before the
9 court being within the tort claims act and it may even be
10 a little interplay with the South Carolina Non Economical
11 Damages Award Act of 2005. The case involves Clarendon
12 Memorial Hospital which is a governmental health care
13 facility as defined within the Tort Claims Act. There is
14 a Request for Admission that was sent on that issue and
15 Mr. Carrigg has agreed that is what we're dealing with.
16 So, we're looking at a two year statute of limitations
17 unless a verified claim is filed within the first year of
18 the claim and there was no such verified claim.

19 The Court: What are the instances where that is a -
20 verified claim ...

21 Mr. Buyck: No, that's it, Your Honor.

22 Mr. Carrigg: The only way under the Tort Claims Act
23 - the Tort Claims Act is a two year statute unless you
24 file a verified claim within a one year window then it
25 expands to three years.

1 Mr. Buyck: That's correct, Your Honor, and that is
2 set forth within 15-78-110 is a two year statute of
3 limitations under the Tort Claims Act. The issues here
4 involve what I presume to be it's a negligence action.
5 It's not a wrongful death action filed because the patient
6 was at Clarendon Memorial Hospital, transferred from there to
7 Richland Memorial on September 8, 2006 and she passed away at
8 Richland Memorial Hospital on September 14th of 2006. So the
9 death is September 14th of 2006. The Summons and
10 Complaint was not filed until August 7 of 2009, almost 35
11 months after the death. Therefore it's our contention
12 that this lawsuit is barred by the two year statute of
13 limitations of 15-78-110 included within the Tort Claims
14 Act.

15 The Court: What about the doctor, what is going on
16 with the doctor?

17 Mr. Buyck: The doctor has since been dismissed. I
18 anticipate Mr. Carrigg making an assertion that he filed
19 a Notice of Intent pursuant to the South Carolina Medical
20 Malpractice Reform Act and the Non Economical Damages Act
21 of 2005.

22 The Court: When was that filed?

23 Mr. Buyck: That was filed September 12th of 2008.
24 But here is the catch on that. Section 15-78-220 of the
25 South Carolina Tort Claims Act states specifically that

1 the provisions of act 32 of 2005 do not effect any right
2 privilege or provisions of the Tort Claims Act.

3 The Court: Is that the ...

4 Mr. Buyck: That is the same Act in which the Notice
5 of Intent legislation of 15-79-125 came about. Also,
6 within that Act itself at 15-32-240, it says
7 specifically, that the provisions of this article do not
8 affect any right privilege or provisions the South
9 Carolina Tort Claims Act pursuant to Chapter 78, Title 15
10 of the Charitable Funds Act. So, here we have in
11 September of 2008 Mr. Carrigg filing a Notice of Intent.
12 I think arguably there is an argument that it is beyond
13 the two year statute of limitations because the patient
14 was transferred September 8th 2006 but even if we take the
15 September 14, 2006 date of death as notice of a claim, we
16 wrote Mr. Carrigg at that time, on October 13, 2008 and I
17 provided him the provision of 15-32-240 and said it does
18 not apply to us but if you want to go through the
19 mediation process, you know, we'll participate but we're
20 not waiving any defenses under the Tort Claims Act,
21 that's fine. If he wanted to do that and if he followed
22 the Notice of Intent legislation to it's wording then
23 perhaps we wouldn't be here today, but he didn't. He
24 didn't come forth because the Notice of Intent
25 legislation of 15-79-125 requires that mediation, it

1 says, the parties shall participate in a mediation
2 conference unless an extension for no more than sixty
3 (60) days is granted by the Court based upon a finding of
4 good cause. And that shall participate must be within
5 ninety (90) and no later than One Hundred and Twenty
6 (120) days of the filing of the Notice of Intent. There
7 was no mediation scheduled, there was nothing done in
8 regards to the Notice of Intent. Even if the court would
9 have given the sixty (60) days for good cause shown the
10 most they have then is a Hundred and Eighty (180) days in
11 the filing of the Notice of Intent to file a Summons and
12 Complaint. There was no summons --- there as no
13 mediation conference. There was no, there was no follow
14 up on the Notice of Intent. And it says in Paragraph (e)
15 of 15-79-125, if the matter cannot be resolved through
16 mediation, the plaintiff may initiate the civil action
17 by filing a Summons and Complaint within sixty (60) days
18 after the mediator determines that the mediation is not
19 viable or prior to the expiration of the statute of
20 limitations whichever is later. So within 90 and 120
21 days shall participate in mediation or you must file the
22 complaint within 60 days if you're relying upon the
23 notice of intent. Well, it didn't happen. People may
24 file a Notice of Intent and say I intent to file a suit
25 and not follow up on a Notice of Intent. I don't know if

1 somebody is calling a bluff or not. But we gave them the
2 option and said, you know, if this is how you are
3 proceeding we think it's wrong you need to look at the
4 Tort Claim Act, you need to see what you're doing but
5 let's see what's going on here and then we don't get a
6 Summons and Complaint filed until right before the
7 expiration of a three year Statute of Limitations. So
8 it's our contention that the two year statute of
9 limitations applies under the Tort Claims Act, they
10 failed to meet the burdens under the two year statute of
11 limitations. The Malpractice Reform Act does not apply.
12 The Notice of Intent even if they were relying upon that
13 was establishing precedents for why he took it this
14 manner. He didn't follow the form substance of the
15 Notice of Intent. I actually have an Order that Judge
16 Culbertson has entered in Georgetown case in which he
17 dismissed a complaint because someone did not entered
18 into mediation in the 90 to 120 days because the language
19 of 15-79-125 says that it shall be mediated between 90
20 and 120 days. So, in a nutshell that's where we are.

21 The Court: So you're saying that even if the three
22 year statute applies he didn't apply with the Notice of
23 Intent and the subsequent requirements of that?

24 Mr. Buyck: There is no three year statute.

25 The Court: I know but ...

1 Mr. Buyck: I'm saying that the Notice of Intent, one
2 it does not meet the definition of a verified claim which
3 must be filed within the first year to extent the statute
4 of limitations the first year.

5 The Court: Right. I understand that.

6 Mr. Buyck: And the other is ...

7 The Court: If it's deadlock right there then what
8 difference does it make about whether or not he's
9 requested mediation or did this that and the other?

10 Mr. Buyck: Because I don't think he ever followed up
11 on the Notice of Intent.

12 The Court: That's what I am saying. You are saying
13 that even though the Notice of Intent did revive he never
14 followed up on it.

15 Mr. Buyck: Right. He then makes a decision after
16 all of that to file a Summons and Complaint which is
17 clearly beyond the two year statute of limitations.

18 The Court: If we were just talking about a non
19 governmental hospital would his claim still be defeated
20 because it didn't file the Notice of Intent requirements?

21 Mr. Buyck: No, he would still have the ability
22 under the statute of limitations which he had to go
23 forward, which he had under Dr. Egbonim before he agreed
24 to dismiss Dr. Egbonim. And he had a right before he
25 filed a Notice of Intent to make Dr. Egbonim participate

1 in a mediation conference and to go forth or to approach
2 the court if it couldn't get done for good cause to
3 extend it and to my knowledge that never occurred.

4 The Court: All right. You mentioned something that
5 you wanted to give me?

6 Mr. Buyck: Well, I just, the only thing, I said I
7 have an Order of Judge Culbertson which he has applied
8 the 15-79-125 Notice of Intent provisions to dismiss a
9 complaint, subsequently dismiss a complaint that failed
10 to meet the provisions of mediating the case between 90
11 and 120 days.

12 Mr. Carrigg: And your Honor with respect, the scope
13 of this motion is whether or not we filed the complaint
14 in time.

15 The Court: It doesn't have anything to do with ...

16 Mr. Carrigg: It doesn't have anything to do with the
17 notice with respect to the subsequent actions because,
18 and I'm sorry to interrupt you, but ...

19 Mr. Buyck: No, if it doesn't have anything to do
20 with the Notice of Intent and we are looking solely at
21 the complaint, then the two year statute has run.

22 The Court: All right. Go ahead Mr. Carrigg.

23 Mr. Carrigg: Maybe I mis-spoke. It does not have to
24 do with whether the subsequent actions as set forth in
25 15-79-110, which is actually I think, is the medical

1 malpractice section because ...

2 The Court: You are restricting your argument today to
3 rebut what he says about the ...

4 Mr. Carrigg: Right.

5 The Court: All right.

6 Mr. Carrigg: This is where we come down in this
7 case. There are two competing statutes. Not two competing
8 but two complimentary statutes. One is the Tort Claims Act,
9 okay. The Tort Claims Act governs lawsuits brought
10 against governmental entities. No question this hospital
11 is a governmental entity. It's a political subdivision.
12 And the subsequently inactive medical malpractice section
13 which is 15-79-110 and subsequent statutes. We filed the
14 notice of intent to file suit on September 12, 2008 which
15 would have been within the two year statute of
16 limitations set forth over the Tort Claims Act.

17 The Court: You filed a Notice of Intent?

18 Mr. Carrigg: Filed and served a Notice of Intent
19 which is basically - I mean, a Notice of Intent to file
20 suit is basically the only way. You file a cover sheet,
21 you actually file that. The Notice of Intent you have to
22 file the supporting affidavit and you have to file the
23 interrogatory answers and serve all that with your notice
24 of intent. At that juncture I'm informed, and I've
25 looked, I don't have everything. I was kind of caught off

1 guard this morning when I got the call and I rushed down
2 here and I don't know that I have everything. I don't
3 know if I have my complete file. I thought I did but I'm
4 unsure because I am missing some correspondence and I
5 actually worked on this issue back in my office, but my
6 recollection is I informed either in writing or verbally
7 by Mr. Buyck that you know what that statute doesn't
8 apply.

9 The Court: What statute?

10 Mr. Carrigg: The 15-79-110, the medical malpractice
11 section. I believe it's actually, it's called medical
12 malpractice action is the section. It's 15-79-110
13 through 15-79-130. The important part is this. You've
14 got a statute that the legislature has enacted that deals
15 specifically with medical malpractice actions. Okay.
16 You have a more general statute, the Tort Claims Act that
17 deals specifically with actions against governmental
18 entities, political subdivisions but it deals with all
19 actions. Whether it be a slip and fall, a car wreck,
20 medical malpractice case, anything. Now, the purpose of
21 the medical malpractice action section was to make it
22 stricker for plaintiffs to bring medical malpractice
23 actions. You had to have a supporting affidavit filed
24 with your complaint or filed with your notice. It is, I
25 will submit to you that it's not credible that the

1 legislature would enact a statute that provides more
2 protection for the governmental hospital and not have any
3 intention that it apply to governmental hospitals. The
4 fact of the matter is we filed the Notice of Intent
5 within the two year statute of limitations and we served
6 it. Now, yes, there were things we should have done
7 after that with respect to scheduling mediation and the
8 like, but at that point in time Mr. Buyck's position was
9 this doesn't apply and you've let the statute run. So, I
10 really didn't see quite honestly and then I did
11 ultimately file a Summons and Complaint so that we could
12 get the thing moving, he just basically took the position
13 that he wasn't going to pay attention to the notice.

14 The Court: He just said he told you they would go
15 through mediation process without waiving anything.

16 Mr. Carrigg: Your Honor, I was looking for that
17 letter. I know I have ...

18 Mr. Buyck: I've got it right here. I'll pass it up
19 if you'd like.

20 Mr. Carrigg: Yes, I recall seeing this letter.

21 The Court: What does it say?

22 Mr. Carrigg: Well, it's lengthy.

23 Mr. Buyck: That's the only one I've got.

24 The Court: Somebody can bring it up to me. Just
25 hand it up to Ms. Roberts.

1 Mr. Carrigg: Your Honor, the motion is not a motion
2 to dismiss because we failed to file, to follow the
3 subsequent provisions of ...

4 The Court: The medical negligence ...

5 Mr. Carrigg: The Medical Negligence Act. The motion
6 is we failed to file the, we failed to file a complaint
7 in time. Now if, Your Honor, will give me just a moment,
8 I know you want to read that letter, but 15-79-125 says,
9 section (a) says that if you file the Notice of Intent it
10 tolls the statute of limitation. As a matter of fact,
11 the words the legislature used is, "Filing of the Notice
12 of Intent to file suit tolls all applicable statutes of
13 limitations." That's in the next to last sentence in
14 subsection (a) of 15-79-125.

15 The Court: Okay.

16 Mr. Carrigg: My position is that we filed the notice
17 of intent within the two year statute of limitations.
18 Under 15-79-125, it tolls the statute of limitations. We
19 filed suit. I mean, suit was not filed until August 7.
20 However, I would submit to you if the statute is tolled,
21 it's tolled.

22 The Court: And you're saying the words all
23 applicable statutes of limitations ...

24 Mr. Carrigg: Include ...

25 The Court: ... anything under the sun?

1 Mr. Carrigg: Well, it says all. I mean that's the
2 term the legislature used.

3 The Court: Mr. Buyck pointed out that 15-78-220
4 which was evidentially adopted at the same time says the
5 provisions of act 32 of 2005 which was the medical
6 malpractice section, is that right?

7 Mr. Buyck: That's correct.

8 The Court: Does not effect any provision of the
9 South Carolina Tort Claims Act. So, you're saying those
10 two are butting heads?

11 Mr. Carrigg: Well, I would submit to you, yes. It
12 says it doesn't effect any right, privilege or provision
13 of the South Carolina Tort Claims Act.

14 The Court: Right, privilege or provision, okay.
15 It's right, privilege - frankly I don't know what - I
16 understand what provision means.

17 Mr. Carrigg: Right.

18 The Court: Right, privilege and ...

19 Mr. Buyck: And, Your Honor, I think that exact same
20 language is used in the Act in 15-32-240.

21 The Court: All right. 15-32-240 is the ...

22 Mr. Buyck: Is the Non-Economic Damages Award Act
23 which interplays with the medical reform statute. They
24 both arose from Act number 32, 2005.

25 The Court: That's more about caps, isn't it.

1 Mr. Buyck: It's about caps and again it goes to
2 show that you've got a privilege, you've waived immunity
3 under the tort claims act, you've waived sovereign
4 immunity except for these provisions of the tort claims
5 act. And those are the provisions of the tort claims act
6 that he has to follow in order to have a way with
7 sovereign immunity.

8 The Court: I've heard what you've said. I
9 understand exactly what your argument is. I understand
10 exactly what Mr. Carrigg, and it's his turn so let him
11 ...

12 Mr. Carrigg: Basically, my argument is this. If 15-
13 79-125 says it tolls the statute of limitations.

14 The Court: It says all applicable statutes.

15 Mr. Carrigg: All applicable statute of limitations.
16 Even if there, yeah there's, is a two year statute of
17 limitation under the Tort Claims Act.

18 The Court: How many statutes of limitations are
19 there on medical malpractice actions code of laws, just
20 one, right?

21 Mr. Carrigg: There is a statute specifically for
22 malpractice.

23 The Court: Okay. They why ...

24 Mr. Carrigg: There is a statute that says ...

25 The Court: The legislature say all applicable

1 statute of limitations.

2 Mr. Buyck: Your Honor, you have to look at 15-79-
3 125, even if you take his argument that it toll, this is
4 where it runs into trouble. He's got at the most 180
5 days.

6 The Court: He says he's not here to talk about that
7 today.

8 Mr. Buyck: Well, why not.

9 The Court: I don't know.

10 Mr. Buyck: Why not. Because 15-79-125 says what
11 you must do when you file a Notice of Intent to follow up
12 on your Notice of Intent and it says that you shall
13 mediate the case between 90 and 120 days or you are to
14 approach the court and seek an extension.

15 The Court: He says, he didn't do that because you
16 said games over.

17 Mr. Buyck: I didn't say games over. I said we'll
18 participate let's see where we are. You know, if we
19 would have kept going at that point in time instead of
20 letting this thing just drop off the face of the earth
21 and not file it again until August of 2009 and not do
22 anything until August of 2009. I thought they had taken
23 the position, you know, I'm not going to pursue the case.
24 The burden is not upon me at that point in time.

25 The Court: I understand.

1 Mr. Buyck: So my position is in regards to 15-79-125
2 is it does that but if you come to 15-79(e)(2), you have
3 to file this complaint prior to the expiration of the
4 statute of limitations after you've gone through this.
5 So, if it's tolled during that period of time you still
6 have things you can do and you can file a complaint. If
7 you file the provisions of 15-79-125, but he didn't do
8 that. So, that throws the entire Notice of Intent out of
9 the equation in my opinion.

10 Mr. Carrigg: Well, I mean, it sounds like he wants
11 to concede that I'm correct on the first part of my
12 argument but it's still ...

13 The Court: He's saying even if you are.

14 Mr. Carrigg: Even if I am but then I still lose in
15 another way but that's not part of his motion. The motion
16 is merely the complaint was not filed within the two year
17 statute of limitations. And I think you have to file a
18 motion saying, you know, or at least raise in your motion
19 that you didn't comply with 15-79-125.

20 The Court: When was your motion filed?

21 Mr. Buyck: Along with my answer, Your Honor, back in
22 in 2009.

23 The Court: I just want to know where to look in the
24 file.

25 Mr. Buyck: And the Answer was filed subject to the

1 motion to dismiss.

2 The Court: Okay. I got it. Okay. Go ahead Mr.
3 Carrigg.

4 Mr. Carrigg: I think that the statute, and I guess
5 there's a doctrine at statutory construction that a
6 specific provision is, I guess, trumps a general
7 provision. The fact that ...

8 The Court: They are both pretty specific, that's my
9 problem. They are both pretty specific.

10 Mr. Carrigg: Well, yes and not.

11 The Court: All right. Let's say I rule in your
12 favor today because he got off his motion and is not
13 talking about the tort claims act and then he turned
14 around and filed a motion and said okay, I still think
15 I'm right about the two year statute but because my first
16 motion wasn't specific enough here's my next motion.

17 Mr. Carrigg: Well, at that juncture I think we'd be
18 in a position to say, I mean, I'd be in a position to say
19 that 15-79-125 does govern and let's have the mediation.
20 It was pointless for me to have the mediation when
21 someone is saying to me the statute of limitation had
22 run. I mean, what exactly is the point of participating
23 in a mediation when the defenses position is the statute
24 has run.

25 The Court: It says in his letter to you dated

1 October 13, '08, says the Insurance Reserve Fund is not
2 objectionable to evaluation of your supported claim and I
3 have no objection to participating in a mediation
4 conference should you propose. Participation in a
5 mediation conference is not intended to be and shall not
6 be a waiver of the provision of the South Carolina Tort
7 Claims Act. He's just not throwing down an iron curtain
8 saying yeah we'll mediate it, we'll evaluate the claim.

9 Mr. Carrigg: Well, maybe I read or took the letter
10 the wrong impression. My impression was their position
11 was the statute had run. I honestly did not anticipate
12 at that juncture it would have been fruitful to try, I
13 mean, when I'm faced with the fact that, you know, no
14 response comes from the Notice of Intent to file suit.
15 And then when I get with him he says we take the position
16 the statute has run and yeah that letter does come and
17 I'll grant you that.

18 The Court: Can we make this an exhibit?

19 Mr. Carrigg: I'll object to it's not discoverable
20 motions, but other than that.

21 The Court: You acknowledge you got a letter from him
22 that says what I just read?

23 Mr. Carrigg: I don't dispute it.

24 The Court: Okay. Go ahead.

25 Mr. Carrigg: My point is that under 15-79-125(a) if

1 the statute is toll, absent him filing a motion under
2 that section saying we did not comply with it or to
3 compel us to comply with it then I do not believe that it
4 is proper to dismiss the case. Under 15-79-125©). And
5 that's the provisions about doing the mediation 90 to 120
6 days. Your Honor, I know this case was drug out for
7 quite some time but bare in mind the point of the statute
8 of limitations is to put the defendant on notice of, I
9 mean, that is the guardian reason for the statute of
10 limitations. It's not just for filing dates and things
11 of that nature.

12 The Court: To put the Defendant at a point in time
13 they can say okay this is behind me.

14 Mr. Carrigg: Right. Clearly they were on notice
15 before that point in time had passed. They were on
16 notice pursuant to statutory provisions in South
17 Carolina. And I think that it would be, it would not
18 serve justice to dismiss the parties complaint when in
19 effect they are not prejudice.

20 The Court: All right. Okay. Mr. Buyck, is there
21 any room for the authority that a Notice of Intent to
22 file suit satisfies the verified claim?

23 Mr. Buyck: Not by me, it don't.

24 The Court: Is it a claim that you contend has to be
25 used.

1 Mr. Buyck: The notice, the verified claim has to be
2 filed within the first year to extent the statute to
3 three years.

4 The Court: Okay.

5 Mr. Buyck: Then, Your Honor, I think you made a good
6 point the statute of limitations gives the Defendant an
7 opportunity to know things have been put behind him. When
8 this case, when the provisions of 15-79-125 were not
9 attempted to be enforced through, come on, here's the
10 mediation date, participate or I'm going to approach the
11 court to compel you to participate. When that didn't
12 occur, when they didn't do what they shall be deemed
13 responsible to do under this Act then the statute begins
14 to run again pursuant to (e) of 15-79-125. And we think
15 that the case has gone way and then at the last moment
16 before three years runs we get a summons and complaint
17 and we respond in an appropriate fashion and we've been
18 waiting, this case is gone nowhere sine then because
19 these issues have remained outstanding and it's
20 statutorily what is required. You are supported by
21 statute to rule in favor of the hospital under these
22 factual scenario and under these pleadings. That's where
23 we are.

24 The Court: All right. Mr. Carrigg, I have your
25 email address as JCARRIGG@CARRIGGLAW.COM and Mr. Buyck,

1 HWBUYCKFIRM.COM?

2 Mr. Buyck: That's correct, Your Honor.

3 The Court: I think what it's going to boil down to
4 quiet frankly is whether or not I interpret the statute,
5 the language that Mr. Carrigg interpreted as notice of
6 intent to file suit tolls all applicable statutes of
7 limitations. I have to determine whether or not this
8 applicable. I think that's what it boils down to. Your
9 argument is well put. To be quite frank the way it's
10 worded you might come out on the wrong end of this case.
11 The appellate court might have to tell us who is wrong or
12 if Mr. Buyck comes out on the wrong end of it you all
13 will have to litigate it and you end up losing it you're
14 going to have to count on the Appellate Court to tell him
15 who's right. Okay. Thank you all.

16 Mr. Buyck: Thank you.

17 Mr. Carrigg: Thank you, Your Honor.

18 (Motion Hearing is adjourned)
19
20
21
22
23
24
25

CERTIFICATE

This is to certify that the hearing in the matter of Ronald Grubb as PR of the Estate of Joyce Grubb vs. Clarendon Memorial Hospital, consisting of Twenty-two (22) pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 11th day of January, 2012

Melissa R. Singletary

Melissa R. Singletary
Certified Court Reporter

Notary Public for South Carolina
My Commission Expires: 3-5-2014

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2009-CP-14-439

Ronald Grubb as PR of estate of, Joyce Grubb

Clarendon Memorial Hospital

PLAINTIFF(S)

DEFENDANT(S)

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), 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:

Dated at Maning, South Carolina, this 31st day of August, 2011.

15/ George C. James
PRESIDING JUDGE

~~This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this 31st day of August, 2011 to attorneys of record or to parties (when appearing pro se) as follows:~~

John W. Craig, Jr.
1492 Lake Murray Blvd., Ste. A
Columbia, South Carolina 29212
ATTORNEY(S) FOR PLAINTIFF

Hugh W. Buyck
Post Office Box 2424
Mt. Pleasant, South Carolina 29465
ATTORNEY(S) FOR DEFENDANT

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE
DATE 9/22/11
Beulah B. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

Beulah B. Roberts
Beulah G. Roberts
CLERK OF COURT

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF CLARENDON

) THIRD JUDICIAL CIRCUIT

Ronald Grubb as PR of the Estate of, Joyce
Grubb,

) C/A No. 09-CP-14-439

Plaintiff,

) **ORDER GRANTING JUDGMENT IN
FAVOR OF THE DEFENDANT**

Versus

Clarendon Memorial Hospital,

Defendants.

BEULAH G. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SC
2011 AUG 31 PM 2:02

This Matter came before me for a hearing on July 27, 2011 on the Defendant's Motion to Dismiss. The Defendant's motion rests upon the statutory provisions of the South Carolina Tort Claims Act, §15-78-10 et seq., the Notice of Intent to File Suit provisions of S.C. Code Ann. §15-79-125 and its statutory enabling authority within the Noneconomic Damage Awards Act of 2005, 2005 Act No. 32.

In accordance with the following, Judgment is to be entered in favor of the Defendant.

Procedural History

Plaintiff initially brought claims against the Defendant, Clarendon Memorial Hospital, and D. Maxwell Egbonim, M.D. through a Notice of Intent to File Suit, filed on or about September 12, 2008. The allegations of the Notice concerned medical care rendered to Joyce Grubb occurring prior to her transfer from Clarendon Memorial Hospital on September 8, 2006 and her subsequent death at Richland Memorial Hospital on September 14, 2006. In response to this Notice, counsel for the Defendant authored the attached correspondence dated October 13, 2008 outlining a willingness to participate in mediation but refusing to waive any rights pursuant to the Tort Claims Act. (Exhibit #1). Thereafter, no efforts were made to move forth with the proposed mediation conference and admittedly no extensions were sought or granted by the court.

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CLERK OF COURT
CLARENDON COUNTY, SC

[Handwritten signature]

Plaintiff then initiated a Summons and Complaint against the Defendant and D. Maxwell Egbonim, M.D. on August 7, 2009. The Defendant filed a timely Answer and Motion to Dismiss on September 22, 2009.¹

Within its Answer and accompanying Motion to Dismiss, the Defendant asserted various defenses pursuant to the Tort Claims Act, including the two year Statute of Limitations of S.C. Code Ann. §15-78-110, as a verified claim had not been filed within one year in accordance with S.C. Code Ann. §15-78-80 which would allow an extension of the statute of limitations from two (2) to three (3) years.²

I. **The Defendant is entitled to Judgment as the Plaintiff failed to meet the Statute of Limitations contained within S.C. Code Ann. §15-78-110**

The statute of limitations as to a governmental health care facility such as the Defendant is found within the Tort Claims Act at S.C. Code Ann. §15-78-110, which provides:

Except as provided for in Section 15-3-40, any action brought pursuant to this chapter is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered; provided, that if the claimant first filed a claim pursuant to this chapter then the action for damages based upon the same occurrence is forever barred unless the action is commenced within three years of the date the loss was or should have been discovered.

Plaintiff acknowledges that the statute began to run at the time of Joyce Grubb's death at Richland Memorial Hospital on September 14, 2006. Thus, the statute would run as of September 14, 2008, unless there was a filing of a verified claim.

The provisions relating to the filing of a verified claim as to a governmental health care facility such as the Defendant are found within S. C. Code Ann. §15-78-80. Specifically, §15-78-80(d) mandates that a claim "must be received within one year after the loss was or should have been discovered." Plaintiff admittedly did not file a verified claim within a year in accordance with

¹ Dr. Egbonim was subsequently dismissed through a stipulation of the parties.

² The Clarendon Memorial Hospital is governed by the Clarendon Memorial Hospital District Board of Trustees who are appointed by South Carolina statute as provided by Act and Joint Resolutions 1947 Act No. 375, Section 2, as amended. As such, it is a "governmental health care facility" as defined within S.C. Code Ann. §15-78-30(j).

provisions of this Chapter. Given this, the action filed on August 7, 2009, as to the Defendant Clarendon Memorial Hospital, was not commenced within two (2) years of September 14, 2006, and Judgment must be granted the Defendant pursuant to §15-78-100.

II. Plaintiff may not rely upon the Notice of Intent provisions of S.C. Code Ann §15-79-125 to assert a claim as to the Defendant, a governmental health care facility.

The Plaintiff contends that the statute of limitations should be extended to three years as the previously filed Notice of Intent constitutes the institution of an action within the 2 year statute of limitations. This argument, however, fails on several grounds.

It must be noted that the prerequisite of the Notice of Intent provisions were adopted within the South Carolina Noneconomic Damage Awards Act of 2005, 2005 Act No. 32, effective July 1, 2005, for causes arising after that date. There are, however, two statutory provisions which establish that this Act does not affect the rights of the Defendant, a governmental health care facility, under the S.C. Tort Claims Act.

First, S.C. Code Ann. § 15-32-240 of the Noneconomic Damage Awards Act provides:

“The provisions of this article do not affect any right, privilege, or provisions of the South Carolina Tort Claims Act pursuant to Chapter 18, Title 15.....”

Additionally, the legislature concurrently adopted a nearly identical provision within the Tort Claims Act at S.C. Code Ann. §15-78-220:

“The provisions of Act 32 of 2005 do not affect any right, privilege, or provision of the South Carolina Tort Claims Act as contained in Chapter 78, Title 15 of the 1976 Code.....”

Given these, Plaintiff cannot rely upon the provisions of the Notice of Intent to circumvent the S.C. Tort Claims Act and the legislatively mandated “verified claim” requirements found within S.C. Code Ann. §15-78-80, including the statute of limitations contained within S.C. Code Ann. §15-78-110. The Tort Claims Act provides the sole ability through which the Plaintiff can file suit against a governmental health care facility specifying, that the “General Assembly additionally intends to provide for liability on the part of the State, its political subdivisions, and employees

while acting within the scope of official duty; **only to the extent provided herein.**" S. C. Code Ann. §15-78-20(b)(emphasis added). Having failed to first file a verified claim in accordance with the Tort Claims Act within one year or commence an action through the filing of a Summons and Complaint within two years, the Plaintiff failed to commence the action within the statutory mandates applicable to this governmental health care facility. The Notice of Intent provisions found within the South Carolina Noneconomic Damage Awards Act of 2005 do not apply to this governmental health care facility, as the Tort Claims Act governs all such actions, and Judgment must be rendered in Defendant's favor.

III. Alternatively, should the Notice of Intent be deemed to institute an action for damages pursuant to the Tort Claims Act, the Defendant is statutorily precluded pursuant to the statute of limitation provisions of S.C. Code Ann. §15-79-125(E).

The Notice of Intent provisions of S.C. Code Ann. §15-79-125 contains specific requirements concerning the conduct of mediation. Plaintiff counsel asserts that given Defense counsel's letter of October 13, 2008, mediation would have been futile, and therefore, mediation was not conducted with a subsequent decision being made to file the Complaint on August 7, 2009. This argument, however, lacks merit as the Notice of Intent statute vests the circuit court with the jurisdiction to enforce its provisions. S.C. Code Ann. §15-79-125(D). Even though Plaintiff contends mediation would have been futile, the statute does not excuse a case from mediation for this reason.

S. C. Code Ann. §15-79-125(C) specifies that the parties "shall" participate in mediation within ninety (90) and no later than one hundred and twenty (120) days from the service of the Notice.

(C) Within ninety days and no later than one hundred twenty days from the service of the Notice of Intent to File Suit, the parties **shall** participate in a mediation conference unless an extension for no more than sixty days is granted by the court based upon a finding of good cause.

This provision clearly provides the parties an allowance to seek an extension from the court "based upon a finding of good cause." In this matter, however, no such extension or relief was sought from the court by the parties. Rather, there was a delay until August 7, 2009, approximately three hundred and twenty-eight (328) days, with no additional action to enforce the provisions of the mediation conference pursuant to the court's jurisdiction under S.C. Code Ann §15-79-125 or the Alternate Dispute Resolution (ADR) Rules. Absent mediation of the case, as offered by the Defendant, and absent an extension to mediate, the statute of limitations resumed running following the one hundred and twenty (120) day allowance to conduct mediation, and this case must be dismissed.

The Notice of Intent legislation specifically contemplates the statute of limitations as it provides:

(E) If the matter cannot be resolved through mediation, the plaintiff may initiate the civil action by filing a summons and complaint pursuant to the South Carolina Rules of Civil Procedure. The action must be filed:

- (1) within sixty days after the mediator determines that the mediation is not viable, that an impasse exists, or that the mediation should end; or
- (2) **prior to expiration of the statute of limitations, whichever is later.**

S.C. Code Ann. §15-79-125(E). (emphasis added).

The Plaintiff initially filed the Notice of Intent on September 12, 2008 or approximately two (2) days prior to the running of the two year statute. This, subject to the mediation requirements of the statute, tolled "all applicable statutes of limitations." §15-79-125 (A). As outlined within Exhibit 1, service was effectuated on September 16, 2008 with mediation then required to be held on or before January 16, 2009. As no mediation or request for extension occurred within one hundred and twenty (120) days or by January 16, the statute of limitations then commenced running in accordance with S.C. Code Ann. §15-79-125 (E)(2). Based on the dates involved in this case, two days remained on the statute of limitations as of January 16, 2009, and no further tolling of the statute of limitations was allowed. The two year statute of limitations contained within S.C Code Ann. §15-78-110 expired on January 18, 2009 as mediation was not conducted and no sixty (60)

day extension for mediation was obtained. This alternative argument therefore is without merit, and the action must be dismissed.

Conclusion

This Court concludes that the two (2) year statute of limitations of the Tort Claims Act expired without the commencement of an action by the Plaintiff, as there was no verified claim filed in accordance with the one year deadline of the S.C. Tort Claims Act. Additionally, the Noneconomic Damage Awards Act of 2005 cannot be invoked to extend the statute of limitations contained within the S.C. Tort Claims Act.

It is hereby ORDERED that the action is dismissed with prejudice.

IT IS SO ORDERED!



George C. James, Jr.
Presiding Judge, Third Judicial Circuit

August 31, 2011
Manning, South Carolina

BUYCK LAW FIRM, LLC

ATTORNEYS & COUNSELORS AT LAW

757 JOHNNIE DODDS BLVD., SUITE 100
P.O. BOX 2424
MT. PLEASANT, SC 29465-2424

TELEPHONE: (843) 377-1400
FAX (843) 377-1403
E-MAIL: HWB@BUYCKFIRM.COM

Hugh W. Buyck
Darren K. Sanders
G. Wade Cooper

October 13, 2008

FILE COPY

Via Facsimile (803) 407-5754

John W. Carrigg, Jr., Esquire
1492 Lake Murray Blvd., Ste. A
Columbia, SC 29212

Re: Ronald Grubb as PR of the Estate of, Joyce Grubb v. Clarendon Memorial Hospital and D.
Maxwell Egbonim, M.D.
C/A No. 08-CP-14-472
BLF File No. 15.36

Dear John:

As we have discussed, the Clarendon Memorial Hospital is in receipt of your Notice of Intent to File Suit which was served on or about September 16, 2008. Apparently, you have filed the notice pursuant to S.C. Code Ann. § 15-79-125, a part of the South Carolina Non-Economic Damage Awards Act of 2005. Please note that the Act does not apply to governmental entities subject to the South Carolina Tort Claims Act such as the Clarendon Memorial Hospital which is a governmental healthcare facility. The 2005 Acts specifically includes § 15-32-240 entitles "Rights under other Acts":

The provisions of this article do not affect any right, privilege, or provision of the South Carolina Tort Claims Act pursuant to Chapter 78, Title 15 or the South Carolina Solicitation of Charitable Funds Act as contained in Chapter 56, Title 33.

Thus, the South Carolina Tort Claims Act serves as the exclusive remedy for any action against a governmental entity, and all claims, remedies and procedures are governed by the South Carolina Tort Claims Act rather than the South Carolina Non-Economic Damage Awards Act of 2005.

Participation, if any, in pre-filing discovery is not intended to be, and shall not be, a waiver of the South Carolina Tort Claims Act as its exclusive remedy by the Insurance Reserve Fund or any governmental entity covered by the South Carolina Tort Claims Act. Of course, the Insurance Reserve Fund is not objectionable to an evaluation of your supported claims and has no objection to participating in a mediation conference should you propose this. Our participation in any mediation conference, though, is not intended to be and shall not be a waiver by the Insurance Reserve Fund of the provisions of the South Carolina Tort Claims Act.



FAXED

10/13/08

HWB

BUYCK LAW FIRM, LLC

ATTORNEYS & COUNSELORS AT LAW

757 JOHNNIE DODDS BLVD., SUITE 100
P.O. BOX 2424
MT. PLEASANT, SC 29465-2424

TELEPHONE: (843) 377-1400
FAX (843) 377-1403
E-MAIL: HWB@BUYCKFIRM.COM

Hugh W. Buyck
Darren K. Sanders
G. Wade Cooper

October 13, 2008

FILE COPY

Via Facsimile (803) 407-5754

John W. Carrigg, Jr., Esquire
1492 Lake Murray Blvd., Ste. A
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Re: Ronald Grubb as PR of the Estate of, Joyce Grubb v. Clarendon Memorial Hospital and D.
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C/A No. 08-CP-14-472
BLF File No. 15.36

Dear John:

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The provisions of this article do not affect any right, privilege, or provision of the South Carolina Tort Claims Act pursuant to Chapter 78, Title 15 or the South Carolina Solicitation of Charitable Funds Act as contained in Chapter 56, Title 33.

Thus, the South Carolina Tort Claims Act serves as the exclusive remedy for any action against a governmental entity, and all claims, remedies and procedures are governed by the South Carolina Tort Claims Act rather than the South Carolina Non-Economic Damage Awards Act of 2005.

Participation, if any, in pre-filing discovery is not intended to be, and shall not be, a waiver of the South Carolina Tort Claims Act as its exclusive remedy by the Insurance Reserve Fund or any governmental entity covered by the South Carolina Tort Claims Act. Of course, the Insurance Reserve Fund is not objectionable to an evaluation of your supported claims and has no objection to participating in a mediation conference should you propose this. Our participation in any mediation conference, though, is not intended to be and shall not be a waiver by the Insurance Reserve Fund of the provisions of the South Carolina Tort Claims Act.



FAXED
10/13/08
ADM

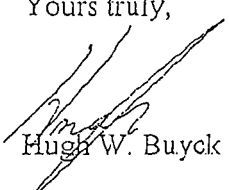
BUYCK LAW FIRM, LLC

Page Two
October 13, 2008

John, I look forward to working with you in this matter. Also, please let us know once it is determined who is representing the interests of Dr. Egonim. As always, should you have any further questions or concerns, please do not hesitate to contact me.

With kind regards,

Yours truly,



Hugh W. Buyck

HWB:adm

BUYCK & SANDERS, LLC

ATTORNEYS & COUNSELORS AT LAW

757 JOHNNIE DODDS BLVD., SUITE 100
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TELEPHONE (843) 377-1400
FAX (843) 377-1403
E-MAIL: HWB@BUYCKFIRM.COM

Hugh W. Buyck
Darren K. Sanders
G. Wade Cooper

August 13, 2010

Via Email and U.S. Mail

The Honorable George C. James, Jr.
P.O. Box 1716
Sumter, SC 29150

Re: Ronald Grubb as PR of the Estate of, Joyce Grubb v. Clarendon Memorial Hospital and D.
Maxwell Egbonim, M.D.
C/A No. 09-CP-14-439

Dear Judge James:

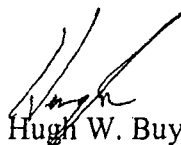
This matter is pending in Clarendon County, and as the Chief Administrative Judge, we are respectfully requesting a motions hearing given that current motions have been pending since September 2009. Unfortunately, without a hearing the discovery remains stagnant as jurisdictional matters remain at issue. The Clerk's office did have hearings scheduled in March and July but conflicts then existed. Ms. Roberts has indicated that the next non-jury term of court is the week of October 4th, and unfortunately, I now have a date certain trial scheduled that week likely posing further conflict.

We, therefore, are respectfully requesting your consideration of hearing given any available opportunity. Mr. McKenzie and Mr. Carrigg are both coming from the Columbia area and I, of course, have no objection to traveling to Sumter or other court locations should you have an available date. We have copied your law clerk on the email transmittal, and hopefully, we can coordinate a mutually convenient time for all parties in the near future.

As always, thank you for your consideration of this request.

With kind regards,

Yours truly,


Hugh W. Buyck

HWB:adm

cc: Joshua Cagle, Law Clerk (via email only)
John W. Carrigg, Jr., Esquire (via email & U.S. Mail)
Robert McKenzie, Esquire (via email & U.S. Mail)

John Carrigg

From: Young, W. Jeffrey Law Clerk (Herbert C. Carruth, III) [wyounglc@sccourts.org]
Sent: Tuesday, August 17, 2010 10:17 AM
To: James, George C.; Abbey; James, George C. Law Clerk (Joshua Drew Cagle)
Cc: jcarrigg@carrigglaw.com; McKenzie@mmrml.com; hwb@buyckfirm.com; Elizabeth Stuber; Young, W. Jeffrey
Subject: RE: C/A No. 09-CP-14-439 - Grubb v. Clarendon Memorial Hospital

To all

As Judge Young has a fairly busy term the week of the 7th, he is currently planning on hearing the motions the week of the 27th. Please look for a finalization of this by the end of next week. Thank you.
 Clay Carruth

From: James, George C.
Sent: Monday, August 16, 2010 1:36 PM
To: Abbey; James, George C. Law Clerk (Joshua Drew Cagle)
Cc: jcarrigg@carrigglaw.com; McKenzie@mmrml.com; hwb@buyckfirm.com; Elizabeth Stuber; Young, W. Jeffrey; Young, W. Jeffrey Law Clerk (Herbert C. Carruth, III)
Subject: RE: C/A No. 09-CP-14-439 - Grubb v. Clarendon Memorial Hospital

Gentlemen

I received Hugh Buyck's letter requesting a hearing in this case. Please note that my availability during the coming weeks is questionable, since I have a good many terms of General Sessions court and can't commit to civil matters during those terms. I have three suggestions: First, Judge Young is holding a motions term for Sumter County the week of September 7 and may be willing to fit you in. Second, there is a civil term in Lee County the week of August 30 and things may fall apart there. Third, we have a chambers week the week of September 27, and we can schedule something then.

I would rather **not** go with the Lee County option because it would be inconvenient to schedule something with all of you and then have a trial going on that I'd have to adjourn to hear your motion.

I am sending a copy of this email to Judge Young for his input on the week of Sep. 7. In the meantime, please give me some brief details about what you need to be heard and how long it will take.

GCI

From: Abbey [mailto:amoran@buyckfirm.com]
Sent: Friday, August 13, 2010 3:10 PM
To: James, George C.; James, George C. Law Clerk (Joshua Drew Cagle)
Cc: jcarrigg@carrigglaw.com; McKenzie@mmrml.com; hwb@buyckfirm.com; Elizabeth Stuber
Subject: C/A No. 09-CP-14-439 - Grubb v. Clarendon Memorial Hospital

Judge James,

Attached please find correspondence from Hugh Buyck re: hearing on outstanding motions in the above-referenced matter.

Kind regards,
 Abbey Moran
 Secretary to Hugh W. Buyck, Esquire

Abbey D. Moran
 Buyck & Sanders Law Firm, LLC

8/18/2010

JOHN CARRIGG

ATTORNEY AT LAW

PHONE: (803) 785-5511

137 E. BUTLER STREET, SUITE 6
LEXINGTON, SOUTH CAROLINA 29072

FAX (803) 785-5513

JCARRIGG@CARRIGGLAW.COM

October 21, 2010

Transmitted VIA Fax: 803-436-2403 and e-mail: gjamesj@sccourts.org

The Honorable George C. James Jr.

Post Office Box 1716

Sumter, South Carolina 29150

RE: *Ronald Grubb as PR of the Estate of Joyce Grubb v. Clarendon
Memorial Hospital and D. Maxwell Egbonim, M.D.*
Case No.: 09-CP-14-439

Dear Judge James:

I am writing in reference to the above captioned matter. I responded to the roster e-mail stating that this case was not ready for trial because there is an outstanding dispositive motion that has not been heard. Based upon that I am writing to request that the case not be called next week and that the parties be allowed to either 40(j) the case with the stipulation that the motion can still be heard while the case is under the 40(j) or we be allowed to enter a scheduling order with will allow the case to be called six (6) months after the motion is ruled on.

I understand that an outstanding motion normally does not stop a case from going to trial however we are in an unusual situation where this dispositive motion that has been filed by Mr. Buyck for quite some time has not been heard. Last month Judge Young set the motion for a hearing in Sumter however Mr. Buyck was called to trial in another county at the last minute and therefore the motion still has not been heard.

Both parties are reluctant to spend significant sums on discovery if this case is going to be dismissed. The motion itself involves the issue of whether the tort claims act or the new medical mal practice act governs procedural requirements in this case.

As well and possibly more importantly I have a date certain trial scheduled to begin in Lexington on Wednesday before Judge Keesley.

Based upon the foregoing reasons I am respectfully requesting that this case not be called next week and I am requesting that the parties be allowed to enter into an order which will allow this motion to be resolved.

By copy of this letter to Mr. Buyck, I am notifying him of this communication and of my requests.

I would appreciate your having your law clerk notifying me of your decision of this matter.

With kind regards, I am

Sincerely,


John Carrigg

JC/rsr

cc: Hugh Buyck, Esquire
via fax: 843-377-1403
via e-mail: hw@buyckfirm.com

137 E. BUTLER STREET, SUITE 6
LEXINGTON, SOUTH CAROLINA 29072

PHONE (803) 785-5511
FAX (803) 785-5513

**CARRIGG
LAW FIRM**

Fax

To:	The Honorable George C. James	From:	John Carrigg, Esquire
Fax:	803-436-2403	Pages:	³ ~~2~~ (including cover)
Phone:		Date:	October 21, 2010
RE:	Grubb v. Clarendon Memorial Hospital Case No.: 09-CP-14-439	CC:	Hugh Buyck, Esquire 843-377-1403

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply

● **Comments:**

Please review the attached. If you have any questions or need any additional information from our office, please give us a call.

****Please note that our office has moved to 137 E. Butler Street, Suite 6, Lexington, South Carolina 29072. Our office can still be reached at 803-407-5354 or 803-785-5511 and by fax at 803-785-5513.****

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**CARRIGG
LAW FIRM**

Fax

To:	The Honorable George C. James	From:	John Carrigg, Esquire
Fax:	803-436-2403	Pages:	3 (including cover)
Phone		Date:	October 21, 2010
RE:	Grubb v. Clarendon Memorial Hospital Case No.: 09-CP-14-439	CC:	Hugh Buyck, Esquire 843-377-1403

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply

● **Comments:**

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PHONE (803) 785-5511
 FAX (803) 785-5513

**CARRIGG
 LAW FIRM**

Fax

To:	The Honorable George C. James	From:	John Carrigg, Esquire
Fax:	803-436-2403	Pages:	3 (including cover)
Phone		Date:	October 21, 2010
RE:	Grubb v. Clarendon Memorial Hospital Case No.: 09-CP-14-439	CC:	Hugh Buyck, Esquire 843-377-1403

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply

● **Comments:**

Please review the attached. If you have any questions or need any additional information from our office, please give us a call.

JOHN CARRIGG

ATTORNEY AT LAW

PHONE: (803) 785-5511

137 E. BUTLER STREET, SUITE 6
LEXINGTON, SOUTH CAROLINA 29072

FAX (803) 785-5513

RHONDASW@CARRIGGLAW.COM

October 21, 2010

Transmitted VIA Fax ONLY: 843-377-1403

Hugh W. Buyck, Esquire

Buyck and Sanders, LLC

Post Office Box 2424

Mt. Pleasant, South Carolina 29465-2424

RE: *Ronald Grubb as PR of the Estate of Joyce Grubb v. Clarendon
Memorial Hospital and D. Maxwell Egbonim, M.D.*
Case No.: 09-CP-14-439

Dear Mr. Buyck:

Our office has heard back from Judge James' office regarding the above matter. Judge James informed his law clerk that either option; a dismissal under Rule 40(j) with a request that the motion still be heard or a scheduling order that states that the case is not to be called earlier than six months after a ruling on your motion. I am open to either option. Please review your file and let me know what your thoughts are.

I look forward to hearing from you soon.

Sincerely,


John Carrigg

JC/rsr

TRANSMISSION VERIFICATION REPORT

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PHONE (803) 785-5511
 FAX (803) 785-5513

**CARRIGG
 LAW FIRM**

Fax

To:	Hugh Buyck, Esquire	From:	John Carrigg, Esquire
Fax:	843-377-1403	Pages:	<u>2</u> (including cover)
Phone		Date:	October 21, 2010
RE:	Ronald Grubb as PR of the Estate of Joyce Grubb v. Clarendon Memorial Hospital and D. Maxwell Egbonim, M.D. Case No.: 09-CP-14-439	CC:	

☒ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply

● **Comments:**

Please review the attached.

137 E. BUTLER STREET, SUITE 6
LEXINGTON, SOUTH CAROLINA 29072

PHONE (803) 785-5511
FAX (803) 785-5513

**CARRIGG
LAW FIRM**

Fax

To:	Hugh Buyck, Esquire	From:	John Carrigg, Esquire
Fax:	843-377-1403	Pages:	<u>2</u> (including cover)
Phone		Date:	October 21, 2010
RE:	<i>Ronald Grubb as PR of the Estate of Joyce Grubb v. Clarendon Memorial Hospital and D. Maxwell Egbonim, M.D. Case No.: 09-CP-14-439</i>	CC:	

☒ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply

● **Comments:**

Please review the attached.

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JOHN CARRIGG

ATTORNEY AT LAW

PHONE: (803) 785-5511

137 E. BUTLER STREET, SUITE 6
LEXINGTON, SOUTH CAROLINA 29072

FAX (803) 785-5513

RHONDARAILING@EARTHLINK.NET

February 3, 2011

Transmitted VIA Fax: 843-377-1403 and e-mail: hwb@buyckfirm.com

Hugh W. Buyck, Esquire

Buyck and Sanders, LLC

Post Office Box 2424

Mt. Pleasant, South Carolina 29465-2424

RE: *Ronald Grubb as PR of the Estate of Joyce Grubb v. Clarendon
Memorial Hospital and D. Maxwell Egbonim, M.D.*
Case No.: 09-CP-14-439

Dear Mr. Buyck:

The above matter is again up on the Roster for the week of February 22, 2011 before Judge James. In October my office spoke with Judge James regarding having this matter either 40(j) or do a Consent Scheduling Order in which he replied either was fine with him. I sent you a letter regarding this same issue on October 21, 2010 and still have not received any response from your office. Therefore, attached please find a Consent Scheduling Order that I would appreciate your reviewing and let me know what your thoughts are. If you agree with the same then please sign it and return it to my office where I will have it filed with the Court.

Please let me hear from you soon.

Sincerely,
John Carrigg
John Carrigg

JC/rsr
Attachment

137 E. BUTLER STREET, SUITE 6
LEXINGTON, SOUTH CAROLINA 29072

PHONE (803) 785-5511
FAX (803) 785-5513

**CARRIGG
LAW FIRM**

URGENT Fax

To:	Hugh Buyck, Esquire	From:	John Carrigg, Esquire
Fax:	843-377-1403	Pages:	<u>4</u> (including cover)
Phone		Date:	February 3, 2011
RE:	<i>Ronald Grubb as PR of the Estate of Joyce Grubb v. Clarendon Memorial Hospital and D. Maxwell Egbonim, M.D. Case No.: 09-CP-14-439</i>	CC:	

☒ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply

● **Comments:**

Please review the attached.

****Please note that our office has moved to 137 E. Butler Street, Suite 6, Lexington, South Carolina 29072. Our office can still be reached at 803-407-5354 or 803-785-5511 and by fax at 803-785-5513.****

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PHONE (803) 785-5511
FAX (803) 785-5513

CARRIGG
LAW FIRM

URGENT Fax

To:	Hugh Buyck, Esquire	From:	John Carrigg, Esquire
Fax:	843-377-1403	Pages:	<u>4</u> (including cover)
Phone		Date:	February 3, 2011
RE:	Ronald Grubb as PR of the Estate of Joyce Grubb v. Clarendon Memorial Hospital and D. Maxwell Egbonim, M.D. Case No.: 09-CP-14-439	CC:	

☒ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply

● Comments:

Please review the attached.

JOHN CARRIGG

ATTORNEY AT LAW

PHONE: (803) 785-5511

137 E. BUTLER STREET, SUITE 6
LEXINGTON, SOUTH CAROLINA 29072

FAX (803) 785-5513

JCARRIGG@CARRIGGLAW.COM

February 18, 2011

Transmitted VIA Fax: 803-436-2403 and e-mail: gjamesj@scccourts.org
The Honorable George C. James Jr.
Post Office Box 1716
Sumter, South Carolina 29150

RE: *Ronald Grubb as PR of the Estate of Joyce Grubb v. Clarendon
Memorial Hospital and D. Maxwell Egbonim, M.D.*
Case No.: 09-CP-14-439

Dear Judge James:

I am writing in reference to the above captioned matter. This matter is currently number 15 on the Roster for the week of February 22, 2011 through February 25, 2011, and is currently not ready for trial.

The above parties have mutually agreed that Mr. Buyck's outstanding Motion to Dismiss on file with the Court should be heard and then Trial of this matter be at least six months after the disposition of that Motion as both parties are reluctant to spend significant sums on discovery if this case is going to be dismissed. The motion itself involves the issue of whether the tort claims act or the new medical mal practice act governs procedural requirements in this case. Therefore, we have entered into a Consent Scheduling Order which our office received back from Mr. Buyck on today's date and am attaching the same. We will forward the original to you by U.S. Mail.

By copy of this letter to Mr. Buyck, I am notifying him of this communication.

With kind regards, I am

Sincerely,
John Carrigg
John Carrigg

JC/rsr

cc: Hugh Buyck, Esquire
via fax: 843-377-1403
via e-mail: hwb@buyckfirm.com

02/01/2011 10:24

8834075754

CARRIGG LAW FIRM

PAGE 03/04

STATE OF SOUTH CAROLINA)

COUNTY OF CLARENDON)

Ronald Grubb as PR of the Estate of,
Joyce Grubb)

Plaintiff,)

-vs.-)

Clarendon Memorial Hospital and
D. Maxwell Egbonim, M.D.)

Defendant.)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

C/A No.: 2008-CP-14-472

CONSENT SCHEDULING ORDER

This matter comes before me on the consent of the parties for a scheduling order in the above-captioned matter. The parties need to conduct additional discovery and a mediation in the case. In addition, the Counsel for Defendant Clarendon Memorial Hospital filed a dispositive motion that needs to be heard and decided on prior to the parties moving further in discovery and mediation. Accordingly I find that good cause exists for this order, and therefore, the following deadlines are established in this matter:

1. Trial in this matter shall not be before six months after the disposition of the current Motion to Dismiss on file with this Court. Nothing in this deadline shall prevent a party from moving to amend this deadline upon extenuating or exceptional circumstances.

IT IS HEREBY SO ORDERED.

Chief Administrative Judge for
Clarendon County

_____, South Carolina

February ____, 2011.

•Signatures Next Page•

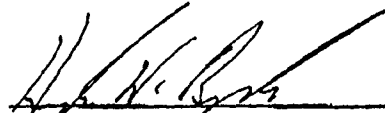
02/01/2011 10:24 8034075754

CARRIGG LAW FIRM

PAGE 04/04

WE SO MOVE:

John Carrigg, Esquire
Carrigg Law Firm
137 E. Butler Street, Suite 6
Lexington, South Carolina 29072
Attorney for Plaintiff

WE SO CONSENT:

Hugh W. Buyck, Esquire
Buyck & Sanders Law Firm, LLC
757 Johnnie Dodds Blvd., Suite 100
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Attorney for Defendant Clarendon Memorial Hospital

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**CARRIGG
LAW FIRM**

Fax

To:	The Honorable George C. James	From:	John Carrigg, Esquire
Fax:	803-436-2403	Pages:	<u>4</u> (including cover)
Phone		Date:	February 18, 2011
RE:	Grubb v. Clarendon Memorial Hospital Case No.: 09-CP-14-439	CC:	Hugh Buyck, Esquire 843-377-1403

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply

● **Comments:**

Please review the attached. If you have any questions or need any additional information from our office, please give us a call.

****Please note that our office has moved to 137 E. Butler Street, Suite 6, Lexington, South Carolina 29072. Our office can still be reached at 803-407-5354 or 803-785-5511 and by fax at 803-785-5513.****

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Fax

To:	The Honorable George C. James	From:	John Carrigg, Esquire
Fax:	803-436-2403	Pages:	<u>4</u> (including cover)
Phone		Date:	February 18, 2011
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**BUYCK & SANDERS
LAW FIRM, LLC**

757 Johnnie Dodds Blvd.

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P.O. Box 2424

Mt. Pleasant, SC 29465-2424

Phone: (843) 377-1400

Facsimile: (843) 377-1403

Email: info@buyckfirm.com

Fax

To: John Carrigg, Esquire**Fax:** (803) 785-5513**From:** Hugh W. Buyck, Esquire**Pages:** 3 (including coversheet)**Email:** hwb@buyckfirm.com**Phone:** (843) 377-1400**Date:** February 18, 2011**Re:** Ronald Grubb as PR of the Estate of Joyce Grubb v. Clarendon Memorial Hospital☐ Urgent☒ For Review☐ Please Comment☐ Please Reply☐ Please**Recycle****Original will follow by:**☐ U.S. Mail☐ Email☐ Overnight Mail☐ Hand Delivery☐ Original will not follow**• Comments:**

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rhonda railing

From: James, George C. [GJamesJ@sccourts.org]
Sent: Friday, February 18, 2011 12:19 PM
To: rhonda railing
Cc: 'Hugh Buyck'; 'Carrigg, John'; John Carrigg
Subject: RE: Grubb v. Clarendon Memorial Hospital; Case no.: 2008-CP-14-472

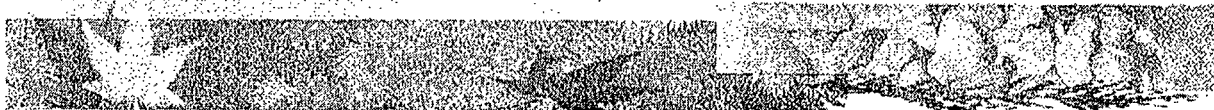
Send the scheduling order to Judge Young in Sumter. I think the next motion term is in early March, so you can contact the Clerk's office in Manning to see if it will be on the roster.

From: rhonda railing [mailto:rhondarailing@earthlink.net]
Sent: Friday, February 18, 2011 10:59 AM
To: James, George C.
Cc: 'Hugh Buyck'; 'Carrigg, John'; John Carrigg
Subject: Grubb v. Clarendon Memorial Hospital; Case no.: 2008-CP-14-472

Please review the attached correspondence and Consent Scheduling Order. If you have any questions please do not hesitate to give us a call at the number listed below.

Rhonda Railing, Paralegal
The Carrigg Law Firm
137 E. Butler Street, Suite 6
Lexington, South Carolina 29072
803-785-5511 phone
803-785-5513 fax

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas

George C. James, Jr., Circuit Court Judge

Case No. 2009-CP-14-439

Ronald Grubb as PR of the Estate of Joyce Grubb,

Appellant,

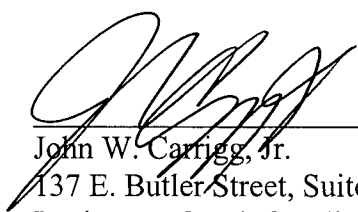
v.

Clarendon Memorial Hospital,

Respondent.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



John W. Carrigg, Jr.

137 E. Butler Street, Suite 6
Lexington, South Carolina 29072
(803) 785-5511

Attorney for Appellants

Dated: 2-12-13

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