

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

**IN AND FOR NEW CASTLE COUNTY**

LISA CLARK, individually and )  
RAYMOND E. HOLMES, on behalf )  
of the ESTATE OF GREGORY )  
R. HOLMES )

Plaintiffs )

v. )

CA. No.: 08C-10-285 FSS

CHRISTIANA CARE HEALTH )  
SERVICES, INC., a Delaware )  
Corporation, and DOCTORS FOR )  
EMERGENCY SERVICES, PA. )

Defendants )

Submitted: January 2, 2009

Decided: January 16, 2009

**ORDER**

**Upon Review of the Affidavit of Merit**

This is a wrongful death<sup>1</sup> and survival action<sup>2</sup> based upon Defendant's alleged negligence. In Delaware, a healthcare negligence lawsuit cannot be filed unless accompanied by an affidavit of merit, signed by an expert witness, and filed

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<sup>1</sup> 10 *Del. C.* § 3724.

<sup>2</sup> 10 *Del. C.* § 3704.

with the expert's current *curriculum vitae*.<sup>3</sup> The expert must be licensed to practice as of the affidavit's date, and must have been engaged in the same or similar field as the defendant in the three years preceding the alleged negligence. The affidavit must unequivocally state that there are reasonable grounds to believe that negligence has been committed by each defendant, and such negligence was the proximate cause of injury.

Upon motion by Defendants under 18 *Del. C.* § 6853(d), the court reviewed Plaintiffs' affidavit of merit, *in camera*, to determine its compliance with 18 *Del. C.* § 6853(a)(1) and (c). The court finds that the affidavit was filed properly.

The court further finds:

1. An expert witness has signed the affidavit;
2. A current *curriculum vitae* was filed with the affidavit;
3. At the time the affidavit was sworn, the expert was a licensed physician who treated patients within the three years preceding the alleged negligent acts;
4. The expert is board certified in Emergency Medicine;
5. The affidavit states, with a reasonable degree of medical probability, that there are reasonable grounds to believe that Defendants breached their standard of care for each claim alleged;
6. The expert further opines that Defendants' breaches were the proximate cause of the deceased's injuries.

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<sup>3</sup> 18 *Del. C.* § 6853(a), (a)(1).

Therefore, the court finds that the affidavit of merit complies with 18  
*Del. C.* § 6853(a)(1) and (c), as to Doctors for Emergency Services.

**IT IS SO ORDERED.**

/s/ Fred S. Silverman

Judge

cc: Prothonotary  
Gilbert Shelsby, Esquire  
Richard Galperin, Esquire