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THE STATE OF SOUTH CAROLINA

**RECEIVED**

IN THE COURT OF APPEALS

**Mar 29 2022**

**SC Court of Appeals**

APPEAL FROM ANDERSON COUNTY COURT OF COMMON PLEAS

The Honorable R. Lawton McIntosh, Circuit Court Judge

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Case No. 2020-CP-04-00008

Appellate Case No. 2021-000834

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Wanda Human, as Personal Representative of the Estate of Evelyn Marie Wood.....*Respondent*,

v.

AnMed Health,.....*Appellant*.

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RECORD ON APPEAL

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**ROE CASSIDY COATES & PRICE, P.A.**

s/ Fred W. "Trey" Suggs III

Fred W. "Trey" Suggs III, SC Bar No. 70222

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***Attorney for Respondent***

INDEX

Form 4 Order Granting Plaintiff’s Motion to Compel (June 23, 2021).....1

Order Granting Plaintiff’s Motion to Compel (July 12, 2021).....4

Plaintiff’s Motion to Compel (March 29, 2021).....8

Defendant’s Memorandum in Opposition to the Plaintiff’s Motion to Compel  
(June 11, 2021).....41

Transcript of record (pp. 1-22).....50

AnMed Health’s privilege log.....72

Certificate of Counsel.....75



**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

\_\_\_\_\_  
\_\_\_\_\_

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

\_\_\_\_\_  
\_\_\_\_\_

**ATTORNEY(S) FOR THE DEFENDANT(S)**

**CLERK OF COURT**

**Court Reporter:**

**E-Filing Note:** In E-Filing counties, 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 judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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

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

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Anderson Common Pleas

**Case Caption:** Wanda Human, Personal Representative , plaintiff, et al VS Anmed Health  
**Case Number:** 2020CP0400008  
**Type:** Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

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IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF ANDERSON )

IN THE COURT OF COMMON PLEAS  
FOR THE 10TH JUDICIAL CIRCUIT  
CASE NO: 2020-CP-04-00008

WANDA HUMAN, as Personal  
Representative of the ESTATE OF  
EVELYN MARIE WOOD,  
  
Plaintiff,

v.

ANMED HEALTH,  
  
Defendant.

**ORDER GRANTING PLAINTIFF'S  
MOTION TO COMPEL PRODUCTION  
OF WITNESS STATEMENT**

This matter came before the Court on June 23, 2021 on Plaintiff's Motion to Compel Defendant AnMed Health's ("AnMed") full responses to discovery requests. At issue is a statement by a witness who "observed the immediate aftermath of the accident" according to Defendant (Statement of Chrissy Shortridge, RN). Defendant disclosed the existence of the statement, but withheld it from production based on a claim of privilege under S.C. Code Ann. § 44-7-392 and the work product doctrine, thus giving rise to Plaintiff's Motion to Compel.

Present for Plaintiff was Vanisa T. Siler of the Anastopoulos Law Firm. Present for Defendant was Fred "Trey" Suggs, III, of Roe, Cassidy, Coates, & Price. For the reasons set forth below, this Court finds that the Statement of Chrissy Shortridge, RN is not privileged under S.C. Code Ann. § 44-7-392(h) or the Work Product Doctrine, and hereby orders Defendant to produce said statement within 14 days of the entry of this Order.

S.C. Code Ann. § 44-7-392(h) protects "incident or occurrence reports and related investigations." It does not protect witness statements. This is clear by comparing the language of subsection 392(h) ("reports and related investigations") with the language of subsection 392(g) immediately preceding it ("reports or *statements*") (emphasis added). The contrasting choice of language shows that the drafters were aware of the difference between "reports" and "statements",

and consciously chose to include the former but not the latter in subsection 392(h). *See, Hodges v. Rainey*, 341 S.C. 79, 86, 533 S.E.2d 578, 582 (2000) (“The canon of construction “*expressio unius est exclusio alterius*” or “*inclusio unius est exclusio alterius*” holds that “to express or include one thing implies the exclusion of another, or of the alternative.”); *S. Mut. Church Ins. Co. v. S.C. Windstorm & Hail Underwriting Ass’n*, 306 S.C. 339, 342, 412 S.E.2d 377, 379 (1991) (“Clearly, words in a statute must be construed in context. According to the doctrine of *noscitur a sociis*, the meaning of particular terms in a statute may be ascertained by reference to words associated with them in the statute.”) (internal citations omitted).

The Work Product Doctrine protects documents “prepared *because* of the prospect of litigation when the preparer faces an actual claim or a potential claim following an actual event or series of events that reasonably could result in litigation.” *Nat’l Union Fire Ins. Co. of Pittsburgh, Pa. v. Murray Sheet Metal Co.*, 967 F.2d 980, 984 (4th Cir. 1992) (emphasis in original). Accordingly, it does not protect “materials prepared in the ordinary course of business or pursuant to regulatory requirements or for other non-litigation purposes.” *Id.* “[T]he party claiming the protection bears the burden of demonstrating the applicability of the work product doctrine.” *Solis v. Food Emps. Lab. Rels. Ass’n*, 644 F.3d 221, 232 (4th Cir. 2011).

Here, Defendant has failed to meet its burden. First, section 44-7-392(h) does not protect witness statements. Second, Defendant did not come forward with any evidence showing that the statement of Ms. Shortridge taken immediately after the incident was anything other than a statement taken in the ordinary course of business and/or pursuant to regulatory requirements. Indeed, “members of society tend to document transactions and occurrences to avoid the foibles of memory and to perpetuate evidence for the resolution of future disputes. And because litigation is an ever-present possibility in American life, it is more often the case than not that events are

documented with the general possibility of litigation in mind. Yet, the mere fact that litigation does eventually ensue does not, by itself, cloak materials with work product immunity.” *Nat’l Union*, 967 F.2d at 984 (internal quotations and alterations omitted).

Because S.C. Code Ann. § 44-7-392(h) does not protect witness statements and Defendant failed to meet its burden of showing that the statement of Ms. Shortridge was prepared *because* of the prospect of litigation, and not simply prior to litigation, this Court must and hereby does hold that the statement of Ms. Shortridge is not protected by section 44-7-392(h) or the Work Product Doctrine and must be produced.

WHEREFORE, this Court hereby GRANTS Plaintiff’s Motion to Compel and orders Defendant to produce Ms. Shortridge’s statement in its entirety without redaction or alteration within 14 days of the date of entry of this Order.

IT IS SO ORDERED!

---

The Honorable R. Lawton McIntosh  
Presiding Judge  
Tenth Judicial Circuit  
Anderson County

\_\_\_\_\_, 2021

\_\_\_\_\_, South Carolina



Anderson Common Pleas

**Case Caption:** Wanda Human, Personal Representative , plaintiff, et al VS Anmed Health  
**Case Number:** 2020CP0400008  
**Type:** Order/Discovery and Disclosure of Evidence

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2021-07-12 11:18:22 page 4 of 4

IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF ANDERSON )

IN THE COURT OF COMMON PLEAS  
FOR THE 10TH JUDICIAL CIRCUIT  
CASE NO: 2020-CP-04-00008

WANDA HUMAN, as Personal  
Representative of the ESTATE OF  
EVELYN MARIE WOOD,  
  
Plaintiff,

v.

ANMED HEALTH,  
  
Defendant.

**PLAINTIFF’S NOTICE OF MOTION  
AND MOTION TO COMPEL ANMED  
HEALTH’S DISCOVERY RESPONSES**

**TO: THE HONORABLE COURT AND ALL COUNSEL OF RECORD**

**YOU WILL PLEASE TAKE NOTICE** that the Plaintiff above-named by and through their undersigned counsel, will move before the Presiding Judge, ten (10) days after the service of this Notice, or at such time as counsel may be heard, for an Order pursuant to Rule 37 of the South Carolina Rules of Civil Procedure compelling Defendant AnMed Health’s Responses to discovery requests.

**COMES NOW** Plaintiff by and through undersigned counsel, and does move before this Honorable Court for an Order compelling complete and proper discovery responses from AnMed Health (“Defendant”). This Motion is based on the following grounds:

1. On January 20, 2020, Plaintiff served Defendant with Interrogatories (**Exhibit A**) and Requests for Production (**Exhibit B**), as shown on the Affidavit of Service on file with this Court. Included within Plaintiff’s Interrogatories and Requests for Production were requests that Defendant identify all persons who may be witnesses concerning the facts of the case, that Defendant identify whether a written or recorded statement had been taken from the witnesses, and that Defendant produce said written or recorded statement.

2. Thereafter, Defendant served its Discovery Responses (**Exhibit C**) and Privilege Log (**Exhibit D**). In its responses, Defendant identified Chrissy Shortridge, RN, a witness who “observed the immediate aftermath of the accident.” Defendant additionally indicated that Defendant was in possession of a written statement by Ms. Shortridge, but withheld her written statement pursuant to the work-product doctrine. See also Exhibit D.
3. On February 26, 2021, Plaintiff wrote to Defendant and requested that Defendant produce Ms. Shortridge’s written statement, as its redaction was improper. **Exhibit E.** Plaintiff requested that Defendant produce Ms. Shortridge’s statement by 4 P.M. on March 9, 2021.
4. As of the date of this Motion, Defendant has not produced Ms. Shortridge’s written statement or otherwise responded to Plaintiff’s February 26, 2021 correspondence.
5. Ms. Shortridge’s statement is discoverable, and does not fall under the protection of the Work Product Doctrine, as she is a witness to the incident and her statement was written contemporaneously to the incident. The Work Product Doctrine shields from discovery documents *prepared in anticipation of litigation*. See Rule 26(b)(3), SCRCR. Although litigation is an ever-present possibility in current society, the mere fact that litigation may result does not, by itself, shield materials with work product immunity. Rather, the claimant of privilege must reasonably anticipate litigation when preparing the document. See Nat’l Union Fire Ins. Co. v. Murray Sheet Metal Co., 967 F.2d 980, 983-84 (4th Cir. 1992). Ms. Shortridge’s statement, made contemporaneously to the incident, likely contains her immediate impressions of the facts and circumstances surrounding the incident. Ms. Shortridge did not provide her

statement in anticipation of litigation, but was likely requested to do so in the ordinary course of business.

6. Additionally, Ms. Shortridge's written statement was likely prepared pursuant to regulatory requirements proscribed by the Bureau of Health Facility Licensing, requiring healthcare facilities to report accidents or incidents to the Bureau, and is therefore discoverable. See S.C. Code Ann. Regs. 61-84.601.

**WHEREFORE**, Plaintiff respectfully requests that this Court order that, within thirty days, Defendant shall produce Chrissy Shortridge's written statement.

RULE 11 CERTIFICATION

Plaintiff's counsel affirms that they communicated with Defendant in a good faith effort to resolve the matter prior to the filing of this Motion and/or that such communication would be fruitless.

**[SIGNATURE PAGE TO FOLLOW]**

Respectfully Submitted,

**ANASTOPOULO LAW FIRM, LLC**

/s/ Vanisa Siler

Vanisa T. Siler, Esquire

SC Bar Number: 104799

Lane D. Jefferies, Esquire

SC Bar Number: 101764

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Charleston, South Carolina

March 15, 2021

# EXHIBIT A

IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF ANDERSON )

IN THE COURT OF COMMON PLEAS  
FOR THE 10TH JUDICIAL CIRCUIT  
CASE NO: 2020-CP-04-00008

WANDA HUMAN, as Personal  
Representative of the ESTATE OF  
EVELYN MARIE WOOD,

Plaintiff(s),

v.

ANMED HEALTH,

Defendant(s).

## **PLAINTIFF'S STANDARD AND FIRST SUPPLEMENTAL INTERROGATORIES TO DEFENDANT ANMED HEALTH**

### **TO: DEFENDANT ANMED HEALTH AND ALL COUNSEL OF RECORD:**

Plaintiff WANDA HUMAN, as Personal Representative of the ESTATE OF EVELYN MARIE WOOD (herein referred to as "Plaintiff") requests that Defendant ANMED HEALTH (herein referred to as "Defendant") answer under oath, separately and fully in writing, the following interrogatories pursuant to Rule 26 and Rule 33 of the South Carolina Rules of Civil Procedure. These interrogatories are deemed to be continuing, and if complete answers to any of them are presently unavailable, supplemental answers are required at the time the information becomes available and prior to trial.

### **DEFINITIONS AND INSTRUCTIONS**

- A. These requests are deemed to be continuing, such as to require Defendant to file and serve supplemental answers should it learn of additional information called for by these requests between the time of trial and the time its answers are filed. Said supplemental answers are required to be served within a reasonable time after the discovery of such additional information.
- B. You are under a duty to promptly amend prior responses to these requests if you obtain information upon the basis of which you know the response was incorrect when made or you know the response, though correct when made, is no longer true.
- C. "You", or "your" means Defendant ANMED HEALTH, its agents, partners, accountants, servants, employees, assignees, lessees, affiliates or anyone acting on their behalf, and any affiliate, subsidiary, parent or related corporation, partnership or entity, and anyone

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acting for or on behalf of any such subsidiary, related corporation, parent, partnership, entity or natural person.

- D. "Person" means natural persons, corporations, partnerships, sole proprietorships, associations, federations, government agencies, or any other kind of entity.
- E. "Identify" when used with respect to an individual, means to state the person's full name and any aliases now or previously used by such person, to state and identify the person's present occupation and principal business affiliation and any other business affiliations; present home address and business address or addresses; and present and past business affiliations or relations including those (if any) with any of the parties to this civil action.
- F. "Identify" when used in reference to a person (as defined above) other than a natural person, means to state its full name; the nature of its organization including the name or the state under which it was organized; its address(es); the address(es) of its principal place(s) of business; its principal line(s) of business; and identify all known natural persons who serve as officers, directors, partners, owners, or in other supervisory or ownership capacity in said organization. If any of the above information is not available to Defendant, state any other available means of identifying such person.
- G. "Defendant" shall refer to ANMED HEALTH, its agents, partners, attorneys, accountants, servants, employees, assignees, lessees, affiliates or anyone acting on its behalf, and any affiliate, subsidiary, parent or related corporation, partnership or entity, and anyone acting for or on behalf of any such subsidiary, related corporation, parent, partnership, entity or natural person.

### STANDARD INTERROGATORIES

1. Give the names, addresses and telephone numbers of persons who may be witnesses concerning the facts of this action or who have knowledge of relevant facts concerning this incident, and indicate whether or not written or recorded statements have been taken from the witnesses, and indicate who has possession of such statements.
2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the Defendant, or counsel, that relates to the claim or defense in this case.
3. If the Defendant was injured, set forth the names and addresses of all physicians who have treated the Defendant and all hospitals to which the Defendant has been committed in connection with said injuries and also set forth a statement of all medical costs involved. Please note that this is a Standard Interrogatory. It is relevant *whether or not* Defendant is making a claim for injuries. Accordingly, if Defendant was injured in any

way, please respond fully.

4. Set forth the names and addresses of *all* insurance companies which have liability insurance coverage or property damage coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.
5. If Defendant is claiming any damages, set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained by the party.
6. List the names, addresses, and telephone numbers of any individual whom you propose to use as an expert witness at the trial of this action and for each state in detail their qualifications to testify and the substance of his or her opinions and the basis for his or her opinion.
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.
8. If the Defendant is improperly identified, give the proper identification and state whether counsel will accept service of an amended Summons and Pleading reflecting the correct information.

### SUPPLEMENTAL INTERROGATORIES

1. As to each expert witness listed in response to Standard Interrogatories, please state:
  - a. A complete statement of all opinions the witness will express and the basis and reasons for them;
  - b. The data and other information considered by the witness in forming the opinions;
  - c. A description of any exhibits the witness or counsel intends to introduce to summarize or support these opinions (to be provided in response to Requests for Production);
  - d. The witness's qualifications, including a list of all publications authored in the previous ten years;
  - e. A list of all other cases in which, during the previous 5 years, the witness testified as an expert at trial or by deposition;
  - f. A statement of the compensation to be paid for the study and testimony in the

case.

2. For each affirmative defense that is raised in your answer, please state with particularity each and every fact or basis in law upon which you allege to have "good grounds," as defined in Rule 11 SCRCP, to assert such a defense. A full and complete response should include, for each defense all witnesses, writings, court cases, and statutes that support this contention.
3. For all photographs relating to this case which are in the possession of the Defendant or the Defendant's counsel, please provide a brief description of the content of the photograph, the date the photograph was taken, and the name, address and employer of the person who took the photograph.
4. Identify each and every personal injury lawsuit in which Defendant has been involved during the past 20 years by stating as to each such lawsuit, the date and county of filing, the name of the other party or parties, the names of all attorneys involved, a brief description of the underlying facts, and the result of the lawsuit.
5. State separately each fact of which the Defendant or the Defendant's attorney, has knowledge, or plans to use as evidence against the Plaintiff. For each separate fact identify the following:
  - a. The individual's name, address, and telephone number who will testify to this fact;
  - b. The source of the fact to which this individual will testify; and
  - c. Any documents which support the allegations.
6. Has the Defendant or anyone on the Defendant's behalf obtained any statement in any form from any potential witness or party in the case that concerns the events described in the complaint? If so, please state from whom those statements were taken and who has possession of those statements.
7. Has the area which is the subject of this action ever been repaired and/or replaced and/or altered in any manner since creation / construction? Please provide the names and addresses of any contractors, sub-contractors, employees, or anyone else who worked on either, the dates of the work, the reason for the work, and the nature of the work.
8. Please identify all video cameras on Defendant's premises at the time of the fall and within how many feet of the fall they captured film. If no cameras, so state.

9. Describe with particularity exactly what occurred in the ten minutes prior to the incident which is the subject of the above action (hereinafter referred to as "the incident"), what occurred during the incident, and what occurred in the ten minutes after the incident, including anything said by or to you or one of your agents or employees.
10. State what you, or any of your agents or employees saw happen with respect to the incident and what you or any one of your agents or employees did to assist Plaintiff after the incident.
11. Other than this incident, has any person reported slipping and/or tripping and/or falling in the area where this incident occurred during the five-year period prior to the date of this incident, up to present day? If so, as to each such reported slip and/or trip and/or fall incident, please provide the date of each such incident; a brief description of each such incident, including the type of surface on which the person involved in each such incident slipped and/or tripped and/or fell; a brief description of the injuries suffered by any person involved in each such incident; and state whether any of the incidents referred to above resulted in a claim and/or lawsuit, and if so, the name of each claimant, date of the filing of each such claim and/or lawsuit, the civil number, and a summary of the disposition of each such claim or lawsuit.
12. As to each and every report and/or complaints with regard to a condition of the area where this incident occurred during the five-year period before this incident please state the date of such complaint and/or report; whether or not you have or maintained any documentary material of any kind or nature relating or referring to such complaints and/or reports; and what action, if any, was taken by you with respect to such complaint and/or report.
13. If anyone investigated this matter for you, state their name(s) and address(es), and state whether such investigation was reduced to writing, and the substance of their investigation and findings. If said investigators obtained any signed, recorded, transcribed or oral statement from any individual, identify the person who gave the statement and the present custodian of such statement. "Investigators" is deemed to include, but is not limited to, medical experts, private investigators, and/or insurance adjusters.
14. If you believe or have any information tending to show that the injuries to the Plaintiff

were due to any cause other than the cause referred to in the complaint, please state each fact on which the defendant bases this claim and all information within the Defendant's knowledge that tends to show alleged negligence on the part of the Plaintiff, including the name, address, and telephone number of each person having personal knowledge of the facts and information set forth in the answer to this interrogatory.


15. If you believe or have information tending to show that the injuries claimed to have been sustained by Plaintiff were caused or contributed to by any negligent act or omission on the part of any person not named as a defendant in this action please state the name, address, and telephone number of each person; the nature of each negligent act or omission and the manner in which it was allegedly committed or omitted; and the name and address of each person who has personal knowledge of any information concerning each negligent act or omission on the part of such person.
16. State your net worth.
17. With respect to each of Plaintiff's Requests to Admit to which you responded with anything other than an unqualified admission, state the full legal and factual basis for failing to admit.

**[SIGNATURE ON FOLLOWING PAGE]**

Respectfully submitted,

**ANASTOPOULO LAW FIRM, LLC**

BY

  
Lane D. Jefferies, Esquire  
S.C. Bar No.: 101764  
Ivey B. Franklin, Esquire  
S.C. Bar No.: 104131  
Eric M. Poulin, Esquire  
SC Bar No.: 100209  
Roy T. Willey, IV, Esquire  
SC Bar No.: 101010  
Anastopoulos Law Firm, LLC  
32 Ann Street  
Charleston, SC 29403  
(843) 614-8888

Dated at Charleston, SC  
This 17th day of January, 2020

**CERTIFICATE OF SERVICE**

By my signature below I hereby certify that I am an employee of the Anastopoulos Law Firm, LLC, and that I served this document on all parties and/or counsel-of-record on this 17th day of January, 2020.

  
\_\_\_\_\_

# EXHIBIT B

IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF ANDERSON )

IN THE COURT OF COMMON PLEAS  
FOR THE 10TH JUDICIAL CIRCUIT  
CASE NO: 2020-CP-04-00008

WANDA HUMAN, as Personal  
Representative of the ESTATE OF  
EVELYN MARIE WOOD,  
  
Plaintiff(s),

v.

ANMED HEALTH,  
  
Defendant(s).

## PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION TO DEFENDANT ANMED HEALTH

### **TO: DEFENDANT ANMED HEALTH, AND ALL COUNSEL OF RECORD:**

The Plaintiff WANDA HUMAN, as Personal Representative of the ESTATE OF EVELYN MARIE WOOD, (herein referred to as "Plaintiff") pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, hereby requests that the Defendant ANMED HEALTH, (herein referred to as "Defendant") responds within thirty (30) days after the service hereof to the following request, to wit, that the Defendant produce and permit the Plaintiff to inspect, copy or photograph each of the following documents or things, which may be in the possession, custody or control of the Defendant or their attorneys.

### **DEFINITIONS AND INSTRUCTIONS**

- A. These requests are deemed to be continuing, such as to require Defendant to file and serve supplemental answers should it learn of additional information called for by these requests between the time of trial and the time its answers are filed. Said supplemental answers are required to be served within a reasonable time after the discovery of such additional information.
- B. You are under a duty to promptly amend prior responses to these requests if you obtain information upon the basis of which you know the response was incorrect when made or you know the response, though correct when made, is no longer true.
- C. "You", or "your" means Defendant ANMED HEALTH, its agents, partners, accountants, servants, employees, assignees, lessees, affiliates or anyone acting on their behalf, and any affiliate, subsidiary, parent or related corporation, partnership or entity, and anyone acting for or on behalf of any such subsidiary, related corporation, parent, partnership, entity or natural person.

- D. "Person" means natural persons, corporations, partnerships, sole proprietorships, associations, federations, government agencies, or any other kind of entity.
- E. "Identify" when used with respect to an individual, means to state the person's full name and any aliases now or previously used by such person, to state and identify the person's present occupation and principal business affiliation and any other business affiliations; present home address and business address or addresses; and present and past business affiliations or relations including those (if any) with any of the parties to this civil action.
- F. "Identify" when used in reference to a person (as defined above) other than a natural person, means to state its full name; the nature of its organization including the name or the state under which it was organized; its address(es); the address(es) of its principal place(s) of business; its principal line(s) of business; and identify all known natural persons who serve as officers, directors, partners, owners, or in other supervisory or ownership capacity in said organization. If any of the above information is not available to Defendant, state any other available means of identifying such person.
- G. "Defendant" shall refer to ANMED HEALTH, its agents, partners, attorneys, accountants, servants, employees, assignees, lessees, affiliates or anyone acting on its behalf, and any affiliate, subsidiary, parent or related corporation, partnership or entity, and anyone acting for or on behalf of any such subsidiary, related corporation, parent, partnership, entity or natural person.

### DOCUMENTS REQUESTED

1. All documents identified in answers to the Interrogatories of the Plaintiff.
2. All documents referred to in preparing the answer to the Interrogatories of the Plaintiff.
3. All photographs, videotapes, maps, plats, drawings, diagrams, measurements, surveys, or other descriptions related in any way to the subject matter of this action, made either before or after the incident that is the subject of this action.
4. Any and all documents or other tangible items, including books, records, reports, photographs, moving pictures, videotapes, drawings, charts, maps, diagrams, models, or other documentary materials or tangible objects that the Defendant intends to rely upon to support the Defendant, and or which the Defendant intends to offer into evidence as exhibits or use as demonstrative aids at the trial of this action.
5. All statements of any witnesses in the possession of the Defendant or the

Defendant's attorney, whether written or recorded on a tape recorder or otherwise, that relates to the matters alleged in the Plaintiff's Complaint or the Defendant's Answer.

6. All memoranda, notes, diagrams, reports, photographs, e-mails, computer data or documents, video tapes and audio tapes, or other materials relating in any way to the matters alleged or referred to in the Complaint, any injuries or damages claimed, and any defenses raised or which could reasonably be raised. As part of this production, this should include all photographs, video tapes and audio tapes of the Plaintiff participating in any activity or event on or after the date of the incident.
7. To produce or permit the Plaintiff or the Plaintiff's attorney to inspect, to photograph, and otherwise copy all photographs, plats, or diagrams, the Defendant or the Defendant's attorney may have in which relate to the matter alleged herein.
8. Any documents (as defined in S.C.R.C.P. 34 (a)), and tangible things of whatever nature and description which you intend to introduce into evidence or to use as impeachment or evidence at the trial of this case.
9. The most recent resume or curriculum vitae of any experts that will be used at trial or in preparing documents in response to this or other inquiries by the Plaintiff.
10. Copies of any statutes relied upon by the Defendant in the answer.
11. Copies of any statutes relied upon by the Defendant in any pre-trial motions.
12. Copies of any statutes that will be relied upon by the Defendant at trial.
13. Results from any tests ordered by the Defendant or any expert that is used to support the position of the Defendant.
14. Receipts of all transactions with the experts used in trial preparation including receipts for payment for services.
15. A copy of the Defendant's complete criminal and arrest record, both in-state and out-of-state.
16. A copy of all non-privileged documents relating to any pending criminal or civil matter involving the Defendant in any manner.

17. A copy of any employee records from date that is subject of this action, including but not limited to timesheets, employee logs, staff lists, and employee reports.
18. A complete copy of any insurance policies, including the declarations page, for any policies that might provide coverage to Defendant for the allegations contained in the Complaint.
19. A copy of any video recorded on the date that is subject of this action at Defendant's premises, whether or not it recorded the actual incident.
20. Maintenance, inspection, repair records and work orders regarding the subject premises for the day of the incident, and one year preceding the incident.
21. Any daily inspection logs, reports, or lists for subject premises for day of incident and one year preceding the incident.
22. Any photographs, movies, and/or videotapes of the area involved in the incident or Plaintiff's injuries and/or which reflect the scene of the incident, immediately before incident, or for two days after the incident.
23. All maintenance invoices in the possession, custody or control of Defendant or its agents, attorneys, investigators, or insurance carriers regarding the premises subject to the incident.
24. Any and all training manuals and/or videos used in training of employees. This includes general employment, management manuals, or videotapes concerning safety generally or machinery operating guidelines, rules or regulations.
25. All OSHA or South Carolina Department of Labor records or documents in regard to premises safety including records from one year prior to the incident subject of this action, and to present.
26. Any and all documents, reports, audits or other documents provided to Defendant by their insurance carrier or any insurance carrier regarding risk management, improvement and safety related issues. This request encompasses and includes any insurance company, agent, consultant, or safety related entity that has inspect Defendant's premises to determine if they had any safety issues which could be corrected or improved.
27. Any other documents, videos, photographs, or other tangible things (other than checks) provided to your insurance carrier or attorneys regarding this incident

whether specifically requested above or not. If you intend to claim a privilege on any of these particular documents please see below but note that just because you produce something to an attorney does not make it privileged.

### **PRIVILEGE**

For each document that would be required to be produced but for a privilege asserted against producing it, set forth:

- a) The date the document was generated
- b) The type of document (e.g., letter, memorandum, record, etc.)
- c) The name of the person who prepared the original
- d) The name and address of the person who received the original
- e) The name and address of anyone who received a copy
- f) A general description of the information recorded in the document
- g) The ground on which production is objected to
- h) The name of each person, in addition to those identified in 8 through (e) of this subpart, known to have seen or have access to the document, and
- i) The name of the person who now possesses the document.

### **DOCUMENTS NO LONGER IN EXISTENCE OR NO LONGER CONTROLLED OR POSSESSED**

If any requested document existed at one time in the possession, custody, or control of any party but has been lost, discarded or destroyed, or removed from the party's possession, custody or control, indicate for each such document:

- a) Its identity (i.e., a description of its contents its date, title, and type of document)
- b) When it was most recently in the possession, custody or control of the party and what
- c) Identify any person who currently possesses the document.
- d) State whether the document was transferred or destroyed.
- e) State the person who transferred or destroyed the document and the person

who authorized or knows of its transfer or destruction.

- f) State the reason the document was transferred or destroyed, and
- g) Identify, by providing name, address, and daytime telephone number, all persons having knowledge or the contents of each document.

Respectfully submitted,

**ANASTOPOULO LAW FIRM, LLC**

BY



Lane D. Jefferies, Esquire  
 S.C. Bar No.: 101764  
 Ivey B. Franklin, Esquire  
 S.C. Bar No.: 104131  
 Eric M. Poulin, Esquire  
 SC Bar No.: 100209  
 Roy T. Willey, IV, Esquire  
 SC Bar No.: 101010  
 Anastopoulos Law Firm, LLC  
 32 Ann Street  
 Charleston, SC 29403  
 (843) 614-8888

Dated at Charleston, SC  
 This 17th day of January, 2020

**CERTIFICATE OF SERVICE**

By my signature below I hereby certify that I am an employee of the Anastopoulos Law Firm, LLC, and that I served this document on all parties and/or counsel-of-record on this 17th day of January, 2020.



**EXHIBIT C**

ELECTRONICALLY FILED - 2021 Mar 29 1:04 PM - ANDERSON - COMMON PLEAS - CASE#2020CP0400008

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE 10 <sup>TH</sup> JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	C.A. No. 2020-CP-04-00008
	)	
Wanda Human, as Personal Representative	)	<b>DEFENDANT ANMED HEALTH'S</b>
of the Estate of Evelyn Marie Wood,	)	<b>ANSWERS TO</b>
	)	<b>PLAINTIFF'S STANDARD AND</b>
Plaintiff,	)	<b>FIRST SUPPLEMENTAL</b>
	)	<b>INTERROGATORIES</b>
vs.	)	
	)	
AnMed Health,	)	
	)	
Defendant.	)	
_____	)	

**TO: LANE JEFFERIES, ESQUIRE, ATTORNEY FOR THE PLAINTIFF**

Comes now the Defendant, AnMed Health, pursuant to Rules 26 and 33 of the South Carolina Rules of Civil Procedure, and hereby answers the Plaintiff's Interrogatories as follows:

**INTERROGATORIES**

1. Give the names, addresses and telephone numbers of persons who may be witnesses concerning the facts of this action or who have knowledge of the relevant facts concerning this incident, and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

**ANSWER:**

- a. **Wanda Human. Address unknown. Ms. Human is the Plaintiff. This Defendant does not possess a written or recorded statement from this witness.**
- b. **Chrissy Shortridge, RN. Address unknown. Upon information and belief, Nurse Shortridge observed the immediate aftermath of the accident. The Defendant possesses a written statement by Nurse Shortridge obtained through risk management and protected from discovery pursuant to the work product doctrine.**

- c. **Perry McFall. C/O Trey Suggs. Mr. McFall is the Director of Engineering and has information related to the maintenance of the admitting entrance. This Defendant does not possess a written or recorded statement from this witness.**
  - d. **Aaron Jeffers. McMillan Pazden Smith Architecture. Upon information and belief, Mr. Jeffers was involved in the design and construction at AnMed that encompassed the admitting entrance in or about 2015.**
  - e. **AnMed Health medical providers. The AnMed Health medical personnel whose names appear in the records of the decedent have information related to the medical treatment and care rendered to her while she was a patient at AnMed Health. The Defendant does not possess a written or recorded statement from these witnesses other than the medical records.**
  - f. **This Defendant considers any and all the physicians, psychiatrists, or other healthcare mental health care professionals whose names appear in medical or psychiatric records of Ms. Wood to be witnesses. This Defendant is not in possession of any written or recorded statement from these witnesses.**
2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the Defendant, or counsel, that relates to the claim or defense of the claim.

**ANSWER:**

**The Defendant is in possession of the following documents:**

- a. **AnMed medical records regarding Ms. Wood; and**
- b. **Video of admitting entrance where accident occurred.**

**The Defendant reserves the right to supplement this response as discovery continues.**

3. If the Defendant was injured, set forth the names and addresses of all physicians who have treated the Defendant and all hospitals to which the Defendant has been committed in connection with said injuries and also set forth a statement of all medical costs involved. Please note this is a Standard Interrogatory. It is relevant whether or not Defendant is making a claim for injuries. Accordingly, if Defendant was injured in any way, please respond fully.

**ANSWER:**

**The Defendant was not injured.**

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

**ANSWER:**

**See attached Certificate of Liability Insurance for AnMed Health.**

5. If Defendant is claiming any damages, set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained by the party.

**ANSWER:**

**See answer to interrogatory 3.**

6. List the names, addresses, and telephone numbers of any individual whom you propose to use as an expert witness at the trial of this action and for each state in detail their qualifications to testify and the substance of his or her opinions and the basis for his or her opinion.

**ANSWER:**

**Defendant has not yet retained an expert witness whom it will call as a witness at the trial of this case. It will supplement its answer to this interrogatory as necessary.**

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 statement taken from such witness.

**ANSWER:**

**See answer to interrogatory 1.**

8. If the Defendant is improperly identified, give the proper identification and state whether counsel will accept service of an amended Summons and Pleading reflecting the correct information.

**ANSWER:**

**The Defendant is properly identified.**

**SUPPLEMENTAL INTERROGATORIES**

1. As to each expert witness listed in response to Standard Interrogatories, please state:
  - a) A complete statement of all opinions the witness will express and the basis and reasons for them;
  - b) The data and other information considered by the witness in forming the opinions;
  - c) A description of any exhibits the witness or counsel intends to introduce to summarize or support these opinions (to be provided in response to Requests for Production);
  - d) The witness's qualifications, including a list of all publications authored in the previous ten years;
  - e) A list of other cases in which, during the previous 5 years, the witness testified as an expert at trial or by deposition;
  - f) A statement of the compensation to be paid for the study and testimony in the case.

**ANSWER:**

**See answer to interrogatory number 6.**

2. For each affirmative defense that is raised in your answer, please state with particularity each and every fact or basis in law upon which you allege to have "good grounds," as defined in Rule 11 SCRCPP, to assert such a defense. A full and complete response should include, for each defense all witnesses, writings, court cases, and statutes that support this contention.

**ANSWER:**

**See this Defendant's Answer and the explanation found therein. AnMed Health is a charitable organization and is thus entitled to the privileges, limitations, and immunities provided by law, including S.C. Code Annotated § 33-56-180.**

3. For all photographs relating to this case which are in the possession of the Defendant or the Defendant's counsel, please provide a brief description of the content of the photograph, the date the photograph was taken, and the name, address, and employer of the person who took the photograph.

**ANSWER:**

**This Defendant does not possess photographs related to this case at this time. The Defendant is producing the video related to the accident.**

4. Identify each and every personal injury lawsuit in which Defendant has been involved during the past 20 years by stating as to each such lawsuit, the date and county of filing, the name of the other party or parties, the names of all attorneys involved, a brief description of the underlying facts, and the result of the lawsuit.

**ANSWER:**

**This Defendant objects to this interrogatory on the ground that it seeks discovery of information which is not relevant and which is not admissible at trial, and which is not reasonably calculated to lead to the discovery of admissible evidence. This Defendant also objects to this interrogatory to the extent that it is overly broad and unduly burdensome. Subject to these objections, and without waiving the same, this Defendant has not been a party to a personal injury lawsuit involving the patient entrance at AnMed.**

5. State separately each fact of which the Defendant, or the Defendant's attorney, has knowledge, or plans to use as evidence against the Plaintiff. For each separate fact, identify the following:

- a) The individual's name, address, and telephone number who will testify to this fact;
- b) The source of the fact to which this individual will testify; and

- c) Any documents which support the allegations.

**ANSWER:**

**This Defendant objects to this interrogatory to the extent that it is overly broad and unduly burdensome. Moreover, this Defendant objects to this interrogatory to the extent that it seeks information which is protected from discovery in as much as it was prepared in anticipation of litigation or for trial by the Defendant, or its attorneys or other representatives, and contain the mental impressions, conclusions, opinions, or legal theories of the Defendant, or the attorneys or other representatives, concerning the litigation, which is protected from discovery under the work product doctrine.**

6. Has the Defendant or anyone on the Defendant's behalf obtained any statement in any form from any potential witness or party in the case that concerns the events described in the complaint? If so, please state from whom these statements were taken and who has possession of those statements.

**ANSWER:**

**See answer to interrogatory 1. This Defendant has obtained a brief statement from Chrissy Shortridge. The Defendant is in possession of that statement. The statement is protected from discovery pursuant to the work product doctrine, as well as SC Code Annotated § 40-71-20 and 44-7-392.**

7. Has the area which is the subject of this action ever been repaired and/or replaced and/or altered in any manner since creation/construction? Please provide the names and addresses of any contractors, sub-contractors, employees, or anyone else who worked on either, the dates of the work, the reason for the work, and the nature of the work.

**ANSWER:**

**The admitting entrance was redesigned and renovated in 2015 as part of a larger project due to concerns regarding the safety of the admitting entrance and its orientation. McMillan Pazdan Smith was the architect and construction manager on this project.**

8. Please identify all video cameras on Defendant's premises at the time of the fall and within how many feet of the fall they captured film. If no cameras, so state.

**ANSWER:**

**There were between 350-400 video cameras on the premises at the time of the accident. There is a video camera on the premises that captured the accident. There are two video cameras that captured aspects of the aftermath of the accident. The Defendant will make the premises available for inspection and measurement but estimates that the two cameras are within 50 feet of the location of the accident.**

9. Describe with particularity exactly what occurred in the ten minutes prior to the incident which is the subject of the above action (hereinafter referred to as "the incident"), what occurred during the incident, and what occurred in the ten minutes after the incident, including anything said by or to you or one of your agents or employees.

**ANSWER:**

**See the video tape. This Defendant does not know what occurred in the ten minutes prior to the incident, as it was not captured on video.**

10. State what you, or any of your agents or employees saw happen with respect to the incident and what you or any one of your agents or employees did to assist Plaintiff after the incident.

**ANSWER:**

**Upon information and belief, no employee witnessed the actual accident. Nurse Shortridge saw Ms. Wood on the ground and rapidly proceeded to the admissions desk, requesting that a code be called. A code team responded quickly.**

11. Other than this incident, has any person reported slipping and/or tripping and/or falling in the area where this incident occurred during the five-year period prior to the date of this incident, up to the present day? If so, as to each reported slip and/or trip and/or fall incident, please provide the date of each such incident; a brief description of each such incident, including the type

of surface on which the person involved in each such incident slipped and/or tripped and/or fell; a brief description of the injuries suffered by any person involved in each such incident; and state whether any of the incidents referred to above resulted in a claim and/or lawsuit, and if so the name of each claimant, date of the filing of each such claim and/or lawsuit, the civil number, and a summary of the disposition of each such claim or lawsuit.

**ANSWER:**

**No.**

12. As to each and every report and/or complaints with regard to a condition of the area where this incident occurred during the five-year period before this incident, please state the date of such complaint and/or report; whether or not you have or maintained any documentary material of any kind or nature relating or referring to such complaints and/or reports; and what action, if any, was taken by you with respect to such complaint and/or report.

**ANSWER:**

**None.**

13. If anyone investigated this matter for you, state their name(s) and address(es), and state whether such investigation was reduced to writing, and the substance of their investigation and findings. If said investigators obtained any signed, recorded, transcribed, or oral statement from any individual, identify the person who gave the statement and the present custodian of such statement. "Investigators" is deemed to include, but is not limited to, medical experts, private investigators, and/or insurance adjusters.

**ANSWER:**

**This Defendant objects to this interrogatory to the extent that it seeks discovery of materials or information which are protected from discovery in as much as they were prepared in anticipation of litigation or for trial by the Defendant, or its attorneys or other**

**representatives, and contain the mental impressions, conclusions, opinions, or legal theories of the Defendant, or its attorneys or other representatives, concerning the litigation, which is protected from discovery under the work product doctrine.**

14. If you believe or have any information tending to show that the injuries to the Plaintiff were due to any cause other than the cause referred to in the complaint, please state each fact on which the Defendant basis this claim and all information within the Defendant's knowledge that tends to show alleged negligence on the part of the Plaintiff, including the name, address, and telephone number of each person having personal knowledge of the facts and information set forth in the answer to this interrogatory.

**ANSWER:**

**Upon information and belief, decedent exited her vehicle on an incline and walked around the rear of her vehicle, resulting in her fall.**

15. If you believe or have information tending to show that the injuries claimed to have been sustained by the Plaintiff were caused or contributed to by the negligent act or omission on the part of any person not named as a Defendant in this action, please state the name, address, and telephone number of each person; the nature of each negligent act or omission and the manner in which it was allegedly committed or omitted; and the name and address of each person who has personal knowledge of any information concerning each negligent act or omission on the part of such person.

**ANSWER:**

**Upon information and belief, decedent exited her vehicle on an incline, resulting in her fall.**

16. State your net worth.

**ANSWER:**

**This Defendant objects to this interrogatory on the ground that it seeks discovery of information which is not relevant and which is not admissible at trial, and is not reasonably calculated to lead to the discovery of admissible evidence. Unless and until the Plaintiff proves a prima facie case of gross negligence, the Defendant's net worth is neither relevant nor reasonably likely to lead to the discovery of admissible evidence.**

17. With respect to each of the Plaintiff's Requests to Admit to which you responded with anything other than an unqualified admission, state the full legal and factual basis for failing to admit.

**ANSWER:**

**Regarding request number 5, the Defendant qualified its response based upon applicable South Carolina state law.**

**Regarding request number 6, the Defendant qualified its response pursuant to applicable South Carolina state law.**

**Regarding request number 7, the Admitting Area was not unreasonably dangerous.**

**Regarding request number 8, the surface is not un-level and the Admitting Area was not a dangerous condition.**

**Regarding request number 9, the Defendant qualified its response pursuant to applicable South Carolina state law.**

**Regarding request number 10, the Defendant made reasonable inspections of the premises.**

**Regarding request number 11, the condition was not dangerous.**

**Regarding request number 12, the Defendant did not fail to follow internal safety policies or procedures.**

**ROE CASSIDY COATES & PRICE, P.A.**



Fred W. "Trey" Suggs, III, SC Bar No. 70222  
[tsuggs@roecassidy.com](mailto:tsuggs@roecassidy.com)

Ella S. Barbery, SC Bar No. 70677  
[ebarbery@roecassidy.com](mailto:ebarbery@roecassidy.com)

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[bbowman@roecassidy.com](mailto:bbowman@roecassidy.com)

P.O. Box 10529

Greenville, SC 29603

Phone: 864-349-2600

Fax: 864-349-0303

*Attorneys for Defendant AnMed Health*

February 26, 2020

Greenville, South Carolina

# EXHIBIT D

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF ANDERSON )  
 )  
 Wanda Human, as Personal Representative )  
 of the Estate of Evelyn Marie Wood, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 AnMed Health, )  
 )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 FOR THE 10<sup>TH</sup> JUDICIAL CIRCUIT  
 C.A. No. 2020-CP-04-00008

## DEFENDANT ANMED HEALTH'S PRIVILEGE LOG

Type of Document	General Subject Matter	Date of Document	Any other information	Privilege Asserted/Objection
AnMed Health Risk Management Worksheet Confidential Information (Midas report)/ Chrissy Shortridge statement	Fall by Wanda Human	June 21, 2017	This worksheet was completed under the direction and policy of General Counsel and Risk Management.	Peer review; work product

**ROE CASSIDY COATES & PRICE, P.A.**



Fred W. "Trey" Suggs, III, SC Bar No. 70222  
[tsuggs@roecassidy.com](mailto:tsuggs@roecassidy.com)

1052 N. Church Street (29601)

P.O. Box 10529

Greenville, SC 29603

Phone: 864-349-2600

Fax: 864-349-0303

*Attorney for Defendant AnMed Health*

April 22, 2020

Greenville, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ANDERSON )  
 )  
Wanda Human, as Personal Representative )  
of the Estate of Evelyn Marie Wood, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
AnMed Health, )  
 )  
Defendant. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR THE 10<sup>TH</sup> JUDICIAL CIRCUIT  
C.A. No. 2020-CP-04-00008

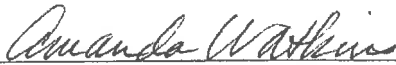
**CERTIFICATE OF SERVICE**

THIS IS TO HEREBY CERTIFY that the undersigned individual, a paralegal at Roe Cassidy Coates and Price, PA, has served a copy of Defendant AnMed Health’s Privilege Log by placing same in the U.S. Mail, properly addressed, and with the correct amount of postage as follows:

Lane D. Jefferies, Esquire  
Anastopoulos Law Firm, LLC  
32 Ann Street  
Charleston, SC 29403  
*Attorney for Plaintiff*

Respectfully submitted,

**ROE CASSIDY COATES & PRICE, P.A.**

  
\_\_\_\_\_  
Amanda Watkins, paralegal to  
Fred W. “Trey” Suggs, III

April 22, 2020

Greenville, South Carolina

# EXHIBIT E

TOLL FREE: 1 (800) 313-2546  
FACSIMILE: (843) 494-5536

REPLY TO ANN STREET OFFICE

## ANASTOPOULO LAW FIRM

February 26, 2021

### BY EMAIL & US MAIL

Fred "Trey" Suggs, III, Esq.  
Ella S. Barbery, Esq.  
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P.O. Box 10529  
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[tsuggs@roecassidy.com](mailto:tsuggs@roecassidy.com)  
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[bbowman@roecassidy.com](mailto:bbowman@roecassidy.com)

RE: *Estate of Evelyn Marie Wood v. AnMed Health*  
Case No.: 2020-CP-04-00008

Dear Counsel:

Thank you for providing AnMed Health's Answers to Plaintiff's Standard and First Supplemental Interrogatories and corresponding Privilege Log.

In response to Interrogatory No. 1, Defendant AnMed Health identified Chrissy Shortridge, RN, as a witness and indicated that she had provided a written statement to the Risk Management Department on June 21, 2017. However, Defendant AnMed Health claimed privilege to Ms. Shortridge's written statement on the grounds of work product and withheld her statement from production. This claim of work-product is improper, as described below, and we respectfully request that Defendant AnMed Health provide Ms. Shortridge's written statement by **4 P.M. on March 9, 2021** so that we are not forced to file a Motion to Compel.

Ms. Shortridge's statement is discoverable, and does not fall under the protection of the Work Product Doctrine, as she is a witness to the incident and her statement was written contemporaneously to the incident. As you're aware, the Work Product Doctrine shields from discovery documents *prepared in anticipation of litigation*. See Rule 26(b)(3), SCRPC. Although litigation is an ever-present possibility in current society, the mere fact that litigation may result does not, by itself, shield materials with work product immunity. Rather, the claimant of privilege must reasonably anticipate litigation when preparing the document. See Nat'l Union Fire Ins. Co. v. Murray Sheet Metal Co., 967 F.2d 980, 983-84 (4th Cir. 1992).

It cannot be said that Ms. Shortridge's statement, *written on the same day of the incident*, was written because of the prospect of litigation. See, e.g., Tobaccoville USA, Inc. v. McMaster, 692 S.E.2<sup>nd</sup> 526, 530 (S.C. 2010). Rather, Ms. Shortridge's statement, made contemporaneously to the incident, likely contains her immediate impressions of the facts and circumstances surrounding the incident. Ms. Shortridge did not provide her statement in anticipation of litigation, but was likely requested to do so in the ordinary course of business.

Additionally, her statement was likely prepared pursuant to regulatory requirements proscribed by the Bureau of Health Facility Licensing, requiring healthcare facilities to report

MAILING: 32 Ann Street, Charleston, South Carolina 29403

North Charleston: 2557 Ashley Phosphate Road, North Charleston, South Carolina 29418 \* Florence: 150 W. Evans Street, Florence, South Carolina 29501  
Columbia: 1201 Main Street, Suite 1100, Columbia, South Carolina 29201 \* Myrtle Beach: 2411 N. Oak Street, Suite 305, Myrtle Beach, South Carolina 29577  
Greenville: 418 River Street, Greenville, SC 29601 \* Wilmington, NC: Appointment Only

ARIM A. ANASTOPOULOU (SC)  
JONATHAN N. ALKIS (SC)  
CONSTANCE ANASTOPOULOU (SC)\*  
GARRETT L. BROWN (SC)  
STEFAN B. FEIDLER (SC)  
HERR F. GLASS (SC)  
J. CAMDEN HODGE (SC)  
MARLEY N. GRIM (SC)  
LANE D. JEFFERIES (SC)  
THOMAS D. KANDLER, II (NC)  
BYRON V. LEARY, II (SC)  
BENJAMIN W. LEE (SC)  
MATTHEW L. NALL (SC)  
ERIC M. POLLIN (SC)(NC)(GA)(CA)  
SAMANTHA SUTTON (SC)(NC)  
SEAN M. TROPEA (SC)  
CASIA VAN VALENBURGH (SC)(IL)  
P. HEATH WARD (SC)  
DANNY LEE WILLARD, JR. (SC)  
RYN T. WILLEY, IV (SC)  
L. CRAYTON WILLIAMS (SC)

\*OF COUNSEL

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accidents or incidents to the Bureau. The written statement of a witness under these circumstances do no fall under the purview of the Work Product Doctrine and must be produced.

Please produce the statement not later than *4 P.M. on March 9, 2021* so that we are not forced to file a Motion to Compel.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vanisa T. Siler', with a large, stylized flourish extending to the right.

Vanisa T. Siler, Esq.  
Lane D. Jefferies, Esq.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ANDERSON )  
 )  
Wanda Human, as Personal Representative )  
of the Estate of Evelyn Marie Wood, )  
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Plaintiff, )  
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 )  
Defendant. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR THE 10<sup>TH</sup> JUDICIAL CIRCUIT  
C.A. No. 2020-CP-04-00008

**DEFENDANT’S MEMORANDUM  
IN OPPOSITION TO THE PLAINTIFF’S  
MOTION TO COMPEL**

Comes now the Defendant, AnMed Health, by and through its undersigned counsel, and hereby submits this Memorandum in Opposition to the Plaintiff’s Motion to Compel the statement of Chrissy Shortridge.

**INTRODUCTION AND BACKGROUND**

This is a premises liability lawsuit arising out Evelyn Marie Wood’s fall in the driveway at AnMed Health. The fall was captured on video, which has been produced to the Plaintiff. The aftermath of the fall was witnessed by an AnMed Health employee, Chrissy Shortridge, RN. After completing her care of Ms. Wood, Ms. Shortridge completed a “risk management worksheet” in the electronic risk management system called Midas. “Confidential information” is written just below the title at the top of the risk management worksheet. The worksheet concludes with the following language, “CONFIDENTIALITY STATEMENT: This document is protected against unauthorized disclosure/dissemination in the course of discovery by one or more of the following:  
1. The contents of this document were prepared at the direction of an attorney in anticipation of litigation, constituting a ‘PRIVILEGED ATTORNEY-CLIENT COMMUNICATION’; 2. This

document was prepared as a part of a bona fide quality assurance, peer review, or risk management function of AnMed Health pursuant to 40-71-10 et sec., 44-7-390 etc., and 38-33-300.”

In response to discovery requests, the Defendant identified Ms. Shortridge as a witness and identified her statement contained within the risk management worksheet referenced above. The Defendant also identified Ms. Shortridge’s statement on a privilege log, attached hereto as Exhibit “A,” asserting privileges/objections under the peer review and work product doctrines. Further, the Defendant explained that “this worksheet was completed under the direction and policy of General Counsel and Risk Management.” The Plaintiff’s Motion to Compel followed.

### ARGUMENT

The Plaintiff seeks to compel the production of a witness statement that is protected by the peer review statute, as well as the work product doctrine.

On June 26, 2012, S.C. Code Ann. §44-7-392, a statute regarding the confidentiality of hospital proceedings, data, documents, and information, was signed into law. This statute applies to any and all investigations undertaken to examine an event that occurred after the statute’s effective date. §44-7-392 (A)(1) provides that “[a]ll proceedings of, and . . . information prepared . . . by a hospital licensed under this article . . . relating to the following are confidential: (h) incident or occurrence reports and related investigations, unless the report is part of the medical record.” The statute goes on to prescribe in Section (A)(2) that “[t]hese proceedings and data, documents, and information in subsection (A)(1) *are not subject to discovery, subpoena, or introduction into evidence in any civil action unless the hospital and any affected person who is a party to such action waives the confidentiality in writing.*” (Emphasis added). An important rule of statutory construction is that the Court must ascertain and effectuate the legislature’s intent. *Burns v. State Farm Mut. Auto. Ins. Co.*, 297 S.C. 520, 377 S.E.2d 569 (1989). It is evident on the

face of the statute that the legislature intended that all proceedings of, and all data, documents, records, and information prepared or acquired by a hospital, relating to incident reports, occurrence reports, and related investigations remain confidential unless such reports are made a part of the medical record. The risk management worksheet is an incident or occurrence report. The confidentiality statement makes it clear that it was intended to be protected by this very statute. Because the risk management worksheet/incident report has not been made a part of the medical record, it is absolutely privileged and confidential and is not subject to production in discovery unless AnMed waives the protection, which it does not.

In addition to being protected by the peer review statute, the risk management worksheet is also work product. Pursuant to SCRCP 26(b)(3), “a party may obtain discovery of documents . . . otherwise discoverable . . . and prepared in anticipation of litigation or for the trial by or for another party or by or for another party’s representative only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means.” *SCRCP 26(b)(3)*. In other words, documents prepared in anticipation of litigation are not discoverable unless the opposing party can show substantial need and undue hardship.

The risk management worksheet was prepared in anticipation of litigation. The worksheet explicitly states as much. The office of general counsel and risk management created this risk management worksheet as part of its liability reduction program and risk management policies and procedures. AnMed employees who witness certain events, including falls, are required to complete the risk management worksheet as AnMed expects all falls resulting in injury to lead to a lawsuit. The worksheet itself clearly states that it is confidential and protected from disclosure

in discovery because it “was prepared as part of a bona fide quality assurance, peer review, or risk management function.” Accordingly, the risk management worksheet merits protection.

The only exception to the protections afforded by the work product doctrine is where the Plaintiff can establish that she has a substantial need of the materials and cannot obtain the substantial equivalent without hardship. The Plaintiff cannot meet that burden. As mentioned above, the fall was captured on video. The video is an eye witness itself. The Plaintiff possesses a copy of the video. The video is more than a substantial equivalent- it is superior. The Plaintiff does not have a substantial need for the risk management worksheet completed by Ms. Shortridge. Even if she did have a substantial need, that need does not overcome to statutory protections outlined above. Thus, the Court should deny the Plaintiff’s motion to compel the production of that statement.

### CONCLUSION

The risk management worksheet/written statement by Ms. Shortridge is protected by statute as well as the Rules of Civil Procedure. It is absolutely confidential and privileged. Accordingly, the Court should deny the Plaintiff’s Motion to Compel.

Respectfully submitted,

**ROE CASSIDY COATES & PRICE, P.A.**

s/ Fred W. "Trey" Suggs, III  
Fred W. "Trey" Suggs, III, SC Bar No. 70222  
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Phone: 864-349-2600  
Fax: 864-349-0303  
*Attorney for Defendant AnMed Health*

June 11, 2020

Greenville, South Carolina



Fred W. "Trey" Suggs, III  
(864) 349-2616  
[tsuggs@roecassidy.com](mailto:tsuggs@roecassidy.com)

April 22, 2020

Lane D. Jefferies, Esquire  
Anastopoulos Law Firm, LLC  
32 Ann Street  
Charleston, SC 29403

**Re: *Wanda Human, as Personal Representative of the  
Estate of Evelyn Marie Wood, vs. AnMed Health***  
**CA No.: 2020-CP-04-00008**  
**RCCP No.: 0492.0197**

Dear Mr. Jefferies:

Enclosed please find Defendant AnMed Health's Privilege Log, along with our Certificate of Service.

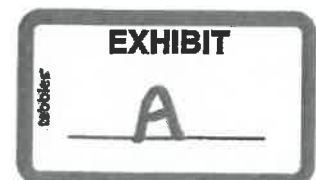
If you have any questions, please feel free to contact our office.

Sincerely,

**ROE CASSIDY COATES & PRICE, P.A.**

Amanda Watkins, Paralegal to  
Fred W. "Trey" Suggs, III

Enclosures



ELECTRONICALLY FILED - 2021 Jun 11 11:27 AM - ANDERSON - COMMON PLEAS - CASE#2020CP0400008

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF ANDERSON )  
 )  
 Wanda Human, as Personal Representative )  
 of the Estate of Evelyn Marie Wood, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 AnMed Health, )  
 )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 FOR THE 10<sup>TH</sup> JUDICIAL CIRCUIT  
 C.A. No. 2020-CP-04-00008

**DEFENDANT ANMED HEALTH'S  
 PRIVILEGE LOG**

Type of Document	General Subject Matter	Date of Document	Any other information	Privilege Asserted/Objection
AnMed Health Risk Management Worksheet Confidential Information (Midas report)/ Chrissy Shortridge statement	Fall by Wanda Human	June 21, 2017	This worksheet was completed under the direction and policy of General Counsel and Risk Management.	Peer review; work product

**ROE CASSIDY COATES & PRICE, P.A.**



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*Attorney for Defendant AnMed Health*

April 22 2020

Greenville, South Carolina

STATE OF SOUTH CAROLINA )  
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COUNTY OF ANDERSON )  
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Wanda Human, as Personal Representative )  
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 )  
Defendant. )

IN THE COURT OF COMMON PLEAS  
FOR THE 10<sup>TH</sup> JUDICIAL CIRCUIT  
C.A. No. 2020-CP-04-00008


**CERTIFICATE OF SERVICE**

THIS IS TO HEREBY CERTIFY that the undersigned individual, a paralegal at Roe Cassidy Coates and Price, PA, has served a copy of Defendant AnMed Health's Privilege Log by placing same in the U.S. Mail, properly addressed, and with the correct amount of postage as follows:

Lane D. Jefferies, Esquire  
Anastopoulos Law Firm, LLC  
32 Ann Street  
Charleston, SC 29403  
*Attorney for Plaintiff*

Respectfully submitted,

**ROE CASSIDY COATES & PRICE, P.A.**

  
Amanda Watkins, paralegal to  
Fred W. "Trey" Suggs, III

April 22, 2020

Greenville, South Carolina



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APPEARANCES

REPRESENTING PLAINTIFF(S):  
Fred W. Suggs, III, Esquire  
864-349-2616

REPRESENTING DEFENDANT(S):  
Vanisa Tamar Siler, Esquire  
843-614-8888

1 PROCEEDINGS

2 THE COURT: All right. Human. And this is a  
3 Motion to Amend?

4 MR. SUGGS: Yes, sir. The defense has a  
5 Motion to Amend answer and plaintiff's have a  
6 Motion to Compel Your Honor.

7 THE COURT: Okay. Let's go ahead and do the  
8 Motion to Amend and then we will do your Motion to  
9 Compel next. That is the order that I have them  
10 under.

11 MR. SUGGS: Okay. I may remove, correct?

12 THE COURT: Please, yes.

13 MR. SUGGS: Judge, may it please the Court, I  
14 represent AnMed Health on this premises liability  
15 case that arises out of a fall. This nice lady,  
16 Ms. Wood, was coming in the entrance that you -- it  
17 is that kind of short entrance right there on Fant  
18 (ck) Street that goes to the inpatient.

19 And when they pulled up to that entranceway on  
20 the driveway, she was using her walker to come out  
21 of the rear, around the rear of the car, walker  
22 gets away from her, she falls, and sadly she  
23 strikes her head and dies.

24 THE CLERK: Oh gosh.

25 MR. SUGGS: And, essentially, the allegation

1 has been fleshed out to be that the slope of that  
2 entranceway was out of code. It was either not  
3 designed correctly or it was not graded and paved  
4 correctly. And that's all come out through  
5 discovery.

6 Judge, the case does date back to January of  
7 2020 when they filed the complaint. We answered in  
8 February. It was funny, I was out there talking to  
9 Johnston a minute ago about it. My practice -- I  
10 came up at Galvin guardian ad litem SREUPB White  
11 body where you Light Boyd (ck) where you kind of  
12 learn, oh, you just put, put all of the affirmative  
13 defenses in your answer. You know, 15 affirmative  
14 defenses and maybe some will stick. I got away  
15 from that in my own practice.

16 I only plead initially what I think the  
17 initial information bears out. I'm not going to  
18 list 15 affirmative defenses if I don't think that  
19 I have evidence to support them. I know we permit  
20 those in pleading, but that is just my practice.  
21 So, I don't -- I rarely ever start out answering  
22 the complaint by including affirmative defenses  
23 like comparative or assumption of risk or  
24 intervening, or any of that kind of stuff. I wait  
25 and see what happens.

1           Well, we deposed the plaintiff in July of  
2           2020. That is about all that we got accomplished  
3           during this COVID epidemic, if you will.  
4           Everything, you know Judge, was pretty slow, people  
5           were not moving cases all that much. But we  
6           deposed her in July, and then at the very end of  
7           September we received a couple of reports from the  
8           plaintiff's experts. And in those reports the  
9           experts laid out the deficiency that they claim,  
10          what I have already mentioned, regarding slope,  
11          signage, saying there was inadequate markings, et  
12          cetera. So, they fleshed out what they contend to  
13          be failure to comply with both code as well as ADA.

14                 And they have a human factors expert who  
15          brought up the issue of -- related to the behavior  
16          of both the decedent and the driver of the vehicle.  
17          Kind of a hedging against what they perceive may be  
18          coming with respect to either comparative or an  
19          intervening negligence kind of argument. So, they  
20          saw that that was potentially on the horizon. At  
21          least the experts did.

22                 Based upon the deposition testimony of the  
23          plaintiff, as well as these reports from the  
24          experts, and then our initial work, or later  
25          investigation figuring out who did what. The guy

1 at AnMed who managed the construction was a guy  
2 named Rick Barnhart. And I don't know if you knew  
3 Rick. Rick died. Rick was the one with the body  
4 of knowledge.

5 We have had to spend a lot of time sorting  
6 through things to figure out exactly what was the  
7 scope of AnMed's responsibilities with respect to  
8 the project, who was -- who did the paving, who did  
9 the grading, who did the design work, what was the  
10 scope of the design work, who was responsible for  
11 the signage, who was responsible for the markings.  
12 And that was just taking time to sort out.

13 When we did sort out both what we thought was  
14 a potential comparative negligence argument, which  
15 is of course a question of fact for the jury, as  
16 well as potential intervening negligence argument  
17 or defense, which will be to the driver of the  
18 vehicle, which unfortunately is also now dead, as  
19 well as potentially as it relates to whoever  
20 designed and graded out the driveway. We realized  
21 that we needed to amend our answer and made such a  
22 request in March.

23 As the Court well knows, 15A is what governs  
24 amendments, both from the complaint as well as from  
25 the answer standpoint. And leave shall be freely

1 given to AnMed to amend, as justice requires and  
2 when the plaintiff would be prejudiced, Judge. The  
3 party opposing the motion, as you know, is the one  
4 with the burden to show that they would be  
5 prejudiced.

6 In considering the potential prejudice, the  
7 Court should consider whether opposing party had  
8 the opportunity to prepare for the issue and  
9 whether it has an opportunity now to prepare a  
10 defense to those affirmative defenses.

11 Judge, Hardaway appears to be the primary  
12 decision. That is 374 S.C. 216. It lays out six  
13 factor analyses regarding whether prejudice exists.  
14 Those factors include how long a lawsuit has been  
15 pending, the amount of discovery that has been  
16 conducted, as well as how much needs to be  
17 conducted; when the moving party became aware of  
18 the facts giving rise to the amendment; when the  
19 non-moving party became aware of the proposed  
20 amendment; and then, finally, the viability of the  
21 proposed defenses.

22 We believe that going through those factors,  
23 as I will briefly, establishes that, one, justice  
24 would permit an amendment. Two, that the  
25 plaintiffs cannot establish that they would be

1           unfairly prejudiced by an amendment of the answer  
2           at this stage.

3           Judge, the first factor is how long the case  
4           has been pending. I have already mentioned that.  
5           It's got, it's got some age, I am not denying that.  
6           I was filed on January 2020. We filed this motion  
7           in March. That would be 14 months. But I think  
8           that it's fair to consider that time period in  
9           context with respect to how fast things were  
10          moving, the courts availability, that sort of  
11          thing.

12          So, while it has been 14 months since filing,  
13          it is a little bit different given COVID. And also  
14          I would point out that only one deposition has been  
15          taken in that 14 months. The plaintiff has not  
16          taken a single deposition. The defendants have not  
17          identified an expert. No experts have been deposed  
18          by anyone. So, it's relatively immature, not from  
19          so much a time standpoint, but as far as how much  
20          has been accomplished from a discovery standpoint.

21          But the second factor is very similar. How  
22          much discovery has been done -- and one deposition.  
23          How much lacks to be done -- we will need to depose  
24          their experts, which we have scheduled. They got  
25          postponed, so they are rescheduled. They were

1       supposed to take place a couple of weeks ago. And  
2       then they need to depose our experts. And we would  
3       need to depose some of the folks that were involved  
4       in the design work as well as the grading, to try  
5       to further flesh out the responsibilities and what  
6       was done. So, that is the second factor.

7               The third factor is when AnMed learns the  
8       facts giving rise to the amendment. I have already  
9       addressed that comment at the very beginning as it  
10      relates to the comparative. I think we can make  
11      the argument that we should or shouldn't -- we  
12      should have conceived that potential when we  
13      deposed the plaintiff, and I concede that. That is  
14      when it got on our radar.

15             Then we have their experts kind of proactive,  
16      or getting out in front of it made us realize,  
17      okay, there is clearly a potential there that we  
18      need to further investigate. You have got  
19      intervening negligence issues that came about  
20      primarily through an expert's reports, as well as  
21      our own investigation into the responsibilities of  
22      AnMed, as well as the folks it contracted with.

23             I have already mentioned the difficulties we  
24      had trying to track that information down. We  
25      really didn't sort that out until the spring, about

1 the time that we filed this motion.

2 Four is when the non-moving party became aware  
3 of the amendment. Technically, Judge, it would  
4 have been when we reached out to them in March.  
5 But I would suggest that, based upon their own  
6 experts getting out in front of the issue,  
7 including in their report a section on basically  
8 disclaiming that the decedent herself was  
9 responsible and disclaiming that driver had any  
10 responsibility suggests that the plaintiffs were  
11 well aware that that was a potential defense. And  
12 they were prepared to head that off as early as  
13 September.

14 So, we would submit that they have been aware  
15 of these potential claims since the outset of  
16 litigation, at least in the summertime. Finally,  
17 five, whether we are on the trial roster, and the  
18 answer is no. Simply put.

19 Six is the viability of the defenses. I saw  
20 the memorandum filed today by the plaintiff in  
21 opposition to our motion, and they appeared to  
22 concentrate on that element, arguing that, well,  
23 they should, they shouldn't be allowed to amend  
24 because these are not meritorious defenses.

25 One, first and foremost, the case law is

1 clear, the comparative and intervening negligence  
2 are questions of fact for the jury. So I don't  
3 think anybody here can declare whether or not they  
4 are meritorious. But I would say, taking the light  
5 in favor to the non-mover, with respect to the  
6 merits, absolutely there is merits, Judge.

7 For the intervening negligence, we now know  
8 that other parties were responsible for all of the  
9 deficiencies the plaintiffs contend existed. AnMed  
10 was responsible for nothing. As for the  
11 intervening negligence as to the driver, it may  
12 show, feel a little bad to pick on someone who is  
13 no longer here to explain themselves, but the  
14 bottom line is, he had all of the room in the world  
15 to pull up into a flat area of this entranceway.

16 And for some reason he took to the grade, he  
17 decided to park on the slope. We would submit that  
18 a jury can at least consider whether that was a  
19 factor that contributed to the fall.

20 Finally, Judge, the comparative negligence  
21 argument, again, we will have to tread lightly.  
22 And I am not intending to just beat up an old lady  
23 who fell and hit her head and died. That is  
24 obviously a sensitive subject, but the fact of the  
25 matter is, she could have easily gone around the

1 front of the vehicle. She could have gotten out on  
2 the same side of the vehicle. She could have --  
3 even her daughter's warning, Hey, be careful, it is  
4 unstable here; and she didn't, and she fell. And I  
5 am sorry for that, but I think it's something that  
6 the jury should at least be allowed to consider.

7 So, we would submit, Judge, that there is  
8 ample time for the plaintiff to prepare whatever  
9 defense they need to as to the intervening and  
10 comparative negligence defenses. That they are  
11 meritorious defenses. There is adequate time, not  
12 a whole lot has been done. And that justice should  
13 permit, and AnMed should be permitted to amend its  
14 answer at this time.

15 THE COURT: Thank you. All right. Ms. Siler.

16 MS. SILER: May it please the Court, Your  
17 Honor.

18 THE CLERK: Yes, ma'am.

19 MS. SILER: Now, regarding thus far --

20 THE COURT: Can you come around? I'm having a  
21 hard time hearing you.

22 MS. SILER: Is this better?

23 THE COURT: Just speak louder for me, or come  
24 around.

25 MS. SILER: Okay. Regarding the Hardaway

1 factors that opposing counsel just discussed, we  
2 are willing to concede to the first five factors.  
3 We really won't take issue with that. We  
4 understand, as far as how long the case has been  
5 pending. COVID really slowed things down, so we  
6 are willing to concede that, despite the amount of  
7 time that the case has been pending. We don't have  
8 any issues with them amending their answer in that  
9 respect.

10 Now, when it comes to the other factors, as  
11 far as regular old discovery being done, we agree  
12 with all of that. Essentially, it is that sixth  
13 factor, the viability of the defenses that are  
14 being asserted.

15 When it comes to the comparative negligence,  
16 just some of the things stated in defendant's  
17 memoranda, one for instance, as he just mentioned,  
18 how he (SIC), the decedent, chose to walk in --  
19 walk toward the rear of the vehicle instead of  
20 walking toward the back, toward the back of the  
21 vehicle.

22 We don't necessarily believe that something of  
23 that nature is really of consequence, because the  
24 decision that is normally associated with what  
25 direction to walk around the vehicle, that is

1 typically premised upon whether or not the person  
2 is going to get struck by a vehicle, and not  
3 necessarily whether or not they are going to fall  
4 while they are walking around that vehicle.  
5 Generally speaking.

6 Now, as far as another thing that was  
7 mentioned was that the incline that he spoke of  
8 earlier was open and obvious. We do agree that, at  
9 least to the fact that there was an incline and the  
10 ground was going upward. We do agree that that can  
11 be seen; however, the exact sharpness of the  
12 incline is not, is not clearly obvious.

13 Really to gauge exactly how sharp an incline  
14 is, one would have to calculate the slope of such  
15 incline. Just as it meets the eye, it can -- one  
16 may assume automatically that whatever incline they  
17 are going up, especially if it is a man-made  
18 incline, they are going to assume that it's  
19 conducive to pedestrian traffic. So, we don't  
20 agree that the incline was open and obvious,  
21 because the sharpness, the exact sharpness, which  
22 would heighten the danger of the incline, wasn't  
23 open and obvious. So, those are just a few of the  
24 things that we don't find really go -- really have  
25 merit when it comes to comparative negligence

1 defense.

2 Now, as far as the intervening negligence, as  
3 far as the other entity that may be involved that  
4 actually constructed the entranceway in front of  
5 the -- in front of AnMed, we are willing to concede  
6 that, okay, there may be a factor there, especially  
7 since it's not up to building code and AnMed did  
8 not build or have any role in constructing the  
9 entranceway. And we tend to agree that there would  
10 be intervening negligence on the part of the  
11 construction company.

12 Now, as far as the driver of the -- the  
13 deceased driver of the vehicle is concerned, when  
14 it comes to that individual playing a role in  
15 intervening negligence, as far as his decision to  
16 park on that slope, there were no signs indicating  
17 that parking right there in that particular area  
18 was something that shouldn't be done or posed a  
19 danger to anyone.

20 So, we are not going to accept that the driver  
21 played a role when it comes to comparative  
22 negligence, but we will accept that there may be  
23 other individuals or entities who played a role as  
24 far as the construction goes of the entranceway.

25 THE COURT: Okay. Anything further on that?

1 I'll go ahead and allow the amendment. How long do  
2 you need? You have already got it?

3 MR. SUGGS: If you can Form 4 in ten days.

4 THE COURT: Well, I have got the amended  
5 version here, do I not?

6 MR. SUGGS: Yes, sir, we can just file it.  
7 Yes, sir.

8 THE COURT: Okay. What is today, Wednesday?

9 MR. SUGGS: The 23rd, yes, sir.

10 THE COURT: Ten days will be fine.

11 MR. SUGGS: Thank you, Judge.

12 THE COURT: All right. Thank you. Does  
13 anybody need a formal order on that, or a Form 4  
14 will be okay?

15 MR. SUGGS: Form 4 is fine with us, Judge.

16 MS. SILER: Form 4.

17 THE COURT: Form 4, thank you. All right.  
18 Now, let's go over to the plaintiff's Motion to  
19 Compel. Which problems do you have a problem with,  
20 Ms. Siler?

21 MS. SILER: I am sorry?

22 THE COURT: Which numbers are you having  
23 problems with? Have they not answered anything?

24 MS. SILER: No, the only thing that we wish to  
25 have is there is a witness, a nurse, who witnessed

1 the fall right after it happened. We would like  
2 her statement. However, it was produced but her  
3 statement was redacted under the work product  
4 doctrine.

5 THE COURT: Right, that is right. How are you  
6 withholding the statement? I think that she is a  
7 fact witness to this case. I don't necessarily  
8 think that falls under work product.

9 MR. SUGGS: Judge, it is two-fold. But the  
10 more important protection is not work product. The  
11 most important protection is the 44-73-92, peer  
12 review statute. If you look at A(1), all  
13 information provided -- prepared by a hospital  
14 relating to the fall are confidential incident or  
15 occurrence reports and related investigations.  
16 Section A(2) of 44-73-92 states, Proceedings, data,  
17 documents, and information are not subject to  
18 discovery. If I may hand up to you.

19 You will see if you look at this risk -- I  
20 mean, it is called risk management worksheet. It  
21 is an incident or occurrence report. It states  
22 across the top that it's constitutional. It has  
23 got the --

24 THE COURT: I don't care what they put on top  
25 of it, they are going to do that anyway. But the

1 statutes that you are talking about has to do with  
2 the medical care, does it not?

3 MR. SUGGS: I thought the same thing, but it  
4 doesn't. That is not how it reads.

5 THE COURT: I think it -- the hospital may be  
6 having its own expansive reading of it. But, do  
7 you have a copy of the statute that you can hand to  
8 me?

9 MR. SUGGS: I can get you one. I didn't bring  
10 a copy of the statutes.

11 THE COURT: You are trying to say that by  
12 virtue of this statute, anything that happens out  
13 there on one of their campuses is non-discoverable.  
14 Basically everything.

15 MR. SUGGS: Well, just the incident report.

16 THE COURT: And I don't agree with that.

17 MR. SUGGS: No, I am not saying that  
18 everything, I am saying that just the incident  
19 report.

20 THE COURT: Well, it is the witness' fact  
21 statement about what happened, right?

22 MR. SUGGS: Correct. Which is --

23 THE COURT: Do you have a copy of that  
24 statement?

25 MR. SUGGS: I do, I brought it.

1 THE COURT: Let me see it.

2 MR. SUGGS: And, Judge, unless I have already  
3 pulled it out. Hold on one second. I can give it  
4 to you? May I approach?

5 THE COURT: Yes, sir. Is that all, just the  
6 statement that you are looking for, Ms. Siler?

7 MS. SILER: Yes, Your Honor.

8 MR. SUGGS: And, Judge, one of the -- from the  
9 work product standpoint, in order to overcome the  
10 work product -- I guess, if you decide that it's  
11 not work product, then you don't have to worry  
12 about whether you have to overcome the need to get  
13 it. But the whole thing here, Judge, take her  
14 deposition. I mean, you don't need a protected  
15 document, just take her -- she didn't even see the  
16 fall.

17 We have got a videotape -- I will get back to  
18 my desk -- we have got a videotape of the incident.  
19 So we see what happened to this lady as she falls.

20 Christy Shorebridge, this witness, shows up in  
21 the aftermath and sees her on the ground. We see  
22 her on video run inside and bring people back out.  
23 I mean, frankly that statement doesn't have any  
24 real value. But because I can't waive her  
25 protection here and then show up in Court in

1 another case in a month and stand by the same  
2 protection I have waived.

3 I mean, maybe technically I could. But I  
4 would lose face with the Court, as well as with  
5 opposing counsel if I did so. I have got to take  
6 consistent positions as it relates to 44-7-392, as  
7 well as what we regard to be work product.

8 THE COURT: Okay. Hang on.

9 MR. SUGGS: Okay.

10 (Pause.)

11 THE COURT: So the highlighted part is what  
12 you are talking about?

13 MR. SUGGS: Yes, sir. I highlighted Page 1  
14 that just shows you what it is. And then the  
15 statement that they are talking about is on 2-3,  
16 and then the protection language that I will  
17 reference is on the very last page. And I  
18 highlighted that for you as well. That  
19 confidential statement. Bona fide quality  
20 assurance peer review or risk management function,  
21 explicitly states in statutes can protect the  
22 document.

23 THE COURT: I am going to order that you give  
24 Ms. Siler just the portion of the highlighted  
25 witness statement in here.

1 MR. SUGGS: Two to three?

2 THE COURT: Sir?

3 MR. SUGGS: On Pages 2 and 3?

4 THE COURT: The end of Page 2 and the top of  
5 Page 3. That is all you need to give out. The  
6 rest of it can be part of your internal work, okay.  
7 All right. Thank you. For what good it is going  
8 to do. But anyway, there you go. All right. Ms.  
9 Siler, anything further?

10 MS. SILER: No, Your Honor. Thank you.

11 THE COURT: Did you drive up from Charleston  
12 today?

13 MS. SILER: Yes, I did.

14 THE COURT: Golly, okay.

15 MR. SUGGS: Judge, I know that it is  
16 completely up to the Court as to whether it is Form  
17 4 or not. Could we get an order on that one? Do  
18 you mind having them prepare a proposed order?

19 THE COURT: No. Would you prepare me an order  
20 on this, please, for me?

21 MS. SILER: Certainly.

22 THE COURT: All right, guys.

23 (The hearing concluded.)

24

25

1

2 CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF OCONEE:

6 I, MONA L. MANLEY, Court Reporter, certify that I  
7 was authorized to and did stenographically report the  
8 foregoing proceedings and that the transcript is a true  
9 and complete record of my stenographic notes.

8

DATED this 7th day of October, 2021.

9

10

11

*Mona L. Manley /s/*

12

MONA L. MANLEY

13

Official South Carolina Court Reporter

14

Circuit Reporter for the 10th Circuit

(850) 893-6662

mmanley@scccourts.org

15

16

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STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF ANDERSON )  
 )  
 Wanda Human, as Personal Representative )  
 of the Estate of Evelyn Marie Wood, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 AnMed Health, )  
 )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 FOR THE 10<sup>TH</sup> JUDICIAL CIRCUIT  
 C.A. No. 2020-CP-04-00008

**DEFENDANT ANMED HEALTH'S  
 PRIVILEGE LOG**

Type of Document	General Subject Matter	Date of Document	Any other information	Privilege Asserted/Objection
AnMed Health Risk Management Worksheet Confidential Information (Midas report)/ Chrissy Shortridge statement	Fall by Wanda Human	June 21, 2017	This worksheet was completed under the direction and policy of General Counsel and Risk Management.	Peer review; work product

**ROE CASSIDY COATES & PRICE, P.A.**



Fred W. "Trey" Suggs, III, SC Bar No. 70222

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P.O. Box 10529

Greenville, SC 29603

Phone: 864-349-2600

Fax: 864-349-0303

*Attorney for Defendant AnMed Health*

April 22, 2020

Greenville, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ANDERSON )  
 )  
Wanda Human, as Personal Representative )  
of the Estate of Evelyn Marie Wood, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
AnMed Health, )  
 )  
Defendant. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR THE 10<sup>TH</sup> JUDICIAL CIRCUIT  
C.A. No. 2020-CP-04-00008


**CERTIFICATE OF SERVICE**

THIS IS TO HEREBY CERTIFY that the undersigned individual, a paralegal at Roe Cassidy Coates and Price, PA, has served a copy of Defendant AnMed Health's Privilege Log by placing same in the U.S. Mail, properly addressed, and with the correct amount of postage as follows:

Lane D. Jefferies, Esquire  
Anastopoulo Law Firm, LLC  
32 Ann Street  
Charleston, SC 29403  
*Attorney for Plaintiff*

Respectfully submitted,

**ROE CASSIDY COATES & PRICE, P.A.**

  
\_\_\_\_\_  
Amanda Watkins, paralegal to  
Fred W. "Trey" Suggs, III

April 22, 2020  
Greenville, South Carolina

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THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

**RECEIVED**  
**Mar 29 2022**  
SC Court of Appeals

APPEAL FROM ANDERSON COUNTY COURT OF COMMON PLEAS

The Honorable R. Lawton McIntosh, Circuit Court Judge

---

Case No. 2020-CP-04-00008

Appellate Case No. 2021-000834

---

Wanda Human, as Personal Representative of the Estate of Evelyn Marie  
Wood.....*Respondent,*

v.

AnMed Health,.....*Appellant.*

---

CERTIFICATE OF COUNSEL

---

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

**ROE CASSIDY COATES & PRICE, P.A.**

s/ Fred W. "Trey" Suggs III

Fred W. "Trey" Suggs III, SC Bar No. 70222

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*Attorney for Appellant*

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

The Honorable R. Lawton McIntosh, Circuit Court Judge

---

**RECEIVED**

**Mar 29 2022**

**SC Court of Appeals**

CASE NO. 2020-CP-04-00008

Appellate Case No. 2021-000834

---

Wanda Human, as Personal Representative of the Estate of Evelyn Marie Wood.....  
.....Respondent,

v.

AnMed Health .....Appellant.

---

PROOF OF SERVICE

---

I certify that I have served the Appellant's Record on Appeal on Wanda Human, as Personal Representative of the Estate of Evelyn Marie Wood, by mail on March 29, 2022, to their attorney of record at 32 Ann Street, Charleston, South Carolina 29403 and by electronic mail at CLD@akimlawfirm.com.

**ROE CASSIDY COATES & PRICE, P.A.**

s/ Fred W. "Trey" Suggs, III  
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***Attorney for Appellant***

March 29, 2022  
Greenville, South Carolina



Fred W. "Trey" Suggs, III  
(864) 349-2616  
[tsuggs@roecassidy.com](mailto:tsuggs@roecassidy.com)

March 29, 2022

**RECEIVED**  
**Mar 29 2022**  
**SC Court of Appeals**

**Via Certified Mail and Electronic Mail**

South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201  
[ctappfilings@scccourts.org](mailto:ctappfilings@scccourts.org)

**Re: *Wanda Human, as Personal Representative of the Estate of Evelyn Marie Wood,***  
***vs. AnMed Health***  
**CA No.: 2020-CP-04-00008**  
**Appellant Case No.: 2021-000834**  
**RCCP No.: 0492.0197**

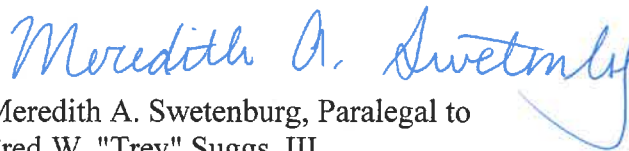
To Whom It May Concern:

Enclosed please find the Appellant's Record on Appeal and Proof of Service regarding the above-referenced matter.

If you have any questions regarding the above, please feel free to contact our office.

Sincerely,

**ROE CASSIDY COATES & PRICE, P.A.**

  
Meredith A. Swetenburg, Paralegal to  
Fred W. "Trey" Suggs, III

/mas  
Enclosures

cc: Lane Jefferies, Esquire (w/ Enclosures)