

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Ortagus Bennett

Plaintiff,

v.

Greenville Hospital System currently d/b/a
Prisma Health,

Defendant.

IN THE COURT OF COMMON PLEAS

C.A. No.: 2020-CP-23-02000

**ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS**

RECEIVED

May 17 2022

SC Court of Appeals

This matter came before the Court on May 21, 2021 upon Defendant Greenville Hospital System's Motion to Dismiss. After fully reviewing the materials submitted, the Court hereby finds dismissal is appropriate, because Plaintiff has failed to meet the requirements of South Carolina Code § 15-79-125.

This case arises out of allegations that Plaintiff was misdiagnosed at Greenville Memorial Hospital ("GMH") on April 9, 2017. Plaintiff alleges he was involved in an "incident" which led to him sustaining numerous injuries. He was transported by police officers to GMH. Plaintiff contends that because he was in police custody, he was not provided adequate medical care. Specifically, Plaintiff contends Dr. Trevor Sloan diagnosed him with a concussion, but failed to discover he had also sustained a broken jaw, which was later discovered when Plaintiff returned to GMH on April 30, 2017 after he was released from the Greenville County Detention Center.

Plaintiff filed this action on April 6, 2020. Plaintiff alleges the misdiagnosis on April 9, 2017 resulted in a delay in treatment, which he alleges caused him unnecessary pain and suffering. Prior to filing the complaint, Plaintiff did not file a notice of intent, nor has Plaintiff filed an affidavit from a qualified expert witness.

Plaintiff's claims sound in medical malpractice; therefore, Plaintiff's claims are subject to the Medical Malpractice Reform Act, S.C. Code § 15-79-125. The Act requires a plaintiff asserting medical malpractice to file a notice of intent to file suit ("NOI") and an affidavit of an expert witness prior to filing or initiating a civil action alleging medical malpractice. S.C. Code § 15-79-125(A). The section also requires the parties to participate in mediation within ninety and no later than one hundred twenty days from the service of the NOI. § 15-79-125(C). A civil action may be filed only after an expert affidavit has been filed, and the parties have attempted to resolve the matter through mediation. § 15-79-125(E).

Plaintiff has failed to adhere to any of the requirements of the Medical Malpractice Reform Act. Specifically, Plaintiff failed to file both an NOI and an expert affidavit prior to filing his claim. As such, Plaintiff's claims must be dismissed. Duckett v. SCP 2006-C23-202, LLC, 225 F.Supp.3d 432 (D.S.C. 2015) (indicating that S.C. Code Ann. § 15-79-125 mandates certain pre-filing procedures for medical malpractice claims, and if they are not satisfied and no exception applies, the claim must be dismissed).

WHEREFORE, for the reasons stated herein,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this action is hereby dismissed with prejudice.

AND IT IS SO ORDERED.

The Honorable R. Lawton McIntosh

June ____, 2020



Greenville Common Pleas

Case Caption: Ortagus Bennett vs. Greenville Hospital System , defendant, et al

Case Number: 2020CP2302000

Type: Order/Dismissal

S/R. LAWTON McINTOSH

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