

Mark Rutland et al
PLAINTIFF(S)

Jeremy Locklair et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- 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
- STAYED DUE TO BANKRUPTCY**
- 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:

See page 2

RECEIVED
Jan 27 2022
SC Court of Appeals

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 12/29/2021 .

As Power Of Attorney Of Mary Hoover

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

This matter came before the Court on Plaintiff Mark Rutland's Motion to Reconsider Order to Dismiss. Having considered the arguments presented in the motion, the Plaintiff's motion is denied. Plaintiff argues their failure to comply with the South Carolina Medical Malpractice Act is not fatal because, although Defendant Edisto Post Acute is a healthcare institution, Defendant Locklair is not a healthcare provider, thus, the act does not apply. The Court disagrees. Additionally, Plaintiff argued at the hearing and now in this motion, that Defendant Locklair's failure to communicate the bankruptcy of Defendant Edisto Post Acute to Plaintiff is actionable. Notably, and of great importance in a motion to dismiss under Rule 12(b)(6), SCRCP, there are no allegations in the Complaint concerning the bankruptcy and alleged failure to communicate it. In considering a motion to dismiss under Rule 12(b)(6), a court must base its ruling solely on the allegations set forth in the complaint. *Carnival Corp. v. Historic Ansonborough Neighborhood Ass'n*, 407 S.C. 67, 753 S.E.2d 846 (2014). Therefore, the Plaintiff's motion is denied.



Orangeburg Common Pleas

Case Caption: Mark Rutland , plaintiff, et al VS Jeremy Locklair , defendant, et al

Case Number: 2021CP3800414

Type: Order/Electronic Form 4

So Ordered

G.D. Morgan Jr.