

EXHIBIT D.02a

Arkansas
State Claims Commission

Please Read Instructions on Reverse Side of Yellow copy

JUL 16 2019

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

- Mr.
- Mrs.
- Ms.
- Miss

as Appointed Administrator
Charles E. Cross, of Estate of Connie M. Stokes-Cross Claimant

vs

State of Arkansas, Respondent

Do Not Write in These Spaces		
Claim No.		
Date Filed	(Month)	(Day) (Year)
Amount of Claim \$		
Fund		

COMPLAINT

Charles E. Cross, Estate Administrator the above named Claimant, of [Redacted] (Name)
[Redacted] (State) [Redacted] (Zip Code) [Redacted] (Daytime Phone No.) County of [Redacted] represented by **John W. Arnold (Ark. Bar 94163)** (Legal Counsel, if any, for Claim)
of **6550 Bank of America Plaza, 901 Main St., Dallas, Texas, 75202** (Street and No.) (City) (State) (Zip Code) (214) 231-0555 (214) 231-0556 (Phone No.) (Fax No.) Ark Code
State agency involved: **University of Arkansas / UA Board of Trustees** Amount sought: **prohibited, for now, by Ann 16-114** (Department) 205 (a).
Month, day, year and place of incident or service: **July 17, 2017**

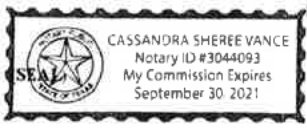
Explanation

*Please see Attachment 1 and Exhibits 1-3,
-all Incorporated Herein by Reference.*

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?
No (Yes or No) when? **N/A** (Month) **N/A** (Day) **N/A** (Year) to whom? **N/A** (Department) **N/A** and that the following action was taken thereon:

and that \$ **NO** was paid thereon: (2) Has any third person or corporation an interest in this claim? **NO** if so, state name and address
(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)
and that the nature thereof is as follows:
and was acquired on _____, in the following manner:

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.
Charles E. Cross, Estate Administrator (Print Claimant/Representative Name) **[Signature]** (Signature of Claimant/Representative)



SWORN TO and subscribed before me at **Dallas Texas** (City) (State)
on this **15th** day of **July** **2019** (Date) (Month) (Year)
Cassandra J. Vance (Notary Public)
My Commission Expires: **09 30 2021** (Month) (Day) (Year)

SF1- R7-99

ARKANSAS STATE CLAIMS COMMISSION
NON VEHICLE PROPERTY DAMAGE/PERSONAL INJURY INCIDENT REPORT FORM

JUL 16 2019

SECTION I

CLAIMANT *Charles E. Cross, as Appointed Administrator of Estate of Connie A. Spagos-Cross*
ADDRESS [REDACTED]
CITY & STATE [REDACTED] ZIP CODE [REDACTED]

DATE OF INCIDENT: *July 17, 2017* TIME *Between 12:30 pm and 1:19 pm*

Give a brief description of incident, showing how incident happened, exact loss and extent of damage to property and/or injury to person:

Please see Attachment 1 and Exhibits 1-3, all Incorporated Herein by Reference (Document Entitled "Complaint - Attachment 1")

(If personal injury claim only, move on to Section IV)

SECTION II

Has this property been repaired? Yes () No () If repairs have been made, give the following information: Amount: \$ _____ Have you paid for the repairs? Yes () No ()

NOTE: Attach a copy of repair bill.

If repairs have not been made, list three estimates below and attach copies of each of them.

NAME	ADDRESS	AMOUNT
1. _____	_____	\$ _____
2. _____	_____	\$ _____
3. _____	_____	\$ _____

SECTION III

Was property covered by insurance? Yes () No ()
If yes, what is the deductible? \$ _____

NAME OF INSURANCE CARRIER _____ ADDRESS _____

SECTION IV

Is injured covered by medical insurance? Yes (✓) No () (*Medicare*) (*at time of incident*)
If yes, what is the deductible? \$ *N/A*

NAME OF INSURANCE CARRIER _____ ADDRESS _____
Medicare Beneficiary MSPRC - NGHP, P.O. BOX 138832, OKLAHOMA CITY, OK 73113

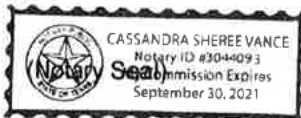
SECTION V

If incident was investigated by the police or by some other agency, give name and title of officer/person making the investigation: *NO*

SECTION VI

The undersigned states on oath that he/she is familiar with the matters and things set forth in the above statement, and that he/she verily believes that they are true.

[Signature] (Attorney)
Signature of Claimant



Sworn to and subscribed before me at *Dallas, Texas*
City & State
on this *15th* day of *July* 2019.
day month year

My Commission Expires *09/30/21*

[Signature]
Signature of Notary Public

JUL 16 2019

COMPLAINT – ATTACHMENT 1

COMES NOW, Charles E. Cross, appointed Administrator of the Estate of Connie M. Stokes-Cross, his deceased wife, Claimant, files this action before the Arkansas State Claims Commission against the University of Arkansas and the Board of Trustees of the University of Arkansas, Respondents, each of which is an agency, board, commission, or institution of the State of Arkansas, and respectfully shows and alleges the following:

- RECEIVED
1. Charles E. Cross (“Mr. Cross”) is a resident and citizen of Little Rock, Arkansas [REDACTED] and is the duly appointed Administrator of the Estate of his deceased wife, Connie M. Stokes-Cross (“Mrs. Cross”), such appointment having been made by the Circuit Court of Pulaski County, Arkansas, 17th Division Probate (Case No. 60PR-19-76). **Exh. 1.**
 2. Mr. Cross complains of medical negligence by emergency room agents or employees of the University of Arkansas for Medical Sciences (“UAMS”), located at 4301 West Markham St., Little Rock, Arkansas 72205, acting within the scope of their agency or employment, thus creating liability under principles of *respondeat superior* or similar vicarious liability principals.
 3. UAMS is a department of the University of Arkansas, an educational institution of the State of Arkansas under the management and control of the Board of Trustees of the University of Arkansas (“the Board”).¹ Ark. Code Ann. §6-64-402. Accordingly, the Respondents, the University of Arkansas and the Board, are the proper entities against whom this claim is brought before the Arkansas State Claims Commission (“the Commission”) and the Commission has subject-matter jurisdiction over this action. Ark. Code Ann. §19-10-201.

STATEMENT OF FACTS

4. On July 17, 2017, Mr. Cross drove Mrs. Cross to the UAMS emergency room in Little Rock on Markham Ave., arriving sometime after noon. Mrs. Cross had complaints of and/or presented with bilateral leg swelling and dyspnea on exertion both of which had been occurring a period of weeks.
5. Based on UAMS medical records, Mrs. Cross’s vitals were taken by UAMS emergency-room employees, upon information and belief, at approximately 12:30 p.m. on July 17, 2017. At this time, Mrs. Cross’s initial vitals were as follows: BP 176/119 mmHg; Pulse 132; Temp (Src) 98.5 F; Resp. 18; SpO2 100%.

¹ Per the University of Arkansas System’s website, the Board is currently comprised of the following individuals: John Goodson, Mark Waldrip, Morril Harriman, Kelly Eichler, Stephen Broughton, MD, C.C. “Cliff” Gibson III, Sheffield Nelson, Tommy Boyer, Steve Cox, and Ed Fryar, PhD.

6. These initial vitals are confirmed in a UAMS medical-record entry, reading: "Patient is a 70-year-old female that presented to the emergency department for a complaint of leg swelling. Nursing states that she was talking in triage and sitting in a wheelchair. She had complaints of bilateral leg swelling dyspnea on exertion. Her initial vitals showed a blood pressure of 176/119 and heart rate of 132." Mr. Cross was concerned about Mrs. Cross's elevated blood pressure, especially, when initial vitals were taken and asked that she be cared for or treated immediately. UAMS emergency room employees, however, said something to the effect that there was "no room" for Mrs. Cross. Mrs. Cross therefore was required to sit without receiving any treatment.
7. Sometime after Mrs. Cross's initial vitals were taken, Mr. Cross went outside to his vehicle to retrieve personal items. When he returned to the emergency room where Mrs. Cross had been situated, he immediately noticed she was unresponsive in her wheelchair. This occurred approximately 25 minutes after Mrs. Cross's vitals were taken at 12:30 p.m., including based on the following medical-record entry: "Approximately 25 minutes [after initial vitals were taken] the patient's husband knocked on the door stating that she was unresponsive."
8. The timing of the vitals and non-responsiveness is further confirmed by medical-record entries at 12:56 pm, noting Mrs. Cross, at that time, was emergently given different cardiac-resuscitation measures (CPR, IO, CVL, and intubation) by UAMS emergency-room staff. Another entry with reference to Mrs. Cross reads "code@12:57."
9. Tragically, UAMS emergency room staff were unable to revive Mrs. Cross and she was soon pronounced dead by UAMS emergency-room personnel at 1:19 p.m. on July 17.
10. Mrs. Cross's UAMS medical records provided by UAMS (29 pages) are attached hereto as Exh. 2. Mrs. Cross's death certificate is attached hereto as Exh. 3.

CLAIMS – NEGLIGENT MEDICAL INJURY/SURVIVAL/WRONGFUL DEATH

11. Members of an emergency room staff like that at the UAMS emergency room on July 17, 2017 (nurses and physicians) must possess and apply with reasonable care the degree of skill and learning ordinarily possessed and used by members of the emergency-room nurse and physician profession in good standing, engaged in the same type of service in Little Rock, Arkansas, or in a similar locality. A failure to meet this standard is negligence.
12. In addition, or alternatively, a hospital must use ordinary care to determine the physical condition of a patient and to furnish that patient the care and attention reasonably required by her physical condition. A failure to meet this standard of ordinary care is negligence.

13. These standards of ordinary care as applied to the circumstances of Mrs. Cross's admittance to the UAMS emergency room on July 17, 2017 required that UAMS emergency room personnel (nurses and physicians), upon obtaining initial vitals of blood pressure of 176/119, heart rate of 132, and respiratory rate of 18 at 12:30 pm, immediately consider Mrs. Cross to be in shock and to, without limitation, move her to an appropriate treatment location within the ER, assess her, put her to the front of the list in terms of obtaining a rapid physician provider assessment, administer an IV, oxygen, EKG, labs, heart monitor, and other procedures or protocol items designed to prevent negative cardiac outcomes in these circumstances.
14. The UAMS, including its emergency-room physicians and nurses acting within the scope of their employment with the UAMS, thus making it liable under principles of *respondeat superior* or other vicarious liability principals, failed to adhere to the standard of care as described in the prior paragraph. Instead, they allowed Mrs. Cross to simply wait unattended without receiving any additional care, monitoring or treatment. Accordingly, they engaged in negligent conduct.
15. This negligent conduct and failure to adhere to the proper standards of medical or hospital care were the proximate cause of Mrs. Cross's unresponsive condition at approximately 12:56 pm, her death called at 1:19 pm, and other forms of damages both to her (estate) and to her husband, Mr. Cross.
16. To a reasonable degree of medical certainty it is asserted and pleaded by Mr. Cross that absent negligence on the part of UAMS emergency room personnel as described, *supra*, Mrs. Cross more likely than not would have survived, would have been timely treated to avoid the event or condition that caused her death, and would not have died on July 17, 2017. That is to say, Mrs. Cross's unresponsive condition at approximately 12:56 pm and death would not have otherwise occurred absent negligence on the part of UAMS emergency room personnel acting within the scope of employment as described, *supra*.
17. **CAUSE OF ACTION AGAINST THE STATE:** As Administrator of the Estate of Connie M. Stokes-Cross, his deceased wife, Mr. Cross brings an action before the Commission for medical injury and damages under Ark. Code Ann. §16-114-201, et seq.
18. **CAUSE OF ACTION AGAINST THE STATE:** In addition, or alternatively, as part of his claim for medical injury and damages, and as Administrator of the Estate of Connie M. Stokes-Cross, his deceased wife, and thus the personal representative of Mrs. Cross's estate, Mr. Cross brings a survival action under and based on Ark. Code Ann. §16-62-101. In that regard he claims on behalf of Mrs. Cross's estate damages arising from and/or proximately caused by Mrs. Cross's negligent treatment and death, including that for Mrs. Cross's pain, suffering, mental anguish and independent loss-of-life damages she endured at the UAMS emergency room on July 17, 2017.

19. **CAUSE OF ACTION AGAINST THE STATE:** Further, and in addition or alternatively, as part of his claim for medical injury and damages, and as Administrator of the Estate of Connie M. Stokes-Cross, his deceased wife, and thus the personal representative of Mrs. Cross's estate, and on behalf of all wrongful death beneficiaries, including him, Mr. Cross brings a **wrongful death action** under and based on Ark. Code Ann. §16-62-102. The damages sought in this wrongful death action include damages for pecuniary injuries, including Mr. Cross's loss of the services and companionship of Mrs. Cross, and any mental anguish resulting from Mrs. Cross's death to Mr. Cross and to any other wrongful death beneficiaries of Mrs. Cross (including adult sisters presently believed to be living in the Chicago area -- Betty Powell, Shirley Turner, Florinda Turner, Vanitta Dickey, Ernestine Turner, and Jacqueline Mays).
20. While it is understood the Commission's rules ordinarily require that a demand for monetary damages be perfected in this complaint, if known, Arkansas medical negligence law, at the same time, mandates that any affirmative pleading of damages "shall not specify the amount of damages claimed but shall, instead, contain a general allegation of damage and shall state that the damages claimed are within any minimum or maximum jurisdictional limits of the court to which the pleading is addressed." Ark. Code Ann. §16-114-205(a). With this in mind, Mr. Cross makes such a general allegation of damage, asserting he is entitled to recovery of all forms of damages pleaded, *supra*, related to his survival and wrongful death actions brought in this case.
21. Mr. Cross will timely provide all expert affidavits supporting the allegations in his Complaint and in this document as required by Ark. Code Ann. §16-114-209.

PRAYER

Based on the foregoing, Mr. Cross, Claimant, respectfully asks and prays that the Commission approve all claims or causes of action set forth herein, and make an appropriate and just award of damages based on the July 17, 2017 death of Mrs. Cross.

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

**CHARLES E. CROSS, AS APPOINTED
ADMINISTRATOR OF THE ESTATE OF
CONNIE M. STOKES-CROSS**

CLAIMANT

V.

CLAIM NO. 200054

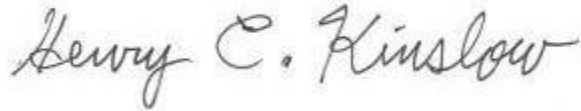
**UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the joint motion filed by the parties to approve the settlement. Attached to the joint motion is the Release and Settlement Agreement signed by Charles Cross (the “Claimant”) and Chancellor Cam Patterson for the Board of Trustees of the University of Arkansas on behalf of the University of Arkansas for Medical Sciences (the “Respondent”). Based upon a review of the pleadings and the Release and Settlement Agreement, the Claims Commission hereby GRANTS the joint motion, APPROVES the Settlement Agreement, and REFERS the total award of \$225,000.00 to the General Assembly for review and placement on an appropriations bill pursuant to Ark. Code Ann. § 19-10-215(b).

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

Courtney Baird
Dexter Booth
Henry Kinslow, Co-Chair
Paul Morris, Co-Chair
Sylvester Smith

DATE: September 15, 2021

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).