

IN THE SUPREME COURT OF MISSISSIPPI

**LEANORA McCLAIN, INDIVIDUALLY AND
ON BEHALF OF THE WRONGFUL DEATH
BENEFICIARIES OF CARLTON McCLAIN,
DECEASED**

APPELLANT

VS.

NO. 2007-CA-00316

**STEVEN G. CLARK, M.D.; BENNIE G.
WRIGHT, M.D.; TARENCE E. WADE, M.D.;
BOLIVAR MEDICAL CENTER; AND JOHN
AND JANE DOES 1-5**

APPELLEES

**APPEAL FROM THE CIRCUIT COURT
OF BOLIVAR COUNTY, MISSISSIPPI**

**BRIEF OF APPELLEES
TARENCE E. WADE, M.D.
AND BOLIVAR MEDICAL CENTER**

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CERTIFICATE OF INTERESTED PERSONS

The undersigned counsels of record certify that the following listed persons have an interest in the outcome of this case. These representations are made in order that the Justices of this Court, may evaluate possible disqualifications or recusal.

Leanora McClain	-	Appellant
Steven B. Clark, M.D.	-	Appellee
Bennie B. Wright, M.D.	-	Appellee
Tarence E. Wade, M.D.	-	Appellee
Bolivar Medical Center	-	Appellee
Charles M. Merkel, Jr.	-	Attorney of Record for Appellant
Alma Walls	-	Attorney of Record for Appellant
James A. Becker, Jr.	-	Attorney of Record for Appellee, Tarence E. Wade, M.D.
Anastasia G. Jones	-	Attorney of Record for Appellee, Tarence E. Wade, M.D.
Kimberly N. Howland	-	Attorney of Record for Appellee, Bolivar Medical Center
J. L. Wilson	-	Attorney of Record for Appellee, Steven G. Clark, M.D.
Jason Dare	-	Attorney of Record for Appellee, Bennie B. Wright, M.D.
L. Carl Hagwood	-	Attorney of Record for Appellee, Bennie B. Wright, M.D.
Hon. Charles E. Webster	-	Bolivar County Circuit Court Judge

Respectfully submitted, this the 22nd day of January, 2008.

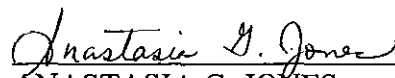

ANASTASIA G. JONES

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STATEMENT OF ISSUES

- I. MCCLAIN IS IN ERROR IN ASSERTING THAT PURSUANT TO MISS. CODE § 11-1-58, A CERTIFICATE OF REVIEW WAS PROVIDED TO DEFENDANTS.
 - A. McClain's Certificate of Review Does Not Comply With the Statutory Requirements of MISS. CODE ANN. § 15-1-36(1) Because It Was Not Timely Filed.
 - B. McClain's Certificate of Review Does Not Comply With the Statutory Requirements of MISS. CODE ANN. § 15-1-36(1)(a) Because It Does Not State That a Qualified Expert Reviewed the Case.
- II. MCCLAIN HAS MISSTATED THE LAW IN ASSERTING THAT MISS. CODE ANN. § 11-1-58 (1) REQUIRES ONLY SUFFICIENT COMPLIANCE.
- III. MCCLAIN'S CLAIMS ARE TIME-BARRED BY THE STATUTE OF LIMITATIONS AS ENUMERATED IN MISS. CODE ANN. § 15-1-36 (2).
- IV. DR. WADE AND BOLIVAR MEDICAL CENTER ARE ENTITLED TO SUMMARY JUDGMENT BECAUSE MCCLAIN HAS FAILED TO NAME AN EXPERT AGAINST THEM.

STATEMENT OF THE CASE

1. Nature of the Case

This is a medical malpractice case in which Plaintiff alleges the wrongful death of her husband, Carlton McClain, as a result of medical and gross negligence in his treatment and care by defendants Drs. Steven C. Clark, Bennie G. Wright, Tarence E. Wade, and Bolivar Medical Center. R. 1. The issues in this appeal regard the failure of the Plaintiff to provide the statutorily mandated certificate of consultation (also referred to herein as a “certificate of review” or “certificate of compliance”) with either the Complaint or Amended Complaint when filed, the further failure of the Plaintiff to certify that she had consulted with an expert qualified to give opinions as mandated in Section 11-1-58 (1) of Mississippi Code Annotated, MISS. CODE ANN. § 11-1-58(1)(Supp. 2007), and failure of the Plaintiff to timely designate an expert to support her claims of medical negligence.

2. Course of the Proceedings

McClain, through counsel, sent a Notice of Claim, pursuant to Section 15-1-36 of the Mississippi Code, and a Certificate of Review, to the defendants. Both the Notice of Claim and the Certificate of Review are dated December 29, 2005. Plaintiff filed the original Complaint for wrongful death in the Circuit Court of Bolivar County on April 7, 2006, against Drs. Steven G. Clark, Bennie B. Wright, Tarence E. Wade, and Bolivar Medical Center, alleging medical negligence and gross negligence in the treatment and care of Carlton McClain, Plaintiff's decedent. R. 1. On April 27, 2006, the Plaintiff filed an Amended Complaint. R. 14.

On June 9, 2006, Dr. Wade filed his Answer and Motion to Dismiss. R. 53. Bolivar Medical Center, and Drs. Clark and Wright also filed motions to dismiss. R. 27, 46, 64, 74. On January 8, 2007, Dr. Wade filed a Motion for Summary Judgment. R. 417. Plaintiff filed responses to said

motions. R. 111, 135, 146, 221, 522. On February 7, 2007, Dr. Wade filed his Reply to Plaintiff's Response to Motion to Dismiss and/or Summary Judgment. R. 579. A hearing was held on January 11, 2007, regarding the employment status of Dr. Clark, a co-defendant. Tr. 2. Another hearing was held on February 9, 2007, wherein the court heard oral argument on Dr. Wade's motions, as well as the motions filed by the other defendants. Tr. 59. On February 16, 2007, the Circuit Court of Bolivar County entered an Order which granted all of the defendants' Motions to Dismiss on the basis of Plaintiff's failure to attach a certificate of review to the Complaint as contemplated by Section 11-1-58(1) of the Mississippi Code. R. 588. In addition, the court found that the two year statute of limitations for medical malpractice claims as codified in Section 15-1-36(2) of the Mississippi Code had expired. R. 590-91. It is from that Order that Plaintiff appeals.

3. Statement of the Facts

Carlton McClain, Plaintiff's decedent, was treated at Bolivar Medical Center on various dates from April 9, 2004 until May 17, 2004, when he expired. R. 16, ¶ 10; R. 19, ¶ 25. It is contended in Paragraphs 18, 19, and 20 of the Amended Complaint that Dr. Wade inserted a chest tube into the upper right lateral chest wall of Mr. McClain on May 8, 2004, and Mr. McClain was then admitted under the care of other physicians. R. 18, ¶¶ 18-20. All of the allegations against Dr. Wade concern conduct on that date. Because the statute of limitations expired, at the latest, two years and 60 days from May 17, 2004, the date of Mr. McClain's death, the statute of limitations expired on July 17, 2006. MISS. CODE ANN. §§ 15-1-36(2), 15-1-36(15) (Rev. 2003).

McClain, through counsel, sent a Notice of Claim, pursuant to Section 15-1-36, and a Certificate of Review, to the defendants, both of which are dated December 29, 2005. It is noteworthy that said Notice of Claim and Certificate of Review were not filed with the court because the Complaint had yet to be filed. Plaintiff then filed the original Complaint on April 7, 2006, and

Plaintiff filed an Amended Complaint on April 27, 2006. R. 1, 14. Section 11-1-58 (1) of Mississippi Code Annotated requires that an attorney's certificate of review shall accompany the complaint at the time that the Complaint is filed. MISS. CODE ANN. § 11-1-58(1). It is undisputed that neither the Complaint nor the Amended Complaint was accompanied by a certificate of review as required by Mississippi Code Annotated Section 11-1-58 (1). Plaintiff did not file a Certificate of Review in the Circuit Court of Bolivar County until June 30, 2006. R. 218; R.E. Ex. 2.

On June 9, 2006, Dr. Wade filed his Answer and Motion to Dismiss. R. 53. Bolivar Medical Center filed its Motion to Dismiss on June 12, 2006. R. 64. Dr. Wright filed a Motion to Dismiss on June 26, 2006. R. 74. Said motions asserted that dismissal was mandated as a result of Plaintiff's failure to comply with Mississippi Code Annotated § 11-1-58 (1) because neither the Complaint nor the Amended Complaint was accompanied by a certificate of review. On June 30, 2006, after the defendants filed their Motions to Dismiss, Plaintiff for the first time filed a Certificate of Review in the Circuit Court of Bolivar County. R. 218; R.E. Ex. 2. This was the first time the Circuit Court received notice that Plaintiff's counsel had consulted with an expert and had found that there was a reasonable basis for the claim. Rather than filing the Certificate with the Court with the Complaint, Plaintiff filed said Certificate almost three months after the original Complaint was filed and more than two months after the Amended Complaint was filed. R. 218; R.E. Ex. 2. Also, said Certificate of Review was woefully inadequate not only because it was untimely filed but also because it failed to comply with the statute by not stating that the expert who Plaintiff consulted was qualified to testify as to the standard of care applicable in this case. MISS. CODE ANN. § 15-1-36(1)(a); R. 218; R.E. Ex. 2.

In addition, Dr. Wade asserted in his Motion to Dismiss that the statute of limitations, pursuant to §15-1-36 of the Mississippi Code, had expired. R. 53.

SUMMARY OF THE ARGUMENT

Appellees, Dr. Tarence Wade and Bolivar Medical Center, assert that the Order of the trial court should be affirmed because Appellant McClain did not provide a certificate of review along with the Complaint or Amended Complaint upon filing as required pursuant to §11-1-58 of the Mississippi Code. MISS. CODE ANN. § 11-1-58. Furthermore, Appellees contend that case law is clear that the aforementioned statute requires strict compliance, as opposed to substantial compliance, as argued by McClain. As a result, McClain's claim is now time-barred because the applicable two-year statute of limitations has expired. MISS. CODE ANN. §§ 15-1-36(2), 15-1-36(15). In addition, the Certificate of Review which Plaintiff filed with the court on June 30, 2006, was not only untimely filed but also was woefully inadequate because it failed to comply with the statute by not stating that the expert with whom Plaintiff consulted was qualified to testify as to the standard of care applicable in this case. MISS. CODE ANN. § 15-1-36(1)(a); R. 218, R.E. Ex. 2. Further, Plaintiff failed to come forward with expert testimony to support her claims of medical negligence when requested to do so by the Appellees in discovery.

ARGUMENT

- I. MCCLAIN IS IN ERROR IN ASSERTING THAT A CERTIFICATE OF REVIEW WAS PROVIDED TO DEFENDANTS PURSUANT TO MISS. CODE ANN. § 11-1-58.

It is undisputed that a certificate of review, which is required by Miss. Code Ann. §11-1-58(1)(a), did not accompany either the Complaint, when it was filed on April 7, 2006, or the Amended Complaint, when it was filed on April 27, 2006. R. 1, 14; R.E. Ex. 3, 4. It is also undisputed that an acceptable alternative to a certificate of review, pursuant to §11-1-58(7), did not accompany either the Complaint or Amended Complaint. R. 1, 14; R.E. Ex. 3, 4.

The relevant procedural mandates of §11-1-58 read as follows:

- (1) In any action against a licensed physician, health care provider or health care practitioner for injuries or wrongful death arising out of

the course of medical, surgical or other professional services where expert testimony is otherwise required by law, the complaint shall be accompanied by a certificate executed by the attorney for the Plaintiff declaring that:

- (a) The attorney has reviewed the facts of the case and has consulted with at least one (1) expert qualified pursuant to the Mississippi Rules of Civil Procedure and the Mississippi Rules of Evidence who is qualified to give expert testimony as to standard of care or negligence and who the attorney reasonably believes is knowledgeable in the relevant issues involved in the particular action, and that the attorney has concluded on the basis of such review and consultation that there is a reasonable basis for the commencement of such action. ...
- (7) The Plaintiff, in lieu of serving a certificate required by this section, may provide the defendant or defendants with expert information in the form required by the Mississippi Rules of Civil Procedure. Nothing in this section requires the disclosure of any "consulting" or nontrial expert, except as expressly stated herein.

MISS. CODE ANN. §§ 11-1-58(1)(a), 11-1-58(7).

A. McClain's Certificate of Review Does Not Comply With the Statutory Requirements of MISS. CODE ANN. § 11-1-58 (1) Because It Was Not Timely Filed.

McClain contends that the certificate of review supplied with the Notice of Claim, dated December 29, 2005, was provided to defendants pursuant to the above-enumerated statute. R. 135, 139. However, because said certificate did not accompany the Complaint or the Amended Complaint, the certificate fails to comply with the statutory provisions and requirements of either §11-1-58(1) or §11-1-58(7) and therefore was not provided pursuant to said statute.

Furthermore, it is important to note that compliance with Section 11-1-58(1) by providing the certificate of review along with the Complaint at the time the Complaint is filed assures that the court, as well as the defendants, is provided a copy of the certificate of review for the court file, which would be a part of the court record, in order to give the court, as well as the defendants, notice

that plaintiff's counsel had consulted with a qualified expert and that there was found to be a reasonable basis for the claim. Because a certificate of review in this case was not filed with the Complaint or the Amended Complaint, in accordance with the statute, said certificate was not a part of the court's record and, as a result, the Circuit Court of Bolivar County did not receive notice that plaintiff's counsel had consulted with a qualified expert and said Circuit Court did not have the assurance that plaintiff's counsel found that there was a reasonable basis for the claim, as contemplated by the legislature and affirmed by the Mississippi Supreme Court. *Walker v. Whitfield Nursing Center, Inc.*, 931 So. 2d 583, 589 (Miss., 2006).¹ The Plaintiff did not file the Certificate of Review with the Circuit Court of Bolivar Count until June 30, 2006, only after defendants Drs. Wright and Wade filed their Motions to Dismiss, asserting the failure to file a certificate of review with the Complaint as a basis for dismissal. R. 53, 74, 218, 522, 548; Ex. 2. Thus, the Certificate of Review did not become a part of the court's record until that time, which was almost three months after the Complaint was filed and more than two months after the Amended Complaint was filed.

B. McClain's Certificate of Review Does Not Comply With the Statutory Requirements of MISS. CODE ANN. § 11-1-58 (1)(a) Because It Does Not State That a Qualified Expert Reviewed the Case.

In addition to the fact that McClain's Certificate of Review was not timely filed pursuant to Section 11-1-58 (1) of the Mississippi Code, it also failed to make the declarations pursuant to the statutory requirements regarding the expert's review of the case set forth by Section 11-1-58 (1)(a). MISS. CODE ANN. § 11-1-58 (1)(a). The Certificate of Review failed to state that the expert with whom the attorney consulted was qualified pursuant to the Mississippi Rules of Civil Procedure and the Mississippi Rules of Evidence to give expert testimony as to the standard of care or negligence.

¹ The fact that the Certificate of Review was not a part of the court's records was discussed and argued at the hearing on February 9, 2007. Tr. 88, lines 23-26.

Id. The Certificate of Review which was supplied with the Notice of Claim on December 29, 2005, and which was finally filed with the court on June 30, 2006, stated as follows:

I, Alma Walls, do hereby certify that I have reviewed the facts of this case and have had this matter reviewed by a knowledgeable medical expert who opines that the defendants identified herein have breached the standard of care. On the basis of this review and consultation, I have concluded that there is a reasonable basis for bringing this action.

R. 218, 418, 448; R.E. Ex. 2. Said Certificate of Review says nothing regarding the qualifications of the expert and it does not say that the expert is qualified pursuant to the Mississippi Rules of Civil Procedure and the Mississippi Rules of Evidence to give expert testimony as to the relevant standard of care, as required by Section 11-1-58 (1)(a). MISS. CODE ANN. § 11-1-58 (1)(a). This issue was argued by Dr. Wade in his Reply to Plaintiff's Response to Motion to Dismiss and/or Summary Judgment. R. 579, 580.

Thus, said Certificate of Review does not comply with the statutory requirements to establish that the expert consulted is qualified to give the expert testimony. The Certificate of Review provided is therefore inadequate pursuant to Section 11-1-58 (1)(a). MISS. CODE ANN. § 11-1-58(1)(a).

II. MCCLAIN HAS MISSTATED THE LAW IN ASSERTING THAT MISS. CODE ANN. § 11-1-58(1) REQUIRES ONLY SUFFICIENT COMPLIANCE.

McClain asserts that by providing a certificate of review or consultation prior to the time the Complaint was filed, that the intent of Section 11-1-58 (1) was satisfied and that there was therefore "sufficient" compliance. Appellant's Brief, pp. 11, 16.

However, McClain has misconstrued the law because sufficient compliance is not the standard when interpreting Section 11-1-58 (1), which was recently analyzed by the Mississippi Supreme Court in *Walker*. *Walker* held that the time requirement provided by Section 11-1-58 is

"mandatory" and that the record is to be examined to determine "compliance or non-compliance" only. *Id.* at 589 (§§ 17, 20). The Mississippi Supreme Court has never stated that sufficient compliance is even an option, as McClain argues.

Moreover, the *Walker* Court held that a Plaintiff may comply with either Section 11-1-58(1) (i.e., file an "Attorney Certificate") or Section 11-1-58(7) (i.e., file the "expert's information [such as] written report or records.") *Id.* at 589-90 (§22). Regardless of which option the plaintiff chooses, the referenced documentation of expert consultation must accompany Plaintiff's Complaint. *Id.* at 590 (§24).

The Supreme Court even more recently affirmed *Walker* in *Arceo v. Tolliver*. *Arceo v. Tolliver*, 949 So.2d 691, 697 (Miss. 2006). *Arceo* held that compliance with the requirements of the statutes regarding medical malpractice claims are mandatory, and affirmed the *Walker* court for granting the medical provider's motion for summary judgment based on plaintiff's failure to comply with the provisions of Section 11-1-58, which require that an attorney's certificate of review or consultation with a qualified medical expert be filed with the Complaint. *Id.*; MISS. CODE ANN. § 11-1-58.

Walker does not compromise the time requirement of Section 11-1-58 and is unequivocal that the Complaint shall be accompanied by a certificate executed by the attorney for the plaintiff. *Walker*, 931 So. 2d at 590. Furthermore, because the language of SECTION 11-1-58 is not ambiguous, *Walker* reiterated that when interpreting a statute that is not ambiguous, the Mississippi Supreme Court will apply the plain meaning of the statute. *Id.*; *Arceo v. Tolliver*, 949 So.2d at 695 (citing *Claypool v. Mladineo*, 724 So.2d 373, 382 (Miss.1998)).

Ignorance of the law or even well-meaning non-compliance is no excuse for the failure to comply with statutory requirements. *Griffis v. State*, 797 So.2d 299, 305 (Miss. App. 2001). This

was the ruling of the trial court, which should be upheld. Any other conclusion or result will simply promote confusion among the practioners of the state and reward statutory non-compliance.

III. MCCLAIN'S CLAIMS ARE TIME-BARRED BY THE STATUTE OF LIMITATIONS AS ENUMERATED IN MISS. CODE ANN. § 15-1-36 (2).

Because all of the allegations against Dr. Wade concern conduct on May 8, 2004, and the date of Mr. McClain's death is May 17, 2004, the statute of limitations would expire, at the latest on July 17, 2006, which is two years and 60 days from the date of his death. MISS. CODE ANN. §§ 15-1-36(2), 15-1-36(15).

Not surprisingly, there is no support in Mississippi law for the proposition that the filing of a complaint which is defective on its face tolls the statute of limitations. As neither a statutorily mandated certificate of review nor a disclosure of expert opinions in conformance with Miss. R. Civ. Pro. 26(b)(4) accompanied either of Plaintiff's Complaints (initial or amended), as required by Section 11-1-58, the two year statute of limitations expired as the trial court found. Thus the trial court was correct in dismissing all claims against the Defendants.

IV. DR. WADE AND BOLIVAR MEDICAL CENTER ARE ENTITLED TO SUMMARY JUDGMENT BECAUSE MCCLAIN HAS FAILED TO NAME AN EXPERT AGAINST THEM.

In addition to the fact that dismissal is warranted for Plaintiff's filing of a deficient Complaint, Dr. Wade and Bolivar Medical Center are also entitled to summary judgment because Plaintiff has failed to name a qualified expert who will testify that either of them failed to meet the standard of care in treating Mr. McClain and that this failure was the cause of injury to Carlton McClain. The law in Mississippi is well settled that in a case alleging medical malpractice, the plaintiff may not rest upon his or her own allegations but must present expert medical opinions that the defendant failed in some particular respect to meet the appropriate standard of care for physicians

of like practice. Each of these Appellees propounded discovery to the Plaintiff and no response designating an expert was timely received pursuant to the Mississippi Rules of Civil Procedure. R. 62, 71.

The case of *Dazet v. Bass*, 254 So.2d 183 (Miss. 1971) sets forth the standard by which a question of fact is created in a medical malpractice case. In *Dazet*, the plaintiff offered no expert testimony to support her position at trial. A preemptory instruction was granted to the defendants, as the trial court held that, without expert testimony, the plaintiff's proof did not make an issue for the jury. The court held that, in a medical malpractice case, negligence cannot be shown without expert medical testimony that the defendant failed in some specific manner to use ordinary care and skill. Without such testimony, there is no question of fact, and the Supreme Court upheld the granting of the preemptory instruction. *Id.* at 187.

Not only must the plaintiff produce expert medical testimony which articulates the duty of care the physician owes, the expert must also "identif[y] the particular(s) wherein the physician breached that duty and caused injury to the plaintiff patient," otherwise the plaintiff's claim for negligence must fail. *Phillips v. Hull*, 516 So. 2d 488, 491 (Miss. 1987). The Court in *Hull* found that plaintiff's claim for negligence was properly dismissed where there was no expert testimony regarding an area not within the common knowledge of laymen.

Likewise, in the case of *Kilpatrick v. Mississippi Baptist Medical Center*, 461 So.2d 765 (Miss. 1984), the trial court dismissed a medical malpractice action when the plaintiff failed, through discovery, to designate an expert witness. The Court recognized that expert testimony is essential to a case of this type, holding that negligence in a medical malpractice action cannot be established without an expert. The Mississippi Supreme Court found that the plaintiff had had ample time to furnish the defendant the name of an expert but had not done so. Therefore, the Court upheld

dismissal of the action. *Id.* at 768. The Mississippi Supreme Court has reiterated this on numerous occasions. *E.g.*, *Travis v. Stewart*, 680 So.2d 214 (Miss. 1996); *Hammond v. Grissom*, 470 So. 2d 1049, 1053 (Miss. 1985); *Hall v. Hilbun*, 466 So. 2d 856, 874 (Miss. 1985); *Phillips v. Hull*, 516 So.2d at 491.

Furthermore, in *Cole ex rel. Cole v. Buckner*, 819 So.2d 527 (Miss. 2002), the Mississippi Supreme Court determined that dismissal of a case when the plaintiff had failed to respond to requests for admissions was appropriate. Plaintiff was not allowed to file untimely responses to avoid dismissal of the case. *Cole ex rel. Cole v. Buckner*, 819 So.2d at 531.

It is absolutely required that the Plaintiff support the claim against these Appellees with medical testimony. Plaintiff's assertions as to the various allegations of negligence would cause one to assume that medical testimony was relied upon in drafting the Complaint and "Notice" to the various physicians. However, Plaintiff has failed to come forward with appropriate proof in a reasonable time and in compliance with the obligation to answer or object to Interrogatories within thirty (30) days of service, and, therefore, this cause should be dismissed. No medical expert has been identified to substantiate Plaintiff's claims of medical negligence. It is apparent at this time, pursuant to Miss. R. Civ. P. 56, that the Plaintiff is unable to substantiate the claims of medical negligence and failure to meet the standard of care and that this action should be dismissed.

Under Mississippi law, in a medical malpractice action, negligence cannot be established without expert medical testimony from a qualified medical expert that the Defendant breached the standard of care, and that such breach was a proximate cause of injury to the Plaintiff.

Since no expert has been identified, it is evident that Plaintiff cannot substantiate the claims of medical negligence against Dr. Wade and Bolivar Medical Center with requisite necessary medical evidence. For the foregoing reasons, Tarence E., M.D. and Bolivar Medical Center are entitled to an affirmance of the trial court's ruling in their favor.

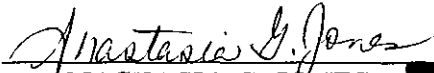
CONCLUSION

Appellant failed to comply with the mandatory requirements of MISS. CODE ANN. 11-1-58 by not filing a certificate of consultation with either the Complaint (or Amended Complaint), and by failing to certify that prior to the filing of the Complaint her counsel had consulted with an expert qualified to give opinions as to the relevant standard of care. This Court has directed that parties and practitioners must comply with these statutory requirements. Appellant has not complied, and her Complaint and Amended Complaint should be dismissed as the trial court correctly ruled. Additionally, as Appellant's Complaints were defective on their face, they did not toll the statute of limitations which expired, as the trial court further correctly held. The trial court's dismissal of the claims against Dr. Wade and Bolivar Medical Center was also proper as Appellant did not disclose expert opinions to substantiate her claims of medical negligence as required by Mississippi law. For all of these reasons, these Appellees urge this Court to affirm the ruling of the trial court in the dismissal of the claims against Dr. Wade and Bolivar Medical Center.


DATED this the 22nd day of January, 2008.

Respectfully submitted,

TARENCE E. WADE, M.D.

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CERTIFICATE OF SERVICE

I, Anastasia G. Jones, attorney of record for the Appellant, do hereby certify that I have this day mailed, via United States first class mail, postage prepaid, a true and correct copy of the foregoing to the following:

Honorable Charles Webster
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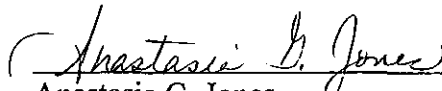
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