

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS

**LYLE D. FOSTER, DULY APPOINTED PERSONAL REPRESENTATIVE
OF THE ESTATE OF LUCILLE HAMMETT; CYNTHIA LYNNE WOLFF
MICHAEL HAMMETT; JULIE HAMMETT DAVIS; and,
RICHARD ADAM HAMMETT**

PLAINTIFFS

VS.

CASE NO. _____

**CONWAY REGIONAL MEDICAL CENTER; JESSI WIEDOWER;
TAYLOR ANDERSON; ARTHUR REED SLATON, MD; COPIC, a
Risk Retention Group; CONTINENTAL CASUALTY COMPANY
JOHN DOES 1-10.**

DEFENDANTS

COMPLAINT

Come the Plaintiffs, **LYLE D. FOSTER**, duly appointed Personal Representative of the **ESTATE OF LUCILLE HAMMETT; CYNTHIA LYNNE WOLFF; MICHAEL HAMMETT; JULIE HAMMETT DAVIS; and RICHARD ADAM HAMMETT**, by and through counsel, **SUTTER & GILLHAM, P.L.L.C.**; and, for this Complaint, each state:

PARTIES & JURISDICTION

1. **LYLE D. FOSTER** is the duly appointed Personal Representative of the estate of **LUCILLE HAMMETT; CYNTHIA LYNNE WOLFF; MICHAEL HAMMETT; JULIE HAMMETT DAVIS, and RICHARD ADAM HAMMETT**, who are the wrongful death beneficiaries of Lucille Hammett, as reflected in the Petition attached *Exhibit "A."* Plaintiff's Decedent, Lucille Hammett, was a resident and citizen of Faulkner County, Arkansas, who was admitted to Conway Regional Medical Center in December of 2021. Defendants, **CONWAY REGIONAL MEDICAL CENTER; JESSI WIEDOWER; TAYLOR ANDERSON; and ARTHUR REED SLATON, MD**, are healthcare providers who failed to follow Ms. Hammett's instructions, which resulted in her death. **JOHN DOES 1-10**, who are all health care providers who undertook the care and treatment of Ms. Hammett in Faulkner County, Arkansas, in December of

2021, and January of 2022; but, who are presently unknown to the Plaintiffs. This is an action for medical malpractice and for the tort of outrage. Separate Defendant, **COPIC**, a Risk Retention Group and **CONTINENTAL CASUALTY COMPANY**, are both insurance companies for Separate Defendant, **CONWAY REGIONAL MEDICAL CENTER**, (hereinafter “Conway Regional”), who is sued in the event Conway Regional raises charitable immunity as a defense, as allowed by ACA 23-79-210. Accordingly, this Court has personal and subject matter jurisdiction over this matter. Since the acts that constituted medical negligence occurred in Faulkner County, Arkansas, venue is proper.

GENERAL ALLEGATIONS OF FACTS

2. Ms. Hammett was admitted to the hospital in December of 2021 with COVID-related pneumonia.
3. She always demanded that heroic measures be used to preserve her life.
4. While admitted, she experienced respiratory distress and her heart stopped. A code was called.
5. Ms. Hammett’s family was told by John Does 1-5 it was not her, but it was.
6. Ms. Hammett’s family was told no heroic measures were performed, wherein she died in January of 2022.
7. No heroic measures were performed because Defendants thought Ms. Hammett was another patient. The other patient’s family decided that the code status should be DNR. See ***Exhibit “B.”***
8. So, the other patient’s family was advised that their mother was dead; but, it was in fact Ms. Hammett.
9. Ms. Hammett’s family was told she was alive; but, she was not.

10. Another family was allowed to say goodbye to Ms. Hammett, but Plaintiffs were not. Plaintiff's family was not allowed to hold her cooling body and say good-bye. This is intolerable in a civilized society.

COUNT I

11. Plaintiffs reallege the foregoing as if more fully set out herein against all Defendants.

12. By virtue of the facts alleged herein, Defendants had a duty to obtain informed consent before refusing to begin resuscitation efforts. Defendants attempted to obtain informed consent, but failed to do so because they mistook another patient's family for that Ms. Hammett's family.

13. Thus, Defendants did not discuss the risks and benefits of the DNR with the Plaintiff and her family.

14. Accordingly, Defendants fell beneath the standard of care. The standard of care requires the health care provider such as the Defendants, in Faulkner County, Arkansas, in 2022, to discuss the risk and benefits of DNR with a patient's family-not strangers.

15. Defendants fell beneath this standard of care by failing to obtain informed consent before the surgeries identified in *Exhibit B*. Had Ms. Hammett's family known that the John Does were not being truthful with them, they would have insisted on being present, and a code would have been called.

16. Had a code been called, Ms. Hammett would have survived. Thus, Plaintiffs seek all available damages for wrongful death.

17. Indeed, as a direct and proximate cause of Defendants' acts and omissions alleged herein, Plaintiffs seek hedonic damages, based on loss of enjoyment of life, tangible quality of life, relationship(s), having experienced unnecessary pain and suffering, lost earning capacity, lost wages, loss of fringe benefits, and incurred other damages to be proven at trial.

18. Defendants' concealment of the true facts in this case have been so egregious so as to warrant the imposition of punitive damages.

COUNT II

19. Each Plaintiff realleges the foregoing as if more fully set out herein against Defendants.

20. Each Plaintiff sues all Defendants for medical malpractice and wrongful death.

21. By virtue of the facts alleged herein, Defendants were healthcare providers within the meaning of the Medical Malpractice Act.

22. Defendants had a duty to treat Plaintiff in accordance with the standard of care and to obtain informed consent from the Plaintiff or her family. The Defendants breached this standard of care when they followed the instructions of strangers.

23. Indeed, as a direct and proximate cause of Defendants' acts and omissions alleged herein, Ms. Hammett died, so, as a direct and proximate cause of Defendants' acts and omissions alleged herein, Plaintiffs seek hedonic damages, based on loss of enjoyment of life, tangible quality of life, relationship(s), having experienced unnecessary pain and suffering, lost earning capacity, lost wages, loss of fringe benefits, and incurred other damages to be proven at trial.

24. Defendants' acts in this case have been so egregious so as to warrant the imposition of punitive damages.

COUNT III

25. Each Plaintiff realleges the foregoing as if more fully set out herein against Defendants.

26. Each Plaintiff sues *all* Defendants for outrage and deceit.

27. A quasi-property right in dead bodies vests in the nearest relatives of the deceased, arising out of their duty to bury their dead. 22A AM. JUR. 2D Dead Bodies § 3 (1988). See also Neff

v. St. Paul Fire & Marine Ins. Co., 304 Ark. 18, 799 S.W.2d 795 (1990). This right corresponds in extent to the duty from which it arises, and may include rights to possession and custody of the body for burial, to prevent the corpse from disturbances after burial, or to remove it to a proper place.

28. Courts have generally based civil liability for wrongful acts with regard to a dead body on the interference with the right of burial. *Id.* Further, courts have recognized that there is a right to a decent burial which is guarded by the law, corresponding to the common law duty to bury one's dead in order to maintain public health and decency. *Id.* at § 13. Courts have, to a great extent, based civil liability for wrongful acts with regard to a dead body on the interference with the right of burial, recognizing that interference with the rights of person to bury the body of her spouse or kin is an actionable wrong, whether by mutilation of the body after death, the withholding of the body, or the conveyance of a communication which delays the person so entitled. *Id.* at § 35. See also *Geyer v. Western Union Telegraph Co.*, 192 Ark. 578, 93 S.W.2d 660 (1936)(permitting recovery of damages under Arkansas law for appellee's negligent act of altering telegraph message and thereby causing appellant to miss her brother's funeral).

29. The rights to possession, custody, and control of the body for the purpose of burial are within the protection of the law, and a willful violator of such rights may become liable for damages. 22A AM. JUR. 2D Dead Bodies § 35 (1988).

30. Indeed, as a direct and proximate cause of Defendants' acts and omissions alleged herein, Indeed, as a direct and proximate cause of Defendants' acts and omissions alleged herein, Plaintiffs seek hedonic damages, based on loss of enjoyment of life, tangible quality of life, relationship(s), having experienced unnecessary pain and suffering, lost earning capacity, lost wages, loss of fringe benefits, and incurred other damages to be proven at trial.

31. Defendants knew, or should have known, in the light of surrounding circumstances, that each's conduct would naturally and probably result in emotional distress and continues such conduct in reckless disregard of the consequences." AMI Civ. 3d 404.

32. Each Defendant's conduct was so outrageous in character, and so extreme in degree, as to go beyond all beyond possible bounds of decency, and to be regarded as atrocious and utterly intolerable in a civilized society.

33. Indeed, as a direct and proximate cause of Defendants' acts and omissions alleged herein, Plaintiffs experienced unnecessary emotional pain and suffering, depression, and incurred other damages to be proven at trial.

34. Defendants' acts in this case have been so egregious so as to warrant the imposition of punitive damages.

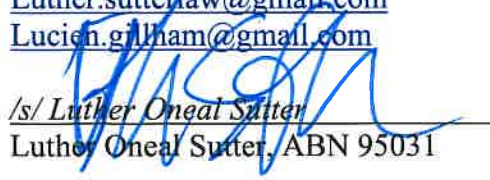
JURY DEMAND

35. Plaintiffs pray for a trial by jury.

WHEREFORE, each Plaintiff prays for appropriate compensatory damages exceeding One Million Dollars (\$1,000,000.00); for reasonable attorneys' fees and costs; for trial by jury; and, for all other proper relief to which he may be entitled.

Respectfully submitted,

Luther Oneal Sutter, ARBN 95031
Lucien R. Gillham, ARBN 99199
SUTTER & GILLHAM, P.L.L.C.
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By:  /s/ Luther Oneal Sutter
Luther Oneal Sutter, ABN 95031

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

Division

**IN THE MATTER OF THE ESTATE OF
LUCILLE HAMMETT, DECEASED**

NO. 23PR-22-_____

PETITION FOR APPOINTMENT OF PERSONAL REPRESENTATIVE

Come now, Cynthia Lynne Wolff, whose address is 134 Richmond Drive, #32, Fairfield Bay, AR 72088, and whose interest in the decedent's estate is that of child and heir, and Julie Hammett Davis, whose address is 7 Lakeview Drive, Conway, AR 72032, and whose interest in the decedent's estate is that of child and heir, and petition that letters of administration of the estate be issued. The facts known to petitioner are:

1. The decedent, Lucille Hammett, aged 78, who resided at 7A Lakeview Drive, Conway 72032 in Faulkner County, Arkansas, died intestate at Conway Regional Medical Center on or about January 2, 2022.

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
Ollie Hammett, Jr. ¹	Adult	Surviving Spouse	7A Lakeview Drive Conway, AR 72032
Cynthia Lynne Wolff	Adult	Child	134 Richmond Drive, #32 Fairfield Bay, AR 72088

¹ Ollie Hammett, Jr. died after his wife on January 2, 2022. The estate of Ollie Hammett, Jr. will be separately administered in the Circuit Court of Faulkner County Arkansas.



Michael Hammett	Adult Child	8017 Ironstone Drive Alexander, AR 72002
Julie Hammett Davis	Adult Child	7 Lakeview Drive Conway, AR 72032
Richard Adam Hammett	Adult Child	11 Lakeview Drive Conway, AR 72032

3. The probable value of the decedent's estate is:

Real property None

Personal property Unknown²

4. Petitioners nominate Lyle D. Foster, an attorney licensed and in good standing in the State of Arkansas, whose address is 901 N. University Ave., Little Rock, AR 72207, for appointment as Personal Representative of the estate. The nominee qualifies to serve pursuant to Ark. Code Ann. 28-48-101.

THEREFORE, petitioners request that this court make an order determining the fact of the death and of the intestacy of the decedent, and appointing petitioners' nominee as Personal Representative of the estate.

Respectfully submitted,

HYDEN, MIRON & FOSTER, PLLC

By: /S/ Kayce M. Chaney
Kayce M. Chaney, AR Bar #2017023
901 N. University Ave.
Little Rock, Arkansas 72207
(501) 376-8222
Attorneys for the Petitioner

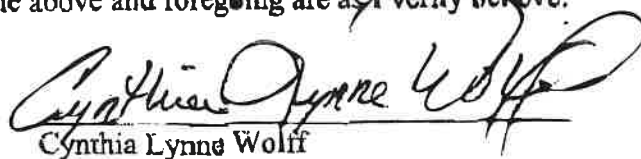
² The known personal property of the estate consists of household goods of unknown value and two unliquidated claims of unknown value.

VERIFICATION

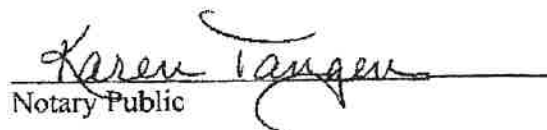
STATE OF ARKANSAS)

COUNTY OF VAN BUREN)

I, Cynthia Lynne Wolff, the Co-Petitioner herein, after first being duly sworn upon oath states that the facts and allegations contained in the above and foregoing are as I verily believe.


Cynthia Lynne Wolff

SUBSCRIBED AND SWORN to before me on this 11th day of March, 2022.

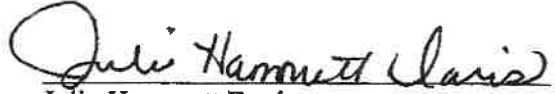

Notary Public



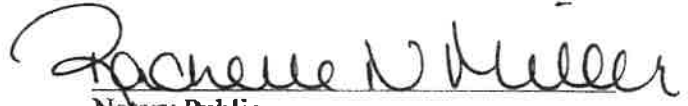
VERIFICATION

STATE OF ARKANSAS)
)
COUNTY OF FAULKNER)

I, Julie Hammett Davis, the Co-Petitioner herein, after first being duly sworn upon oath states that the facts and allegations contained in the above and foregoing are as I verily believe.


Julie Hammett Davis

SUBSCRIBED AND SWORN to before me on this 1st day of March, 2022.


Notary Public



IN THE CIRCUIT COURT OF FAULKNER COUNTY, ARKANSAS
PROBATE DIVISION
____ Division

IN THE MATTER OF THE ESTATE OF
LUCILLE HAMMETT, DECEASED

NO. 23PR-22-_____

ORDER APPOINTING PERSONAL REPRESENTATIVE

On this ____ day of _____, 2022, comes on for hearing the petition of Cynthia Lynne Wolff and Julie Hammett Davis, for appointment of a Personal Representative of the estate of Lucille Hammett, deceased, and upon consideration of such petition, and the facts and evidence in support thereof, the Court finds:

1. That no demand for notice of proceedings for the appointment of a personal representative of the estate has been filed herein, the petition is not opposed by any known person, and the same may be heard and decided forthwith.

2. That Lucille Hammett, who resided at 7A Lakeview Drive, Conway 72032 in Faulkner County, Arkansas, died intestate at Conway Regional Medical Center on January 2, 2022.

3. That this Court has jurisdiction and venue properly lies in this County.

4. That Lyle D. Foster is a proper person and fully qualified by law to serve as Personal Representative of the estate.

5. That the amount of property which may reasonably be expected to pass through the hands of the Personal Representative is unknown.

It is, therefore, CONSIDERED, ORDERED and ADJUDGED that administration of the estate be, and hereby is, opened and Lyle D. Foster be, and he hereby is appointed Personal Representative of the estate of the decedent, and that Letters of Administration shall be issued to said Personal Representative upon filing of his acceptance and filing and approval of a fiduciary bond, with sufficient sureties, in the penal sum of \$_____.

CIRCUIT JUDGE

Prepared by:

HYDEN, MIRON & FOSTER, PLLC

By: /S/ Kayce M. Chaney
Kayce M. Chaney, AR Bar #2017023
901 N. University Avenue
Little Rock, Arkansas 72207
(501) 376-8222
Attorneys for the Personal Representative



Arkansas Judiciary

Case Title: LUCILLE HAMMETT
Case Number: 23PR-22-170
Type: ORDER APPOINT PERS REPRESENT

So Ordered

David M. Clark

Judge David M Clark

CONWAY REGIONAL HEALTH SYSTEM

Progress Note AGE/SEX: 78 F DOB: 12/12/1943

NAME: HAMMETT, LUCILLE M

UNIT #: M000046935

ACCOUNT#: V00028090075

ROOM: CCU06-1/CCU

ADMIT DATE: 12/28/21

DISCHARGE DATE:

REPORT#: 0102-00132

Progress Note(B)

Progress Note:

CODE BLUE called overhead while patient was on second floor. Arrived bedside. Did not have any access, initial rhythm was V. fib, she was shocked with 200 J when he went ACLS protocol ultimately IOS was established as well as right antecubital IV she was given drugs per ACS protocol. She underwent 1 more cardioversion for V. tach, next pulse check she had ROSC with a blood pressure. She was moved down to the CCU. Shortly afterwards another CODE BLUE was called overhead, upon arrival Dr. Malik and ER physician were running code. Family arrived at bedside and was distraught. I took him into a side room we talked about goals of care. Her son was pretty adamant that she would not want to continue with chest compressions in the event of her heart restart beating again. We talked about prognosis about her ability to bounce back from this, I told him it was really low. In the event her heart rate stop beating and they would not want chest compressions or cardioversions. This was conveyed to the primary team. present for conversation was daughter, son, multiple other family members and Taylor, 2nd floor RN.

Arthur R. Slaton MD

<Electronically signed by Arthur R. Slaton MD> 01/02/22 1154

Arthur Reed Slaton, MD
01/02/22 1154

Dictated: DT: 01/02/22 TM: 1151
Transcribed: DT: 01/02/22 TM: 1151

/SLATART

EXHIBIT

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