

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

Arkansas
State Claims Commission
2019

SECTION I
CLAIMANT

Marsha Frazier

ADDRESS

CITY & STATE

ZIP CODE

DATE OF INCIDENT: 8/26/17 1917 TIME 12:30AM 1:00AM

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

Marshall Frazier was fine but the charge nurse was running late for her shift and just administered

(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 ()
If yes, what is the deductible? \$ _____

If yes, is medical insurance:

- A. Job-based Yes () No ()
- B. Uninsured Motorist Yes () No ()
- C. Private Pay Yes () No ()

NAME OF INSURANCE CARRIER ADDRESS

SECTION V

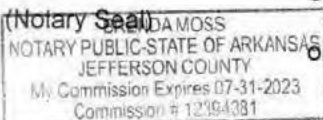
If incident was investigated by the police or by some other agency, give name and title of officer/person making the investigation:

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.

Marsha Frazier
Signature of Claimant

Sworn to and subscribed before me at Pine Bluff Ar
City & State



on this 8 day of April, 2019
day month year

My Commission Expires 07-31-2023

Brenda Moss
Signature of Notary Public

ARKANSAS STATE CLAIMS COMMISSION

Arkansas
State Claims Commission
APR 10 2019

MARSHA G. FRAZIER

v.

UAMS RESPONDANTS

AFFIDAVIT IN SUPPORT OF ADDENDUM CLAIMS COMPLAINT

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I Marsha Frazier, being first duly sworn upon oath, deposes and states as follows:

1. The following Addendum to this complaint is true and correct to the best of my knowledge set in numbered paragraphs.
2. I am the Claimant of this Complaint to this Claims commissions in the above caption action herein.
3. I am a resident of [REDACTED]
4. I make this Affidavit in support of all statements allege as true and correct.
5. As stated in complaint, Claimant state this facility and providers breach duties Negligence, Errors & Omission in their duties. The procedure treatment after lead to too [REDACTED]

Marsha G. Frazier
MARSHA G. FRAZIER

STATE OF ARKANSAS COUNTY OF JEFFERSON

On this 9 date of April before me,
Brenda Moss Personally appeared Marsha Frazier
Known to me or satisfactorily proven to be whose names to be subscribed to the within Affidavit, and being first duly sworn on oath according to law, depose and says that he/she Has read the foregoing Affidavit subscribed by him/her and that the matters stated herein Are true to the best of his/her knowledge and belief.

In witness where of I here unto set my hand and official seal

Notary Address

FAIRFIELD FEDERAL
CREDIT UNION
206 HIGHWAY 81 NORTH
P.O. BOX 5700
PINE BLUFF, AR. 71611

Brenda Moss
Notary Public

Title

My Commission expires 07-31-2023

BRENDA MOSS
NOTARY PUBLIC-STATE OF ARKANSAS
JEFFERSON COUNTY
My Commission Expires 07-31-2023
Commission # 12394381

**ARKANSAS CLAIMS COMMISSION
ADDENDUM TO COMPLAINT**

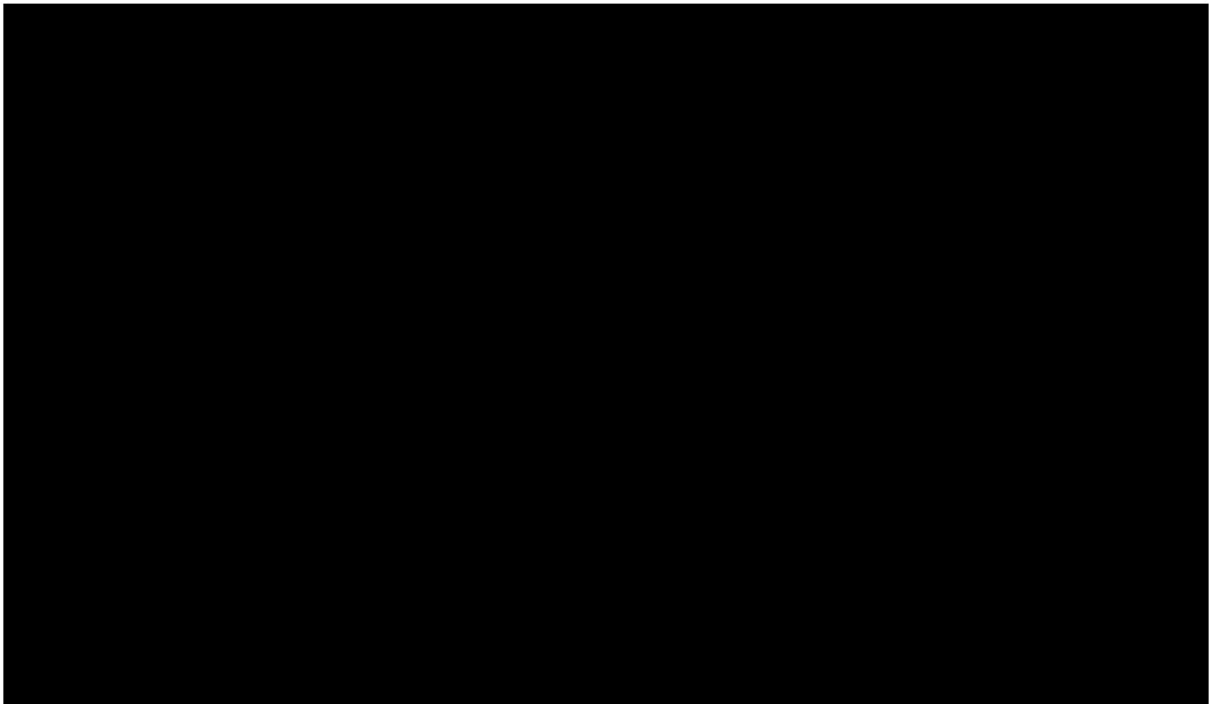
Arkansas
State Claims Commission
APR 10 2019

ACA 16-114-201 et. Seq.

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3) "Medical injury" or "injury" means any adverse consequences arising out of or sustained in the course of the professional services being rendered by a medical care provider, whether resulting from negligence, error, or omission in the performance of such services; or from rendition of such services without informed consent or in breach of warranty or in violation of contract; or from failure to diagnose; or from premature abandonment of a patient or of a course of treatment; or from failure to properly maintain equipment or appliances necessary to the rendition of such services; or otherwise arising out of or sustained in the course of such services

1. **THE COURSE OF TREATMENT** [REDACTED]
2. **THE FAILURE TO PROPERLY MAINTAIN EQUIPMENT OF THE**
[REDACTED]
3. **NEGLIGENCE ERRORS AND OMISSION REGARDS** [REDACTED]



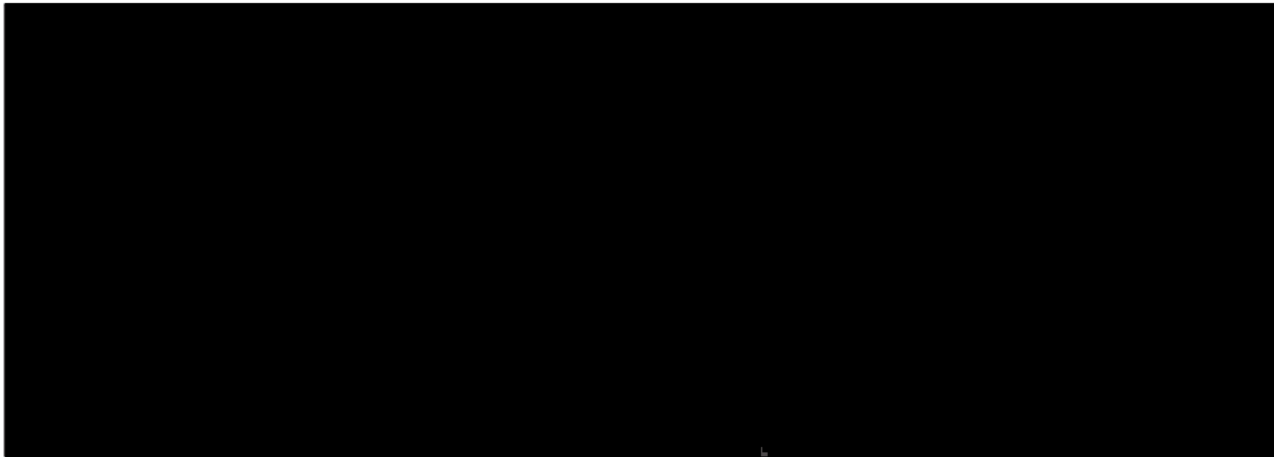
[REDACTED]

[REDACTED]

[REDACTED]

FACTS

[REDACTED]



LETS TALK ABOUT THIS PART OF HIS DEATH



2. Dr. BENJAMIN THARIAN, MD. MRCP GASTRO. FACP. FRACP.
Interventional Gastroenterologist
Asst. Professor of medicine
Dept. Of internal medicine
Division of Gastroenterology & Hepatology
UAMS



- 3.
4. This Dr. Abandon the treatment and never returned to the case. Giving it to his Students and Residents



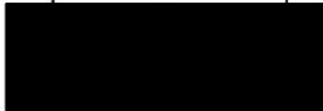
TJF-Q 180V Could be reason he didn't return. Below is a copy partial letter issued warning of violation to Medical Facility manufacture them

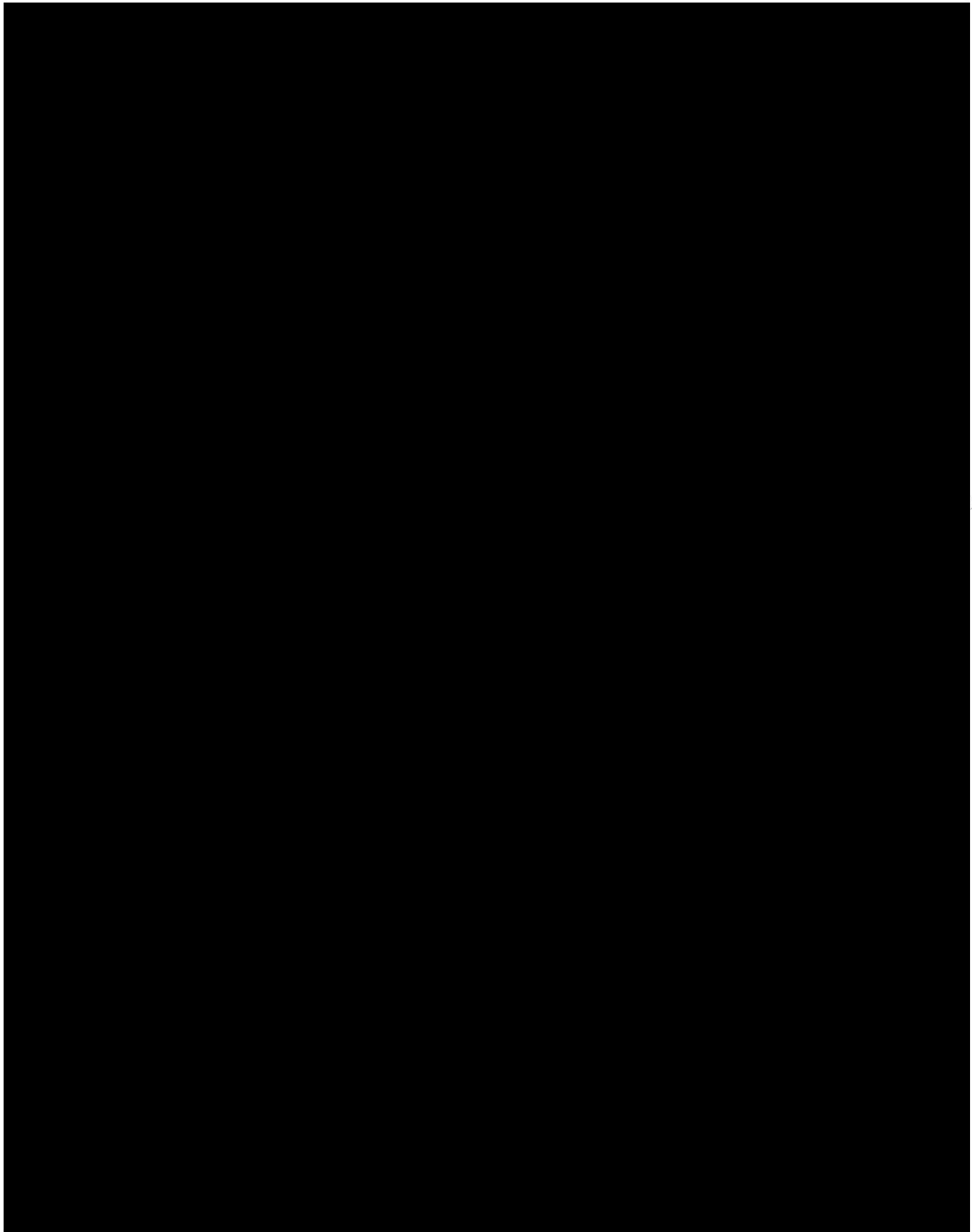


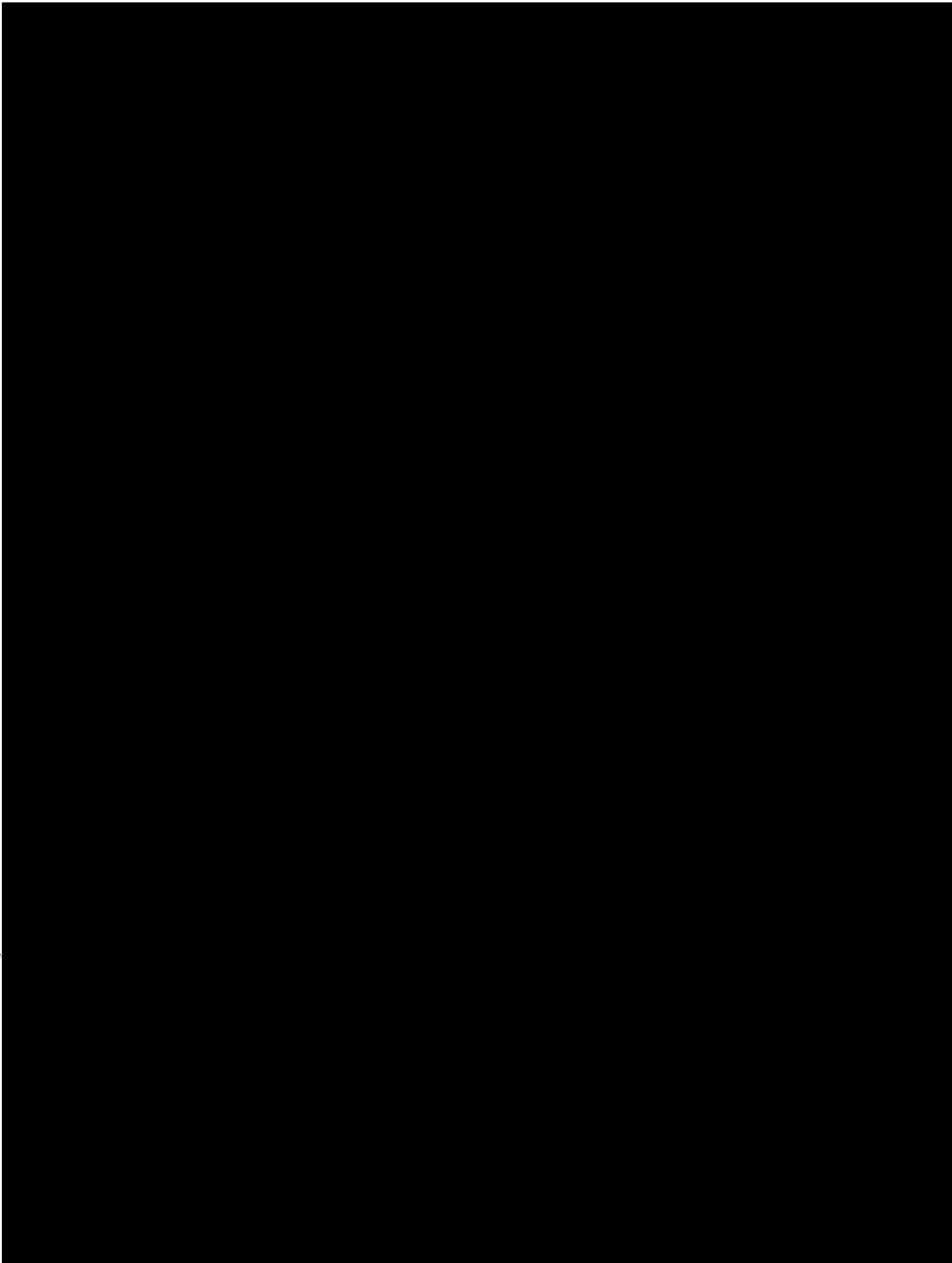
Leaving me without my husband, loss of consortium Mental stressed. These people failed him. They fail to diagnose abandon prematurely They allowed him to dye and [REDACTED]

Respectfully Submitted

Marsha G. Frazier-Spouse to Marshall Frazier Jr.







Olympus Medical Systems Corporation 3/9/18

WARNING LETTER

VIA UNITED PARCEL SERVICE

March 9, 2018

Nacho Abia
President & CEO
Olympus Corporation of the Americas
3500 Corporate Parkway
Center Valley, Pennsylvania 18034

Dear Mr. Abia:

The United States Food and Drug Administration (FDA) is issuing this Warning Letter to inform you of Olympus Corporation of the Americas's failure to comply with requirements under section 522 of the Federal Food, Drug and Cosmetic Act (the Act) (21 U.S.C. § 360I), and Title 21 of the Code of Federal Regulations (CFR) Part 822. On October 5, 2015, FDA ordered your firm to conduct postmarket surveillance on the following devices: duodenoscope models JF-140F, PJF-160, TJF-160F, TJF-160VF, and TJF-Q180V- this the number equipment used on my husband

Olympus Medical Systems Corporation 3/9/18

WARNING LETTER

VIA UNITED PARCEL SERVICE

March 9, 2018

Nacho Abia
President & CEO
Olympus Corporation of the Americas
3500 Corporate Parkway
Center Valley, Pennsylvania 18034

Dear Mr. Abia:

The United States Food and Drug Administration (FDA) is issuing this Warning Letter to inform you of Olympus Corporation of the Americas's failure to comply with requirements under section 522 of the Federal Food, Drug and Cosmetic Act (the Act) (21 U.S.C. § 360I), and Title 21 of the Code of Federal Regulations (CFR) Part 822. On October 5, 2015, FDA ordered your firm to conduct postmarket surveillance on the following devices: duodenoscope models JF-140F, PJF-160, TJF-160F, TJF-160VF, and TJF-Q180V- this the number equipment used on my husband

OLYMPUS

January 15, 2016

**URGENT MEDICAL DEVICE REMOVAL and CORRECTIVE ACTION:
ELEVATOR MECHANISM REPLACEMENT, UPDATED OPERATION MANUAL, AND NEW REPROCESSING
INSTRUCTIONS FOR THE OLYMPUS TJF-Q180V DUODENOSCOPE**

ATTENTION: Endoscopy Department, Infection Control and Reprocessing Units

**Re: OLYMPUS TJF-Q180V Duodenoscope
All Serial Numbers manufactured prior to January 2016**

Dear Health Care Professional:

Olympus America Inc. ("OAI") is writing to inform you that OAI is conducting a voluntary removal/corrective action of all TJF-Q180V duodenoscopes in order to replace the forceps elevator mechanism. The TJF-Q180V is a flexible gastrointestinal endoscope used in procedures such as endoscopic retrograde cholangiopancreatography (ERCP).

OAI will be replacing the forceps elevator mechanism on your existing TJF-Q180V duodenoscope(s) with a new forceps elevator design consistent with the design specifications in the recently cleared TJF-Q180V 510(k). You must return your current TJF-Q180V duodenoscopes to OAI so that OAI can perform this replacement service. You can continue to use the TJF-Q180V duodenoscope until the forceps elevator mechanism is replaced.

Separate from this forceps elevator mechanism replacement, Olympus is initiating annual inspections of the TJF-Q180V's forceps elevator mechanism. This annual inspection will include inspection of the TJF-Q180V's forceps elevator area and recommendations for any parts replacement.

New TJF-Q180V duodenoscopes manufactured with the new forceps elevator design will have a serial number which has a "1" as the third digit and are not included in this corrective action.

OAI has updated the existing TJF-Q180V Operation Manual and Reprocessing Manual with a **new Operation Manual and a new Reprocessing Manual**. The new Manuals are available on our customer web portal. Download a copy of the new Operation and new Reprocessing Manuals by visiting our OlympusConnect customer website at <https://www.OlympusConnect.com>. New users will need to register. Once registered select the Product Support button on the left navigation bar, select the [Instruction Manuals] button or the [Reprocessing Manuals] button respectively, locate the TJF-Q180V Manuals and select the [Download] button. Paper copies of the new Operation Manual and the new Reprocessing Manual will be available to be mailed to your facility starting February 8th 2016.

Beginning in February 2016, OAI will start replacement of the TJF-Q180V forceps elevator mechanism with the new forceps elevator design. However, the new reprocessing procedures should be implemented as soon as possible. It is important that reprocessing personnel be thoroughly trained and knowledgeable on the new reprocessing instructions.

OLYMPUS AMERICA INC.

3500 CORPORATE PARKWAY, P.O. BOX 610, CENTER VALLEY, PA 18034-0610
TELEPHONE (484) 896-5000

ARKANSAS STATE CLAIMS COMMISSION

(501)682-1619
FAX (501)682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, AR 72201-3823

April 18, 2019

Ms. Sherri Robinson
University of Arkansas for Medical Sciences
4301 West Markham St. Slot 860
Little Rock, Arkansas 72205

RE: ***Marsha Frazier v. University of Arkansas for Medical Sciences***
Claim No. 191008

Dear Ms. Robinson,

Enclosed please find a copy of the above-styled claim filed against the University of Arkansas for Medical Sciences. Pursuant to the Arkansas Rules of Civil Procedure, as well as Claims Commission Rule 2.2, you have **thirty days from the date of service** in which to file a responsive pleading.

Your responsive pleading should include your agency number, fund code, appropriation code, and activity/section/unit/element that this claim should be charged against, if liability is admitted, or if the Claims Commission approves this claim for payment. This information is necessary even if your agency denies liability.

Sincerely,

Kathryn Irby

ES: mshaynes

Enclosure
cc: Marsha Frazier (w/o encl.)

Note to Claimant or Claimant's counsel: The Claims Commission copied you on this correspondence to provide you with confirmation that your claim has been processed and served upon the respondent agency.

Arkansas
State Claims Commission

IN THE ARKANSAS STATE CLAIMS COMMISSION

MARSHA FRAZIER

MAY 17 2019
CLAIMANT

V.

CASE NO. 191008

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UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES

RESPONDENT

RESPONDENT'S MOTION TO DISMISS

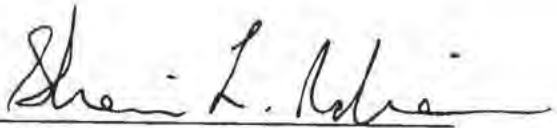
Comes now Respondent, by and through the undersigned counsel, and for its Motion to Dismiss, states:

1. Claimant Frazier appears to raise claims regarding the medical treatment of her husband (now deceased) while at the University of Arkansas for Medical Sciences (UAMS).
2. Claimant has not attached proof that an estate has been opened for the purpose of pursuing litigation, and there is no information on the Administrative Office of the Courts CourtConnect website indicating that Claimant has opened an estate.
3. For these reasons, Claimant does not have standing to bring a lawsuit for the alleged medical injury to her husband.
4. The grounds for this motion are more fully set forth in a brief in support filed contemporaneously with the motion.

WHEREFORE, Respondent requests that the Commission grant its motion to dismiss and for all other relief to which it is entitled.

Respectfully submitted,

UNIVERSITY OF ARKANSAS
FOR MEDICAL SCIENCES,
Respondent

By: 
SHERRI L. ROBINSON, #97194
Associate General Counsel
University of Arkansas for Medical Sciences
4301 West Markham, Slot 860
Little Rock, AR 72205
(501) 686-7608
SLRobinson@uams.edu

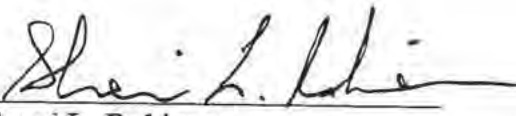
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Sherri L. Robinson, do hereby certify that a copy of the foregoing pleading has been served on claimant herein by mailing a copy of same, by U.S. Mail, postage prepaid, this 15th day of May, 2019, addressed to the following:

Ms. Marsha Frazier




Sherri L. Robinson



Arkansas
State Claims Commission

MAY 17 2019

Sherri L. Robinson
Associate General Counsel
Tel.: 501-686-7964
Fax: 501-686-7736

RECEIVED
Office of General Counsel
4301 West Markham Street, #860
Little Rock, AR 72205-7199
SLRobinson@uams.edu

May 15, 2019

Kathryn Irby, Director
Arkansas State Claims Commission
101 East Capitol, Suite 410
Little Rock, AR 72201-2823

Re: Marsha Frazier vs. vs. UAMS
Case No. 191008

Dear Ms. Irby:

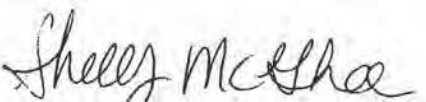
Enclosed please find my original and three copies of the following for filing in the above mentioned case:

- Respondent's Motion to Dismiss and
- Brief in Support of Respondent's Motion to Dismiss.

Please return the file marked copy of the pleadings in the attached self-addressed stamped envelope. I am also enclosing a disk with the pleadings in word and pdf format.

Let me know if you have any questions.

Sincerely,


Shelly McShee
Paralegal for Sherri L. Robinson,
Associate General Counsel

Enc.
cc: Marsha Frazier w/out disk

IN THE ARKANSAS STATE CLAIMS COMMISSION

Arkansas
State Claims Commission

MAY 17 2019
CLAIMANT

MARSHA FRAZIER

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V.

CASE NO. 191008

UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES

RESPONDENT

**BRIEF IN SUPPORT OF
RESPONDENT’S MOTION TO DISMISS**

Claimant Frazier appears to raise claims regarding the medical treatment of her husband (now deceased) while at the University of Arkansas for Medical Sciences (UAMS). Claimant has not attached proof that an estate has been opened for the purpose of pursuing litigation, and there is no information on the Administrative Office of the Courts CourtConnect website indicating that Claimant has opened an estate. For these reasons, Claimant does not have standing to bring a lawsuit for the alleged medical injury to her husband, and her claim should be dismissed.

Arkansas Code Annotated § 16-62-101(a) provides that

[f]or wrongs done to the person or property of another, an action may be maintained against a wrongdoer, and the action may be brought by the person injured or, after his or her death, by his or her executor or administrator against the wrongdoer.

Here, it appears that Claimant is raising only claims for the alleged wrong to her husband during his medical treatment at UAMS. If this is the case, the action must be brought by the executor or administrator of the estate. A search on the Administrative Office of the Courts CourtConnect website indicated that Claimant filed an Affidavit of Small Estate on June 22, 2018 attesting that there had been no appointment of a personal representative for her husband’s estate. See Case No. 35 PR-18-234. The docket also indicated that the small

estate is now closed. *Id.* There is no other probate matter listed on the CourtConnect website regarding Marshall Frazier.

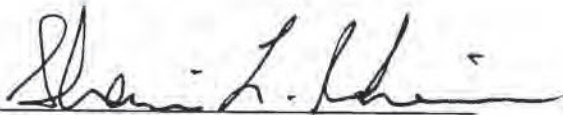
Because this matter is not filed by an executor or administrator as required by statute, Claimant does not have standing to assert the claim raised. *See Johnson v. Greene Acres Nursing Home Ass'n*, 364 Ark. 306, 312, 219 S.W.3d 138, 142 (2005). Because Claimant does not have standing to raise a claim on behalf of Marshall Frazier's estate, this claim is a nullity and must be dismissed. *Id.* *See also St. Paul Mercury Ins. Co. v. Circuit Court of Craighead County*, 348 Ark. 197, 73 S.W.3d 584 (2002).

WHEREFORE, Respondent requests that the Commission grant its motion to dismiss and for all other relief to which it is entitled.

Respectfully submitted,

UNIVERSITY OF ARKANSAS
FOR MEDICAL SCIENCES,
Respondent

By:



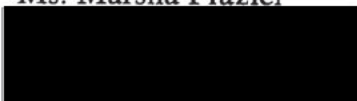
SHERRI L. ROBINSON, #97194
Associate General Counsel
University of Arkansas for Medical Sciences
4301 West Markham, Slot 860
Little Rock, AR 72205
(501) 686-7608
SLRobinson@uams.edu

Attorney for Respondent

CERTIFICATE OF SERVICE

I, Sherri L. Robinson, do hereby certify that a copy of the foregoing pleading has been served on claimant herein by mailing a copy of same, by U.S. Mail, postage prepaid, this 15th day of May, 2019, addressed to the following:

Ms. Marsha Frazier



A handwritten signature in cursive script that reads "Sherri L. Robinson".

Sherri L. Robinson

JUN 06 2019

THE ARKANSAS CLAIMS COMMISSION

MARSHA G. FRAZIER

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Vs.

UAMS Et al.

RESPONDING TO DEFENDANTS MOTION TO DISMISS

The amendment to Rule 4-4(e) conforms the rule to the practice.

AND Administration Procedure Act Fireman's Ins. Co. V. Arkansas State Claims Comm'n 301 Ark. 451, 454(Ark.1990)

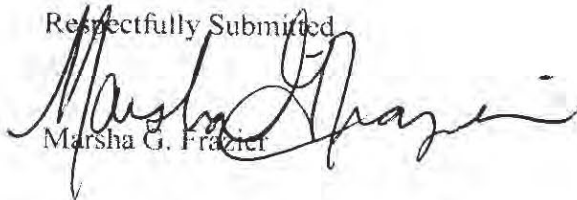
Plaintiff comes making a motion according by Civil rule 12(g) that the Claims Commission not grant Defendants motion by Plaintiff being Pro-Se was un aware of the Probate of Estate of more than 100,000.00 needing to be open first. As noted by Defendant I had prior Estate proceedings of a lesser amount

However this new probate proceeding is being started but not a hearing yet

Civil rule 12(g) Consolidation of Defenses in Motion. A party who makes a motion under this rule may join with it any other motions herein provided for and then available to him. If a party makes a motion under this rule.

Plaintiff motion to preserved to proceed any other rights I need.

Respectfully Submitted


Marsha G. Frazier

JUN 06 2019

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MEMORANDUM

CIVIL RULE 12(g) allows for consolidation of defenses therefore I ask the Commission to allow the consolidation of this probate proceeding for this Claim I'm asking to be awarded of the death

[REDACTED]

For the Defendants to request for dismissal is a gross insult in my face and my children.

"Administration Procedure Act" Fireman's Ins. Co. v. Arkansas State Claims Comm'n, 301 Ark. 451, 454 (Ark. 1990 regarding consolidation.

Respectfully Submitted

Marsha G. Frazier
Marsha G. Frazier

JUN 06 2019

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FILED

JUN 03 2019

SHAWNDEA TAGGART
EX OFFICIO OF THE
PROBATE DIVISION/CIRCUIT COURT
JEFFERSON COUNTY, ARKANSAS

35PR-19-227

Form 2.

IN THE COUNTY OF JEFFERSON

PINE BLUFF, ARKANSAS

PETITION FOR APPOINTMENT

OF PERSONAL REPRESENTATIVE ADMINISTRATOR

MARSHA G. FRAZIER _____, whose address is _____, and whose interest in the decedent's estate is that of PERSONAL REPRESENTATIVE ADMINISTRATOR _____, petitions that letters of administration of the estate be issued. The facts known to petitioner are:

1. The decedent, MARSHALLER FRAZIER JR. _____, aged 63, who resided at _____ County, Arkansas, died intestate at UAMS _____ on or about AUGUST 26, 2017

2. The surviving spouse and heirs of the decedent, and their respective ages, relationships to the decedent, and residence addresses, are:

Name Age Relationship Residence Address

MARSHA G. FRAZIER 64 (SPOUSE) _____

LUCIANA A. FRAZIER 44 (DAUGHTER) _____

SHEENA C. FRAZIER 37 (DAUGHTER) _____

DENA M. PERRY 48 (DAUGHTER) _____

EMMANUEL D. FRAZIER 35 (SON) _____

Arkansas
State Claims Commission

JUN 06 2019

3. The probable value of the decedent's estate is: 1,500,000.00

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Real property \$ 0

Personal property \$ _____

4. Petitioner nominates MARSHA L. FRAZIER, whose residence address is _____, for appointment as PERSONAL REPRESENTATIVE ADMINISTRATOR of the estate. The relationship, if any, of the nominee to the decedent, and other facts, if any, which entitle the nominee to appointment are SPOUSE/BENEFICIARY.

THEREFORE, petitioner requests that this Court make an order determining the fact of the death and of the intestacy of the decedent; and appointing petitioner's nominee as PERSONAL REPRESENTATIVE ADMINISTRATOR [administratrix] of the estate.

Date: 05/30/2019

Marsha G. Frazier
[Signature] [Petitioner]

Marsha G. Frazier

[Print Name]

Marsha G. Frazier



[E-mail Address]

Arkansas
State Claims Commission

JUN 06 2019

IN THE COUNTY OF JEFFERSON

AFI DAVIS

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IN SUPPORT OF PETITION FOR THE
ADMINISTRATOR OF MARSHAL

PERSONAL REPRESENTATIVE
FRAZIER JR. ESTATE

1. MARSHA G. FRAZIER BEING FIRST DULY SWORN UPON OATH DEPOSES AND STATES AS FOLLOWS
2. I AM THE NOMINEE REQUESTING TO BE APPOINTED PERSONAL REPRESENTATIVE ADMINISTRATOR OF MARSHALL FRAZIER JR. ESTATE
3. I AM A RESIDENT OF PINE BLUFF, ARKANSAS JEFFERSON COUNTY
4. I MAKE THIS AFFIDAVIT IN SUPPORT OF THIS PETITION FOR PERSONAL REPRESENTATIVE ADMINISTRATOR OF MARSHALL FRAZIER JR. ESTATE

MARSHA G. FRAZIER

STATE OF ARKANSAS COUNTY OF JEFFERSON

On this 31st date of May 2019 before me, Marsha G. Frazier,

Personally appeared Marsha G. Frazier known to me or satisfactorily proved to be whose name to be subscribed to the within Affidavit, and first duly sworn on oath according to law, depose and attest that he/she has read the foregoing Affidavit and that the matters stated here are true to the best of his/her knowledge and belief.

In witness where of I here unto set my hand and official seal

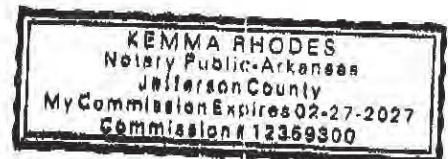
 Kemma Rhodes

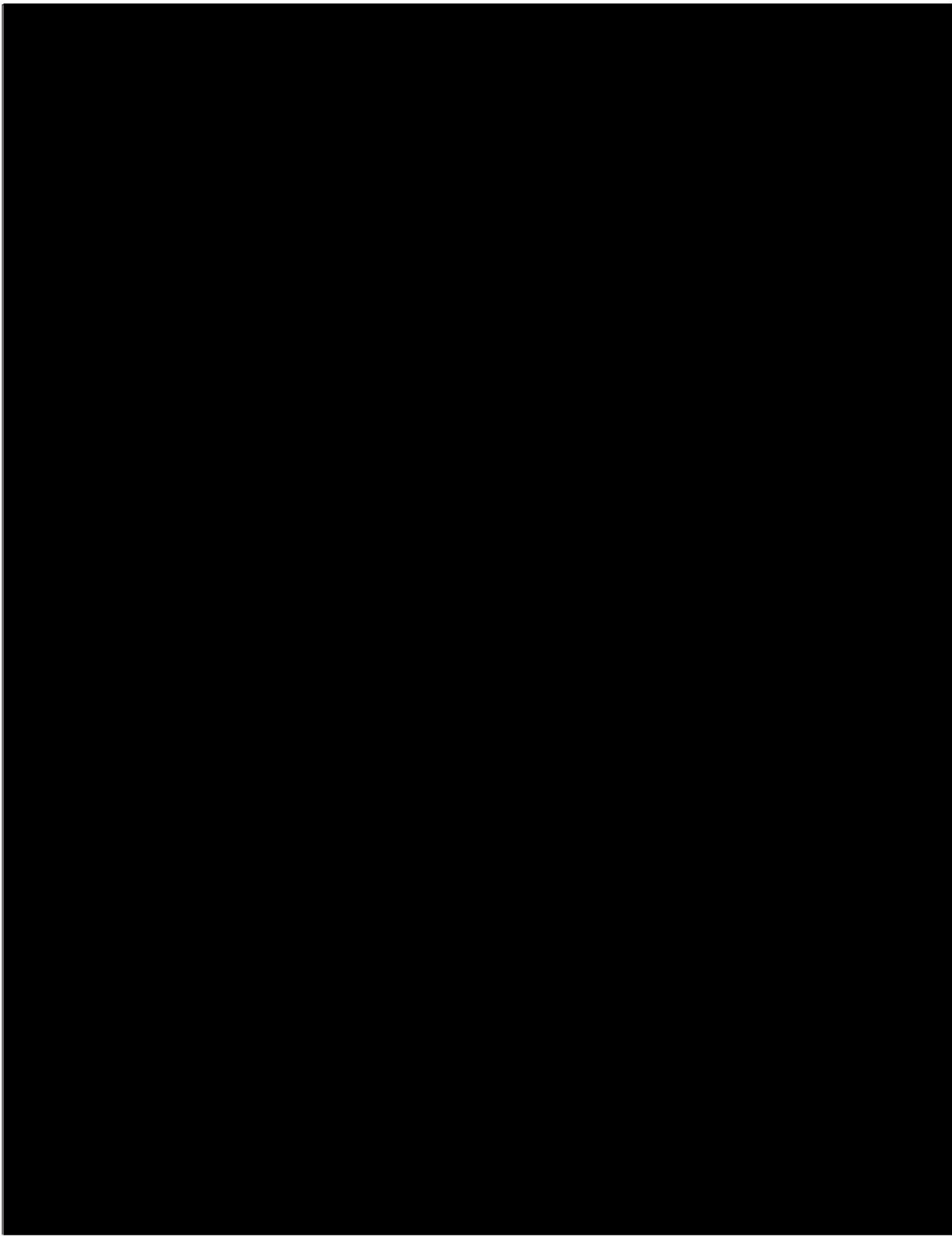
Notary Public

Notary Public

Title

My Commission expires Feb. 27, 2027





Arkansas
State Claims Commission

JUN 06 2019

In The Circuit Court of Jefferson County, Arkansas

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Probate Division

In The Matter of the Estate of

Marshall Frazier Jr., Deceased No. _____

Pursuant of 28-40-109 I Marsha G. Frazier request Petition to open probate without notice according to ACA 28-40-109 and petition to be appointed personal representative Administrator to Marshall Frazier Jr. Estate. Because I was rejected by so many Atty. to bring a wrongful death claim to court due the entity where his death happened are immune, I file through the Arkansas claims Commission but was not aware of the Probate proceedings needing to be open for this process.

"Administration Procedure Act" *Fireman's Ins. Co. v. Arkansas State Claims Comm'n*, 301 Ark. 451, 454 (Ark. 1990)

I'm asking the court to allow this Order before the judge without notice due my claim has already been filed and need expedited hearing before a decision on prior claim and if this is awarded, I need to be appointed personal representative Administrative of Marshall Frazier Jr. Estate. In order to administer the estate this award is to be over the amount of 100,000.00 I am the surviving spouse and beneficiary of Marshall Frazier Jr. At the time of his death, Marshall

Frazier Jr. Resided at [REDACTED] Marshall

Frazier Jr. Died at UAMS hospital Little Rock Ark. 72202 Pulaski County August 26, 2017

Respectfully Submitted

Marsha G. Frazier
Marsha G. Frazier

[REDACTED]

From: [Kathryn Irby](#)
To: [Sherri Robinson](#)
Subject: Frazier v. UAMS, Claim No. 191008 -- CI's response to MTD
Date: Thursday, June 6, 2019 1:37:00 PM
Attachments: [Frazier -- response to MTD.pdf](#)

Sherri, attached is Claimant's response to the MTD, which was received today. The Claims Commission is requesting that UAMS file a short reply brief.

Thanks,
Kathryn

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

IN THE ARKANSAS STATE CLAIMS COMMISSION

JUN 12 2019

MARSHA FRAZIER

CLAIMANT
RECEIVED

V.

CASE NO. 191008

UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES

RESPONDENT

REPLY TO RESPONSE TO
RESPONDENT'S MOTION TO DISMISS

Comes now Respondent, by and through the undersigned counsel, and for its Reply to Response to Motion to Dismiss, states:


Claimant cites rules and a case that have no applicability to this matter. Nonetheless, it appears based on her response that she has petitioned the Jefferson County Circuit Court to be appointed Personal Representative of her deceased husband's estate. As of the date of the submission of this Reply, the Court has not ruled on the petition; thus, Claimant still does not have the standing to bring a claim on behalf of the estate.

Respondent does not object to holding this claim in abeyance for a reasonable amount of time to allow Claimant to seek an order on her petition.

WHEREFORE, Respondent requests that the Commission grant its motion to dismiss or hold this matter in abeyance and for all other relief to which it is entitled.

Respectfully submitted,

UNIVERSITY OF ARKANSAS
FOR MEDICAL SCIENCES,
Respondent

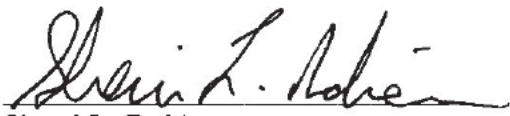
By: 
SHERRI L. ROBINSON, #97194
Associate General Counsel
University of Arkansas for Medical Sciences
4301 West Markham, Slot 860
Little Rock, AR 72205
(501) 686-7608
SLRobinson@uams.edu

Attorney for Respondent

CERTIFICATE OF SERVICE

I, Sherri L. Robinson, do hereby certify that a copy of the foregoing pleading has been served on claimant herein by mailing a copy of same, by U.S. Mail, postage prepaid, this 12th day of June, 2019, addressed to the following:

Ms. Marsha Frazier



Sherri L. Robinson

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MARSHA FRAZIER

CLAIMANT

V.

CLAIM NO. 191008

**UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES**

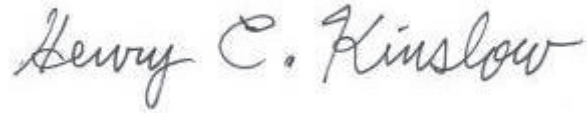
RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the motion filed by University of Arkansas for Medical Sciences (the “Respondent”) to dismiss the claim filed by Marsha Frazier (the “Claimant”) for Claimant’s lack of standing. Based upon a review of the pleadings and the law of Arkansas, the Claims Commission finds as follows:

1. Claimant filed her claim on April 10, 2019, seeking \$500,000.00 in damages relating to Respondent’s treatment of Claimant’s husband.
2. Respondent filed the instant motion to dismiss, asserting that Claimant does not have standing to bring a lawsuit on behalf of her now deceased husband.
3. Claimant responded to the motion to dismiss, stating, *inter alia*, that a probate proceeding has been “started.”
4. Respondent filed a reply brief, stating, *inter alia*, that Respondent does not object to placing this claim in abeyance for a reasonable amount of time to allow Claimant to obtain an order on her petition to be appointed personal representative of her deceased husband’s estate, which is pending before the Jefferson County Circuit Court.
5. The Claims Commission will hold this claim in abeyance. Claimant is instructed to advise the Claims Commission and Respondent in writing when the Jefferson County Circuit Court enters a ruling on Claimant’s petition.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

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

DATE: July 29, 2019

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).

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

July 30, 2019

Ms. Marsha Frazier



Ms. Sherri L. Robinson
University of Arkansas for Medical Sciences
4301 West Markham Street
Slot 860
Little Rock, Arkansas 72205

(via email only)

Re: *Marsha Frazier v. University of Arkansas for Medical Sciences*
Claim No. 191008

Dear Ms. Frazier and Ms. Robinson:

Enclosed please find the Order entered on July 29, 2019, by the Arkansas State Claims Commission. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: msscott

BEFORE THE ARKANSAS CLAIMS COMMISSION

CLAIM NO: 191008

MARSHA FRAZIER

V.

**UNIVERSITY ARKANSAS OF MEDICAL
MEDICAL SCIENCE**

**Arkansas
State Claims Commission
CLAIMANT**

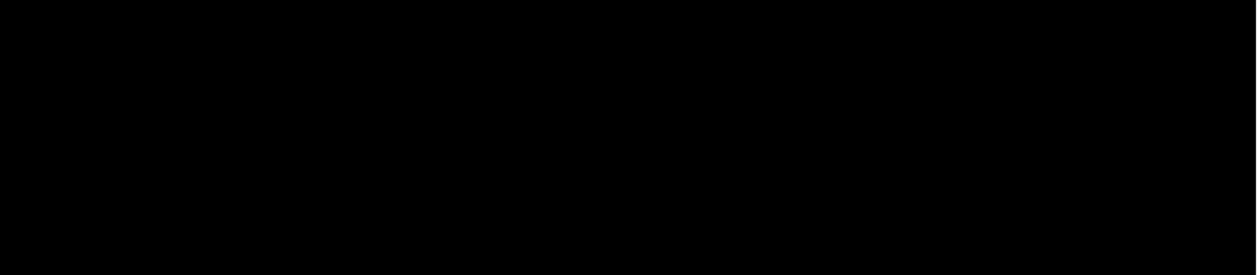
AUG 12 2019

**RECEIVED
RESPONDENTS**

MOTION TO RECONSIDER AMEND AND CORRECT COMPLAINT

Come Marsha Frazier motion request the Claims Commission to allow Plaintiff this time of the abeyance order. To amend According to civil rule 15 15(a) declares that without leave to amend "shall be freely given when justice so requires," of the Federal Rules of Civil Procedure allows for the amendment of complaint. Lone Star Industries INC v. McGraw who motion the court from first complaint of February 6, 2009 file to amend this complaint October 19, 2009 trial court did comply with Rule 15 when it allowed McGraw to file his First Amended Complaint, because McGraw filed his motion before all of the original parties were dismissed with prejudice. There had been no settlement agreement before he file motion. As the same in my case. No agreement or ruling yet.

I'm correcting a error in Typo mistake I'm just noticing after I received this Order.of abeyance. Plaintiff just realized after the Commission sent this Order that I requested 500,000.00. However I'm not sure how I made this typo error not have that 1(one) in front of that 500,000 but I'm correcting and amending my requested amount to \$1.500.000.00 (one million Five Hundred thousand dollars.) I pray you reconsider this amount from \$500.000.00 to this new requested amount to 1.500,000.00. Considering there have not been a ruling yet. Also the facts regarding

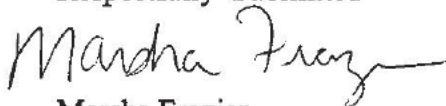


disappeared to is why damages to him in this claim should be more than what I mistakenly put on the complaint. also had to correct some errors on the probate as well so I'm correcting and amending this too. So as the Order states for Plaintiff to both you and Respondent when the probate court enters a ruling I will advise you.

WHEREFORE Plaintiff prays Commission accepts my motion to amend my error

And not to hold this against my mistake, and grant this change of requested amount it was not my intent on the first amount I requested. Typo error.

Respectfully Submitted



Marsha Frazier



CERTIFICATE OF SERVICE

I Marsha G. Frazier Certify I have certified mail or hand delivered on
this 08 th date of August 2019 the documents to all parties involved
of this action.

Respectfully Submitted

Marsha G. Frazier

Marsha G. Frazier



BEFORE THE ARKANSAS CLAIMS COMMISSION

OCT 01 2019

CLAIM NO: 191008

MARSHA FRAZIER

CLAIMANT RECEIVED

Vs.

UNIVERSITY ARKANSAS OF MEDICAL SCIENCES

RESPONDENT

**NOTIFICATION OF ADMINISTRATION AND REMOVE CLAIM OUT ABEYANCE
CONTINUE WITH THE WRONGFUL DEATH SETTLEMENT**


COMES Marsha Frazier in her capacity as Administrator in the matter of Marshall Frazier Jr.

Wrongful death Estate petition. I come standing as wrongful death beneficiary of my husband's Estate to conclude settlement negotiations on his fatal injuries.

This is my response from my "Motion to Reconsider Amend and Correct Complaint" pursuant to Civil rule 15(a) also I stated in my motion I will advise the Commission when the court enters a ruling. This is my advisement. I am asking the Claims Commission to release this claim from abeyance, where there can be a continuance and conclusion.

I attached to this document Letter of Administration as proof of ruling, the Heirs of the Estate consent to the petition waiving notice and the petition for approval of the settlement.

Respectfully Submitted


Marsha Frazier



This form has been official prescribed to the Supreme Court of Arkansas for use under the Probate Code, Act 140 of the 1949 Acts of Arkansas.

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ARKANSAS
PROBATE DIVISION**

**Arkansas
State Claims Commission**

IN THE MATTER OF THE ESTATE OF

NO. 35PR-19-227

OCT 01 2019

Marshall Frazier, Deceased

RECEIVED

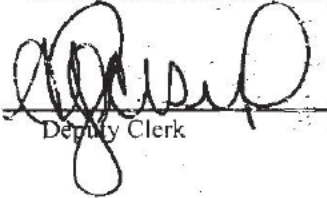
LETTER OF ADMIMISTRATION

BE IT KNOWN:

THAT Marsha G Frazier [REDACTED] having been duly appointed Administratrix of the estate of Marshall Frazier deceased, who died on or about August 26, 2017, and having qualified as such Administratrix, is hereby authorized to act as such Administratrix for and in behalf of the estate and to take possession of the property thereof as authorized by law.

ISSUED this 26th day of September, 2019.

Shawndra Taggart
County and Probate Clerk


Deputy Clerk

STATE OF ARKANSAS
COUNTY OF JEFFERSON

AFFIDAVIT

I consent to the foregoing and waive notice of hearing and any other proceedings in relation to the foregoing.

SUBSCRIBED AND SWORN to before me the undersigned Notary Public on this 9th date of August 2019


Marsha G. Frazier




Notary Public
My Commission expires 05/25/2026

GENNETTE JOHNSON
NOTARY PUBLIC-STATE OF ARKANSAS
JEFFERSON COUNTY
My Commission Expires 05-25-2026
Commission # 12697769

Arkansas
State Claims Commission

OCT 01 2019

RECEIVED

FILED

SEP 24 2019

SHAWNDRAGART
EX OFFICIO OF THE
PROBATE DIVISION CIRCUIT COURT
JEFFERSON COUNTY, ARKANSAS

In the matter of the Estate:
of Marshall Frazier Jr. deceased

I consent to the foregoing petition and waive notice of hearings and other proceedings in relation
to the foregoing.

Emmanuel D. Frazier

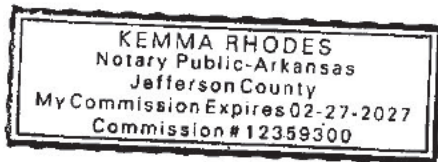


STATE OF ARKANSAS

VERIFICATION

COUNTY OF Jefferson

SUBSCRIBED AND SWORN to before me, the undersigned Notary Public, on this 4th date
of Sept 2019



NOTARY PUBLIC

My Commission Expires Feb 27, 2027

Arkansas
State Claims Commission

OCT 01 2019

RECEIVED

FILED

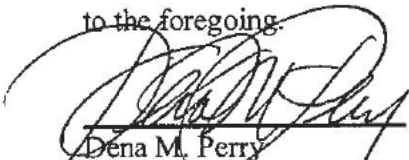
SEP 24 2019

SHAWNDRAGAGGART
EX OFFICIO OF THE
PROBATE DIVISION/CIRCUIT COURT
JEFFERSON COUNTY, ARKANSAS

In the matter of the Estate:
of Marshall Frazier Jr. deceased

I consent to the foregoing petition and waive notice of hearings and other proceedings in relation

to the foregoing.



Dena M. Perry

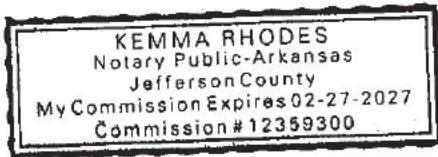


STATE OF ARKANSAS

VERIFICATION

COUNTY OF Jefferson

SUBSCRIBED AND SWORN to before me, the undersigned Notary Public, on this 4th date
of Sept 2019



NOTARY PUBLIC

My Commission Expires Feb 27, 2027

Arkansas
State Claims Commission

OCT 01 2019

RECEIVED

FILED

SEP 24 2019

SHAWNDRAGAGGART
EX OFFICIO OF THE
PROBATE DIVISION/CIRCUIT COURT
JEFFERSON COUNTY, ARKANSAS

In the matter of the Estate:
of Marshall Frazier Jr. deceased

I consent to the foregoing petition and waive notice of hearings and other proceedings in relation
to the foregoing.

Sheena C. Frazier

Sheena C. Frazier

STATE OF ARKANSAS

VERIFICATION

COUNTY OF Jefferson

SUBSCRIBED AND SWORN to before me, the undersigned Notary Public, on this 4th date
of Sept 2019

KEMMA RHODES
Notary Public-Arkansas
Jefferson County
My Commission Expires 02-27-2027
Commission # 12359300

Kemma Rhodes

NOTARY PUBLIC

My Commission Expires Feb. 27, 2027

FILED

SEP 24 2019

SHAWNDRAG TAGGART
EX OFFICIO OF THE
PROBATE DIVISION/CIRCUIT COURT
JEFFERSON COUNTY, ARKANSAS

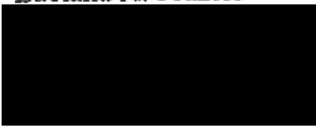
Arkansas
State Claims Commission
OCT 01 2019

RECEIVED

In the matter of the Estate:
of Marshall Frazier Jr. deceased

I consent to the foregoing petition and waive notice of hearings and other proceedings in relation
to the foregoing.

Luciana A. Frazier
Luciana A. Frazier

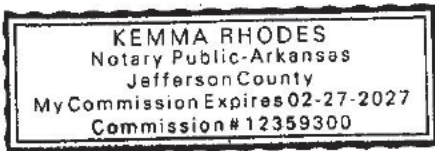


STATE OF ARKANSAS

VERIFICATION

COUNTY OF *Jefferson*

SUBSCRIBED AND SWORN to before me, the undersigned Notary Public, on this 4th date
of Sept 2019



Kemma Rhodes
NOTARY PUBLIC

My Commission Expires Feb 27, 2027

SEP 24 2019

SHAWNDRAGART
EX OFFICIO OF THE
PROBATE DIVISION/CIRCUIT C
JEFFERSON COUNTY, ARKAN

IN THE CIRCUIT COURT OF JEFFERSON COUNTY ARKANSAS
PROBATE DIVISION

Case No: 35 PR-19-227

Arkansas
State Claims Commission

In the Matter in the Estate of
Marshall Frazier Jr., deceased.

OCT 01 2019

PETITION TO APPROVE SETTLEMENT

RECEIVED

COMES NOW, Marsha Frazier, Special Administrator of the Estate of Marshall Frazier Jr.
deceased, and states:

1. That the petitioner is duly qualified and acting Special Administrator of the Estate of Marshall Frazier Jr. Deceased;
2. That the decedent was fatally Injured at UAMS at on and about August 22, 2017 – August 26, 2017 The Estate contends the decedent was fatally injured through the negligent and breach of standard of care from employees of UAMS Pursuant to ACA 16-114-201 negligent [REDACTED] on August 26, 2017, in Little Rock Arkansas through UAMS employees' professional medical errors and omissions, mis diagnosis, [REDACTED]
[REDACTED] The dr. and nurses on the step down ward floor where he died.

Vanessa Horton gave the [REDACTED]

3. That settlements negotiations are pending as of now but it's been stated after the Complaint to the Ark. Claims Commissions Respondents has motion to place my complaint in abeyance until this court makes a ruling where I am to notify them.

I did motion to amend my requested amount from \$500,000.00 to \$1, 500.000.00 because of a Typo error.

4. That the petitioner desires to accept the Amended amount for settlement and the same to be the best interest of the Estate.

Standing to Petition the Court as a Potential Wrongful-Death Beneficiary

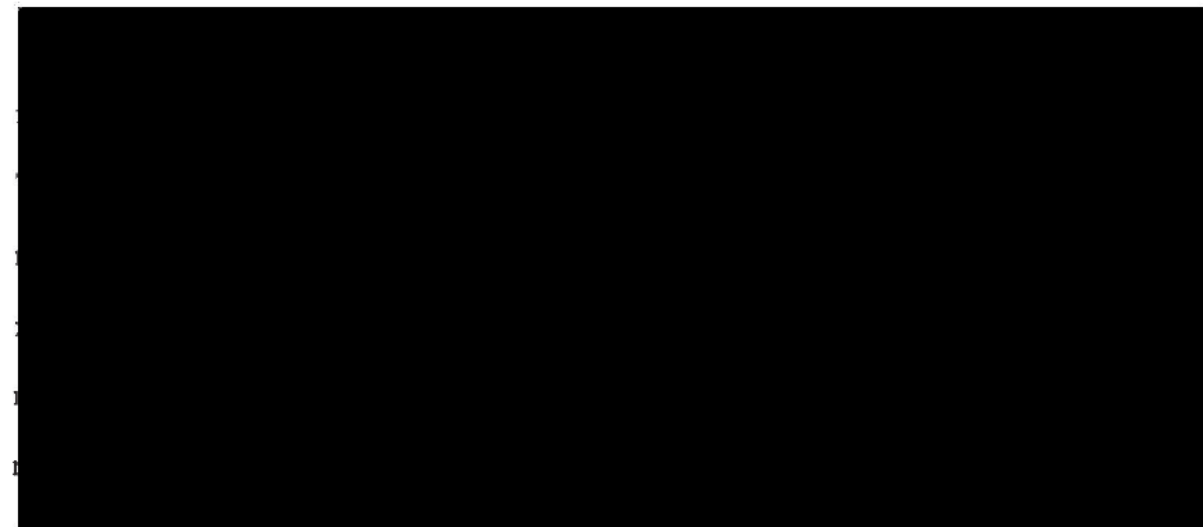
(1) a cause of action for the estate under the survival statute pursuant to Arkansas Code Annotated section 16-62-101 (Repl.2005), and (2) a cause of action for the statutory beneficiaries under the wrongful-death statute pursuant to Arkansas Code Annotated section 16-62-102.

Douglas v. Holbert, 335 Ark. 305, 983 S.W.2d 392 (Ark., 1998) Mr. Holbert subsequently filed a petition for appointment as special administrator of his wife's estate for the purpose of bringing a wrongful-death action against those responsible for her death. The Court finds, for good cause shown, pursuant to the provisions of Ark. Code Ann. § 28-48-103, that a Special Administrator [Steve Holbert] should be appointed for the purpose of prosecuting a wrongful death claim and collecting any proceeds due the Estate.

In *Douglas v. Holbert, 335 Ark. 305, 983 S.W.2d 392 (1998)*, our supreme court stated that the personal representative is clearly the party to bring a wrongful-death action on behalf of the statutory beneficiaries, and that the other statutory beneficiaries have no standing to bring the lawsuit. The court also noted that once a settlement is obtained, the proceeds do not become assets of the decedent's estate, but that the proceeds of a wrongful-

death action are for the sole benefit of the statutory beneficiaries and may not be used to pay off debts of the estate. 335.Ark. at 314, 983 S.W.2d at 396.

A special Administration is sought for the purpose of settling a wrongful-death claim benefit payment and accepting certain payments from the Insurance UAMS has for each of their employees, and Executing a necessary release for such settlements, specifically Marshall Frazier Jr. Was Negligently fatally Injured by breach and failed duty of care Pursuant to ACA 16-114-201 from the employees of UAMS resulting in his death.



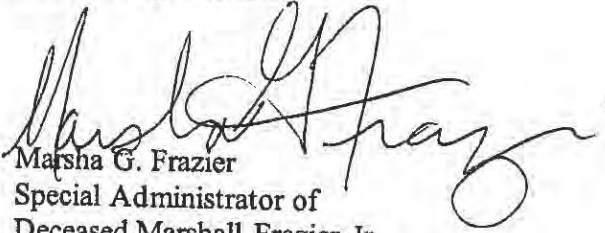
dying after. I'm left with the devastation of loss mental anguish where my children and I sought counseling. The loss of the father of our children and Grandchildren, my soul mate, confidant, counselor words of wisdom we will not hear anymore. The loss of him in our community not being involved with this mentorship he founded in the 4th ward of our community with an event over 25 years annually at Easter that soon consolidated with the Pine Bluff Police Dept. He was a supporter, loss of the family cook at gatherings

5. There is an immediate need for the appointment of a special Administrator to resolve this settlement claim with UAMS. Being there were several Residents worked my husband case and UAMS through their Medical Physician Group insurance require each to carry at least \$500,000.00 professional liability Insurance the damages I requested is 1,500,000.00, which still no Administrator has been appointed in this or any other state to represent the interest of the Estate of Marshall Frazier Jr I'm here standing for this wrongful-death beneficiary as the Special Administrator. And the Estate of Marshall Frazier Jr. Is settled.
6. That Petitioner desires to accept the said settlement of 1,500,000.00 and believes the same to be the best interest of the Estate.
7. That the payment will constitute a full satisfaction of all claims on behalf of the Estate. As well as the individual heirs, for the injury in death of the deceased Marshall Frazier Jr. Against the Liability of UAMS and their employees
8. That the settlement constitutes a settlement for a wrongful-death under ACA 16-114-201 and ACA 28-48-103(a) ACA 16- 62-102 and Therefore is not subject to any other claims of creditor of Marshall Frazier Jr. Estate
- 9, That the Special Administrator has filed written consent with this court and agree the proceeds of the settlement is to be disbursed as follows:

<u>Marsha G. Frazier</u>	<u>Surviving Spouse</u>	<u>\$ 1,100,000.00</u>
<u>Luciana A. Frazier</u>	<u>daughter</u>	<u>\$ 100,000.00</u>
<u>Dena M. Perry</u>	<u>daughter</u>	<u>\$100,000.00</u>
<u>Sheena C. Frazier</u>	<u>daughter</u>	<u>\$ 100, 000.00</u>
<u>Emmanuel D. Frazier</u>	<u>Son</u>	<u>\$ 100,000.00</u>

WHEREFORE Petitioner prays she be authorized and directed and accept said offer of 1,500,000.00 in her Capacity as Special Administrator of the Estate of decease Marshall Frazier Jr. And she be authorized to accept the sum of ONE MILLION FIVE HUNDRED THOUSAND \$1,500,000.00 in full as final settlement of any and all claims of petitioner on behalf of heirs and the Estate and the beneficiary of said decedent against UAMS . That she be authorized to execute a full , final and complete release of all claims on the account of the death of said decedent necessary that the settlement proceeds should be disbursed by the Special Administrator as set forth.

Respectfully Submitted

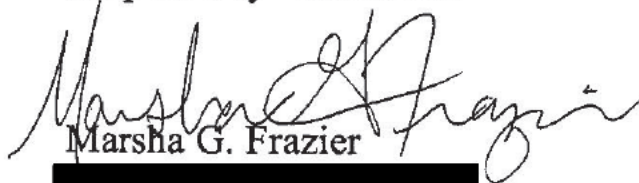

Marsha G. Frazier
Special Administrator of
Deceased Marshall Frazier Jr.

CERTIFICATE OF SERVICE

I Marsha G. Frazier Certify I have hand delivered on this 30th date
or Certified mail

of September 2019 the documents of this action. To this probate court.

Respectfully Submitted


Marsha G. Frazier



Arkansas
State Claims Commission
OCT 02 2019

FILED

SEP 25 2019

RECEIVED

IN THE CIRCUIT COURT OF JEFFERSON COUNTY ARKANSAS PROBATE DIVISION
SHAWNDRAG TAGGART
EX OFFICIO OF THE
PROBATE DIVISION, CIRCUIT COURT
JEFFERSON COUNTY, ARKANSAS

Case No: 35 PR-19-227

In the Matter in the Estate of
Marshall Frazier Jr., deceased.

ORDER APPOINTING SPECIAL ADMINISTRATOR

COMES ON TO BE CONSIDERED the petition of Marsha G. Frazier praying she be considered she be Appointed Special Administrator of the Estate of Marshall Frazier Jr. deceased.

The court being well advised, doth find:

1. That Marshall Frazier Jr. Resided at [REDACTED]
[REDACTED] He was 63 years old and married when he died interstate August 26, 2017.
2. That a Special Administrator is needed as personal representative to act for his Estate to conclude for a settlement agreement with UAMS through Ark. Claims Commission for claim arising out from the death of Marshall Frazier Jr. And to present the proposed settlement agreement before this Court for approval.
3. That Marsha G. Frazier, the surviving Spouse of the deceased, who is duly qualified to act as Special Administrator Beneficiary of the Estate and the only Heir of the Estate has filed a written waiver of notice to this cause and consented to writing to the appointment of Marsha G. Frazier and has further consented to serve without Bond.
4. That this Court hereby appoints Marsha G. Frazier as Special Administrator Beneficiary of the Estate of Marshall Frazier Jr. deceased, and directs her to conclude settlement negotiations with UAMS and their physicians' group professional liability insurance carrier. And to present any proposed settlement agreement to this court for approval.

IT IS SO ORDERED on this 25 day of September 2019


HONORABLE CIRCUIT JUDGE

Approved:


Marsha G. Frazier



IN THE ARKANSAS STATE CLAIMS COMMISSION OCT 08 2019

MARSHA FRAZIER

CLAIMANT
RECEIVED

V.

CASE NO. 191008

UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES

RESPONDENT

ANSWER

Comes now Respondent, University of Arkansas for Medical Sciences (UAMS), by and through its undersigned counsel, and for its Answer to the Complaint, states as follows:

1. Respondent denies each and every material allegation contained in the Complaint.
2. Respondent denies that it was negligent in treating Marshall Frazier.
3. Respondent specifically denies that it or any of its employees, agents, officials or representatives took any action or inaction that was the proximate cause of Marshall Frazier's death as stated in the Complaint and any subsequently filed documents by Claimant.
4. Respondent specifically denies that it or any of its employees, agents, officials or representatives is liable for any damages as alleged in the Complaint.
5. Respondent specifically denies that the Commission has jurisdiction to determine the constitutionality of any provisions of Arkansas law.
6. Per the Commission's request,

Agency 150
Fund CCA 0000
Fund Center 429
Cost Center 147011


7. Respondent reserves the right to plead further in this case as may become necessary.

WHEREFORE, having fully answered the Complaint, Respondent prays that the claim against it ultimately be denied and dismissed in its entirety, and for all other relief to which it may be entitled.

Respectfully submitted,

UNIVERSITY OF ARKANSAS
FOR MEDICAL SCIENCES,
Respondent

By:


SHERRI L. ROBINSON, #97194
Associate General Counsel
University of Arkansas for Medical Sciences
4301 West Markham, Slot 860
Little Rock, AR 72205
(501) 686-7608
SLRobinson@uams.edu

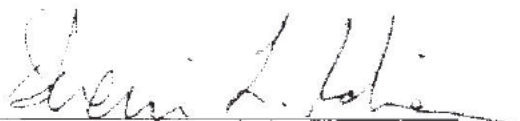
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Sherri L. Robinson, do hereby certify that a copy of the foregoing pleading has been served on claimant herein by mailing a copy of same, by U.S. Mail, postage prepaid, this 4th day of October, 2019, addressed to the following:

Ms. Marsha Frazier




Sherri L. Robinson

IN THE ARKANSAS STATE CLAIMS COMMISSION

OCT 08 2019

MARSHA FRAZIER

CLAIMANT
RECEIVED

V.

CASE NO. 191008

UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES

RESPONDENT

**RESPONSE TO MOTION TO RECONSIDER, AMEND AND CORRECT AND
RESPONSE TO NOTIFICATION OF ADMINISTRATION
AND REMOVE CLAIM OUT OF ABEYANCE**

Comes now Respondent, by and through the undersigned counsel, and for its Response to Claimant's Motion to Reconsider, Amend and Correct and Claimant's Notification of Administration and Remove Claim Out of Abeyance, states:

Respondent files this response to ensure that there is no misunderstanding with Claimant or the Commission. Claimant's Motion to Reconsider, Amend and Correct indicates that she made a typo on the amount requested in the original complaint. Respondent does not see a basis for objection to the motion to amend the amount requested but denies the remaining allegations in the motion and denies any liability by Respondent.


With regard to the Notification, Respondent acknowledges that the Probate Court has appointed Claimant as special administrator; however, Respondent denies the remaining allegations throughout that filing and denies any liability by Respondent. Throughout Claimant's filing, she refers to settlement negotiations, approval of settlement, and conclusion of settlement negotiations. Claimant even includes a document filed with the probate court requesting approval of specific settlement amounts. UAMS has not engaged in any settlement negotiations in this matter with Claimant or anyone else on behalf of Claimant or the family. Respondent wants to be clear that this matter should proceed as a contested claim before the

Arkansas State Claims Commission. Contemporaneous with this filing, Claimant is filing its Answer denying liability in this matter.

WHEREFORE, Respondent prays that the claim against it ultimately be denied and dismissed in its entirety, and for all other relief to which it may be entitled.

Respectfully submitted,

UNIVERSITY OF ARKANSAS
FOR MEDICAL SCIENCES,
Respondent

By: 
SHERRI L. ROBINSON, #97194
Associate General Counsel
University of Arkansas for Medical Sciences
4301 West Markham, Slot 860
Little Rock, AR 72205
(501) 686-7608
SLRobinson@uams.edu

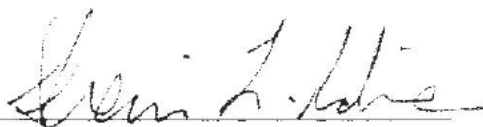
Attorney for Respondent

CERTIFICATE OF SERVICE

I, Sherri L. Robinson, do hereby certify that a copy of the foregoing pleading has been served on claimant herein by mailing a copy of same, by U.S. Mail, postage prepaid, this 4th day of October, 2019, addressed to the following:

Ms. Marsha Frazier




Sherri L. Robinson

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MARSHA FRAZIER

CLAIMANT

V.

CLAIM NO. 191008

**UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the motion filed by Marsha Frazier (the “Claimant”) to “reconsider amend and correct” her complaint (the “Claimant’s Motion to Amend”) to increase the amount sought from University of Arkansas for Medical Sciences (the “Respondent”) and the request by Claimant to remove the claim from abeyance in light of Claimant’s appointment as administratrix of the Estate of Marshall Frazier (“Claimant’s Request”). Also pending before the Claims Commission is Respondent’s motion to dismiss, which was held in abeyance to permit Claimant to obtain a ruling on her petition before the Jefferson County Circuit Court. Based upon a review of the pleadings and the law of Arkansas, the Claims Commission finds as follows:

1. Claimant filed her claim on April 10, 2019, seeking \$500,000.00 in damages relating to Respondent’s treatment of Claimant’s husband.

2. Respondent filed the instant motion to dismiss, asserting that Claimant does not have standing to bring a lawsuit on behalf of her now deceased husband. By order dated July 29, 2019, the Claims Commission accepted Respondent’s recommendation to place the claim into abeyance to allow Claimant to obtain a ruling on her petition.

3. On August 12, 2019, Claimant filed Claimant’s Motion to Amend to increase the amount sought from \$500,000.00 to \$1,500,000.00. Claimant stated that the amount listed in her original complaint was a “typo.”

4. On October 1, 2019, Claimant filed a pleading notifying the Claims Commission that Claimant has been appointed administratrix of the Estate of Marshall Frazier and requesting that the claim be taken out of abeyance to “continue with the wrongful death settlement.” Claimant attached a copy of the letters of administration from the Jefferson County Circuit Court.

5. Respondent filed a response to Claimant’s Motion to Amend and Claimant’s Request, clarifying that Respondent “has not engaged in any settlement negotiations in this matter with Claimant or anyone else on behalf of Claimant or the family.” Respondent stated that this matter “should proceed as a contested claim.”

6. Respondent also filed an answer denying liability.

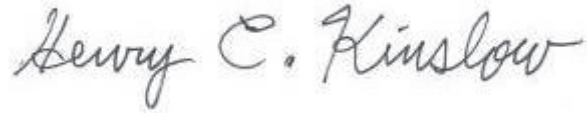
7. As to Claimant’s Motion to Amend, the Claims Commission GRANTS this motion to increase the amount sought by Claimant against Respondent to \$1,500,000.00.

8. As to Claimant’s Request, in light of Claimant’s appointment as administratrix of the Estate of Marshall Frazier, , the Claims Commission has also corrected the style of this claim to be: *Marsha Frazier, as Administratrix of the Estate of Marshall Frazier v. University of Arkansas for Medical Sciences*, Claim No. 191008.

9. As to Respondent’s motion to dismiss, the Claims Commission DENIES this motion based upon Claimant’s appointment as administratrix of the Estate of Marshall Frazier.

10. As to Respondent’s assertion that this matter is contested, the Claims Commission hereby instructs the parties to begin discovery and to notify the Claims Commission when discovery is nearing completion, so that the claim may be added to the hearing docket.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

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

DATE: October 9, 2019

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).

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

October 9, 2019

Ms. Marsha Frazier

Ms. Sherri Robinson
University of Arkansas for Medical Sciences
4301 West Markham Street, Slot 860
Little Rock, Arkansas 72205

(via email)

Re: ***Marsha Frazier v. University of Arkansas for Medical Sciences***
Claim No. 191008

Dear Ms. Frazier and Ms. Robinson,

Enclosed please find an Order entered on October 9, 2019, in the above-referenced claim by the Arkansas State Claims Commission. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: csimpkins

BEFORE THE ARKANSAS CLAIMS COMMISSION

CLAIM NO: 191008

MARSHA FRAZIER

V.

UNIVERSITY ARKANSAS OF MEDICAL

MEDICAL SCIENCE

CLAIMANT Arkansas
State Claims Commission

OCT 14 2019

RESPONDENTS RECEIVED

**RESPONDING TO RESPONDENTS FOR UAMS ANSWERS OF SPECIAL
ADMINISTRATORS PLAINTIFF FOR MARSHALL FRAZIER JR.(DECEASED)
COMPLAINT**

COMES, Special Administrator claimant for the estate of Marshall Frazier Jr.

Responding to Respondents of Claimant motion to reconsider, amend and correct and to notification of Administrator and remove the claim out of abeyance.

With all due respect to the representative for Respondents I'm here to stand as the special administrator that you first responded to my complaint as I had no standing because I was not the deceased administrator to proceed a wrongful death claim.

Claimant with my last response was coming to stand as the wrongful death administrator to proceed but was only sending a head the process.

C.R.P. 8(4). Section (b) follows FRCP 8(b). The theory behind this section is that an answer or reply should apprise a claimant which allegations in the claim are admitted and not in issue and which are contested and thus require proof.

Mitchell v. Wright, 154 F. 2d 924 (C.C.A. 5th, 1946).

I now come to responded to your answers to your answer #

1. There can be no denial of every material allegation in my complaint for these are legal documents from your respondents records as to your respondents documented
2. #2. Respondent negligent is the records you have from my complaint are their own records
3. To your #3 exclusive control and management of the Respondents at the time of the injury. Delta Oxygen Co. v. Scott, 238 Ark. 534, 383 S.W.2d 885 (1964); Marshall Frazier Jr. was not in control of his own care in the facility of UAMS when he come to the facility for medical treatment August 22, 2017.
4. UAMS and their employees, agents' officials or representatives owed a duty to Marshall Frazier Jr. to use *ordinary standard of care to the highest degree when the respondents took him to the different test of x-rays, ultra sounds, labs, Nurses administering medications and more*

5.

6.

7.



8. *ACA 21-5-702(a) The Arkansas State Claims Commission is vested with exclusive jurisdiction of or authority with respect to all claims filed against the State*

9.

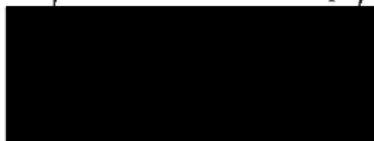


The records speak for themselves in this case where Respondents are Liable and should be held accountable for their Negligent acts of Misdiagnosis of many issues in this case. Failed standard of care ACA 16-114-201

THEREFORE, Special Administrator of Marshall Frazier Jr. Estate Marsha G. Frazier ask for a determination in this case of award to the estate of Marshall Frazier Jr. Heirs. And Deny the Respondent of their motion to dismiss in it's entirety.

Respectfully Submitted

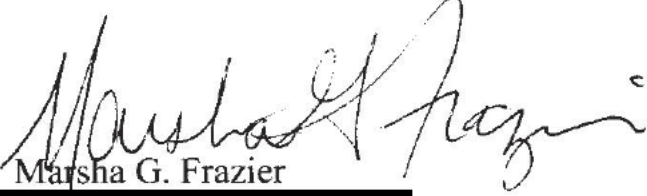
Marsha G. Frazier/ Special Administrator of Marshall Frazier Jr. Estate



CERTIFICATE OF SERVICE

I Marsha G. Frazier certify that she certified mail or handed this document of this action to all parties involved

10th date of October 2019


Marsha G. Frazier



BEFORE ARKANSAS CLAIMS COMMISSION

Arkansas
State Claims Commission
OCT 15 2019

MARSHA G. FRAZIER-SPECIAL ADMINISTRATOR

RECEIVED

Vs.

Claim No: 191008


UNIVERSITY ARKANSAS MEDICAL SCIENCE

RESPONDANTS

PURSUANT TO Title V -OF CIVIL RULES OF PROCEDURE
DISCOVERIES AND DISCOVERY TO REQUEST
PRODUCTION OF DOCUMENTS

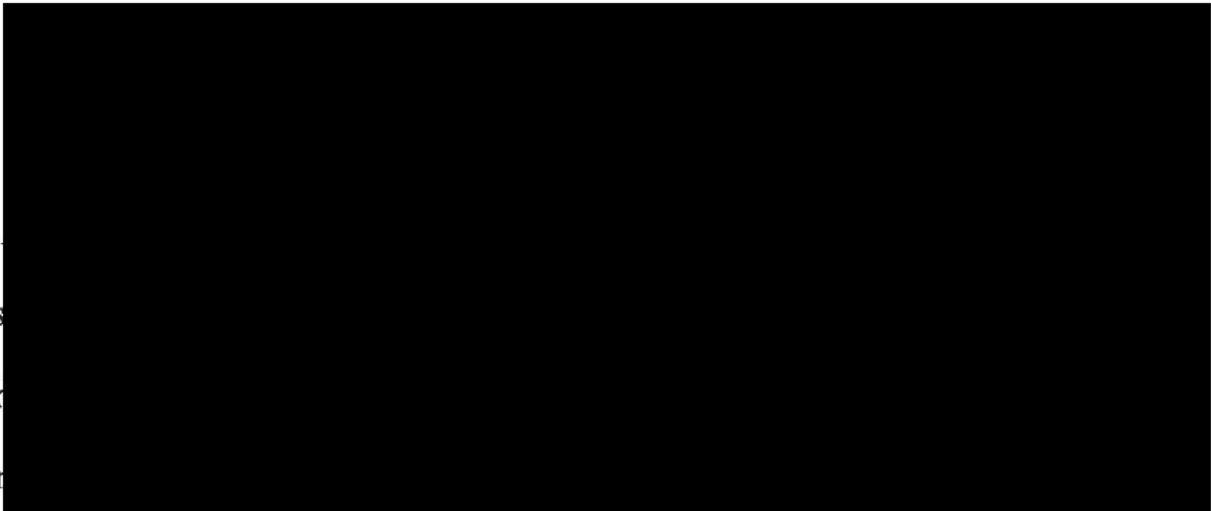
Comes, Marsha G. Frazier Special Administrator of Marshall Frazier Jr. Estate, to request from the Respondents to produce documents as proof to the allegations in Claimant's Complaint and proof to their not being liable for each and every material allegation contained in the Claimant's complaint.

Respondents specifically denies any of its employees, agents, officials, or representatives took action or inaction that was the proximate cause of Marshall Frazier Jr.'s death.

1. Please produce the document that prove where or what happen to Marshall Frazier Jr. 

2. 

s
h
r

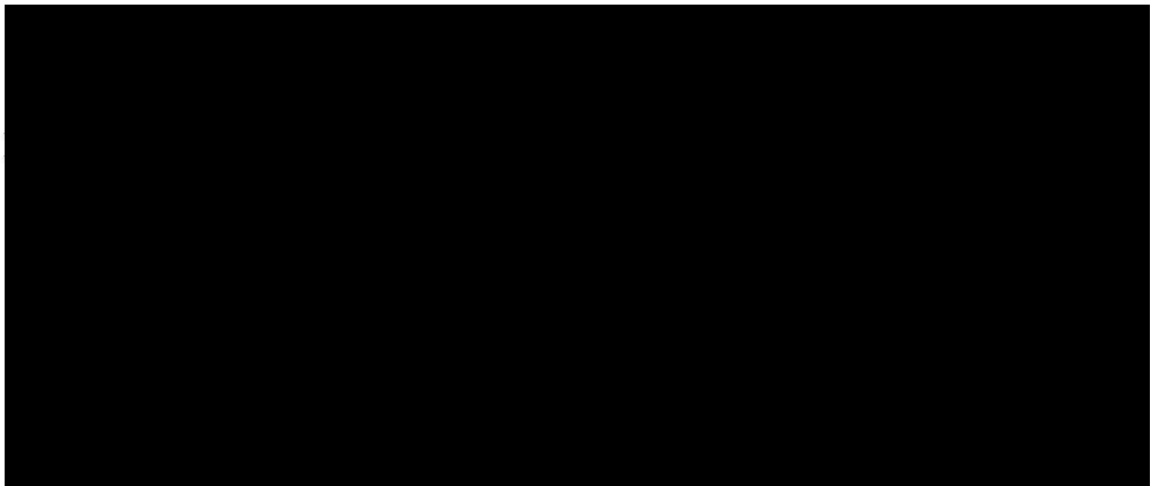
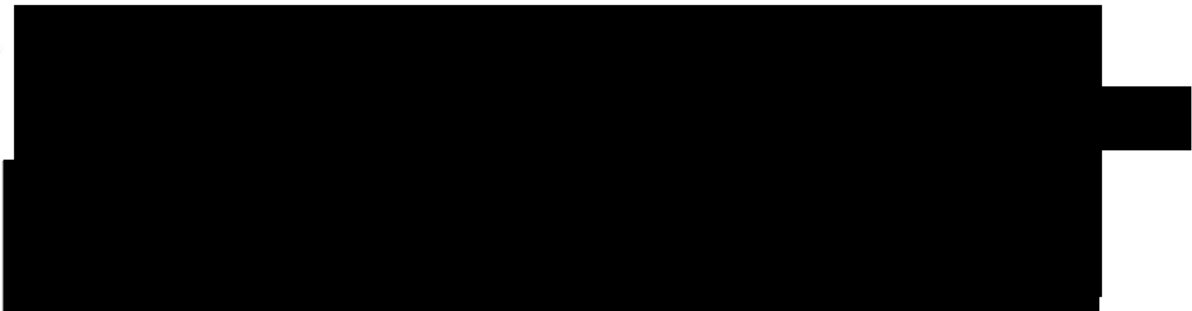


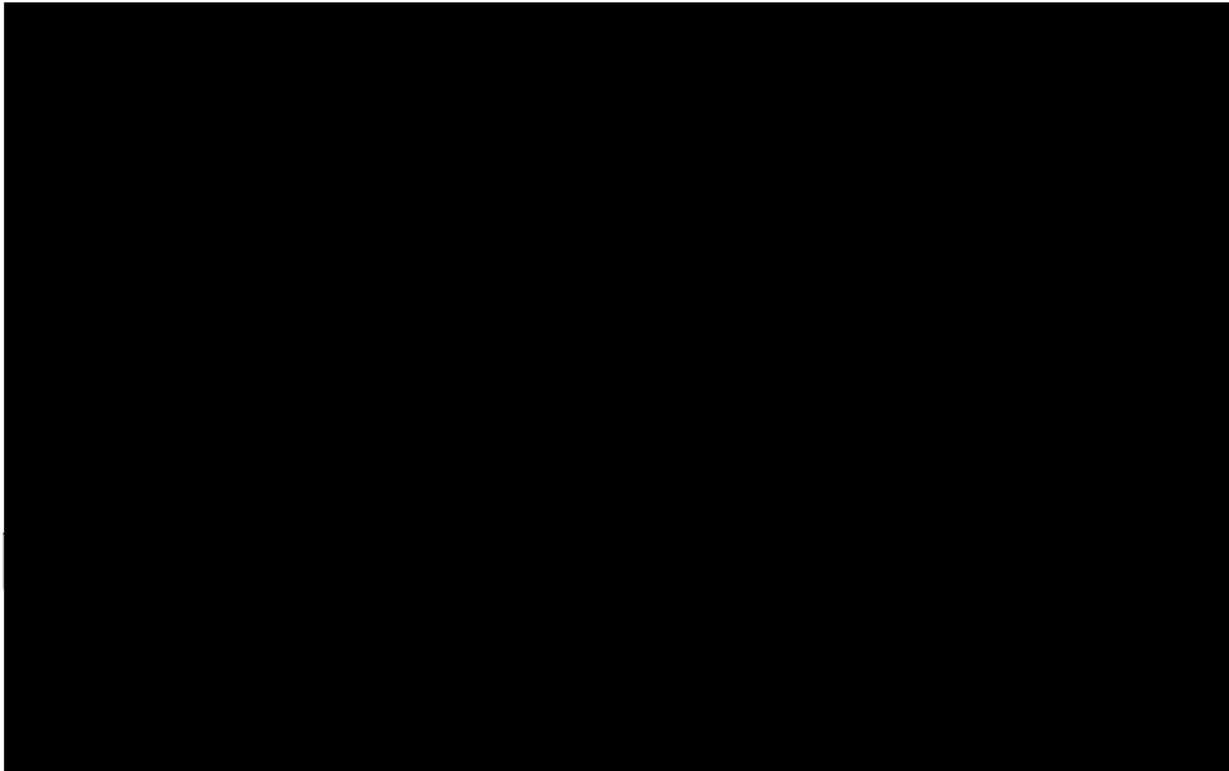
3. Why in the nurse's chart it was always documented as this Vanessa Horton

 I had not yet seen any others did this.

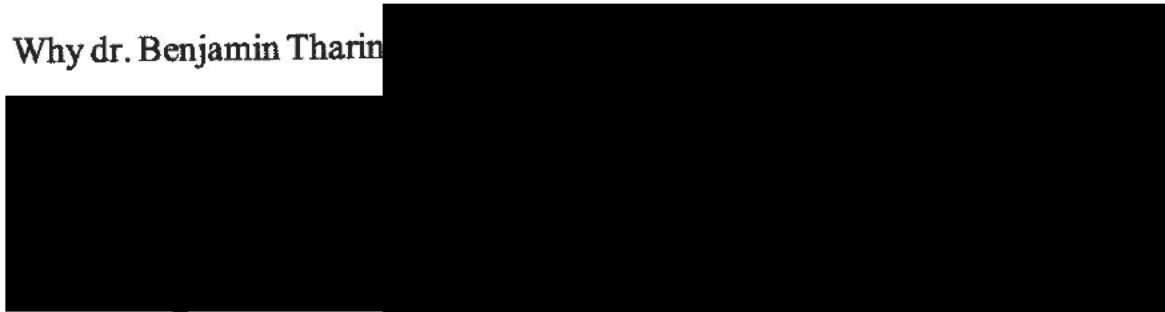
Show the documents that the nurses flow chart and notes are not documents
as recorded?

4.





6. Why dr. Benjamin Tharin



7.



Show documents to prove the autopsy report is incorrect and prove the Dr. Is not liable here

8.



Show documents to prove the dr. Is not liable to this stent not working properly

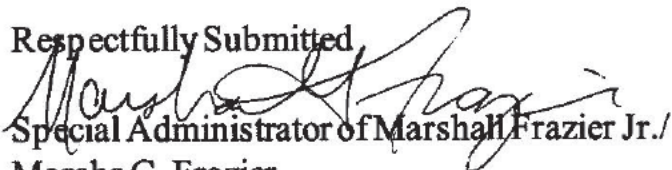
9. When he come back after being released 12hrs. Earlier why they

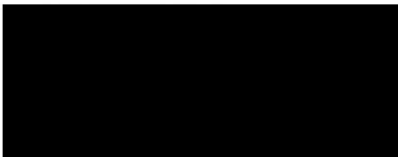


Please explain how the respondents are not liable for their standards of care above?

THEREFORE, Special Administrator Marsha G. Frazier Prays the Commissioners will award a settlement of this claim to the Heirs of Marshall Frazier Jr. Estate.

Respectfully Submitted


Special Administrator of Marshall Frazier Jr./
Marsha G. Frazier



CERTIFICATE OF SERVICE

I Marsha G. Frazier Certify I have certified mail or hand delivered on this __12 th
date of October 2019 the documents to all parties involved of this action.

Respectfully Submitted

Marsha G. Frazier



BEFORE THE ARKANSAS CLAIMS COMMISSION

Claims No: 191008

**Arkansas
State Claims Commission**

OCT 18 2019

RECEIVED

MARSHA G FRAZIER - SPECIAL ADMINISTRATOR

Vs.

UNIVERSITY ARKANSAS FOR MEDICAL SCIENCE RESPONDANTS

**REQUESTED DOCUMENTS PURSUANT TO TITLE V OF CIVIL RULES
OF PROCEDURE CLAIMANT REQUEST IS INCOMPLETE NEED
OTHER DOCUMENT AND REVISED FROM FIRST REQUEST.**

COMES Special Administrator Marsha G. Frazier pleads to the Claims Commission to allow Claimant request for other document left out of the prior document request.

1. What document evidence is there of the experience level of dr. Benjamin Tharin
2. How many [REDACTED] have dr. Tharin performed? On adults or children
3. What document evidence shows explaining What percentage of dr. Tharin patients have [REDACTED]

4. What document [REDACTED] has dr. Tharin shows dr. Tharin is qualified to perform

5.

6.

7.

8.

[REDACTED]

9. In the first request # 6-9 I was asking for document regards the dr. Performed

[REDACTED]

10.I revised to

[REDACTED]

nts

11.With so many different possibilities can result from abdominal pain what

document evidence can explain

[REDACTED]

[REDACTED]

12. what document evidence supporting

[REDACTED]

[REDACTED]

13. What document evidence warrant for Mr. Frazier

[REDACTED]

14. what document evidence point

[REDACTED]

15.

[REDACTED]

what production records are there that states this the

[REDACTED]

16.

[REDACTED]

Claimant asks for **document evidence** as to how a patient who come in a

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ..my God

[REDACTED]

[REDACTED] my God... Where's the documents in evidence to Marshall Frazier's Standard of Care was not violated in this hospital? [REDACTED]

[REDACTED]

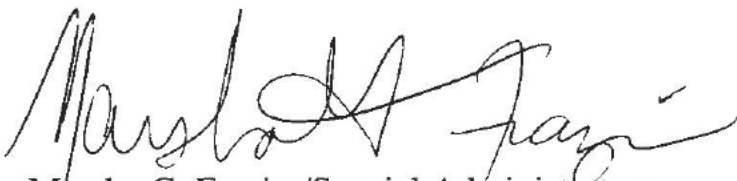
Please produce the documents to these. Produce documents as to why Dr.

Tharin did not come back on his case.

THEREFORE, Claimant special Administrator of Marshall Frazier Jr. Estate

Prays this Commission Award the Heirs of Mr. Frazier a settlement for his fall injury while in the care of this hospital.

Respectfully Submitted



Marsha G. Frazier/Special Administrators

[REDACTED]



OCT 21 2019

IN THE ARKANSAS STATE CLAIMS COMMISSION

MARSHA FRAZIER

CLAIMANT
RECEIVED

V.

CASE NO. 191008

UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES

RESPONDENT

**RESPONDENT'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS
TO CLAIMANT**

COMES now Respondent, University of Arkansas for Medical Sciences, by and through the undersigned counsel, who propounds the following Interrogatories and Requests for Production of Documents on the Claimant pursuant to Rules 33 and 34 of the Arkansas Rules of Civil Procedure.

I. INSTRUCTIONS and DEFINITIONS

1. These discovery requests shall be *continuing in nature* so as to require the filing of supplemental answers and responses without any further request(s) to do so should additional information or information inconsistent with any of your answers hereto become available. This request is continuing up to the entry of final judgment in this cause.

2. If you consider privileged any communication or information requested herein, please state in your response(s) both the legal and factual bases for such privilege claimed. Any objection raised shall apply only to the specific communication or information allegedly privileged, and will not excuse you from answering the remainder of the interrogatory or request for production of documents to any extent possible.

3. If your refusal to answer any interrogatory or request for production of documents is based upon grounds of undue burden or hardship, please identify in your

response a good-faith estimate of the number and nature of documents that need to be searched to comply with the request, the location of such documents, and a good-faith estimate of the number of man-hours or costs associated with such a search.

4. Requests relating to information not in your possession, custody, or control shall be answered by stating completely and precisely the identity of the custodian of such information and the nature of the information itself. If any information called for in these interrogatories or requests for production was previously in existence but no longer exists for whatever reason, explain in your response completely and precisely the information or documentation no longer in existence, and the reason(s) therefore.

5. "You" and "your" means and refers to the Claimant in this matter.

6. "Document" means any written, printed, typed, or other graphic matter of any kind or nature; electronic, mechanical, or electronic/digital recording; photograph, motion picture, digital video, transparency, still picture, videotape, drawing, sketch, negative, or other material in a tangible form and shall include all marginal notations and highlighting placed on the document, and all facsimile transmission lines, and copies of all documents by whatever means made.

7. The term "communication(s)" means any and all manners of transmitting or receiving information, including orally, electronically, digitally, physically, or via document.

8. "Doctor" or "physician" means a medical doctor, doctor of osteopathy, psychiatrist, psychologist, chiropractor, spiritual healer or any other practitioner of the healing arts.

9. "And" shall mean and/or.

10. "Or" shall mean and/or.

11. "Person" means an individual, corporation, partnership or other entity.

12. The plural shall include the singular and the singular shall include the plural.

13. "Identify" when used in connection with the term "correspondence" or "communication" means to state the identity of the persons involved, the date, the location of the correspondence or communication, whether the correspondence or communication was oral, written, or in another form, and the substance of the correspondence or communication.

14. "Identify" when used in connection with the term "documents" means to state the name, address and telephone number of the author, the date, the identity of each addressee of the documents and each person to whom it was provided, and the general nature of the document. If the document has been lost or destroyed, you should describe with particularity the circumstances relating to the loss or destruction of the document, the approximate date of the loss or destruction, all persons who have knowledge concerning the loss or destruction, and provide a detailed statement of the contents of the document.

15. "Identify" when used in connection with the term "person" or "entity" means to state, to the extent possible, the person's name, home address and phone number, place of employment, business address and phone number, occupation, and title.

II. INTERROGATORIES

INTERROGATORY NO. 1: Identify all persons you believe have knowledge of any facts concerning the allegations in your Complaint including those with whom you have discussed the allegations in your Complaint. For each person, state the facts about which you believe he or she has knowledge.

INTERROGATORY NO. 2: Please state whether you, or any members of your family have, to your knowledge, made any statement or statements in any form, whether verbal, written, electronic, or otherwise, to any person regarding the allegations set forth in your Complaint. If so, please state:

(a) the identity of the person(s) who made such statements, and the identity of the person(s) to whom such statements were made;

(b) the date such statements were made;

(c) the content of all such statements;

(d) the form of the statement(s), whether written, verbal, electronic, or otherwise by recording device or to a stenographer;

(e) if written, whether such statements were signed; and

(f) the identity of all persons present when the statements were made.

INTERROGATORY NO. 3: Identify each person who you may call to testify at a hearing of this matter, specifically designating whether he or she is an expert or a lay witness, and state the general nature of each such person's anticipated testimony including about which specific incident he or she will testify.

INTERROGATORY NO. 4: As to all persons whose names you have listed in your answers to the preceding interrogatories, have you or anyone else acting on your behalf obtained statements of any kind, whether written, recorded, electronically transmitted, stenographically transcribed or otherwise, from any of those persons?

INTERROGATORY NO. 5: If your answer to the preceding interrogatory is in the affirmative, please state separately for each such person:

(a) the name, address and telephone number of each person from whom a statement was obtained;

(b) the type of statement which was taken (whether written, recorded, transcribed, etc.);

(c) the name, address, employer and telephone number of the person who took the statement;

(d) the name, address and telephone number of the present custodian of each statement so taken; and

(e) the date on which each statement was taken.

INTERROGATORY NO. 6: List all lawsuits or claims in which you have raised a claim of negligence. Include in your response the date, location, brief summary of each lawsuit or claim, result of the lawsuit or claim, and complete case style if the matter was filed as a lawsuit.

INTERROGATORY NO. 7: Please list all medical providers for Marshall Frazier from January 1, 2012 to the time of his death on August 26, 2017. Include in your response the address and telephone number for each provider.

INTERROGATORY NO. 8: Please explain in detail why Marshall Frazier was at UAMS for all dates in August 2017. Include in your response, the date he arrived, the purpose of his visit or admission, the treating physician if known, the treatment received by Mr. Frazier and the date Mr. Frazier was discharged each time.

INTERROGATORY NO. 9: Please identify each person you blame for Marshall Frazier's death and the reason why you believe that person is responsible for Mr. Frazier's death.

INTERROGATORY NO. 10: Please list all health problems that you were aware of for Marshall Frazier on August 1, 2017.

INTERROGATORY NO. 11: Please list all medications that Marshall Frazier was on as of August 1, 2017.

INTERROGATORY NO. 12: What reason were you given for Marshall Frazier's death? In your response, please include the name of the person or persons who gave you this information as well as the names of any other individuals present at the time.

III. REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Produce copies of all documents or other tangible items that you believe support any claim in your Complaint.

REQUEST FOR PRODUCTION NO. 2: Produce copies of all documents or other tangible items that you may refer to or offer into evidence at a hearing in this matter.

REQUEST FOR PRODUCTION NO. 3: Produce copies of all statements of any kind, whether recorded, written, oral, or otherwise, that you or anyone else acting on your behalf has obtained from any person(s) pertaining to the allegations in your Complaint.

REQUEST FOR PRODUCTION NO. 4: Produce a copy of each statement identified in your answers to these interrogatories, or in the alternative, to make arrangements to provide respondent's attorney access to any recorded statements so they may be reviewed and/or copied.

REQUEST FOR PRODUCTION NO. 5: If you contend that any representative of UAMS or any other individual has made any statements which have any relevance to this matter, please produce copies of such statements or admissions, or identify such statements if you believe they are in the possession of UAMS.

REQUEST FOR PRODUCTION NO. 6: Produce copies of all bills, receipts, and statements, medical or otherwise, not previously provided as an attachment to your complaint, that you claim resulted from the injuries alleged in your complaint that occurred at UAMS.

REQUEST FOR PRODUCTION NO. 7: For each expert you plan to call as a witness, please provide, or make available to respondent's counsel for inspection and copying:

- (a) the current curriculum vitae of the expert;
- (b) any written report prepared by the expert witness containing his/her opinion and conclusions relating to the matters about which he/she may testify at the hearing; and
- (c) any underlying data, resource materials, written documents, computer programs or disks, or other materials, produced by or utilized by the expert in reaching his/her conclusion, preparing his/her written report or preparing for his/her testimony at the hearing.

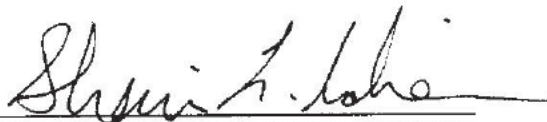
REQUEST FOR PRODUCTION NO. 8: Produce copies of any and all documents or other items you have identified or relied upon in answer to any Interrogatory.

REQUEST FOR PRODUCTION NO. 9: Produce copies of all documents or other items not specifically requested above, but which were used to answer these interrogatories or that support your claim for damages in this action.

REQUEST FOR PRODUCTION NO. 10: Many documents attached to your complaint appeared to be partial documents. Please provide complete copies of all documents used by you to draft the Complaint or attached to your complaint.

Respectfully submitted,

UNIVERSITY OF ARKANSAS
FOR MEDICAL SCIENCES,
Respondent

By: 
SHERRI L. ROBINSON, #97194
Associate General Counsel
University of Arkansas for Medical Sciences
4301 West Markham, Slot 860
Little Rock, AR 72205
(501) 686-7608
SLRobinson@uams.edu


Attorney for Respondent

CERTIFICATE OF SERVICE

I, Sherri L. Robinson, do hereby certify that a copy of the foregoing pleading has been served on claimant herein by mailing a copy of same, by U.S. Mail, postage prepaid, this 17th day of October, 2019, addressed to the following:

Ms. Marsha Frazier




Sherri L. Robinson



Sherri L. Robinson
Associate General Counsel
Tel.: 501-686-7964
Fax: 501-686-7736

Office of General Counsel
4301 West Markham Street, #860
Little Rock, AR 72205-7199
srobinson3@uams.edu

October 17, 2019

Arkansas
State Claims Commission
OCT 21 2019
RECEIVED

Ms. Marsha Frazier



Re: Marsha Frazier v. UAMS,
Claims Commission Case No. 191008

Dear Ms. Frazier:

Please find enclosed Respondent's First Set of Interrogatories and Requests for Production of Documents to Claimant regarding the above captioned proceeding. Please note you have thirty (30) days to provide your responses.

Sincerely,

Sherri L. Robinson

Sherri L. Robinson
Associate General Counsel

SLR/ds
Enclosure
~~cc:~~ Claims Commission

BEFORE THE ARKANSAS CLAIMS COMMISSION

MARSHA G. FRAZIER - CLAIMANT SPECIAL ADMINISTRATOR
Arkansas State Claims Commission

Vs.

CLAIM No: 191008

NOV 04 2019

UNIVERSITY ARKANSAS MEDICAL SCIENCE RECEIVED RESPONDANTS

**RESPONDING TO RESPONDENTS INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS**

COMES, Claimant Marsha G. Frazier responding to the Respondents Interrogatory

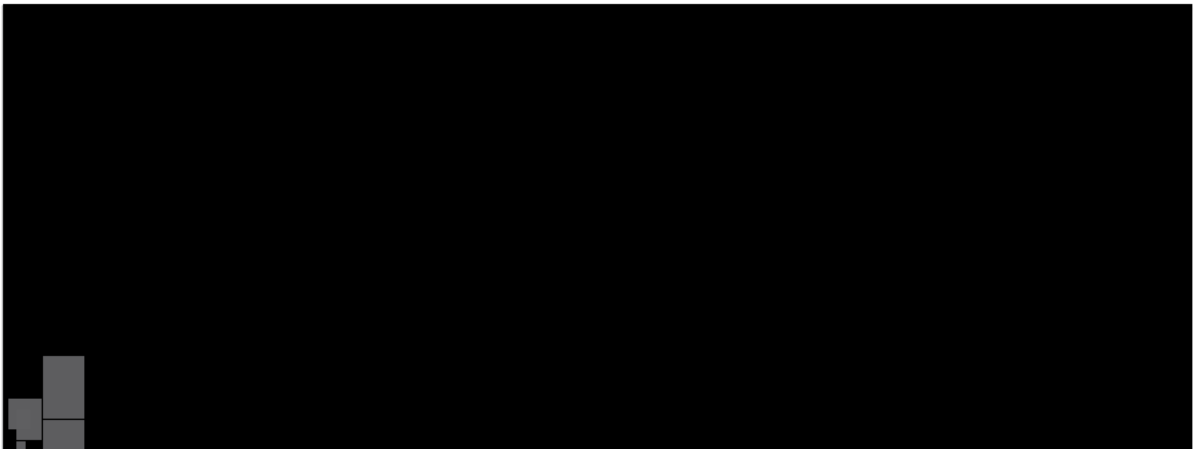
INTERROGATORS: #1. Identify all persons you believe have knowledge of

any facts concerning the allegations in your complaint including those with

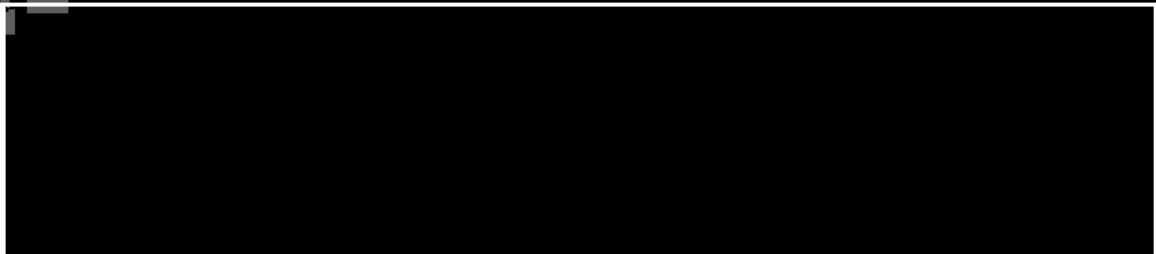
whom you have discussed the allegations in your complaint. For each person, state

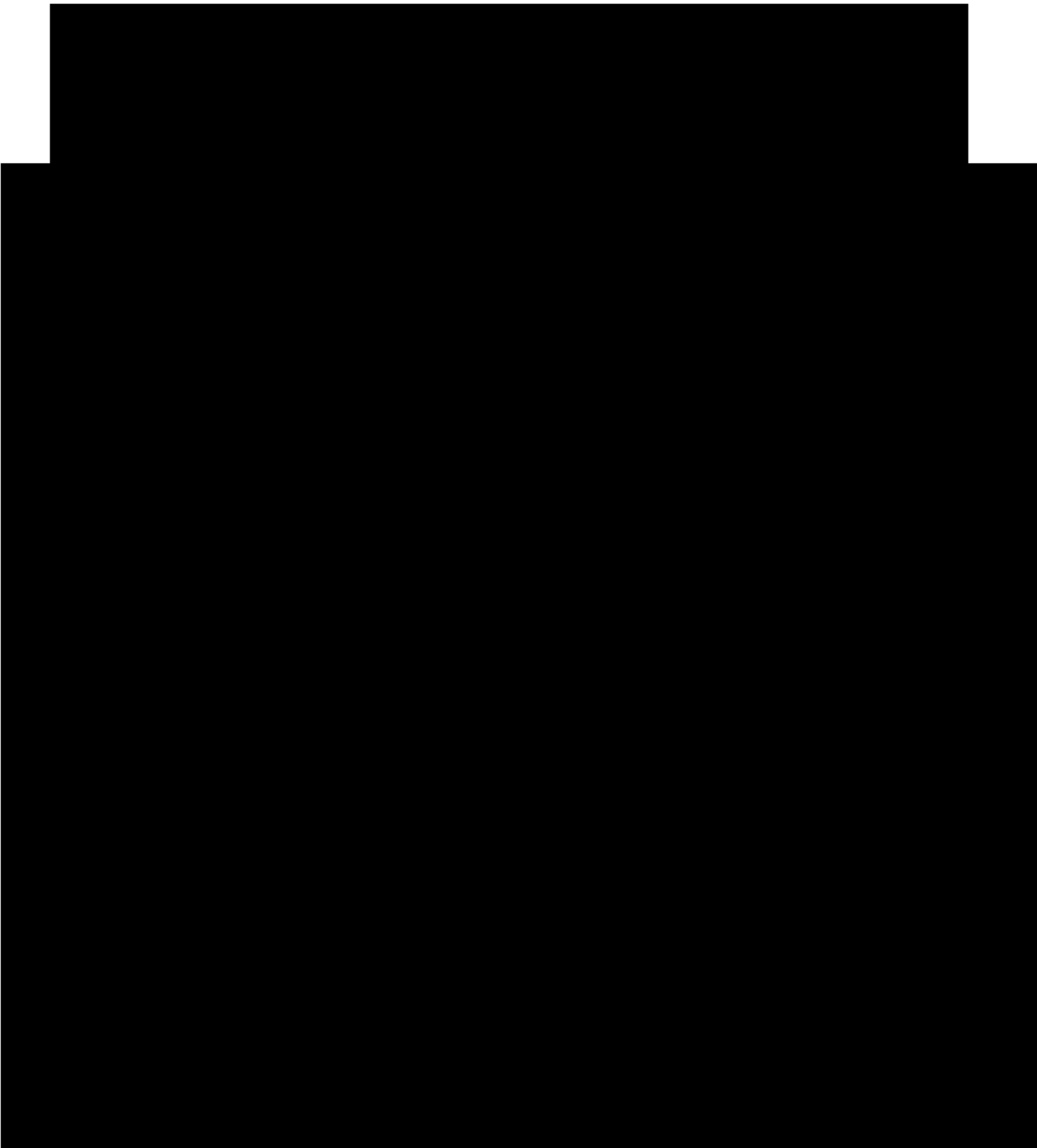
the facts about which you believe he or she has knowledge.

I. **ANSWER:** Reference the medical records treatment team, to start the



I.





1. First from research [redacted] which
the dr. Tharin did not do.

2. Also from first hand of my own self

defendant failed to monitor, defendant failed to diagnose, defendant improperly performed surgery, etc. Put him on a step down floor where he was over medicated with opioids.

INTERROGERATORY #2: please state whether you, or any member of your family, to your knowledge, made any statement or statements in any form, whether verbal, written, electronic, or otherwise, to any person regarding the allegations set forth in your complaint. If so, please state the identity of the

persons to whom made (b) the date such statements were made (c) the contents of all such statements (d) the form of statement whether written verbal electronic or other wisely recording device or stenographer if written whether such statements were signed (f) the identity of all persons present when the statements were made.

ANSWER #2: This interrogatory is overly broad and unduly burdensome without waving the right for objections to the extent the requested information falls within the scope of discovery, to my knowledge NO,

INTERROGATORY NO 3: Identify each person who you may call to testify at a hearing of this matter specifically designating whether he or she is an expert or lay witness and state the general nature of each person's anticipated testimony including about specific incidents he or she will testify.

ANSWER #3: This interrogatory is overly broad and unduly burdensome without waving the right for objections to the extent the requested information falls within the scope of discovery. The expert medical teams in their capacity has already testified in the medical records with the findings, Impressions, Assessments, CT, Labs, US, reference medical bf4records documented.

INERROGATORY NO. 4: As to all persons whose names you have listed in your answers to the proceeding interrogatories, have you or anyone else acting on

your behalf obtained statements of any kind. Whether written, recorded, electronically transmitted, stenographically transcribed or otherwise from any of those persons?

ANSWER #4: This interrogatory is overly broad and unduly burdensome without waving the right for objections to the extent the requested information falls within the scope of discovery, NO

INTERROGATORY NO. 5: If your answer to the proceeding interrogatory is in the affirmative, please state separately for each such person. (a) the name, address, phone number of each person from whom a statement was obtained. (b). the type of statement which was (whether written recorded transcripts scribed.) c. the name address employer and telephone number of the person who took the statement. (d) the name address and telephone number of the present custodian of each statement so taken. (e) the date on which statement was taken.

ANSWER #5: This interrogatory is vague overly broad and unduly burdensome. Without waving objections none known other than those individuals identified in the documented medical records.

INTERROGATORY NO. 6: List all lawsuits or claims in which you have raised a claim of negligence. Include in your response the date location, brief summary of each lawsuit or claim, result of the lawsuit or claim and complete case style if the matter was filed as a lawsuit.

ANSWER #6: Objection, This interrogatory is overly broad and unduly burdensome

The scope of this interrogatory is irrelevant has nothing to do with this claim

INTERROGATORY NO. 7 Please list all medical providers for Marshall Frazier from January 1 2012 to the time of his death on August 26,2017, include in your response the address and telephone number for each provider.

ANSWER #7: This interrogatory is vague and overly broad and unduly burdensome without waving the rights for objection the requested information has no relevant to this claim. I reference to the documented medical records where records show he was a patient at [REDACTED]

INTERROGATORY NO. 8 Please explain in details why Marshall Frazier was at UAMS for all dates in August 2017. Include in your response the date he arrived, the purpose of his visit or admission the treating physician if known, the treatment received by Mr. Frazier and the date Mr. Frazier was discharged each time.

ANSWER #8: This interrogatory is vague and overly broad and unduly burdensome without waving objections Reference to the documented medical records. The ED document all reasons to this interrogatory.

INTERROGATORY NO. 9 please identify each person you blame for Marshall Frazier's death and the reason why you believe that person is responsible for Mr. Frazier's death.

ANSWER #9: This interrogatory is vague and overly broad and unduly burdensome without waving objections to the extent the requested information fall within the scope of discovery.

INTERROGATORY NO.10: Please list all health problems that you are aware of for Marshall Frazier on August 1, 2017.

ANSWER #10: without waving objections references to the medical records. All this information is in there.

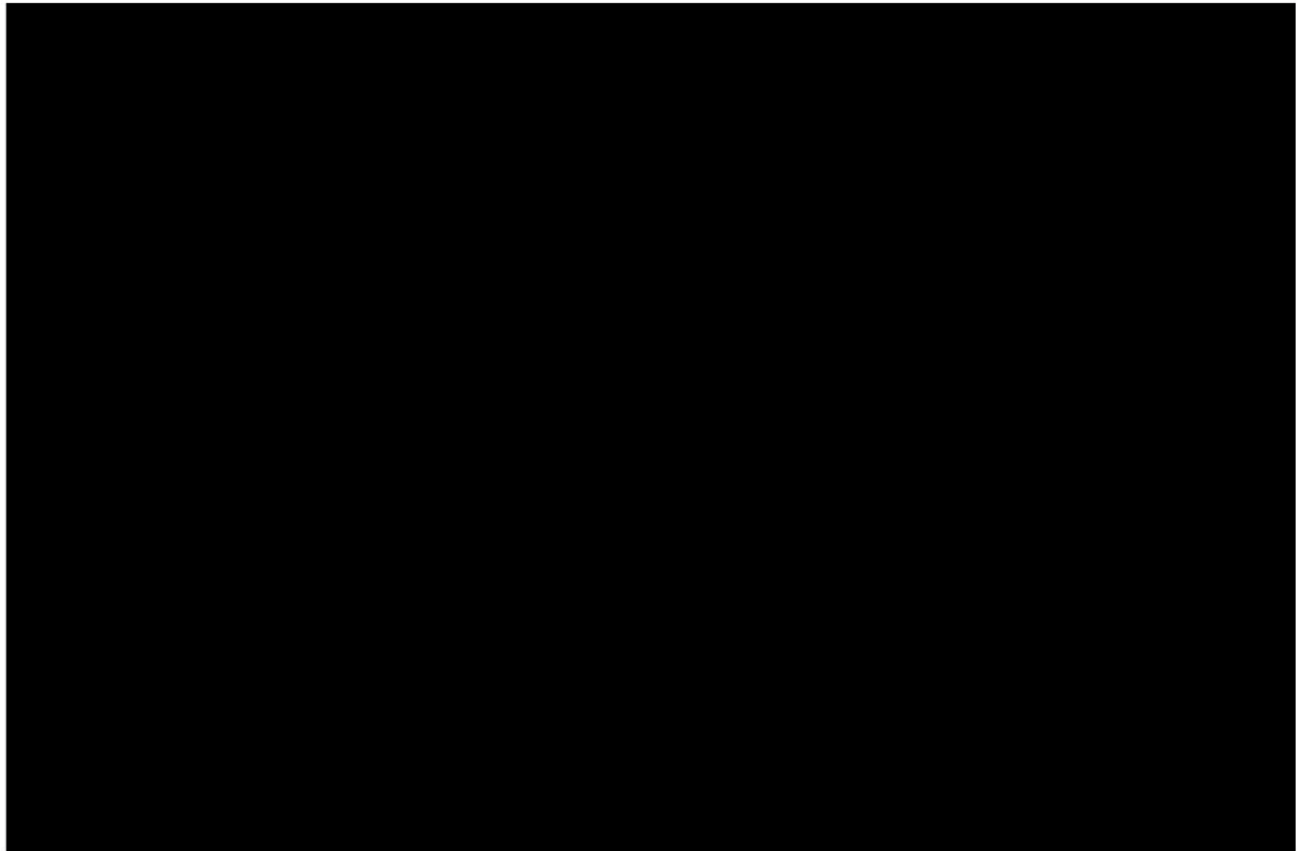
INTERROGATORY NO. 11: Please list all medication that Marshall Frazier was on as of August 1, 2017.

ANSWER # 11: without waving objections Reference to the medical records this too is in there.

INTERROGATORY NO. 12: What reason were you given for Marshall Frazier's death? Include in your response the name of the persons who gave you this information as well as of any other Individuals present at the time.

ANSWER: without waving objections the requested information falls within the scope of discovery...On August 26, 2017 @ 4:00 am Mr. Frazier died not one

representative employee agent or staff provider come spoke to me nor my children or any family about what reasons for his death far as I can remember. until I read in the medical records under Death notes.

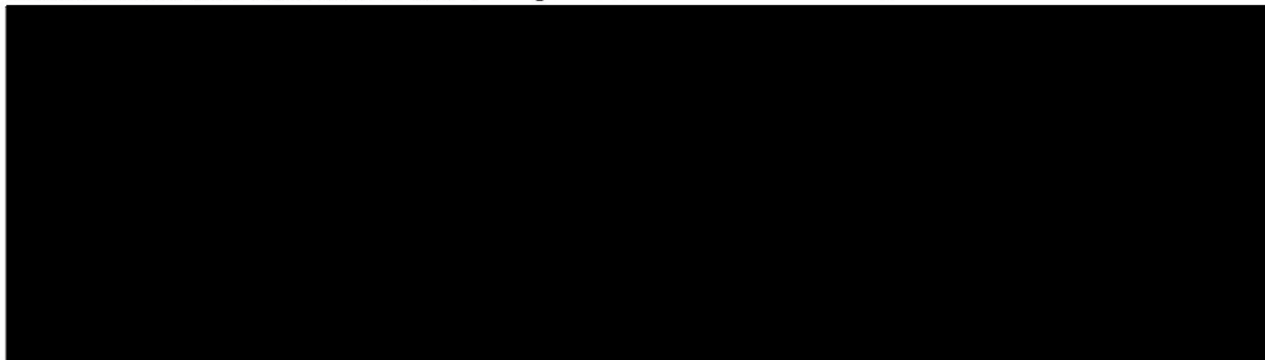


REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1: Produce copies of all documents tangible items that you believe support any claim in your complaint.

ANSWER: referencing the medical records and a document from a medical web site

REQUEST FOR PRODUCTION NO. 2: Produce copies of all documents or other tangible items that you may refer to or offer into evidence at a hearing in this matter. Reference The medical records. Without waving objection I like to offer a piece of information that falls under the civil procedure rule 803 Exception to the Rule



ANSWER:

REQUEST FOR PRODUCTION NO. 3: Produce copies of all of any kind, whether recorded, written, oral, or otherwise, that you or anyone else acting on your behalf has obtained from any person pertaining to the allegations in your complaint.

ANSWER: without waving objections refer to medical records

REQUEST FOR PRODUCTION NO. 4: Produce a copy of each statement identified in your answers to these interrogatories, or in the alternative, to make arrangements to provide respondents' atty. Access to any recorded statements so they may be reviewed and copied.

ANSWER: refer to medical records

REQUEST FOR PRODUCTION NO. 5: If you contend that any representative of UAMS or any other individual has made any statements which have any relevance to this matter, please produce copies of such statements or admission, or identify such statements if you believe that are in the possession of UAMS.

ANSWER: none

REQUEST FOR PRODUCTION NO. 6: Produce copies of all bills, receipts, and statements medical or otherwise not previously provided as an attachment to your complaint, that you claim resulted from the injuries allege in your complaint that occurred at UAMS.

ANSWER: reference hospital billing.

REQUEST FOR PRODUCTION NO. 7: For each expert you plan to call as a witness please provide or make available to respondents counsel for inspection **and copying** (a) the current curriculum vitae of the expert; (b) any written report prepared by the expert witness containing his/her opinion and conclusions relation relating to the matter about which he/she may testify at the hearing and(c) any **underlying data resource materials written documents computer programs or disks or other materials produced by utilized by the expert in reaching his/her conclusion preparing /her written report or preparing or his testimony at the hearing.**

ANSWER: Reference medical records and Autopsy report

REQUEST FOR PRODUCTION NO. 8: Produce copies of any and all documents or other items you have identified or relied upon in answer to any interrogatory.

ANSWER: Reference medical records and autopsy report

REQUEST FOR PRODUCTION NO. 9: Produce copies of all documents or other items not specifically requested above but which were used to answer these interrogatories or that support your claim for damages in this action.

ANSWER: medical records medical web site autopsy report

REQUEST FOR PRODUCTION NO. 10: Many documents attached to your complaint appeared to be partial documents Please provide complete copies of all documents used by you or draft the complaint or attached to your complaint.

ANSWER: See attached of a few more this is over burdensome

Respectfully Submitted


Marshae C. Frazier



Attachments

Medications



CERTIFICATE OF SERVICE

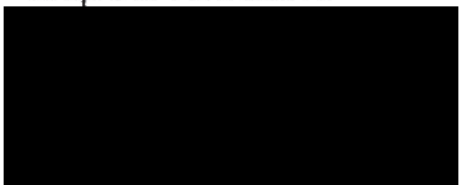
I Marsha G. Frazier Certify I have mail, certified mail, or hand

delivered documents to all parties involved of this action on this 01 date

of November 2019

Respectfully Submitted


Marsha G. Frazier



CERTIFICATE OF SERVICE

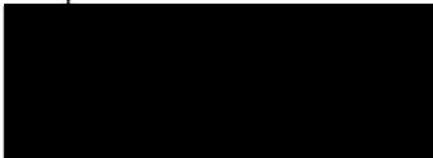
I Marsha G. Frazier Certify I have mail, certified mail, or hand

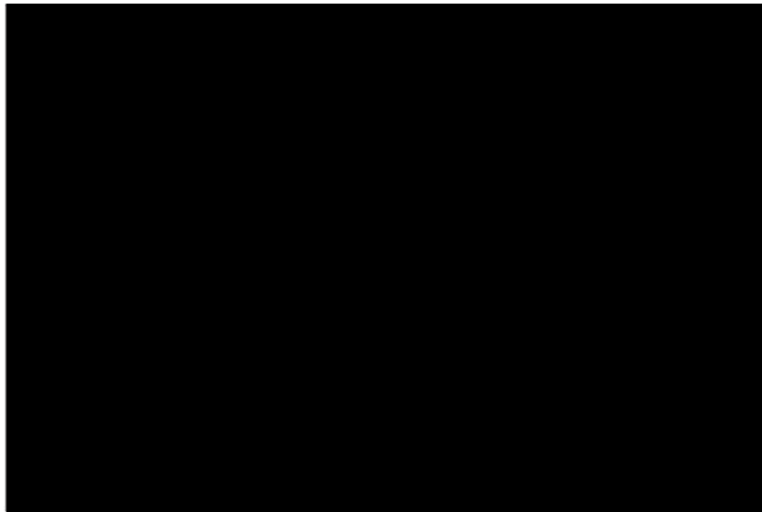
delivered documents to all parties involved of this action on this 1 date

of November 2019

Respectfully Submitted


Marsha G. Frazier





BEFORE THE ARKANSAS CLAIMS COMMISSION

CLAIM NO: 191008

MARSHA G. FRAZIER- SPECIAL ADMINISTRATOR CLAIMANT

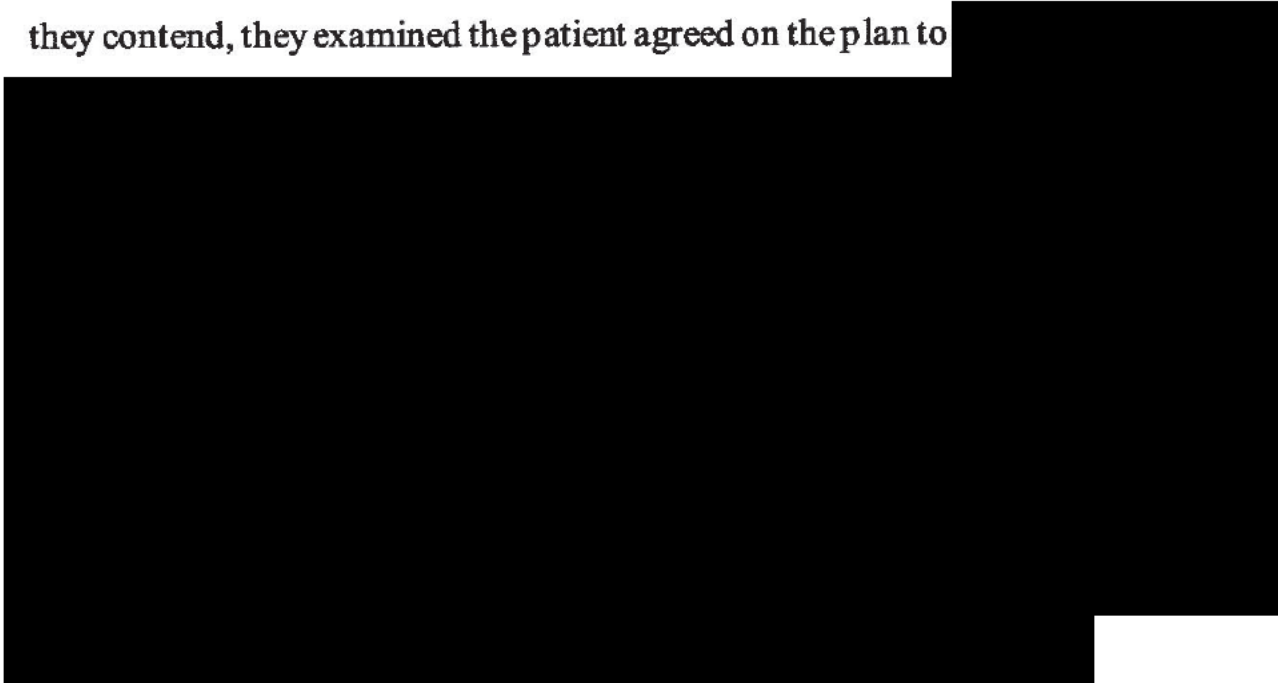
RECEIVED

Vs.

UNIVERSITY ARKANSAS MEDICAL SCIENCE- RESPONDENTS

BRIEF IN SUPPORT OF RESPONSE TO RESPONDENTS

Comes, Claimant Marsha Frazier responding in brief to respondents regards the allegations of my complaint and the denial from respondents. I also wasn't sure I put these documents here in so I'm adding these too. Respondents cannot deny responsibility of standard of care breach, where they breach this care when they made a clinical decision from a team of residents and consulting physicians after they contend, they examined the patient agreed on the plan to



misdiagnosis and failure to diagnose, delayed treatment which cause significant harm. which

[REDACTED]

husband suffered while in his last days there and my family all had to see this we miss him he was a man of integrity to his family and his community he founded the mentorship Easter event over a 25-year period which consolidated with the Pine Bluff, Police dept. He was well known here and there. He was my soul mate for 45 years. I lost a lot.

To revisit the [REDACTED]

I want to again direct to [REDACTED]

[REDACTED]

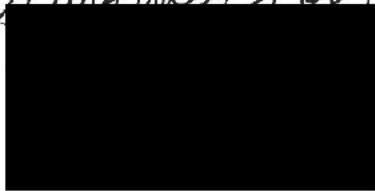
[REDACTED]. Was this deviation from the dr. Orders?

[REDACTED]

This is breached the standard of care causing medical injury death

Respectfully Submitted

Marsha G. Frazier - Special Administrator



CERTIFICATE OF SERVICE

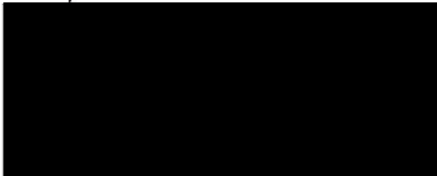
I Marsha G. Frazier Certify I have mail, certified mail, or hand

delivered documents to all parties involved of this action on this 01 date

of November 2019

Respectfully Submitted


Marsha G. Frazier



NOV 12 2019

IN THE ARKANSAS STATE CLAIMS COMMISSION

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MARSHA FRAZIER

CLAIMANT

V.

CASE NO. 191008

UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES

RESPONDENT

**BRIEF IN SUPPORT OF
RESPONDENT'S SECOND MOTION TO DISMISS**

Claimant Frazier appears to raise claims regarding the medical treatment of her husband (now deceased) while at the University of Arkansas for Medical Sciences (UAMS). Based on the language of the Complaint, it was initially believed that her claims centered solely around Mr. Frazier's nursing care. Discovery began in October 2019 and it now appears that Ms. Frazier is raising claims both against nursing staff and physicians who provided care for Mr. Frazier. (See Exhibit 1, Discovery from Claimant to UAMS).

Specifically, Ms. Frazier requests information regarding what Ms. Frazier indicates is [REDACTED] information proving "the Dr. is not liable here," "documents to prove the dr. is not liable [REDACTED]" and "documents to prove [REDACTED] is not the liability of the residents worked his case." (Id.). Additionally, Ms. Frazier propounded a second set of discovery requests regarding the experience level of Mr. Frazier's physicians. (See Exhibit 2, Discovery from Claimant to UAMS). All of this information is with regard to alleged negligence of physicians. As such, Ms. Frazier must exhaust her claims against physicians prior to raising any claim against nursing staff or UAMS.

Arkansas Code Annotated § 19-10-302(a) states that the Commission "shall hear no claim until the claimant has exhausted all remedies against insurers." UAMS provides

malpractice insurance for physicians and residents; thus, a claim must be made against these insurers prior to raising a claim against UAMS. Because the insurance remedies of the physician against whom Claimant makes all allegations of negligence have not been pursued, Claimant has not exhausted all remedies against insurers. Moreover, Claimant did not file a claim against physicians in order to exhaust prior to the statute of limitations for raising a claim of negligence. As a result, this claim cannot be placed in abeyance as the claim against physicians is now barred.

WHEREFORE, Respondent requests that the Commission grant its motion to dismiss, and for all other relief to which it is entitled.

Respectfully submitted,

UNIVERSITY OF ARKANSAS
FOR MEDICAL SCIENCES,
Respondent

By: /s/ Sherri L. Robinson
SHERRI L. ROBINSON, #97194
Associate General Counsel
University of Arkansas for Medical Sciences
4301 West Markham, Slot 860
Little Rock, AR 72205
(501) 686-7608
SLRobinson@uams.edu

Attorney for Respondent

CERTIFICATE OF SERVICE

I, Sherri L. Robinson, do hereby certify that a copy of the foregoing pleading has been served on claimant herein by mailing a copy of same, by U.S. Mail, postage prepaid, this 12th day of November, 2019, addressed to the following:

Ms. Marsha Frazier



/s/ Sherri L. Robinson _____
Sherri L. Robinson

NOV 12 2019

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IN THE ARKANSAS STATE CLAIMS COMMISSION

MARSHA FRAZIER

CLAIMANT

V.

CASE NO. 191008

UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES

RESPONDENT

RESPONDENT'S SECOND MOTION TO DISMISS

Comes now Respondent, by and through the undersigned counsel, and for its Motion to Dismiss, states:

1. Based on her complaint filed on April 10, 2019, Claimant Frazier appears to raise claims regarding the medical treatment of her husband (now deceased) while at the University of Arkansas for Medical Sciences (UAMS). The language of the Complaint suggested the claims raised were against nursing staff.
2. UAMS originally filed a motion to dismiss because Ms. Frazier had not been appointed as administrator of her husband's estate and did not have standing to file her claim. As a result, the Commission held Ms. Frazier's claim in abeyance.
3. Following proof to the Commission that Ms. Frazier had been properly named the administrator, the claim was re-opened and discovery began.
4. Based on discovery requests, it appears that Ms. Frazier is raising claims against physicians as well as nursing staff at UAMS. Because physicians have malpractice insurance regarding claims, any claims against physicians must have been exhausted in Circuit Court prior to filing a claim against UAMS.
5. Claimant's deadline to file a negligence claim against physicians was August 26, 2019. Thus, the claim is now barred by the statute of limitations.

6. Because Claimant did not exhaust claims prior to the statute of limitations, her claim against UAMS is now barred.
7. The following exhibits are attached in support of the motion:
 - a. Exhibit 1 - Discovery from Claimant to UAMS, received October 17, 2019
 - b. Exhibit 2 - Discovery from Claimant to UAMS, received October 18, 2019
8. The grounds for this motion are more fully set forth in a brief in support filed contemporaneously with the motion.

WHEREFORE, Respondent requests that the Commission grant its motion to dismiss and for all other relief to which it is entitled.

Respectfully submitted,

UNIVERSITY OF ARKANSAS
FOR MEDICAL SCIENCES,
Respondent

By: /s/ Sherri L. Robinson
SHERRI L. ROBINSON, #97194
Associate General Counsel
University of Arkansas for Medical Sciences
4301 West Markham, Slot 860
Little Rock, AR 72205
(501) 686-7608
SLRobinson@uams.edu

Attorney for Respondent

CERTIFICATE OF SERVICE

I, Sherri L. Robinson, do hereby certify that a copy of the foregoing pleading has been served on claimant herein by mailing a copy of same, by U.S. Mail, postage prepaid, this 12th day of November, 2019, addressed to the following:

Ms. Marsha Frazier



/s/ Sherri L. Robinson _____
Sherri L. Robinson

BEFORE ARKANSAS CLAIMS COMMISSION

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OCT 17 2019
UAMS
Office of General Counsel

MARSHA G. FRAZIER-SPECIAL ADMINISTRATOR

Vs.

Claim No: 191008

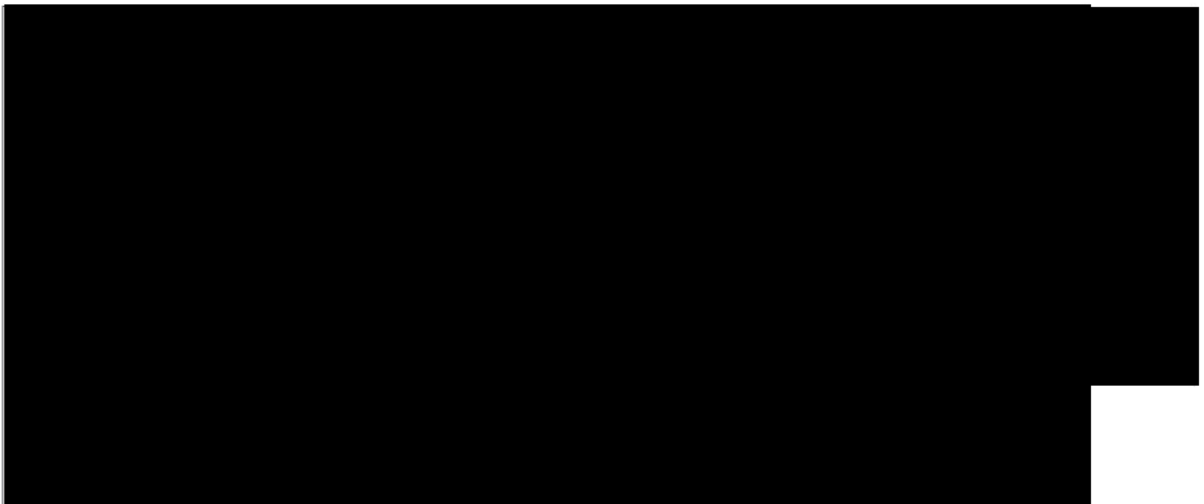
UNIVERSITY ARKANSAS MEDICAL SCIENCE

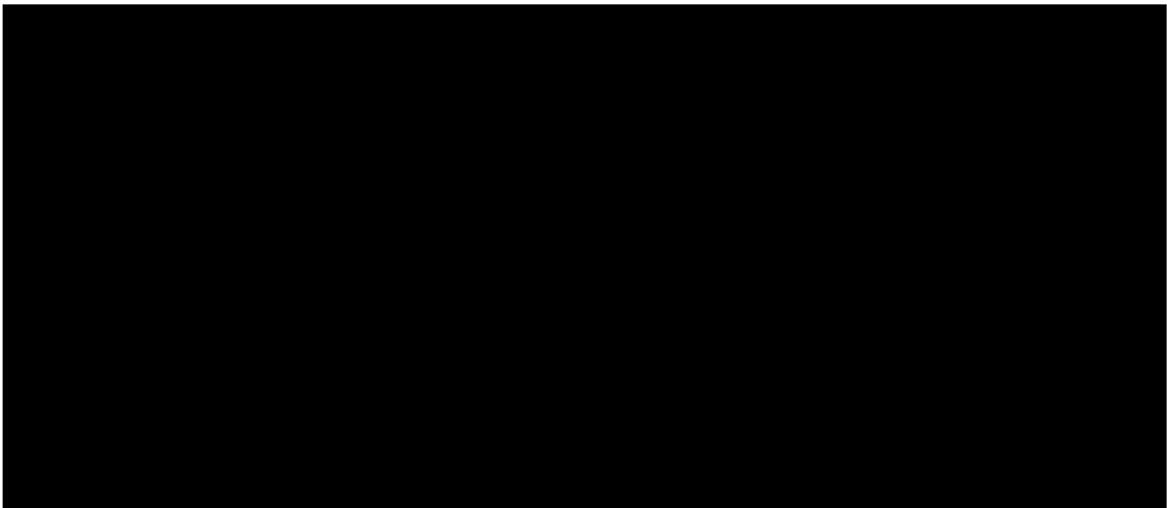
RESPONDANTS

PURSUANT TO Title V -OF CIVIL RULES OF PROCEDURE
DISCOVERIES AND DISCOVERY TO REQUEST
PRODUCTION OF DOCUMENTS

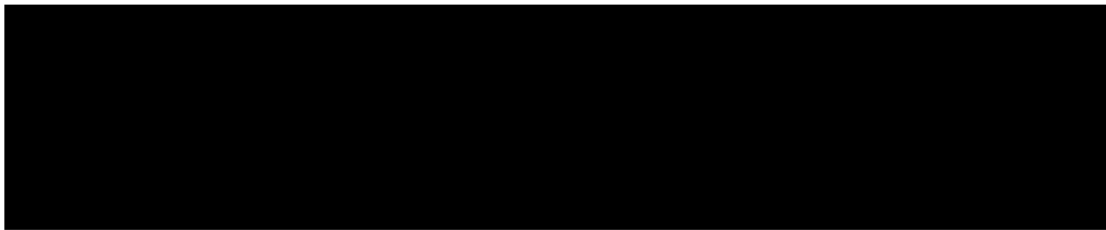
Comes, Marsha G. Frazier Special Administrator of Marshall Frazier Jr. Estate, to request from the Respondents to produce documents as proof to the allegations in Claimant's Complaint and proof to their not being liable for each and every material allegation contained in the Claimant's complaint.

Respondents specifically denies any of its employees, agents, officials, or representatives took action or inaction that was the proximate cause of Marshall Frazier Jr.'s death.

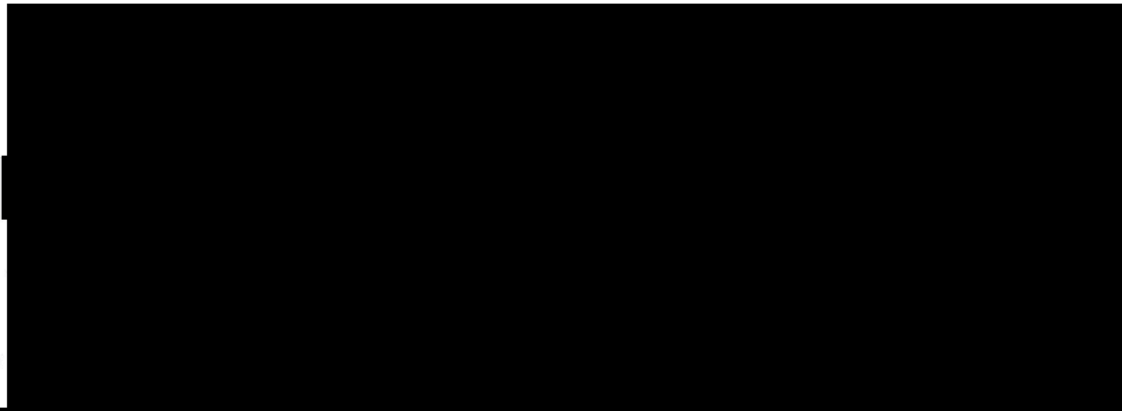




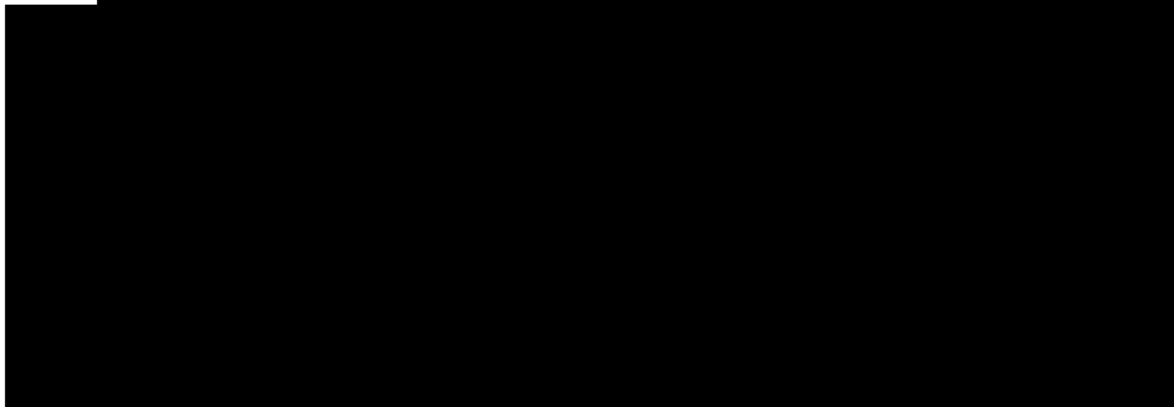
3. Why in the nurse's chart it was always documented as this Vanessa Horton

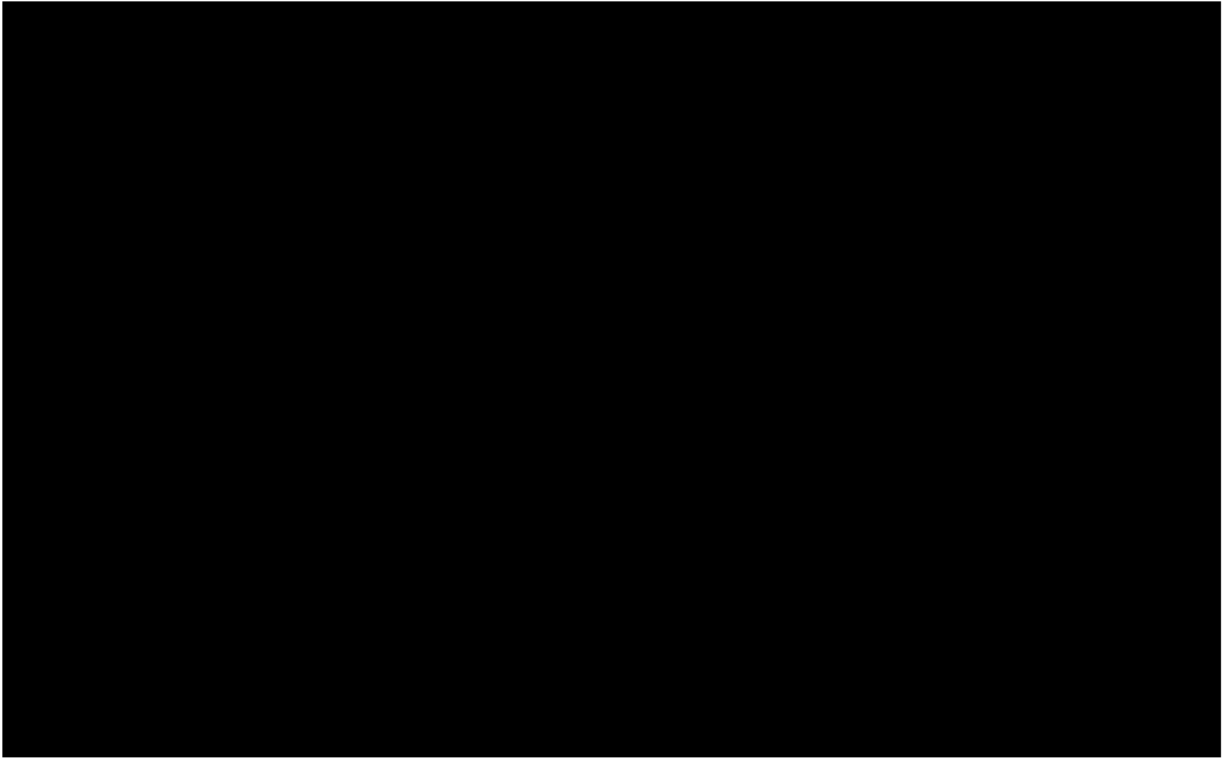


4.

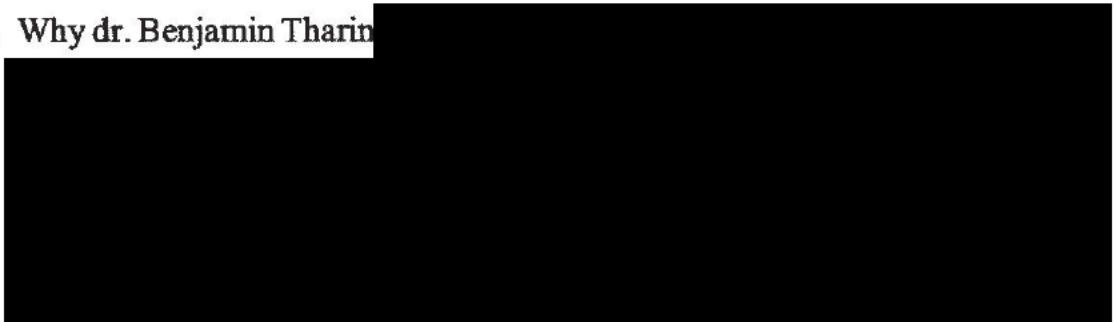


5.

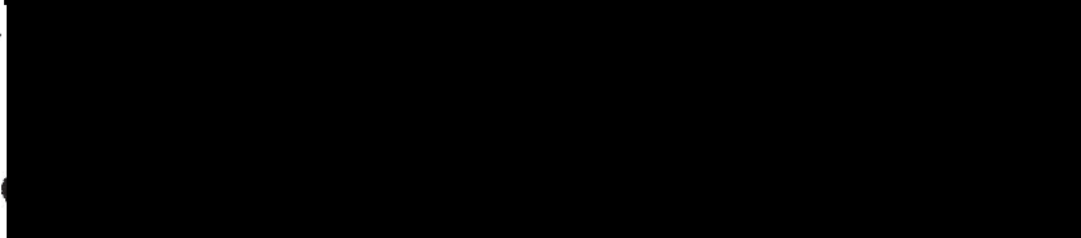




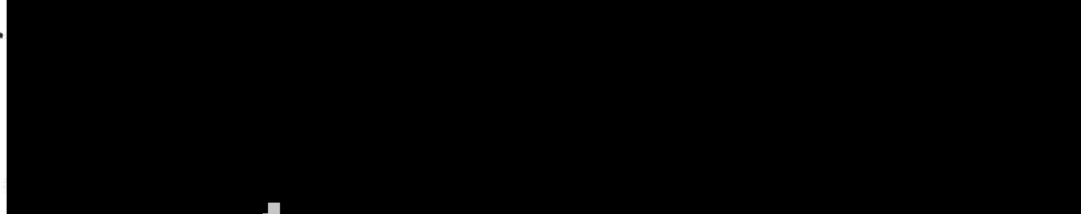
6. Why dr. Benjamin Tharin



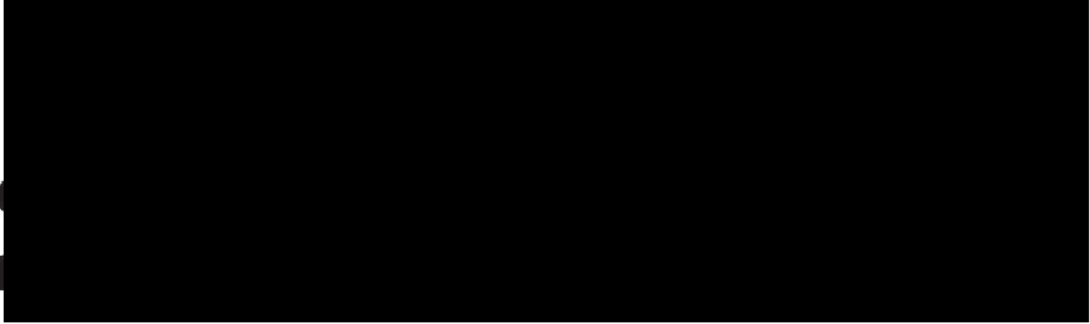
7.



8.




9.



Please explain how the respondents are not liable for their standards of care above?

THEREFORE, Special Administrator Marsha G. Frazier Prays the Commissioners will award a settlement of this claim to the Heirs of Marshall Frazier Jr. Estate.

Respectfully Submitted

Special Administrator of Marshall Frazier Jr./
Marsha G. Frazier



CERTIFICATE OF SERVICE

I Marsha G. Frazier Certify I have certified mail or hand delivered on this __12 th
date of October 2019 the documents to all parties involved of this action.

Respectfully Submitted

Marsha G. Frazier
Marsha G. Frazier



BEFORE THE ARKANSAS CLAIMS COMMISSION

Claims No: 191008

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OCT 18 2019
UAMS
Office of General Counsel

MARSHA G FRAZIER - SPECIAL ADMINISTRATOR

Vs.

UNIVERSITY ARKANSAS FOR MEDICAL SCIENCE RESPONDANTS

**REQUESTED DOCUMENTS PURSUANT TO TITLE V OF CIVIL RULES
OF PROCEDURE CLAIMANT REQUEST IS INCOMPLETE NEED
OTHER DOCUMENT AND REVISED FROM FIRST REQUEST.**

COMES Special Administrator Marsha G. Frazier pleads to the Claims Commission to allow Claimant request for other document left out of the prior document request.

1. What document evidence is there of the experience level of dr. Benjamin Tharin
2. How many [REDACTED] have dr. Tharin performed? On adults or children
3. What document evidence shows explaining What percentage of dr. Tharin patients have experienced [REDACTED]

4. What document [REDACTED] as dr. Tharin shows dr. Tharin is qualified to perform

5. Show document evidence as to why dr. Tharin abandon treatment when the

[REDACTED]

6.

[REDACTED]

7.

8.

[REDACTED]

9. In the first request # 6-9 I was asking for document regards the dr. Performed

[REDACTED]

10.I revised to in

[REDACTED]

I need

document evidence to show explaining what warrants

[REDACTED]

11. With so many different possibilities can result from abdominal pain what

document evidence can explain

[REDACTED]

12

[REDACTED]

[REDACTED]

[REDACTED]

..my God

[REDACTED]

[REDACTED]

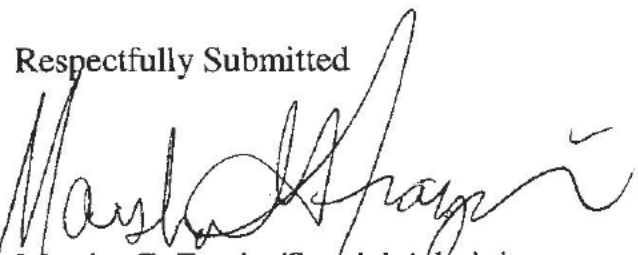
my God... Where's the documents in evidence to Marshall Frazier's

Standard of Care was not violated in this hospital?

[REDACTED]

Please produce the documents to these. Produce documents as to why Dr. Tharin did not come back on his case.

THEREFORE, Claimant special Administrator of Marshall Frazier Jr. Estate Prays this Commission Award the Heirs of Mr. Frazier a settlement for his fall injury while in the care of this hospital.

Respectfully Submitted

Marsha G. Frazier/Special Administrators

[REDACTED]

13. What document evidence warrant for Mr. Frazier to

[REDACTED]

14. what document evidence point in

[REDACTED]

15. Its documented on August 26, 2017 the day of death

[REDACTED]

16.

[REDACTED]

Claimant asks for **document evidence** as to how a patient who come in a hospital with [REDACTED] on August 22, 2017 then after a procedure on August 22, 2017, that the first option to improve quality of life [REDACTED]

[REDACTED]



NOV 27 2019

IN THE ARKANSAS STATE CLAIMS COMMISSION

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MARSHA G FRAZIER SPECIAL ADMINISTRATOR- CLAIMANT


Vs.

CASE NO: 191008

UNIVERSITY OF ARKANSAS MEDICAL SCIENCE RESPONDANTS

**RESPONDING TO RESPONDENTS SECOND MOTION TO DISMISS OF
CLAIMANTS COMPLAINT AND BRIEF IN SUPPORT**

COMES, Marsha Frazier to respond to respondents second motion to dismiss. I
Motion that respondent Motion is not Granted first the Statue of limitations as of
today still is Tolling if the applicable of ACA 16-62-102 c) is implemented under
statue of limitations Generally in wrongful death in every action authorized shall
be commenced within 3yrs. After the death.

Pursuant to ACA 16-114-203(b) under discovery rule of Foreign objects where the
action is based upon a foreign object in the body of the injured person which is not
discovered in the 2yrs. Period the action may be commenced with in a (1) year
from date of discovery. I when I first filed in April 2019 after going over again the
medical documents when it states 

[REDACTED]

Exhibit #4

Under common knowledge exception rule I am Applying the fact of [REDACTED]

[REDACTED] This is an element of liability why
it's being withheld of how it came missing? Disclose this information Exhibit # 5

Pursuant to 16-56-105 All actions of negligence founded on any contract or liability not in writing, Express or implied Shall commenced in 3 years after the cause of action. And according to the respondents Atty. Where Claimant has to file a claim and remedies against the Insurers UAMS provides malpractice insurance for their physicians and residents ACA 16-56-105 fall in the category of 3 years and these allegation I am alleging have not expired the statue is still active and not barred.

1. To your statement #4 that Claimant appears to just now raise claims against physicians as well as nursing staff. For my exhibit #1 the Attachments complaint I filed in April 2019 as you see under what I titled [REDACTED]

[REDACTED] -4 of this is directed towards this Dr. Tharin
and the student resident.

2. As I read your statement that because the physicians have malpractice insurance is the reason I claim against the physicians...this is very upsetting

and untrue, because I rather have my husband than to be back and forth on this subject

It's more harder because this is another holiday I'm without my husband and my grown children are without their daddy my children are still having a hard time with his death of him gone [REDACTED]

[REDACTED] as I type this on this paper I'm trying to draw on all the strengths God has for me to be strong for them and they grown should be me they are comforting. this time of year he would be preparing meat for friends and family I worked along side him. He founded not only the mentorship Easter event he started a family business for the children to carry on. Which my son is trying to do but hes having a hard time too he was at the hospital on the morning his dad died. The implication I wanted the Dr.

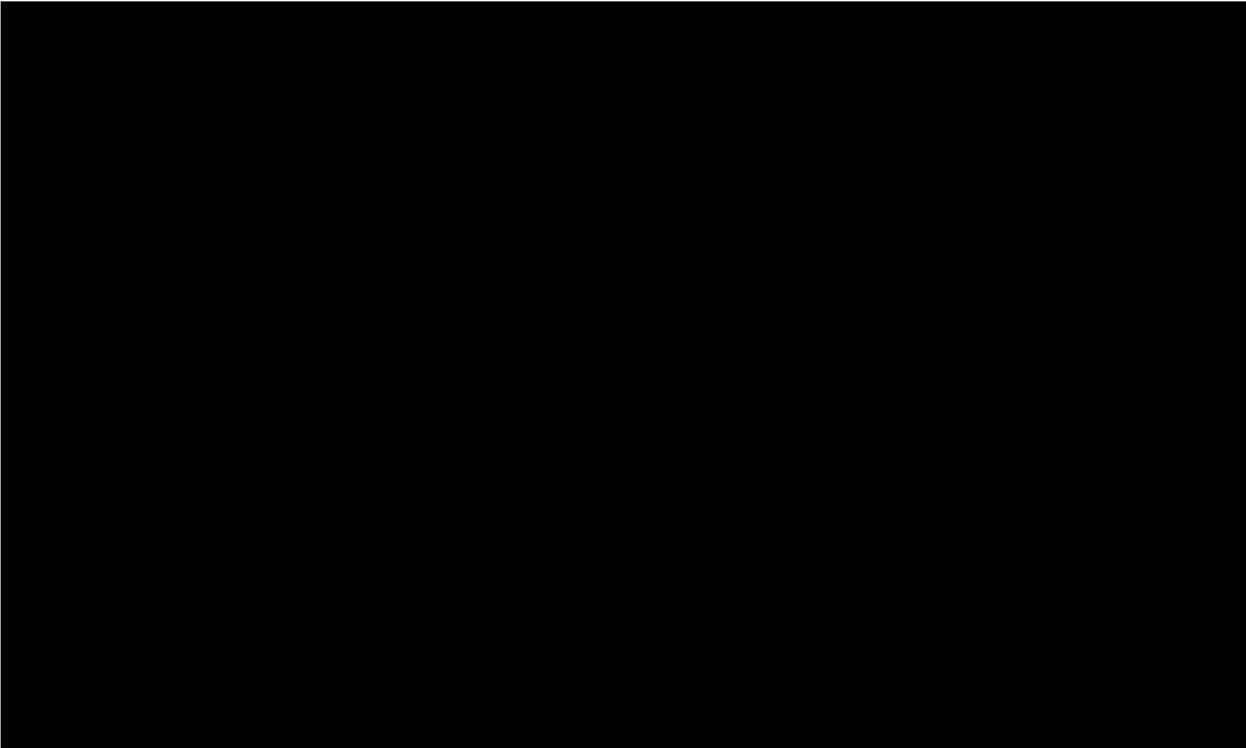
Insurance is an appalling insult. No I rather have my husband back but the dr.

Failed him, misdiagnosed him where it [REDACTED]

3. To your # 5 is answered above.
4. The defendants had a duty of care to my husband after he come there to be treated for pain . [REDACTED]

5. The defendants breached that duty when they made the clinical decision on an

6



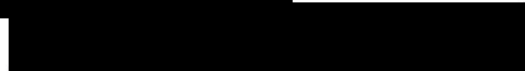
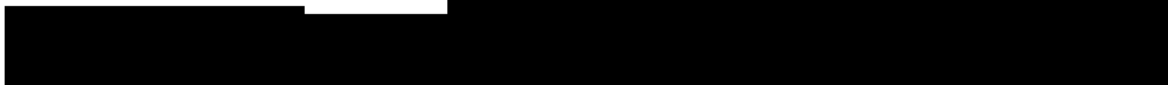
7. The last nurse on his case in her progression notes state



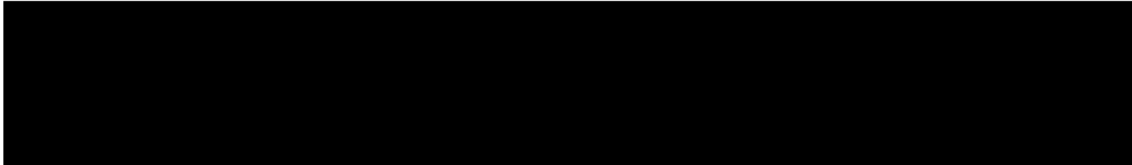
Exhibit #2. What's she's

insinuating? Applying the common knowledge exception rule where this is

deviating from dr. Orders an



8.



Is this the normal standard of

care of all I contend and stipulated?

Claimant prays this Commission not grant their Motion and allow this wrongful death to proceed in an award, the statute of limitations are still tolling.

Respectfully Submitted


Marsha Frazier/Special Administrator of Estate



Arkansas
State Claims Commission

NOV 27 2019

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INSTEAD of some THE ARKANSAS STATE CLAIMS COMMISSION

MARSHA FRAZIER

CLAIMANT

Vs.

Case No: 191008

UAMS

RESPONDENTS

BRIEF IN SUPPORT

ACA 19- 10-302 (a) The Arkansas State Claims Commission shall not dismiss a claim with prejudice on grounds that the claimant has received or is due benefits under a policy of insurance. However, the commission shall hear no claim until the claimant has exhausted all remedies against insurers, including the claimant's insurer. The Statue as I pointed out is still tolling. The delayed discovery rule suspends the running of the statute of limitations. Zwicker v. Altamont emergency room physicians medical group 97 Cal. App. 4th 26,5, Cal. Ct. App. 2002 the delayed discovery rule tolled The court reasoned that it would be unfair and "make little sense" to look to the date of exposure, rather than the date of diagnosis/discovery of actual injury, which is the earliest point at which a spouse is placed on actual notice such that he or she might contemplate suit. has happen here A.C.A. § 21-9-203 require the state to pay actual damages adjudged or entered by a court against state officers and employees. Using the common knowledge exception where the misdiagnosed from the clinical ED team with the Dr. Tharin.

The nurse who

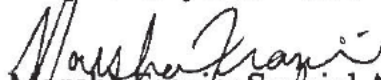
deviated dr. Orders

As I stated and applying the Common knowledge exception rule and I'm no expert.

for reasons of standard of care compared to a dr. In the same profession. And Respondents still have not produced documents to show the experience level of this dr. How many claims there have been filed against the dr. And more.

THEREFORE, I pray for a Motion to proceed with an award in this claim

Respectfully Submitted



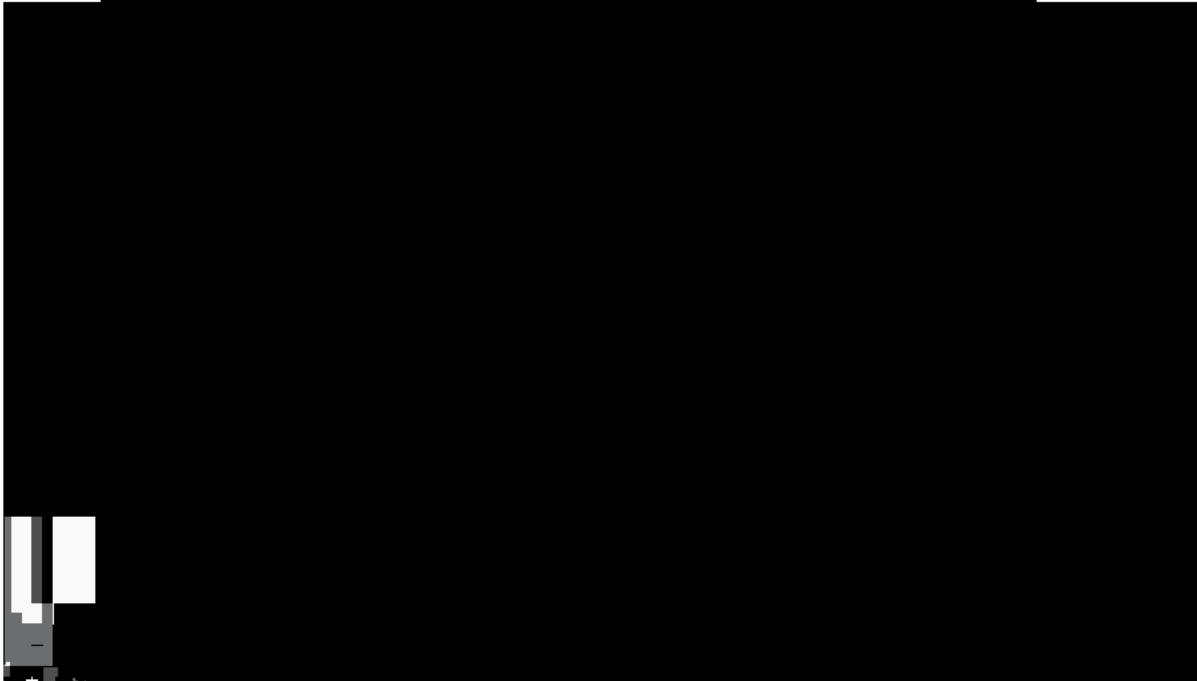
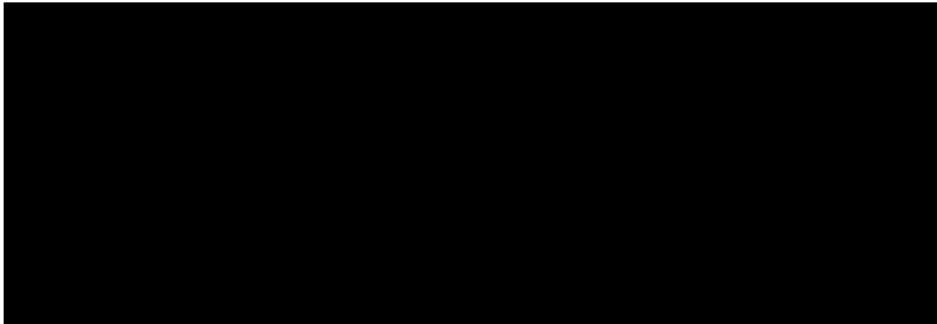
Marsha Frazier Special Administrator

**ARKANSAS CLAIMS COMMISSION
ADDENDUM TO COMPLAINT**

ACA 16-114-201 et. Seq.

3) "Medical injury" or "injury" means any adverse consequences arising out of or sustained in the course of the professional services being rendered by a medical care provider, whether resulting from negligence, error, or omission in the performance of such services; or from rendition of such services without informed consent or in breach of warranty or in violation of contract; or from failure to diagnose; or from premature abandonment of a patient or of a course of treatment; or from failure to properly maintain equipment or appliances necessary to the rendition of such services; or otherwise arising out of or sustained in the course of such services

- 1.
- 2.
- 3.



Claimant Exhibit
[Signature]

[REDACTED]

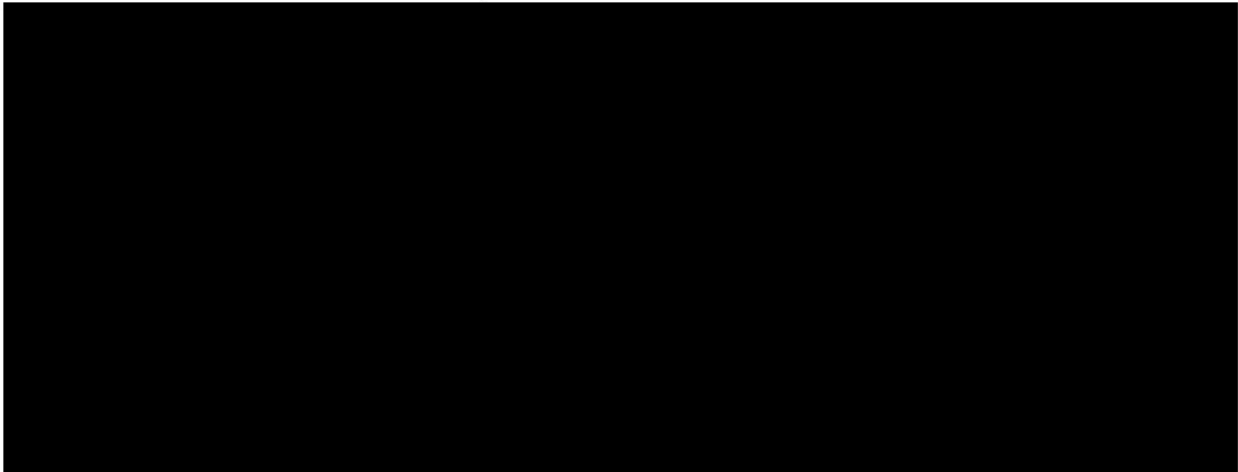
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FACTS

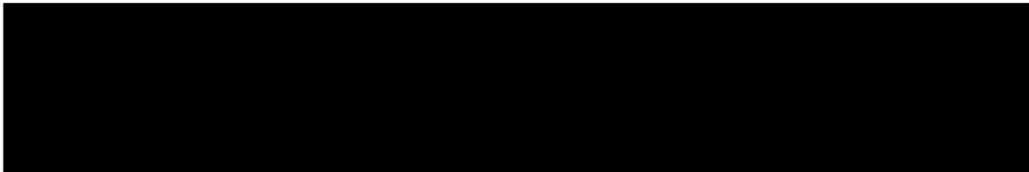
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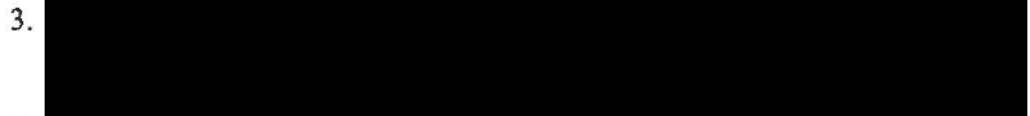
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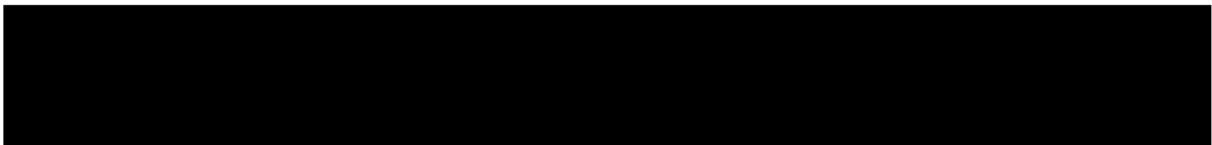
LETS TALK ABOUT THIS PART OF HIS DEATH

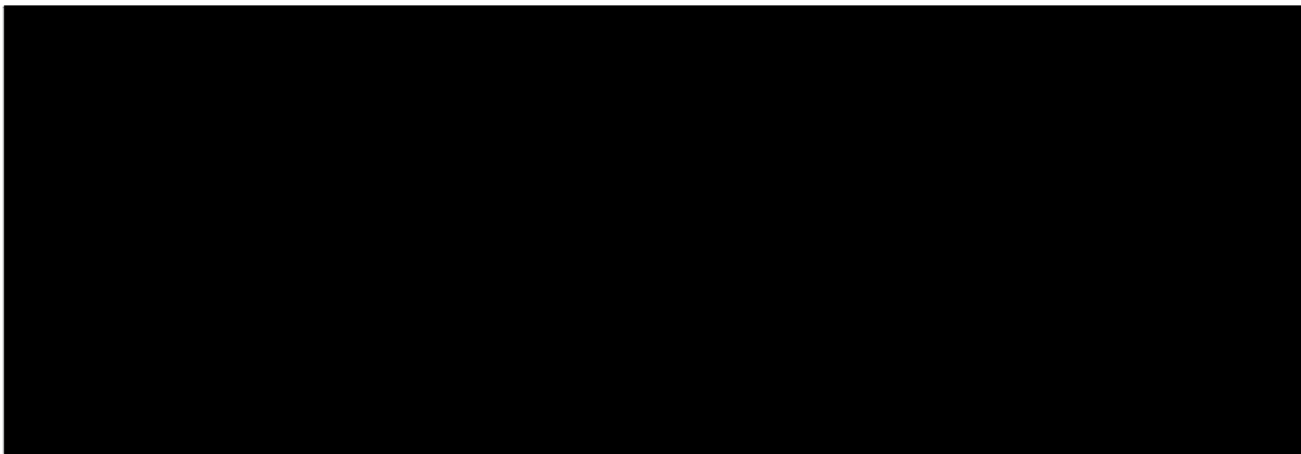


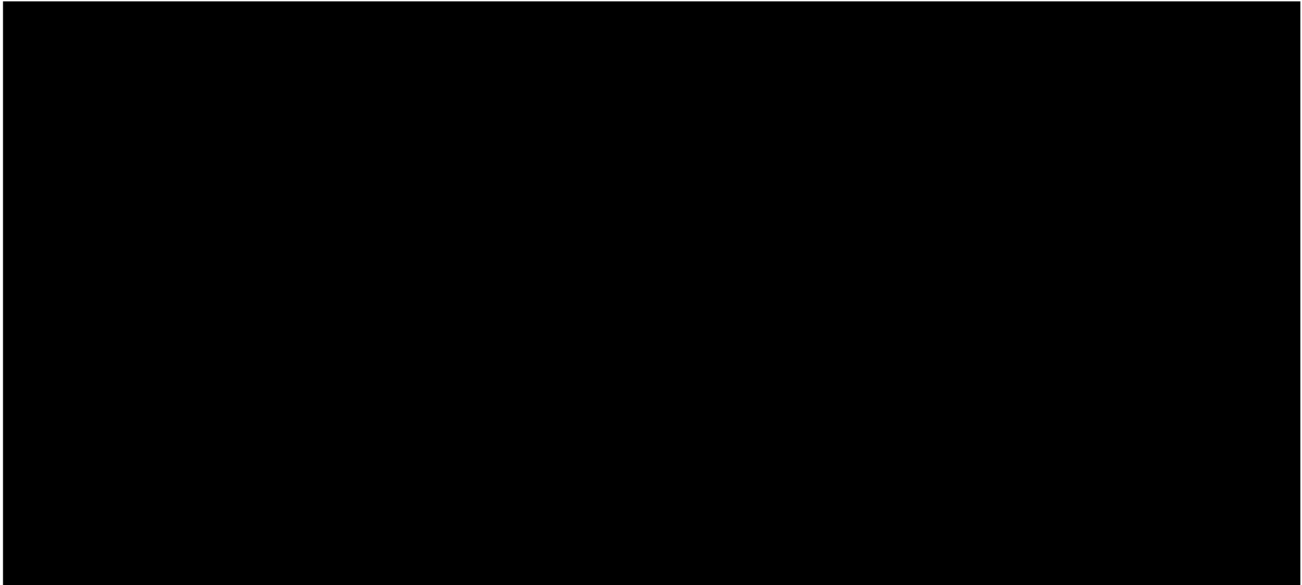
2. Dr. BENJAMIN THARIAN, MD. MRCP GASTRO. FACP. FRACP.
Interventional Gastroenterologist
Asst. Professor of medicine
Dept. Of internal medicine
Division of Gastroenterology & Hepatology
UAMS



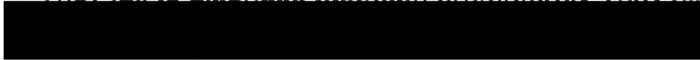
4. This Dr. Abandon the treatment and never returned to the case. Giving it to his Students and Residents





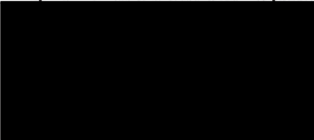


Leaving me without my husband, loss of consortium Mental stressed. These people failed him.
They fail to diagnose abandon prematurely They allowed him to dye and [REDACTED]



Respectfully Submitted

Marsha G. Frazier-Spouse to Marshall Frazier Jr.



IN THE ARKANSAS STATE CLAIMS COMMISSION

MARSHA FRAZIER

CLAIMANT

V.

CASE NO. 191008

UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES

RESPONDENT

RESPONDENT'S MOTION TO HOLD DISCOVERY IN ABEYANCE

Comes now Respondent, by and through the undersigned counsel, and for its Motion to Hold Discovery in Abeyance, states:

1. Respondent University of Arkansas for Medical Sciences (UAMS) filed a motion to dismiss on November 12, 2019 arguing that Claimant Frazier is raising claims regarding the medical treatment of her husband by physicians. Claimant has responded to this motion, and the motion is ripe for the Commission's decision.
2. UAMS argued that because physicians have insurance, the claims against physicians must be exhausted prior to pursuing a claim against non-physician staff in the Arkansas State Claims Commission. UAMS further argued that because Claimant failed to raise these claims against physicians in a proper forum and in a timely manner, the claims raised against UAMS are barred by the statute of limitations.
3. UAMS attached Claimant's discovery requests to its Second Motion to Dismiss. Because the pending motion to dismiss the case could be dispositive, UAMS should not be required to respond to the discovery at this time.
4. UAMS requests that discovery in this case be barred, or held in abeyance, until such time as the Commission can rule on UAMS's Second Motion to Dismiss.

WHEREFORE, Respondent requests that the Commission grant its motion to hold discovery in abeyance and for all other relief to which it is entitled.

Respectfully submitted,

UNIVERSITY OF ARKANSAS
FOR MEDICAL SCIENCES,
Respondent

By: /s/ Sherri L. Robinson
SHERRI L. ROBINSON, #97194
Associate General Counsel
University of Arkansas for Medical Sciences
4301 West Markham, Slot 860
Little Rock, AR 72205
(501) 686-7608
SLRobinson@uams.edu

Attorney for Respondent

CERTIFICATE OF SERVICE

I, Sherri L. Robinson, do hereby certify that a copy of the foregoing pleading has been served on claimant herein by mailing a copy of same, by U.S. Mail, postage prepaid, this 3rd day of December, 2019, addressed to the following:

Ms. Marsha Frazier



/s/ Sherri L. Robinson
Sherri L. Robinson

IN THE ARKANSAS STATE CLAIMS COMMISSION

MARSHA G FRAZIER- SPECIAL ADMINIS.

CLAIMANT
Arkansas
State Claims Commission

Vs. CLAIM No: 191008

DEC 12 2019

UNIVERSITY ARKANSAS MEDICAL SCIENCE - RESPONDANTS

RECEIVED

RESPONDING TO RESPONDENTS MOTION TO BARR CLAIM AND
HOLD DISCOVERY IN A BEYANCE

COMES, Marsha Frazier to respond to respondents motion to Barr my claim or hold discovery in Abeyance. First, I am objecting to this motion.

1. This needs to stay open to be reviewed of the discovery there's questions un answered such as why my husband [REDACTED] when he died? When clearly test showed he had it when he come there.
2. As Special Administrator of estate I am now in communication seeking counsel.
3. Civil Rule 33(2) Interrogatory which is part of discovery is not to be objectionable merely because it asks for an opinion or contention relating to facts or applicable law to facts.
4. To respondents' paragraph # 3 civil rule 26 (a)(1)(A) The Duty to Disclose.

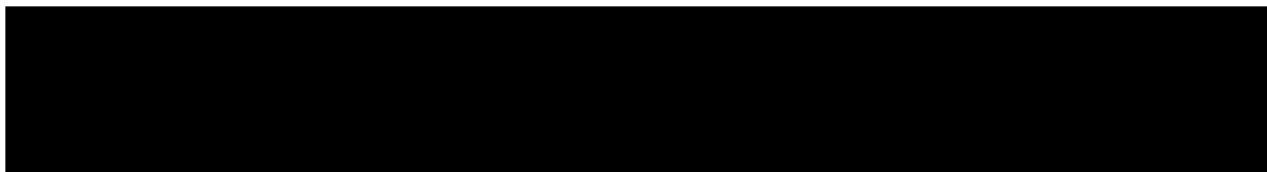
To the barring of my claim on the subject of statute limitation. I want to make note that while reading several cases filed through Ark. Courts where the subject of statute of limitations and The Medical Malpractices Act 2 year statute ACA 16-114-202 vs. Wrongful Death Act 3 year ACA 16-62-102 (1987).

Ark. Courts Recognizing that medical malpractice and wrongful death were separate statutory actions with conflicting limitations provisions, with same cause of action medical injury, although the new law states that Medical Malpractice Act 16-114-202 with provisions governs medical injury in the 2 and 3 year statutes the law was enacted in 1979, these cases showed that the judges themselves were split in decisions on which Statute should apply when the Statute expires. They had reasonable doubt regards to these two statutes the court in *Dunlap v. McCarthy* 1984 states if there is any reasonable doubt, we will resolve the question in favor of the complaint standing and against the challenge. In *Brown v. St. Paul Mercury Ins. Co.* 308 Ark. 361, 823 S.W.2d 908 (1992) Roy DeWayne Brown, died from a medical injury that the three-year statute of limitations contained in the wrongful death statute applied to this case. In *Ruffins v. ER Arkansas PA*, 1993 there were this gravamen of the complaint of medical doctors that the defendant doctors failed to properly diagnose and treat the deceased, failed to refer him to others for proper care, and that their negligence resulted in the death of the decedent. Here, I must cited and apply this as the same

with my husband the second part towards him dying after the failed Standard of



Delayed treatment and continue giving him the [redacted] and the nurse



she claims he ask for, which my common knowledge exception states her deviation from dr. Orders is [redacted]


Those None physicians and residents dr. All has insurance too, for each one on my husband's case there should be compensation in the amount of their liability policy from all this negligence in my husband care and delayed treatment none treatment.

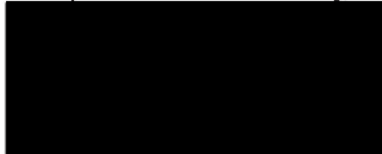
This too is why I object to this new motion by respondents. Because of the Ark. Courts Recognizing that medical malpractice Act and wrongful death Act were separate statutory actions with conflicting limitations provisions, where they are divided with reasonable doubt as to which Statute of limitations to apply after statute limitations expiration. I Motion the Commission allow Claimant applying

of ACA 16-62-102 the (3) year statute of limitations and not Barr my claim, where Claimant is to proceed with Malpractice against the doctors who are employees to the hospital claim against the hospital. I did file my complaint here in April 2019 before the Statue expired

THEREFORE, Special Administrator of Estate Marsha Frazier pray this commission after reviewing the discoveries allow me to proceed a Malpractice claim.

Respectfully Submitted


Marsha G. Frazier-Special Administrator



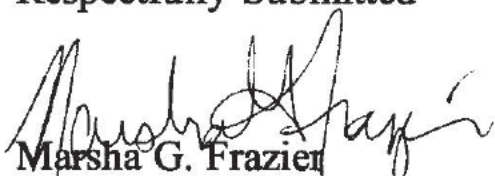
CERTIFICATE OF SERVICE

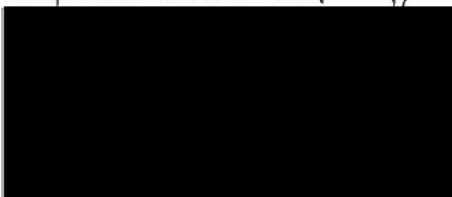
I Marsha G. Frazier Certify I have mail, certified mail, or hand

delivered documents to all parties involved of this action on this 11th

date of December 2019

Respectfully Submitted


Marsha G. Frazier



ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

May 18, 2020

Mrs. Marsha Frazier
[REDACTED]
[REDACTED]

Ms. Sherri L. Robinson
University of Arkansas for Medical Sciences
4301 West Markham, Slot 860
Little Rock, Arkansas 72205

(via email only)

Re: ***Marsha Frazier, as Administratrix of the Estate of Marshall Frazier v. University of Arkansas for Medical Sciences***
Claim No. 191008

Dear Mrs. Frazier and Ms. Robinson:

Upon review of this claim, it appears that the claim has been in discovery since October 9, 2019. To avoid this claim lingering in discovery, the following scheduling order has been set:

September 30, 2020: Claimant identifies all witnesses, including an expert witness;
Respondent identifies all fact witnesses

October 30, 2020: Respondent identifies a rebuttal expert witness

December 30, 2020: All discovery completed, including depositions

The Claims Commission is aware of the pending motion filed by UAMS. However, in the interest of expediency, the Claims Commission will wait until the conclusion of discovery to rule on any pending motions.

Sincerely,

Kathryn Irby

ES: kmirby

ARKANSAS STATE CLAIMS COMMISSION

Arkansas
State Claims Commission

JUN 25 2020

RECEIVED

Arkansas State Claims Commission
101 East Capitol Ave. Ste. 410
Little Rock Ark. 72201-3823

Claim No: 191008

Ms. Sherri Robinson
UAMS of Medical Sciences
4301 West Markham, Slit 860
Little Rock, Ark. 72205


June 23, 2020

Dear Ma'am and Sirs.

I am in receipt of your letter dated May 18, 2020.

Also noted that you have made notation of awareness to the Motion UAMS has made.

Please also if you received it make note to my objection to their Motion.

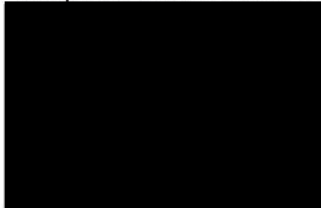
I wanted to update my mailing address is now 

I want to ask if these dates list are they deadline to be met? Or they can be presented before these dates?

Sincerely.



Marsha Frazier/ Admin. Of Estate of Marshall Frazier Jr.



ELECTRONICALLY
FILED

AUG 27 2020

TIME:

IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS 60CV-20-473

MARSHA G. FRAZIER -ADMINISTRATOR OF ESTATE OF
MARSHALL FRAZIER JR. /PLAINTIFF

Arkansas
State Claims Commission

V.

SEP 01 2020

Et. Al.

RECEIVED

DR. BENJAMIN THARIAN MD MRCP (UK)FACP FRACP-
DEFENDANT- OFFICIAL CAPACITY
MICHELLE JUPIN APRN- DEFENDANT-OFFICIAL CAPACITY
WILLIAM C. BECK MD- DEFENDANT-OFFICIAL CAPACITY
RACHEAL FREEZE-RAMSEY MD-DEFENDANT-OFFICIAL CAPACITY
TERESTA ANGTUACO MD- DEFENDANT-OFFICIAL CAPACITY
VANESSA HORTON RN-DEFENDANT-OFFICIAL CAPACITY
UNIVERSITY OF ARKANSAS OF MEDICAL SCIENCE-DEFENDANT-
STEPHEN A. METTE CEO OFFICIAL CAPACITY
JOINDER OF PERSONS JOINDER OF CLAIMS

AMENDED COMPLAINT JOINDER A DEFENDANT

1. Marsha G. Frazier administrator-Plaintiff of estate of Marshall Frazier Jr. Is a resident of the State of Arkansas city of Pine Bluff, County of Jefferson.
2. Dr. Benjamin Tharian MD-MRCP (UK)FACP FRACP- is a resident of the State Arkansas of Pulaski County in the City of Little Rock.
3. Teresta Angtuaco MD is a resident of the State of Arkansas the city of Little Rock, County Pulaski.
4. Michelle Jupin APRN is a resident of the State of Arkansas the city of Little Rock, County Pulaski.

5. Vanessa Horton RN is a resident of the State of Arkansas the City of Little Rock, County Pulaski.

Complaint and Brief

COMES NOW, Marsha G. Frazier Administrator of Estate of Marshall Frazier Jr. The decedent. Pursuant to Civil rule 19 Joinder of persons A person who is subject to service of process shall be joined as a party in the action.

Ark. Civil Rule 18 (a)*Joinder of Claims.* may join, either as independent or alternate claims, as many claims, legal or equitable, as the party may have against an opposing party

Back ground

On August 21, 2017 Marshall Frazier Jr. Went to [REDACTED] and became the patient of [REDACTED] with [REDACTED]

[REDACTED] where he depended on the expertise professional judgement of the physicians that treated him. And trusted each Provider of these named defendants and those not named, but were part of the team worked his case. He expected the defendants to act on their expertise professional skills and specialty to treat where he would recover. He was handed off to physicians and nurses that are considered at a high degree in their own specialty. That they

Would use their expert judgement in assuring he was in the best hands. Some of these providers got their degree and skills from this same hospital an accredited school of learning. An entity of professionals, where a patient feels comfortable enough to trust the physicians to treat and cure their ailments

ACA 16-62-102 c

By terms of ACA 16-62-102 c. Plaintiff is implementing this statute regards to my husbands claim it states Generally in wrongful death in every action authorized shall be commenced within 3 years after death. Also *ACA 16-56-105 falls in the 3 years.* A party asserting a claim for relief for injuries. Marshall Frazier Jr. my husband suffered at the hands of Expert Professional employees using delayed judgments at UAMS. A [REDACTED] performed by Dr Benjamin professor Tharian, an expert Professional professor of GI at UAMS. After he consult his expert opinion with his resident Dr. they proceed to perform this [REDACTED] [REDACTED] a contributing of my husband death. Mr. Frazier was pre-matured discharged by Michelle Jupin APRN she used her expertise opinion that he was fair to be discharged co-sign by Dr. Thariain.

1. Benjamin Tharian MD MRCP (UK) Gastro FACP FRACP- is
 - a. the Interventional Gastroenterologist.
 - b. Assistant Professor of Medicine.
 - c. Department of internal Medicine.
 - d. Division of Gastroenterologist and Hepatology
 - e. University of Arkansas for Medical Sciences

Based on such high skills of a high accredited entity where Dr. Benjamin Tharian is employed Mr. Frazier and family would feel comfortable in thinking this hospital were the safest and trusting to expect to be treated at and recover.

ACA 17-95-202

Universal Citation: AR Code 17-95-202 (2012)

As used in the Arkansas Medical Practices Act, 17-95-201 et seq., 17-95-301 et seq., and 17-95-401 et seq.

(A) Holding out one's self to the public within this state as being able to diagnose, treat, prescribe for, palliate, or prevent any human disease, ailment, injury, deformity, or physical or mental condition, whether by the use of drugs, surgery, manipulation, electricity, or any physical, mechanical, or other means whatsoever;

(B) Suggesting, recommending, prescribing, or administering any form of treatment, operation, or healing for the intended palliation, relief, or cure of any physical or mental disease, ailment, injury, condition, or defect of any person with

the intention of receiving, either directly or indirectly, any fee, gift, or compensation whatsoever; ACA 17-95-201- The holding oneself as able to

4.

diagnose, treat, prevent any human disease, ailment, injury, deformity, or physical or mental condition, whether by the use of drugs, surgery, manipulation,

Being an expertise professional in his specialty and as the hospitals is embracing the recognition by US News as the #1 hospital in the State. is holding out as ACA 17-95-201 and no way my husband should have suffered from delayed in treatment

Dr. Thariain professional

judgement of the benefits being greater than the risk. Which Mr. Frazier believed in the treatments to be giving him, coming from a Dr. And hospital with high credentials,

Mr. Frazier and

Family relied on Dr Tharian and his team in using the right judgement in their highly qualified skills when they judged the benefits greater than the risk. On that procedure, a procedure that's highly rr6

Recommended in GI specialty They even stated he was going to be treated as an outpatient after the procedure. They had to feel he was going to recover in their professional judgement in skills. But fail to recognize the emergency of his case.

FAILURE OF THE PHYSICIANS

The defendants and this entity failed my husband Marshall Frazier Jr. being that the entity itself is on a high demographic community by way of being a school of learning medicine. With expert professionals, with specialty skills.

When Compared to the Locality rule, here the physicians have their own standard of care to satisfy. According to The Jurisprudence doctrine of professional custom rule provide the duty of care of physicians owes their patient than ordinary reasonableness is measured by customary practice. By terms of ACA 16-114-201 et. Seq. outlines the failure.

1. Failure to diagnose or treat on the first admission and the second admission from the failed judgement of Racheal Freeze-Ramsey second admission did not act upon him needing [REDACTED] my complaint stating [REDACTED]

[REDACTED] And is to be treated as a high priority, when he return he did not receive [REDACTED]

2. Failure of the [REDACTED] who did not respond to my [REDACTED]

3. Premature discharged him the APRN Michelle Jupin and Dr. Tharian failed judgement sending him home, where 6 hours later he returned worst than first admission. he did not receive any [REDACTED] Dr.

Tharian never returned after abandonment, premature discharging him. Failed judgement.

Failed him giving him the greater of benefits over the risk by way of the expertise professional specialty skills when Dr. Tharian Perform the [REDACTED] with difficulty where he [REDACTED] where this contributed to his death

4. Upon his return Dr, Beck and team their judgement [REDACTED]

[REDACTED]

[REDACTED] Yet he answer my complaint

as [REDACTED]

[REDACTED] They failed

in judgement here as the [REDACTED]

[REDACTED] On August

24, 2017 Mr. Frazier test [REDACTED]

[REDACTED]

[REDACTED] But the judgement from radiology stated don't think

[REDACTED] My research states different.

5. Failure of the RN Vanessa Horton judgement in deviating from dr. Orders

[REDACTED]

6. The Radiologist tests showed on 8/22/2017 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. Dr. Tharian [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

that hospital Failed judgement of all professionals from a high geographic community allowed Mr. Frazier [REDACTED] also. The dependent

[REDACTED]

judgement did not treat this problem my research about a patient with

[REDACTED]

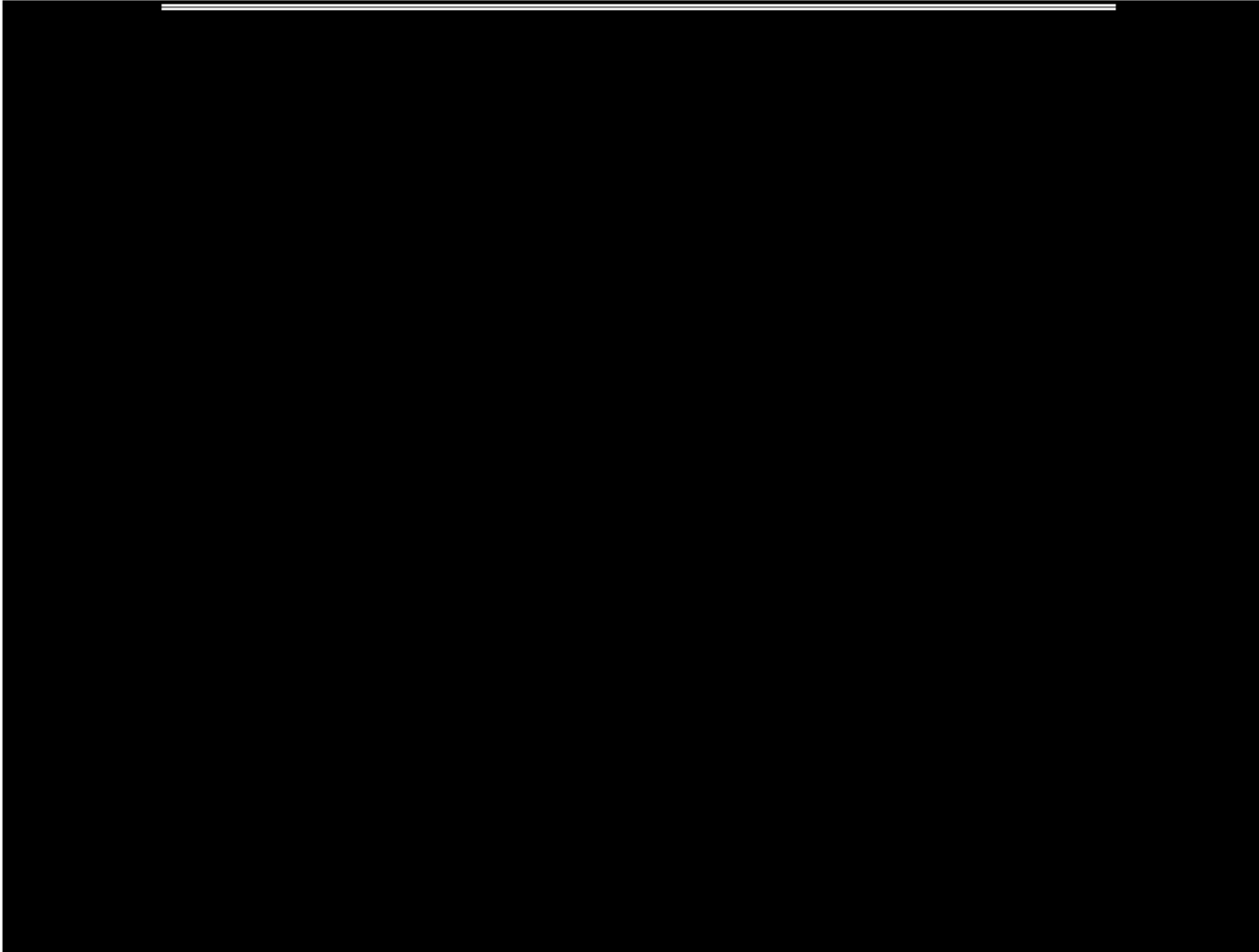
[REDACTED]

exclusive control and management of the defendants at the time of the injury. Delta Oxygen Co. v. Scott, 238 Ark. 534, 383 S.W.2d 885 (1964); Marshall Frazier Jr. was not in control of his own care in the facility of UAMS when he come to the facility for medical treatment August 21, 2017

ACA 16-114-201 et. Seq


3) "Medical injury" or "injury" means any *adverse consequences arising out of or sustained in the course of the professional services being rendered by a medical care provider*, whether resulting from negligence, error, or omission in the performance of such services; or from rendition of such services without informed consent or in breach of warranty or in violation of contract; or from *failure to diagnose; or from premature abandonment of a patient or of a course of treatment; or from failure to properly maintain equipment or*

appliances necessary to the rendition of such services; or otherwise arising out of or sustained in the course of such service.



RESEARCH AS THE MERITS OF OPINION OF SAME OR SIMILAR DR.

Plaintiff has research in newsletter and journals from accredited site for claims allegation I am making in this complaint.

1. Dr. Benjamin Tharian MD Professor of medicine. performed a procedure that produce 

[REDACTED] and abandon him. All which contributed to Mr. Frazier's death

2. UAMS liable for employees who failed in professional expert judgement to treat my husband case as an emergency priority.

When the employees is held to this standard ACA 16-114-201 et. Seq
3) "Medical injury" or "injury" means any *adverse consequences arising out of or sustained in the course of the professional services being rendered by a medical care provider, failure to diagnose; or from premature abandonment of a patient or of a course of treatment; or from failure to properly maintain equipment or appliances necessary to the rendition of such services; or otherwise arising out of or sustained in the course of such service.*

3. Dr William Beck MD Delaying treatment, mis diagnose, fail professional judgement in treating [REDACTED]

4. Racheal Freeze-Ramsey MD failed judgement did not recognize patient had [REDACTED]

5. Michelle Jupin APRN pre maturely with the cosigning of Dr. Tharian discharged patient as fair enough to be released where he come back hours later worst that first admission

6. Teresita Augtuaco MD test and opinion that the [REDACTED] was not an emergency.

7. Vanessa Horton RN failed judgement in deviating from dr. Orders when she

[REDACTED]

Marshall Frazier Jr. Was born of his mother a human being he was recognized by the government with a birth certificate, a social security number a real person who had life left to live according to the bible he had at least 7 or more years left he was a father a brother, a community activist, a husband, a uncle whom was well loved by all. and him being stable in pre existing issues he was not supposed to be deceased at the time he passed.

Pro Se Plaintiff Admin. Of estate of Marshall Frazier Jr. Marsha G. Frazier prays this court will grant an award for 4,000,000.00 because of the suffering and pain my husband endured laying in that hospital each day. where he waited to be diagnosed and treated for his symptoms but only got added problems of an

[REDACTED]

[REDACTED] Mr.

Frazier was not at a rural hospital where the standards are not high. with a hospital of this standard high quality in professional's, expertise in their specialty recognized by the US News as the best in the stated where this hospital needs to waive it immunity There is no way the employees should have not in their professional capacity not know how to diagnosed, or delayed treatment from an [REDACTED] there's way as professionals my should have laid there each day suffering when all they needed to do was realized [REDACTED]

[REDACTED]

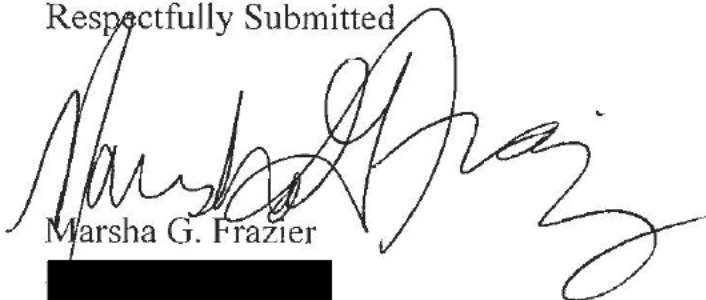
[REDACTED]

[REDACTED]

[REDACTED]

THEREFORE, Pro Se Plaintiff in her capacity of Admin. Of estate of Marshall Frazier Jr. Marsha G. Frazier, pray this court award the damages in delays treatment. stated above.

Respectfully Submitted



Marsha G. Frazier

[REDACTED]



CERTIFICATE OF SERVICE

I Marsha Grazier certify on 20 date of August ~~July~~ 2020 That I to the best of my knowledge, and belief as Pro Se Appellant after research, of information, I delivered or certified or hand delivered, or via U S mailed documents to all parties involved.

Marsha G. Frazier



What to know about cholecystitis?

Cholecystitis is an inflammation of the gallbladder. It normally happens because a gallstone gets stuck at the opening of the gallbladder. It can lead to fever, pain, nausea, and severe complications.

Untreated, it can result in perforation of the gallbladder, tissue death and gangrene, fibrosis and shrinking of the gallbladder, or secondary bacterial infections.

Gallstones are involved in 95 percent of cholecystitis cases. These may be formed from cholesterol, a pigment known as bilirubin, or a mix of the two. It can also be triggered by biliary sludge when bile collects in the biliary ducts.

Other causes include trauma, critical illness, immunodeficiency, or certain medications. Some chronic medical conditions, like kidney failure, coronary heart disease, or certain types of cancer also increase the risk of cholecystitis.

In the United States, there were 215,995 hospital admissions for cholecystitis in 2012, and the average hospital stay was 3.9 days.

Acute cholecystitis starts suddenly. Chronic cholecystitis develops slowly over time.

Treatment



Share on Pinterest A healthy diet can help prevent gallstones, a common cause of cholecystitis.

A patient with cholecystitis will be hospitalized, and they will probably not be allowed to consume any solid or liquid foods for some time. They will be given liquids intravenously while fasting. Pain medications and antibiotics may also be given.

Surgery is recommended for acute cholecystitis because there is a high rate of recurrence from inflammation related to gallstones. However, if there is a low risk of complications, surgery can be done as an outpatient procedure.

If there are complications, such as gangrene or perforation of the gallbladder, the patient will need immediate surgery to remove the gallbladder. If the patient has an infection, a tube may be inserted through the skin into the gallbladder to drain the infection.

Removal of the gallbladder, or cholecystectomy, can be performed by open abdominal excision or laparoscopically.

Laparoscopic cholecystectomy involves several small incisions in the skin. A camera is inserted into one incision to help the surgeon see inside the abdomen, and tools for removing the gallbladder and inserted through the other incisions.

The benefit of laparoscopy is that the incisions are small, so patients usually have less pain after the procedure and less scarring.

After surgically removing the gallbladder, the bile will flow directly into the small intestine from the liver. This does not normally affect the patient's overall health and digestive system. Some patients may have more frequent episodes of diarrhea.

Diet

Upon recovery from the condition, it is important to make dietary adjustments that help bring bile production back to normal.

Be sure to eat smaller meals more frequently and avoid large servings or portions. These can upset the system and produce a gallbladder or bile duct spasm.

Avoid high-fat and fried foods, including whole milk products, and stick to lean proteins.

Causes

The gallbladder is a small, pear-shaped organ connected to the liver, on the right side of the abdomen. It stores bile and releases it into the small intestine to help in the digestion of fat.

The gallbladder holds bile, a fluid that is released after we eat, especially after a meal that is high in fat, and this bile aids digestion. The bile travels out of the gallbladder through the cystic duct, a small tube that leads to the common bile duct, and from there into the small intestine.

The main cause of cholecystitis is gallstones or biliary sludge getting trapped at the gallbladder's opening. This is sometimes called a pseudolithiasis, or "fake stone."

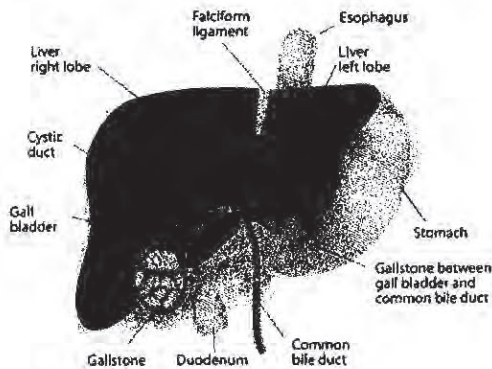
Other causes include:

- injury to the abdomen from burns, sepsis or trauma, or because of surgery
- shock
- immune deficiency
- prolonged fasting
- vasculitis

An infection in the bile can lead to inflammation of the gallbladder.

A tumor may stop the bile from draining out of the gallbladder properly, resulting in an accumulation of bile. This can lead to cholecystitis.

Symptoms



Share on Pinterest Gallstones in the gall bladder can lead to cholecystitis.

Signs and symptoms of cholecystitis include right upper quadrant pain, fever, and a high white blood cell count.

Pain generally occurs around the gallbladder, in the right upper quadrant of the abdomen.

In cases of acute cholecystitis, the pain starts suddenly, it does not go away, and it is intense. Left untreated, it will usually get worse, and breathing in deeply will make it feel more intense. The pain may radiate from the abdomen to the right shoulder or back.

Other symptoms may include:

- abdominal bloating
- tenderness on the upper-right hand side of the abdomen
- little or no appetite
- nausea
- vomiting
- sweating

A slight fever and chills may be present with acute cholecystitis.

After a meal, especially one that is high in fat, symptoms will worsen. A blood test may reveal a high white blood cell count.

Diagnosis

A doctor will normally ask if a patient has a history of cholecystitis because it often recurs. A physical examination will reveal how tender the gallbladder is.

The following tests may also be ordered:

- **Ultrasound:** This can highlight any gallstones and may show the condition of the gallbladder.
- **Blood test:** A high white blood cell count may indicate an infection. High levels of bilirubin, alkaline phosphatase, and serum aminotransferase may also help the doctor make a diagnosis.
- **Computerized tomography (CT) or ultrasound scans:** Images of the gallbladder may reveal signs of cholecystitis.
- **Hepatobiliary iminodiacetic acid (HIDA) scan:** Also known as a cholescintigraphy, hepatobiliary scintigraphy or hepatobiliary scan, this scan creates pictures of the liver, gallbladder, biliary tract and small intestine.

This allows the doctor to track the production and flow of bile from the liver to the small intestine and determine whether there is a blockage, and where any blockage is.

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Risk factors

The following factors may increase the risk of developing gallstones:

- a family history of gallstones on the mother's side of the family
- Crohn's disease
- diabetes
- coronary artery disease

- end-stage kidney disease
- hyperlipidemia
- losing weight rapidly
- obesity
- older age
- pregnancy

Long labor during childbirth can damage the gallbladder, raising the risk of cholecystitis during the following weeks.

Complications

Untreated acute cholecystitis can lead to:

- A fistula, a kind of tube or channel, can develop if a large stone erodes the wall of the gallbladder. This can link the gallbladder and the duodenum, and the stone may pass through.
- Gallbladder distention: If the gallbladder is inflamed because of bile accumulation, it may stretch and swell, causing pain. There is then a much greater risk of a perforation, or tear, in the gallbladder, as well as infection and tissue death.
- Tissue death: Gallbladder tissue can die, and gangrene develops, leading to perforation, or the bursting of the bladder. Without treatment, 10 percent of patients with acute cholecystitis will experience localized perforation, and 1 percent will develop free perforation and peritonitis.

If a gallstone becomes impacted in the cystic duct, it can compress and block the common bile duct, and this can lead to cholestasis. This is rare.

Gallstones can sometimes pass from the gallbladder into the biliary tract, leading to an obstruction of the pancreatic duct. This may cause pancreatitis.

In 3 percent to 19 percent of cases, acute cholecystitis can lead to a pericholecystic abscess. Symptoms include nausea, vomiting, and abdominal pain.

Prevention

Some measures can reduce the risk of developing gallstones, and this can decrease the chance of developing cholecystitis:

- avoiding saturated fats
- keeping to a regular breakfast, lunch and dinner times and not skipping meals
- exercising 5 days per week for at least 30 minutes each time
- losing weight, because obesity increases the risk of gallstones
- avoiding rapid weight loss as this increases the risk of developing gallstones

A healthy weight loss is generally around 1 to 2 pounds, or 0.5 to 1 kilograms, of body weight per week.

The nearer a person is to their ideal body weight, the lower the risk will be of developing gallstones. Gallstones are more prevalent in people with obesity, compared with those who have an appropriate body weight for their age, height, and body frame.

Last medically reviewed on January 22, 2018

- Gastrointestinal / Gastroenterology
- Liver Disease / Hepatitis

<https://www.medicalnewstoday.com/>

By Chirstian Norvqist

about acute pancreatitis

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Acute pancreatitis is an inflammation of the pancreas. It is painful, develops quickly, and it can, in some cases, be fatal.

Some mild cases resolve without treatment, but severe, acute pancreatitis can trigger potentially fatal complications. The mortality rate ranges from less than 5 percent to over 30 percent, depending on how severe the condition is and if it has reached other organs beyond the pancreas.

Acute pancreatitis is estimated to affect between 4.5 and 35 in every 100,000 individuals per year. However, this figure may not include the many mild cases that

resolve without medical evaluation or treatment. Every year, there are 275,000 hospitalizations for acute pancreatitis in the United States.

The pancreas is a long, flat gland located behind the stomach in the upper abdomen. It produces digestive enzymes and hormones, which regulate how the body processes glucose, for instance, insulin.

The most common cause of pancreatitis is gallstones, but a rise in alcohol misuse is linked to an increase in incidence. Alcohol now accounts for around 30 percent of cases.

Acute pancreatitis starts suddenly, but chronic pancreatitis is recurring or persistent. This article will focus on acute pancreatitis.

Fast facts on acute pancreatitis

- Pancreatitis is split into acute and chronic types.
- The pancreas carries out many tasks, including the production of digestive enzymes.
- Symptoms include pain in the center of the upper abdomen, vomiting, and diarrhea.
- The most common causes of acute pancreatitis are gallstones and alcohol abuse.

Symptoms



Share on Pinterest Sharp and sudden abdominal pain can be a sign of pancreatitis.

Typically, the patient will experience a sudden onset of pain in the center of the upper abdomen, below the breastbone (sternum).

Rarely, the pain is first felt in the lower abdomen. It will gradually become more intense until it is a constant ache.

The ache may intensify further and become severe. It also spreads into the back in around half of cases. Eating may exacerbate the pain.

Pancreatitis that is caused by gallstones will develop very fast. When it is caused by alcohol, symptoms develop more slowly, over a number of days.

Leaning forward or assuming a fetal position (curling up) may help lessen the pain slightly. Anybody who experiences constant pain should seek medical attention.

The following symptoms may also be present:

- vomiting
- nausea
- diarrhea
- loss of appetite
- rapid pulse
- pain with coughing, vigorous movements, and deep breathing
- tenderness when the abdomen is touched
- fever and a temperature of at least 100.4 °F (38 °C)
- jaundice, when the skin and whites of the eyes take on a yellowish tinge
- pain cannot be relieved even with strong painkillers
- blood pressure may fall or rise, but it will fall when the patient stands, sometimes causing faintness

Treatment

Treatment for acute pancreatitis will depend on whether it is mild or serious. In mild cases, the risk of complications is small. In serious cases, the risk is significant.

Treatment for mild acute pancreatitis

Treatment aims to maintain bodily function and ease symptoms while the pancreas is repairing itself.

This will include:

- **Painkillers:** Mild acute pancreatitis can be moderately or severely painful.
- **Nasogastric tubes:** A tube may remove excess liquids and air as a treatment for nausea and vomiting.
- **Bowel rest:** The gastrointestinal tract will need to rest for a few days, so the person will not take any food or drink by mouth until their condition improves.
- **Preventing dehydration:** Dehydration often accompanies pancreatitis, and it can worsen the symptoms and complications. Fluid is often provided intravenously for the first 24-48 hours.

The person can usually go home after about 5 to 7 days.

Treatment for severe acute pancreatitis

In severe acute pancreatitis, there is usually some tissue death, or necrosis. This increases the risk of sepsis, a severe bacterial infection that can affect the whole body. Sepsis can lead to multi-organ damage or failure.

Severe acute pancreatitis can also cause hypovolemic shock. Severe blood and fluid loss can leave the heart unable to pump enough blood to the body. Parts of the body can become rapidly oxygen-deprived. This is a life-threatening situation.

Treatment for this kind of pancreatitis includes:

- **Treatment in the intensive care unit (ICU):** Injections with antibiotics aim to stop any infection from developing in the dead tissue.
- **Intravenous fluids:** These help maintain hydration and prevent hypovolemic shock.
- **Breathing assistance:** Ventilation equipment will help the patient breathe.
- **Feeding tubes:** These provide nutrition as appropriate. In this case, early feeding improves outcomes.
- **Surgery:** In some cases, the dead tissue may need to be surgically removed.

The patient will stay in ICU until they are no longer at risk of organ failure, hypovolemic shock, and sepsis.

Treating gallstones

If gallstones caused the acute pancreatitis, the patient might undergo surgery or an endoscopic retrograde cholangiopancreatography (ERCP) after their condition improves.

After the gallstones are removed, the patient may be advised to follow a special diet to lower blood cholesterol, because excess cholesterol encourages the growth of gallstones.

The American Gastroenterological Association recommends surgery to remove the gallbladder of any patient who develops pancreatitis from gallstones.

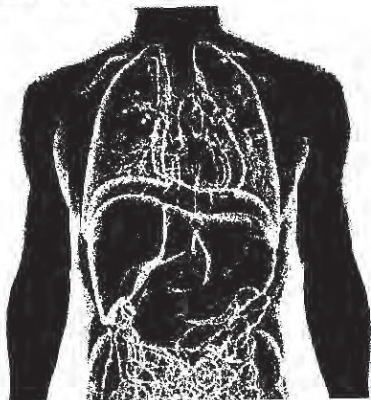
Treating alcohol misuse

If doctors determine that alcohol misuse was the underlying cause of the acute pancreatitis, the patient may be offered a treatment program for alcohol misuse.

Causes

Gallstones, infections, and alcohol misuse are common causes of acute pancreatitis.

Alcohol misuse



[Share on Pinterest](#) Acute pancreatitis is relatively rare but can be serious.

People who consume alcohol for many years may develop pancreatitis. A higher consumption appears to be linked to a higher chance of chronic pancreatitis.

Trypsin is a digestive enzyme produced in the pancreas in an inactive form.

Alcohol misuse can cause trypsin to become active when it is still inside the pancreas, but scientists are not sure why.

Researchers believe that ethanol molecules affect the pancreas cells, triggering them to activate trypsin prematurely.

Gallstones

Gallstones are small, pebble-like formations that develop in the gallbladder, often if there is too much cholesterol in the bile.

Sometimes, the gallstones can get stuck as they make their way out of the bile ducts and into the intestines.

This blockage will also affect the pancreas and prevent it from releasing its enzymes in the intestines.

If the acute pancreatitis is linked to gallstones, removal of the gallbladder is usually recommended before the patient leaves the hospital.

Infections

Bacterial infections that can lead to acute pancreatitis include Salmonellosis, a type of food poisoning caused by the bacterium *Salmonella*, or Legionnaires' disease, an infection caused by the bacterium *Legionella pneumophila* found in plumbing, shower heads, and water-storage tanks.

Acute pancreatitis can also be caused by certain viruses, such as hepatitis B, mumps, coxsackievirus, cytomegalovirus, and varicella-zoster virus.

Other possible causes are:

- some autoimmune conditions, such as lupus, or Sjogren's syndrome
- genetic mutations that make some people more susceptible
- injury to the pancreas
- high triglyceride levels in the blood
- high calcium levels in the blood

Over 10 percent of all cases of acute pancreatitis are termed idiopathic, meaning there is no obvious cause.

Diet

For most people with acute pancreatitis, there are no dietary restrictions, but the person may be unable to eat for a few days, or they may have to avoid solid foods.

In the hospital, some people may need a feeding tube.

When the person starts eating again, they will probably be advised to follow a healthful, low-fat diet, and to eat small and regular meals.

It is important to drink plenty of fluids but to limit caffeine and avoid alcohol.

The American Dietary Guidelines offer advice on a healthful, low-fat, diet.

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Complications

Pancreatitis can lead to potentially fatal complications.

These include:

- obstruction of a bile or pancreatic duct
- leakage from the pancreatic duct
- pseudocysts, with a risk of rupture, hemorrhage, or infection
- damage to the pancreas
- pleural effusion
- splenic vein thrombosis

Heart, lung, and kidney failure may occur. In severe cases, organ failure can happen around 48 hours after symptoms appear. Without treatment, these can lead to death. It is important to seek treatment as soon as possible if someone shows signs of acute pancreatitis.

Diagnosis

The doctor will ask the patient about symptoms and examine their abdomen. If certain areas of the abdomen are sensitive when touched, this could indicate acute pancreatitis.

In acute pancreatitis, the abdominal wall muscles will be rigid. When listening to the abdomen with a stethoscope, there may be very few or no intestinal sounds.

Blood tests



[Share on Pinterest](#) Levels of amylase and lipase may be high in the early stages of pancreatitis.

If blood levels of amylase and lipase are higher than normal, the patient will most likely be sent to the hospital. The pancreas produces elevated levels of both chemicals during acute pancreatitis.

However, blood tests may not be accurate if they are not obtained on the first or second day of illness. This is because lipase and amylase levels are highest within the first few hours and return to normal after a few days.

Amylase returns to normal within 3-7 days, and lipase returns to normal in 8-14 days.

Further testing in hospital

To determine the risk of complications, a doctor will want to ascertain how inflamed the pancreas is; the following tests may be performed:

- **ERCP** (endoscopic retrograde cholangiopancreatography) scan: An endoscope (a thin, flexible tube with a camera at the end) is inserted into the digestive system. An ERCP can help determine the exact location of a gallstone.
- An ultrasound scan: High-frequency sound waves create an image on a monitor of the pancreas, gallbladder, and their surroundings.
- **CECT** (contrast-enhanced computed tomography) scan: These are used to take pictures of the same area from many angles; these are then combined to produce a 3-D image. CECT scans can help identify inflammation of the pancreas, fluid collection, and any changes in the density of the gland.
- **Chest X-ray**: The doctor may order a chest X-ray to check for areas of collapsed lung tissue, or accumulation of fluid in the chest cavity.

Outlook

Acute pancreatitis usually resolves in a few days with treatment, although some people may need to stay in the hospital for some time, depending on the cause and how severe the symptoms are.

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what causes bile duct obstruction?

- What is a bile duct obstruction?
- Causes
- Risk factors
- Symptoms
- Diagnosis
- Treatment
- Complications
- Prevention

A bile duct obstruction, also known as biliary obstruction, is when one of the ducts that carry bile from the liver to the intestine via the gallbladder becomes blocked. If left untreated, this blockage can lead to serious complications, including severe infection.

This article explores some of the leading causes of bile duct obstruction, its symptoms, diagnosis, and treatment.

What is a bile duct obstruction?



[Share on Pinterest](#) If untreated, a blockage of the bile ducts can cause severe infection.

The liver produces a liquid called bile. Bile contains cholesterol and bile salts that help the gut to digest fats. It also contains a waste product called bilirubin.

Bile passes through the bile ducts from the liver to the gallbladder, which stores it. It travels to the small intestine when it is needed to help digest food. This network of ducts is part of the biliary system.

When one or more of the ducts that transport bile become blocked, it is known as a bile duct obstruction. It is also commonly referred to as biliary obstruction.

A bile duct obstruction can lead to bile accumulating in the liver and a buildup of bilirubin in the blood.

Causes

Some of the most common causes of bile duct obstruction include:

Gallstones

Gallstones are a common cause of bile duct obstruction. They can form when there is a chemical imbalance in the gallbladder. If they are large enough, they may block a bile duct as they pass through the biliary system.

Bile duct or pancreatic cancer

Bile duct cancer refers to all cancers that develop within the biliary system. The resulting tumors may block a bile duct.

Pancreatic cancers can cause a bile duct obstruction if the tumor enters the intestine.

Cancers that have started elsewhere in the body may also spread to the biliary system where they can cause an obstruction.

Injury

A blockage can sometimes result from an injury that occurs during a medical procedure, such as gallbladder surgery or endoscopy.

Choledochal cysts

Choledochal cysts can sometimes cause bile duct obstructions. These cysts, which are sections of an enlarged bile duct, are congenital, meaning some people are born with them. They are also rare.

Risk factors

A history of any of the following can increase the risk of bile duct obstruction:

- gallstones
- pancreatic cancer
- chronic pancreatitis
- recent biliary surgery
- recent biliary cancer

- abdominal trauma or injury
- taking immunosuppressant medications, as some can result in infections that block the bile duct

Symptoms



Share on Pinterest Nausea and vomiting can be symptoms of bile duct obstruction.

Symptoms of a blocked bile duct may come on suddenly, or a person may start to notice them slowly over many years.

Some of the symptoms are related to the obstruction, causing liver products to back up and leak into the bloodstream. Others are caused by the bile duct not being able to deliver the digestive juices that the gut needs. This can stop the body from absorbing some fats and vitamins properly.

When bilirubin is unable to enter the bile, it builds up in the body and can cause jaundice. This is when a person's skin and the whites of their eyes turn yellow. The lack of bilirubin in the bile can also cause dark urine and pale stools

People with bile duct obstruction also often experience:

- itching
- abdominal pain, usually in the upper right side
- fever or night sweats
- nausea and vomiting
- tiredness or lack of energy
- unintentional weight loss
- loss of appetite

Diagnosis

The first step in diagnosis is a physical examination, during which a doctor will try to feel the person's gallbladder. Liver damage can cause similar symptoms to biliary obstruction, so the doctor may also ask about alcohol or drug use as well as sexual practices.

A doctor may also carry out blood tests. The following results would suggest a biliary obstruction:

- higher than usual levels of bilirubin
- higher than usual levels of alkaline phosphatase
- higher than usual levels of liver enzymes

If blood tests suggest a biliary obstruction, the doctor may recommend one of the following imaging methods to confirm the diagnosis:

- abdominal ultrasound
- abdominal computed tomography (CT) scan
- magnetic resonance cholangiopancreatography (MRCP)
- percutaneous transhepatic cholangiogram (PTCA)
- endoscopic retrograde cholangiopancreatography (ERCP)

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Treatment

Treatment aims to relieve the blockage and depends on the underlying cause.

Doctors can usually remove gallstones using an endoscope during an ERCP. However, some people may still require surgery.

Someone with severe or frequent symptoms may need to have their gallbladder removed. This will stop the problem of gallstones reoccurring. People can lead healthy lives without a gallbladder.

If the cause is found to be cancer, the ducts may need to be stretched and drained. Doctors will do this either using an endoscope or by placing a needle through the skin. They will then treat the cancer with a mix of chemotherapy and radiotherapy, depending on its type, size, and location.

If someone has choledochal cysts, a doctor will usually recommend a surgical procedure to correct the enlarged areas of bile ducts.

Complications

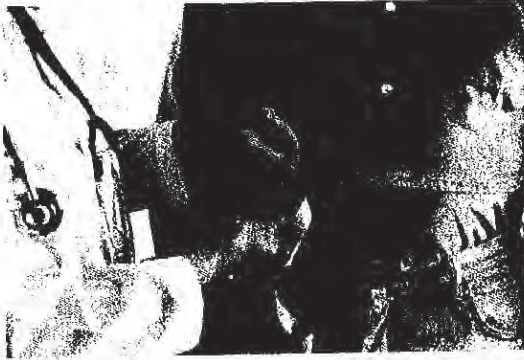
If left untreated, bile duct obstructions can lead to life-threatening infections. In the long-term, they can also result in chronic liver diseases, such as biliary cirrhosis.

If the “drainpipe” at the bottom of the liver, or the common bile duct, remains blocked, a buildup of bilirubin in the bloodstream can lead to jaundice.

This blockage can also lead to bacteria backing up into the liver, which can cause a severe infection known as ascending cholangitis.

If the blockage occurs between the gallbladder and the common bile duct, a person is at risk of cholecystitis. This is an inflammation of the gallbladder that can lead to a severe infection or the rupturing of the gallbladder. Both of these complications of cholecystitis require emergency surgery to remove the gallbladder.

Prevention



[Share on Pinterest](#) Research has suggested a link between obesity and gallstones.

Researchers have found links between gallstones and obesity. Some experts believe that consuming less cholesterol, saturated fats, trans fats, and refined sugar reduces the risk of gallstones developing.

While other causes of bile duct obstructions are not usually preventable, being aware of the risk factors and symptoms means that people can seek medical assistance as soon as they realize there may be a problem.

Anyone with one or more of the risk factors for bile duct obstruction should see a doctor if they experience:

- lighter-colored stools
- darker-colored urine
- yellowing of the skin

Last medically reviewed on June 11, 2018

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Metallic stents are more efficacious than plastic stents in unresectable malignant hilar biliary strictures: a randomized controlled trial

[Tsuyoshi Mukai](#), [Ichiro Yasuda](#), [Masanori Nakashima](#), [Shinpei Doi](#), [Takuji Iwashita](#), [Keisuke Iwata](#), [Tomohiro Kato](#), [Eiichi Tomita](#), [Hisataka Moriwaki](#)

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- PMID: 22415652
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- DOI: [10.1007/s00534-012-0508-8](https://doi.org/10.1007/s00534-012-0508-8)

Abstract

Background: Endoscopic biliary stenting is a well-established palliative treatment for unresectable malignant biliary strictures, for which plastic tube stents (PSs) and self-expandable metallic stents (SEMSs) are most commonly used. The efficacy of these stents has been extensively described in distal biliary strictures, but not in hilar biliary strictures. The present study aimed to compare the efficacy of PSs and SEMSs for unresectable malignant hilar biliary strictures.

Methods: From June 2004 to November 2008, 60 patients were enrolled and prospectively randomized into the PS or SEMS group.

Results: The 6-month patency rate was significantly higher in the SEMS group than in the PS group (81 vs. 20%; $p = 0.0012$). Kaplan-Meier analysis showed significantly longer patency in the SEMS group than in the PS group ($p = 0.0002$); the 50% patency period was 359 days in the SEMS group and 112 days in the PS group. There was no significant difference in the overall survival period between the PS and SEMS groups ($p = 0.2834$). The mean number of reinterventions for stent failures was significantly lower in the SEMS group (0.63 times/patient) than in the PS group (1.80 times/patient) ($p = 0.0008$). The overall total cost for the treatment was significantly lower in the SEMS group than in the PS group ($p = 0.0222$).

Conclusions: SEMSs were associated with a longer patency than PSs in patients with unresectable hilar biliary stricture. SEMSs were also more advantageous in reducing the number of reintervention sessions and the overall treatment cost.

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2016 Mar 22-29;315(12):1250-7.

doi: 10.1001/jama.2016.2619.

Effect of Covered Metallic Stents Compared With Plastic Stents on Benign Biliary Stricture Resolution: A Randomized Clinical Trial

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- DOI: [10.1001/jama.2016.2619](https://doi.org/10.1001/jama.2016.2619)

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Abstract

Importance: Endoscopic placement of multiple plastic stents in parallel is the first-line treatment for most benign biliary strictures; it is possible that fully covered, self-expandable metallic stents (cSEMS) may require fewer endoscopic retrograde cholangiopancreatography procedures (ERCPs) to achieve resolution.

Objective: To assess whether use of cSEMS is noninferior to plastic stents with respect to stricture resolution.

Design, setting, and participants: Multicenter (8 endoscopic referral centers), open-label, parallel, randomized clinical trial involving patients with treatment-naive, benign biliary strictures (N = 112) due to orthotopic liver transplant (n = 73), chronic pancreatitis (n = 35), or postoperative injury (n = 4), who were enrolled between April 2011 and September 2014 (with follow-up ending October 2015). Patients with a bile duct diameter less than 6 mm and those with an intact gallbladder in whom the cystic duct would be overlapped by a cSEMS were excluded.

Interventions: Patients (N = 112) were randomized to receive multiple plastic stents or a single cSEMS, stratified by stricture etiology and with endoscopic reassessment for resolution every 3 months (plastic stents) or every 6 months (cSEMS). Patients were followed up for 12 months after stricture resolution to assess for recurrence.

Main outcomes and measures: Primary outcome was stricture resolution after no more than 12 months of endoscopic therapy. The sample size was estimated based on the noninferiority of cSEMS to plastic stents, with a noninferiority margin of -15%.

Results: There were 55 patients in the plastic stent group (mean [SD] age, 57 [11] years; 17 women [31%]) and 57 patients in the cSEMS group (mean [SD] age, 55 [10] years; 19 women [33%]). Compared with plastic stents (41/48, 85.4%), the cSEMS resolution rate was 50 of 54 patients (92.6%), with a rate difference of 7.2% (1-sided 95% CI, -3.0% to ∞; P < .001). Given the prespecified noninferiority margin of -15%, the null hypothesis that cSEMS is less effective than plastic stents was rejected. The mean number of ERCPs to achieve resolution was lower for cSEMS (2.14) vs plastic (3.24; mean difference, 1.10; 95% CI, 0.74 to 1.46; P < .001).

Conclusions and relevance: Among patients with benign biliary strictures and a bile duct diameter 6 mm or more in whom the covered metallic stent would not overlap the cystic duct, cSEMS were not inferior to multiple plastic stents after 12 months in achieving stricture resolution. Metallic stents should be considered an appropriate option in patients such as these.

Trial registration: clinicaltrials.gov Identifier: [NCT01221311](https://clinicaltrials.gov/ct2/show/study/NCT01221311).

Comparative Study

Radiologe

-
-
-

. 1992 Jan;32(1):8-12.

[The treatment of bile duct stenoses using metal mesh endoprotheses (stents)]

[Article in German]

W Jaschke 1, H P Busch, M Georgi

Affiliations expand

- PMID: 1546162

Abstract

Transhepatic biliary drainage is an established therapy for the palliative treatment of biliary stenosis. Long-term biliary drainage may be accomplished by the introduction of an endoprosthesis. Plastic endoprotheses are, however, prone to

clogging and dislocation. A new type of endoprosthesis consisting of an expandable metallic mesh has, therefore, been developed. Results in 51 patients using two different types of metallic stents demonstrated that the technical success rate is higher with self-expanding stents than with balloon-expandable stents. Symptoms of obstructive jaundice were effectively palliated in the vast majority of patients (80%). Reobstruction during the first 4 weeks occurred in only 1 patient. Malfunction was related to the inappropriate length of the stent. At follow-up, 25% of patients with malignant biliary strictures developed recurrent jaundice, which was controlled by a single additional placement of a stent or a plastic endoprosthesis. In conclusion, although recurrent biliary stenosis is still a problem, the frequency of reinterventions can be considerably reduced by the use of metallic instead of plastic endoprostheses (20% vs. 45%).

Similar articles

- Covered metal versus plastic stents for malignant common bile duct stenosis: a prospective, randomized, controlled trial.
- Soderlund C, Linder S. *Gastrointest Endosc.* 2006 Jun;63(7):986-95. doi: 10.1016/j.gie.2005.11.052. PMID: 16733114 Clinical Trial.

CERTIFICATE OF SERVICE

I Marsha Frazier certify on 26th August date of ~~2020~~ 2020 That I to the best of my knowledge, and belief as Pro Se Appellant after research, of information, I delivered or certified or hand delivered, or via U S mailed documents to all parties involved.

Marsha G. Frazier



60CV-20-4734

ADDENDUM TO COMPLAINT

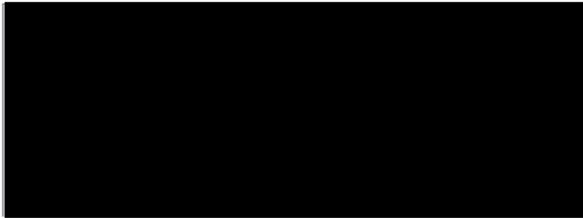
SELECTED MEDICAL RECORDS

AUTOPSY REPORT

CERTIFICATE OF SERVICE

I _____ certify on ___ date of July 2020 That I to the best of my knowledge, and belief as Pro Se Appellant after research, of information, I delivered or certified or hand delivered, or via U S mailed documents to all parties involved.

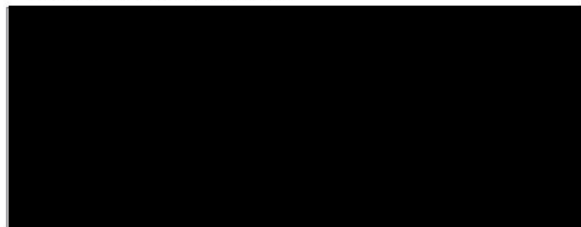
Marsha G. Frazier



CERTIFICATE OF SERVICE

I _____ certify on ___ date of July 2020 That I to the best of my knowledge, and belief as Pro Se Appellant after research, of information, I delivered or certified or hand delivered, or via U S mailed documents to all parties involved.

Marsha G. Frazier



ELECTRONICALLY
FILED

IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS ^{SEP 24 2020}

TIME: _____

CASE #: _____

**MARSHA G. FRAZIER -ADMINISTRATOR OF ESTATE OF
MARSHALL FRAZIER JR. /PLAINTIFF**

Arkansas
State Claims Commission

V.

No: 60CV-20-4734

SEP 28 2020

Et. Al.

RECEIVED

**DR. BENJAMIN THARIAN- DEFENDANT- OFFICIAL CAPACITY
MICHELLE JUPIN APRN- DEFENDANT-OFFICIAL CAPACITY
WILLIAM C. BECK MD- DEFENDANT-OFFICIAL CAPACITY
RACHEAL FREEZE-RAMSEY MD-DEFENDANT-OFFICIAL CAPACITY
TERESTA ANGTUACO MD- DEFENDANT-OFFICIAL CAPACITY
VANESSA HORTON RN-DEFENDANT-OFFICIAL CAPACITY
UAMS-DEFENDANT-OFFICIAL CAPACITY**

**RESPONDING TO THE ATTY. FOR EACH DEFENDANT IN ABOVE
CAPTION TO PLAINTIFFS COMPLAINT**

COMES NOW, Marsha G. Frazier Administrator of Estate of Marshall Frazier Jr.

The decedent. First to defendants # 6. Pursuant to Civil rule 19 Joinder of persons

A person who is subject to service of process shall be joined as a party in

the action. Ark. Civil Rule 18 (a)Joinder of Claims. may join, either as

independent or alternate claims, as many claims, legal or equitable, as the

party may have against an opposing party. As an Operational rule of law

Plaintiff is allowed in this circumstance being so many at fault on all

issues, I am allowed to bring this law suit under these civil rules. Amend complaints operate and governs Pursuant to Civil Rule 15 Relation back.

- a. Plaintiff left off 2 other defendants for jurisdictional I'm amending this to
- b. William Beck a resident of [REDACTED]
- c. Stephen Mette CEO of UAMS [REDACTED]
[REDACTED]
- d. University of Arkansas of Medical Science a State Entity school of medical learning in the County of Pulaski the city of Little Rock state of Arkansas.

Defendants Brief in support of defendants Motion to Dismiss Pg. 1

- A. Plaintiff Complaint is subject to Statue of Limitations Pursuant to ACA 16-114-203. By terms requires a Medical injury claim to be filed within two (2) years. The Claims Commission's primary function is the hearing and adjudication of claims against the state of Arkansas, its agencies and institutions. Which UAMS and their employees is under.
1. Plaintiff Filed this complaint April 2019 with Ark. Claims Commission. The Claims Commission is governed by Ark. Code Ann. 19-10-201–223, 21-5-701–708, 6-82-501–507.

2. This claim is still in operations until. This claim was filed as Malpractice-Wrongful Death Survival Action.

Pg. 2 Plaintiff has engaged in unauthorize practice of law bring this suit in her Pro Se Capacity on behalf of an estate

1. A Individual has a right to represent him or herself in a civil matter Steward V. Hall 198, Ark. 493, 129 S.W. 2d 238(1939)
2. An action for wrongful Death shall survive the death of such persons and such actions shall be brought by the personal representative of the deceased.
ACA 16-62-101-102
3. Real Party in Interest Civil R. P. 17 every action shall be brought in the name of the real party in interest the following parties may sue in their own name without joining the party of whose benefit the action is being brought:
An Executor, Administrator. Plaintiff comes as the administrator Filed September 26, 2019 case number 35PR-19-227.

A Physicians and Surgeons Knowledge of the allege wrong is a necessary prerequisite to the Tolling the Statue of Limitation under Fraudulent Concealment of the Medical Injury

- A. One (1) of several I can name in Mr. Frazier's claim citing Jones v. Cental Ark. Radiation Institute 607, S.W. 2d 334, Ark. (1980). From Patients medical records Mr. Frazier had [REDACTED]

B.

[REDACTED]

I stated it was not I been with him over 44 yrs.

C. During discovery with Ark. Claims Commissions I ask for documentation to show where Mr. Frazier's [REDACTED] the Respondents Counsel did not provide this, nor did they provide documentation as to any emergency surgery he had regards to an [REDACTED] If it was removed through surgery it was not documented.

D. The [REDACTED] was improperly performed from the first day of his admission 08/21/2017 the tests run before the procedure [REDACTED]

[REDACTED]

[REDACTED]

The dr. Misdiagnosing the true issue of the [REDACTED]

[REDACTED] causing my husband to suffer every day he did not get treated then prematurely discharged him as fair, the pain was too unbearable he come back worse than when he first come there. Still un treated with anything but [REDACTED]

[REDACTED] until he died. This act of not acting when this dr. Knew with his resident team, knew before the dr. Performed the [REDACTED]

[REDACTED] but performed this procedure in depth causing more damaged more pain, [REDACTED] which contributed to his death. A reckless disregard of My husband safety,

A Physicians knowledge of allege wrong is a necessary prerequisite to Tolling the Statue.

a. Again, the patient was not treated [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] You die. A gross Professional failed and breach was reckless disregard of the safety of Mr. Frazier while each day he waited for relief from pain no one transferred him if they didn't know how to diagnose his continued deteriorating condition and failed the patient.

If facts alleged are sufficient to raise a right to relief above the speculative as such as this claim presented then the Plaintiff claim is Plausible on its face. Bell Atlantic Corp. 127, S. Ct. At 1965, 1974. Victaulic Co. V. Tieman 499 F. 3d 227, 234-235.

Defendants # 11 Denying all Plaintiff's allegations of Failure of Physicians.

a. Plaintiff want to state that a document "speaks for itself" is not a proper objection. Miller v. Holzmann, 240 F.R.D. 1, 66 Fed. R. Serv. 3d 977 (D.C. Cir. 2006), where the term It speaks for itself the court held that the objection was improper.

b. Defendants # 38-39 Entitlement to Tort Immunity of each Named defendants

1. ACA 16-43-605 (emphasis added) No such immunity shall be granted by a prosecuting attorney until after the individual has declined to answer questions or has requested immunity before answering questions.
2. Here to this law Is why UAMS has to waive their immunity by this term of this Statue law above where the granting immunity will be in valid by some of the defendants in this complaint has already answered my complaint and declining at this point will not validate immunity they are not entitled, and has to be waived. Plaintiff Object to each and all of each and every Defendant in this action their averments 1-40 and I reserve and preserve my rights to farther plead any actions. By defendants stating they are without

knowledge only prove the Fraudulent Concealment of Mr. Frazier's Medical injury that resulted in death

3. **By terms of Newton v. Etoch, 965 S.W.2d 96 (Ark. 1998) Immunity can be waived under this law ACA 21-9-203 (c)** the State of Arkansas shall have authority to pay damages based on an act or omission by an officer or employee of the State of Arkansas while acting without malice and in good faith within the course and scope of his or her employment and in the performance of his or her official duties, where the amount of damages is determined by negotiated settlement before or after an action has been commenced. Our law is clear that in order for Etoch to counter an assertion of sovereign immunity, he must allege sufficient facts in his complaint to support the claim of malicious conduct In Plaintiff complaints I have presented all facts. The facts on the Fraudulent concealment regarding the medical injury. it is the real party in interest, and sovereign immunity comes into play. *Beaulieu v. Gray, supra.*

Counts of negligent

1. Under the doctrine of Respondeat Superios (CEO Stephen Mette) and the Entity UAMS is/ become party to this lawsuit brought about by the negligent act of the Residents who worked my husband's case under the M.D. in charged in that course, and its nurses and employees.

2. Benjamin Tharin being a Professional in high standards failed and breached

his standard when after he read the results of the test that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] My own GI

dr. Ask me if they remove my husband's [REDACTED] after I ask for a

certificate of merit which he could not. And after the autopsy report [REDACTED]

[REDACTED] and my research I understand

why.

3. Vanessa Horton, Failure to follow a physician's order: This negligent act of understand and or interpret the physician's orders correctly.

a. Failure to report changes in patients' condition for him to so called request another dose of some medication only documented after he died.

b. Was it a mix up of that [REDACTED] as he was given all that day and this nurse had just [REDACTED]

[REDACTED]

c. Was not monitored before he died.

4. Michelle Jupin held to these same standards as Ms. Horton but a little higher being a APRN, when she too misdiagnosed the condition as doing fair where she pre-maturely discharged Patient, then returned worse than first admitted.

5. Racheal-Freeze Ramsey examined the patient as worse in pain but as she states he did not present with [REDACTED]

[REDACTED] This reckless

disregard of patient's safety,

6. Dr, William Beck examined the patient as well misdiagnosed the morbidity of his condition another reckless disregard my husband's safety, as he states whatever [REDACTED]

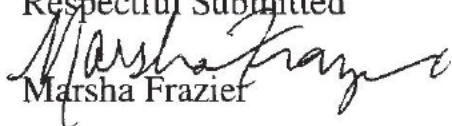
[REDACTED]

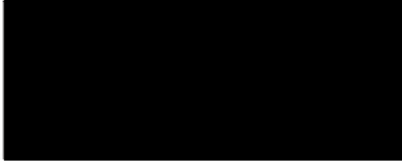
Each defendant relationship with Patient fail their duty of care and breached when each one examined and performed procedures s and any other they had hands on with Mr. Frazier [REDACTED]

[REDACTED] all failed to diagnoses him to a better condition than death.

THEREFORE, Plaintiff prays to deny Defendants their motion to dismiss and grant Plaintiff's mal practice-wrongful death action.

Respectful Submitted


Marsha Frazier



CERTIFICATE OF SERVICE

I Marsha Frazier certify on 28th date of September ~~10~~ 2020 That I corrected a typo error modified, corrections on my belated notice of appeals and pursuant to Ark. App. R. Civil 11 (a) that to the best of my knowledge, and information and belief as Pro Se Appellant after research, this document is factual and warranted by law and good faith not delaying, delivered or certified or via U S mailed documents to all parties involved.


Marsha Frazier



SEP 28 2020

IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS

RECEIVED

MARSHA G. FRAZIER -ADMINISTRATOR OF ESTATE OF

MARSHALL FRAZIER JR. /PLAINTIFF *60 CV - 20 - 4734*

V. Et. Al.

ELECTRONICALLY
FILED

DR. BENJAMIN THARIAN- DEFENDANT- OFFICIAL CAPACITY
UAMS IN OFFICIAL CAPACITY

SEP 18 2020

TIME: _____

CASE #: _____

AFFIDAVIT IN SUPPORT OF ADMISSION AS MERIT APPLY CIV. R. P. 36

I Marsha Frazier, being first duly sworn upon oath, deposes and states as follows:

1. The following Factual documents from medical records in as attachment with complaint and Autopsy report are true and correct to the best of my knowledge set in number paragraph
2. I am the Plaintiff in the above caption action herein.
3. I am a resident of [REDACTED]
4. I make this Affidavit in support of Motion to Civ. R P. 36 admission the medical records as the certified merits to this case
5. [REDACTED]

Marsha G. Frazier
MARSHA G. FRAZIER

STATE OF ARKANSAS COUNTY OF JEFFERSON

On this 18th date of September before me,
Brittany Sargent Personally appeared Marsha Frazier

Known to me or satisfactorily proven to be whose names to be subscribed to the within Affidavit, and being first duly sworn on oath according to law, depose and says that he/she Has read the foregoing Affidavit subscribed by him/her and that the matters stated herein Are true to the best of his/her knowledge and belief.

In witness where of I here unto set my hand and official seal

Notary Address

BRITTANY SARGENT
NOTARY PUBLIC-STATE OF ARKANSAS
LINCOLN COUNTY
My Commission Expires 08-16-2021
Commission # 12383587

Brittany Sargent

IRA officer
Title

MOTIONING TO EXTEND TIME

**MOTION FOR ADMISSION MEDICAL RECORDS AND AUTOPSY
REPORT AS MERIT PURSUANT TO CIVIL RULE 36**

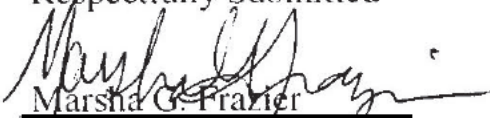
Plaintiff is Motion the Court for admission pursuant to Ark. Civil Rule 36 which states **(a) Request for Admission.** A party may serve upon any other part written request for the admission, for purposes of the pending action, of the truth of any matters within the scope of Rule 26(b) set forth in the request that relate to statements or opinions of fact or the application of law to fact, including the genuineness of any documents described in the request. factual document of Mr. Frazier's Medical Records and the Autopsy report? Plaintiff admit to the best of her knowledge these documents are legal and Factual and if they are to be denied ? They should be denied by defendant regards the medical records. research documents as the merit needed?.

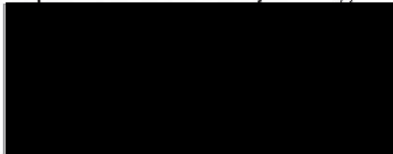
A certificate of merit and factual medical documents are the same, applying Civ. R. P. 36. If the court will not allow the documents included by research of experts on respectable medical websites However, Plaintiff requesting time of 90 days to file an affidavit of merit pursuant to Civil Rule 10(D)(2)(d) of ~~Ark. Civ. R. P.~~ *Ark. Civ. R. P.* ~~10(D)(2)(d)~~ *10(D)(2)(d)* ~~being~~ *being* Pro Se has prevented Plaintiff from this document in the time allowed. Plaintiff has diligently pursued this document my capacity of Pro Se has put a onerous burden seeking this document In Summerville's point that 16-114-209(b) conflicts with Rule 3 regarding commencement of a cause of action, she relies on Weidrick v. Arnold, 310 Ark. 138, 835 S.W.2d 843 (1992). In Weidrick, this court held that the statutory requirement for a sixty-day notice to medical-malpractice defendants prior to the filing of an action was superseded by Rule 3 of the Arkansas Rules of

Civil Procedure. In so holding, we concluded that Rule 3 governs the commencement of all civil actions and requires only that a complaint be filed with the clerk of the appropriate court.

WHEREFORE, Pro Se Plaintiff request the court grant my motion for admission of medical documents and Autopsy Report as legal factual document as the certified merits of this case. to accept my research documents as the merit needed considering I been diligently pursuing this merit but my capacity has prevented me from this document or extend the time. And By terms of Immunity UAMS should waive theirs accordingly.

Respectfully Submitted


Marsha G. Frazier



Arkansas
State Claims Commission

SEP 28 2020

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CERTIFICATE OF SERVICE

I Marsha Frazier certify on 18th date of September 2020 That I corrected a typo error modified, corrections on my belated notice of appeals and pursuant to Ark. App. R. Civil 11 (a) that to the best of my knowledge, and information and belief as Pro Se Appellant after research, this document is factual and warranted by law and good faith not delaying, delivered or certified or via U S mailed documents to all parties involved.

Marsha Frazier



Contributor Information

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Article information

World J Gastrointest Endosc. 2018 Jan 16; 10(1): 45–50.

Published online 2018 Jan 16. doi: 10.4253/wjge.v10.i1.45

PMCID: PMC5769003

PMID: 29375741

Gen Tohda and Masaki Dochin

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Contributor Information.

Author contributions: Tohda G wrote the manuscript and analyzed the data; Dochin M reviewed the manuscript.

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Received 2017 Oct 15; Revised 2017 Nov 30; Accepted 2017 Dec 6.

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DISCUSSION

Endoscopic biliary lithotripsy has been established as a gold standard for the treatment of choledocholithiasis. However, complete stone clearance is not feasible in some cases. Multiple large stones, stone impaction, and difficult anatomy after abdominal surgery are significant predictors for failure of endoscopic lithotripsy. If endoscopic stone removal attempts have failed, surgical procedures such as sphincteroplasty and/or choledochoduodenostomy are required. However, elderly patients with multiple comorbidities tend to be poor candidates for invasive surgery. In these cases, to avoid the onset of biliary complication, especially acute cholangitis, biliary stenting could be an alternative option.

The principal aim of this study is how to manage biliary stents in patients with choledocholithiasis for whom previous endoscopic lithotripsy had failed and who were medically unfit for surgery. According to previous studies[4,6,9], plastic stents should be exchanged within 3-6 mo to prevent later complications, such as acute cholangitis. Di Giorgia et al[9] evaluated 78 patients with biliary stenting for choledocholithiasis. They compared two groups as follows: Scheduled stent exchange *vs* stent exchange on demand. They suggested that the best way to prevent acute cholangitis was to change the plastic stent every 3 mo. Although plastic stent exchange within 3-6 mo is commonly advocated, it is too difficult for elderly patients with numerous comorbidities to undergo an ERCP in such a short period. In the present study, we attempted to define the best intervals for stent exchange for choledocholithiasis and planned plastic stent exchange at every 6 mo (Group A) or every 12 mo (Group B). Stent exchange prior to schedule was required in 8.6% of patients in Group A and 11.4% of patients in Group B. Li et al[10] evaluated 50 patients with biliary stenting for choledocholithiasis and reported that stent patency rates were 94% at 6 mo, 79% at 12 mo, and 58% at 24 mo. Slattery et al[11] analyzed stent patency rates of 201 patients with choledocholithiasis, and their results were 93.5% at 6 mo and 81.9% at 24 mo. Our results are similar to those of these reports. High stent patency rates at 12 mo in our study suggest that short-term plastic stent exchange is not always necessary.

Patients were instructed regarding the possible complications of delayed stent replacement and the necessity of regular stent exchange, but some patients or their caregivers did not accept the recommendation. In this study, 17 patients refused regular stent exchange (Group C) because of their serious conditions. High incidence of acute cholangitis (35.3%) was seen in Group C. Sepsis due to acute cholangitis was seen in 23.5% (4 of 17) of patients in Group C, but all cases recovered with prompt stent exchange and antibiotics. There have been several

studies regarding long-term biliary stenting for choledocholithiasis[5,10-13]. Ang et al[5] evaluated 83 patients with choledocholithiasis treated with long-term biliary stenting and found biliary complication in 34% of patients and acute cholangitis in 24% of patients. Bergman et al[12] analyzed 58 patients with choledocholithiasis and permanent biliary stenting; acute cholangitis was seen in 36% of patients, and the mortality rate related to biliary complication was 16%. Pisello et al[13] reported on 30 patients with choledocholithiasis and long-term biliary stenting; late complications occurred in 34% of patients, and the mortality rate related to biliary complication was 6.6%. Slattery et al[11] reported on 201 patients with long-term biliary stenting for choledocholithiasis. According to their report, the frequencies of acute cholangitis (2.9%) and obstructive jaundice (8%) were significantly lower, and median stent patency (59.6 mo) was significantly longer than in other reports. They insisted that their superior stent patency was attributable to adequate sphincterotomy at the initial stent placement and attempts for partial duct clearance in all cases.

In the present study, rates of acute cholangitis in Group A (2.9%) and B (8.6%) were lower than we had estimated. When stents were exchanged at scheduled intervals, sludge occluded the stent lumen or adhered to the stent in 12 cases in Group A and 16 cases in Group B. However, most of these cases showed no signs of biliary obstruction. In these situations, bile duct patency is maintained by the bile drain mechanism around the stent. Moreover, even if the plastic stent becomes occluded, a clogged stent would have the potential to keep common bile duct stones from impacting. In the present study, we used plastic stents with a 7Fr diameter. We believe that stent diameter is not relevant to stent patency if adequate sphincterotomy was carried out. Regarding the migration of plastic stents, it was seen in only 5.7% (5 of 87) of patients. This might be because biliary stones stabilized the plastic stent inside the common bile duct and prevented stent migration.

According to previous studies[14-17], the size of biliary stones decreases after plastic stent placement, and long-term stenting offers the possibility of complete stone elimination. In contrast, it has also been reported that long-standing biliary stents consequentially increase the risk of formation of biliary stones. The sphincter of Oddi functions as a mechanical barrier preventing the regurgitation of duodenal contents into bile duct. Therefore, lost sphincter of Oddi function results in bacterial growth in the bile duct by ascending infection and results in formation of brown pigment stones[18-20]. Sohn et al[21] reported that most cases of acute cholangitis after long-term biliary stenting occurred due to the development of brown pigment biliary stones. They suggested that biliary stents themselves could

SEP 28 2020

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serve as the nidus for stone formation and development. In the present study, stone clearance was obtained in 5 patients (14.3%) from Group A and in 4 patients (11.4%) from Group B after repeated stent exchange. The mean period for stone clearance was 659 days in Group A and 718 d in Group B. However, significant stone growth also appeared in 2 patients (5.7%) in Group B and 3 patients (17.6%) in Group C (these data are not shown in the table). Our clinical data suggest that biliary stenting for choledocholithiasis could assist in subsequent biliary stone clearance, although it could also be related to stone formation and development, depending on the situation.

In this study, poor surgical candidates who underwent endoscopic biliary stenting showed low frequency of acute cholangitis and superior stent patency at 12 mo after stent implantation. In a progressively aging society, 1 year should be considered as an appropriate interval for plastic stent exchange in the treatment of choledocholithiasis. Although long-term biliary stenting increases the risk of biliary complication, it could also be an acceptable strategy for patients with limitations who are clinically unfit for invasive procedures. In this study, a small sample size may be one of the problems to support our definite conclusion. In addition, our study is retrospective evaluation, so it may be difficult to exclude any bias completely. Superior stent patency rate which are observed in this study may not hold true because of these limitations. Further studies with a large number of patients under prospective design will be required to confirm our results.

ARTICLE HIGHLIGHTS

Research background

In elderly patients with serious comorbidities, endoscopic biliary stenting is widely used as a safe approach for the management of choledocholithiasis. Although short intervals for plastic stent exchange have commonly been recommended to avoid acute cholangitis, it is difficult for elderly patients with numerous comorbidities to accept biliary stent exchange in such a short period. We evaluated the safe interval of endoscopic biliary stent exchange for choledocholithiasis.

Research motivation

There has been limited data on the outcome of long-term biliary stenting for choledocholithiasis. In order to reduce the unnecessary medical procedures for high-risk patients, the optimal time for biliary stent exchange has to be established.

Research objectives

The principal aim of this study is an evaluation of the adequate intervals for biliary stent exchange as a treatment for patients with choledocholithiasis. This research will contribute to the management of endoscopic biliary stenting for choledocholithiasis of high-risk patients.

Research methods

Patients with symptomatic choledocholithiasis were treated with biliary plastic stents because complete endoscopic stone retrieval was difficult. Stent exchange was carried out at every 6 mo or every 12 mo. In the patients who didn't accept the recommendation of regular stent exchange, biliary stents were replaced when clinical symptoms appeared. The authors evaluated the frequency of biliary complication and stent patency rate during follow-up periods.

Research results

Regarding the stent patency rate, there is no significant difference between the 6 mo stent exchange group and the 12 mo stent exchange group. Although a high incidence of acute cholangitis occurred in the on demand stent exchange group, there was no biliary-related mortality.

Research conclusion

Although exchanges of plastic stent in short intervals have been recommended to avoid acute cholangitis, this study concluded that 12 mo is considered a safe interval for plastic stent exchange in choledocholithiasis. Long-term biliary stenting longer than 12 mo can also be an acceptable option for selected patients who are medically unfit for further invasive procedures, but we have to observe these cases carefully because of the high frequency of acute cholangitis.

Research perspectives

The authors' research findings contribute to the discussion about safe interval for plastic stent exchange in choledocholithiasis. The study design is retrospective and sample size is small, so further clinical trials in a large population under prospective design will be valuable.

Footnotes

Institutional review board statement: This study was conducted in accordance with the principles of the Declaration of Helsinki, and was reviewed ethically and approved by the Fukui Kosei Hospital Institutional Review Board.

Informed consent statement: All patients involved in this study gave their written informed consent about disclosure of their protected medical information.

Conflict-of-interest statement: Authors declare no conflict of interest relevant to this article.

Data sharing statement: No additional data are available.

Manuscript source: Invited manuscript

Peer-review started: October 24, 2017

First decision: November 23, 2017

Article in press: December 7, 2017

Specialty type: Gastroenterology and hepatology

Country of origin: Japan

Peer-review report classification

Grade A (Excellent): 0

Grade B (Very good): B, B

Grade C (Good): C, C

Grade D (Fair): 0

Grade E (Poor): 0

P- Reviewer: Fior E, Fogli L, Nakajima N, Yan SL S- Editor: Ji FF L- Editor: A E- Editor: Li D

Articles from World Journal of Gastrointestinal Endoscopy are provided here courtesy of **Baishideng Publishing Group Inc**

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My Commission expires Aug. 16, 2021

Arkansas
State Claims Commission
SEP 28 2020
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IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
HON. HERBERT WRIGHT - 4TH DIVISION 6TH CIRCUIT

MARSHA FRAZIER V BENJAMIN THARIAN ET AL

60CV-20-4734

SUMMONS

THE STATE OF ARKANSAS TO DEFENDANT:

All Residents on Patients Team
JOINDER OF PERSONS JOINDER OF CLAIMS
4301 MARKHAM ST
LITTLE ROCK, AR 72205

Arkansas
State Claims Commission

OCT 15 2020

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A lawsuit has been filed against you. The relief demanded is stated in the attached complaint. Within 30 days after service of this summons on you (not counting the day you received it) - or 60 days if you are incarcerated in any jail, penitentiary, or other correctional facility in Arkansas - you must file with the clerk of this court a written answer to the complaint or a motion under Rule 12 of the Arkansas Rules of Civil Procedure.

The answer or motion must also be served on the plaintiff or plaintiff's attorney, whose name and address are:

MARSHA FRAZIER



If you fail to respond within the applicable time period, judgment by default may be entered against you for the relief demanded in the complaint.

Additional notices:

- Notice of Right to Consent to Disposition of Case by a State District Court Judge

Address of Clerks Office

TERRI HOLLINGSWORTH, CIRCUIT CLERK
CIRCUIT COURT OF PULASKI COUNTY
401 W. MARKHAM
LITTLE ROCK, AR 72201

CLERK OF COURT

Christy R. McDaniel



CLERK Christy Renee McDaniel, DC

Date: 08/26/2020

**NOTICE OF RIGHT TO CONSENT
TO DISPOSITION OF CASE BY A STATE DISTRICT COURT JUDGE**

In accordance with Administrative Order Number 18, you are hereby notified that upon the consent of all the parties in a case, a State District Court Judge may be authorized to conduct all proceedings, including trial of the case and entry of a final judgment. Copies of appropriate consent forms are available from the Circuit Clerk.

You should be aware that your decision to consent or not to consent to the disposition of your case before a State District Court Judge is entirely voluntary, and by consenting to the reference of this matter to a State District Court Judge, the parties waive their right to a jury trial, and any appeal in the case shall be taken directly to the Arkansas Supreme Court or Court of Appeals as authorized by law.

You should communicate your consent by completing the Form -- CONSENT TO PROCEED BEFORE A STATE DISTRICT COURT JUDGE -- and return to the Circuit Clerk.

Christy R. McDaniel



Circuit Clerk

Date: 08/26/2020

No. 60CV-20-4734 This summons is for JOINDER OF PERSONS JOINDER OF CLAIMS (name of Defendant).

PROOF OF SERVICE

On _____ [date] I personally delivered the summons and complaint to the individual at _____ [place]; or

After making my purpose to deliver the summons and complaint clear, on _____ [date] I left the summons and complaint in the close proximity of the defendant by _____ [describe how the summons and complaint was left] after he/she refused to receive it when I offered it to him/her; or

On _____ [date] I left the summons and complaint with _____, a member of the defendant's family at least 18 years of age, at _____ [address], a place where the defendant resides; or

On _____ [date] I delivered the summons and complaint to _____ [name of individual], an agent authorized by appointment or by law to receive service of summons on behalf of _____ [name of defendant]; or

On _____ [date] at _____ [address], where the defendant maintains and office or other fixed location for the conduct of business, during normal working hours I left the summons and complaint with

[name and job description]; or

I am the plaintiff or an attorney of record for the plaintiff in this lawsuit, and I served the summons and complaint on the defendant by certified mail, return receipt requested, restricted delivery, as shown by the attached signed return receipt.

I am the plaintiff or an attorney of record for the plaintiff in this lawsuit, and I mailed a copy of the summons and complaint by first-class mail to the defendant together with two copies of a notice and acknowledgment and received the attached notice and acknowledgment form within twenty days after the date of mailing.

Other [specify]:

 I was unable to execute service because:

My fee is \$ _____.

To be completed if service is by a sheriff or deputy sheriff:

Date: _____ SHERIFF OF _____ COUNTY, ARKANSAS

By: _____
[Signature of server]

[Printed name, title, and badge number]

To be completed if service is by a person other than a sheriff or deputy sheriff:

Date: _____ By: _____
[Signature of server]

[Printed name]

Address: _____

Phone: _____

Subscribed and sworn to before me this date: _____

Notary Public

My commission expires: _____

Additional information regarding service or attempted service:

OCT 13 2020

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TIME: _____
CASE NO. _____

IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS

**MARSHA G. FRAZIER -ADMINISTRATOR OF ESTATE OF
MARSHALL FRAZIER JR. /PLAINTIFF**

V.

No: 60CV-20-4734

Et. Al.

Arkansas
State Claims Commissio
OCT 15 2020
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**DR. BENJAMIN THARIAN, DEFENDANT- INDIVIDUAL CAPACITY
MICHELLE JUPIN- DEFENDANT INDIVIDUALCAPACITY
WILLIAM BECK-DEFENDANT INDIVIDUAL CAPACITY
RACHEAL FREEZE-RAMSEY-DEFENDANT INDIVIDUAL CAPACITY
SEPERATE DEFENDANT VANESSA HORTON INDIVIDUAL CAPACITY
SEPERATE DEFENDANT STEPHENE METTE CEO/ON BEHALF OF
BOARD OF TRUSTEES FOR UAMS d/b/a UNIVERSITY OF ARKANSAS
MEDICAL HOSPITAL
JOINDER OF PERSONS JOINDER OF CLAIMS ADDING
CLINT EVANS MD-INDIVIUAL CAPACITY
WESTLEY WHITE MD INDIVIUAL CAPACITY
RACHEL LITTLEFIELD ED- MD INDIVIUAL CAPACITY
KELSEY BESSETT MD INDIVIDUAL CAPACITY
KEVIN SEXTON MD INDIVIDUAL CAPACITY
SALLY SCHONEFELD MD INDIVIDUAL CAPACITY
HEMENDRA SHAH MD INDIVIDUAL CAPACITY**

**RESPONDING TO SEPARATE DEFENDANTS OF STEPHEN METTE
CEO IN HIS INDIVIDUAL CAPACITY AND ON BEHALF OF BOARD OF
TRUSTEES FOR UAMS d/b/a UNIVERSITY OF ARKANSAS MEDICAL
HOSPITAL AND SEPARATE DEFENANT VANESSA HORTON RN IN
HER INDIVIDUAL CAPACITY**

COMES, Marsha G. Frazier -Administrator of Estate of Marshall Frazier Jr.

decedent. Inter Alia States: I motion to amend this complaint to adopt and

incorporate 42 U.S.C. 1983 actions enacted by Congress, 1983 provides a right of

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action to individuals who have been deprived of “any rights, privileges, or immunities secured by the Constitution and laws. *Monroe v. Pape*, 365 U.S. 167 (1961). Allegation of facts constituting a deprivation under color of state authority of the guaranty against unreasonable searches and seizures, contained in the Fourth Amendment and made applicable to the States by the Due Process Clause of the Fourteenth Amendment. Even though state extends greater protections in the state constitution, the federal remedy is supplementary to the state remedy, and the state remedy need not be sought and refused before the federal remedy is invoked. P. 365 U. S. 183. The District Court ruled that negligent actions by state officials can be a basis for an action under 42. U S. C. 1983. Applying U.S.C. section 1983 regards sovereign immunity and statute of Limitation. *Osborn v. Bank of the United States*, the Court, again through Chief Justice Marshall, held that the Bank of the United States could sue the Treasurer of Ohio, over Eleventh Amendment objections, because the plaintiff sought relief against a state officer rather than against the state itself.

16-114-210. Employed medical care provider.

When a medical care provider is a codefendant with a medical care facility in an action for medical injury, and the only reason for naming the facility as a defendant is that the defendant medical care provider practices in the facility, the plaintiff shall have the burden of proving that the defendant medical care provider is the

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employee of the facility before the facility may be held liable for the medical care provider's negligence.

The 2 defendants have been, separated from the initial suit, Plaintiff comes incorporating and joining even more defendants in the above caption that may need to be separate defendants, by way of their capacity are under the same immunity. *Gomez v. Toledo*, 446 U.S. 635 (1980), by way of the liability from Negligent supervision under the doctrine of *Respondeat Superior*. The state is held liable for its officials.

The patient Mr. Frazier did not consent to improper care, when he returned worse than he first was admitted Mr. Frazier treatment plan was turned over to Residents and students supervised by attending physicians who negligently supervised the course of treatment. Where after it was determined the patient had a [REDACTED]

[REDACTED] dr.

Beck, Racheal Freeze Ramsey co-signed and agreed to what the residents plan of treatment [REDACTED]

[REDACTED]

Mozingo Thomas v. Pitt. County Memorial Hospital Inc. 415, S.E. 2d 341, 345 (NC 1992). Where the supervision of residents by attending physicians were negligent. Receiving improper care has to be evaluated under Section 1983 for violation of deprivation of the patient's constitutional rights, privileges and

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immunities. Medical Practice Act 20-6-202 (a)(1)(2) Patients are entitled to continuity. Health care providers are prohibited legally and ethically from abandoning a patient before treatment is concluded.

The patient was pre-maturely dis-charged by Michelle Jupin also have a new name since, the test was [REDACTED] but he was discharged as condition is fair. Returning worst hours later than when he first admitted.

Clint Evans MD-an employee of UAMS working in his Individual capacity

Supervised resident Westley White resident in his Individual Capacity

Kevin Sexton MD an employee of UAMS working in his Individual Capacity supervised over he also supervised each resident

In all Mr. Frazier was improperly cared for under negligent Attending Doctors

Each attending doctor never diagnosed Mr. Frazier's medical condition they

delayed diagnosing Mr. Frazier and Mis-diagnosed his condition, he did not have

[REDACTED]

He nor his family was ever told he was terminal, but he was treated as he were, now that I read his medical records. This is fraudulent, negligent, improper medical care resulting in medical injuries laying in the hospital each day suffering while he was waiting on a diagnosis and improvement and relief from what he come there

ite

for, instead he got worst into his death. The first was the failed ERCP the second was the Negligent supervision of residents and students from the attending doctors that we or he was not informed these students would be in charge of his care not informed where he could chose to let them or not.

Each medical care provider breach their duty in the standard medical care.

Hermendra Shah MD Radiologist working in her Individual Capacity Where she or he in the impression notes stated [REDACTED]

[REDACTED] this could well been the deciding factor not to evaluate [REDACTED] that Benjamin Tharian failed to do.

Vanessa Horton RN employee at UAMS in her Individual Capacity was the las t to see him alive she states in her progression notes [REDACTED]

[REDACTED] this is deviation from dr. orders also noted his [REDACTED] after she discover he was gone. He was not monitored after given him [REDACTED]

[REDACTED]

Stephen Mette on behalf of the Trustees of UAMS hospital as stated above

16-114-210. Employed medical care provider.

When a medical care provider is a codefendant with a medical care facility in an action for medical injury, and the only reason for naming the facility as a defendant

ite

is that the defendant medical care provider practices in the facility, and held liable for their medical negligence.

WHEREFORE, Plaintiff prays this court allow to proceed and grant Plaintiff relief asked. Plaintiff preserve any rights for appeal herein.

Respectfully Submitted



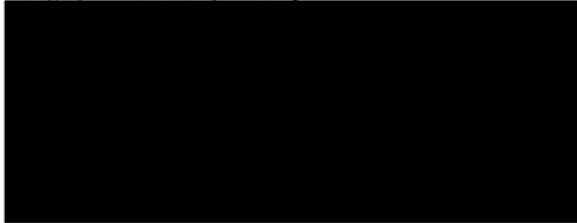
Marsha G. Frazier



CERTIFICATE OF SERVICE

I Marsha G. Frazier certify on 13th date of October 2020 That I to the best of my knowledge, and belief and after research, of information, I delivered or certified or hand delivered, or via U S mailed documents to all parties involved.


Marsha G. Frazier



Arkansas
State Claims Commission

OCT 16 2020

IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS

RECEIVED
MARSHA G. FRAZIER -ADMINISTRATOR OF ESTATE OF
MARSHALL FRAZIER JR. /PLAINTIFF

ELECTRONICALLY
FILED

OCT 06 2020

V.

No: 60CV-20-4734

TIME: _____
CASE #: _____

Et. Al.

DR. BENJAMIN THARIAN M. D. MRCP (UK)FACP FRACP-
DEFENDANT- OFFICIAL CAPACITY

**RESPONDING TO DEFENDANTS RESPONSE TO PLAINTIFFS MOTION
TO EXTENDTIME AND MOTION FOR ADMISSION MEDICAL
RECORDS AND AUTOPSY REPORT
IN BRIEF**

Plaintiff's response to defendants WHEREFORE praying for denial to Plaintiff's
Complaint. Defendants # 2-#8 I state;

1. Defendantsn#3 state. An expressly required statue the Supreme Court of
Arkansas has held that a Plaintiff may only meet her burden of proof through
the testimony of a qualified expert. Regan v. City Piggott 305 Ark. 77, 805
S.W. 2d 636(1991) Diagnosis of Appendicitis expert medical testimony was
essential to establish the standard of care of diagnosing. The regards
Physician and the Physician failed to act in accordance with that standard.
(emphasis added) Plaintiff to this #3 this case of Regan, the diagnosing and
the Physicians failing to act. This is what the patient's medical records shows

rule 4(m) which allows a name-correcting amendment within the time allowed in correcting this misnomer.

Defendants Motion to Dismiss under 12(b)6

1. A Party asserting that a fact cannot be genuinely be disputed must support the assertion.

a. On Plaintiff this un disputed facts from Patients own medical records one

[REDACTED]

b. I ask Defendants where is your un disputed facts that the Complaint is not entitled to be litigated?

[REDACTED] Because Mr. Frazier was not in control of his own care in this hospital, he did not perform surgery on himself. It was the Dr. At UAMS, who did an improper procedure that did not warrant with the diagnosis to be treated.

2. Under Motion 12 (b) 6 each defendant had a duty of care to the Patient when He entered the hospital on August 21, 2017 to be treated and the physicians and nurses had hands on treatment when [REDACTED]

[REDACTED]

3. a duty to possess the knowledge and skill that is possessed by other medical profession. exercise reasonable care and diligence in the exercise of such professional knowledge and skill. a physician must use his or her best judgment in knowledge and skill.

4. They breach their duties on a lack of knowledge of how to treat Mr. Frazier when they [REDACTED]

[REDACTED]

[REDACTED] a failure to use their best judgment as physician's duty to exercise reasonable and ordinary care, skill, and diligence required but, these delayed judgements misdiagnosis resulted in my husband's injury into death [REDACTED]

[REDACTED]

5. By law Plaintiff is entitled to judgement

The fraudulent concealment of Dr. Tharian when he made use of the [REDACTED] to concealed the material information from the patient of the [REDACTED]

[REDACTED] without inform consent and [REDACTED]

[REDACTED] also without informed consent. [REDACTED] All with

IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS

**MARSHA G. FRAZIER -ADMINISTRATOR OF ESTATE OF
MARSHALL FRAZIER JR. /PLAINTIFF**

V.

No: 60CV-20-4734

Et. Al.

**DR. BENJAMIN THARIAN M. D. MRCP (UK)FACP FRACP-
DEFENDANT- OFFICIAL CAPACITY**

**RESPONDING TO DEFENDANTS 2ND MOTION TO DISMISS REPLY IN
SUPPORT TO PLAINTIFF COMPLAINT
PLAINTIFF BRIEF IN SUPPORT**

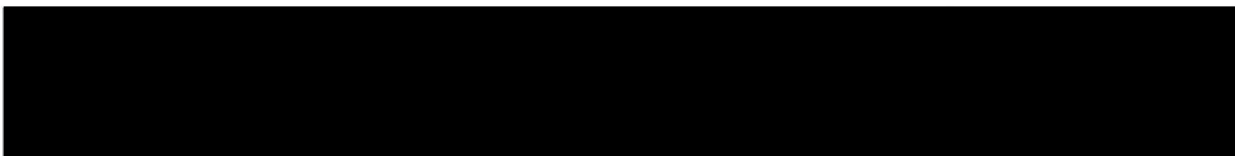
**Defendants #5 Plaintiff amended complaint filed on behalf of an estate by
Plaintiff in her Pro Se Capacity**

In the above caption as you see Plaintiff has not stated in her Pro Se Capacity,
Plaintiff is Administrator of Estate of Marshall Frazier Jr. Only a mistake in the
THEREFORE conclusion this was mistakenly applied and I ask now through Civil

the failure to act on the symptoms of what Mr. Frazier. AR Code 17-95-202
(2012)

As used in the Arkansas Medical Practices Act, 17-95-201 et seq., 17-95-301 et seq., and 17-95-401 et seq.:

(A) Holding out one's self to the public within this state as being able to diagnose and treat, **(B)** Suggesting, recommending, prescribing, or administering any form of treatment, operation, or healing for the intended palliation, relief, or cure of any physical or mental disease, ailment, injury, condition, or defect of any person with the intention of receiving, either directly or indirectly, any fee, gift, or compensation whatsoever; ACA 17-95-201 these are the standard that these defendants name in this complaint and Residents I did not name has failed. And breached the Standard when they holding to diagnose and prescribe, they holding to administer and recommend and suggest to the patient when he come to the



1. Defendants # 2-#4 Plaintiff burden of proof in this case is prescribed by statue. specifically, ACA 16-114-206, requires the Plaintiff prove only through qualified expert testimony (emphasis added). #4 Plaintiff has produced what appears to be articles printed from the internet, the articles

are not testimony, learn treaties and medical articles are in admissible hearsay under 803(18) of Ark. Rules of evidence only expert witness as a reliable authority. However

2. **Rule 901. Requirement of authentication or identification. -- (a) General Provision.** The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.
3. **Rule 902. Self-authentication.** Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following: (5) **Official Publications.** Books, pamphlets, or other publications issued by public authority.
4. ACA 16-114-206 has been declared unconstitutional by the Ark. State Courts. *Summerville v. Thrower*, 369 Ark. 231, 237, 253 S.W.3d 415, 419-20 (2007) *Broussard v. St. Edward Mercy Health Sys.* 386 S.W. 3d 385(2012). *Broussard* asserts that the trial court erred in finding Arkansas Code Annotated section 16-114-206 (Repl. 2006) constitutional.

providers of the same specialty as the defendant, violate the separation-of-powers doctrine, Amendment 80, and the inherent authority of the courts to protect the integrity of proceedings and the rights of the litigants. Our jurisdiction is pursuant to Arkansas Supreme Court Rule 1-2(a)(1).

inform the patient [REDACTED] was threatening his life. After knowing test

reveal he had [REDACTED] And research reveals an [REDACTED]

[REDACTED] My God my husband

suffered while waiting on treatment from these employees at this hospital. Failed to

inform the patient they had lack of knowledge regards his diagnosis and need to

refer him to get the right treatment. In his medical records they even had no

diagnosis they in their professional skills did not know how to treat the patient.

Michelle Jupin concealment of facts to inform the patient he was not well enough

to go home false information but should have referred him to another provider.

when she knew [REDACTED] reveal he should not have been released. [REDACTED]

[REDACTED]

When there was in fact a need for the patient to have [REDACTED]

[REDACTED] This is the fraudulent concealment in facts they kept from the patient.

When they should have known he needed [REDACTED] Several days of

delayed and prolong treatment misdiagnosis [REDACTED]

lack of information. Where the tests reveal that

not warranted because Mr. Frazier

did not have any of these issues.

material information after he injured the patient failed to

inform he left a life-threatening

He breached his duty of care,

negligently here then abandon the patient never returned a clear fraudulent

concealment or why he did not act immediately on his ? The next team

of doctors negligently did nothing for the patient. Band-Aid with

Dr William Beck and his team of Residents and Racheal Freeze

Ramsey all concealed material facts in their professional expert skills failed to

inform the patient he was being treated

Failed to

16-114-210. Employed medical care provider.

When a medical care provider is a co-defendant with a medical care facility in an action for medical injury, and the only reason for naming the facility as a defendant is that the defendant medical care provider practices in the facility, The resident and nurses the now separate defendant Vanessa Horton Conceal from the patient facts about [REDACTED]

[REDACTED] Did not monitor the patient after and moments later [REDACTED] the nurse only discover this after she notice is [REDACTED]

[REDACTED] the now separate defendant Stephen Mette and Ms. Horton.

The fraudulent concealment of facts the doctors and residents and nurses all knew from the [REDACTED]

[REDACTED] prolonging delaying misdiagnosing the importance of his treatment while he waited each day with no resolution until he died.

And because Plaintiff has diligently employ Atty. For help to find answers with no avail diligently day in and day out trying to determine the true cause of my husband's passing diligently trying to find other dr. For opinions. The close as I got to what I determined is his [REDACTED] But he couldn't give an opinion just only ask [REDACTED]

other than what's reveal in the autopsy report I pointed to, I Pray this Court allow

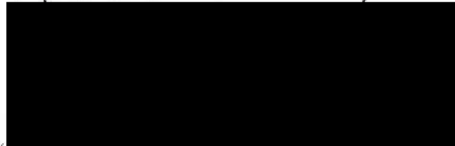
what defendants requested a jury trial as a right to a party pursuant to Ark. Rule of P. Civil 38, and preserve any appeal rights herein.

THEREFORE, Administrator of Estate of Marshall Frazier Jr./decedent

Marsha G. Frazier prays to this Court this case moves forward for the remedies requested.

Respectfully Submitted

Marsha G. Frazier



A handwritten signature in black ink, appearing to read 'Marsha G. Frazier', written over the typed name and extending to the right.

CERTIFICATE OF SERVICE

I Marsha Frazier certify on 06 date of October 2020 That I to the best of my knowledge, and belief and after research, of information, I delivered or certified or hand delivered, or via U S mailed documents to all parties involved.


Marsha G. Frazier



IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS
MARSHA G. FRAZIER -ADMINISTRATOR OF ESTATE OF
MARSHALL FRAZIER JR. /PLAINTIFF

Arkansas
State Claims Commission

V.

No: 60CV-20-4734

NOV 09 2020

Et. Al.

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BENJAMIN THARIAN M. D.-DEFENDANT- INDIVIDUAL CAPACITY

AFFIDAVIT IN SUPPORT OF MOTION

I Marsha Frazier, being first duly sworn upon oath, deposes and states as follows:

The following Motion is true and correct to the best of my knowledge set in numbered paragraphs. Plaintiff change the caption to my complaint from official capacity of each defendants to Individual capacity while joining in some more defendants pursuant to civil rule 19 which my complaint is joinder of persons joinder of claims. Plaintiff also is taken out one defendant Teresta Angtuaco replace with Hemendra Shan

1. I am the Plaintiff in the above caption action herein.
2. I am a resident of [REDACTED]
3. I make this Affidavit in support of Motion to amend the caption
4. Plaintiff adopts and incorporates 42 USC 1983 to incorporate with 42 USC 1988
5. Plaintiff state facts in briefs to be and correct and true.

Marsha G. Frazier
MARSHA G. FRAZIER

STATE OF ARKANSAS COUNTY OF JEFFERSON

On this 23 date of October 2020 before me,
Debbie Owens Personally appeared Marsha G. Frazier
Known to me or satisfactorily proven to be whose names to be subscribed to the within
Affidavit, and being first duly sworn on oath according to law, depose and says that he/she
Has read the foregoing Affidavit subscribed by him/her and that the matters stated herein
Are true to the best of his/her knowledge and belief
In witness where of I here unto set my hand and official seal

Notary Address
[REDACTED]

Debbie H. Owens
Notary Public
Title

DEBBIE H. OWENS
Arkansas - Jefferson County
Notary Public - Comm# 12395071
My Commission Expires Sep 18, 2023

My Commission expires 9-18-23

Arkansas
State Claims Commission

NOV 09 2020

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State Claims Commission

NOV 09 2020

IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS

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MARSHA G. FRAZIER, ADMINISTRATOR OF ESTATE
OF MARSHALL FRAZIER JR. PLAINTIFF

No:60 CV 20-4734

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FILE

Vs.

et. Al.

NOV 03 2020

DR. BENJAMIN THARIAN, DEFENDANT. INDIVIDUAL CAPACITY
MICHELLB JUPIN. DEFENDANT INDIVIDUAL CAPACITY CASE #:
WILLIAM BECK. DEFENDANT INDIVIDUAL CAPACITY RACHEAL
FREEZE-RAMSEY. DEFENDANT INDIVIDUAL CAPACITY SEPERATE
DEFENDANT
VANESSA HORTON INDIVIDUAL CAPACITY SEPERATE
DEFENDANT
STEPHENE METTE CEO/ON BEHALF OF BOARD OF TRUSTEES FOR
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KELVIN SEXTON MD INDIVIDUAL CAPACITY
SALLY SCHONEFELD MD INDIVIDUAL CAPACITY
HEMENDRA SHAH MD INDIVIDUAL CAPACITY

**RESPONDING TO DEFENDANTS' ANSWERS TO PLAINTIFF'S
REQUESTS FOR ADMISSION**

Comes, Plaintiff Marsha Frazier responding to defendants Atty. Bone stating:
Defendants admit that Plaintiff seeks to admit medical records as to the
certified merits to this case but deny that she has done so consistent with
Arkansas law. Defendants further deny that the medical records, themselves,
are evidence necessary to satisfy Plaintiff's burden of proof required by Ark.
Code Ann. 16-114-206. Where this law 16-114-206 (2) states; In determining
whether the plaintiff has satisfied the requirements of subdivision (b)(1) of this
section, the following matters shall also be considered as material issues:
(A) Whether a person of ordinary intelligence and awareness in a position similar
to that of the injured person or persons giving consent on his or her behalf could
reasonably be expected to know of the risks or hazards inherent in such treatment,
procedure, or surgery;

(B) Whether the injured party or the person giving consent on his or her behalf knew of the risks or hazards inherent in such treatment, procedure, or surgery;
(C) Whether the injured party would have undergone the treatment, procedure, or surgery regardless of the risk involved or whether he or she did not wish to be informed thereof; and
(D) Whether it was reasonable for the medical care provider to limit disclosure of information because such disclosure could be expected to adversely and substantially affect the injured person's condition.

To this law section (A)-(D) The Dr. Documented in his report [REDACTED]

[REDACTED] was a success. 1. How is it a success? The patient contracted [REDACTED]

[REDACTED]

[REDACTED] when he died and there still have not been anyone of these defendants given an answer to where it went? what happen to it? Why his

[REDACTED] ? Can the defendants DENY

this? also noted by the medical examiner in his report [REDACTED]

[REDACTED] (B). of this law as the patient and family had not consented to any fraudulent unwarranted procedure. The patient did not consent to any unknown procedures where he would be [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

should not have. made the patient worse than what he come there for. Then the other Defendents the attending physicians negligently supervised the residents and students with a course of treatment with doing nothing for the patient but allow him to suffer each day the patient laid in that hospital and died. here I am applying this law 16-114-206(A)a person of ordinary intelligence and awareness. This is COMMON KNOWLEDGE DOCTRINE. The common knowledge doctrine was applied to a failure to communicate an abnormal finding and the signing of an incorrect discharge summary in Jenoff v. Gleason, 215 N.J. Super. 349 (App. Div. 1987)

1. This applies to all defendants named in this law suit. Started from the

[REDACTED] the DR. And his students of residents read the tests results before surgery, [REDACTED]

[REDACTED] but fraudulently performed an unwarranted procedure

[REDACTED]

[REDACTED]

2. [REDACTED]

3. [REDACTED]

[REDACTED]

4. Failure in communicating after the patient returned worse than when he first come with the physicians negligently supervising students, residents, and fellows turning over complete care course of treatment to these defendants by delaying treatment, not only delaying treatment the supervising physicians never give or communicated orders to properly treat the symptoms [REDACTED] All the symptoms they documented as worst, [REDACTED]

[REDACTED]

(C) no the patient and family would not have allowed patient to be put

[REDACTED]

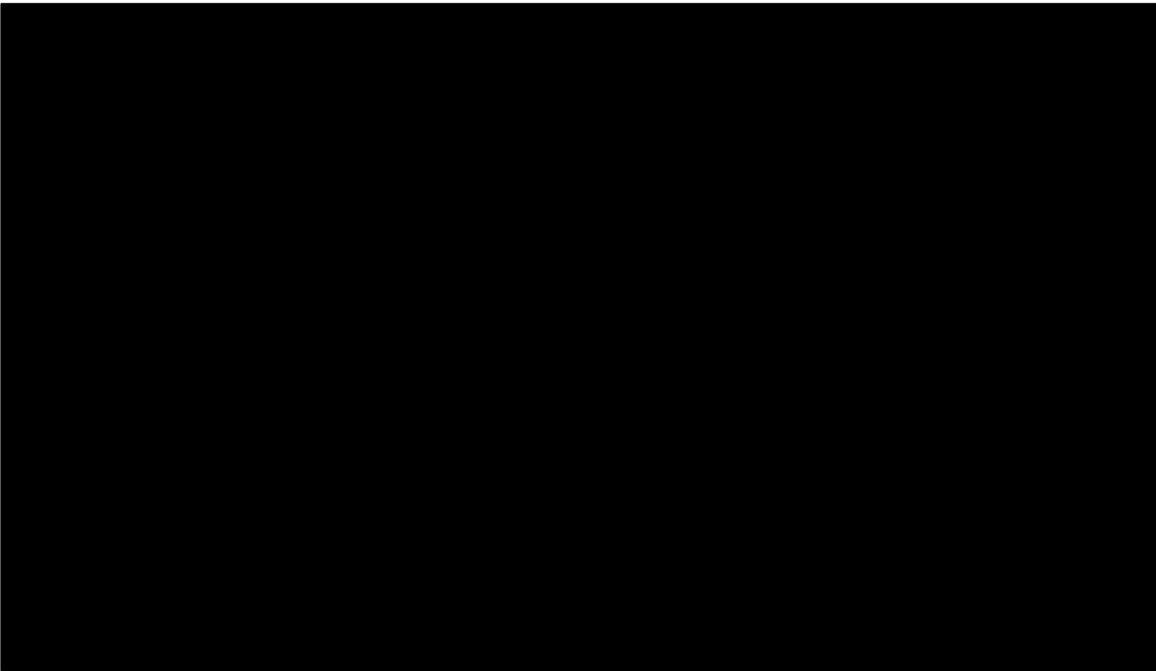
Common

Knowledge Doctrine of ACA 16-114-206(A) a person of ordinary intelligence and awareness, that 40 ML is an unusual amount of sludge common knowledge tell a person this not normal considering the test

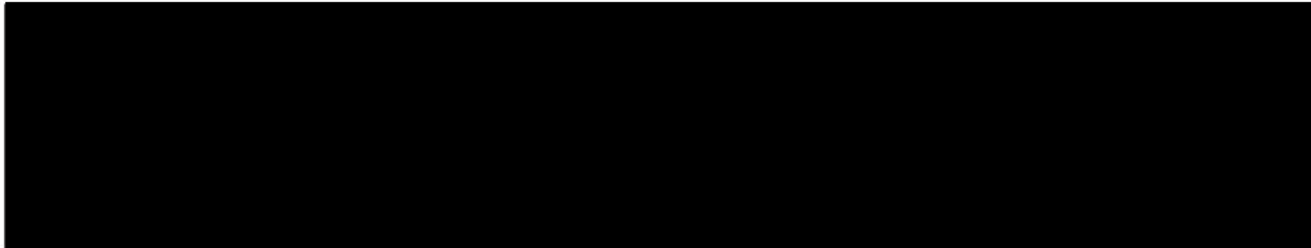
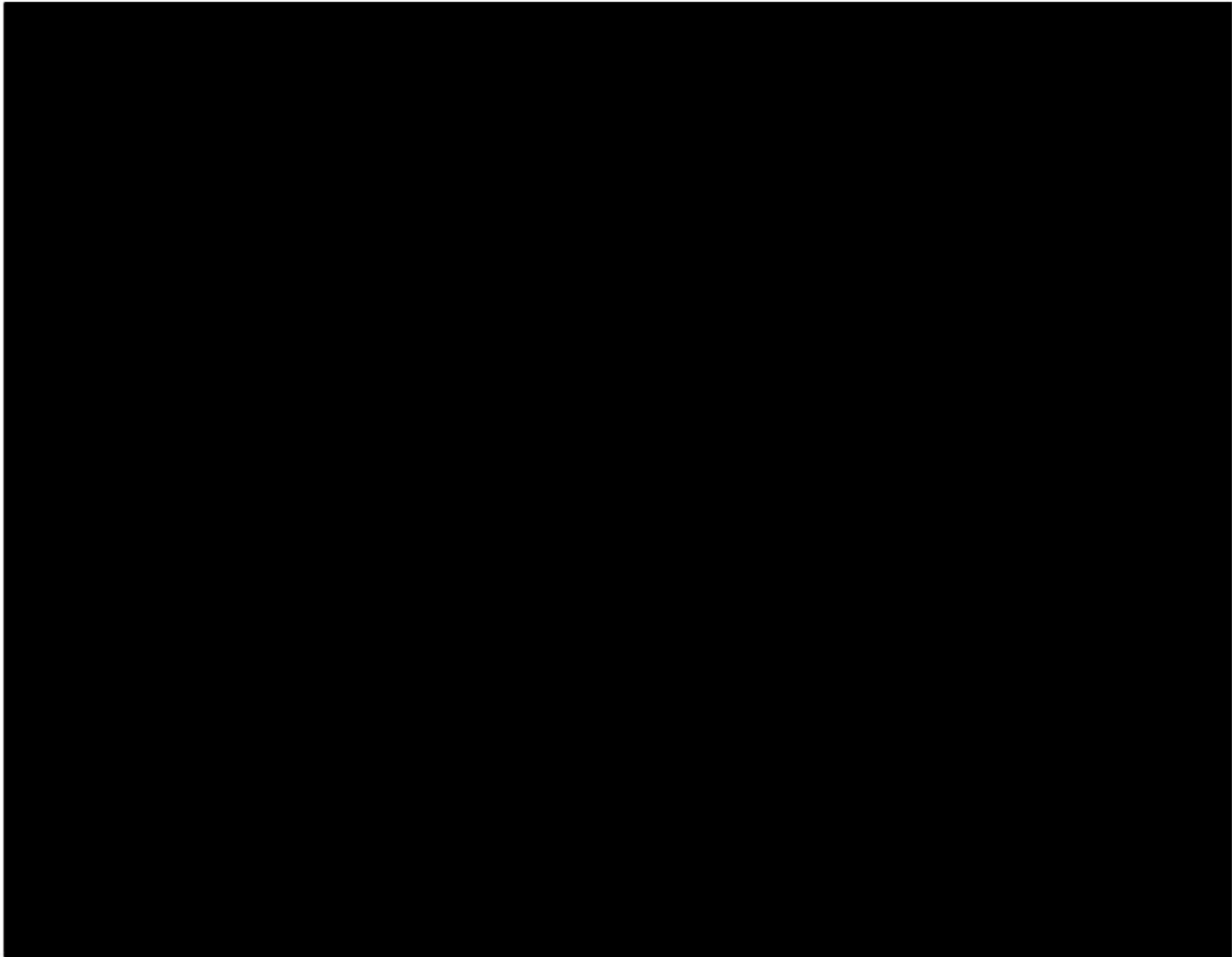
[REDACTED] and research from

respectable medical sites this hospital uses themselves PUBMED. And

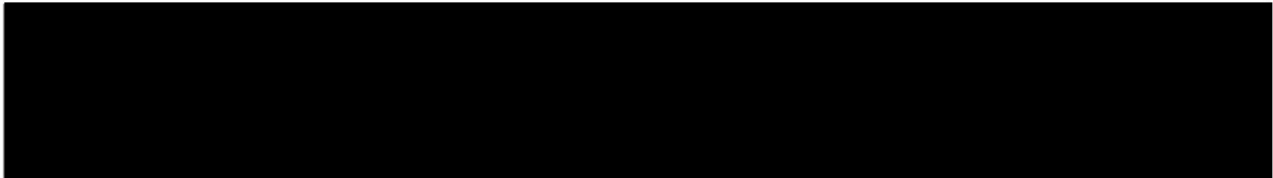
others That



6. Defendants deny that any medical issue of the decedent was neglected by them. Defendants deny that any action or omission on their part proximately caused the patient's death. Defendants admit that the plaintiff appears to have attached to her Complaint and Affidavit medical records and an autopsy report of the decedent. They deny each and every contention contained in Request for Admission No. 5 that is inconsistent with the medical records and autopsy report.



7 When they documented the supervising Physicians did nothing for the diagnosis of infection, they knew he had when he returned worse than before just allowed the



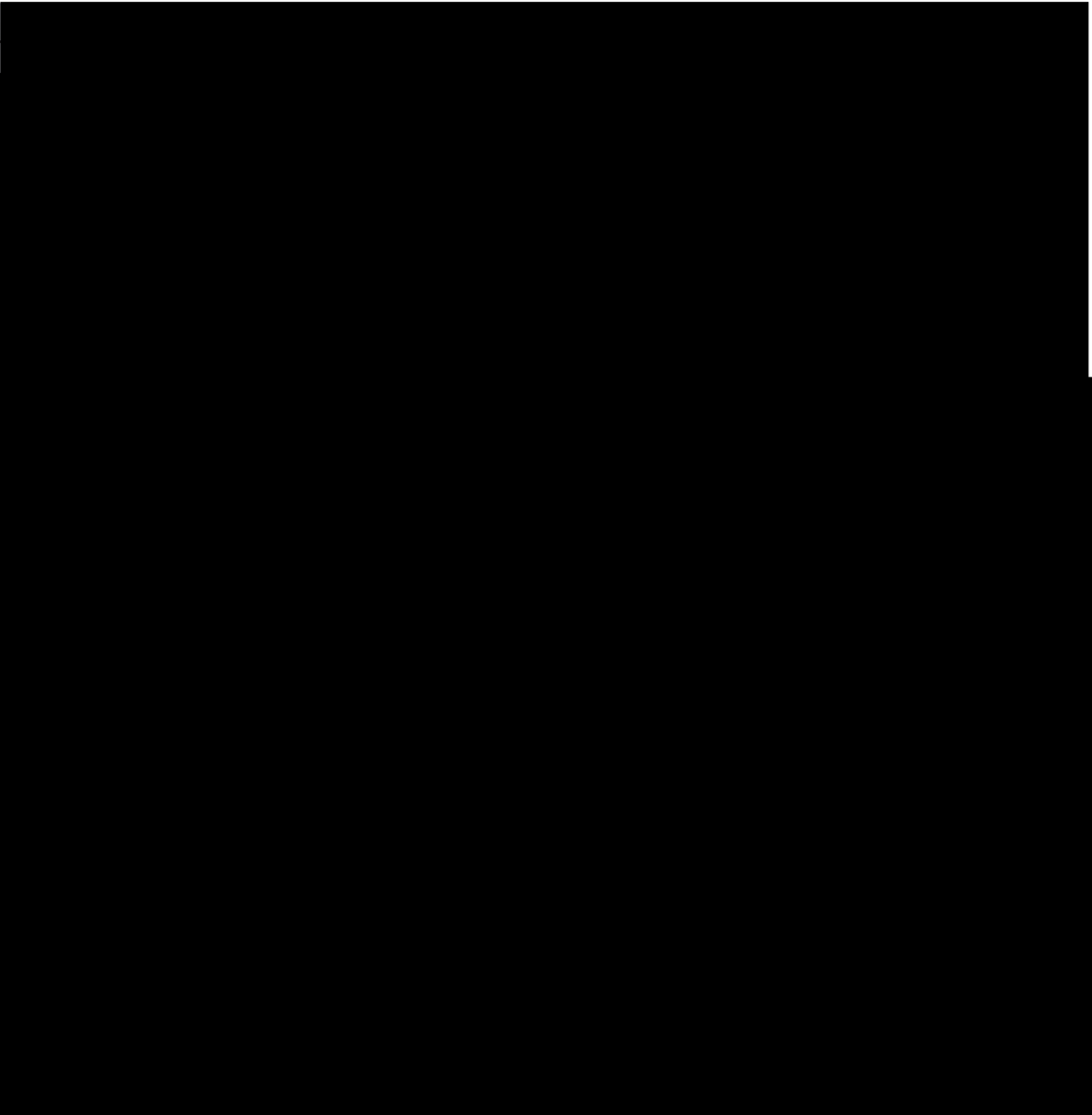
? He suffered unnecessarily with continue

pain from their negligence they deviated from standard of care when a patient has



With 1-7 above Common Knowledge Doctrine gives Plaintiff reason these documents to be legal and correct to Plaintiff common knowledge and research these defendants have liability to the decedent where there was deviation from standard of care, negligence, errors and omissions. The proximate cause

is when



[REDACTED] This is within the law according to the ACA 16-114-206.

The error in using Pro Se in Plaintiff complaint was just that an error, that the law allow to fix with amendment it was not as the caption or capacity in the caption. Considering the entity is recognized by US News the best school, of learning and such:

- A. The defendants owed the patient a duty to possess the requisite knowledge and skill that is possessed by the average member of the medical profession.
- B. The defendants were supposed to exercise reasonable care and diligence in the exercise of their professional knowledge and skill. Also the defendants were to use their best judgment in the knowledge and skill.

THEREFORE, Plaintiff ask this Court to proceed and grant the relief requested, Plaintiff preserve the rights for any appeals within.

Respectfully Submitted

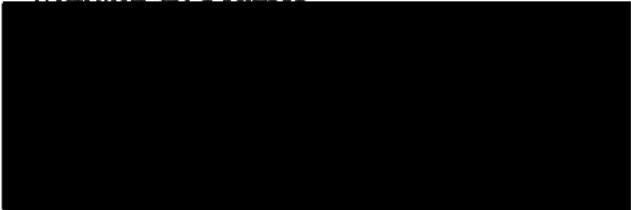
Marsha G. Frazier/ Special Administrator of Estate of Marshall Frazier Jr.
Decedent

[REDACTED]

CERTIFICATE OF SERVICE

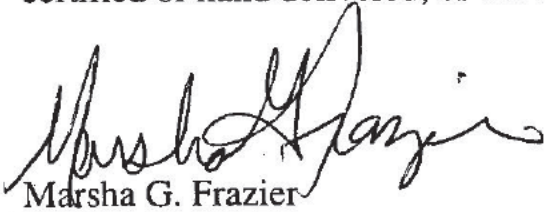
I Marsha G. Frazier certify on the date of November 2020 That I to the best of my knowledge, and belief and after research, of information, I delivered or certified or hand delivered, or via U S mailed documents to all parties involved.


Marsha G. Frazier



CERTIFICATE OF SERVICE

I Marsha G. Frazier certify on 06 date of November 2020 That I to the best of my knowledge, and belief and after research, of information, I delivered or certified or hand delivered, or via U S mailed documents to all parties involved.


Marsha G. Frazier



Arkansas
State Claims Commission
NOV 09 2020

IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS

MARSHA G. FRAZIER, ADMINISTRATOR OF ESTATE
OF MARSHALL FRAZIER JR. PLAINTIFF

No: 60CV-20-4734

VS.

ELECTRONIC
FILED

NOV 03 2020

Et. Al.

TIME: _____

CASE #: _____

**DR. BENJAMIN THARIAN, DEFENDANT. INDIVIDUAL CAPACITY
MICHELLB JUPIN. DEFENDANT INDIVIDUAL CAPACITY
WILLIAM BECK. DEFENDANT INDIVIDUAL CAPACITY RACHEAL
FREEZE-RAMSEY. DEFENDANT INDIVIDUAL CAPACITY SEPERATE
DEFENDANT
VANESSA HORTON INDIVIDUAL CAPACITY SEPERATE
DEFENDANT
STEPHENE METTE CEO/ON BEHALF OF BOARD OF TRUSTEES FOR
UAMS d/b/a UNIVERSITY OF ARKANSAS MEDICAL HOSPITAL
JOINDER OF PERSONS JOINDER OF CLAIMS ADDING
CLINT EVANS MD. INDIVIDUAL CAPACITY
WESTLEY WHITE MD INDIVIDUAL CAPACITY
RACHEL LITTLEFIELD ED. MD INDIVIDUAL CAPACITY
KELSEY BESSETT MD INDIVIDUAL CAPACITY
KELVIN SEXTON MD INDIVIDUAL CAPACITY
SALLY SCHONEFELD MD INDIVIDUAL CAPACITY
HEMENDRA SHAH MD INDIVIDUAL CAPACITY**

**RESPONDING TO DEFENDANTS ATTY. MOTION TO STRIKE
PLAINTIFF'S MOTION TO AMEND DEFENDANTS CAPTION AND
CAPACITY MOTION TO DISMISS**

Comes, Plaintiff responding to the defendants Motion to strike Plaintiff's motion to add new defendants and change the capacity caption.

To defendants #2 states; To date Plaintiff has never filed a complaint as against the new defendants she added to the case caption in her response to defendants Atty.

Motion to withdraw as counsel for 3 separate defendants (2 separate defendant's I read) of her response Plaintiff merely added the new defendants to the case caption. First, When Plaintiff responded to defendant's withdrawal it was a statement the Atty. Said in his prior pleading that Plaintiff is suing 8 defendants. However, after Plaintiff initial complaint August 26, 2020 with first defendants then filed an amended Complaint August 27, 2020. In this Complaint under Background Plaintiff state and made note of other defendants in 2nd paragraph; Where he depended on the expertise professional judgement of the physicians that treated him.

- He trusted each provider of these NAMED DEFENDANTS AND THOSE NOT NAMED, but were part of the team worked his case. As I've learned after the start of this complaint you have to name every party in an action. So by terms of naming all parties to this action is why these added defendants are presented at this point. 3rd paragraph He was handed off to physicians and nurses that are considered at a high degree in their own specialty.
- Speaking in alternative, A person maybe added as a party at any stage of the action on Motion or on the court initiative under Civil Rule 19 and 21
- Civil Rule 7(a) *Pleadings Allowed*. There shall be a complaint and an answer, a counterclaim, a reply to a counterclaim denominated as such, an

answer to a cross-claim, if the answer contains a cross-claim, a third party complaint, if a person who was not an original party is summoned under the provisions of Rule 14, and a third party answer, if a third party complaint is served. No other pleadings shall be allowed.

- Rule 7(a). In the complaint, the title of the action shall include the names of all the parties, but in other pleadings, it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.
- Civil Rule 7(b) *Motions and Other Papers.* (1) An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.
- In Civil Rule of P. Rule 8. (a) 8 (3) General Rules of Pleading (a) Claim for relief (3) A party may state as many separate claims or defenses as it has, regardless of consistency incorporates 42 USC 1983 "provides a cause of action for the deprivation of any rights, privileges, or immunities secured by the Constitution and laws

To Defendants #4-9 will be explained in Plaintiff brief to support this response.

WHEREFORE, Plaintiff ask the court to not grant the defendants their motion to dismiss my complaint or my Motion to amend and adoption and incorporating the 42 USC 1983 and 1988. Nor grant their Motion to dismiss my changing of the defendant's capacity from Official to Individual capacity. Plaintiff preserve her rights herein for an appeal.

Respectful Submitted

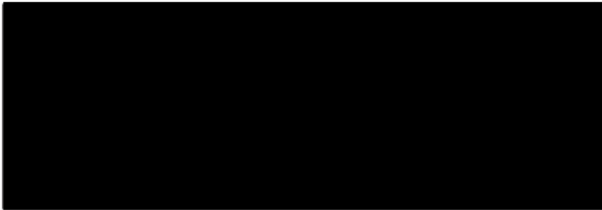

Marsha G. Frazier



CERTIFICATE OF SERVICE

I, Marsha G. Frazier certify on 16 date of November 2020 That I to the best of my knowledge, and belief and after research, of information, I delivered or certified or hand delivered, or via U S mailed documents to all parties involved.


Marsha G. Frazier



OCT 13 2020

TIME _____

IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS# _____

**MARSHA G. FRAZIER -ADMINISTRATOR OF ESTATE OF
MARSHALL FRAZIER JR. /PLAINTIFF**

V.

No: 60CV-20-4734

Et. Al.

**BENJAMIN THARIAN M. D.-DEFENDANT- INDIVIDUAL CAPACITY
MICHELLE JUPIN- DEFENDANT INDIVIDUALCAPACITY
WILLIAM BECK-DEFENDANT INDIVIDUAL CAPACITY
RACHEAL FREEZE-RAMSEY-DEFENDANT INDIVIDUAL CAPACITY
SEPERATE DEFENDANT VANESSA HORTON INDIVIDUAL CAPACITY
SEPERATE DEFENDANT STEPHENE METTE CEO/ON BEHALF OF
BOARD OF TRUSTEES FOR UAMS d/b/a UNIVERSITY OF ARKANSAS
MEDICAL HOSPITAL
JOINDER OF PERSONS JOINDER OF CLAIMS ADDING
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KEVIN SEXTON MD INDIVIDUAL CAPACITY
SALLY SCHONEFELD MD INDIVIDUAL CAPACITY
HEMENDRA SHAH MD INDIVIDUAL CAPACITY**

**RESPONDING IN BRIEF TO DEFENDANTS ATTY. WITHDRAWAL
FROM 2 DEFENDANTS**

**PLAINTIFF IS ALSO MOTION TO AMEND THE DEFENDANTS
CAPTION ON CAPACITY (INTER ALIA)**

COMES, Plaintiff Marsha Frazier responding to Defendants Atty. Withdrawal from 2 defendants where Plaintiff is motioning to amend the caption on the defendant's capacity from official to Individual capacity.

The Atty. made note of the number of 8 defendants. I come to join even more defendants for they were part of the team worked Mr. Frazier's case under Negligent supervision. Civil Rule 19 Joinder of persons, some were residents they were Resondeat Superior supervised. To show Each resident was under advisement of the medical professional expert and skilled in their specialty Respondeats Superior, on Mr. Frazier's return the negligent supervision where the Residents did not give proper course of treatment for the patient before he died.

This Radiologist Hemendra Shah is included here to this suit not Teresta Angtuaco Hemendra stated in his or her impressio [REDACTED]

[REDACTED] This finding may well been a deciding factor to the negligence of my husband's treatment. No one diagnosed [REDACTED]

[REDACTED] contributed to his death.

To defendants of me not having any factual basis for fraud from the defendants is not a "MERE" "Ignorance on Plaintiff when I come with a complaint where my husband was negligently treated and died under the negligent care of these defendants, then they locking down under the sovereign immunity.

**PLAINTIFF ADOPTS AND INCORPORATES 42 USC 1983 WITH
PLAINTIFF'S ACA 16-62-101-102-WRONGS TO THE PERSON
(INTER ALIA)**

Pursuant in Civil Rule of P. Rule 8. (a) 8 (3) General Rules of Pleading(a) CLAIM FOR RELIEF (3) A party may state as many separate claims or defenses as it has, regardless of consistency

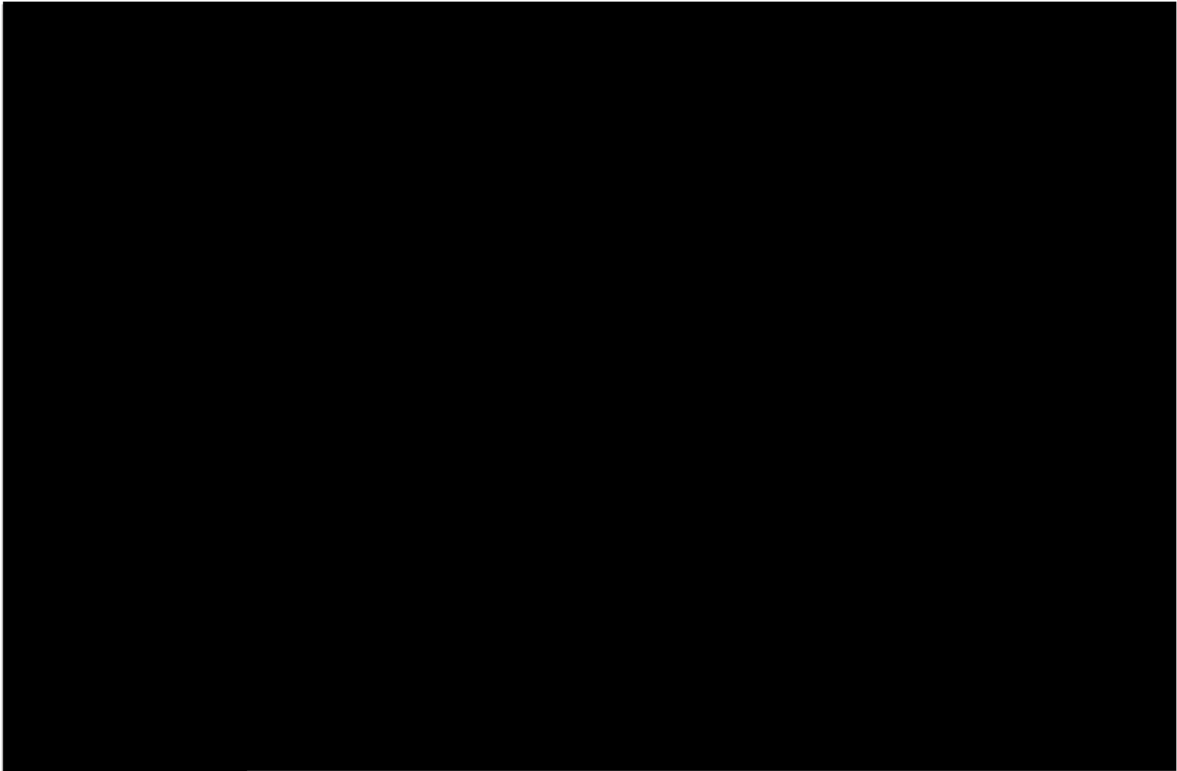
incorporates **42 USC 1983** “provides a cause of action for the deprivation of any rights, privileges, or immunities secured by the Constitution and laws by any person acting under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory. Gomez v Toledo, 446 US 635, 638 (1980) (internal quotations Omitted.

1. The patient did not consent to being under the care of Residents and medical students, Fellows. Mazingo Thomas v. Pitt. County Memorial Hospital Inc. 415, S.E. 2d 341, 345 N.C. (1992)
2. The patient did not express to refuse students and residents on his case nor was he not informed students and residents would be managing his care under the supervision of attending physicians. (Negligent Supervision)

A Physicians and Surgeons Knowledge of the allege wrong is a necessary prerequisite to the Tolling the Statue of Limitation under Fraudulent Concealment incorporating this with section 1983 regards statute of limitation and sovereign immunity

1. Benajamin Tharian being an employee through teaching medical students of the UAMS an entity under sovereign immunity and working in his

individual capacity, Violated Mr. Frazier's rights when he and the resident read the diagnosis of the patients condition [REDACTED]

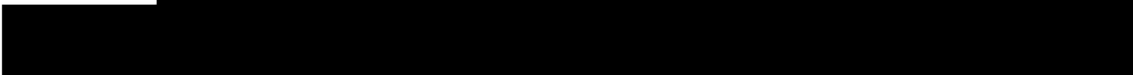


This is the deprivation of Mr. Frazier's constitutional rights

under 42 USC 1983 due process

2. Kevin Sexton MD Repondeat Superior an employee of UAMS an entity under sovereign immunity working in his individual capacity to resident Kelsey Besett

3. Kelsey Besett a resident working in his individual capacity, had hands on exams [REDACTED]



Dr. Sexton was the supervisor over this resident he co-sign approval

of the treatment plan [REDACTED]
[REDACTED]

4. Racheal Freeze-Ramsey Respondeat Superior an employee of UAMS ED
an entity under sovereign immunity working in her individual Capacity.

Supervise residents did not admit patient to ICU.

5. Rachel Little field resident at UAMS working in her individual capacity she

[REDACTED]

6. Sally A. Schonefield resident at UAMS working in her individual capacity

[REDACTED] supervised by Dr. Beck

7. William Beck Respondeat Superior employee of UAMS working in his

individual capacity, [REDACTED] supervised same residents

the residents examine the patient, [REDACTED]

[REDACTED]

8. Michelle Jupin (has a new name) APRN an employee of UAMS an entity

under sovereign immunity, working in her individual capacity [REDACTED]

[REDACTED]



Medical Practice Act 20-6-202 (a)(1)(2) Patients are entitled to continuity.

Health care providers are prohibited legally and ethically from abandoning a patient before treatment is concluded.

9. Clint Evans MD-an employee of UAMS working in his Individual capacity
Supervised resident Westley White resident in his Individual Capacity.

10. Kevin Sexton MD an employee of UAMS working in his Individual
Capacity supervised over he also supervised each resident.

11) Hermendra Shah MD Radiologist working in her Individual Capacity

Where she or he in the impression notes

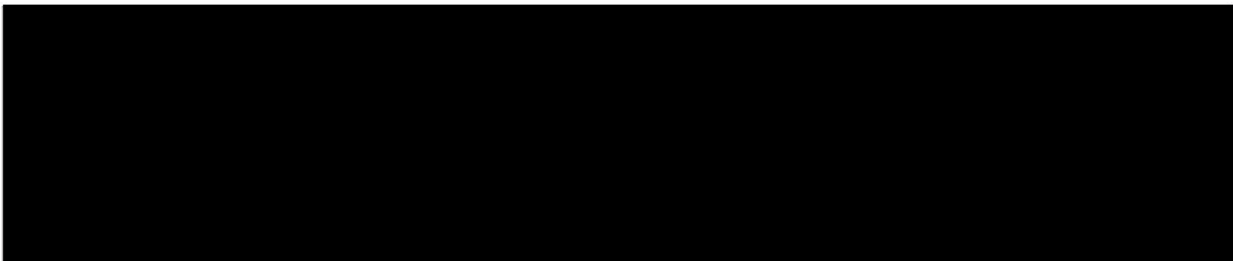


This could well been the deciding factor

not to [redacted] that Benjamin Tharian failed to do.

12) Vanessa Horton RN employee at UAMS in her Individual Capacity was the

last to see him alive she states in her progression notes



13) Stephen Mette on behalf of the Trustees of UAMS hospital as stated above

ACA 16-114-210. Employed medical care provider. When a medical care provider is a codefendant with a medical care facility in an action for medical injury, and the only reason for naming the facility as a defendant is that the defendant medical care provider practices in the facility, is held liable for their medical negligence.

an agent of the government entity in their Individual Capacity is liable for deprivation to the person liberty privileges immunities under 42 USC 1983

Statute of Limitations

The United States Supreme Court has directed that **42 USC 1988** requires courts to borrow and apply to all section 1983 claims the one most analogous state statute of limitations.” Owens v Okure, 488 US 235, 240 (1989). Thus, for tort-based actions brought under 1983, the appropriate statute of limitations is 3 years,

WHEREFORE, Plaintiff Prays this court grant and proceed with this claim grant the relief requested. Plaintiff preserve all rights for any appeal herein.

Respectfully Submitted


Marsha G. Frazier



IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS

**MARSHA G. FRAZIER, ADMINISTRATOR OF ESTATE
OF MARSHALL FRAZIER JR. PLAINTIFF**

No: 60CV-20-4734

VS.

**ELECTRONICALLY
FILED**

NOV 03 2020

Et. Al.

TIME: _____

CASE #: _____

**DR. BENJAMIN THARIAN, DEFENDANT. INDIVIDUAL CAPACITY
MICHELL B JUPIN. DEFENDANT INDIVIDUAL CAPACITY
WILLIAM BECK. DEFENDANT INDIVIDUAL CAPACITY RACHEAL
FREEZE-RAMSEY. DEFENDANT INDIVIDUAL CAPACITY SEPERATE
DEFENDANT**

**VANESSA HORTON INDIVIDUAL CAPACITY SEPERATE
DEFENDANT**

**STEPHENE METTE CEO/ON BEHALF OF BOARD OF TRUSTEES FOR
UAMS d/b/a UNIVERSITY OF ARKANSAS MEDICAL HOSPITAL**

**JOINDER OF PERSONS JOINDER OF CLAIMS ADDING
CLINT EVANS MD. INDIVIDUAL CAPACITY**

WESTLEY WHITE MD INDIVIDUAL CAPACITY

RACHEL LITTLEFIELD ED. MD INDIVIDUAL CAPACITY

KELSEY BESSETT MD INDIVIDUAL CAPACITY

KELVIN SEXTON MD INDIVIDUAL CAPACITY

SALLY SCHONEFELD MD INDIVIDUAL CAPACITY

HEMENDRA SHAH MD INDIVIDUAL CAPACITY

BRIEF IN SUPPORT OF NEW DEFENDANTS ADDED

FED. R. CIV. P. 4(m) provides a ninety-day time period in which a defendant must be served after a complaint is filed, and this ninety-day period also applies to Rule 15(c)(1)(C)(i) and (ii)'s provisions, in effect extending the statute of limitations period by ninety days. Plaintiff will re-issue summons to new defendants to cure defects.

Rule 15(c) permits an amendment adding a party to relate back to the date of the original pleading (1) the claims against the new party arise out of the same occurrence as the claims in the original pleading, (2) the new party received notice of the institution of the action before the limitations period expired. *Hernandez Jimenez v. Calero Toledo*, 604 F.2d 99, 102 (1st Cir. 1979)

“identity of interests when the parties are so closely related in their business operations and other activities that the institution of an action against one serve to provide notice of litigation to the other.

The identity of interests concept, a judicial gloss on Rule 15(c)(1), provides that the institution of the action serves as constructive notice of the action to the parties added after the limitations period expired, when the original and added parties are so closely related in business or other activities that it is fair to presume the added parties learned of the institution of the action shortly after it was commenced. The identity of interest principle is often applied where the original and added parties are a parent corporation and its wholly owned subsidiary, two related corporations whose officers, directors, or shareholders are substantially identical and who have similar names or share office space, past and present forms of the same enterprise, or co-executors of an estate. By terms of Plaintiff initial complaint filed August 26, 2017 the 3 years date of Medical injury death date. Where Plaintiff in this Amended Motion adopts and incorporating 42 USC 1983 and borrow into 1988

As stated before by terms of statute of limitations, The United States Supreme Court has directed that 42 USC 1988 requires courts to borrow and apply to all section 1983 claims the one most analogous state statute of limitations." Owens v Okure, 488 US 235, 240 (1989). Thus, for tort-based actions brought under 1983, the appropriate statute of limitations is 3 years. Plaintiff applying this to this response and prior Motion

Defendants Motion to Strike Plaintiffs motion to change defendants from official capacity to individual capacity should be denied by terms of Civil Rule 17 which governs the capacity to sue or be sued and this is a harmless error on Plaintiff not caption each defendant as Individual capacity. Under Civil Rule 12 (f) a MOTION TO STRIKE. The court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The changing the caption capacity is not immaterial or redundant or scandalous. However it will prejudice Plaintiff constitutional rights and deprive him of his due process to bring this claim before the court.

Rule 12(f) provides, in part: "The court In determining whether to grant a motion to strike, the in order to minimize delay, prejudice and confusion by narrowing the issues for discovery and trial. Rule 12(f) motions are pleading is a drastic remedy and because it is often sought by the movant simply as a dilatory tactic. Waste Mgmt. Holdings, Inc. v. Gilmore, 252 F.3d 316, 347 (4th Cir. 2001) (internal

quotation marks omitted); *Renaissance Greeting Cards, Inc. v. Dollar Tree Stores*, 227 Fed. App'x 239, 247 (4th Cir. 2007). When reviewing a motion to strike, 'the court must view the pleading under attack in a light most favorable to the pleader. *Piontek v. Serv. Ctrs. Corp.* PJM 10-1202, 2010 WL 4449419, at 8–9 (D. Md. Nov. 5, 2010) (citation omitted). 4 Rule 12(f) motions ordinarily "will be denied unless the matter under challenge has 'no possible relation to the controversy and may prejudice the other party.'" *U.S. ex rel. Ackley v. Int'l Bus. Machines Corp.*, 110 F. Supp. 2d 395, 406 (D. Md. 2000) In contrast, the disfavored character of Rule 12(f) is relaxed in the context of scandalous those that improperly cast a derogatory light on someone.'" *Asher & Simons, P.A. v. J2 Global Canada, Inc.*, 965 F. Supp. 2d 701, 702 (D. Md. 2013) (citation omitted), partial reconsideration on other grounds, 977 F. Supp. 2d 544 (D. Md. 2013). On the other hand, a motion to strike a defense "should not be granted when the sufficiency of the defense depends upon disputed issues of fact or unclear questions of law." *NCUA v. First Union Capital Mtk. Corp.*, 189 F.R.D. 158, 163 (D. Md. 1999) Logically, this rationale also applies to allegations in a complaint. In other words, the relevance of allegations may turn on disputed issues of fact or law, so as to render it premature to strike them.

THEREFORE, Plaintiff prays to the Court to not grant Defendants their Motion to strike nor grant Motion to Dismiss Plaintiff complaint.

Plaintiff preserve her rights herein for appeal

Respectfully Submitted

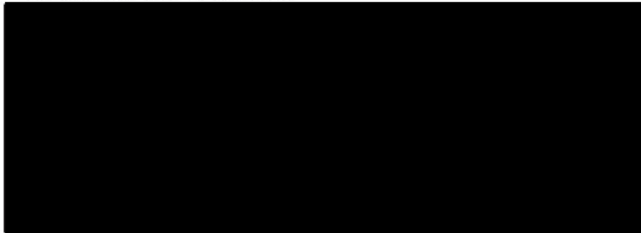

Marsha G. Frazier



CERTIFICATE OF SERVICE

I Marsha G. Frazier certify on 06 date of November 2020 That I to the best of my knowledge, and belief and after research, of information, I delivered or certified or hand delivered, or via U S mailed documents to all parties involved.


Marsha G. Frazier



DEC 16 2020

IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS

MARSHA G. FRAZIER. ADMINISTRATOR OF ESTATE
OF MARSHALL FRAZIER JR.

Et. Al.

No: 60CV-20-4734

Arkansas
State Claims Commission
DEC 21 2020

RECEIVED

DR. BENJAMIN THARIAN, DEFENDANT. INDIVIDUAL CAPACITY
MICHELLB JUPIN- ROBERSON DEFENDANT INDIVIDUAL CAPACITY
WILLIAM BECK. DEFENDANT INDIVIDUAL CAPACITY
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HEMENDRA SHAH MD INDIVIDUAL CAPACITY

**RESPONDING TO THE LETTER TO HONORABLE JUDGE HERBERT
WRIGHT JR. BY DEFENSE ATTY, BONE**

Plaintiff comes to respond to this letter Ex Parte Communications to the Judge
during pre-trial proceedings.

Plaintiff ask the Court will it allow this communication? By terms of the ABA

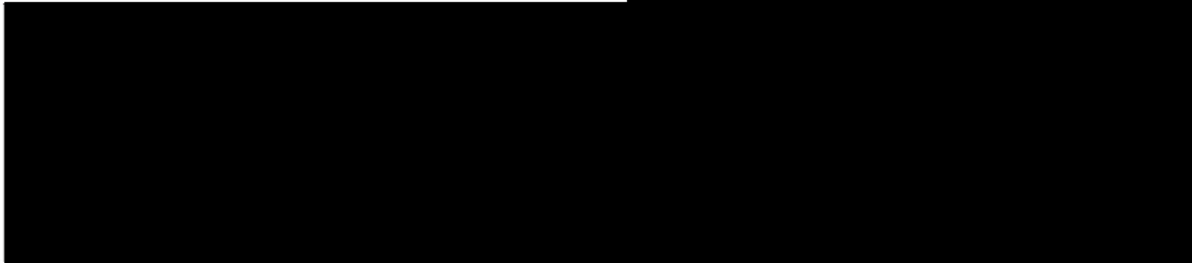
Rule 2.9: Ex Parte (4), a judge may with the consent of the parties, confer

separately with the parties and their lawyers in an effort to settle matters pending

before the judge. However, Plaintiff has not consented to this communication (5) A judge may initiate, permit, or consider any ex parte communication when expressly authorized by law to do so. Plaintiff states that this case is not ripe yet This is still in pretrial discovery.

Plaintiff is asking pursuant to Civil Rule 34 and 26 that the

A. Defendants produce documentation on a



B. I request also documents where Mr. Frazier sign an informed consent I couldn't find one.

By terms of The language of the Fourteenth Amendment requires the provision of due process when an interest in one's life, liberty or property is threatened. Traditionally, the Court made this determination by reference to the common understanding of these terms, as embodied in the development of the common law. 11 Sec. 7 of the Arkansas State Constitution states, in part, that "The right of trial by jury shall remain inviolate, and shall extend to all cases at law, without regard to the amount in controversy. This means that any civil case, no matter how much money is at stake, can be taken before a jury.

I Request a Jury trial because the above.

I explain of pro se in my wherefore: as pro se administrator of estate” in my pleadings were mistakenly typed, In my caption as Civil Rule 10(a) and the Defense notation on my complaint of my status as Pro Se as un authorize practice of law for dismissal is a part of plaintiff not getting fair hearing. I request a Jury Trial at this point pursuant to the constitution and Ark civil Rule

ARK. CODE. ANN. 16-114-206 (2012) the defense Atty. Pointed as requirements on Plaintiff. In proving but, the Court held this law is unconstitutional in part by Broussard v. St. Edward Mercy Health Sys., Inc., 2012 Ark. 14, 386 S.W.3d 385 that it violates the separations of powers.

1. Dr. Tharian after he and his team agreed on [REDACTED] ACA16-55-201

(b)1 Dr. Tharian decide on his own to include extra steps unwarranted even though documented tests [REDACTED]

[REDACTED]

[REDACTED]

researched and wait on another session. [REDACTED]

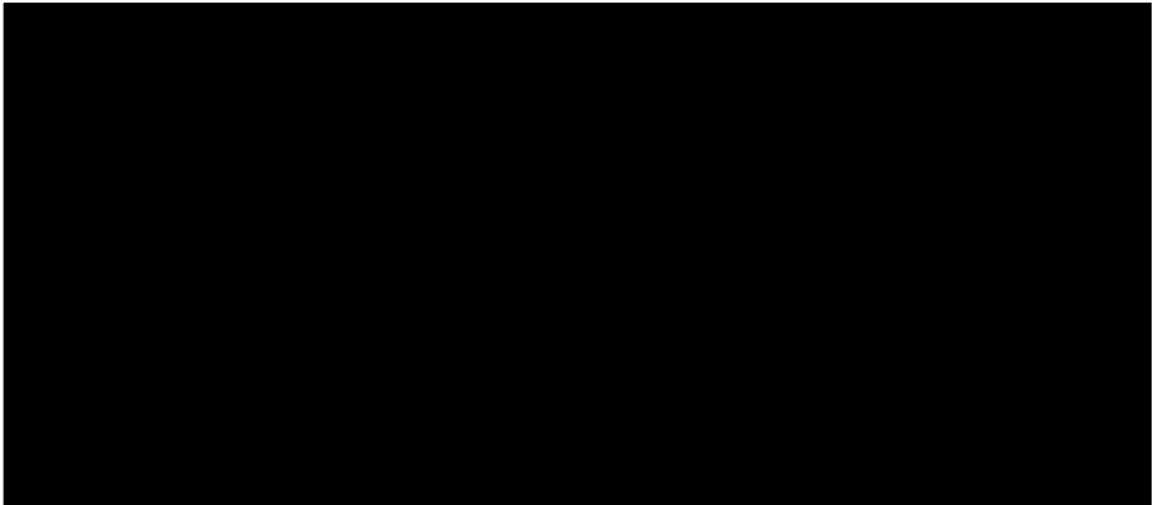
[REDACTED]

seen again on documented tests. He should've called in another more experienced Physician.

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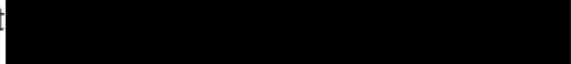


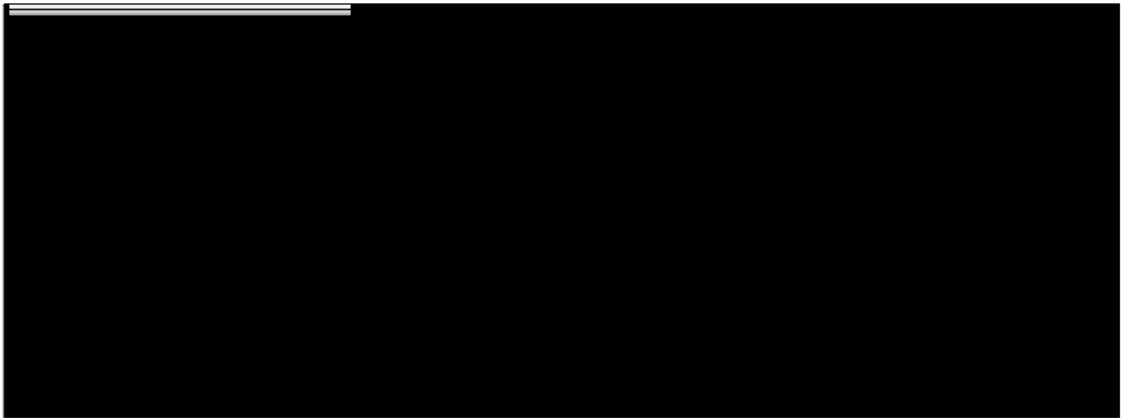
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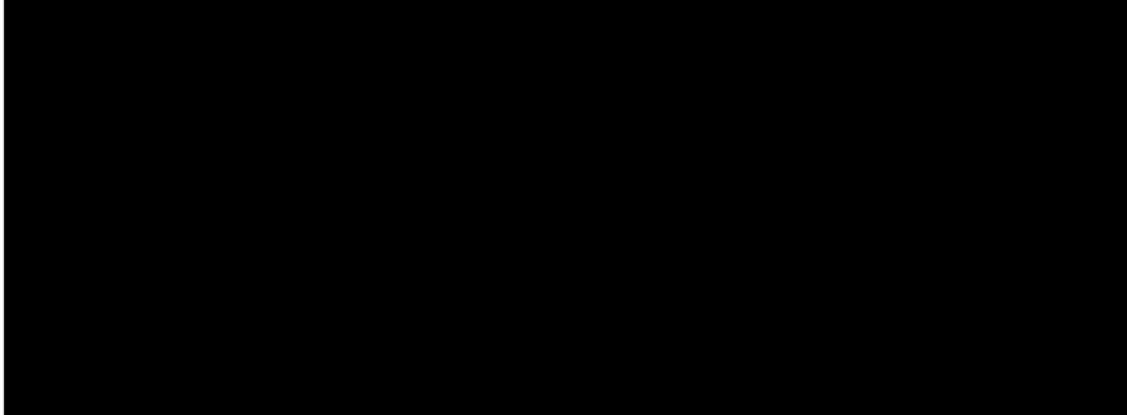


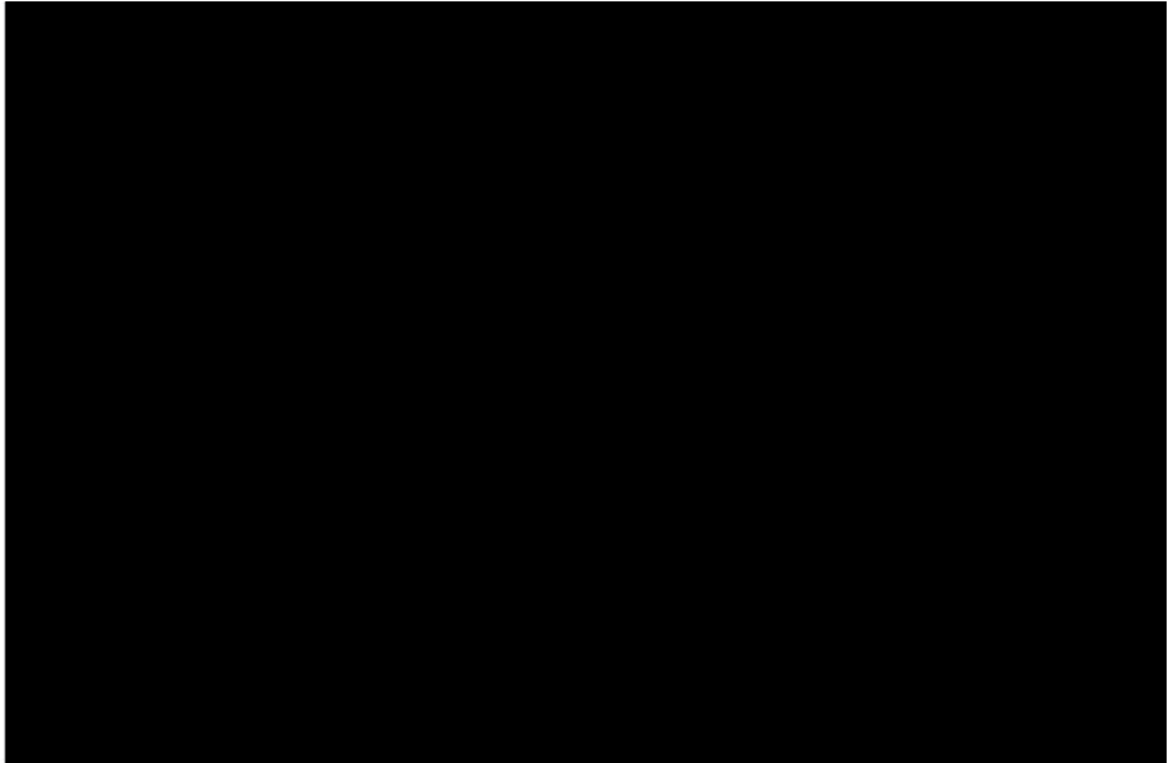
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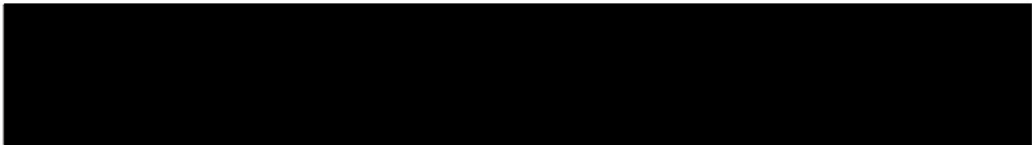
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e. After Dr. Tharian gave his notoriety and resume while answering to my complaints he stated he performed [REDACTED] a year I like to know is this total since his career? Or how many totals? My reach shows even the most experienced Dr. in this specialty cautions [REDACTED] [REDACTED] he still has not shown he is not liable for my husband passing. He stated [REDACTED]



This is what I said at first they mis diagnosed and delayed diagnosed this



[REDACTED]

Dr. Sexton. Dr. Beck. And other physicians is liable by the spondeat superior in their negligent supervision to their residents and fellows when they were told to just give [REDACTED] Dr. Tharian stated he ordered the

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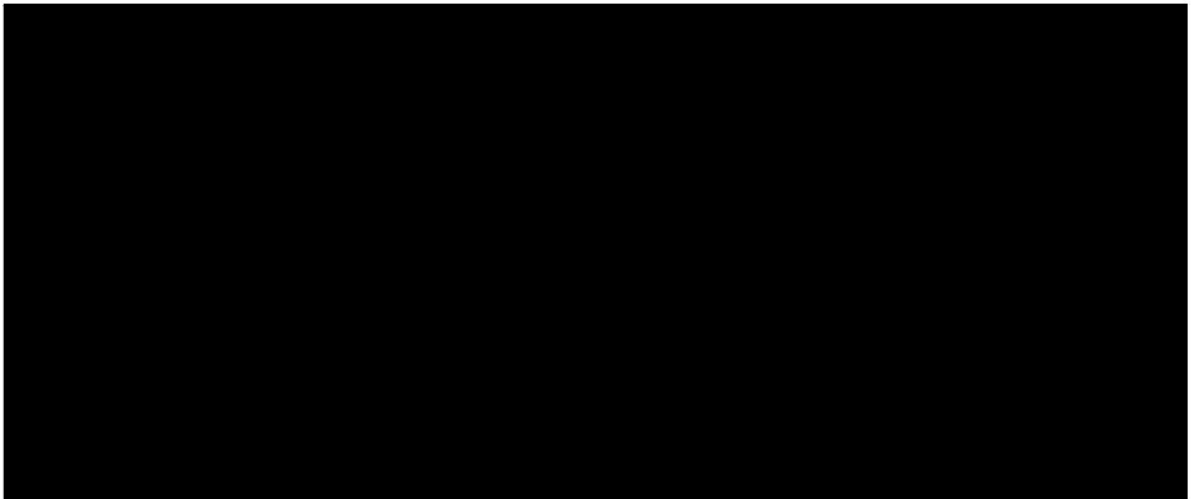
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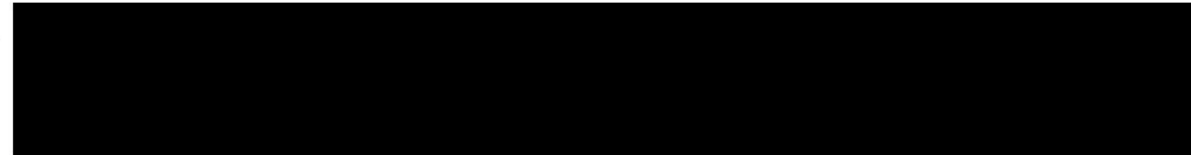


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- 2.



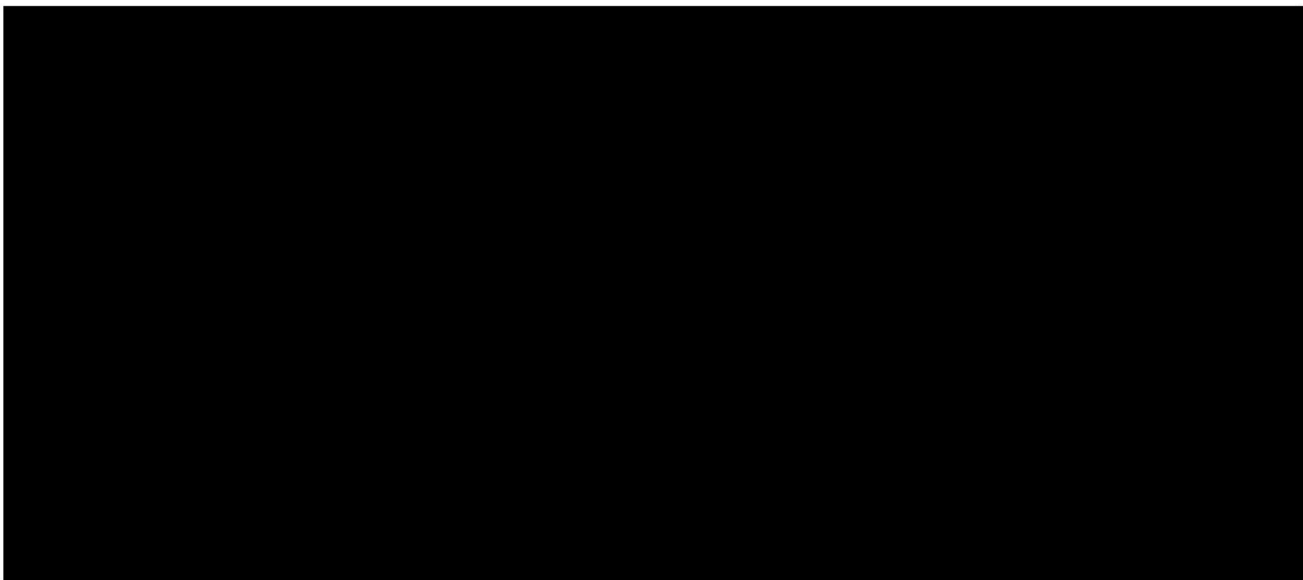
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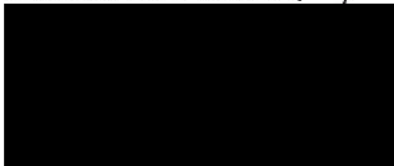
Documents of documents of [REDACTED] on Mr. Frazier after he come there. Mr. Frazier never indicated any express agreement to perform a specific act. [REDACTED]



Respectfully Submitted

Marsha G. Frazier

Marsha G. Frazier



CERTIFICATE OF SERVICE

I Marsha G. Frazier certify that on this 15th day of December 2020 I mailed or hand delivered this document to all parties in this case.

Marsha G. Frazier

Marsha G. Frazier



IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS

MARSHA G. FRAZIER, ADMINISTRATOR OF ESTATE
OF MARSHALL FRAZIER JR.

Et. AI. No: 60CV-20-47

Arkansas
State Claims Commission
DEC 30 2020

RECEIVED

This just a note that I'm re-submitting this response on the Letter to the Court by
defendants *12-28-2020*

Marsha G. Frazier
Marsha G. Frazier

DEC 16 2020

IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS

**MARSHA G. FRAZIER. ADMINISTRATOR OF ESTATE
OF MARSHALL FRAZIER JR.**

Et. Al.

No: 60CV-20-4734

Arkansas
State Claims Commission

DEC 30 2020

RECEIVED

**DR. BENJAMIN THARIAN, DEFENDANT. INDIVIDUAL CAPACITY
MICHELLB JUPIN- ROBERSON DEFENDANT INDIVIDUAL CAPACITY
WILLIAM BECK. DEFENDANT INDIVIDUAL CAPACITY
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STEPHENE METTE CEO/ON BEHALF OF BOARD OF TRUSTEES FOR
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KELVIN SEXTON MD INDIVIDUAL CAPACITY
SALLY SCHONEFELD MD INDIVIDUAL CAPACITY
HEMENDRA SHAH MD INDIVIDUAL CAPACITY**

**RESPONDING TO THE LETTER TO HONORABLE JUDGE HERBERT
WRIGHT JR. BY DEFENSE ATTY, BONE**

Plaintiff comes to respond to this letter Ex Parte Communications to the Judge during pre-trial proceedings.

Plaintiff ask the Court will it allow this communication? By terms of the ABA

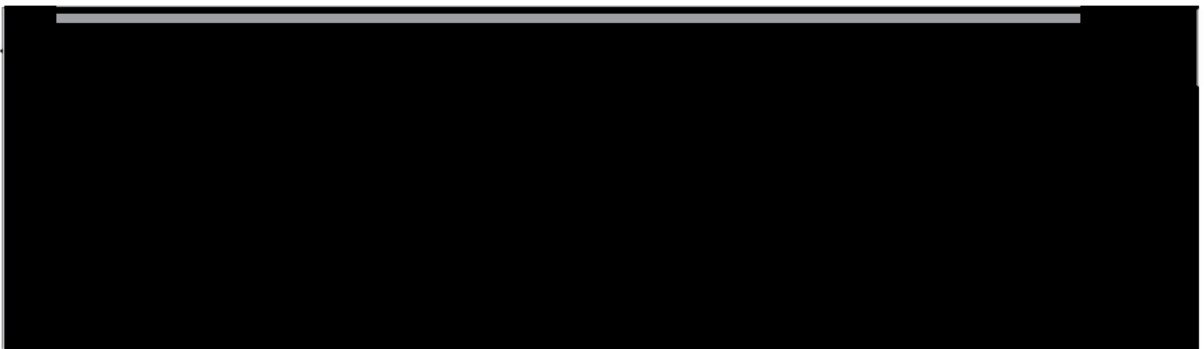
Rule 2.9: Ex Parte (4), a judge may with the consent of the parties, confer

separately with the parties and their lawyers in an effort to settle matters pending

before the judge. However. Plaintiff has not consented to this communication (5) A judge may initiate, permit, or consider any ex parte communication when expressly authorized by law to do so. Plaintiff states that this case is not ripe yet This is still in pretrial discovery.

Plaintiff is asking pursuant to Civil Rule 34 and 26 that the

A.



B. I request also documents where Mr. Frazier sign an informed consent I couldn't find one.

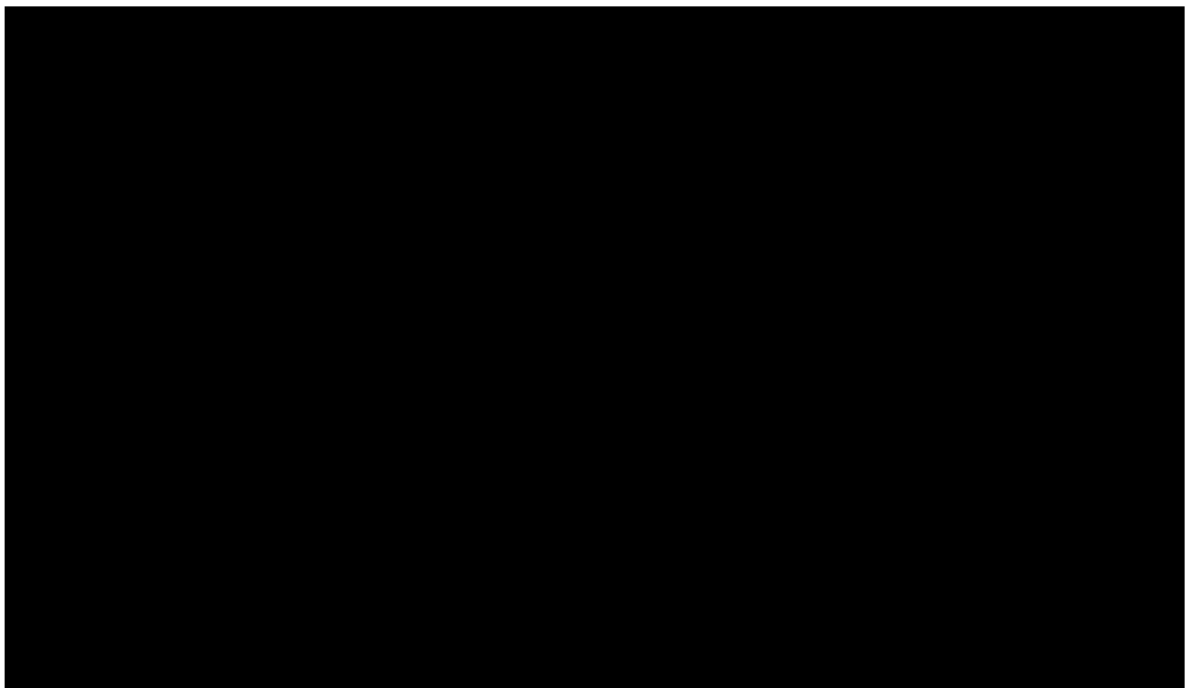
By terms of The language of the Fourteenth Amendment requires the provision of due process when an interest in one's life, liberty or property is threatened. Traditionally, the Court made this determination by reference to the common understanding of these terms, as embodied in the development of the common law. 11 Sec. 7 of the Arkansas State Constitution states, in part, that "The right of trial by jury shall remain inviolate, and shall extend to all cases at law, without regard to the amount in controversy. This means that any civil case, no matter how much money is at stake, can be taken before a jury.

I Request a Jury trial because the above.

I explain of pro se in my wherefore: as pro se administrator of estate” in my pleadings were mistakenly typed, In my caption as Civil Rule 10(a) and the Defense notation on my complaint of my status as Pro Se as un authorize practice of law for dismissal is a part of plaintiff not getting fair hearing. I request a Jury Trial at this point pursuant to the constitution and Ark civil Rule

ARK. CODE. ANN. 16-114-206 (2012) the defense Atty. Pointed as requirements on Plaintiff. In proving but, the Court held this law is unconstitutional in part by Broussard v. St. Edward Mercy Health Sys., Inc., 2012 Ark. 14, 386 S.W.3d 385 that it violates the separations of powers.

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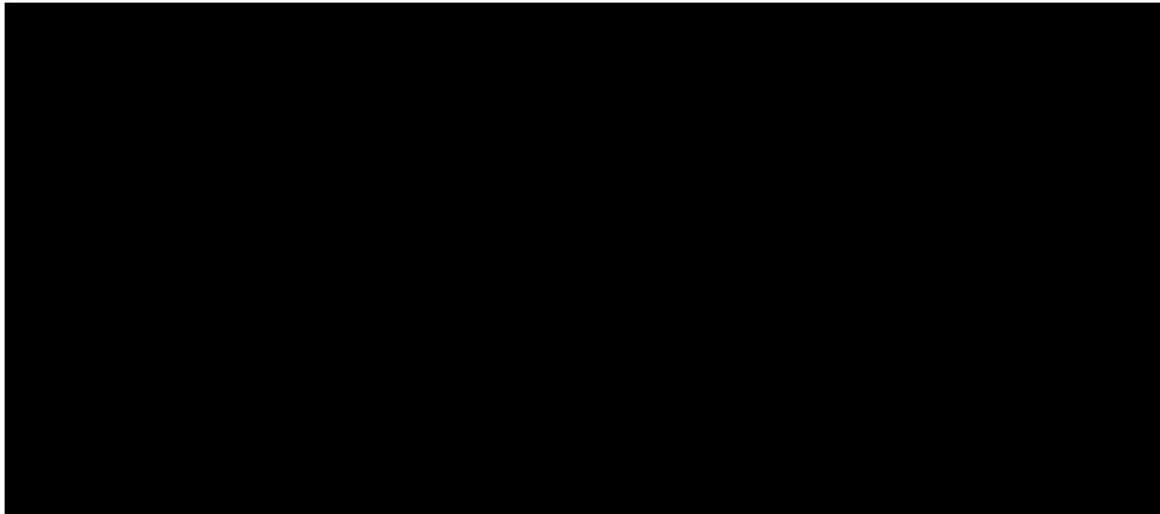


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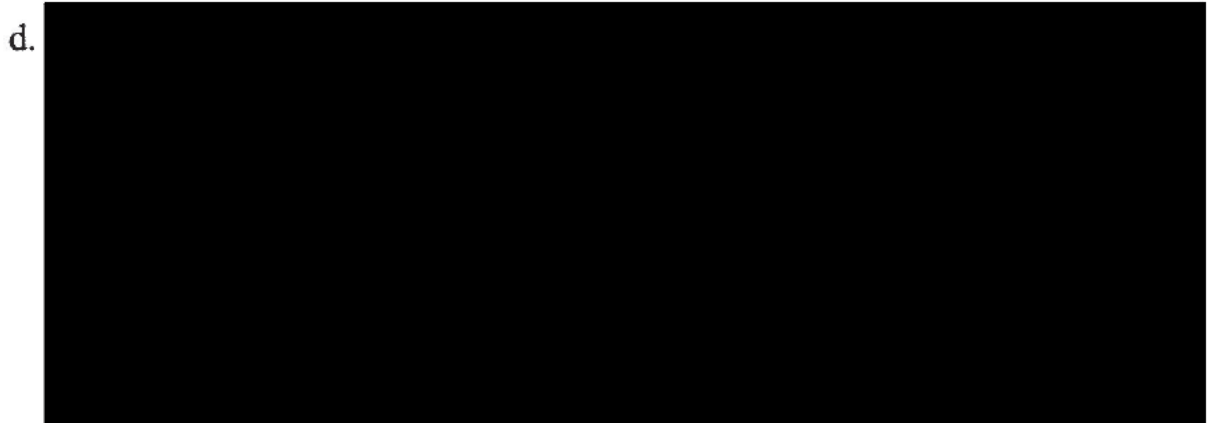
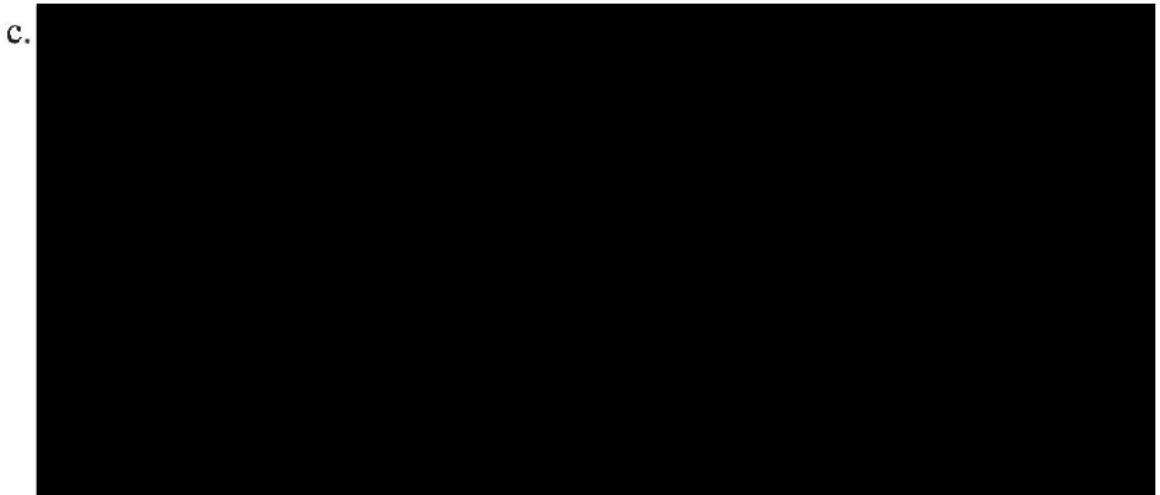
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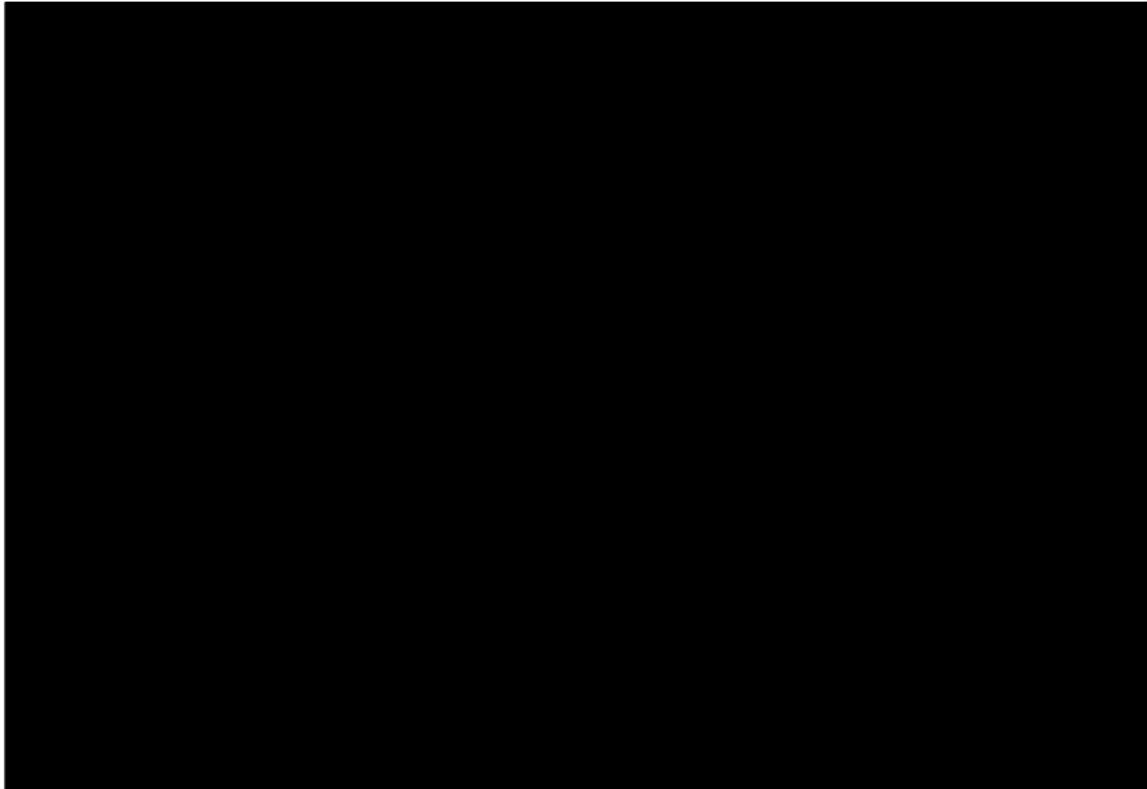
[REDACTED]

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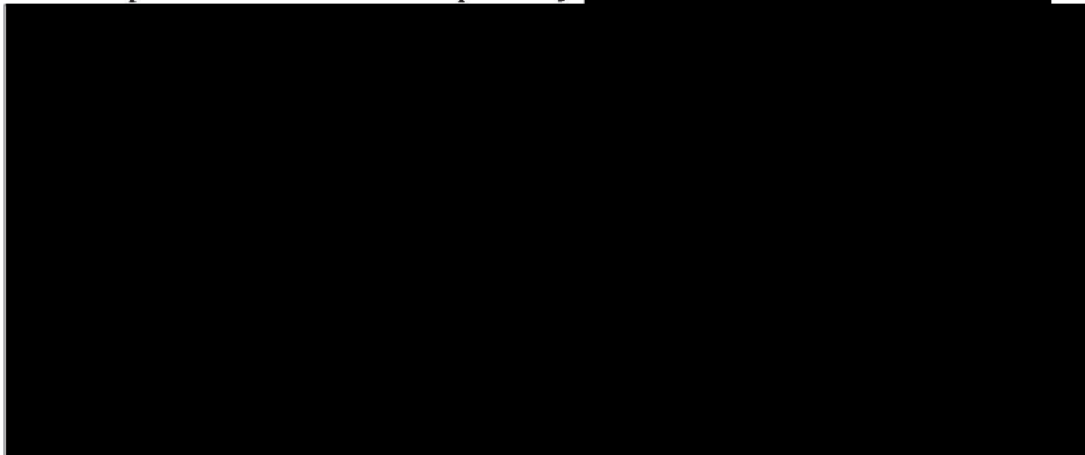


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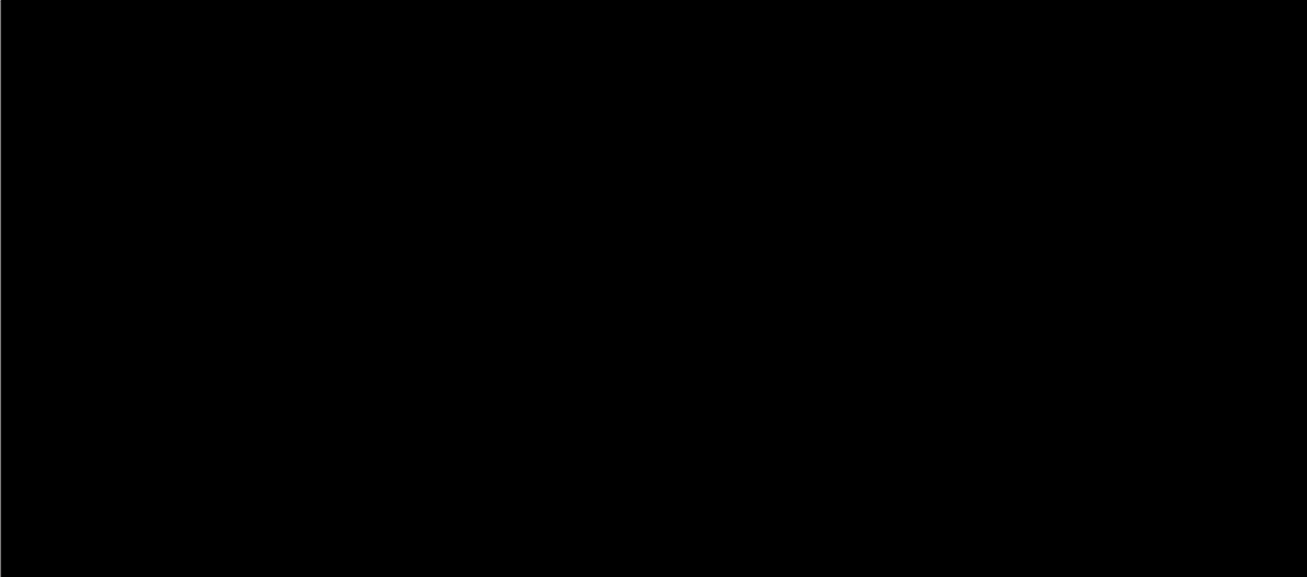
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 Mr. Frazier never indicated any express agreement to perform a specific act. Procedure to as the Dr. says Gold Standard diagnostic in



Respectfully Submitted

Marsha G. Frazier
Marsha G. Frazier



CERTIFICATE OF SERVICE

I Marsha G. Frazier certify that on this 15th day of December 2020 I mailed or hand delivered this document to all parties in this case.

Marsha G. Frazier
Marsha G. Frazier



Arkansas
State Claims Commission
FEB 08 2021

IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS

**MARSHA G. FRAZIER, ADMINISTRATOR OF ESTATE
OF MARSHALL FRAZIER JR. PLAINTIFF**

No: 60CV-20-4734

VS.

**ELECTRONICALLY
FILED
FEB 05 2021**

Et. Al.

**DR. BENJAMIN THARIAN, DEFENDANT. INDIVIDUAL CAPACITY
VANESSA HORTON INDIVIDUAL CAPACITY SEPERATE
DEFENDANT & STEPHENE METTE CEO/ON BEHALF OF BOARD OF
TRUSTEES FOR UAMS d/b/a UNIVERSITY OF ARKANSAS MEDICAL
HOSPITAL**

**MOTION TO COMPEL DISCOVERY REQUEST
ARK. CIVIL RULE 37**

Plaintiff Marsha G. Frazier moves the Court to order the Defendants to answer Plaintiff's Discovery Request completely. Plaintiff has conferred with motions in good faith and this issue has not been resolved pursuant to Civil rule 37, and it seems as though it will not without the intervention of this Court

In support of this motion, Plaintiff states:

1. Plaintiff mailed the Defendants a Request for Production of Document pursuant to Civil Rule 33, on December 16, 2020 as of January 19, 2021 has expired. Plaintiff attach prior request. There are Interrogatories request during the 2019 proceedings from Plaintiff through Arkansas Claims Commissions and UAMS
2. The Defendants either failed to respond to the Request for Production of Documents or disregarding it as nothing significant that a person is missing
t [REDACTED]

CERTIFICATE OF SERVICE

I Marsha G. Frazier do by certify that on this 04th date of February 2021.

I have either hand delivered or mailed via USPS the foregoing documents to all parties involved in this proceeding.

Respectfully Submitted



Marsha G. Frazier



ELECTRONICALLY
FILED

FEB 05 2021

UNIFORM COVER PAGE

[To be used when required by Administrative Order No. 2 (g)*]

COURT: Circuit COURT OF Putski COUNTY

Docket/Case Number: 60CV-20-4734

CASE NAME:
PLAINTIFF/
PETITIONER:

Marsha G. Frazier

DEFENDANT/
RESPONDENT:

Et. AL

LIAMS, Benjamin Tharin Individual Capacite

TITLE OF PLEADING OR
DOCUMENT BEING FILED

(If a multi-part file,
the designation "part _ of _"
(example, part 1 of 2)):

Motion to compel Discovery Request
Exhibit 1

*Administrative Order No 2.

(g) *File Mark.* (1) There shall be a two inch (2") top margin on the first page of each document submitted for filing to accommodate the court's file mark. If the pleading or document must be filed in multi-parts because of size or for other reasons, the first page of each part must include the file name and file mark and shall clearly indicate the part number and number of parts (example, part 1 of 2).

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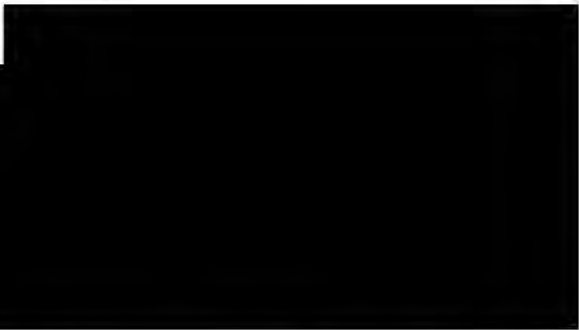
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Plaintiff ask the Court will it allow this communication? By terms of the ABA Rule 2.9: Ex Parte (4), a judge may with the consent of the parties, confer separately with the parties and their lawyers in an effort to settle matters pending

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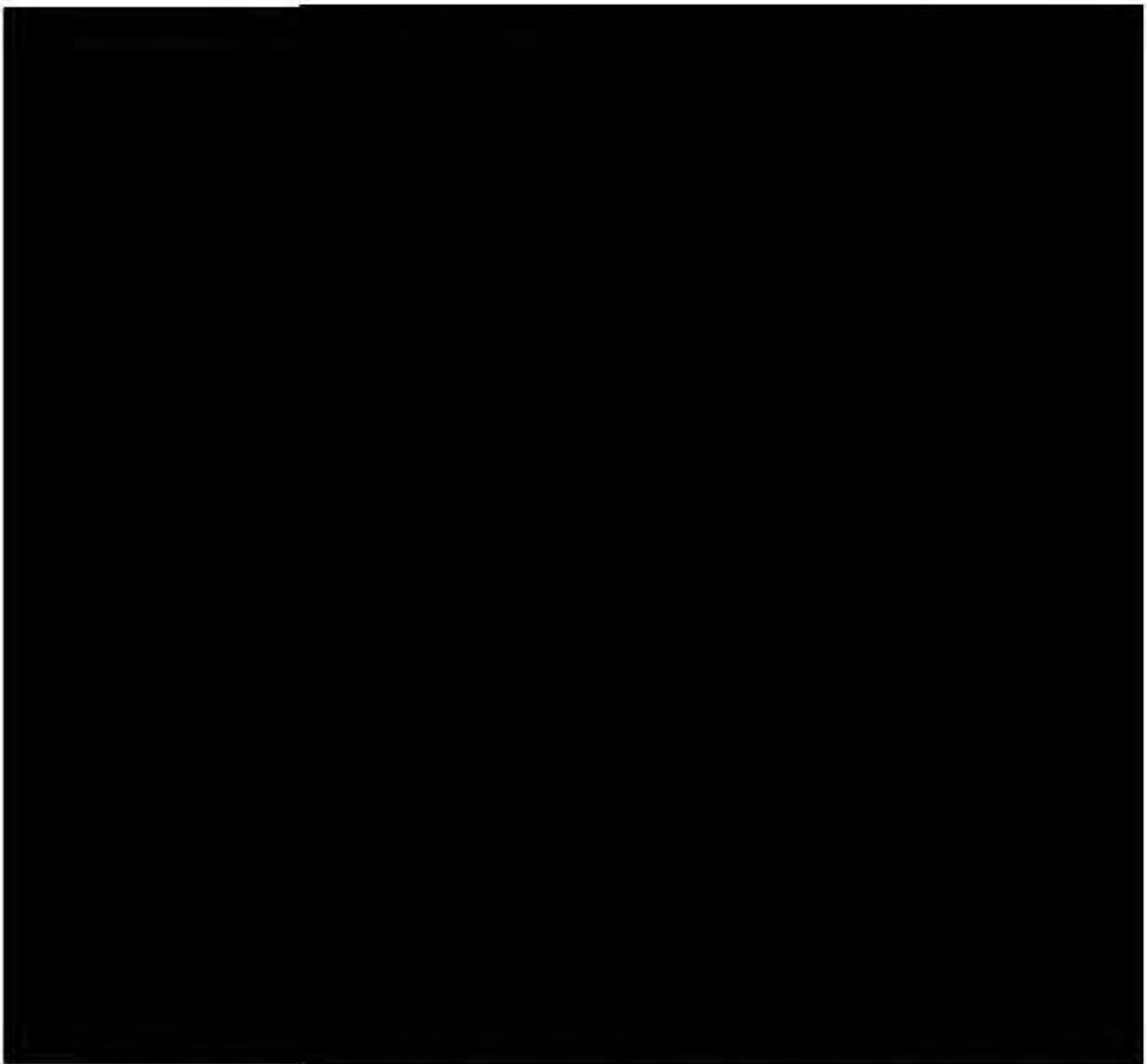
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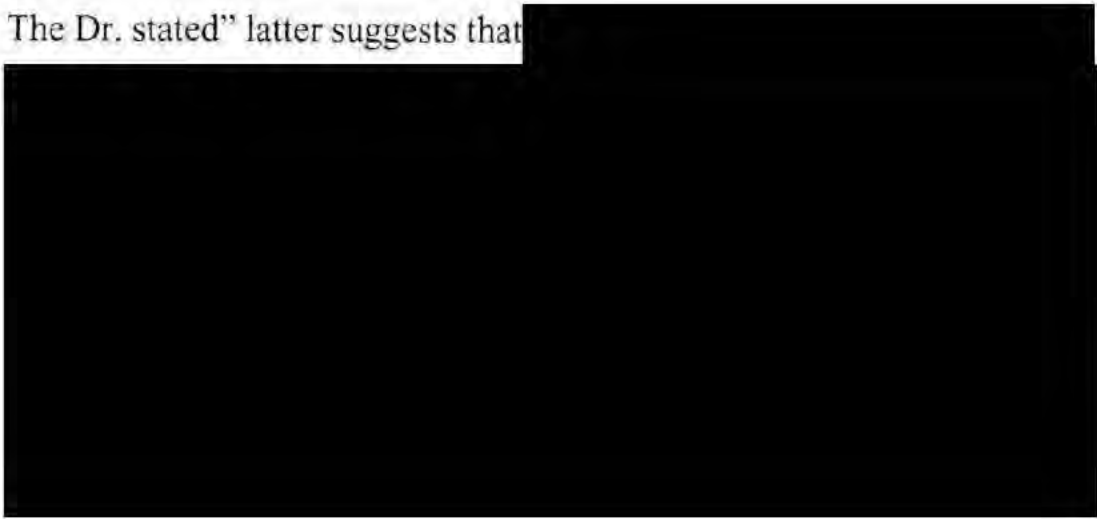




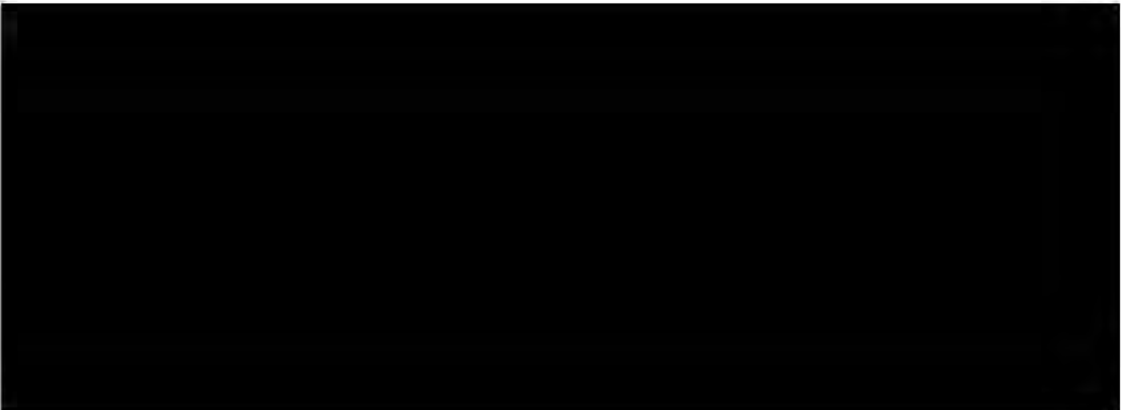
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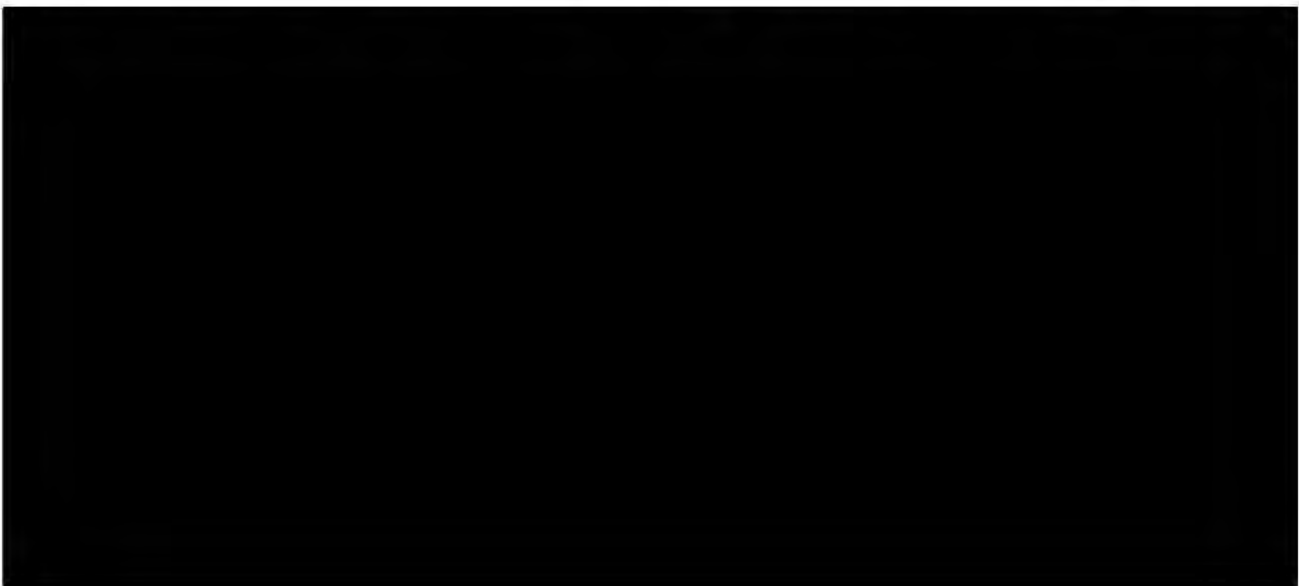
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Marsha G. Frazier



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Marsha G. Frazier



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FEB 05 2021

UNIFORM COVER PAGE

[To be used when required by Administrative Order No. 2 (g)*]

COURT: Circuit COURT OF Pulaski COUNTY

Docket/Case Number: 60CV-20-4734

CASE NAME:

PLAINTIFF/
PETITIONER:

DEFENDANT/
RESPONDENT:

Marsha G. Frazier

Et. AL

LIAMS, Benjamin Tharin Individual Capacit

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DOCUMENT BEING FILED

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Exhibit 2

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BEFORE THE ARKANSAS CLAIMS COMMISSION

Claims No: 191008

RECEIVED
OCT 18 2019
UAMS
Office of General Counsel

MARSHA G FRAZIER - SPECIAL ADMINISTRATOR

Vs.

UNIVERSITY ARKANSAS FOR MEDICAL SCIENCE RESPONDANTS

**REQUESTED DOCUMENTS PURSUANT TO TITLE V OF CIVIL RULES
OF PROCEDURE CLAIMANT REQUEST IS INCOMPLETE NEED
OTHER DOCUMENT AND REVISED FROM FIRST REQUEST.**

COMES Special Administrator Marsha G. Frazier pleads to the Claims Commission to allow Claimant request for other document left out of the prior document request.

1. What document evidence is there of the experience level of dr. Benjamin Tharin
2. How many [REDACTED] have dr. Tharin performed? On adults or children
3. What document evidence shows explaining What percentage of dr. Tharin patients have experienced complications after [REDACTED]

4. What document evidence [redacted] as dr. Tharin shows dr. Tharin is qualified to perform

5. Show document evidence as to why dr. Tharin abandon treatment when the

[redacted]

6. There's documentation under coding Queries according to H&P and first progress notes

[redacted]

7. What and where the documents evidence to show this dr. Wrote this report and why he did not if the question comes. Q

8. What document evidence the [redacted] absolutely was necessary or

[redacted]

[REDACTED]

9. In the first request # 6-9 I was asking for document regards the dr. Performed

[REDACTED]

10.

[REDACTED]

11. With so many different possibilities can result from abdominal pain what

document evidence can explain why the

[REDACTED]

[REDACTED]

12. what document evidence supporting efficacy of

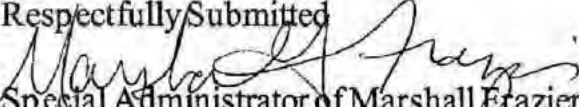

[REDACTED]

[REDACTED]

9. When he come back after being released 12hrs. Earlier why they misdiagnosed the pain in his abdomen? Where the documents to prove Misdiagnosed [REDACTED] is not the liability of the residents worked his case.

Please explain how the respondents are not liable for their standards of care above?

THEREFORE, Special Administrator Marsha G. Frazier Prays the Commissioners will award a settlement of this claim to the Heirs of Marshall Frazier Jr. Estate.

Respectfully Submitted

Special Administrator of Marshall Frazier Jr./
Marsha G. Frazier


ELECTRONICALLY
FILED
FEB 05 2021

UNIFORM COVER PAGE

[To be used when required by Administrative Order No. 2 (g)*]

COURT: Circuit COURT OF Pulaski COUNTY

Docket/Case Number: 60CV-20-4734

CASE NAME:
PLAINTIFF/
PETITIONER:

Marsha G. Frazier

DEFENDANT/
RESPONDENT:

et AL.
WAMS, Benjamin Tharian Individual Cases

TITLE OF PLEADING OR
DOCUMENT BEING FILED

(If a multi-part file,
the designation "part _ of _"
(example, part 1 of 2)):

Motion to Compel Discovery Request
Exhibit 3

*Administrative Order No 2.

(g) *File Mark.* (1) There shall be a two inch (2") top margin on the first page of each document submitted for filing to accommodate the court's file mark. If the pleading or document must be filed in multi-parts because of size or for other reasons, the first page of each part must include the file name and file mark and shall clearly indicate the part number and number of parts (example, part 1 of 2).

(2) If a document is such that the first page cannot be drafted to provide sufficient space to satisfy the file-mark requirement, the document must include the uniform cover page developed by the Administrative Office of the Courts and found under Forms and Publications at www.arcourts.gov.

BEFORE ARKANSAS CLAIMS COMMISSION

MARSHA G. FRAZIER-SPECIAL ADMINISTRATOR

Vs.

Claim No: 191008

UNIVERSITY ARKANSAS MEDICAL SCIENCE

RESPONDANTS


RECEIVED
OCT 17 2019
UAMS
Office of General Counsel

PURSUANT TO Title V -OF CIVIL RULES OF PROCEDURE
DISCOVERIES AND DISCOVERY TO REQUEST
PRODUCTION OF DOCUMENTS

Comes, Marsha G. Frazier Special Administrator of Marshall Frazier Jr. Estate, to request from the Respondents to produce documents as proof to the allegations in Claimant's Complaint and proof to their not being liable for each and every material allegation contained in the Claimant's complaint.

Respondents specifically denies any of its employees, agents, officials, or representatives took action or inaction that was the proximate cause of Marshall Frazier Jr.'s death.

1. Please produce the document that prove where or what happen to Marshall

Frazier Jr. 

2. 

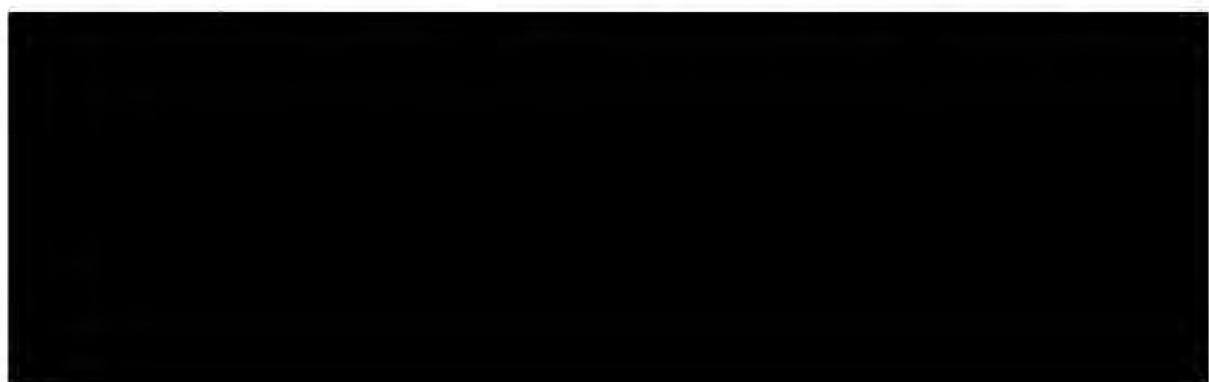


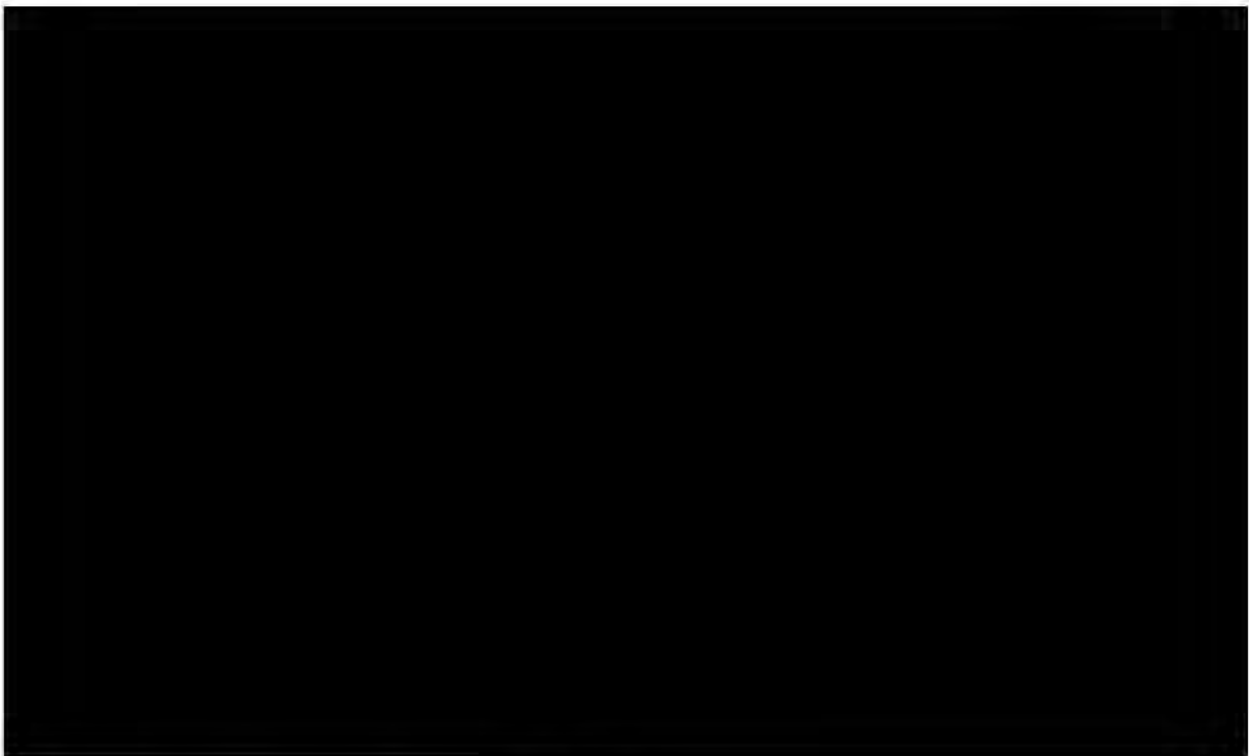
3. Why in the nurse's chart it was always documented as this Vanessa Horton gave [redacted] I had not yet seen any others did this.

Show the documents that the nurses flow chart and notes are not documents as recorded?



5. Here is a research range below within hours administering; this lab shows



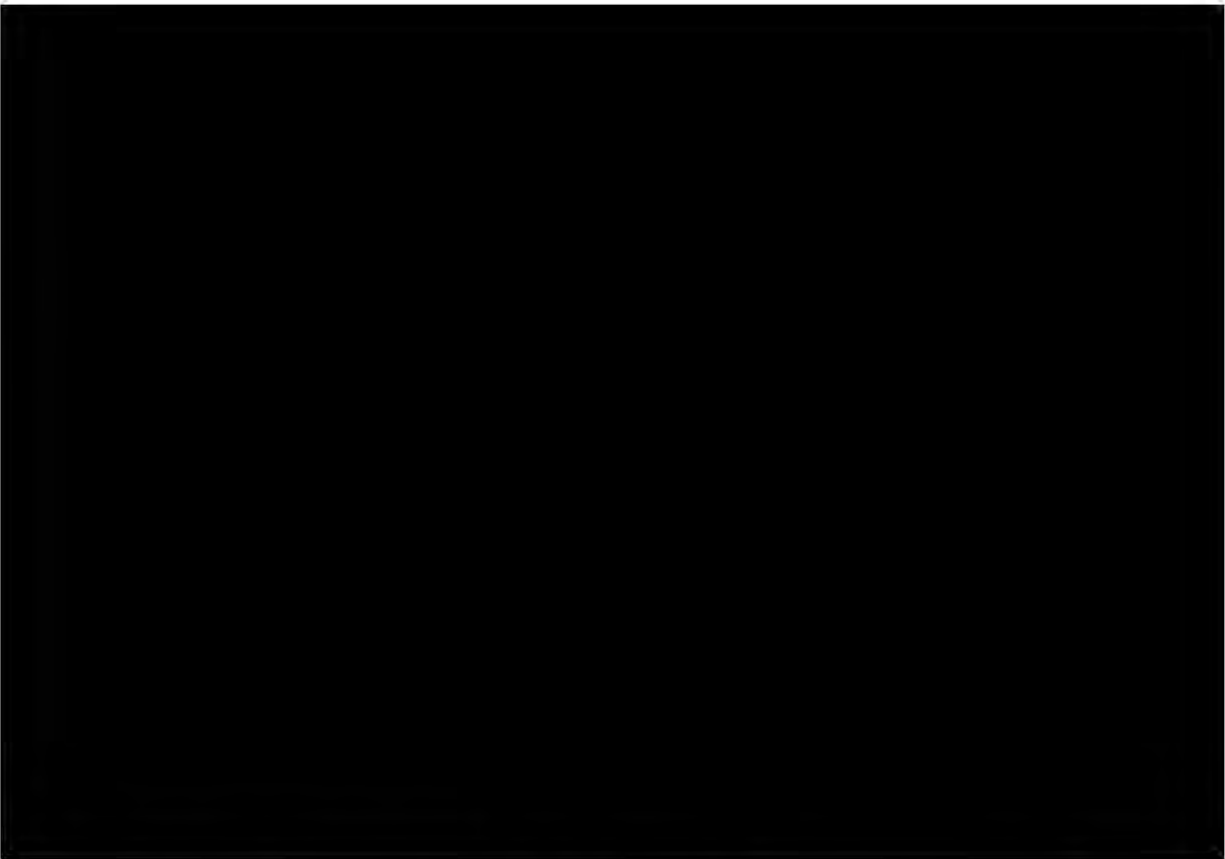


6. Why dr. Benjamin Tharin did not 



7. 

8. 



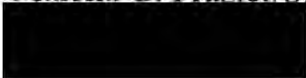
Please produce the documents to these. Produce documents as to why Dr. Tharin did not come back on his case.

THEREFORE, Claimant special Administrator of Marshall Frazier Jr. Estate

Prays this Commission Award the Heirs of Mr. Frazier a settlement for his fall injury while in the care of this hospital.

Respectfully Submitted

Marsha G. Frazier/Special Administrators



CERTIFICATE OF SERVICE

I Marsha G. Frazier Certify I have certified mail or hand delivered on this __ 12 th
date of October 2019 the documents to all parties involved of this action.

Respectfully Submitted

Marsha G. Frazier
Marsha G. Frazier



191008

Arkansas
State Claims Commission

MAR 11 2021

RECEIVED

ELECTRONICALLY
FILED

MAR 08 2021

THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS

**MARSHA G. FRAZIER. ADMINISTRATOR OF ESTATE
OF MARSHALL FRAZIER JR.**

PLAINTIFF

VS.

No: 60CV-20-4734

DR. BENJAMINE THARIAN

ET. AL. DEFENDANTS

**RESPONSE TO DEFENDANTS RESPONDING TO PLAINTIFF COMPEL
MOTION/ INCLUDING INTERROGATORIES**

Responding to defendants responding to Plaintiff request Motion to compel discovery. Dr. Benjamin Tharian, Michelle Jupin, APRN, William C. Beck, M.D., Rachel Freeze-Ramsey, M.D., Teresta Angtuaco, M.D., Dr. Clint Evans, Dr. Westley White, Dr. Rachel Littlefield, Dr. Kelsey Bessett, Dr. Kevin Sexton, Dr. Sally Schonefeld, and Dr. Hemendra Shah. While responding I'm adding defendants Vanessa Horton RN. UAMS, CEO Stephen Mette on behalf of Board of Trustees.

Plaintiff has in good faith requested these documents see compel motion exhibits, where in 2019 proceeding with Ark. Claims Commission and the Atty. For UAMS both exchanged Interrogatories. No documents produce. And the defendants in their response to Plaintiff's request for admissions of documents as certificate of merits. Defendants offered answers and denials filed October 21, 2020 in their motion to dis miss.

The Defendants in a motion to dismiss Plaintiff from being granted allowing learned treatises and Medical records as certificate of merits. But, federal rules of evidence 803(18) states, either party can introduce a learned treatise as evidence, irrespective of whether it is being used to rebut the opposing party. Such texts are now considered an exception to hearsay, A learned treatise, in the law of evidence, is a text that is sufficiently authoritative in its field to be admissible as evidence in a court in support of the contentions made therein.

Under the common law, such evidence was at one time considered hearsay a statement made out of court being introduced to prove the truth of the statement.

Daubert v. Merrell Dow Pharmaceuticals Inc. pave the way for medical treatises,

**PLAINTIFF INTERROGATORIES
WITH LEARN TREATIES INFORMATION ADDED**

1.

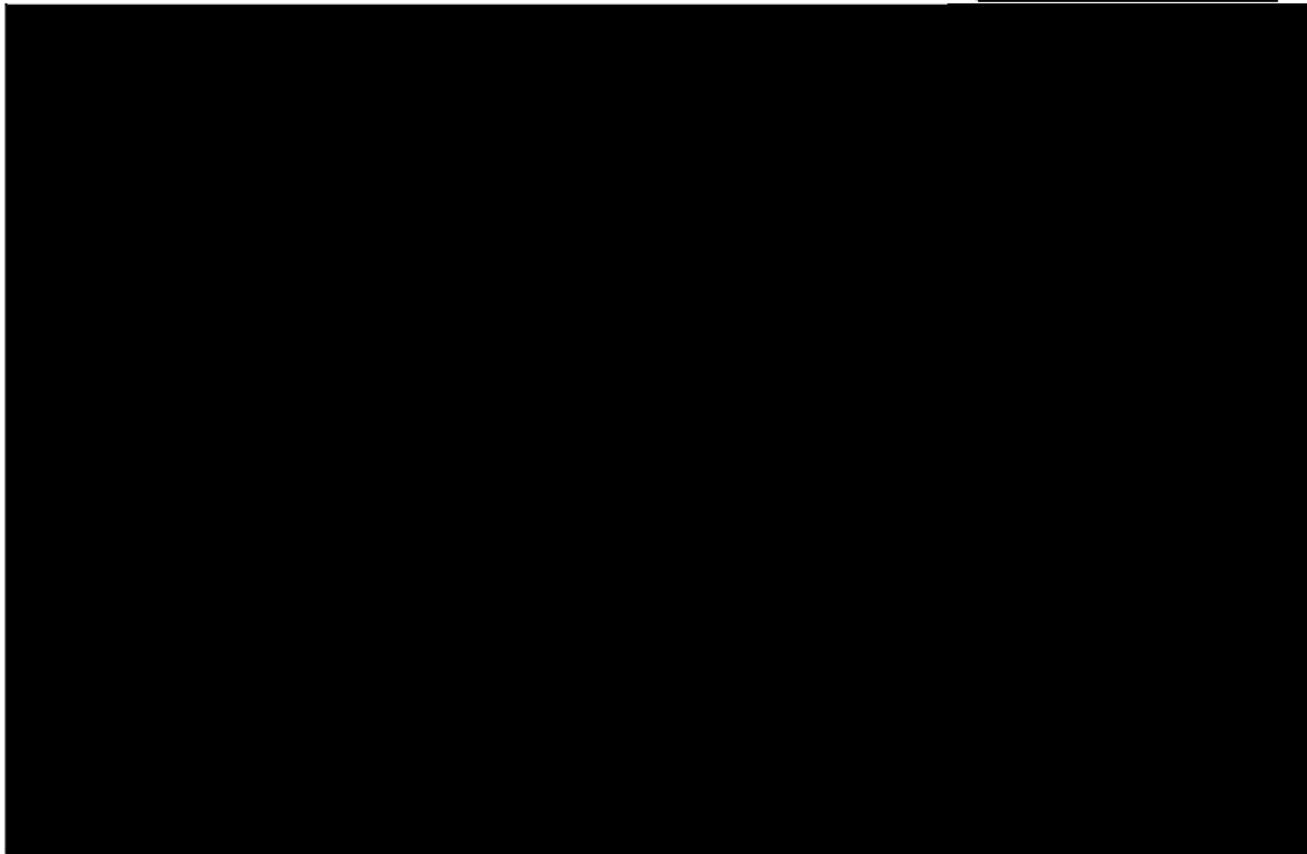
What or who will be Defendants expert witness and their specialties in experiences of medical affiliation, opinions which they will reach to dispute the medical records and autopsy reports and learn treatises, Plaintiff has entered?

2.

2

Learn treaties Dr. Fritzs, W. Hartwig, R. Lehmann, K. Schweiger-Will, M.

Kommerell, T. Hacker, L. Schneider MW. Buchler, J. Werner.



3.



above? Produce any other written, printed, recorded, or typed records, reports, proposals, drafts, papers, contracts, documents, books, letters, statements of witnesses, statements of persons who were not witnesses but who have information relating to the occurrence which is the subject matter of this lawsuit, notes, accounting records, logs, memoranda, minutes, statistical compilations, work sheets, insurance policies, films, photographs, videotapes, voice recordings, drawings, computer disks, computer tapes, computer stored

- a. A summary of the contents of the document, If the original document was destroyed the date and reason for or circumstances under which was destroyed?

4.

2. ACA 16-114-206 was pointed out in Defendants motion to Dismiss the part of

(A) Whether a person of ordinary intelligence and awareness in a position similar to that of the injured person or persons giving consent on his or her behalf could reasonably be expected to know of the risks or hazards inherent in such treatment, procedure, or surgery;

(B) Whether the injured party or the person giving consent on his or her behalf knew of the risks or hazards inherent in such treatment, procedure, or surgery;

(C) Whether the injured party would have undergone the treatment, procedure, or surgery regardless of the risk involved or whether he or she did not wish to be informed thereof; and

(D) Whether it was reasonable for the medical care provider to limit disclosure of information because such disclosure could be expected to adversely and substantially affect the injured person's condition.

4.

Where there a informed consent where there was going to be a

[REDACTED]

- a. State the name address, phone of each person, doctor, nurses, Technician having knowledge of facts in that there were consent discussion verbal or signed that [REDACTED]
[REDACTED] produce all written, printed, recorded, or typed records, reports, proposals, drafts, papers, contracts, documents, books, letters, statements of witnesses, statements of persons who were not witnesses but who have information relating to the occurrence which is the subject matter of this lawsuit, notes, accounting records, logs, memoranda, minutes, statistical compilations, work sheets, insurance policies, films, photographs, videotapes, voice recordings, drawings, computer disks, computer tapes, computer stored on the patient or family was aware of complications under the standard that would advise patient to go ahead anyway with this procedure?

- b. What was the summary of the contents of the document?
- c. If the original document was destroyed the date and reason for or circumstances under which it was destroyed.

[REDACTED]

5.

where are documents all written, printed, recorded, or typed records, reports, proposals, drafts, papers, contracts, documents, books, letters, statements of witnesses, statements of persons who were not witnesses but who have information relating to the occurrence which is the subject matter of this lawsuit, notes, accounting records, logs, memoranda, minutes, statistical compilations, work sheets, insurance policies, films, photographs, videotapes, voice recordings, drawings, computer disks, computer tapes, computer stored information, lists and correspondence, whether or not in your possession or under your immediate control (insofar as these relating to or pertaining in any way to the subject matter in connection with which it is used, and further includes, without limitation, file copies and other copies, no matter how or by whom prepared and all drafts prepared in connection with such "documents", whether used or not.

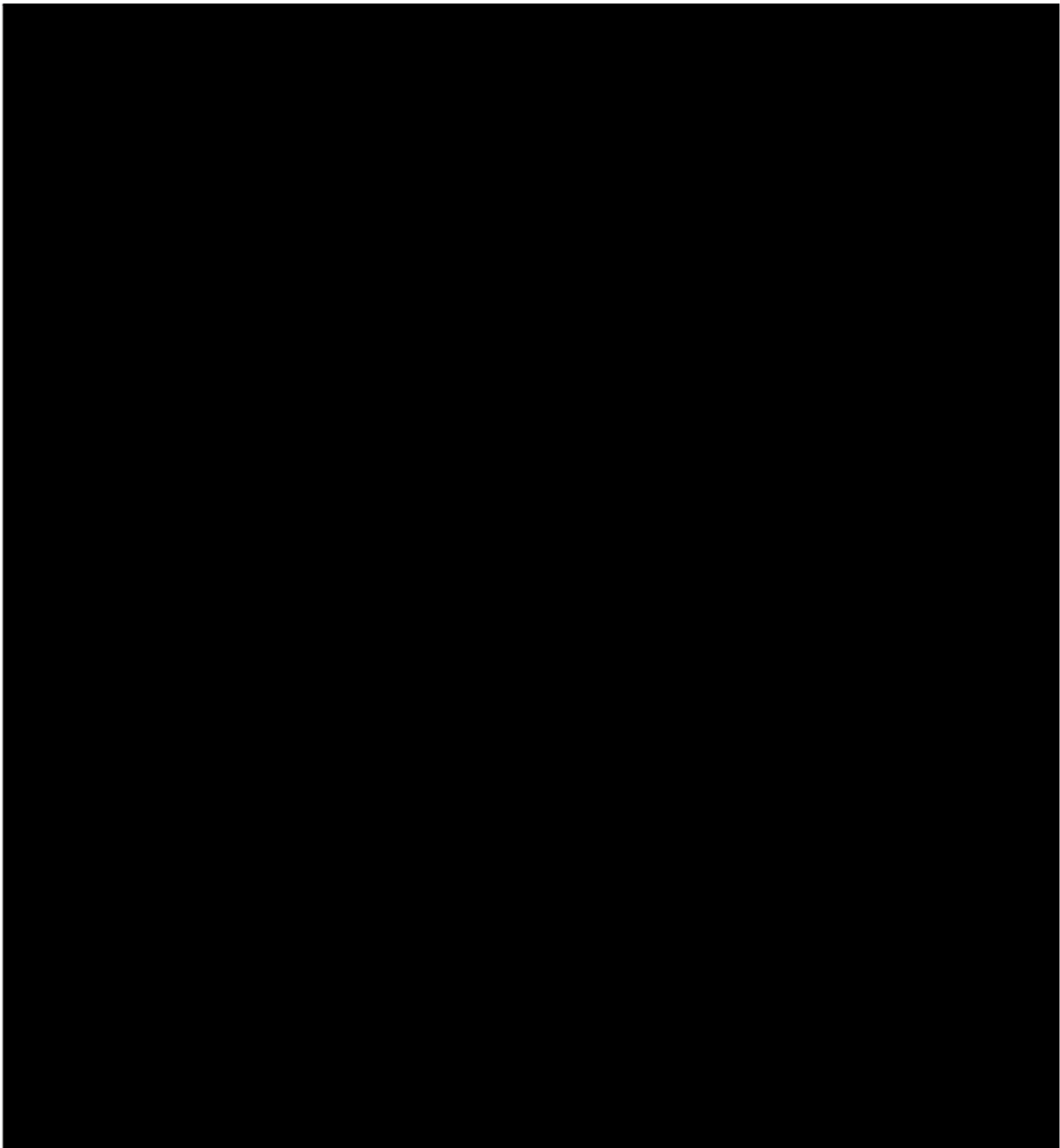
a. That the Patient was treated with [REDACTED]

[REDACTED]

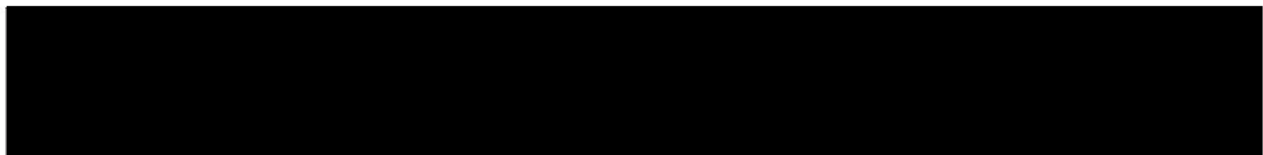
reports anywhere including dates names of who documented and where is it today all written, printed, recorded, or typed records, reports, proposals, drafts, papers, contracts, documents, books, letters, statements of witnesses, statements of persons who were not witnesses but who have information relating to the occurrence which is the subject matter of this lawsuit, notes, accounting records, logs, memoranda, minutes, statistical compilations, work sheets, insurance policies, films, photographs, videotapes, voice recordings, drawings, computer

disks, computer tapes, computer stored information not included in medical records?

- a. The names and present addresses of the person or persons who prepared the document and of the signers and addressers of the document.
 - b. The name of the employer or principal whom the signers, addressers and preparers were representing.
 - c. The present location of the document.
 - d. The name and current business and home addresses of the present custodians of the original document, and any copies of it.
 - e. A summary of the contents of the document.
 - f. If the original document was destroyed, the date and reason for or circumstances under which it was destroyed.
- b. If any Interrogatory may be answered fully by a document, the document may be attached in lieu of an answer if the document is marked to refer to the Interrogatory to which it responds.
 - c. List all exhibits Defendants proposes to introduce at trial



This hospital has the reputation of excellence for this to have happen to a patient is unacceptable
6 days of waiting and suffering worst than when he come there for. Then allowed him to



[REDACTED] staring in his face. This hospital has these defendants as employees, and all are liable for this grave medical injury into death Mis diagnosing and delaying treatment course.

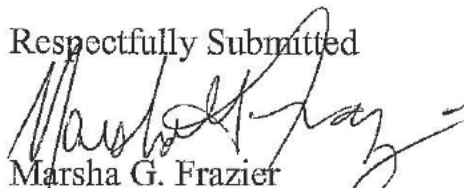
7.

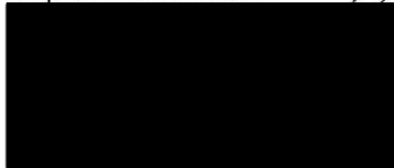
State the name address, phone of each person, doctor, nurses, Technician having knowledge of facts above #7 in that there were consent discussion verbal or signed produce all written, printed, recorded, or typed records, reports, proposals, drafts, papers, contracts, documents, books, letters, statements of witnesses, statements of persons who were not witnesses but who have information relating to the occurrence which is the subject matter of this lawsuit, notes, accounting records, logs, memoranda, minutes, statistical compilations, work sheets, insurance policies, films, photographs, videotapes, voice recordings, drawings, computer disks, computer tapes, computer stored that would dispute #7.

- a. A summary of the contents of the document, If the original document was destroyed the date and reason for or circumstances under which was destroyed?

THEREFORE, Plaintiff enter these interrogatories for answers and request 20 days to respond.

Respectfully Submitted


Marsha G. Frazier



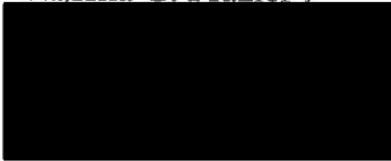
CERTIFICATE OF SERVICE

I Marsha G. Frazier do by certify that on this 5th date of March 2021.

I have either hand delivered or mailed via USPS the foregoing documents to all parties involved in this proceeding.

Respectfully Submitted


Marsha G. Frazier



IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS

MARSHA G. FRAZIER, ADMINISTRATOR OF ESTATE OF MARSHALL
FRAZIER JR

V.

Et. AL

No: 60CV-20-~~1194~~

Arkansas
State Claims Commission
APR 07 2021
RECEIVED

DR. BENJAMIN THARIAN, DEFENDANT. INDIVIDUAL CAPACITY
MICHELLB JUPIN. ROBERSON DEFENDANT INDIVIDUAL CAPACITY
WILLIAM BECK. DEFENDANT INDIVIDUAL CAPACITY
RACHEAL FREEZE. RAMSEY DEFENDANT INDIVIDUAL
SEPERATE DEFENDANT VANESSA HORTON INDIVIDUAL CAPACITY
SEPERATE DEFENDANT STEPHENE METTE CEO/ON BEHALF OF
BOARD OF TRUSTEES FOR UAMS d|b|a UNIVERSITY OF ARKANSAS
MEDICAL HOSPITAL
JOINDER OF PERSONS JOINDER OF CLAIMS ADDING CLINT EVANS
MD. INDIVIDUAL CAPACITY
WESTLEY WHITE MD INDIVIDUAL CAPACITY
RACHEL LITTLEFIELD ED. MD INDIVIDUAL CAPACITY
KELSEY BESSETT MD INDIVIDUAL CAPACITY
KELVIN SEXTON MD INDIVIDUAL CAPACITY
SALLY SCHONEFELD MD INDIVIDUAL CAPACITY
HEMENDRA SHAH MD INDIVIDUAL CAPACITY

Plaintiff is Submitting a Motion request for Motion days date

April 5, 2021

Dear Sir,

This letter is for request for Motion Days date, from the Judges Clerk where This case can be proceed to settle due there has not been any response to Plaintiffs request for production of documents.

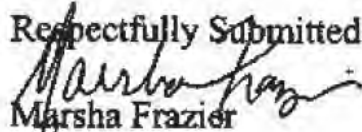
I am coming on this 5th date of April 2021. This is the 20 days I requested from the defendants to respond with the answers to my interrogatories As my attachments dated February 5, 2021 shows I have interacted with the Defendants UAMS April 2019 and I refenced listed all defendants worked on my husbands case in my response to them. It is more than 20 days if you count the week ends. And as I'm feeling now, they will not respond because from the defendant's response to my first Motion with Exhibits. Their # 6, 7,8, and 9.

To reply to their responses, Yes I do have my husbands records and has shared them for all to see as my proof to the negligence of these defendants. Compared to the Criteria's from research the defendants has failed the standard of care to the patient Marshall Frazier Jr., the Defendants names are of record to the UAMS as the providers of Mr. Frazier's course of treatment,

1. why would they not have to answer any part of Plaintiff's requests?
2. Why would they not provide the inform consent? As part of the requirements for Plaintiff to prove is an inform consent.
3. Why deny Plaintiff motion for the defendants to compel if they are not liable of the negligence to the patient demise of lying in the hospital for 6 days of [REDACTED]
4. [REDACTED]
5. [REDACTED] When the Patient was worst than when he come in for?

[REDACTED] where according to the criteria I stated in my last response attached to this letter dated March 8, 2021 Page 5-7 to the interrogatories.

The Defendants should be compelled to produce these documents expediated and The Defendants should be found to settle this complaint in all Plaintiff has asked.

Respectfully Submitted

Marsha Frazier

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

August 31, 2021

Mrs. Marsha Frazier
[REDACTED]
[REDACTED]

Ms. Sherri L. Robinson
University of Arkansas for Medical Sciences
4301 West Markham, Slot 860
Little Rock, Arkansas 72205

(via email)

RE: ***Marsha Frazier, as administratrix of the Estate of Marshall Frazier v. University of Arkansas for Medical Sciences***
Claim No. 191008

Dear Mrs. Frazier and Ms. Robinson,

The Claims Commission has placed this claim in abeyance pending resolution of the related underlying circuit court lawsuit (*Frazier v. Tharian et al.*, Pulaski County Circuit Court Case No. 60CV-20-473). When this lawsuit is resolved, please notify the Claims Commission that the claim is ready to proceed.

Sincerely,

Kathryn Irby

ES: kmirby

SEP 29 2021

IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS
4TH DIVISION

MARSHA FRAZIER

Plaintiff,

vs.

BENJAMIN THARIAN M.D., UAMS ET AL.

IN THEIR INDIVIDUAL AND OFFICIAL
CAPACITY

Defendant

Case No.: 60CV-20-4734

NOTICE OF APPEAL

Arkansas
State Claims Commission

SEP 30 2021

RECEIVED

NOTICE OF APPEALS

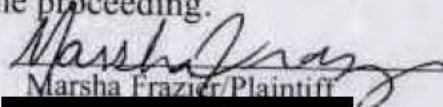
NOTICE IS HEREBY GIVEN, that Marsha Frazier Plaintiff, in the above caption case, hereby appeal to the Arkansas Court of Appeals, Ark. R. Sup. Ct. & Ct. App. 1-2, Arkansas Civil Rule 2, 3, and 4. An appeal may be taken from a circuit court to the Arkansas Court of Appeals and Arkansas Supreme Court from: **(1)** A final judgment or decree entered by the circuit court.

I hereby designate the clerk's records filed including,

1. All filed notices and responses
2. All documents entered of Exhibits, letters, emails,
3. Record transcript of the hearing filed

The Court reporter has been notified of this appeal for the transcript and record by email (copy attached). I reserve the right to amend this Notice of Appeal

I certify that this appeal is not taken for the purpose of delay, that the evidence is substantial material of fact in proof for the proceeding.


Marsha Frazier/Plaintiff

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

SEP 8 1981

RECORDED

SEP 30 2021

CERTIFICATE OF SERVICE

RECEIVED

I Marsha Frazier do hereby certify that on this 29th date of September of 2021 I have Marsha Frazier/Plaintiff



served each party a copy of this Notice of Appeals to this case

Marsha Frazier
Marsha Frazier/Plaintiff



Alabama
State Printing Commission

STATE OF ALABAMA

RECEIVED

IN THE CIRCUIT COURT OF PULASKI COUNTY ARKANSAS NOV 22 2021

4TH DIVISION

Case No: 60CV-20-4734

MARSHA FRAZIER
Plaintiff,

VS.

AMENDED NOTICE APPEAL

BENJAMIN THARIAN M.D., UAMS et al.
IN THEIR INDIVIDUAL AND OFFICIAL CAPACITY
Defendants

NOTICE OF AMENED APPEALS NOTICE IS HEREBY GIVEN, that Marsha Frazier Plaintiff, in the above caption case, hereby appeal to the Arkansas Court of Appeals, Ark. R. Sup. Ct. & Ct. App. 1-2, Arkansas Civil Rule 2,3, and 4. An appeal may be taken from a circuit court to the Arkansas Court of Appeals and Arkansas Supreme Court from:(1) A final judgment or decree entered by the circuit court. I hereby correct this notice the records needed from the clerk's partial records.

I hereby designate the clerk's partial records filed.

Arkansas
State Claims Commission

DEC 2 2021

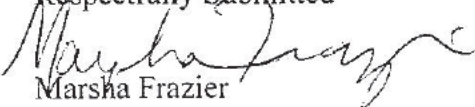
RECEIVED

1. Amended complaint filed 08/27/2020- 15 pages
2. Summons issue Benjamin Tharian 4 pages
3. 2 sets Exhibits file 08/27/2020 5 pages and 37 pages
4. Admit merit file 09/18/2029 – 22 pages
5. Order filed 09/8/2021 4 pages
6. Defendants answer file 9/14/2020 15 pags
7. Defendant Brief file 9/14/ 2020 6 pages
8. Motion to Dismiss file 09/29/2020 pages 2
9. Brief file 9/29/2020 5 pages
10. Plaintiff Respond to separate defendant file 10/13/2020 6 pages
11. Response to letter to Judge by Defendant file 12/16/2020 10pages
12. Exhibit 1,2,3 filed 02/05.2021 11, 5, 6 pages
13. Affidavit of Service Benjamin Tharian and Kathy Irby Claims Commission filed 09/ 24 2020 total 4 pages
14. Motion sanction file June 17, 2021, 9 pages

(1)

I reserve the right to amend this Notice of Appeal I certify that this appeal is not taken for the purpose of delay, that the evidence is substantial material of fact needed in proof for this proceeding

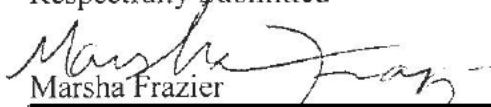
Respectfully Submitted


Marsha Frazier

CERTIFICATE OF SERVICE

I Marsha Frazier do hereby certify that on this 22nd date of November of 2021 I have served all parties involved in this appeal.

Respectfully Submitted


Marsha Frazier



JAN 24 2022

RECEIVED

BEFORE THE ARKANSAS CLAIMS COMMISSION

MARSHA G. FRAZIER/ Administrator of Estate
Vs.

Claim No: 191008

UAMS, DR. BENJAMIN THARIAN et al.

I Marsha G. Frazier Administratrix of estate of my husband Marshall Frazier Jr. Is coming before the Commission rules 4.1 states because of it is fact-finding body for the General Assembly, the simplification and defining of the issues in question before the Commission is encouraged prior to hearing. Rule 1.1 gives jurisdiction.

Rule 1.5

(d) Cause of Action to be Stated..

[REDACTED] A hospital with credential of high standards
2. There has been fraudulent acts and statements during the patients care in this hospital under
The care of the doctors and nurses there. Under the law of US 42 1983

Rule 1.5

(e) Monetary Damages Stated. A demand for monetary damages must be perfected in the complaint, if known. An itemized outline of the damages sought and the overall total claimed in monetary figures is required prior to a hearing on the merits of a claim.

To the monetary I motion revised to one million and five hundred dollars.

But if I may point out because of the extreme damage of suffering the patient suffered the number of days without the correct treatment course him suffer from sepsis and super infection causing him to go into cardiac arrest dieing at this facility.

This hospitals board Stephen Mett uphold employees the accountability needs to be honored for more that the amount I stated.

Ian asking to continue before this Commission to fact find for accountability the Doctors I stated and . entity UAMS , all are liable for the negligent treatment course given.

The Respondents allshoud be held accountable for the negligence in the lack of medical treatment my husband Marshall Frazier Jr. [REDACTED]

I have mailed correspondences to the Commission of all I did in the Circuit Court. I will re-submit the Order from this Court.

But please take in consideration f what the Court did NOT rule on here.

1. The Court did NOT rule the Doctors or this facility were not held accountable or Liable to Marshall Frazier Jr's death.

Once a non-lawyer is appointed as a guardian or executor, a court may allow the person to appear in court and file legal documents such as inventories and accountings, but the individual should consult with the judge assigned to the case to determine if there are specific rules in that particular court as to what is considered permissible and what is considered the unauthorized practice of law. a non-lawyer represent incertain administrative proceedings, such as the Workers Compensation Commission or the Arkansas Employment Security Department, in which a non-lawyer can appear and represent a party to the proceeding. Check the rules of the administrative body to see if a lawyer is required or if there are other requirements for non-lawyers to appear. This Commission Rule 1.5 (i) No Attorney. A complaint, pleading or paper not signed by an attorney must be signed in ink by the Claimant with the address and phone number stated. The facts alleged in the pleading must be verified by the seal and signature of a Notary Public. Any pleading, complaint or paper filed on behalf of a corporation or other organization must be verified by an executive officer of such corporation or organization and have the seal of a Notary Public affixed.

As the Executive and also Cestui Que Trust I have standing in this capacity and in this administrative proceeding to proceed for an Award of more than I requested

2. 42 USC 1983 "provides a cause of action for the deprivation of any rights, privileges, or immunities secured by the Constitutional laws.

3. Fraud is committed her when it was not documented of [REDACTED] 42 USC 1983 also allows for statue of limitations of 4 years. I filed in April 2019 before the Stats requirements

4 The Arkansas Medical Malpractice standard duty, breach, proximate cause by that breach, result in damages of [REDACTED] of my husband.
5 myself and children was so devastated we went to therapy. And re-lives his passing during holidays miss his advice he gave to his children and myself.
As his spouse the loss of consortium

6. Once a non-lawyer is appointed as a guardian or executor, a court may allow the person to appear in court and file legal documents such as inventories and accountings, but the individual should consult with the judge assigned to the case to determine if there are specific rules in that particular court as to what is considered permissible and what is considered the unauthorized practice of law.

There are certain administrative proceedings, such as the Workers Compensation Commission or the Arkansas Employment Security Department, in which a non-lawyer can appear and represent a party to the proceeding. Check the rules of the administrative body to see if a lawyer is required or if there are other requirements for non-lawyers to appear. This Commission Rule 1.5 allows a non lawyer and as the executive of estate

THEREFORE, I pray this Commission hold accountability and liable all I stated in this complaint and Award the amount of 4,000,000.00 for all the damages endured the breach of duty not held to the standard of care according to Arkansas law.

That this Award is distributed to each Claimant of 5 The spouse is according to the state laws and the children are in equal s.

Respectful Submitted



Marsha Frazier/Administrative of Estate
[REDACTED]

Attachment

ELECTRONICALLY FILED
Pulaski County Circuit Court
Terri Hollingsworth, Circuit/County Clerk
2021-Sep-08 13:02:56
60CV-20-4734
C06D04 : 4 Pages

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
4th DIVISION

MARSHA G. FRAZIER – ADMINISTRATOR OF ESTATE OF
MARSHALL FRAZIER JR.

PLAINTIFF

vs.

No. 60CV-20-4734

DR. BENJAMIN THARIAN MD MRCP (UK) FRACP-
DEFENDANT-OFFICIAL CAPACITY
MICHELLE JUPIN APRN-DEFENDANT-OFFICIAL CAPACITY
WILLIAM C. BECK MD-DEFENDANT OFFICIAL CAPACITY
RACHEAL FREEZE-RAMSEY MD-DEFENDANT OFFICIAL CAPACITY
TERESTA ANGTUACO MD-DEFENDANT-OFFICIAL CAPACITY
VANESSA HORTON RN-DEFENDANT OFFICIAL CAPACITY
UNIVERSITY OF ARKANSAS MEDICAL SCIENCE-DEFENDANT-
STEPHEN A. METTE CEO OFFICIAL CAPACITY
JOINDER OF PERSONS JOINDER OF CLAIMS
CLINT EVANS MD, WESTLEY WHITE MD, RACHEL LITTLEFIELD MD,
KELSEY BESSETT MD, KEVIN SEXTON MD, SALLY SCHONEFELD MD,
AND HEMENDRA SHAH MD
DEFENDANTS

ORDER OF DISMISSAL WITH PREJUDICE

The above-referenced cause came before this Court on August 31, 2021 for a hearing on pending motions. Separate Defendants Dr. Tharian, Ms. Jupin, Dr. Beck, Dr. Freeze-Ramsey, Dr. Angtuaco, Dr. Evans, Dr. White, Dr. Littlefield, Dr. Bessett, Dr. Sexton, Dr. Schonefeld and Dr. Shah appeared by and through their attorney Tyler Bone. Separate Defendants Ms. Horton, University of Arkansas Medical Sciences and Dr. Mette appeared by and through their counsel Sherri Robinson. Marsha Frazier appeared for Plaintiff in her *pro se* capacity.

After the case was called, the Court considered the following motions:

(1) Motion to Dismiss filed by Separate Defendants Dr. Tharian, Ms. Jupin,

Dr. Beck, Dr. Freeze-Ramsey, and Dr. Angtuaco on September 14, 2020;
(2) Motion to Dismiss filed by Separate Defendants Ms. Horton, University of Arkansas Medical Sciences and Dr. Mette on September 29, 2020; and,
(3) Motion to Dismiss filed by Separate Defendants Dr. Evans, Dr. White, Dr. Littlefield, Dr. Bessett, Dr. Sexton, Dr. Schonefeld and Dr. Shah on October 30, 2020.

Following a review of the foregoing Motions, the Responses of Plaintiff to said Motions, and Replies to said Motions, and after hearing argument from all parties, the Court finds as follows:

1. Plaintiff's Complaint and all amendments thereto are barred by the applicable statute of limitations contained in Ark. Code Ann. § 16-114-203.
2. Plaintiff is not a licensed attorney, and filed her Complaint and all amendments thereto in her *pro se* capacity on behalf of the Estate of Marshall Frazier, and such constitutes the unauthorized practice of law, rendering her Complaint and all amendments thereto a nullity.
3. The Motion to Dismiss filed by Separate Defendants Dr. Tharian, Ms. Jupin, Dr. Beck, Dr. Freeze-Ramsey, and Dr. Angtuaco should be and is hereby GRANTED.
4. The Motion to Dismiss filed by Separate Defendants Ms. Horton, University of Arkansas Medical Sciences and Dr. Mette should be and is hereby GRANTED.

5. The Motion to Dismiss filed by Separate Defendants Dr. Evans, Dr. White, Dr. Littlefield, Dr. Bessett, Dr. Sexton, Dr. Schonefeld and Dr. Shah should be and is hereby GRANTED.
 6. Plaintiff's Complaint and all amendments thereto should be and are hereby DISMISSED WITH PREJUDICE.
- IT IS SO ORDERED.

HON. HERBERT WRIGHT
Pulaski County Circuit Judge



Arkansas Judiciary

Case Title: MARSHA FRAZIER V BENJAMIN THARIAN ET AL
Case Number: 60CV-20-4734
Type: ORDER TO DISMISS

So Ordered

A handwritten signature in black ink, appearing to read "Herb Wright".

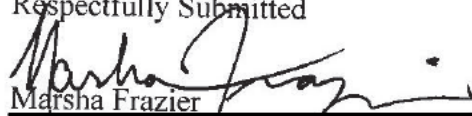
Honorable Herbert T Wright

Electronically signed by HTWRIGHT on 2021-09-08 13:02:33 page 4 of 4

CERTIFICATE OF SERVICE

I Marsha Frazier do hereby certify that on this 22nd date of January of 2022 I have served all parties involved in this proceeding.

Respectfully Submitted


Marsha Frazier



ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

February 18, 2022

Ms. Marsha Frazier
[REDACTED]

Ms. Sherri L. Robinson
University of Arkansas for Medical Sciences
4301 West Markham Street, Slot 860
Little Rock, Arkansas 72205

(via email)

RE: *Marsha Frazier, as administratrix of the Estate of Marshall Frazier v. University of Arkansas for Medical Sciences*
Claim No. 191008

Dear Ms. Frazier and Ms. Robinson,

The Claims Commission has scheduled a hearing on UAMS' pending motion to dismiss, as well as any other pending motions, on Wednesday, April 13, 2022, beginning at 9:00 a.m. All parties will attend virtually via Zoom. If either party objects to the Zoom format, that objection should be submitted in writing to me via email (kathryn.irby@arkansas.gov) or U.S. Mail no later than March 1, 2022. The Zoom invite will be sent to the parties closer to the hearing date.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: msscott

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

March 15, 2022

Ms. Marsha Frazier
[REDACTED]

Ms. Sherri L. Robinson
University of Arkansas for Medical Sciences
4301 West Markham Street, Slot 860
Little Rock, Arkansas 72205

(via email)

RE: *Marsha Frazier, as administratrix of the Estate of Marshall Frazier v. University of Arkansas for Medical Sciences*
Claim No. 191008

Dear Ms. Frazier and Ms. Robinson,

Enclosed please find the Zoom invitation for the motion hearing scheduled for **Wednesday, April 13, 2022, beginning at 9:00 a.m.**

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: msscott

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings

Time: Apr 13, 2022 08:30 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/85878675983?pwd=TDdIL1V3WXkwZFdRQjFRQ29TTEhtQT09>

Meeting ID: 858 7867 5983

Passcode: zT0vvD

One tap mobile

+13126266799,,85878675983#,,,,*356041# US (Chicago)

+19294362866,,85878675983#,,,,*356041# US (New York)

Dial by your location

+1 312 626 6799 US (Chicago)

+1 929 436 2866 US (New York)

+1 301 715 8592 US (Washington DC)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 858 7867 5983

Passcode: 356041

Find your local number: <https://us06web.zoom.us/u/kbIcsjIdhZ>

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

April 4, 2022

Ms. Marsha Frazier
[REDACTED]
[REDACTED]

Ms. Sherri L. Robinson
University of Arkansas for Medical Sciences
4301 West Markham Street, Slot 860
Little Rock, Arkansas 72205

(via email)

RE: *Marsha Frazier, as administratrix of the Estate of Marshall Frazier v. University of Arkansas for Medical Sciences*
Claim No. 191008

Dear Ms. Frazier and Ms. Robinson,

The Claims Commission received a request from UAMS to reschedule this hearing due to a scheduling conflict. As such, the Claims Commission has rescheduled this hearing for the next hearing date, May 13, 2022, beginning at 9:00 a.m. All parties will attend virtually via Zoom. The new Zoom invitation is enclosed herein.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: kmirby

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings

Time: May 13, 2022 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/85260381033?pwd=Z2UvUXd3cTRoNjFMY0QzS085bFZ4UT09>

Meeting ID: 852 6038 1033

Passcode: 1cs53F

One tap mobile

+13017158592,,85260381033#,,,,*759314# US (Washington DC)

+13126266799,,85260381033#,,,,*759314# US (Chicago)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 929 436 2866 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

Meeting ID: 852 6038 1033

Passcode: 759314

Find your local number: <https://us06web.zoom.us/j/85260381033?pwd=Z2UvUXd3cTRoNjFMY0QzS085bFZ4UT09>

From: [Misty Scott](#) on behalf of [ASCC Pleadings](#)
To: [REDACTED]
Cc: [ASCC Pleadings](#); [Kathryn Irby](#)
Subject: CORR: Marsha Frazier, as administratrix of the Estate of Marshall Frazier v. ADOT, Claim No. 191008
Date: Wednesday, April 6, 2022 10:36:00 AM
Attachments: [Frazier v. UAMS3.pdf](#)

Ms. Frazier:

Per your request, please see attached. Contact Kathryn Irby with any questions.

Thank you,

Misty

Misty Scott
Arkansas State Claims Commission

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

May 4, 2022

Ms. Marsha Frazier

(via email and U.S. Mail)

[REDACTED]
[REDACTED]

Ms. Sherri L. Robinson
University of Arkansas for Medical Sciences
4301 West Markham Street, Slot 860
Little Rock, Arkansas 72205

(via email)

RE: *Marsha Frazier, as administratrix of the Estate of Marshall Frazier v. University of Arkansas for Medical Sciences*
Claim No. 191008

Dear Ms. Frazier and Ms. Robinson,

Due to a scheduling issue, the Claims Commission has moved this hearing to **Thursday, May 12, 2022, at 9:00 a.m.** A new Zoom invitation is enclosed for that day.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: kmirby

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings

Time: May 12, 2022 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/81603889456?pwd=VlRXbC8wejNJQzJFdEZETHVaNW9xZz09>

Meeting ID: 816 0388 9456

Passcode: 9QHQxx

One tap mobile

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+13017158592,,81603889456#,,, *514525# US (Washington DC)

Dial by your location

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+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 816 0388 9456

Passcode: 514525

Find your local number: <https://us06web.zoom.us/u/keJL2jE0PH>

From: [Kathryn Irby](#)
To: [Robinson, Sherri](#); [REDACTED]
Cc: [MCGHEE, SHELLY](#)
Subject: RE: RESCHEDULED HEARING: Frazier v. UAMS, Claim No. 191008
Date: Wednesday, May 4, 2022 8:52:00 AM

Of course. See below.

Kathryn Irby

The Claims Commission is inviting you to a scheduled Zoom meeting.

Topic: Claims Commission -- hearings
Time: May 12, 2022 09:00 AM Central Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/81603889456?pwd=VlRXbC8weijNQzJFdEZETHVaNW9xZz09>

Meeting ID: 816 0388 9456

Passcode: 9QHQxx

One tap mobile

+19294362866,,81603889456#,,,,*514525# US (New York)

+13017158592,,81603889456#,,,,*514525# US (Washington DC)

Dial by your location

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+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 816 0388 9456

Passcode: 514525

Find your local number: <https://us06web.zoom.us/u/keJL2jEOPH>

From: Robinson, Sherri <SLRobinson@uams.edu>
Sent: Wednesday, May 4, 2022 8:35 AM
To: Kathryn Irby <Kathryn.Irby@arkansas.gov>; [REDACTED]
Cc: MCGHEE, SHELLY <SMcghee@uams.edu>
Subject: RE: RESCHEDULED HEARING: Frazier v. UAMS, Claim No. 191008

Thank you, Ms. Irby.

Could you please send the Zoom link in the body of this email? It will not let me copy it from the pdf to save on my calendar.

Thanks.

Sherri

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Wednesday, May 4, 2022 8:26 AM
To [REDACTED]; Robinson, Sherri <SLRobinson@uams.edu>
Cc: MCGHEE, SHELLY <SMcghee@uams.edu>
Subject: RESCHEDULED HEARING: Frazier v. UAMS, Claim No. 191008

Ms. Frazier and Ms. Robinson, please see attached correspondence and new Zoom invitation.

Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

MAY 16 2022

RECEIVED

BEFORE ARKANSAS CLAIMS COMMISSION
101 EAST CAPITOL AVE. STE. 410
LITTLE ROCK ARK. 72201 Case # 191008

Arkansas Claims Commission
101 E. Capitol Ste. 410
Little Rock, Ar. 72201

Ms. Sherri Robinson
UAMS 4301 W. Markham Slot 860
Little Rock, Ark. 72205

COME, Marsha Frazier! feel compelled to show you following the Administrative hearing on May 12, 2022, My records I reference in my husband's records and the Civil Rule regards the relation back to the original date of a complaint. Statue.

1. Communications and Pleadings Generally Rule 1.5 of the Claims Commission. (a) All communications should be addressed to the

Commission. This is what I'm doing here A. The Administrative setting regards Pro Se.

B. The Expert witness.

1. ARKANSAS STATE CLAIMS COMMISSION FREQUENTLY

ASKED QUESTIONS on being Pro Se... 1. Will I need an attorney to file a claim? No, an attorney is not required. An individual is permitted to represent himself or herself (otherwise known as proceeding pro se) but may retain an attorney to represent him or her. However, under Arkansas law, an individual proceeding pro se is held to the same standards as an attorney

2. **Ark. Civil Rule 15(c)**Relation Back of Amendments. An amendment of a pleading relates back to the date of the original.

3. ACA 16-121-104 on discovery of injury violations
4. My complaint came to this office April 2017
5. **ARKANSAS HIGH COURT FINDS EXPERT-WITNESS REQUIREMENT UNCONSTITUTIONAL**

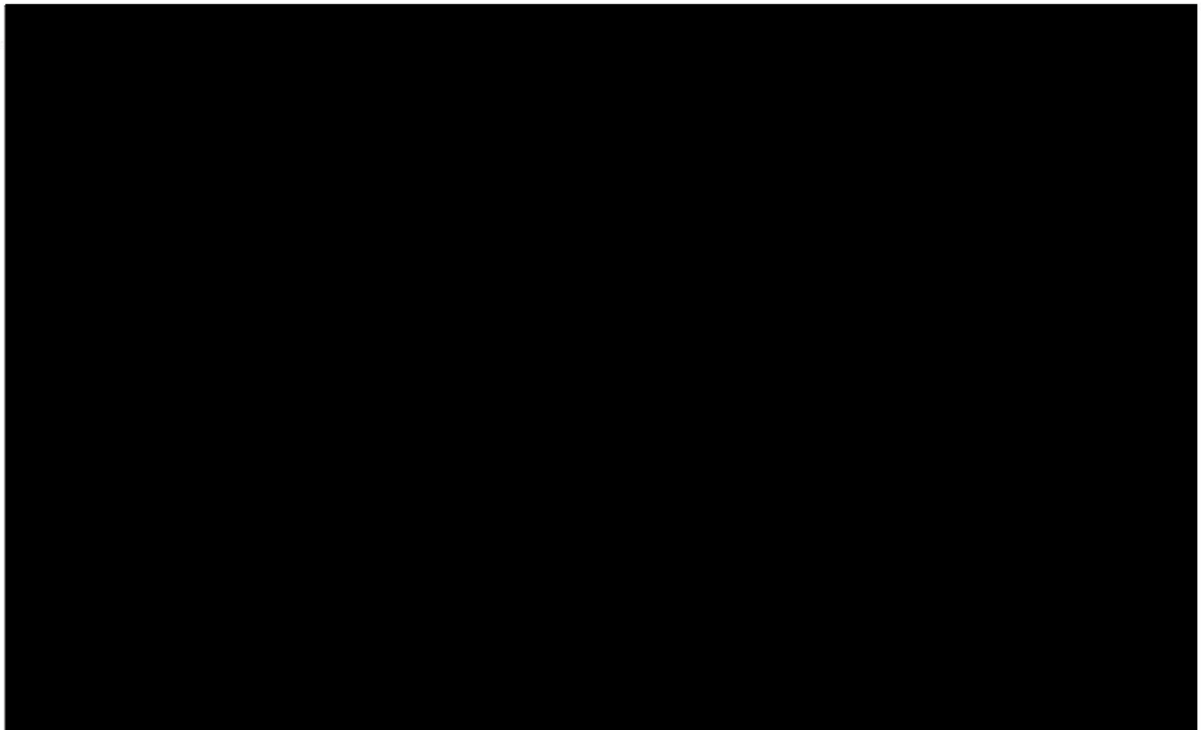
Broussard v. St. Edward Mercy Health System

The Arkansas Supreme Court has deemed ACA 16-114-206 unconstitutional, a state law requiring expert witnesses in malpractice cases to practice in the same medical specialty as the defendant.

Broussard v. St. Edward Mercy Health System Inc. et al., No. 11-561, 2012

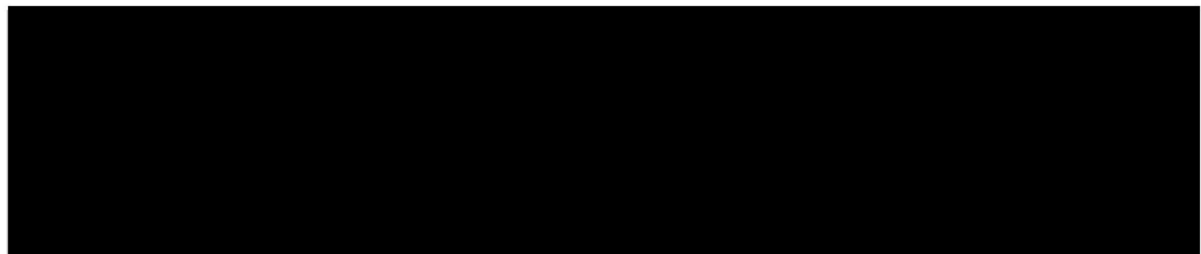
WL...

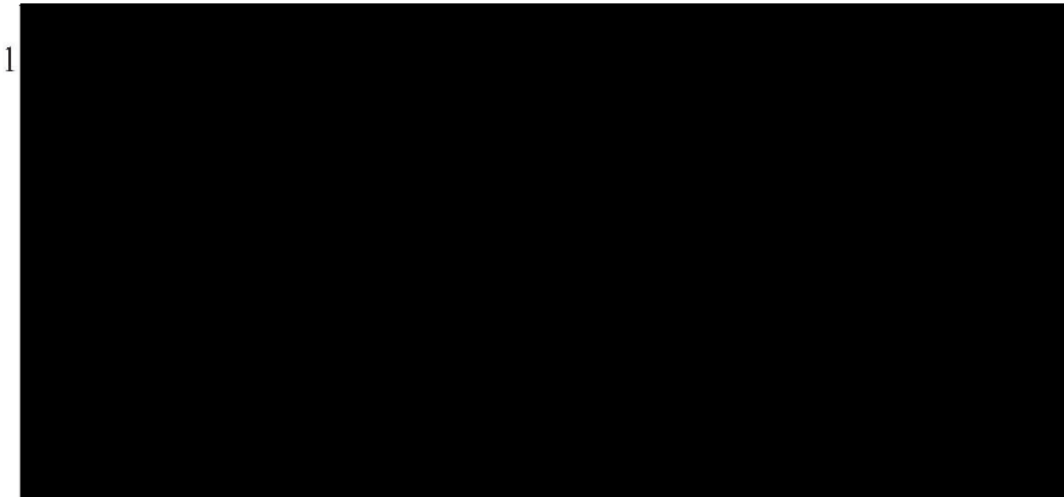
6.



When I was in Circuit Court I put this packet with Mr. Fraziers medical records together are not in numerical order but I will reference the page.

I thought I sent this to the Commission office just for information purposes.





This is Respondeat Superior Joint vicarious Liability, These Physicians supervising residents of this Hospitals residents program. These Physicians are all employees of this hospital including the Department head of the GI who performed [redacted] They all were in the course of their employment, working times on the clock providing delayed treatment and misdiagnosis. Wrong treatment Course.

Ark. Medical Practice Act 17-95-201, 301, 401 (A) Holding out oneself to the public as being able to diagnose and treat. (B) suggesting recommending (Emphasis added)

The Hospital has a duty of special care and protection, Aduty to possess knowledgeable skilled competent Providers with proper training, The Patient was not in control of his own medical care Respondeat Superiors were. This hospital has a duty, to be clean and sanitized and has functional equipment. My husband laid there day after day waiting to be cured and relived of his condition the incompetency misdiagnosing and delaying treatment of the correct course of



Sincere

Marsha Frazier Admin. of estate of Marshall Frazier Jr.



BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MARSHA FRAZIER, AS
ADMINISTRATRIX OF THE
ESTATE OF MARSHALL
FRAZIER JR.

CLAIMANT

V.

CLAIM NO. 191008

UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES

RESPONDENT

ORDER

The above-referenced claim came before the Arkansas State Claims Commission (the “Claims Commission”) on May 12, 2022, for a hearing on pending motions. Ms. Frazier appeared in her *pro se*¹ capacity, and Sherri L. Robinson appeared on behalf of the University of Arkansas for Medical Sciences (UAMS or the “Respondent”). At the hearing, the Claims Commission considered the following the motions to dismiss filed by UAMS, as well as UAMS’ motion to stay discovery.

Procedural History

1. On April 10, 2019, Ms. Frazier filed an individual claim (styled *Marsha Frazier v. UAMS*) related to the death of her husband, Marshall Frazier Jr. Ms. Frazier filed the claim *pro se*, and she alleged \$500,000.00 in damages. Ms. Frazier alleged the following in her complaint:

He was fine up into [sic] the charge nurse came in later running her shift and she didn’t to [sic] check and see if he had already had it about 30 to 45 minutes and the

[REDACTED]

¹ “*Pro se*” is a Latin phrase that can be translated as “in his own behalf.” This phrase is used to describe a claimant who files a claim without being represented by an attorney.

On another page, Ms. Frazier stated that “Marshall Frazier was fine but the charge nurse was running late for her shift and just [REDACTED].” In a supporting affidavit, Ms. Frazier stated that “I am the Claimant of this Complaint to this Claims commission in the above caption[ed] action herein.”

2. Respondent moved to dismiss, arguing that Ms. Frazier does not have standing to bring a lawsuit on behalf of her now deceased husband.

3. On October 1, 2019, Ms. Frazier filed a pleading titled “Notification of Administration and Remove Claim Out Abeyance Continue with the Wrongful Death Settlement” and attached a petition and other documents filed in Jefferson County Circuit Court. Ms. Frazier also moved to amend her complaint to increase the amount of damages from \$500,000.00 to \$1,500,000.00, stating that the original amount was a “typo.”

4. By order dated October 9, 2019, the claim was re-captioned *Marsha Frazier, as Administratrix of the Estate of Marshall Frazier Jr. v. UAMS*. In that same order, the Claims Commission granted Ms. Frazier’s request to modify the amount of her claimed damages.

5. The parties then conducted some discovery.

6. UAMS subsequently filed its second motion to dismiss, arguing that Ms. Frazier must exhaust her claims against the UAMS physicians and that Ms. Frazier failed to do so prior to the expiration of the statute of limitations on August 26, 2019.²

7. Ms. Frazier responded, arguing that wrongful death actions are subject to a three-year statute of limitation and that claims related to “a foreign object in the body” must be filed

² Ms. Frazier’s complaint, as well as the medical records attached to her complaint, indicate that Mr. Frazier passed away on August 26, 2017.

within one year from the date of discovery. Ms. Frazier further argued that Mr. Frazier's [REDACTED], such that the three-year statute of limitation would apply.

8. UAMS then filed a motion to stay discovery.

9. Ms. Frazier opposed the motion to stay discovery and included in her response additional argument that the three-year statute of limitation should apply.

10. On May 18, 2020, the Claims Commission sent a scheduling order to the parties, directing Ms. Frazier to identify all witnesses, including an expert witness, by September 30, 2020.³ That scheduling order also directed the parties to have all discovery completed, including depositions, by December 30, 2020. Ms. Frazier confirmed receipt of the scheduling order by correspondence filed on June 25, 2020.

11. On September 1, 2020, Ms. Frazier filed documents related to a lawsuit that she filed in Pulaski County Circuit Court against UAMS physicians related to the death of her husband (the "Physician Lawsuit").⁴ The Physician Lawsuit was dismissed with prejudice by the Pulaski County Circuit Court on September 8, 2021. In the order, Circuit Judge Herbert Wright specifically found, *inter alia*, that (1) Ms. Frazier's lawsuit was barred by the applicable statute of limitation contained in Ark. Code Ann. § 16-114-203; and (2) Ms. Frazier's *pro se* filing of the lawsuit on behalf of the Estate of Marshall Frazier Jr. constitutes the unauthorized practice of law, such that her complaint is a nullity.

12. On January 4, 2020, Ms. Frazier voluntarily dismissed her appeal of the order dismissing the Physician Lawsuit.⁵

³ In that same scheduling order, UAMS was directed to identify a rebuttal expert witness by October 30, 2020.

⁴ *Marsha G. Frazier – Administrator of Estate of Marshall Frazier Jr. v. Dr. Benjamin Tharian et al.*, Pulaski County Circuit Court Case No. 60CV-20-4734.

Argument at Hearing

13. At the May 12, 2022, Claims Commission hearing on the pending motions, UAMS noted that the second motion to dismiss is actually a motion for summary judgment. UAMS argued that it is entitled to summary judgment because Ms. Frazier did not exhaust her remedies against the physicians involved in her husband's treatment because she did not timely file the lawsuit.

14. Ms. Frazier argued that when she filed her claim with the Claims Commission in April 2019, the statute of limitation had not expired. She further argued that the statute of limitation is tolled; that UAMS is liable under the theory of *respondeat superior*; that UAMS removed her husband's appendix; that her husband's death was preventable; and that her husband's gallbladder should have been removed.

15. The chair commissioner noted his concerns with Ms. Frazier's standing to file the original claim in April 2019, as Ms. Frazier filed the complaint individually and without the other statutory heirs at law.⁶

16. The chair commissioner also noted his concerns with Ms. Frazier's *pro se* filing as administratrix of the Estate of Marshall Frazier, citing to *Henson v. Craddock*, 2020 Ark. 24, 593 S.W.3d 10. Ms. Frazier disagreed, stating that while she had to be represented by an attorney in circuit court, she is not required to have an attorney before the Claims Commission because it is an administrative hearing.

⁵ In the filing voluntarily dismissing her appeal, Ms. Frazier stated that her unsuccessful attempts to retain an attorney "is why [the laws regarding the] unauthorized practice [of law] should be unconstitutional."

⁶ In Ms. Frazier's October 1, 2019, Claims Commission filing, she included a petition filed with the Jefferson County Circuit Court, which includes the names of three daughters (Luciana A. Frazier, Dena M. Perry, and Sheena C. Frazier) and one son (Emmanuel D. Frazier).

17. Additionally, the chair commissioner noted that Ms. Frazier had not yet identified an expert witness as required by the Claims Commission’s May 18, 2020, scheduling order. Ms. Frazier disagreed, stating that she consulted with her own GI doctor and that it has been found unconstitutional to require an expert witness.

18. Ms. Frazier argued that she was bringing her claim *sui juris*⁷; that her husband’s [REDACTED] [REDACTED]. Ms. Frazier also disagreed that the statute of limitation had expired.

Ms. Frazier’s Standing to Bring Original Claim

19. Ark. Code Ann. § 16-62-102(b) defines how a wrongful death action may be pursued:

Every action shall be brought by and in the name of the personal representative of the deceased person. If there is no personal representative, then the action shall be brought by the heirs at law of the deceased person.

The heirs at law are defined in the same statute as the surviving spouse, children, parents, and siblings of the deceased, as well as anyone “standing in loco parentis to the deceased” and anyone “to whom the deceased stood in loco parentis at any time.” *See id.*

20. The Arkansas Supreme Court clarified in *Ramirez v. White County Circuit Court*, 343 Ark. 372, 38 S.W.3d 298 (2001), that, in the absence of a personal representative, a wrongful death action must be brought by all heirs at law and that an individual heir at law does not have standing to bring a wrongful death action unless that individual is the only heir at law.⁸

⁷ “*Sui juris*” is a Latin phrase that can be translated as “having full legal rights or capacity.” This phrase is used to describe individuals who have reached the age of majority and are not under the guardianship of another. *See generally, Smith v. Walker*, 187 Ark. 161, 58 S.W.2d 946 (1933).

⁸ Quoting *Brewer v. Lacefield*, 301 Ark. 358, 784 S.W.2d 156 (1990), the Arkansas Supreme Court in *Ramirez* held that “[t]he wrongful death code provisions do not create an individual right in any beneficiary to bring suit.”

21. In *St. Paul Mercury Ins. Co. v. Circuit Court of Craighead County, Western Div.*, 348 Ark. 197, 73 S.W.3d 584 (2002), the Arkansas Supreme Court found that where plaintiffs were without standing to bring a lawsuit, the complaint was rendered a nullity.

22. The Arkansas Supreme Court reiterated the *Ramirez* and *St. Paul Mercury* holdings in *Brewer v. Poole*, 362 Ark. 1, 207 at *14–15, S.W.3d 458, 466 (2005), succinctly stating, in pertinent part, that:

[Arkansas Code Annotated] Section 16–62–102(b) requires that every cause of action for wrongful death shall be brought by and in the name of the personal representative, or, if there is no personal representative, then the action shall be brought by the heirs at law of the deceased person. The original complaint in this case failed to include all the heirs at law as parties to the suit. Therefore, the original complaint was a nullity.

23. The Claims Commission finds that Ms. Frazier’s April 2019 claim filing was not brought by a personal representative or by all of the heirs at law. As one of several heirs at law, Ms. Frazier did not have standing to bring this claim, such that the Claims Commission must find that Ms. Frazier’s April 2019 claim filing is a nullity. This means that the April 2019 claim filing effectively “never existed.” *Davenport v. Lee*, 348 Ark. 148, 160, 72 S.W.3d 85, 94 (2002).

Ms. Frazier’s Standing to Bring a *Pro Se* Claim as Administratrix

24. In *Henson v. Craddock*, 2020 Ark. 24, 593 S.W.3d 10, the Arkansas Supreme Court stated that “a nonlawyer estate administrator filing a *pro se* complaint on behalf of an estate in a wrongful death action constitutes the unauthorized practice of law,”⁹ meaning that the *pro se* complaint is rendered a nullity.

25. While Ms. Frazier argued that she is entitled to pursue a *pro se* complaint on behalf of an estate at the Claims Commission, she is incorrect. If a claim would be subject to dismissal in circuit court for reasons other than sovereign immunity, the Arkansas General Assembly has

⁹ Citing to *Davenport v. Lee*, 348 Ark. 148, 72 S.W.3d 85 (2002).

prohibited the Claims Commission from awarding damages to a claimant.¹⁰ In this claim, the Claims Commission knows that a *pro se* wrongful death complaint on behalf of Mr. Frazier's estate would be subject to dismissal in circuit court because it already has been dismissed by the Pulaski County Circuit Court based, in part, upon Ms. Frazier's unauthorized practice of law.

26. While Ms. Frazier is correct that other *pro se* claimants appeared before the Claims Commission on May 12, 2022, Ms. Frazier is not a *pro se* claimant pursuing an individual claim—she is an administratrix of her husband's estate bringing a wrongful death claim on behalf of his estate, and Arkansas law is clear that she is not permitted to bring such a claim *pro se*.

27. As such, to the extent that Ms. Frazier's October 1, 2019, filing titled "Notification of Administration and Remove Claim Out Abeyance Continue with the Wrongful Death Settlement" could be construed as a wrongful death complaint on behalf of her husband's estate, the Claims Commission finds that such complaint is a nullity because it was brought *pro se* by Ms. Frazier as administratrix. To the extent that this filing could be construed as an amended complaint or a correction of the original complaint, the Arkansas Supreme Court held that where an original complaint was a nullity, "an amended complaint cannot relate back to something that never existed, nor can a nonexistent complaint be corrected." *Davenport*, 348 Ark. at 160, 72 S.W.3d at 94.

28. Moreover, even if the October 1, 2019, filing had been filed by an attorney and satisfied all pleading requirements, it would be subject to dismissal based upon expiration of the statute of limitations because the nullified nature of the original claim.¹¹

¹⁰ Ark. Code Ann. § 19-10-204(c):

The commission shall not make an award for a claim or action that, as a matter of law, would be dismissed from a court of law for reasons other than sovereign immunity.

¹¹ Arkansas law is well settled that the "Medical Malpractice Act applies to all causes of action for medical injury occurring after April 2, 1979, including wrongful-death and survival actions arising from

Scheduling Order and Expert Witness Requirement

29. Even if Ms. Frazier’s original claim filing and her filings as the *pro se* administratrix of Mr. Frazier’s estate were proper, the Claims Commission finds that an additional basis for dismissal exists based upon Ms. Frazier failure to identify an expert witness within the time specified by the Claims Commission. Ms. Frazier’s argument regarding the unconstitutionality of the expert testimony requirement is simply wrong.¹² Ms. Frazier may be thinking of the Arkansas Supreme Court’s decision in *Summerville v. Thrower*, 369 Ark. 231, 253 S.W.3d 415 (2007), in which the Arkansas Supreme Court held unconstitutional the portion of Ark. Code Ann. § 16-114-209(b) mandating dismissal of a medical malpractice lawsuit if the plaintiff failed to file an expert affidavit within 30 days of filing the complaint. However, in *Summerville*, the Arkansas Supreme Court also affirmed the requirement that expert testimony be provided, stating that “[t]his court has upheld that requirement for expert testimony regarding the standard of care. . . .” *Id.* at 238, 253 S.W.3d at 420. As such, expert testimony is required to

the death of a patient,” such that the two-year statute of limitation applies. *Davis v. Parham*, 362 Ark. 352, 208 S.W.3d 162 (2005). The Arkansas Supreme Court has reviewed the inconsistency between the two-year statute of limitation in the Medical Malpractice Act and the three-year statute of limitation in the Wrongful Death Act and found that the Medical Malpractice Act’s statute of limitation controls “where death ensues from medical injuries.” *See id.* at 361, 208 S.W.3d at 168 (citing to *Looney v. Bolt*, 330 Ark. 530, 955 S.W.2d 509 (1997); *Scarlett v. Rose Care, Inc.*, 328 Ark. 672, 944 S.W.2d 545 (1997); *Morrison v. Jennings*, 328 Ark. 278, 943 S.W.2d 559 (1997); *Pastchol v. St. Paul Fire & Marine Ins. Co.*, 326 Ark. 140, 929 S.W.2d 713 (1996); and *Hertlein v. St. Paul Fire & Marine Ins. Co.*, 323 Ark. 283, 914 S.W.2d 303 (1996).

¹² Arkansas Court of Appeals explained the expert testimony requirement in *Johnson v. Schafer*, 2018 Ark. App. 630, 565 S.W.3d 144:

...unless the asserted negligence could be comprehended by a jury as a matter of common knowledge, a plaintiff has the additional burden of providing three propositions by expert testimony: the applicable standard of care; the medical provider’s failure to act in accordance with that standard; and that the failure was the proximate cause of the plaintiff’s injuries.

(emphasis added).

ultimately prevail at trial, even though an expert affidavit does not have to be filed contemporaneously with the complaint.

Conclusion

30. The Claims Commission finds that Ms. Frazier's April 2019 claim filing and her *pro se* filings as administratrix of the Estate of Marshall Frazier Jr. to be nullities. As it has now been nearly five years since Mr. Frazier's death, the Claims Commission finds that the statute of limitations has long expired and that the claim must be dismissed with prejudice.

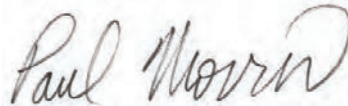
IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Dexter Booth



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair

DATE: May 18, 2022

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).

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

May 20, 2022

Ms. Marsha Frazier

(via email and U.S. mail)



Ms. Sherri L. Robinson
University of Arkansas for Medical Sciences
4301 West Markham Street, Slot 860
Little Rock, Arkansas 72205

(via email)

Re: *Marsha Frazier, as administratrix of the Estate of Marshall Frazier v. University of Arkansas for Medical Sciences*
Claim No. 191008

Dear Ms. Frazier and Ms. Robinson:

Enclosed please find an Order entered on May 18, 2022, by the Arkansas State Claims Commission. If you have any questions, please do not hesitate to contact my office.

Sincerely,

Kathryn Irby

ES: msscott

From: [ASCC New Claims](#)
To: [REDACTED]
Subject: Requested Documents
Date: Friday, June 3, 2022 12:01:00 PM
Attachments: [Frazier Complaint and PI form requested.pdf](#)
[ORDER Marsha Frazier as administratrix of the Estate of Marshall Frazier v. UAMS Claim No. 191008.msg](#)

Dear Ms. Frazier,

Per our conversation, please see attached.

Thank you,
Caitlin

Caitlin McDaniel

Administrative Specialist II

Arkansas State Claims Commission

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-1619

Caitlin.McDaniel@arkansas.gov

BEFORE ARKANSAS STATE CLAIMS COMMISSION

**Arkansas
State Claims Commission**

JUN 23 2022

June 22, 2022

Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, AR 72201-3823

RECEIVED

Atty. Sherri Robinson
4301 W. Markham #860
Little Rock, AR 72205

Dear Sir and Ma'am,

Marsha Frazier Administrative of Estate of Marshall Frazier Jr. Case No: 191008, I am requesting that you allow me a Continuance /Extension of time. Commissions Rule 7.1 allows for the opportunity for Reconsideration, I will come with an Attorney. With an Attorney, Administrator Marsha Frazier will show good cause, Respectfully to the Commission additions.

1. Administrator Marsha Frazier will inform the Respondents Counsel for UAMS of this request. I ask request, Motion for 30 more days from the original deadline of the 40 days allowed, to seek further Counsel as this is Procedurally required for me to proceed.

2. This Claim has been in Abeyance on separate times since August 12, 2019, the last was requested to bring out this past February 2022 with a hearing being set for April 12, 2022 but re- scheduled for May 12, 2022.

3. There are extreme Prejudice against this Estate that needs to be demonstrated with Counsel Given the opportunity, not given during the May 12, 2022 hearing, having counsel will allow to demonstrate topics not raised in the May 12, hearing.

3. It is imperative the opportunity for Extension of time Reconsideration, is granted to show good cause of the additional and new information the Attorney will give. This Claim status is for re consideration/appeal

4. This Motion for reconsideration is by no means for delay or prejudice on the Respondents, but for justice , for your finding of all facts considered

Marsha G. Frazier Administrator of Estate of Marshall Frazier Jr. Prays this State Claims Commission grants this motion for continuance Reconsideration/Extension of time not less than 30 days from June 28, 2022 time setting.

Sincerely Administrator of Estate of Marshall Frazier Jr.

Marsha G. Frazier



I Certify on this 22nd day of June 2022 that I have served a true copy of the above letter by via US mail to the Respondents and all parties to this Claim.



Marsha G. Frazier Administrator of Estate of Marshall Frazier Jr.



ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

June 24, 2022

Mrs. Marsha Frazier
[REDACTED]
[REDACTED]

RE: *Marsha Frazier, as administratrix of the Estate of Marshall Frazier v. University of Arkansas for Medical Sciences*
Claim No. 191008

Dear Mrs. Frazier,

The Claims Commission received your request for an extension to file a motion for reconsideration.

The Claims Commission has authorized me to send this letter order denying your request. The time to file a motion for reconsideration or a notice of appeal is set by statute, and Ark. Code Ann. § 19-10-211 does not empower the Claims Commission to alter or extend that time.

Sincerely,

Kathryn Irby

ES: kmirby

cc: Sherri Robinson, *counsel for Respondent* (via email)

JUL 01 2022

RECEIVED

BEFORE ARKANSAS STATE CLAIMS COMMISSION
101 EAST CAPITOL AVE. STE 410
LITTLE ROCK ARK. 72201

Administrative of Estate Marshall Frazier Jr. Masha Frazier has Motion for extension of time to be in compliance of the rule for non-lawyers, by terms of your conclusion of my claim and Pursuant to ACA 19-10-211 of the commission on appeals

(a) A decision of the Arkansas State Claims Commission may be appealed only to the General Assembly

2) Within forty (40) days after the decision is rendered, file with the commission a motion for reconsideration requesting the commission to reconsider its decision; and

(3) Within twenty (20) days after commission reconsideration or denial of the motion for reconsideration, file with the commission a notice of appeal of the decision to the General Assembly.

1.

Rule 5.1 Continuances

After claims have been scheduled for hearing, continuances will be granted only upon showing of good cause by the party moving for a continuance as determined by the Commission or Commission Director.

In your conclusion there are extreme **Erroneous** facts unanswered needing correcting my claim is dismissed on non-lawyer decision and I am allowed an appeal ACA 19-10-211 an Attorney other than sover immunity and an appeal is allowed an Extension of time Civil Rule 6 should be allowed under this Civil Rule. The Commission adopts this rule

2.

Commission Rule 8.1 Application of Rules of Civil Procedure

The Rules of Civil Procedure as adopted by the Circuit Courts of the State of Arkansas will apply in the Arkansas Claims Commission unless the Rules of Practice and Procedure of the Arkansas State Claims Commission are to the contrary in which cases these rules shall take priority.

I resending this request again due process should be here also on this denial for fact finding errors on appeal.

June 29, 2022

Sincere
Marsha Frazier



**BEFORE ARKANSAS STATE CLAIMS COMMISSION
101 EAST CAPITOL AVE.
LITTLE ROCK ARK. 72201**

Upon Being in compliance

Administrator of Estate Marshall Frazier Jr. Marsha Frazier is Motioning to this Commission to require me my rights for an extension of time.

Also upon being in compliance with the unauthorized practice of law regards Appeals are required in a Pro Se Administrative Estate proceeding. Has to be an Attorney As I have shown good cause by terms of your rule for **Rule 5.1 Continuances**

After claims have been scheduled for hearing, continuances will be granted only upon showing of good cause by the party moving for a continuance as determined by the Commission or Commission Director.

The applicability for an Appeal as Pro Se Administrator requires an Attorney I requested/Motion in my last letter to extend time while I seek Counsel to proceed for the Appeal you stated Pursuant to ACA 19-10-211 a) A decision of the Arkansas State Claims Commission may be appealed only to the General Assembly.

I request upon remand for compliance the ACA 19-10-211 (a) to appeal to the General Assembly and pursuant to Civil Rule 6 which allows for extension of time

according by your rules 8.1 states

Rule 8.1 Application of Rules of Civil Procedure

The Rules of Civil Procedure as adopted by the Circuit Courts of the State of Arkansas will apply in the Arkansas Claims Commission unless the Rules of Practice and Procedure of the Arkansas State Claims Commission are to the contrary in which cases these rules shall take priority. If you adopts these rule you are to allow my due process

By terms of your own rules you adopted the same civil rules and the Civil Rule of

Civil Rule 60 - Relief from Judgment, Decree or Order) I ask this while I seek an Atty.

Ninety-Day Limitation. To correct errors or mistakes or to prevent the miscarriage of justice, the court may ~~modify~~ or vacate a judgment, order or decree on motion of the court or any party, with prior notice to all parties, within ninety days of its having been filed with the clerk.

Rule 7.1 Re-Hearing/Reconsideration

Petitions for Re-Hearing and/or Motions for Reconsideration will only be entertained if they set forth new or additional evidence which was not available to the moving party at the time of the scheduled hearing. Such petitions for Re-Hearing or Motions for Reconsideration shall be filed with the Commission within 40 days from the date of the assumed receipt by parties to the claim of the Commission's findings and determinations. No claim which was contested at hearing and requires subsequent action by the General Assembly will be forwarded to that body within the aforementioned 40 day period without the written approval of the Claimant(s) and Respondent(s).

1. As state before The law required an attorney on a Pro Se Administrative Estate claim I as for Continuance while I seek an Atty. To bring before the Commission also as stated under your rule an appeals comes before the commission first I as Administrative of Estate. Was not allowed to show further facts to prove this claim has prejudice against the estate. Fact for you to determine that your conclusion was erroneous
2. Facts required for a Attorney

Rule 5.1 Continuances

After claims have been scheduled for hearing, continuances will be granted only upon showing of good cause by the party moving for a continuance as determined by the Commission or Commission Director.

Sincerely Marsha Frazier



**BEFORE ARKANSAS CLAIMS COMMISSION
101 EAST CAPITOL AVE. STE. 410
LITTLE ROCK ARK. 72201
Case # 191008**

Arkansas Claims Commission
101 E. Capitol Ste. 410
Little Rock, Ar. 72201

July 8, 2022

Ms. Sherri Robinson
UAMS 4301 W. Markham Slot 860
Little Rock, Ark. 72205

**Arkansas
State Claims Commission**

JUL 08 2022

RECEIVED

**NOTICE OF APPEAL TO ARKANSAS STATE CLAIMS COMMISSIONS AND
GENERAL ASSEMBLY**


We the Heirs at law of the Estate of Marshall Frazer comes asking that this office would transfer this document over to the General Assembly. To review as our substantial rights are in harm's way.

And by this document is being hand delivered there is a signature required to sign as this office received it.

Sincerely Thank You
Heirs at law
Dena M. Perry
Luciana A. Frazier
Sheena C. Frazier
Emmanuel D. Frazier

On this 8th day of July 2022 Signed

Received:



**BEFORE ARKANSAS CLAIMS COMMISSION
101 EAST CAPITOL AVE. STE. 410
LITTLE ROCK ARK. 72201**

Case # 191008

Arkansas Claims Commission
101 E. Capitol Ste. 410
Little Rock, Ar. 72201

July 8, 2022

Ms. Sherri Robinson
UAMS 4301 W. Markham Slot 860
Little Rock, Ark. 72205

Arkansas
State Claims Commission

JUL 08 2022

RECEIVED

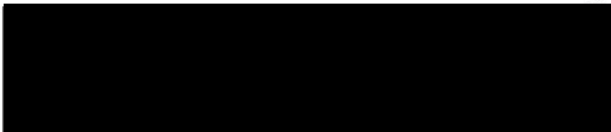
**NOTICE OF APPEAL TO ARKANSAS STATE CLAIMS COMMISSIONS AND
GENERAL ASSEMBLY**

Civil Rule 17(a) the real party in interest, the Heirs of Estate of Marshall Frazier Jr. here to preserve legal substantial rights, and as was stated in order #19 how ACA 16-62-102(b) in a wrongful death may be pursued when there's no personal representative of a deceased person the action is to be brought by the Heir's at Law. We are here to file Notice of appeal according to the Commissions ACA 18-10-211(a)(1). ACA 19-10-211(a)(1)(B)(ii). ACA 19-10-211(a)(3), twenty (20) days from the denial of reconsideration to the General Assembly, from the conclusion of The Claims Commissions Hearing May 12, 2022. The Claims Commission adopts the Ark. Civil PR therefore the Heirs apply for notice of appeal A.C.R.P. 3 and 4(a)(b)1. Also,

**A BRIEF IN SUPPORT WILL BE INCLUDED WE MAY NOT BE ALLOWED TO
ORALLY SPEAK**

Sincerely

Heirs at Law of Estate of Marshall Frazier Jr.



BEFORE ARKANSAS CLAIMS COMMISSION
101 EAST CAPITOL AVE. STE. 410
LITTLE ROCK ARK. 72201
Case # 191008

Arkansas Claims Commission
101 E. Capitol Ste. 410
Little Rock, Ar. 72201

Ms. Sherri Robinson
UAMS 4301 W. Markham Slot 860
Little Rock, Ark. 72205

Arkansas
State Claims Commission

JUL 08 2022

RECEIVED

**BRIEF IN SUPPORT OF APPEAL AND DISPUTE THE MAY 18, 2022 ORDER 10
DAYS OF THE 20 DAYS TO FILE NOTICE TO THE GENERAL ASSEMBLY**

The complaint

A. This complaint came to the Claims Commission for Administrative review being essential to file for the Estate of Marshall Frazier Jr. now essential for the Heirs at law, where the State entity UAMS and their employees injured and caused damage to Marshall Frazier Jr. where he died under their negligent care violating their policy of Sentinel misdiagnosing, delaying treatment to the patient.abandon treatment when the

B.

C. This Complaint has to be preserved for one's legal substantial rights in particular the Heirs at law. To appeal this May 18, 2022 Administrative decision
The Complaints affect the Substantial legal rights of this Estate seeking review, a review that was not fairly decided, misinterpreted.

D. Deeming this complaint, a Nullity is unfairly harsh, it yields the ironic result of prejudicing the constituents of this Estate, the very people you sought to be protected by

this rule of UPL, First Wholesale Cleaners Inc. v. Donegal Mutual Ins. Co. 792 A. 2d 325, 331 (Md. Ct. App. 2002), Ginn v. Farley, what constitutes the practice of law depends upon the totality of the circumstances and the character of the act. preserving legal rights. Szteinbaum v. Kaes Inversiones Valores, C.A., 476 So.2d 247 (Fla.

App.1985), the court considered "whether a complaint filed by a non-attorney on behalf of a corporation may be amended to cure this deficiency.

Claimant Frazier Diligently Searched for Counsel, no one would come, forcing Claimant to go Pro Se trying to preserve statute she was not able to obtain one yet. Under Rule 5.5, an attorney violates his professional duties by assisting another person in the unauthorized practice of law. This is extremely harsh and unfair to the injured Party. After the General Assembly stated their intent were intended to ensure that:

(1) A person who suffers a medical injury has the opportunity to seek compensation to return to the state of health that he or she enjoyed before the medical injury;

Citing a case in Ill. where this Plaintiff went through the same diligence as Ms. Frazier searching for counsel before the Statute of limitations expired. Allegedly for Ms. Frazier.

Holloway v. Chi Heart & Vascular Consultants, Ltd. 160315 (App. Ct. 2017)

THE LEGISLATOR INTENT ON MEDICAL INJURY

Arkansas Bill 1162, Act 1196 of recession 2013. SECTION 1. DO NOT CODIFY. Intent — Limitation.

(a) This act is intended to ensure that:

(1) A person who suffers a medical injury has the opportunity to seek compensation to return to the state of health that he or she enjoyed

before the medical injury;

SECTION 3. Arkansas Code 16-114-201(3), concerning definitions for actions for medical injury, is amended to read as follows:

(3) "Medical injury" or "injury" means any adverse consequences arising out of or sustained in the course of the professional services being rendered by a medical care provider to a patient or resident, whether resulting from negligence, error, or omission in the performance of such services; or from rendition of such services without informed consent or in breach of warranty or in violation of contract; or from failure to diagnose; or from premature abandonment of a

patient or of a course of treatment; or from failure to properly maintain equipment or appliances necessary to the rendition of such services; or otherwise arising out of or sustained in the course of such services.

HISTORY FROM THE MAY 18, 2022 ORDER PROCEDURAL HISTORY

.The Commission states Ms. Frazier filed her Complaint Pro Se April 10, 2019 styled Marsha Frazier v. UAMS related to the death of her husband Marshall Frazier Jr. alleges damages of 500,000.00 Then repeated from the complaint Ms. Frazier alleges the Nurse came late and didn't check to see if he had already had medication (emphasis added).

- A. To this complaint there were defects. Instead of completing another form, Ms.Frazier sent an Addendum attachment along with the complaint. explaining what was negligently done to the patient. After the motion from defendants of no standing, Ms. Frazier Motion to correct her complaint to seek standing, and correct a typo from the amount in damages from 500,000.00 to 1.500,000, with a brief in support, after permission was allowed by the Defendants to place this complaint in abeyance while Ms. Frazier seeks standing.
- B. Ms. Frazier filed this Motion August 12, 2019 before the statute of limitations allegedly expired. See the Order from the Claims Commission dated October 9, 2019, Pg. (1).

Claims Commission May 18, 2022 order #2 and #3 the Commissioner points to the date of October 1, 2019 but failed to mention the August 12, 2019, Motion Ms. Frazier filed, which would allow the complaint to relate back, Civil Rule 15. The October 1, 2019 notification while the Claim was in abeyance this was what was stated Ms. Frazier was to comply to once she got her standing in place in the probate Court. The Claims Commission in their order #4-6 failed to mention in the October 9, 2019 order that the Commission Denied the defendants their motion to dismiss based on the corrected style of Ms. Frazier now being the Administratrix of estate of Marshall Frazier Jr v. University for Medical Sciences,

Claim # 191008. The October 9,2019 Order # 8-9 By the defendants contested this claim both parties were instructed to begin discoveries. Which they did. Ms. Frazier was also GRANTED the changing the amount in damages

The Claims Commission has a rule 1.5(J) on defective complaints, where if Ms. Frazier's complaint was defective from being UPL, Ms. Frazier should have been notified the complaint needed curing and amended with Counsel. The Statute of limitations should have tolled while Ms. Frazier completed her remedies, when the claim was in abeyance from 2019 through May 2022

The Claims Commission Adopts the Arkansas Civil Procedural Rules. Even though Ms. Frazier was still within her 2-year Statute of limitation April 10, 2019 Applying Civil Rule for Delayed Discovery is tolling the Statute of limitation applicable of this Complaint, Zwicker v. Altamont Emergency Room Physicians Medical Group 97 Cal. App. 4th 26,5, Cal Ct. App. (2002). Which has not been applied from this proceeding nor any other court proceeding. Ms. Frazier when filing the Complaint April 10, 2019 had just discovered her husband Appendix was missing from his body that the procedure caused pancreatitis, which contributed to his death. This act should have tolled the statute, while she was seeking her standing of administrative of the Estate. Tolling doesn't start until an individual discovers that they suffered harm and the nature of the harm. In particular, this rule applies to malpractice lawsuits. And now this May 2022 just now the know of the harm to the Heirs at law, if this case is dismissed and not allowed to seek Counsel the Heirs of this late discovery regards being harm with substantive legal rights in harm should also toll the statute of limitations.

Common knowledge, where there was no need for an affidavit of merits. The AMI 1501 for jury selections has stated the Court gives instruction as to where there is common knowledge of negligence in medical malpractice the affidavit of merits is not needed.

1. placing this claim in abeyance on hold is tolling
2. Civil Rule 15 (a) 15(b) 15(c) toll for amending the complaint.

The Commission's Order #30 as to Mr. Frazier has been dead nearly 5 long years the statute has long expired we dismiss, however there have been claims before this Commission longer years as in the case of Cody Metheny this case took 14 years UAMS and ACH for fraud.

Neither Court applied these rules of procedures toward the Statute of limitation. prejudicing the Heirs at law of substantial legal rights.

This above applies to the Order #28 that Ms. Frazier's filing was subject to dismissal based on expiration of Statute of limitations. As Ms. Frazier stated at the hearing the Delayed Discovery

In 2019, This Discovery gives rise to the tolling of statute of limitations in this proceeding of the Claims Commission, never applied here.

1. Procedurally when the defendant allows the case to proceed after the Statute of limitations had allegedly expired when the interrogatories started proceeding and while the Claimant claim was again placed in abeyance while Ms. Frazier sought another remedy of filing against the providers. This defense for them allows the tolling of statute of limitation. And should prevail for the Claimants.
 - A. **Sec. 52-591. When new action may be brought after time limited.** When a judgment in favor of a plaintiff suing in a representative character, or for the benefit of third persons, has been reversed, on the ground of a mistake in the complaint or in the proper parties thereto, and, while the action was pending, the time for bringing a new action has expired, the parties for whose special benefit the action was brought may commence a new action in their individual names at any time within one year after the reversal of the judgment, if the original action could have been so brought.

The Heirs at law to this law suit were not properly named in capacity a mistake to this complaint.

- B. **Sec. 52-593. Action against wrong defendant; allowance of new action.** When a plaintiff in any civil action has failed to obtain judgment by reason of failure to name the right person as defendant therein, the plaintiff may bring a new action and the statute of limitations shall not be a bar thereto if service of process in the new action is made within one year after the termination of the original action. If service of process in the original action has been made upon an agent of the defendant named in the new action, or if the defendant in the new action is a corporation and service in the original action has been made upon an officer or agent of the corporation, notice of any claim for damage shall be sufficient if given in the original action, pursuant to statutory provisions, to any officer or agent of the defendant in the new action

In the Claims Commission proceeding all providers were not named.

To the Commissioner order #17 noting that Ms. Frazier failed to Identify an expert witness in the Claims commission adopted rules of what the circuit court ruling is, why is this commissioner bring this to this hearing? The circuit court never even brought that up because Ms. Frazier has Motion in that court an affidavit of merits to allow the autopsy report and the medical records as the affidavit

- A. Section 3 of amendment 80 the Supreme Court shall prescribe the rules of Pleading, Practice, and Procedure for all courts. Provide these rules shall not abridge, enlarge or modify any Substantive right and shall preserve the right of trial by jury as declared in this Constitution.
 1. The substantive rights of the Heirs at law.
- B. The Arkansas Supreme Court has rejected an effort by the Arkansas Legislature to define who is permitted to give testimony as an expert witness in medical malpractice cases. That this violate the separation of powers doctrine.
- C. In the Broussard's Medical Malpractice case was dismissed on summary judgement after her expert was excluded under the ACA 16-114-206. from this came the ruling of expert witness in Arkansas is unconstitutional.

THE CLAIMS COMMISSION ON THE DEFENDANTS MOTION TO DISMISS

1. The Commission May 18, 2022 Order#10 states there was a scheduling order to the parties, but stipulated at Ms. Frazier to identify all witnesses, including an expert witness and more added. The Defendants as we searched has not identified any witness either to this day no witness of the same profession has come to dispute Ms. Frazier's claims against the providers and their employers.
2. The Commission # 8-9 UAMS filed a motion to stay discovery the Commission Order #13 the Commissioner states that in the May 12, 2022 hearing the pending motion UAMS noted that the motion to dismiss is actually a motion for Summary Judgement, That Ms. Frazier did not exhaust her remedies against the physicians she did not timely file. I am one of the Heirs that was at this virtual hearing and there were no one speaking but this Commissioner and Ms. Frazier. This Commissioner cannot come this late claiming for the defendants a motion that was not plead before this hearing. Procedurally if Civil Rule 12(b) is not motion at the beginning. Ark. Court of Appeals 2001 in Davenport v. Lee states the defendant failed to raise their motion to Dismiss in their initial pleading as required by A.R.C.P. 12(b)(2)
3. the movant must produce admissible evidence of sufficient strength that a reasonable jury could not find in favor of the nonmoving party. This, of course, is the same standard that must be applied when the party with the burden of persuasion moves for a directed verdict. Ms. Frazier as the nonmoving party has already argue that the movant has not satisfied their initial burden, counter with "reducible" evidence sufficient to withstand a directed verdict,
4. They never pleaded any Civil 12 Rule, summary judgment is to be denied if there is "any doubt whatsoever." The purpose of such a motion, the court has emphasized, "is not to try issues, but to determine if there are issues to be tried. This view of summary judgment corresponds to that of most federal courts prior to the three 1986 cases discussed

5. In 1961, the Arkansas General Assembly adopted a summary judgment statute that tracked Rule 56 of the Federal Rules of Civil 1992. Procedure.59 Although the Arkansas Supreme Court described this provision as "a salutary measure, designed to prevent unnecessary trials where the record shows that there is no genuine issue of fact to be litigated," it stressed in the same opinion that summary judgment is an "extraordinary remedy. This attitude persists today under Rule 56 of the Arkansas Rules of Civil Procedure, which superseded the statute. As Justice Newbern has aptly put it, the supreme court "looks askance" at summary judgment.

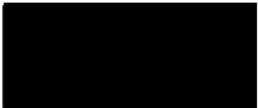
6. the moving party must make a prima facie showing of entitlement to summary judgment by offering proof on a controverted issue; if he fails to do so, the motion for summary judgment must be denied. The defendants has not shown any prima facet entitlement

As stated in Commissions Order October 9, 2019 the pending Motion from Defendants were Denied this motion was not Civil Rule 12 the parties were then instructed to proceed. And as this dispute to the May 18, Order 2022 by the Heirs at law. The defendants have no motion to dismiss, when they failed and allow the Claim with Ms. Frazier to proceed.

Sincerely

Heirs at Law of Marshall Frazier Jr. Estate

Dena M. Perry/Heirs at law
Luciana A. Frazier/Heirs at law
Sheena C. Frazier/Heirs at law
Emmanuel D. Frazier/Heirs at law



**Arkansas
State Claims Commission**

JUL 08 2022

RECEIVED

From: [Kathryn Irby](#)
To: [Desikan, Suba](#)
Cc: [Seaton, Gina](#)
Subject: APPEAL: Frazier v. UAMS, Claim No. 191008
Date: Tuesday, July 12, 2022 3:45:45 PM

Suba, please confirm receipt of this appealed claim. The claim docs can be found through this Dropbox link:

https://www.dropbox.com/sh/tbsbdqvujj0t6rv/AACJs1qyuLKuZyQDfzg_6vPta?dl=0

Thanks,
Kathryn

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

**MARSHA FRAZIER, AS
ADMINISTRATRIX OF THE
ESTATE OF MARSHALL
FRAZIER JR.**

CLAIMANT

V.

CLAIM NO. 191008

**UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is a notice of appeal filed in the claim of Marsha Frazier, as Administratrix of the Estate of Marshall Frazier Jr. (the “Claimant”) against the University of Arkansas for Medical Sciences (the “Respondent”). This notice of appeal was filed by the “Heirs at Law of Marshall Frazier Jr.” (who were not parties to the claim) and was filed more than 40 days after the Claims Commission’s May 18, 2022, dismissal of Claimant’s claim with prejudice.

Despite these issues, the Claims Commission will transmit this claim file to the Arkansas General Assembly, as Ark. Code Ann. § 19-10-211 does not permit the Claims Commission to reject an appeal.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

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

DATE: July 12, 2022

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).

From: [Desikan, Suba](#)
To: [Kathryn Irby](#)
Cc: [Seaton, Gina](#)
Subject: RE: APPEAL: Frazier v. UAMS, Claim No. 191008
Date: Wednesday, July 13, 2022 10:19:32 AM

Received!

**Thank You,
Suba Desikan**

Suba Desikan

Legislative Attorney | Administrative Rules Review Section
Bureau of Legislative Research
1 Capitol Mall, 5th Floor
desikans@blr.arkansas.gov
Office: 501-537-9185

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From: Kathryn Irby [mailto:Kathryn.Irby@arkansas.gov]
Sent: Tuesday, July 12, 2022 3:46 PM
To: Desikan, Suba <desikans@blr.arkansas.gov>
Cc: Seaton, Gina <seatong@blr.arkansas.gov>
Subject: APPEAL: Frazier v. UAMS, Claim No. 191008

Suba, please confirm receipt of this appealed claim. The claim docs can be found through this Dropbox link:

https://www.dropbox.com/sh/tbsbdqvujj0t6rv/AACJs1qyuLKuZyQDfzg_6vPta?dl=0

Thanks,
Kathryn

From: [Kathryn Irby](#)
To: [Robinson, Sherri](#) [REDACTED]
Cc: [MCGHEE, SHELLY](#)
Subject: CLAIM SENT: Frazier v. UAMS, Claim No. 191008
Date: Wednesday, July 13, 2022 12:07:00 PM
Attachments: [75--order re NOA.pdf](#)
[1--CRS memo.pdf](#)

Mrs. Frazier and Ms. Robinson, please see attached order entered by the Claims Commission, as well as a copy of the memo sent with the claim file to the Arkansas General Assembly.

When this appeal is added to a meeting agenda for the Claims Review Subcommittee, you will receive notice from the Bureau of Legislative Research.

Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

ARKANSAS STATE CLAIMS COMMISSION

(501)682-1619
FAX (501)682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, AR 72201-3823

MEMORANDUM

DATE: July 12, 2022

TO: Suba Desikan (via email)
Bureau of Legislative Research

FROM: Kathryn Irby

RE: Claim referred to the Claims Review Subcommittee pursuant to Ark. Code
Ann. § 19-10-211

*Marsha Frazier, as Administratrix of the Estate of Marshall Frazier Jr. v.
University of Arkansas for Medical Sciences*
Claim No. 191008

This memorandum is sent to transmit the above-referenced claim to the Claims Review Subcommittee pursuant to Ark. Code Ann. § 19-10-211.

cc: Mrs. Marsha Frazier, *Claimant* (w/o encl.) (via email)

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]

Ms. Sherri L. Robinson, *counsel for Respondent* (w/o encl.) (via email)
slrobinson@uams.edu
smcghee@uams.edu

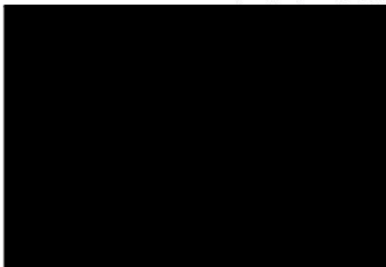
Ms. Gina Seaton, Bureau of Legislative Research (w/ encl.) (via email)

JUL 18 2022

BEFORE ARKANSAS CLAIMS COMMISSION
101 EAST CAPITOL AVE. STE. 410
LITTLE ROCK ARK. 72201
Case # 191008

RECEIVED

The Heirs at Law of
Marshall Frazier Jr. Estate



Arkansas Claims Commission
101 E. Capitol Ste. 410
Little Rock, Ar. 72201

Ms. Sherri Robinson
UAMS 4301 W. Markham Slot 860
Little Rock, Ark. 72205

**AMENDED NOTICE OF APPEAL TO ARKANSAS STATE CLAIMS COMMISSIONS
AND GENERAL ASSEMBLY WITH MEMORANDUM OF LAW**

Civil Rule 17(a) the real party in interest, amending and adding Civil Rule 19(B)claims an interest to the Heirs of Estate of Marshall Frazier Jr. here to preserve legal substantial rights, and as was stated in order #19 how ACA 16-62-102(b) in a wrongful death may be pursued when there's no personal representative of a deceased person the action is to be brought by the Heir's at Law. We are here to file Notice of appeal according to the Commissions ACA 18-10-211(a)(1). ACA 19-10-211(a)(1)(B)(ii). ACA 19-10-211(a)(3), twenty (20) days from the denial of reconsideration to the General Assembly, from the conclusion of The Claims Commissions Hearing May 12, 2022. The Claims Commission adopts the Ark. Civil PR therefore the Heirs apply for notice of appeal A.C.R.P. 3 and 4(a)(b)1. Also,

**BEFORE THE ARKANSAS STATE CLAIMS COMMISSION
ARKANSAS GENERAL ASSEMBLY PULASKI COUNTY ARKANSAS**

Case No: 191008 et al

IN THE MATTER OF

**Name: Administrative of Estate of Marshall Frazier Jr.
Marsha Frazier, Dena Perry Heirs at Law
Luciana Frazier, Heirs at Law, Sheena Frazier Heirs at Law
Emmanuel Frazier Heirs at law**

v.

University of Arkansas of Medical Science- Respondents

July 18, 2022

AMENDED NOTICE OF APPEAL

MEMORANDUM OF LAW

The Claims Commissions ACA 19-10-211(a)1 40 days to this claim was used to request an Extension Denied ACA 19-10-211(a)3 is within the 20 days to appeal to General Assembly The Heirs at Law When notice an appeal wants to amend and add Civil Rule 19 which also allows joinder of parties.

- A. preserving legal rights. Szteinbaum v. Kaes Inversiones Valores, C.A., 476 So.2d 247 (Fla.App.1985), the court considered "whether a complaint filed by a non-attorney on behalf of a corporation may be amended to cure this deficiency.
- B. **Amending adding-** Civil Rule 15(b) Ark. Civil Rule 15 (b)making it mandatory that pleadings be amended to conform to the proof where there has been no objection to such proof. Metropolitan Life Ins. Co. v. Fugate, 313 F.2d 788 (C.C.A. 5t h, 1963); Bradford Audio Corp. v. Pious, 329 F.2d 67 (C.C.A. 2n d, 1968).

(b).**Amending adding-** This is the Estate of Marshall Frazier Jr. Motions to the Assembly by terms of Civil Rule 15(b) to allow. The Estate amen to cure defects with Counsel because deeming this claim a Nullity is unfair prejudicing the substantial rights to the Estate when the Estate Diligently searched for counsel with no avail. The Estate will show cause if requested. If Counsel wasn't in conflict themselves they have not been before this proceeding, to they are unable Good luck, but if there is an court approve order that give permission to enter this will cure the defects here

1. Regards Summary Judgment the moving party must make a prima facie showing of entitlement to summary judgment by offering proof on a controverted issue; if he fails to do so, the motion for summary judgment must be denied. The defendants has not shown any prima facet entitlement
2. The Respondents has not shown by offering any proof they will be prejudice by Claimants claims proceed for relief medical injury

Civil Rule 15(c)*Relation Back of Amendments*. An amendment of a pleading relates back to the date of the original pleading when:(1) the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, or(2) the amendment changes the party or the naming of the party against whom a claim is asserted if the foregoing provision (1) is satisfied and, within the period provided by Rule 4(i) for service of the summons and complaint, the party to be brought in by amendment (A) has received such notice of the institution of the action that the party will not be prejudiced in maintaining a defense on the merits, and (B) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against the party.

Amending Adding-Claimant filed an affidavit notarized April 8 2019 Attached with the Original Complaint filed date April 10, 2019 as Addendum to complaint included statements of claims for relief.

1. ACA 16-114-203(b) accrual of the cause of action is When All elements of cause of action exist
2. Discovery Rule the accrual date of cause of action delayed until plaintiff is aware of their injury and the negligent act. After submitting the original complaint Discovery of the [REDACTED] as This is additional Statue
3. Claimants Claim has been on hold in abeyance until May 12, 2022

4. Claims Commission Order October 9, 2019 regards Contested claim by Respondents#10 denied and instructed to proceed to discovery. They did not plead a motion 12 failure to state a claim

5. **Amending Adding-AMI 211** in jury instruction, Fraudulent Concealment to Suspend the Running of the Statute of Limitations.
 - a. Claimant exercised diligence to discover the facts



JONES v. CENTRAL ARKANSAS RADIATION THERAPY 607 S.W.2d 334 (1980)Merlyn W. JONES and Florence S. Jones, Appellants, v. CENTRAL ARKANSAS RADIATION THERAPY INSTITUTE, INC., and Dr. D. R. Harris and John Doe, Appellees. We reverse the trial court because appellants' complaint sets forth sufficient facts of fraudulent concealment of the alleged malpractice to toll the statute of limitation.

If the action is dismissed, it was nonetheless commenced for statute of limitations purposes and may be refiled within one year under the savings statute, Ark. Code Ann. 16-56 126. See Forrest City, Machine Works v. Lyons, 315 Ark. 173, 866 S.W.2d 372 (1993)

Respondents never in any of their Pleading defenses or answers never plead any 12 (b) that Claimant did not state a claim for relief this effect shows they are denied any remedies also and the claim is to proceeding the favor of the Estate.

JUL 18 2022

MAY 18, 2022 ORDER

RECEIVED

Order # 27 Commissioners state The October 1, 2019 filing by Ms. Frazier. To the Extent this filing to be construed as an amended complaint or correction of the original complaint. Where this complaint is ruled a Nullity an amended complaint cannot relate back..

1. Applying the Discovery Rule, Ms. Frazier made an August 12, 2019 motion before the 2 year expiration, the Commissioner has conveniently left out this fact finding, which also could be construed as a relation back Ark. Civil Rule 15. An amended complaint. Which it was not after Admin. Ms. Frazier stated in her pleadings, to toll Statute of limitation would allow a Corrected Complaint.

Order# 28 The Commissioner states Even if the October 1, 2019 filling had been satisfied all pleading requirements it would be subject to dismissal based on expiration of statute of limitations,

2. Stated in response to order #27 Ms. Frazier motion August 12, 2019 pleading that could well be construed as an amended complaint and corrected complaint has the Discovery Rule been applied when this complaint first came here.

Order#11 On September 1, 2020 Ms. Frazier filed documents related to a lawsuit that she filed in Pulaski County Circuit Court.

3. Correction. Ms. Frazier filed a lawsuit on August 26, 2020 an amended complaint August 27, 2020.

Order#6 UAMS filed a second motion to dismiss that Ms. Frazier must Exhaust claims against the physicians but failed prior to expiration of the August 26, 2019 statute of limitation.

4. On May 15, 2019 the Defendants filed their motion to dismiss on grounds of no proof of standing When Claimant filed motion August 12, 2019 to seek standing this was before expiration of the August 26, 2019. This allowed Defendants according to Civil Rule 15(c) on relation back to give Claimant permission to seek standing. Estate should be given this with counsel.

In conclusion Civil Rule 15(b) allows a complaint to be amended therefore this Estate should be allowed to amend and cure the defects. With permission for counsel to enter

The Discovery Rule has allowed the Estate an extended time of provider lawsuit where the statute is still active as the claim has been on hold from 2019 until May 12, 2022.

And again to be in compliance with the rule of requirement to have counsel the Estate again ask for an order giving permission to enter an Attorney

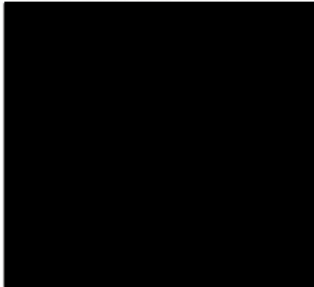
There is no right to summary judgment by this was not plead in the 2019 motions by respondents also In 1961, the Arkansas General Assembly In 1961, the Arkansas General Assembly adopted a summary judgment statute that tracked Rule 56 of the Federal Rules of Civil 1992

And the Commissioner changing the motion for the Respondents from Stay of Discovery to Summary judgment should be denied for this reason of possible spoliation

The Appendix not being explained is Spoliation

Sincerely

The Heirs at Law of
Marshall Frazier Jr. Estate



ARKANSAS GENERAL ASSEMBLY PULASKI COUNTY ARKANSAS

Case No: 191008 et al

IN THE MATTER OF

**Name: Administrative of Estate of Marshall Frazier Jr.
Marsha Frazier, Dena Perry Heirs at Law
Luciana Frazier, Heirs at Law, Sheena Frazier Heirs at Law
Emmanuel Frazier Heirs at law**

v.

University of Arkansas of Medical Science- Respondents

July 18, 2022

On this 18th day of July I certify that I hand delivered this document with signature

Sign _____

ARKANSAS GENERAL ASSEMBLY PULASKI COUNTY ARKANSAS

Case No: 191008 et al

IN THE MATTER OF

Name: Administrative of Estate of Marshall Frazier Jr.
Marsha Frazier, Dena Perry Heirs at Law
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Emmanuel Frazier Heirs at law

v.

University of Arkansas of Medical Science- Respondents

July 18, 2022

On this 18th day of July I certify that I hand delivered this document with signature

Sign

A handwritten signature in cursive script, appearing to read "Carl Masari", is written over a horizontal line.

From: [Kathryn Irby](#)
To: [Desikan, Suba](#)
Cc: [Seaton, Gina](#)
Bcc: [Kathryn Irby](#)
Subject: ADDITIONAL DOC: Frazier v. UAMS, Claim No. 191008
Date: Monday, July 25, 2022 2:46:00 PM
Attachments: [frazier-amended appeal.pdf](#)

Suba, we received the attached document from Mrs. Frazier.

Thanks,
Kathryn

From: [Desikan, Suba](#)
To: [Kathryn Irby](#)
Cc: [Seaton, Gina](#)
Subject: RE: ADDITIONAL DOC: Frazier v. UAMS, Claim No. 191008
Date: Monday, July 25, 2022 2:48:02 PM

Received.

**Thank You,
Suba Desikan**

Suba Desikan

Legislative Attorney | Administrative Rules Review Section
Bureau of Legislative Research
1 Capitol Mall, 5th Floor
desikans@blr.arkansas.gov
Office: 501-537-9185

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From: Kathryn Irby [mailto:Kathryn.Irby@arkansas.gov]
Sent: Monday, July 25, 2022 2:46 PM
To: Desikan, Suba <desikans@blr.arkansas.gov>
Cc: Seaton, Gina <seatong@blr.arkansas.gov>
Subject: ADDITIONAL DOC: Frazier v. UAMS, Claim No. 191008

Suba, we received the attached document from Mrs. Frazier.

Thanks,
Kathryn

From: [Kathryn Irby](#)
To: [REDACTED]
Cc: [ASCC New Claims](#)
Subject: RE: Claim on Marsha Frazier vs.UAMS
Date: Wednesday, November 2, 2022 12:49:00 PM
Attachments: [Frazier -- 5-18-22 order.pdf](#)
[Frazier -- 6-24-22 ltr order.pdf](#)
[Frazier -- notice of appeal.pdf](#)
[Frazier -- 7-12-22 order.pdf](#)
[Frazier -- corr to Leg with claim file.pdf](#)
[Frazier -- amended notice of appeal.pdf](#)
[Frazier -- corr to Leg trans amended notice of appeal.pdf](#)

Mrs. Frazier, please see attached requested documents. If you need anything else, please let us know.

Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Marsha Frazier [REDACTED]
Sent: Monday, October 31, 2022 1:23 PM
To: ASCC New Claims <ascc.new.claims@arkansas.gov>
Cc: [REDACTED]
Subject: Claim on Marsha Frazier vs.UAMS

You don't often get email from m.frazierllc@gmail.com. [Learn why this is important](#)

Per my phone conversation here

I am requesting humbly that you email my last correspondence here

1. The Commission decision order
2. The Appeal by my self
3. The letter referral sending my appeal to the General Assembly

If there's a fee charge let me know I will send it ASAP

Than you very much

Marsha Frazier

From: [REDACTED]
To: [Kathryn Irby](mailto:Kathryn.Irby)
Subject: Re: Claim on Marsha Frazier vs.UAMS
Date: Wednesday, November 2, 2022 12:53:24 PM

Thank you
Ms. Kathnryn.
An abundance of blessings to you

From: Kathryn Irby <Kathryn.Irby@arkansas.gov>
Sent: Wednesday, November 2, 2022 12:50 PM
To: [REDACTED]
Cc: ASCC New Claims <ASCC.New.Claims@arkansas.gov>
Subject: RE: Claim on Marsha Frazier vs.UAMS

Mrs. Frazier, please see attached requested documents. If you need anything else, please let us know.

Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission
101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
(501) 682-2822

From: Marsha Frazier [REDACTED]
Sent: Monday, October 31, 2022 1:23 PM
To: ASCC New Claims <ascc.new.claims@arkansas.gov>
Cc: [REDACTED]
Subject: Claim on Marsha Frazier vs.UAMS

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Per my phone conversation here
I am requesting humbly that you email my last correspondence here

1. The Commission decision order
2. The Appeal by my self
3. The letter referral sending my appeal to the General Assembly

If there's a fee charge let me know I will send it ASAP

Than you very much

Marsha Frazier

From: [Kathryn Irby](#)
To: [REDACTED]
Subject: RE: Marsha Frazier, as administratrix of the Estate of Marshall Frazier, Claim No. 191008
Date: Tuesday, August 15, 2023 12:31:00 PM

Mrs. Frazier, we do have your new email address.

Thanks,
Kathryn Irby

-----Original Message-----

From: Marsha Frazier [REDACTED]
Sent: Monday, August 7, 2023 7:00 PM
To: ASCC New Claims <ascc.new.claims@arkansas.gov>
Subject: Kathryn Irby

You don't often get email from m.mfrazierllc@gmail.com. Learn why this is important
<<https://aka.ms/LearnAboutSenderIdentification>>

Hello Ms Irby,
This Marsha Frazier claim # 191008
I'm following back out to you regarding we the heirs of Marshall Frazier getting reinstated on the Legislation Agenda coming up Next month September.
We really need to go before this body to discuss laws they put in place regarding Malpractice and possibly other laws.
Please consider the date on this and inform me of the schedule.

Thank You

The heirs of Marshall Frazier
And Marsha Frazier