THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Stephanie P. McDonald, Circuit Court Judge

Case No. 2009-CP-08-3237

Finley C. Evans..... Appellant

v.

Roper Hospital, Inc. d/b/a Roper
St. Francis Healthcare and d/b/a
Roper-St. Francis Home Health..... Respondents.

INITIAL REPLY BRIEF OF APPELLANT

Christy DeLuca
McGowan, Hood & Felder, LLC
1539 Health Care Drive
Rock Hill, SC 29732
(803) 327-7800
(803) 328-5656 (fax)
cdeluca@mcgowanhood.com

Attorney for Appellant

TABLE OF CONTENTS

Table of Authorities..... ii

Reply Argument

I. MR. EVANS PRESENTED COMPETENT EVIDENCE SHOWING ROPER'S BREACHES OF THE STANDARD OF CARE PROXIMATELY CAUSED HIS INJURIES 1

A. Mr. Evans presented evidence that Nurse Belk's failure to remain with her patient was a proximate cause of Mr. Evans' damages 1

B. Mr. Evans presented evidence at trial showing Nurse Belk's conduct was a proximate cause of Mr. Evans' blood loss and resulting injuries..... 7

II. THIS COURT HAS JURISDICTION AS MR. EVANS' APPEAL WAS FILED WITHIN THE TIME PERIOD PROVIDED BY LAW FOLLOWING THE COURT'S RULING ON HIS RULE 59, SCRCP MOTION 9

Conclusion..... 12

TABLE OF AUTHORITIES

Cases

Burnett v. Family Kingdom, Inc., 387 S.C. 183, 691 S.E.2d 170 (Ct. App. 2010)..... 1

Carver v. Medical Society of South Carolina, 286 S.C. 347, 334 S.E.2d 125 (Ct. App. 1985) 7

Cox v. Lund, 286 S.C. 410, 334 S.E.2d 116 (1985) 6

Elam v. S.C. Department of Transportation, 361 S.C. 9, 602 S.E.2d 772 (2004) 11

Erickson v. Jones Street Publishers, LLC, 368 S.C. 444, 629 S.E.2d 653 (2006)..... 2

Getsinger v. Midlands Orthopaedic Profit Sharing Plan, 327 S.C. 424, 489 S.E.2d 223 (Ct. App. 1997) 11

Green v. Lilliewood, 272 S.C. 186, 249 S.E.2d 910 (1978)..... 5

Hansel v. National States Insurance Co., 313 S.C. 266, 437 S.E.2d 159 (Ct. App. 1993) 11

Jamison v. The Pantry, Inc., 301 S.C. 443, 392 S.E.2d 474 (Ct. App. 1990)..... 1

Jones v. General Electric Co., 331 S.C. 351, 503 S.E.2d 173 (Ct. App. 1998)..... 9

King v. Williams, 276 S.C. 478, 279 S.E.2d 618 (1981) 6

Melton v. Medtronic, Inc., 389 S.C. 641, 698 S.E.2d 886 (Ct. App. 2010)..... 7

O'Neal v. Carolina Farm Supply of Johnston, Inc., 279 S.C. 490, 309 S.E.2d 776 (Ct. App. 1983)..... 1

Rayfield v. S.C. Department of Corrections, 297 S.C. 95, 374 S.E.2d 910 (Ct. App. 1988)..... 1

Richland County v. Carolina Chloride, Inc., 382 S.C. 634, 677 S.E.2d 892 (Ct. App. 2009) 11

Southeastern Housing Foundation v. Smith, 380 S.C. 621, 670 S.E.2d 680 (Ct. App. 2008) 11

TranSouth Fin. Corp. v. Cochran, 324 S.C. 290, 478 S.E.2d 63 (Ct. App. 1996) 12

Court Rule

Rule 203, SCACR 9, 10, 11

Rule 6, SCRCP 10

Rule 59, SCRCP 9, 10, 11

Secondary Source

70 C.J.S. Physicians & Surgeons § 62(d)(2) 6

New American Webster's Dictionary (3rd ed.) 9

REPLY ARGUMENT

I. MR. EVANS PRESENTED COMPETENT EVIDENCE SHOWING ROPER'S BREACHES OF THE STANDARD OF CARE PROXIMATELY CAUSED HIS INJURIES

To ultimately prevail in a negligence claim, a plaintiff must show (1) a duty of care owed by the defendant to the plaintiff; (2) a breach of that duty by a negligent act or omission; and (3) damage proximately resulting from the breach. Rayfield v. S.C. Dep't of Corr., 297 S.C. 95, 374 S.E.2d 910 (Ct. App. 1988); O'Neal v. Carolina Farm Supply of Johnston, Inc., 279 S.C. 490, 493, 309 S.E.2d 776, 779 (Ct. App. 1983)(noting "settled rule that the plaintiff in a negligence action has the burden of persuasion on the issue of proximate cause"). A plaintiff must only produce a "scintilla of evidence" on each element to defeat a directed verdict motion. Jamison v. The Pantry, Inc, 3301 S.C. 443, 444, 392 S.E.2d 474, 475. Proximate cause requires proof of both (1) causation in fact or "but for" causation and (2) foreseeability. Burnett v. Family Kingdom, Inc., 387 S.C. 183, 192, 691 S.E.2d 170, 175 (Ct. App. 2010).

A. Mr. Evans presented evidence that Nurse Belk's failure to remain with her patient was a proximate cause of Mr. Evans' damages.

Proximate cause concerns a relationship between a defendant's breach of duty and a plaintiff's injuries or other damages. Therefore, when conducting a proximate cause analysis, it is important to first establish the breaches and damages for which the requisite connection must be shown. Mr. Evans has presented evidence of breaches of duty, compensable injuries he has suffered, and a causal connection between the breaches and the injuries. There is evidence in the record showing Nurse Belk left Mr. Evans' home while he was actively bleeding. Nurse Belk testified that "the bleeding **continued** after I left." Tr. of Jury Trial at 486:12-13 (emphasis added). Notably, Nurse Belk did not testify

that the bleeding "restarted" but that it "continued" from the bleeding clearly noted during Nurse Belk's time at the home.[1]

Respondent claims "[t]he only evidence in the record is that no one saw bleeding at the time of Nurse Belk's exit." Initial Brief of Resp. at 34. Significantly, the trial witnesses also admitted that they would not be able to see the wound or its dressing that were completely covered with a five-pound bag of rice. Tr. Of Jury Trial 147:19-24, 473:10-15, 615:1-14, 674:4-9. In addition, Mr. Evans testified that he was bleeding when Nurse Belk left him on the bed with a five-pound rice bag on his groin and instructions not to move. Mr. Evans says he "was bleeding all along" based on the sensations he was feeling on October 3rd both before and after Nurse Belk left. Tr. of Jury Trial at 305:1-4. Judge McDonald acknowledged this evidence in denying Defendant's directed verdict motion at the close of Mr. Evans' case-in-chief. Tr. of Jury Trial 517:10-13 ("From what I've heard from Mrs. Evans and from [Mr. Evans], the bleeding hadn't stopped and the situation was not under control")[2]. Registered Nurse Lauren Cauwels, an expert with extensive experience treating wounds like Mr. Evans' as a home health care nurse, was qualified by Judge McDonald in the "nursing fields of home care and treatment of

---

[1] Appellant acknowledges Nurse Belk gave inconsistent testimony on this issue. See Tr. of Jury Tr. at 471:9. However, a court's review of a directed verdict seeks only to determine the existence of evidence on the elements of a cause of action and does not seek to resolve inconsistencies in testimony. Erickson v. Jones Street Publishers, LLC, 368 S.C. 444, 463, 629 S.E.2d 653, 663 (2006)(finding trial court deciding directed verdict motion should not "decide credibility issues or...resolve conflicts in the testimony or evidence").

[2] Judge McDonald appeared to rely on the evidence she cited here to support her decision to let Mr. Evans' case "get past the directed verdict stage." Tr. of Jury Trial at 517:16-18. While Respondent later presented evidence to counter the Evans' testimony of an active bleed at Nurse Belk's departure, it is unclear from the record as to why the evidence on which Judge McDonald relied in refusing to direct a verdict initially was insufficient to defeat a renewed directed verdict motion.

wounds." Tr. of Jury Trial 123:16-124:12.[3] Nurse Cauwels also testified that Mr. Evans was actively bleeding when Nurse Belk left. Tr. of Jury Trial 170:21-24. The trial court's conclusion that Mr. Evans was not bleeding at Nurse Belk's departure is opposed by competent evidence the court was not permitted to overlook in ruling on a directed verdict motion.

Mr. Evans' claims against Respondent are not solely contingent on the factual contention that Mr. Evans was actively bleeding at Nurse Belk's departure. Mr. Evans provided expert testimony also establishing a breach in the standard of care in Nurse Belk's decision to leave the Evans' residence while Mr. Evans was "unstable," a condition existing regardless of whether Mr. Evans was actively bleeding. Nurse Cauwels testified Mr. Evans was "unstable" and "needed to be transported" to the hospital when Nurse Belk chose to leave. Tr. of Jury Trial 147:21; 148:2.. If such an instruction was necessary, then Mr. Evans' condition was clearly assessed to be a high risk for bleeding and a reasonable home health care nurse would not have left him alone in his home. Id.

In addition to this evidence of a breach in the standard of care stemming from Nurse Belk's decision to leave her patient alone at home, there is also evidence that the damages Mr. Evans claims in this litigation were a result of the October 3rd excessive bleeding episode. Along with nursing expert Cauwels, Mr. Evans also called Dr. Murat Gezen, a medical doctor and expert with experience in both wound care and home health care. Tr. of Jury Trial 452:21-453:3. According to Dr. Gezen, the October 3rd bleeding episode where Nurse Belk abandoned Mr. Evans' at home "led to a vasovagal event,

[3] Respondent engaged Registered Nurse Alma Renee Epting as an expert who testified by deposition designation at trial. Unlike Nurse Cauwels, Nurse Epting has never worked in the home health setting. Tr. of Jury Trial 337:13-14.

which caused him to be hypotensive, bradycardic and presented to the emergency room the way that he did." Tr. of Jury Trial 454:5-8.

With the breaches and damages described above properly considered, the circuit court was to determine whether there was a scintilla of evidence tending to show a causal connection between Nurse Belk's departure from her unstable, actively bleeding patient's home and the blood loss and other resulting injuries to Mr. Evans that occurred and increased in severity due to the time it took to discover the bleeding and receive emergency medical attention. If there is a scintilla of evidence tending to show Mr. Evans bled more and suffered more extensive injuries during Nurse Belk's absence than he would have if Nurse Belk remained by his side providing assistance consistent with the standard of care (e.g. staying with him, calling for emergency assistance right away), then the "but for" component of proximate cause is an issue of fact to be resolved by a jury.

Mr. Evans contends that the medical testimony he presented at trial provides competent evidence on all elements of his negligence causes of action to overcome a motion for a directed verdict and prove the elements of his negligence claims. The expert testimony from Nurse Cauwels and Dr. Gezen established the duties, breaches, proximate causation and damages in this case, specifically, bleeding extending over a protracted period and other resulting medical problems as well as the mental trauma of the frightening experience at his home and in the ambulance and fear of impending death. In sum, the circuit court had before it evidence that Nurse Belk breached the standard of care by leaving an actively bleeding patient (e.g. Tr. of Jury Trial 147:21; Tr. of Jury Trial 170:16-18, 21-24), evidence Nurse Belk breached the standard by leaving an appreciably unstable patient alone (e.g. Tr. of Jury Trial 144:9; 174:2-3), and evidence

that the October 3rd bleeding episode where Nurse Belk breached the standard led directly to the panic, fear of imminent death and medical complications Mr. Evans claims as damages Tr. of Jury Trial 222:6-11, 302:6-303:7, 303:14-304:4, 454:5-8...

Although medical malpractice cases generally require expert testimony to establish breach of duty and causation, "there is an exception to the rule in situations where the common knowledge or experience of laymen is extensive enough to recognize or infer negligence from the facts." Green v. Lilliewood, 272 S.C. 186, 249 S.E.2d 910 (1978). For example, in King v. Williams, 276 S.C. 478, 279 S.E.2d 618 (1981), the Court applied the common knowledge exception in a case against a doctor who failed to treat a car accident victim's broken foot. The foot was swollen and discolored but the defendant doctor attributed the patient's presentation to an ankle problem and treated the condition accordingly. Id. at 483, 279 S.E.2d at 620. The plaintiff in King alleged malpractice based on the doctor's failure to x-ray the afflicted foot and the doctor's failure to consult a specialist despite the patient's presentation. Id. The Court found "the common knowledge or experience of laymen [was] capable of inferring lack of proper care and the requisite causal link." Id. (citing 70 C.J.S. Physicians & Surgeons § 62(d)(2)). The doctor's failure to properly assess a patient's condition based on his presentation and "subsequent events clearly infer a failure to use proper skills." King, 276 S.C. at 483, 279 S.E.2d at 620.

The common knowledge exception has even been applied in the context of invasive medical procedures. See Cox v. Lund, 286 S.C. 410, 334 S.E.2d 116 (1985)(colonoscopy). In Cox, the Court upheld a common knowledge exception jury

charge on the question of a doctor's "ability to maintain visual observation as the colonoscope proceeded through the colon." 286 S.C. at 417, 334 S.E.2d at 120. The court found an average lay juror's knowledge and sufficient to judge whether a doctor was negligent in continuing a medical procedure where evidence indicated the doctor lacked adequate visualization to perform the procedure safely. Id.

Whether an unstable, actively bleeding man in need of emergency transport to a hospital endured more bleeding and suffered more severe injuries in Nurse Belk's absence than he would have suffered by her continued presence and proper treatment is an issue lying squarely within the common knowledge and experience of laymen. Mr. Evans' injuries are his blood loss (approximately one liter) and resulting medical conditions. Mr. Evans was actively bleeding when Nurse Belk left his house well before 12:30 p.m. on October 3rd. Mr. Evans did not receive additional medical care until emergency personnel arrived sometime after they were called at 1:40 p.m. In the interim, Mr. Evans' wound continued to bleed and his injuries became more severe. If Nurse Belk had remained at the home, properly assessed Mr. Evans' condition, and responded properly to his condition as the standard of care required, then she could have and should have called for emergency medical assistance far in advance of 1:40 p.m.

Mr. Evans is not asking a jury to examine and determine issues requiring specialized knowledge or experience. This case is not Melton v. Medtronic, Inc., 389 S.C. 641, 664, 698 S.E.2d 886, 898 (Ct. App. 2010), where the common knowledge exception was clearly inapplicable because its application would "require the jury to know the electrical ins and outs" of a medical device and understands technical information about heartbeat irregularities. Carver v. Medical Society of South Carolina, 286 S.C. 347, 334

S.E.2d 125 (Ct. App. 1985), another case on which Respondent relies, is also distinguishable on its facts. The application of the common knowledge exception to Carver would have required the jury to have knowledge and experience on "the use of an electrosurgery machine during open-heart surgery." Id. at 350, 334 S.E.2d at 127.

No such technical expertise is required here. Expert testimony establishes deviations from the standard of care in Nurse Belk's departure given Mr. Evans' condition and a causal connection between the subsequent blood loss and other resulting injuries, i.e., mental distress, , loss of consciousness, hypotension (low blood pressure), bradycardia (slowness of the heartbeat), ambulance transport and hospitalization. In addition to the evidence provided by the expert testimony of the nurse and medical doctor referenced above, using common knowledge and common sense the jury is more than capable of determining that a man who is actively bleeding and unstable would suffer more bleeding and resulting injuriesn lying unaided in his bed at home than he would suffer with a nurse at his side that had a duty to call for emergency assistance under the circumstances.

B. Mr. Evans presented evidence at trial showing Nurse Belk's conduct was a proximate cause of Mr. Evans' blood loss and resulting injuries.

Mr. Evans provided evidence at trial that Nurse Belk caused bleeding when she changed the bandage on Mr. Evans' surgical wound on October 3rd. As Nurse Cauwels testified, a first in the series of Nurse Belk's standard of care violations was her inadequate assessment of Mr. Evans' condition. A full assessment should have been performed and it was not. Tr. of Jury Trial 143:19-20. An adequate assessment is critical to prevent the dressing change from harming the patient or slowing the healing process. Nurse Belk should have known that "[y]ou don't just rip off the dressing without

assessing what is going on." Tr. of Jury Trial 143:24-25. Nurse Cauwels designation of Nurse Belk's dressing removal technique as "rip[ping] off" is derived from Nurse Belk's description of her conduct on October 3rd. Nurse Belk described her method of dressing removal as "like removing tape" and agreed with counsel's suggestion that the process was similar to pulling off a Band-Aid. Tr. of Jury Trial 463:12-16.

Nurse Belk undertook Mr. Evans' dressing change without conducting the assessment required by the standard of care and proceeded to remove the dressing as she would a piece of tape. When she removed the bandage, it is clear that there was bleeding. Bleeding with the dressing change is noted in the medical records. For example, one record states "[w]ith removal of the sponge bleeding noted" (RSFH 0036) and another states "bleeding with dressing change." (RSFH 0064). Nurse Belk's trial testimony provides confirmation of these entries. Tr. of Jury Trial 466:12-15; 467:12-18. These records and Nurse Belk's testimony provide competent evidence that Nurse Belk caused bleeding with her improper dressing removal. Respondent dismisses this interpretation of evidence as "unacceptable and unreasonable." Initial Brief of Resp. at 27. Respondent's self-interested portrayal of Mr. Evans' and his expert's construction of this evidence as unreasonable was perhaps a permissible line of questioning for the direct examination of Respondent's experts and may form the basis for a closing argument. However, Respondent's opposing interpretation of evidence in the record, no matter how vehemently expressed, is not sufficient to support a directed verdict. The Court considers

the existence of evidence, not its interpretation, when ruling on a directed verdict motion. Jones v. General Elec. Co., 331 S.C. 351, 503 S.E.2d 173 (Ct. App. 1998).[4]

II. THIS COURT HAS JURISDICTION AS MR. EVANS' APPEAL WAS FILED WITHIN THE TIME PERIOD PROVIDED BY LAW FOLLOWING THE COURT'S RULING ON HIS RULE 59, SCRCP MOTION.

A party intending to appeal must serve and file a Notice of Appeal as required by Rule 203 of the South Carolina Appellate Court Rules. For appeals taken from a Court of Common Pleas, a Notice of Appeal must be served "within 30 days after receipt of written notice of entry of the order or judgment." Rule 203(b)(1), SCACR. The time frame for commencing an appeal is altered if the party seeking to appeal timely files one of several different varieties of post-trial motions including Rule 59, SCRCP motions for a new trial or to alter or amend a judgment. Id. When one of these motions is filed, the time for appeal begins only after the appealing party receives written notice of the court's ruling on the post-trial motion. Id.

Respondent renewed its motion for a directed verdict at the close of its case-in-chief on January 12, 2012. Judge McDonald granted the motion and directed a verdict in Respondent's favor from the bench. A Form 4 "Judgment in a Civil Case" Order was then created and sent via electronic and traditional mail to counsel. On January 23, 2012,

---

[4] Respondent also alleges Mr. Evans is barred from claiming Nurse Belk caused bleeding during the dressing change based on language in the Statement of the Case in his Initial Brief. See Initial Brief of Resp. at 28 (quoting Initial Brief of Appellant at 1). Respondent makes much of the brief's statement that Nurse Belk "noted" bleeding during the dressing change. This argument is premised on the notion that "to note" is the opposite of "to cause." This notion is not supported by the common usage of those two verbs. See New American Webster Dictionary (3rd ed.) at 116 (defining "note" as "to make occur or be; bring about") and 463 (defining "note" as to "make a record of; make mention of"). A person can certainly note an event or condition that same person has also caused. Accordingly, Mr. Evans' Initial Brief is no bar to his arguments on appeal.

Mr. Evans filed a Rule 59 motion asking the circuit court for an order "reconsidering, altering, or amending the Court's January 12, 2012 order directing a verdict for Defendants" Pla. Mot. at 1. A hearing was held on Mr. Evans' post-trial motions and Judge McDonald denied those motions in a Form 4 Order filed on March 29, 2012. Mr. Evans filed a Notice of Appeal on April 30, 2012, within 30 days of written notice of the circuit court's ruling on his post-trial motions.[5]

Respondent's jurisdictional argument fails because Mr. Evans' Notice of Appeal complies with Rule 203, SCACR in that it was filed within 30 days of written notice of the circuit court's ruling on his Rule 59 post-trial motion. Respondent claims the post-trial motion was untimely because Mr. Evans' motion to reconsider, alter, or amend the judgment does not actually seek alteration or amendment of a judgment. Respondent seeks to recast Mr. Evans' post-trial motion as an untimely motion for a new trial in an effort to sever this Court's jurisdiction over Mr. Evans' appeal.[6]

The plain language of Rule 59(e) permits a motion to "alter or amend a judgment." South Carolina courts have also referred to the request authorized by Rule 59(e) as a "motion for reconsideration." Elam v. S.C. Dep't of Transp., 361 S.C. 9, 15, 602 S.E.2d 772, 775 (2004); Hansel v. Nat'l States Ins. Co., 313 S.C. 266, 272, 437 S.E.2d 159, 162 (Ct. App. 1993). A Rule 59(e) motion "has long been viewed as a

---

[5] Mr. Evans' April 30th Notice of Appeal was filed within 30 days of written notice of the March 29th order as day 30 of his time for filing fell on a Sunday and Mr. Evans' Notice was filed the following Monday. See Rule 6(a), SCRCP.

[6] The time for making a motion for a new trial is "promptly after the jury is discharged, or in the discretion of the court not later than 10 days thereafter." Rule 59(b), SCRCP. At the hearing on Mr. Evans' post-trial motion, Judge McDonald ruled that she gave Mr. Evans the discretionary 10 days discussed in Rule 59(b). See Tr. of Record 13:16-18 ("I'm going to rule on it, that I gave the 10 days. That you either made that request or I just sua sponte said take your 10 days...").

'motion for reconsideration' despite the absence of those words from the rule." Elam, 361 S.C. at 21, 602 S.E.2d at 778. This Court has held that "a trial court plausibly could amend not only a judgment but also could reconsider its prior ruling on issues or arguments in response to a 59(e) motion." Se. Hous. Found. v. Smith, 380 S.C. 621, 640, 670 S.E.2d 680, 690 (Ct. App. 2008). By filing a Rule 59(e) motion, a party is "ask[ing] the court to reconsider its decision." Elam, 361 S.C. at 21, 602 S.E.2d at 778.

Mr. Evans' motion following the circuit court's directed verdict is far from a novel use of the request Rule 59(e) authorizes. There are many cases where a "motion to reconsider" under Rule 59(e) was the vehicle chosen by a party to challenge a directed verdict before noticing an appeal. In Getsinger v. Midlands Orthopaedic Profit Sharing Plan, 327 S.C. 424, 427, 489 S.E.2d 223, 224 (Ct. App. 1997), "the circuit court judge directed a verdict" and a party "filed a Rule 59(e) SCRCP motion for reconsideration." See also Richland County v. Carolina Chloride, Inc., 382 S.C. 634, 677 S.E.2d 892 (Ct. App. 2009)("the trial court granted [party's] motion for directed verdict on all causes of action. [Opposing party] filed a motion to reconsider"); TranSouth Fin. Corp. v. Cochran, 324 S.C. 290, 294, 478 S.E.2d 63, 65 (Ct. App. 1996). Mr. Evans' motion to reconsider the circuit court's directed verdict comports with the established practice of South Carolina attorneys and has been recognized without complaint in many reported cases.

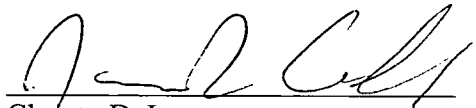
In sum, Mr. Evans' post-trial motion asked the circuit court to reconsider its directed verdict favoring Respondent. His motion was filed within the time period permitted by Rule 59(e) for motions to reconsider, alter, or amend judgment. When the circuit court entered an order denying Mr. Evans' motion, he filed and served a Notice of Appeal within 30 days of receiving written notice as required by Rule 203(b)(1),

SCACR. Accordingly, Mr. Evans' appeal is timely and this Court has jurisdiction to reach the merits of his claims.

CONCLUSION

Based on the arguments above and those in Appellant's Initial Brief, Mr. Evans respectfully requests an order reversing the circuit court's directed verdict. Mr. Evans presented sufficient evidence at trial on proximate cause to overcome a motion for directed verdict. thereby allowing the issue of Respondent's negligence to be decided by a jury. Additionally, Mr. Evans' appeal was filed in a timely manner following counsel's receipt of written notice denying Mr. Evans' timely post-trial motion. Therefore, this Court has jurisdiction to reach the merits of Mr. Evans' appeal.

Respectfully submitted,



Christy DeLuca
McGowan, Hood & Felder, LLC
1539 Health Care Drive
Rock Hill, SC 29732
(803) 327-7800
(803) 328-5656 (fax)
cdeluca@mcgowanhood.com

Attorney for Appellant

March 14, 2013
Rock Hill, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Stephanie P. McDonald, Circuit Court Judge

Case No. 2009-CP-08-3237

Finley C. Evans..... Appellant

v.

Roper Hospital, Inc. d/b/a Roper
St. Francis Healthcare and d/b/a
Roper-St. Francis Home Health..... Respondents.

PROOF OF SERVICE

The undersigned hereby certifies that on this 14th day of March, 2013, he served counsel for the Respondents with a copy of the Initial Reply Brief of Appellant in this matter by mailing a copy of the same by United States Mail with first class postage prepaid to the following addresses:

Joseph J. Tierney, Jr.
Russell G. Hines
Stephen L. Brown
Young, Clement Rivers, LLP
25 Calhoun Street, Suite 400
Charleston, SC 29401
(843) 720-5406
jtierney@ycrlaw.com

Jordan C. Calloway
McGowan, Hood & Felder
1539 Health Care Drive
Rock Hill, SC 29732
(803) 327-7800
jcalloway@mcgowanhood.com

McGowan, Hood & Felder, LLC

Chad A. McGowan (SC,GA,NC)
S. Randall Hood
John G. Felder, Jr.
W. Jones Andrews, Jr.
Jordan C. Calloway
Susan F. Campbell
Ashley White Creech
Christy M. DeLuca (SC,IL)
Lara Pettiss Harrill

Patrick M. Killen
William A. McKinnon (SC,DC)
Daniel "Ernie" Peagler
Robert V. Phillips
Seth Rose
James Stephen Welch*(SC,OK)
Jay F. Wright
Joseph G. Wright, III*
Of Counsel*

Writer's Email: jcalloway@mcgowanhood.com

April 1, 2013

South Carolina Court of Appeals
Attn: Elizabeth Carter
PO Box 11629
Columbia, SC 29211

RE: Finley C. Evans v. Roper Hospital, Inc. d/b/a Roper St. Francis Healthcare and d/b/a Roper-St. Francis Home Health
Case No: 2009-CP-08-3237

Dear Ms. Carter:

Per our telephone discussion of this date regarding a deficiency with Appellant's March 14th filing, I am enclosing the original Initial Reply Brief of Appellant with Proof of Service.

Please feel free to call if you have any questions.

Sincerely,

Jordan Calloway SHG

Jordan Calloway

JCC:shg
Enclosure
cc: Joseph J. Tierney, Jr., Esquire (w/out enclosure)