IN THE COURT OF APPEALS FOR THE STATE OF MISSISSIPPI

CASE NO. 2010-CA-01527-COA

JACKSON HMA, INC. d/b/a CENTRAL MISSISSIPPI MEDICAL CENTER, GEORGE T. SMITH-VANIZ, M.D., AND KEN E. CLEVELAND, M.D. — APPELLANTS

VS.

LANELL HAMIL, INDIVIDUALLY AND ON BEHALF OF THE WRONGFUL DEATH BENEFICIARIES OF EMMETT O. HAMIL, DECEASED — APPELLEE

APPEAL FROM THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI FIRST JUDICIAL DISTRICT

REPLY BRIEF OF GEORGE T. SMITH-VANIZ, M.D., APPELLANT

ORAL ARGUMENT REQUESTED

Stephen P. Kruger, MSB #[redacted]
Kristopher A. Graham, MSB #[redacted]
PAGE, KRUGER & HOLLAND, P.A.
10 Canebrake Blvd., Suite 200
P.O. Box 1163
Jackson, MS 39215-1163
(601) 420.0333
(601) 420.0033 – facsimile

COUNSEL FOR GEORGE T. SMITH-VANIZ, M.D., APPELLANT

IN THE COURT OF APPEALS FOR THE STATE OF MISSISSIPPI

CASE NO. 2010-CA-01527-COA

JACKSON HMA, INC. d/b/a CENTRAL
MISSISSIPPI MEDICAL CENTER,
GEORGE T. SMITH-VANIZ, M.D.,
AND KEN E. CLEVELAND, M.D. APPELLANTS

VS.

LANELL HAMIL, INDIVIDUALLY AND ON BEHALF
OF THE WRONGFUL DEATH BENEFICIARIES OF
EMMETT O. HAMIL, DECEASED APPELLEE

CERTIFICATE OF INTERESTED PARTES

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the Justices of the Supreme Court and/or Judges of the Court of Appeals may evaluate possible disqualifications or recusal;

1. Lanell Hamil, Individually, and On Behalf of the Wrongful Death Beneficiaries of Emmett O. Hamil, Deceased, Plaintiff/Appellee

2. Alton E. Peterson, Esq.
   Larry Stamps, Esq.
   Stamps & Stamps
   Post Office Box 2916
   Jackson, MS 39207-2916
   Attorneys for Plaintiff/Appellee Lanell Hamil, Individually, and On Behalf of the Wrongful Death Beneficiaries of Emmett O. Hamil, Deceased

3. Jackson HMA, Inc. d/b/a Central Mississippi Medical Center, Defendant/Appellant

4. Mark P. Caraway, Esq.
   Wise Carter Child & Caraway, P.A.
   Post Office Box 651
   Jackson, MS 39205-0651
   Attorneys for Defendant/Appellant Central Mississippi Medical Center

5. George T. Smith-Vaniz, M.D., Defendant/Appellant

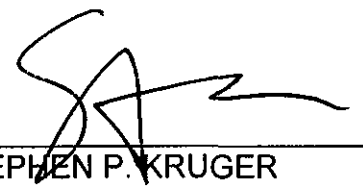
6. Stephen P. Kruger, Esq.
Jan Gadow, Esq.
Page, Kruger & Holland, PA
Post Office Box 1163
Jackson, MS 39215-1163
Attorneys for Defendant/Appellant George T. Smith-Vaniz, M.D.

7. Ken E. Cleveland, M.D., Defendant/Appellant

8. Whitman B. Johnson ill, Esq.
Lorraine W. Boykin, Esq.
Currie Johnson Griffin Gaines & Myers, P.A
Post Office Box 750
Jackson, MS 39205-0750
Attorneys for Defendant/Appellant Ken E. Cleveland, M.D.

9. Honorable Winston Kidd
Hinds County Circuit Judge
Post Office Box 327
Jackson, MS 39205

DR. GEORGE T. SMITH-VANIZ, APPELLANT

BY: 

STEPHEN P. KRUGER
KRISTOPHER A. GRAHAM

OF COUNSEL:

STEPHEN P. KRUGER - MSB [redacted]
KRISTOPHER A. GRAHAM – MSB [redacted]
PAGE, KRUGER & HOLLAND, P.A.
10 Canebrake Blvd., Suite 200 [39232-2215]
Post Office Box 1163
Jackson, Mississippi 39215-1163
Telephone: (601) 420-0333
Facsimile: (601) 420-0033

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

OTHER

LEGAL ARGUMENT

I. Dr. Silverman's Testimony Should Not Have Been Admitted

The opinions of Dr. Silverman should have been disclosed prior to trial. Admission of those opinions at trial, and in light of the defendants' motion in limine, was error. Further, Dr. Silverman's opinions were irrelevant and inadmissible, and Dr. Silverman lacked the education, training and experience to give those opinions.

A. Dr. Silverman's Opinions Were Not Disclosed Prior to Trial

At a very basic, fundamental level, a defendant is entitled to know what he is accused of. Without this information, preparation of a defense is impossible. In cases where this information requires expert education, training and experience, a strict set of rules applies. The rules require that the expert's opinions be provided ahead of time (and certainly before trial), and the rules require that the expert provide the basis for these opinions. ***Moore v. Delta Regional Medical Center,*** 23 So.3d 541, 545 (P¶ 12) (Miss. App. 2009) (citing ***Thompson v. Patino,*** 784 So.2d 220, 223 (¶ 22) (Miss. 2001)).

The reasons for this are simple: If the allegations lack merit, disclosure allows a non-expert attorney to consult with experts and prepare a defense. If the allegations have merit, disclosure of these opinions encourages settlement. However, failing to disclose all, or even part, of an expert's opinions reduces the likelihood of settlement and denies the defendant his right to prepare a defense. *See, generally*, ***Mississippi Civil Procedure***, 1 MS Prac. Civil Proc. §7, *et seq.* In the present case, Prisock specifically misrepresented that Dr. Silverman's expert opinions would be limited to his affidavit, failed to supplement those opinions, and knowingly concealed the changes to

Dr. Silverman's opinions, despite learning of them the night before the testimony was submitted.

Prisock takes the position that Dr. Smith-Vaniz was properly provided with notice of what he would be defending himself against at trial, by the Complaint. While it is true that, buried among all the other allegations, Prisock alleges premature discharge, it is also true that Prisock made a multitude of other allegations and conclusory statements, implicating everything from nursing care, to negligent hiring and supervision, to "failure to keep informed of current techniques and literature."[1]

The "shotgun" approach to drafting complaints is not uncommon. Complaints are, after all, drafted by lawyers at the earliest stage of litigation, prior to discovery. If the rules are followed, however, these allegations are "pared down" during the discovery process until the case emerges and the lines are clearly drawn. Vague allegations, such as "failure to provide...reasonably prudent and proper medical care" are fleshed out. Other allegations, such as those alluding to nursing care, fall away altogether.[2] Often, this narrowing of the issues is accomplished through both the serving of written discovery and filing of a Motion for Summary Judgment. In response to Dr. Smith-Vaniz's Motion for Summary Judgment, Prisock filed the sworn testimony of Dr. Silverman, in the form of an affidavit. As we have seen from both Dr. Silverman's affidavit and Prisock's responses to written discovery, there is absolutely no mention of failing hemoglobin and hematocrit which, allegedly, should have alerted the defendants to an ongoing bleed at discharge. Regardless, in a medical malpractice case, it is not

---

[1] Prisock Brief at 1,2.

[2] Although found in the Complaint, no allegations regarding nursing care appear in Dr. Silverman's affidavit, and no such allegations were made at trial.

the Complaint that controls, but what the plaintiff's qualified, competent expert is designated to say at trial that matters.

It is Prisock's position that it was a "gamble" to rely on the sworn testimony of her expert.[3] However, Dr. Smith-Vaniz submits that ***it should not be a "gamble" to rely on sworn testimony and certified discovery responses, and certainly should not be a "gamble" to rely on an expert's affidavit, provided to defeat a summary judgment.*** After all, of what use are the Rules regarding disclosure of expert opinions if one is not bound by them and can simply ignore them, then blame the opponent for not deposing the expert to cure the deficiency in disclosure?

In the present case, it is clear Prisock and Dr. Silverman put together a hodgepodge of allegations aimed solely at defeating Dr. Smith-Vaniz's Motion for Summary Judgment. When the Defendants called their bluff, Prisock and Dr. Silverman, knowing the opinions would not stand up to cross examination, "switched horses" in the hopes that they confuse the jury enough to get a verdict they could leverage for settlement. It is not a Defendant's burden to take the depositions of Plaintiff's experts to learn what the Defendant is being accused of.[4] If that were the case, there would be no need to have written discovery, no need for Rule 26, summary judgment could not be filed until a Court allowed an expert's deposition, and a long line of cases directing timely supplementation would be rendered moot.

Prisock continues trying to shift blame, stating defendants "belatedly" attempted to limit Dr. Silverman by filing a Motion in Limine requesting a ruling that Dr. Silverman "be limited to the opinions given previously in the discovery or affidavit." (Appellee

---

[3] Prisock Brief at 5.

[4] In fact, expert depositions are not even provided for as a matter of right under the current rules.

Brief 5). It is not clear when Prisock would have Defendants file Motions in Limine or why filing them before trial is "belated," but it is clear that the court granted the motion. The Court granted the Motion, *and Prisock agreed to the Motion*, due to the fact that *this is what the Rules and prior precedent requires of a litigant.* Looking at the affidavit and discovery responses, there is no mention of premature discharge while Hamil is continuing to bleed. Accordingly, as both Prisock and the Court agreed before trial, and as Prisock has agreed in her responsive brief[5], Prisock should not have been allowed to advance this theory, due to the Motion in Limine.

Parties must seasonably supplement their responses with respect to questions concerning the identity of persons expected to be called as experts at trial, the subject matter of said experts' testimony, and the substance of that testimony. ***Coltharp v. Carnesale,*** 733 So.2d 780, 785 n.6 (Miss. 1999) (citing M.R.C.P. 26 (f)(1)(B)). Additionally, parties are under a duty to amend prior responses when they obtain information upon the basis of which they know the response was incorrect when made or they know that a response, though correct when made, is no longer true and the failure to amend would constitute a knowing concealment. M.R.C.P. 26 (f)(2)(A) and (B). "If a witness changes his testimony in a manner that conflicts with prior discovery responses, the sponsoring party has a duty under Rule 26 (f) seasonably and formally to amend or supplement the response." ***Hyundai,*** 53 So.3d at 758 (¶ 34) (citing ***Choctaw Maid Farms, Inc. v. Hailey,*** 822 So.2d 911, 916 (Miss. 2002)). To avoid unfair surprise, strict compliance with M.R.C.P. 26 is required. ***Moore,*** 23 So.3d at 545 (P¶ 12) (citing ***Thompson,*** 784 So.2d at 223 (¶ 22)). "'[A]n expert should not be allowed to testify concerning a subject matter which is not included in the response to

[5] Prisock Brief at 5.

the interrogatory,' and allowance of such would be reversible error." ***Hall,*** 953 So.2d at 1097 (¶ 43) (quoting ***Buskirk v. Elliott,*** 856 So.2d 255, 264 (Miss. 2003)). Further, violation of a *limine* order may constitute reversible error. ***Stanley v. Cason,*** 614 So.2d 942, 952 (Miss. 1992). In the present case, Prisock's violation of the Rules, prior precedent and the Court's own order was both willful and egregious and warrants exclusion of Dr. Silverman's opinions.

B. Dr. Silverman's Opinions Were Inadmissible Under MRE 702 and Daubert

1. *Dr. Silverman Lacked Sufficient Familiarity with Dr. Smith-Vaniz's Specialty to Render Standard of Care Testimony*

Prisock's entire argument on this point consists of citing the same cases as Dr. Smith-Vaniz, then reiterating Dr. Smith-Vaniz's arguments, then inserting "not" before each point. It is the legal equivalent of a child on the playground being called a name and responding "I know you are but what am I?" and it is, in effect, a complete non-response. Prisock claims to have "set forth ample facts that contradict the allegations and propositions of the subject defendants as it relates to every aspect of Dr. Silverman's testimony at trial,"[6] but Prisock sets forth no facts at all to support this argument. To the contrary, in the only paragraph where Prisock even mentions Dr. Silverman's qualifications, Prisock points out Dr. Silverman was only familiar with the standard of care of a physician "***other than*** somebody utilizing those special skills such as gastroenterology."[7] The remainder of Prisock's response seems to allude to Defendants' argument that Dr. Silverman's new opinions were improperly admitted.

Prisock's lack of effort addressing this grounds for reversal is likely explained by Dr. Silverman's own testimony, wherein he clearly stated ***he was not an expert in***

[6] Prisock Brief at 12.
[7] Prisock Brief at 7.

gastroenterology and not familiar with the standard of care of a gastroenterologist. (T. 183-87) However, even if Dr. Silverman had not given that testimony, in order to provide expert testimony as to another specialty, he must have been sufficiently familiar with that specialty and its applicable standard of care by knowledge, skill, experience, training, or education, as required by M.R.E. 702. ***Figueroa v. Orleans,*** 42 So.3d 49, 52-53 (¶ 12) (Miss. App. 2010) (citation therein omitted); ***McDonald,*** 8 So.3d at 181 (¶ 15) (citations therein omitted) ***Troupe v. McAuley,*** 955 So.2d 848, 856 (¶ 22)(Miss. 2007). Dr. Silverman testified that he had never had any gastroenterology training or continuing medical education and had never held privileges, been hired, or consulted as a gastroenterologist. (T. 177) Dr. Silverman was neither board certified nor board eligible in gastroenterology; he was not even board certified in internal medicine (of which gastroenterology is a *subspecialty*); he had never provided services of a gastroenterologist to a postoperative wedge resection patient and had no privileges at any hospital to practice gastroenterology; he did not perform gastroenterological procedures; he was not qualified to treat patients as a gastroenterologist; he was currently practicing medicine in a specialty other than gastroenterology; he had absolutely no training in gastroenterology, much less any specialized training or experience in gastroenterology; he did not hold himself out as an expert in gastroenterology; he had deferred to and relied on gastroenterologists when diagnosing gastroenterological issues; he did not think he was qualified to render expert opinions in the area of gastroenterology, had admitted he was not an expert in gastroenterology, and had previously declined to give standard of care testimony against a gastroenterologist; and he had not written any

articles, conducted research, or given any presentations on gastroenterology. (T. 174-87)

These factors establish that Dr. Silverman did not exercise the same level of intellectual rigor that characterizes the practice of an expert in gastroenterology and that he lacked the requisite specialized knowledge of gastroenterology to assist the trier of fact to understand the evidence concerning Dr. Smith-Vaniz. He was, therefore, not qualified to provide expert opinion testimony against Dr. Smith-Vaniz. ***Troupe***, 955 So.2d at 857-58 (¶¶ 25-26) (citation therein omitted); ***Cheeks***, 908 So.2d at 120 (¶ 10).

2. *Dr. Silverman Refused to Consider Evidence Which Contradicted His Theory*

Dr. Silverman's testimony was not based upon sufficient facts or data, and he failed to apply the principles and methods reliably to the facts. M.R.E. 702. Dr. Silverman testified Mr. Hamil was suffering from a bleed (postoperatively and at discharge) because his hemoglobin and hematocrit levels decreased after transfusion. Steadily decreasing levels might be a sign of bleeding, but for the three days prior to his discharge, Mr. Hamil's blood levels remained stable and constant. (T. 141, 144, 370). Dr. Silverman ignored many other salient facts and data which actually exclude the possibility that Mr. Hamil was bleeding postoperatively, including that Mr. Hamil's BUN levels indicate the bleeding had stopped (T. 334, 340-41, 389-94); Mr. Hamil's medical records reflect no active bleeding postoperatively (T. 342, 356); Mr. Hamil's clinical progression leading to discharge (good spirits and appetite) further indicate no active bleeding (T. 342, 356, 371-73); and all of Mr. Hamil's medical records reflect no sign of blood in his NG tube and no blood in his stool (T. 142-43, 303-04, 307, 336-37, 357, 366-67, 372, 374-75, 389-94).

Dr. Silverman's expert opinion testimony is not grounded in the methods and procedures of science and does not satisfy M.R.E. 702's reliability factors. ***Worthy,*** 37 So.2d at 615. Dr. Silverman consistently ignored clinical information, lab results and basic medical principles to arrive at his opinions, and offered no support in the literature or any indication of acceptance of his theories in the medical community. Dr. Silverman's opinions were wholly unreliable, and should not have been admitted.

3. *Dr. Silverman Failed to Offer Relevant Opinions Which Causally Connected a Specific Breach to Plaintiff's Damages*

Dr. Silverman provided many conclusory statements regarding negligence and the damages caused therefrom, but when pressed for specifics, he had no explanation for what should have been done differently and how it would have changed the outcome. No further testing could have been done. Regardless of what any tests ***might*** have shown, Hamil was on the appropriate medication to prevent further ulcer development and, accordingly, removal of Hamil's stomach would not have been appropriate. After cross examination, the only possible breach of the standard of care left was premature discharge, and Dr. Silverman never opined that Hamil would have had a greater than fifty percent chance of survival if the massive bleed had occurred in the hospital. In fact, it was the testimony of Defendants' experts that patients died from such catastrophic events, even in a hospital setting.

In order for Dr. Silverman's opinion regarding breach to be relevant, Dr. Silverman must have tied that breach to Prisock's damages. Irrelevant evidence is not admissible, whether expert opinion or otherwise. M.R.E. 402; M.R.E. 702. The trial court's erroneous admission of unqualified and irrelevant expert testimony constitutes a

prejudicial abuse of discretion and this Court must reverse. ***Denham,*** at (¶ 34); ***Bullock,*** 964 So.2d at 1128 (¶ 25).

II. The Verdict Was Against the Overwhelming Weight of the Evidence

In the face of an obvious violation of the Rules of Evidence, Rules of Civil Procedure and established case law on disclosure and supplementation of expert opinions, Prisock attempts to recast the case she presented to the jury to fit Dr. Silverman's affidavit. She argues that her case is ***really*** about Dr. Smith-Vaniz failing "to order an appropriate 'work up' to determine the etiology of Mr. Hamil's ulcer, [which] allowed the recurrent bleeding ulcer development that resulted in Mr. Hamil's death."[8] According to Prisock, Dr. Silverman "fleshed out this opinion in his testimony."[9] However, reviewing Dr. Silverman's testimony, and Prisock's Brief, nothing appears to have been "fleshed out."

As a preliminary matter, a failure to order an appropriate "work up" does not cause an ulcer to develop. A failure to "work up" a patient can lead to the wrong, or no, diagnosis, which can lead to the wrong, or no, treatment being given, and ***this*** can lead to the development of an ulcer. Breaking this down into its component parts reveals why Prisock changed her theory to "premature discharge."[10]

Mr. Hamil had a history of smoking and NSAID use. These two things cause the overwhelming majority of gastric ulcers. Both of these offending agents were stopped while Mr. Hamil was in the hospital. Zollinger Ellison Syndrome, an ***extremely rare*** condition which causes ulcers in the small intestine, could not be ruled out by blood

---

[8] Prisock's Brief at 19.
[9] Prisock's Brief at 19.
[10] Again, it should be pointed out that Dr. Smith-Vaniz did not discharge Mr. Hamil and, it follows, can bear no liability, even if discharge was premature.

work because of the anti-ulcer medication Mr. Hamil was already taking, but radiology studies showed no signs of the disease. The only other option would have been to put a scope down Mr. Hamil's throat and into his stomach. That process would have involved inflating the stomach to help visualize the stomach wall, and such a procedure was contraindicated, due to the sutures in Mr. Hamil's stomach, post-surgery.

So, though it is not clear what Prisock is specifically referring to when she refers to a "work up" that was not done, and it is clear Dr. Silverman did not know what the standard of care required a gastroenterologist to do in order to "work up" a patient such as Mr. Hamil, it is uncontradicted that ***no further "work up" could have been done, and that NSAID use and smoking were the most likely causes of Mr. Hamil's ulcer.*** Regardless of the etiology, everyone agreed that stopping NSAID use and smoking, and administering anti-ulcer medication, was the appropriate treatment, and everyone agreed that this was done.

This leaves the improperly admitted theory of Dr. Silverman, regarding premature discharge, as Prisock's only theory. As previously stated, multiple factors affect hemoglobin and hematocrit levels, including hemodilution, multiple blood draws and the natural breakdown of blood which has been stored in a blood bank prior to transfusion. Dr. Silverman's choosing to ignore these factors speaks to the reliability of his opinions. An objective assessment of hemoglobin and hematocrit levels actually reveals stable levels, ***which proves there was no bleeding***. Additionally, there is ample evidence that Mr. Hamil was not bleeding from analysis of his BUN levels, his clear nasogastric tube and his steadily improving clinical picture.

When allowing the jury's verdict to stand would sanction an unconscionable injustice, because it is so contrary to the weight of the evidence, a new trial must be

granted. ***Bullock,*** 964 So.2d at 1132-33 (¶ 35) (citations therein omitted). In the present case, there is no admissible evidence supporting the verdict. Considering all the evidence, as a whole, it is clear that the overwhelming weight of the evidence supports a finding in favor of the Defendants and, at the very least, in favor of Dr. Smith-Vaniz.

III. Conclusion

The overwhelming weight of the evidence in this case points to the conclusion that Defendants not only knew the cause of Mr. Hamil's ulcer, but appropriately treated it and administered the appropriate prophylactic measures to prevent recurrence. There was every indication that Mr. Hamil was healing as expected after his surgery, and all signs pointed toward discharge, including a stable hemoglobin and hematocrit level, clear nasogastric tube, normal BUN readings, an advancing diet, improved mood and desire to go home. There was no indication for keeping Mr. Hamil, and the standard of care called for his discharge. There certainly were no signs or symptoms that Mr. Hamil was bleeding at discharge, and Prisock's belated offering of this theory, for the first time at trial, was a violation of the Rules of Civil Procedure, Rules of Evidence, the lower Court's *in limine* order, longstanding precedent and fundamental legal principles regarding due process and the right to a fair trial. The tactic of Prisock's expert was borne of necessity, and out of desperation, due to the fact that he was necessarily forced to admit the fallacies of his prior sworn testimony, once he was cross examined.

Perhaps the most telling of all is Prisock's response to Dr. Smith-Vaniz's arguments about Dr. Silverman's qualifications. The mere recitation of boilerplate law, completely devoid of any analysis or argument, is a clear sign Prisock agrees with Dr. Silverman: he is no expert when it comes to the standard of care applicable to

Dr. Smith-Vaniz, and he is completely unfamiliar with Dr. Smith-Vaniz's specialty. Dr. Silverman's refusal to consider the most obvious explanations for Mr. Hamil's ulcers, the most likely meaning of Mr. Hamil's hemoglobin and hematocrit levels, and all of the other objective findings which pointed toward discharge, aare clear signs of his bias and the lack of reliability of his opinions. His further failure to explain a clear causal connection between any alleged breach and Prisock's damages renders his opinions irrelevant. For these reasons, Dr. Silverman's opinions should have been stricken.

This Court should strike the opinions of Dr. Silverman, reverse the decision of the lower court and render a verdict in favor of Dr. Smith-Vaniz. In the alternative, this Court should find that the verdict as to Dr. Smith-Vaniz is against the overwhelming weight of the evidence and direct that a judgment in his favor be entered.

THIS, the 3 day of January, 2012.

Respectfully submitted,

DR. GEORGE T. SMITH-VANIZ, APPELLANT

BY: _____
STEPHEN P. KRUGER
KRISTOPHER A. GRAHAM

OF COUNSEL:

STEPHEN P. KRUGER - MSB [redacted]
KRISTOPHER A. GRAHAM – MSB # [redacted]
PAGE, KRUGER & HOLLAND, P.A.
10 Canebrake Blvd., Suite 200 [39232-2215]
Post Office Box 1163
Jackson, Mississippi 39215-1163
Telephone: (601) 420-0333
Facsimile: (601) 420-0033

CERTIFICATE OF SERVICE

I, Stephen P. Kruger, do hereby certify that I have this day forwarded, via U.S. mail, postage prepaid, a true and correct copy of the foregoing to:

Larry Stamps, Esq.
Alton E. Peterson, Esq.
STAMPS & STAMPS
Post Office Box 2916
Jackson, MS 39207-2916
ATTORNEYS FOR APPELLEE

Mark P. Caraway, Esq.
WISE CARTER CHILD & CARAWAY, P.A.
Post Office Box 651
Jackson, MS 39205-0651
ATTORNEY FOR APPELLANT,
JACKSON HMA, INC. D/B/A CENTRAL MISSISSIPPI MEDICAL CENTER

Whitman B. Johnson, III, Esq.
Lorraine W. Boykin, Esq.
CURRIE JOHNSON GRIFFIN GAINES & MYERS
Post Office Box 750
Jackson, MS 39205-0750
ATTORNEY FOR APPELLANT,
KENNETH CLEVELAND, M.D.

Hon. Winston Kidd
HINDS COUNTY CIRCUIT JUDGE
407 E. Pascagoula Street
Jackson, MS 39201

THIS, the 3 day of December, 2011.

STEPHEN P. KRUGER