

Rel; November 9, 2023

STATE OF ALABAMA - - JUDICIAL DEPARTMENT
THE SUPREME COURT
OCTOBER TERM, 2023 2024

SC-2023-0077

Mariette Harris v. Miles W. Ellis and Jack Hughston Memorial Hospital
(Appeal from Russell Circuit Court; Cv-21-38)

MITCHELL, Justice.

AFFIRMED. NO OPINION.

See Rule 53 (a) (1) and (a) (2) (F), Ala. R. App. P.

Parker, C.J., and Shaw, Bryan, and Mendheim, JJ., concur.

IN THE SUPREME COURT OF ALABAMA

November 28, 2023

SC-2023-0077

Mariette Harris v. Miles W. Ellis and Jack Hughston Memorial Hospital
(Appeal from Russell Circuit Court; CV-21-38).

CERTIFICATE OF JUDGMENT

WHEREAS, the appeal in the above -styled cause has been duly
Submitted and considered by the Supreme Court of Alabama and the
Judgment indicated below was entered in this cause on November 9, 2023;

Affirmed. No Opinion. Mitchell, J - - Parker C.J., and Shaw,
Bryan, and Mendheim, JJ, concur.

NOW, THEREFORE, pursuant to Rule 41, Ala. R. App. P., IT IS
HEREBY ORDERED that this Court's judgment in this cause is certified
In this date. IT IS FURTHER ORDERED that unless otherwise ordered
By this Court or agreed upon by the parties, the cost of this cause are
Hereby taxed as provided by Rule 35, Ala R. App. P.

I, Megan B, Rhodebeck, certify that this is the record of the judgment of the
Court, witness my hand and seal,

Megan B. Rhodebeck
Clerk of Court,
Supreme Court of Alabama

APPENDIX B

DOCUMENT 144

ELECTRONICALLY FILED

12/21/2022 6:04 Am

57-CV-2021- 000038.00

CIRCUIT COURT OF
RUSSELL COUNTY, ALABAMA
JUDY SELLERS, CLERK

HARRIS MARIETTE,
Plaintiff,

V.

Case No. CV- 2021-000038.00

MILES W. ELLIS M.D,
JACK HUGHSTON MEMORIAL
HOSPITAL,
Defendants,

ORDER

MOTION TO VACATE OR MODIFY filed by HARRIS MARIETTE is hereby
DENIED.

DONE this 21st day of December, 2022.

/s/ MICHAEL BELLAMY

CIRCUIT JUDGE

APPENDIX A

Document 99

ELECTRONICALLY FILED
10/14/2022 9:38 AM
57-CV-2021-000038.00
CIRCUIT COURT OF
RUSSELL COUNTY, ALABAMA
JUDY SELLERS, CLERK

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

HARRIS, MARIETTE,
Plaintiff,
Case No. CV- 2021 - 000038.00
V.

MILES W. ELLIS M.D.
JACK HUGHSTON MEMORIAL
HOSPITAL,
Defendants.

ORDER

MOTION TO DISMISS, OR IN THE ALTERNATIVE SUMMARY JUDGMENT
filed by JACK HUGHSTON MEMORIAL HOSPITAL NOTED AND HAS BEEN
SET FOR HEARINGDONE this 14th day of October, 2022.

/s/ MICHAEL BELLAMY

CIRCUIT JUDGE

APPENDIX C

DOCUMENT 102

ELECTRONICALLY FILED
10/14/2021-000038.00
CIRCUIT COUNTY, ALABAMA
JUDY SELLERS, CLERK

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

HARRIS MARIETTE,
Plaintiff,
Case No. CV-2021-000038.00
V.

MILES W. ELLIS MD,
JACK HUGHSTON MEMORIALHOSPITAL,
Defendants.

ORDER

DEFENDANT MILES W. ELLIS, M.D. "S BRIEF IN SUPPORT OF MOTION TO
DISMISS PLAINTIFF"S THIRD AMENDED COM filed by MILES W. ELLIS MD
HAS BEEN SET FOR HEARING.

DONE this 14th day of October, 2022.

/s/ MICHAEL BELLAMY

CIRCUIT JUDGE

APPENDIX D

DOCUMENT 97

ELECTRICALLY FILED
10/14/2022 9:14 AM
57-CV-2021-000038.00
CIRCUIT COURT OF
RUSSELL COUNTY, ALABAMA
JUDY SELLERS, CLERK

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

HARRIS MARIETTE,
Plaintiff,
Case No. Cv-2021-000038.00
V.

MILES W. ELLIS MD,
JACK HUGHSTON MEMORIAL
HOSPITAL,
Defendants.

ORDER

DEFENDANT MILES W. ELLIS, M.D. "S MOTION TO DISMISS PLAINTIFF'S
THIRD AMENDED COMPLAINT FOR DAMAGES filed by MILES MD is hereby
SET FOR A HEARING ON ALL MOTIONS.

The Court hereby sets this matter for a hearing on October 24, 2022 at 2:00 PM,
EST.,
In courtroom 1.

DONE this 14th day of October, 2022

/s/ MICHAEL BELLAMY

CIRCUIT JUDGE

APPENDIX E

DOCUMENT 48

ELECTRONICALLY FILED
6/8/2022 10:37 AM
57-CV-2021-000038.00
CIRCUIT COURT OF
RUSSELL COUNTY, ALABAMA
JUDY SELLERS, CLERK

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

HARRIS MARIETTE,
Plaintiff,

V.

Case No. 2021-000038.00

MILES W. ELLIS MD,
JACK HUGHSTON MEMORIAL
HOSPITAL,
Defendants.

ORDER

This matter was set this date on the Defendant's Motion to Dismiss, The Court Head arguments of the parties and received documents regarding case law from the Plaintiff. The Court grants the Defendant's ten (10) days to file any additional response To the documents submitted by the Plaintiff. The Court takes this matter under advisement until the Court reviews the additional information, documents, arguments and briefs submitted in this matter.

DONE this 8th day of June, 2022.

/s/ MICHAEL BELLAMY

CIRCUIT JUDGE

APPENDIX F

DOCUMENT 17

ELECTRONICALLY FILED

4/18/2022 8:51 AM

57-CV-2021-000038.00

CIRCUIT COURT OF

RUSSELL COUNTY, ALABAMA

JUDY SELLERS, CLERK

IN THE CIRCUIT OF RUSSELL COUNTY, ALABAMA

HARRIS MARIETTE,

Plaintiff,

Case No. CV- 2021-000038.00

V.

MILES W. ELLIS MD,

JACK HUGHSTON MEMORIAL

HOSPITAL,

Defendants.

ORDER

MOTION TO DISMISS PURSUANT TO RULE 12 (B) filed by MILES W. ELLIS MD is Hereby GRANTED.

The Court hereby set this matter for a hearing on the motion to dismiss on May 19, 2022 at 10:00 AM, EST.

DONE this 18th day of April, 2022.

/s/ MICHAEL BELLAMY

CIRCUIT JUDGE

APPENDIX G

DOCUMENT 104

ELECTRONICALLY FILED
1/10/2022 10:54 AM
57-CV-2021-000038.00
CIRCUIT COURT OF
RUSSELL COUNTY, ALABAMA
JUDY SELLERS, CLERK

IN THE CIRCUIT OF RUSSELL COUNTY, ALABAMA

HARRIS MARIETTE,
Plaintiff,

V.

Case No. CV-2021-000038.00

MILES W. ELLIS MD,
JACK HUGHSTON MEMORIAL
HOSPITAL,
Defendants.

ORDER

The Court having reviewed and considered the Motion to Dismiss filed by the Defendants, the response of the plaintiff, the arguments and authorities presented by the attorneys, after considering all of the matters presented; The Court finds that the Petition filed against the defendants was filed after the Statute of limitations had run. It is therefore Ordered that said Motion to Dismiss is Granted and the Court Orders this matter Dismissed.

Done this 10th day of November, 2022.

/s/ MICHAEL BELLAMY

CIRCUIT JUDGE

APPENDIX H

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APPENDIX I

STATE OF ALABAMA
IN THE CIRCUIT COURT FOR THE COUNTY OF RUSSEL
TWENTY - SIXTH JUDICIAL CIRCUIT
CIVIL

MARIETTE HARRIS,

Plaintiff,

V.

Case No. CV 21- 38

MILES W. ELLIS, M.D. ;
JACK HUGHSTON MEMORIAL
HOSPITAL,
Defendants.

REPORTER'S OFFICIAL TRANSCRIPT

Honorable Michael J. Bellamy
Phenix City Alabama - June 8,2022

Before:

APPEARANCES:

For the Plaintiff:

Pro se

For Defendant Miles W. Ellis, M.D;

Eric D. Hoagland, Esq.

Vestavia Hills, Alabama

For Defendant Jack Hughston

Memorial Hospital:

David W. Proctor, Esq,

Birmingham, Alabama

The COURT: This is the matter of Mariette Harris versus Miles Ellis, M.D., Dr. Ellis, M.D., And others. Case Number is cv2021-38. The Plaintiff is represented by Mrs. Harris; is that right?

Ms. Harris; Yes, sir.

The COURT; Mariette Harris is here?

Ms. Harris; Yes, sir.

THE COURT; You're representing - - and who is that with you?

Ms. Harris; That's my daughter.

The COURT; Your daughter. And representing The Defendants are who, please, counsel?

MR. HOAGLUND; Eric Hoaglund for Dr. Ellis.

MR. PROCTOR; and David Proctor for Jack Hughston Memorial Hospital.

THE COURT: This matter is set for a hearing on the Motion To dismiss at this point in time, and I'm going to hear only the issues in regards to the motion to dismiss. Are you ready at this time? You may proceed.

MR. PROCTOR; Thank you, Judge. Mr. Hoaglund and I have the same grounds for our motion, so if you look at the complaint which was filed by Ms. Harris on December 14, 2021, she's claiming that there was either a misdiagnosis or a failure to diagnose.

THE COURT: The date is December 14th when again, please?

MR. PROCTOR; Yeah. The date of filing was December 14, 2021, And the complaint focused on her admission to the emergency room And hospital on November 11, 2019, and it's essentially, judge, a failure or failure to diagnose or negligent diagnosis of a problem that she said If it had been correctly diagnosed, she would

have not suffered the injury that she did. And so then in Alabama, as you know, there is two-- year statute of limitations under the Alabama Medical Liability Act from the date of service of care, and that two years would have expired on or about November 11 of 2021, and the complaint was filed 33 days after that.

Just for the record, there were one or two amendments filed to the complaint, But those just increased the damages sought in the complaint. They did not Change any of the gravamen of the complaint, vis- a -vis essential claims, If you will, so on that basis we submit that just on the pleading themselves, It's clear that the filing was outside of the statute and the case is due to be dismissed is our position judge.

THE COURT: And that's the same argument you would make also; is that correct?

MR. HOAGLUND; Yes, sir, same argument. They're just ALMA Claims against the doctor, and the two- year statute of limitations, and the alleged malpractice based upon the complaints occurred more than two years prior to the filing of the suit.

THE COURT; Okay. Ms. Harris, it's your time, please.

MS. HARRIS; Yes. The statute also states that discovery - - when the discovery happened, and I had another heart attack September the 18th, 2021. I went to St. Francis Hospital and They found out that I had Cardiomyopathy, and I have proof from them what they stated.

THE COURT: And you're saying you only discovered it when? When did you discover that At St. Francis?

MS. HARRIS; Yes, September 18th, 2021.

THE COURT: Do you have - - what documentation do you have in regards to that? Would you show it to counsel before you present it to the Court?

MS. HARRIS: Excuse me?

The COURT: show it to the defense attorneys Before you show it to me. They have a right to review what you have that you're trying to submit.

MR. PROCTOR; Judge, would you, if you don't mind, just ask her to repeat the date that she says - -

THE COURT: She says September 18th, 2021, Is when she - - is that the date you said, Ms. Harris?

MS. HARRIS; Yes, sir.

THE COURT; Yes, ma'am.

(Brief pause.)

MS. HARRIS: May I also add, Judge, - -

THE COURT; Let them finish.

MS. HARRIS; Yes, sir

THE COURT; Yeah, just one moment. I'm looking to see if you've mentioned that in your last amended complaint. You didn't change the date in your complaint. I'm trying to look at all of them. Just a moment.

(Brief pause.)

THE COURT; It still refers to same date . The last amended complaint that you filed still refers to the date of November the 21st.

MR. PROCTOR; Right. Judge, if I may, the visits that she had to Jack Hughston Memorial Hospital and treatment by Ellis were all in November of 2019, The one, though, that is mentioned in the complaint is the visit on November 11th, but even if you take the most recent visit at Jack Hughston, and Dr. Ellis was November 23rd of 2019, the complaint's still barred.

THE COURT; She say as far as discovery, it was discovered on September 18th, the document, I assume, you're looking at. Does it indicate that there was something that was done then that would reflect back to the November 11th treatment? I don't know. I've not seen it.

MR. PROCTOR; Well, I'm looking at one page of a medical record. If you give me a minute, I'll just look at it real quick.

(Brief pause.)

THE COURT: while you're looking at it, I'll let her continue her argument. Your argument regarding the law says what, Please?

MS. HARRIS: It says discovery - - the date of discovery of the injury, even though it still is the injury of 2019, still preexists in 2021 and so on, sir.

THE COURT: And the document you gave him, What does it purport to say?

MS. HARRIS: It purports to say as of November of 2019, I have had Cardiomyopathy

MR. PROCTOR; I don't see that on this, Judge. I'm going to hand it back to her and maybe she can point it out. I see handwritten note. I don't know whose that is, but the medical record doesn't say that.

MS. HARRIS; It says right here.

THE COURT; is that a medical record from St. Francis ?

MS. HARRIS; Yes sir

THE COURT; who was the treating physician there

MS. HARRIS; Dr. Patel. I had three Doctors; Dr. Patel, Dr. Montalvo, Michelle Montalvo, and another Patel. And I also have this in recording

THE COURT; Well, read the portion you say That say the - -

MS. HARRIS; it say has continued to have on and off chest pain this time and has been fixated on the pulmonary embolism as the primary etiology and a delayed diagnosis, Which of (sic) told her that she needs to take it up with the emergency room, but at this I do not see any long - - term consequences and ability cardiomyopathy was directly related to that. Admitted again over the weekend with chest pain. So far, acute coronary syndrome has been ruled out. She also thinks the Carvedilol is causing her chest pain, which it was because he changed it.

MR. PROCTOR; Judge, can I just speak to that real quick - -

THE COURT; Yes.

MR. PROCTOR; - - without having the benefit of studied this or any records Before or after? Judge, what I was going to say, this is David Proctor for the Hospital, is that medical malpractice case are not like types of fraud cases Where there can be a discovery tolling of the fraud, and it's clear from under The act and the case determining statute of limitations that it's two years from The act of the alleged negligence, so what Ms. Harris is saying, her interpretation of that record from 2021 is related back to what she claims to be the act of was in November of 2019.

THE COURT; Right.

MR. PROCTOR; That complaint was due to have been filed within two years, And it wasn't.

THE COURT; of the time of the treatment.

MR. PROCTOR; And that's what we're here today about, Your Honor.

MR. HOAGLUND; And, Your Honor, the face of the complaint, it alleges the November '19 - -

THE COURT; Even the amended complaints only allege November '19 - - '21 - - '19.

MR. HOAGLUND; Yes, sir. So just based upon the face of the complaint itself, which is what we have to consider, the statute of limitations has run.

THE COURT; Okay. Your time again?

Ms. HARRIS; I feel like discovery is the truth, hello.

THE COURT; It's to me, please, ma'am.

Ms. HARRIS; Oh. I'm sick because of you. I have it right here in the doctor's notes He misdiagnosed me, then turned around and gave me a treatment called Carvedilol, which induced heart failure. Do you need to see it?

THE COURT; NO, no, no, no, it's not to them, ma'am. It's to me as whether or not the case is to proceed again. Okay?

MS. HARRIS; Okay. So, what do I do with this?

THE COURT; No, continue your argument. It's a matter of whether I grant or deny the motion to dismiss.

Ms. HARRIS; Okay. So abnormal EkG, sir and he puts on there - -

THE COURT; You indicated to me when i asked you, you said it reverts back to the date of the misdiagnosis, which was November 11,2021?

MS. HARRIS; Yes, sir and these are the notes.

MR. PROCTOR; 2019.

THE COURT; 2019, I'm sorry.

MS. HARRIS; 2019. And these are the notes - - these are doctors' notes for 2019.

THE COURT; Well, the question, though, is you say you didn't discover it - - - what made you discover it in 2021? When was that ?

MS. HARRIS: all three of the doctors, when they came in my room and - -

THE COURT: what do you have from them saying that it occurred in - -

MS. HARRIS: That's what I just read to you. I just read to you the etiology.

THE COURT: The page you have?

MS. HARRIS: Yeah. The page, yeah.

THE COURT: May I look at that page, please? You may approach and bring it to me. Deputy.

(Deputy complies.)

THE COURT; You may go ahead. I'm listening.

MS. HARRIS: Your Honor, I also have it on tape to prove that's what's on here and much, much more; all the doctors that I've been seeing. I have even had second opinions.

THE COURT; Just one moment. I'll be right back.

(Brief pause.)

THE COURT: Ma' am, here's your copy back. I made you a copy also, counsel. Is there anything else you wish to state to The Court at this time?

MS. HARRIS; Yes, sir.

THE COURT: Yes, ma'am.

MS. HARRIS: I also have the doctor's notes when he misdiagnosed me on November the 11th, 2019. And for the abnormal EKG, he states probably left ventricular hypertrophy. So left Ventricular hypertrophy is called LVH, increases the risk of sudden cardiac death six to Eight - fold in men and three in women. In Patients with definite electro cardio ECG, evidence of LVH, there is a 59 percent overall Mortality at 12 years, and he ignored it Not only that, he also ignored - -

THE COURT: Before you go into that as to what he didn't do at that point, what other documentation do you have showing that it was only discovered, other than this document you just submitted that it was discovered on that date?

MS. HARRIS; Just - - that's the only.

THE COURT: That's the only thing? Okay. Well, that's the issue today we have before the Court. What is that, please, ma'am?

MS. HARRIS: You will hear them actually say the things that they said. I recorded it, everything that's going on with me.

THE COURT: Did you understand what the purpose of this hearing was today? You did receive this copy of thief motion that they were saying it was not done within the two -year period from the time the incident occurred. Do you understand that?

MS. Harris; Yes, sir.

THE COURT: And that if, in fact, the statute says its two years from the date of occurrence and you're saying from discovery?

MS. HARRIS; Yes, sir.

THE COURT: And I've not looked at the statute recently, but I've looked at the brief That they've submitted to me. If there's anything else you want to submit to me as far as the law, I'll be glad to look at that, but I'm going to look at the documents that I have and the brief they've submitted. I'm not going to make a ruling immediately today.

MS. HARRIS; Yes, sir.

THE COURT: is there anything you want to submit to me as far as the law?

MS. HARRIS; As far as the law?

THE COURT; Yes, ma'am.

MS. HARRIS; Okay. The general federal rule is that the statute of limitations does not begin to run until the facts which would support a cause of action are apparent or should be apparent to a person with a reasonably prudent regards for his rights. Rozar v. versus, Mullins, 85 F.3d 556, 561, 11th Circuit court 1996. See also Porter v. Ray, 461 F. 3d 1315, 1323, 11th Circuit court 2006. Therefore, a section 1983 Claim occurs when the plaintiff knows or has reason to know of the injury that is the basis of her claim.

THE COURT; What kind of case was that, please, ma'am, you just cited?

MS. HARRIS; Mullins and Porter.

THE COURT: what was the nature of the case?

MS. HARRIS; Statute of limitations period.

THE COURT: But it was involving something that occurred. What was the nature of the - -

MS. HARRIS; Oh, negligence, sir.

THE COURT; Negligence, in regards to what? Was it a medical malpractice or what?

MS. HARRIS; Medical malpractice, sir.

THE COURT: Do you have a copy of the case also?

MS. HARRIS; Just this.

THE COURT; Oh, you just have the - - just the documentation from that? Okay. I'll take that is a submission for you also. I'll make a copy of that also. Is there anything else you'd like to say?

MS. HARRIS; Yeah. it also says the injury may have occurred weeks, months, or possibly years before the harm and cause of harm are discovered. The clock starts when the harm is detected.

THE COURT; Okay. It's what now? I'm sorry, I was reading this one. I apologize.

MS. HARRIS; Oh, that's Okay, sir. I said for - - it says, for example, in a case of medical malpractice, the injury may have occurred weeks, months, or possibly years before the harm and cause of harm are discovered. The clock starts when the harm is detected.

THE COURT; All right. Let me have that one too, counsel, I mean, officer.

(Deputy complies.)

MS. HARRIS; There's also in NSW, you must bring a medical negligence claim within either three years from when you discovered that the medical negligence occurred.

THE COURT; I'm sorry, go ahead.

MS. HARRIS; Three years from the date of knowledge.

THE COURT; Three years what now? The statute would run for three years from the date of knowledge?

MS. HARRIS; It says in NSW, you must bring a medical negligence claim within either three years from when you discovered that the medical negligence occurred, and then it also says three years from the date of knowledge.

THE COURT; Okay. You give her that also. Anything else?

MS. HARRIS; All actions against physicians, surgeons, dentists, medical institutions or other health care providers for liability, error, mistake, or tort, must be commerce (sic) - -

THE COURT; Commenced.

MS.HARRIS; - - commenced within six months from the date of such discovery or the date of discovery of facts.

THE COURT; stop right there. Let me ask you do this. Six months from discovery. and you discovered it, again, according to what you just submitted to me today, on September - -

MS. HARRIS; 18th.

THE COURT; - - 18th, '21. And you filed this lawsuit when ?

MS. HARRIS; I filed it on November - - no, December. I filed it on December, - -

THE COURT; of when?

MS. HARRIS; - - the reason being is because I had - -

THE COURT; December, when, 2000, what, '21?

MS. HARRIS; Yes sir.

THE COURT; Okay.

THE COURT; That's fine.

MS. HARRIS: I would have did it earlier, but i couldn't because I had to get a

Heart Cath Did, and I had told him I'm doing this arm. This is my writing arm, so I had to wait. I couldn't even lift a jug of milk.

THE COURT; Okay. Any other law you want to submit to the court?

MS. HARRIS: it says whichever earlier, Alabama code S5-6-5, I mean, Alabama code 5- -S6-5-482 (a).

THE COURT; And let her have that one. I'll copies of those. She'll bring them right back to you in just a moment. They're the moving party. They have the right to have the last say at this point on this issue. You may submit again.

THE DEPUTY; Are we done?

THE COURT: That's all the documents she has, yes. Thank you. Make two copies, if you would. Go ahead.

MR. PROCTOR: Judge, I tried to keep up with the case she's relying on.

THE COURT; Right. I'm going to make a copy for you.

MR. PROCTOR; I know one of them was a 1983 case, which is a federal claim for a negligent search or have something to do with law enforcement. That's not applicable here. The Alabama Medical Liability Act unquestionably controls, and it states very clearly that the case must be brought within two years of the act or omission or failure giving rise to the claim. And what i would ask the Court to do is look at her complaint, her original complaint, which was filed on December 17, 2021. She clearly alleges that Dr. Ellis and the hospital committed medical negligence, and she clearly states that she knew she was injured because she says Plaintiff sustained irreparable injury to her heart and caused her to sustain personal injuries by the failure to discover that she's injured. It wasn't something that was just laying latent and she didn't discover she was injured until sometime in '21. She claims that she knew this from this treatment, which is the only treatment mentioned in the complaint, and that treatment was more than two years prior to filing the complaint, and so we would submit what the court's required to do is to just look at the four corners of the complaint. That document

clearly states that her injury is related to medical negligence that her injury is related to medical negligence that allegedly occurred on - -

THE COURT: The Court would also note for the record that none of the amended complaints indicated anything other than the same dates you just indicated.

MR. PORTER; They do not. They just raise the addendum up to 25 million dollars.

THE COURT; Correct.

MR. PORTER: so we would just submit, Your Honor, - -

THE COURT: You've submitted a brief also, I'll note.

MR. PORTER: It is. That's about all. Do you have anything else?

THE COURT; Yes, ma'am?

MS. HARRIS; Okay. so, he's trying to say - -

THE COURT: He said the same thing the whole time, that it's not within the two - - year statute of limitations. That's all he said, basically, the essence of it. And you submitted some things that I will look at, and I'll take this matter under advisement and I'll issue an order as soon as i can. Okay?

MS. HARRIS; Yes sir.

THE COURT: And you all may be excused. I certainly appreciate it, and i'll be doing my reading. Okay?

MR. PORTER; Thank you, Judge.

THE COURT; Thank you so much. Y'all have safe travels.

MR. PORTER; Judge, can I ask you a quick question?

THE COURT; Yes.

MR. PORTER: Given some of the material that we've just been handed by Plaintiff counsel, if there's any additional legal briefing, would you entertain a supplemental?

THE COURT: if you wish to submit anything since she just submitted it to you, I'll give you - - how long you need to issue or file something additionally?

MR. PORTER; A week.

THE COURT: Let's give you 10 days. What I'm doing is, I'm giving them 10 days, so it will be after I receive those documents. You have a right to file a response to that in writing. I won't necessarily have to have a hearing. You submitted these laws and these statutes to me, I mean cases, and I'll review those. He's going to review them and he's going to file a response to that. Okay? I would also encourage you, if you would, try and seek an attorney to assist you in this matter. Okay? Thank you. I'll note that for the record then.

MR. HOAGLUND; Judge, can i compare what we've got to your record to make sure that we've got - -

THE COURT; You may.

MR. HOAGLUND; Thank you.

(Brief pause.)

MR. HOAGLUND; Thank you, Judge. L Appreciate it.

THE COURT; You're welcome. Thank you. This concludes the hearing in this matter.

(End of proceedings)

STATE OF ALABAMA
IN THE CIRCUIT COURT FOR THE COUNTY OF RUSSELL
TWENTY - SIXTH JUDICIAL CIRCUIT
CIVIL

MARIETTE HARRIS,

Plaintiff,

Case No. CV 21 - 38

V.

MILES W. ELLIS, M.D. ;
JACK HUGHSTON MEMORIAL
HOSPITAL,
Defendants.

REPORTER'S OFFICIAL TRANSCRIPT

Before
For the Plaintiff;
Jamiee E.Hunter, Esq.
Birmingham, Alabama

For Defendant Miles W. Ellis, M.D.;
Eric D. Hoaglund, Esq.
Vestavia Hills, Alabama
For Defendant Jack Hughston
Memorial Hospital;
David W. Proctor, Esq
Birmingham, Alabama

THE COURT: This is in the matter of Mariette Harris versus Miles W. Ellis, M.D. and Jack Hughston Memorial Hospital, Defendants Case Number is CV 2021- 38. This is a hearing on all the motions to dismiss the third party amended complaint and all the others. representing the Plaintiff is Ms., what's your name again, please?

MS. HUNTER; Jamiee Hunter.

THE COURT; Ms. Hunter. And representing Dr. Ellis is who ?

MR. HOAGLUND; Eric Hoaglund, Your Honor.

THE COURT; And representing the hospital?

MR. PROCTOR; David Proctor.

THE COURT; Are all parties ready to proceed at this time?

MS. HUNTER; Yes, Your Honor.

MR. HOAGLUND; Yes, sir.

THE COURT; Let us proceed. Defendants, you may.

MR. HOAGLUND; Your Honor, Eric Hoaglund representing Dr. Ellis. As you know. This is the Plaintiff's third amended complaint. We have filed motion to dismiss as to the original and the first and the second amended complaint. The Court granted the Plaintiff's motion for leave to file a third amended complaint, which the Plaintiff did, and we're now here on the same issues regarding motion to dismiss. It's, basically, a statute of limitations argument. We've made this argument in the previous briefs on the first three complaints, now we're here on what is, essentially, the fourth complaint arguing the exact same issues based upon the statute of limitations. As the Court knows, the Plaintiff's claim is a claim under the Alabama Medical Liability Act, which is subject to a two - year statute of limitations. The Plaintiff's third amended complaint clearly states that the plaintiff is alleging that she was misdiagnosed on the multiple occasions between November 11th, 2019, and

November 26th, 2019, these misdiagnoses led to Dr. Ellis's administration of a particular drug which then resulted in the plaintiff's injury. The complaint specifically states of the facts that on November 11th, the plaintiff was treated at Jack Hughston Hospital by Dr. Ellis. The complaint specifically alleges that there was a misdiagnosis on that November 11th, 2019 date, that she was misdiagnosed, and that a -- well, she was improperly administered drugs at that time which resulted in her injury on that date. In addition, the complaint clearly shows that on November the 18th, the Plaintiff once again entered Jack Hughston Hospital. She had an echocardiogram. She was informed by Dr. Patel that time that she had congestive heart failure and had an ejection fraction of 20 to 25 percent. She was once again released on November 22nd and returned on November 26th, 2019 to Jack Hughston Hospital, which she was diagnosed at that time with an enlarged heart and Pulmonary edema. The Plaintiff did not file suit until December 14th, 2021, over two years later. It's clear from the complaint that there are a number of allegations of misdiagnoses between November 11th and November 26th that trigger the statute of limitations. we cite in our brief for you, Your Honor, several cases, but, specifically, the Mobile infirmary case, in Alabama in which, the Plaintiff developed a pressure ulcer, later had to have his leg amputated. The Alabama Supreme Court states that the statute of limitations began to run at the time of the pressure ulcer, at the time of the first injury, which is the same situation that we have here. The time of the first injury is clearly based upon the complaint between November 11th and November 26th, 2019, more than two years before the filing of the complaint. We think that on its face the complaint is due to be dismissed based upon the statute of limitations and based upon the case law we've cited.

The COURT: And I'll let the hospital representative, if he wishes, to add anything at this time.

MR. PROCTOR: Your Honor, unless you've got any specific questions, I don't have anything to add. I think counsel covered it. You know, I could see how this could be, you know, the idea that there was a misdiagnosis and an injury pled in the complaint, all be it a smaller injury than what she says occurred in 2021, but an injury nonetheless, and the law is clear that it's from the date of the alleged negligence and the first injury the statute begins to run. There's no tolling because of a first injury developing into a more significant injury down the road. That does

not toll the statute, and there are no cases, to our knowledge, that would allow that, your Honor.

THE COURT; Thank you, Ms. Hunter, your Turn?

MS. HUNTER; Your Honor, I want to first start out saying our argument is no different from what it was before. and I know opposing counsel gave a brief synopsis on the Mobile case, which is, ironically, the same case that we are using as well. And just to give you just an idea of what that case entails, the Defendant in that case, the Mobile case, he actually had an injury at home, totally different injury, and then he arrived at the hospital or the facility and he developed a different Injury, He tried to claim that new injury at the hospital, which was the ulcer as well As his leg amputation, and then the court basically concluded that the injury that The injury that was leg amputation, which was the subsequent increase of that injury, this case is totally different. In this case, Ms. Harris actually walked into the hospital on the 11th, the 18th, and the 26th, and 30. She complained of the same injuries. It was Shortness of breath, chest pains, pressure in her chest, and due to that, an ECG was done. The readings of the ECG were clear, but the defendants actually misdiagnosed, and as a consequence, obviously, she was left untreated. I think the most practical question that I feel the court must ask is, Did Ms. Harris have a legal cause of action on the 11th and the 18th and the 26th, meaning that on that day could she have filed a complaint, and I believe the answer is no, unfortunately, because she would have misstated a claim. She didn't have an injury. I do know that under the medical malpractice laws In the State of Alabama, a misdiagnosis alone is not sufficient for an actual injury. Many courts have repeated that time and time and over and over that you actually need A legal injury, and that's the start of the statute of limitations.

THE COURT: So you contend the start is when, Please?

MS. HUNTER; I'm sorry?

THE COURT: The start of that limitations Would be when?

MS. HUNTER; The first legal injury. And on those particular days, which is the 11th, the 18th and 26th, we all agree, it's undisputed, That she was misdiagnoses, a

delayed misdiagnosis, however, it wasn't sufficient enough to actually suffice any type of medical malpractice claim.

THE COURT; when do you contend she had the first legal injury?

MS. HUNTER; in September of 2021. I think the most confusing part of what all of this entails is the fact that she was describing her medical condition on those days. I mean, even in the Mobile case, the Court has said, and they made it clear, that it would be unfair for a Plaintiff or at least for the statute of limitations to be affixed upon the plaintiff's medical condition as opposed to the first legal injury. In this amended complaint, Ms. Harris only describes her medical condition in details on those particular days. And what she did was, she provided those dates, she provided the dates of the Defendant's actions and omissions, but it shouldn't be construed with the actual injury that was sustained in September of 2021.

Now, on the contrary, opposing counsel said that the statute of limitations begins at the time of the first legal injury regardless of the amount of damages that are apparent, and we actually agree with that. Unfortunately, that doesn't apply in this case in a sense because there was no legal injury. The only thing that she was describing in the complaint was the actual medical condition that was already apparent, so was the Medical Condition: the first legal injury? it was not. Was the results of the ECG the first legal injury? It was not, nor was the readings of the ECG because the Defendant didn't cause those findings. He just misdiagnosed them, so I think the question is did her medical condition get worse after? I would assume yes, I would assume yes, but it was discovered in September of 2021 when she actually developed that heart condition, which was a permanent heart condition, and it wasn't discoverable on those days. Now, if she would have walked down to the courthouse and tried to file a complaint, she wouldn't have been able to do that because there was no injury at the time caused by the Defendant. All he did was just misdiagnose Ms. Harris, and I think that's where the confusion lies.

MR. PROCTOR: can I speak to that, Judge?

THE COURT; Yes. just one moment, please. Did one of you give me a copy of that case? I thought you did.

MR. PROCTOR; The Mobile infirmary case? I don't have a copy of it, but do you have one? Eric?

THE COURT: Oh, you do? Okay. Thank you.

MR. PROCTOR; So, Judge, - -

MR. HOAGLUND; It may have my handwriting on It's somewhere. If it does, I'll - -

THE COURT: Do you have one? You can look at the one he's given me. I don't know if - - I hadn't looked at it.

MR. HOAGLUND; I didn't look. Let me look.

THE COURT: Make sure she sees it. That's fine if you want to scratch it out or whatever for the moment. I'll look it up myself. And I'll make a copy and give it back to you, or should I say Ms. Linda will since Ms. Connie's not here. Any problem with that?

MR. HOAGLUND; It's a clean copy.

THE COURT: we'll make you a copy of it.

MR. HOAGLUND; That's all right. You can have it.

THE COURT; Okay. Well, thank you. Yes, you may now.

MR. PROCTOR; Judge, just a couple of things.
I mean, her injury is a medical injury.

THE COURT; Do you agree with what she says, that the claim arises - - all the arguments you've given me thus far says the claim would have arisen on the 11th and 18th of 2019. She says the legal injury only occurred in September 2021.

MR. PROCTOR: I do not agree with that at all because If you look, for starters, at her fourth amended complaint, And if you go to the first count of negligence,

Paragraph 27, It says it is upon belief and knowledge that Dr. Ellis failed to properly diagnose Ms. Harris on Multiple occasions between November 11, 2019 and November 26, 2019, which led to a subtle deterioration of her health. I would not choose those words, counsel did, but it is an injury. That's what this is about. This is a medical Malpractice case, and the injury is a medical - - You know, it's described in medical terms. Yes, she suffered a heart attack or whatever It was she suffered in September of '21, but the initial injury, occurred during the misdiagnosis, as alleged. If you accept what she says as true, the misdiagnoses on the 11th, 18th, and 26th, caused her injury. It manifested itself in a different way in 2021, but by the wording in the complaint, which is all we have to go on, is that that was the initial injury. And, you know, they misdiagnosed to treat something that they claim she didn't have, and just to use her language there in the first count of negligence, she alleges that there was a subtle deterioration of her health. Now, the degree of injury is not relevant to this discussion because all there needs to be a legal injury is what she had here. That's the nature of this case.

THE COURT: And you're contending she mentions that, specifically, in her amended complaint, The fourth?

MR. PROCTOR; Yes, paragraph 27.

Ms. HUNTER; Your Honor, may I?

MR. PROCTOR; And the other thing, too, - -

THE COURT: Let him finish and I'll let you go again.

MR. PROCTOR: - - I haven't - - I can't quote chapter and verse from the Mobile infirmary, but counsel said that the initial injury was at home. Well, there's nothing like that pled here. The injury pled in this case is a direct result of misdiagnosis and mistreatment which, according to the complaint, began in November of 2019, and she filed the lawsuit two years after that. She could have - -it's not like did she had two years to file the lawsuit. In other words, In November of 2021, she could have filed this lawsuit and alleged early injury, injuries, in between, and the heart attack that she says happened in September, so there's nothing to have stopped her from filing the lawsuit. She just waited too long, And I think under the law and under

the - - the way the Medical Liability Act has been interpreted by the courts, I think she's out of time and we submit the case is due to be dismissed.

THE COURT: Thank you, counsel. Yes, Ma'am?

MS. HUNTER: Yeah, just to respond on the first point that opposing counsel made, on Paragraph 27, specifically. It does state that- - I want to - - pretty much I want to respond to opposing counsel's first point where it does say that Ms. Harris on multiple occasions between November 11th and the 26th, which led to a subtle deterioration in her health. Nothing in that Paragraph suggests that we or Ms. Harris had an injury on that day. That specific paragraph just details the fact that between those days - -

THE COURT: Her health deteriorated.

MS. HUNTER; - - on multiple days - - I'm sorry, Your Honor?

THE COURT: I'm saying you said deterioration of her health?

MS. HUNTER; Yes. And the word subtle was very important in this case because, of course, it was subtle, which means that it wasn't discovered until later on. and I think in the Mobile case, the facts are very, very important, Is a huge distinction because, like I said, in that case the defendant, he was getting treated for a head injury, and then he went to the rehab facility to get treated for that head injury and he left with an ulcer, he ended up having to get a leg amputation. The court concluded, like I said, that a subsequent increase in the first legal injury is not a new injury. That's not the case here. It's not like Ms. Harris went on those days, November the 11th, the 18th, and the 26th, with an entirely different injury. This Was all the same injury which failed to be diagnosed. unfortunately, if you think about it, the defendants didn't cause any type of injury. I understand what opposing counsel was saying, but I think the dilemma is whether or not there was an actual first legal injury, and a misdiagnosis is not.

THE COURT: Did you not or something that I read in one of the pleadings that the medication given by him caused injury?

MS.HUNTER; And that may have been the fact, but we don't know that, Your Honor. The point that I'm trying to say is, even a misdiagnosis and even if he was prescrip - - we don't even know if that prescribed medication. Only the medical experts can tell us that, but at the same time she didn't know on those days whether or not she had a valid complaint. Fact, she didn't because the only thing that she did was just go to the doctor and try to get a reading of an injury that she actually already had. It was misdiagnosed.

THE COURT; Okay, all right. I read it once before. I'm going to read it again. I know you both briefed it and cited it. I'll look at this case, and I'll get you out an order in the next - -in the next couple of weeks, I assure you. Okay?

MS. HUNTER; Thank you, Your Honor.

THE COURT; Thank you so much. Thank you. Thank you, I have much reading to do again. Y'all have safe travels.

(End of proceedings.)

CERTIFICATE OF COMPLETION OF REPORTER'S TRANSCRIPT

MARIETTE HARRIS,
Court of Alabama

TO; The Clerk of the Supreme

Appellant,

CASE NO. CV 21 - 38

V.

DATE OF NOTICE OF APPEAL;
January 24, 2023

MILES W. ELLIS, M.D.,
JACK HUGHSTON MEMORIAL
HOSPITAL,
Appellees.

I certify that I have this date completed and filed with the clerk
Of the trial court the original of a true and correct transcript of
The proceedings designated in the transcript purchase order.
All pages are numbered serially, in the upper right corner of
Each page, prefaced by an index, and ending with the number
Appearing at the bottom of this certificate.

DATED this 19th day of May, 2023.

s/Linda Wilson

Linda S. Wilson

Official Court Reporter ACCR # 532 Exp. 9/3

IN THE CIRCUIT COURT OF RUSSELL COUNTY

Case No. 57-CV- 2021-000038

MARIETTE HARRIS

Plaintiff,

V.

JACK HUGHSTON MEMORIAL

HOSPITAL, et al.,

Defendants.

PLAINTIFF MARIETTE HARRIS REPLY BRIEF IN
SUPPORT OF MOTION NOT TO DISMISS

COMES NOW, Plaintiff Mariette Harris submits the following Reply Brief in support of its Motion

To not dismiss as follows;

Plaintiff submitted documents in response to JHMH's motion. Copies of those documents are attached hereto as Exhibit A.

None of the documents submitted by the Defendant, nor their oral argument to the Court, Change the fact that under the Alabama code s6-5-482(a) of discovery.

Plaintiff, was asked by three cardiologists at St. Francis Hospital when did you first have chest pain and I told them at JHMH's did they do a Heart Cath I asked what it was and then I said No. While the plaintiff had her third heart attack her first time at St. Francis Hospital three cardiologists suggested I get a Heart Cath to rule out anything else. I could not be put to sleep anymore because having a heart condition might have complications with anesthesia now. I was told my insides are remarkable, but I have a heart disease called Cardiomyopathy which there's no cure for. Plaintiff discovered and found out on September 18, 2021, at St. Francis Hospital.

APPENDIX J

Plaintiff, went to JHMH, ER with chest pain and shortness of breath on November 11, 2019.

Defendant diagnosed the Plaintiff with Costochondritis which is rib pain that has nothing to do with heart or lungs which it did on November 18, 2019.

Defendant, asks the Plaintiff was she allergic to anything the Plaintiff stated No

Defendant administered anti – inflammatory medication, which was giving through IV to the Plaintiff, Ketorolac 30mg.

Defendant didn't tell the Plaintiff, Potential risk or Precautions or Adverse Reactions of the Medication called Ketorolac 30mg. Defendant, Prescribed Ketorolac pills 10mg.

The Defendant ignored Labs and ECG was abnormal and misdiagnosed the Plaintiff of a heart attack on November 11, 2019.

Plaintiff woke up on November 18, 2019 started coughing, and Vomiting blood.

Plaintiff goes back to JHMH's seen again by the Defendant, Miles W. Ellis.

Plaintiff, then tells the Defendant she has been coughing, and Vomiting.

The Defendant states to the Plaintiff, I believe you. Then the Defendant started Admitting the Plaintiff, while taking the Plaintiff, to X rays the Plaintiff asking the defendant what's going on with me. He didn't answer the Plaintiff.

On November 19, 2019, the Plaintiff, is told by a Cardiologist V. Patel that her heart is damaged and I'm going into failure. The Plaintiff, injection is 20% The Plaintiff, also found out by the Cardiologist V. Patel that the Plaintiff, has blood clots in both of her lungs and fluid.

The plaintiff, Ends up with Heart failure Pulmonary edema, Chronic Pulmonary embolism.

Defendant gave the Plaintiff, wrong medication on November 11, 2019 that cause the Plaintiff, to have Multiple serious side effects an incurable heart disease life altering with future complications.

10. On said date, Petitioner Ms. Harris diagnosed with a mildly enlarged heart, and mild cardiomegaly with interval resolution of the pulmonary edema.

11. Upon petitioner Ms. Harris release, petitioner Ms. Harris was prescribed 30 Capsules (100mg) of Tesslon Perles as need for a cough, and recommended To take 2 capsules every eight hours as need

12. From December 2019 to April 2021, petitioner Ms. Harris received care at Chhokar Clinic for symptoms that were progressively worse, such as chest pains, Shortness of breath, fevers,

13 On or about September 18th, 2021, petitioner Ms. Harris arrived at St. Francis Hospital in Columbus Georgia due to severe chest pains.

14. On said date, petitioner Ms. Harris was treated by Michelle Montalvo, M.D And it was disclosed to Ms. Harris that she sustained a non- ST elevation Myocardial infarction, known as a heart attack.

15. Petitioner Ms. Harris was informed that she developed a rare heart condition Called Chronic Pulmonary Embolism, which is an irreversible and life – threatening heart condition.

16. Petitioner Ms. Harris's previous medical history, petitioner Ms. Harris never had any heart – related issues.

17. According to the food and Drug Administration (FDA), Ketorolac Tromethamine Is a non steroidal anti- inflammatory drug (NSAID) and has been voluntarily recalled by multiple manufactures due a presence of particulate matter, which was produced and sold in 2019 Administration of products containing particulate matter could could obstruct blood vessels and result

18. In local irritation of blood vessels, blood clots traveling to the lungs scarring of the lung tissues, and allergic reactions that could lead to life – threatening consequences.

19. According to the National Library of medicine, all NSAIDs increases the risk of Gastrointestinal (Gi) bleeding, myocardial infarction, stroke, and cardiovascular Thrombotic events, such as cardiovascular disease (CVD). (Davis, A., & Robson, J. (2016), The dangers of NSAIDs; look both ways. The British journal of general practice; The journal of the Royal College of General Practitioners, 66 (645), 172-173.

<https://doi.org/10.3399/bjgp16x684433>).

Memorial Sloan Kettering
Cancer Center

PATIENT & CAREGIVER EDUCATION

Ketorolac (Systemic)

This information from Lexicamp explains what you need to know about this Medication, including what it's used for, how to take it its side effects, and When to call your healthcare provider.

Brand Names; US
Ready Sharp Ketorolac (DSC)

Brand Names; Canada
ALTI – Ketorolac; APO- Ketorolac; JAMP Ketorolac; Mar-Ketorolac; MINT-Ketorolac; Toradol

Warning

All products;

This drug may rise the risk of heart and blood vessel problems like heart attack and stroke, These effects can be deadly. The risk may be greater if you have heart

disease or risk for heart disease. However, It can also be raised even if you do not have disease or risk for heart disease. The risk can happen within the first week of using this drug and may be greater with higher doses or long-term use. Do not use this drug right before or after bypass heart surgery. This drug may raise the chance of severe and sometime deadly stomach or bowel problems like ulcers or bleeding. The risk is greater in older people, and in people who have had stomach or bowel ulcers or bleeding before. These problems may occur without warning signs. This drug is only to be used for short – term pain (up to 5 days total). It may cause unsafe side effects if taken more than 5 days. The nonsteroidal anti inflammatory drug (NSAID) ketorolac is a candidate for use as a supplement analgesic during major surgery in anesthetized rodents. The use of Ketorolac during surgery is believed to reduce the anesthetic dose required to achieve and maintain an adequate surgical plane, thus improving the physiologic condition and survival of animals during long experiment procedures Ketorolac has reported side effects that include dizziness, ear pain, hearing loss, tinnitus, and Vertigo in humans.

What are some side effects that I need to call my doctor about right away?

WARNING/ CAUTION; Even though it may be rare, some people may have very bad and sometimes deadly side effects when taking a drug. Tell your doctor or get medical help right away if you have any of the following signs or symptoms that may be related to a very bad side effect;

Signs of allergic reaction, like rash; hives; itching; red, swollen, blistered, or peeling skin with or without fever; wheezing; tightness in the chest or throat; trouble breathing, swallowing, or talking; unusual hoarseness; or swelling of the mouth, face, lips, tongue, or throat, Rarely, some allergic reactions have been deadly.

Signs of bleeding like throwing up or coughing up blood; vomit that looks like coffee grounds; blood in the urine; black, red, or tarry stools; bleeding from the gums; abnormal vaginal bleeding; bruises without a cause or that get bigger; or bleeding you cannot stop.

Signs of high potassium levels like a heartbeat that does not feel normal; Feeling confused; feeling weak, lightheaded, or dizzy; feeling like passing out, numbness or tingling; or shortness of breath.

Signs of high blood pressure like very bad headache or dizziness, passing out or change in eyesight. Chest pain or pressure, Weakness on 1 side of the body, trouble speaking or thinking, Change in balance, drooping on one side of the face, or blurred eyesight. Shortness of breath, a big weight gain, or swelling in the arms or legs feeling very tired or weak. Swollen gland.

Liver problems have happened with drugs like this one. Sometimes, this has been deadly. Call your doctor right away if you have signs of liver problems like dark urine, feeling tired, not hungry, upset stomach or stomach pain, light-colored stools, throwing up, yellow skin or eyes.

What are some other side effect of this drug?

All drugs may cause side effects. However, many people have no side effects or only have minor side effects. Call your doctor or get medical help if any of these side effects or any other side effects bother you or do not go away;

Headache.

Stomach pain or heartburn.

Upset stomach.

These are not of the side effects that may occur. If you have questions About side effects.

You may report side effects to your national health agency.

You may report side effects to your national health agency.

You may report side effects to the FDA at 1-800-332-1088. You may also Report side effects at <https://www.fda.gov/medwatch>.

How is this drug best taken?

Use this drug as ordered by your doctor. Read all information given to you.

Follow all instructions closely.

Tablets;

Take with or without food. Take with food if it causes an upset stomach.

Injection;

It is given as a shot into a muscle or vein.

If you have asthma, talk with your doctor. You may be more sensitive to this drug.

Talk with your doctor before you drink alcohol.

If you smoke, talk with your doctor.

The chance of heart failure is raised with the use of drugs like this one. In people who already have heart failure, the chance of heart attack, having to go to the hospital for heart failure, and death is raised. Talk with the doctor.

The chance of heart attack and heart-related death is raised in people taking drugs like this one after a recent heart attack. People taking drugs, like this one after a first heart attack were also more likely to die in the year after the heart attack compared with people not taking drugs like this one. Talk with the doctor.

A severe and sometimes deadly reaction has happened. Most of the time, This reaction has signs like fever, rash, or swollen glands with problems in body organs, like the liver, kidney, blood, heart, muscles and joints, or lungs if you have questions, talk with the doctor.

Severe skin reactions have happened with this drug. These have included Stevens-Johnson syndrome (SJS), toxic epidermal necrolysis (TEN), and other severe skin reactions. Sometimes these have been deadly. Get medical help right away if you have signs like red, swollen blistered, or peeling skin; other skin irritation (with or without fever); red or irritated

Eyes, or sores in your mouth, throat, nose, or eyes.

If you are 65 or older; use this drug with care. You could have more side effects.

NSAIDs like this drug may affect egg release (ovulation) This may affect being able to get pregnant. This goes back to normal when this drug is stopped. Talk with the doctor.

Tell your doctor if you are breast – feeding. You will need to talk about any risks to your baby.

ASA – intolerance; ketorolac tromethamine should NOT be given to patients with complete or Partial syndrome of ASA – intolerance (rhinosinusitis, urticaria /angioedema, nasal polyps, asthma) in whom asthma, anaphylaxis, urticaria/ angioedema, rhinitis or other allergic manifestations are precipitated by ASA or other NSAIDs. Fatal anaphylactoid reactions have occurred in such individuals, as well, individuals with the above medical problems are at risk of a severe reaction even if they have taken NSAIDs in the past without any adverse reaction (see CONTRAINDICATIONS).

Cross- sensitivity; Patients sensitive to one NSAID may be sensitive to any of the other NSAIDs as well.

Serious skin reactions;(see WARNINGS AND PRECAUTIONS; Skin)

Immune

(See WARNINGS AND PRECAUTIONS; infection, Aseptic Meningitis)

Infection

Ketorolac tromethamine in common with other NSAIDs, may mask signs and symptoms of an underlying infectious disease.

Aseptic Meningitis; Rarely, with some NSAIDs, the symptoms of aseptic meningitis (stiff neck, severe headaches, nausea and vomiting, fever or clouding of

consciousness) have been observed. Patients with autoimmune disorders (systemic lupus erythematosus, mixed connective tissue diseases, ect.) seem to be pre-disposed. Therefore, in such patients,

The health care provider must be vigilant to the development of this complication.

Neurologic

Some patients may experience drowsiness, dizziness blurred vision vertigo tinnitus, hearing loss, insomnia or depression with the use of NSAIDs, such as Ketorolac Tromethamine. If patients experience such adverse reaction(s), they should exercise caution in carrying out activities that require alertness.

Ophthalmologic

Blurred and/ or diminished vision has been reported with the use of NSAIDs if such symptoms develop, ketorolac tromethamine should be discontinued and an ophthalmologic examination Ophthalmologic examination should be carried out at periodic intervals in any patient receiving ketorolac tromethamine for an extended period of time.

Peri – Operative Considerations

(see CONTRAINDICATIONS; Coronary Artery Bypass Graft Surgery, see WARNINGS AND PRECAUTIONS; Hematologic Hemorrhage and perioperative use of Ketorolac Tromethamine injection

Psychiatric (see WARNING AND PRECAUTIONS; Neurologic)

LAST Reviewed Date

2022-06-16

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If you have any questions, contact a member of your healthcare team Directly. If you're a patient at MSK and you need to reach a provider

After 5:00 p.m. during the weekend, or on a holiday, call 212-6392000.

For more resources, visit www.mskcc.org/pe to search our virtual library.

Ketorolac (Systemic) – Last update on June 24, 2022

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What causes Haemoptysis ?

What is Haemoptysis mean ?

Haemoptysis is the medical term for coughing up blood from the lungs or bronchial tubes. It can range from small flecks of blood to lot of blood,

<https://www.healthdirect.gov.au>

Haemoptysis (coughing up blood) healthdirect

Ketorol recall 2019

The lots being recalled were manufactured between March 22, 2018 And February 21, 2019. Hikma Pharmaceuticals USA announced that the voluntary recall of Ketorolac Tromethamine Injection 30mg/ml vials has been extended to Include additional lots. March 6, 2020

<https://www.empr.com> > home > news

Ketorolac Tromethamine injection

Recalled Due to Presence of Particulates

Ketorolac Tromethamine Injection Recalled Due to Presence of Particulates

Hikma Pharmaceuticals USA announced that the voluntary recall of ketorolac tromethamine injection 30mg/mL vials has been extended to include additional lots. The product is being recalled due to the presence of small black particulate matter of a gelatinous/ oily nature that is visible in the vial.

The recalled lots of ketorolac Tromethamine Injection 30mg/mL (NDC 0641-6042-25; Size 1mL Fill/2mL vial) Were manufactured between March 22,2018 and February 21, 2019. And include the following lot Numbers and expiry dates;

- *Lot Number 038366; Exp Date Mar 2020
- * Lot Number 048365; Exp Date Apr 2020
- * Lot Number 048367; Exp Date Apr 2020
- * Lot Number 078301; Exp Date Jul 2020
- * Lot Number 078303' Exp Date Jul 2020
- * Lot Number 118358; Exp Date Nov 2020

* Lot Number 019413' Exp Date Jan 2021

* Lot Number 029353; Exp Date Feb 2021

Ketorolac tromethamine injection a nonsteroidal Anti inflammatory drug, is indicated for the short Term (5 days) management of moderately severe acute pain that requires analgesia at the opioid level. Usually in a postoperative setting. According to Hikma, administration of the affected product could potentially result in the deposition of particulates in the lungs of A patients which could result in Multiple pulmonary Microemboli with subsequent acute respiratory distress for patients receiving the drug intravenously.

Hima has notified customers at medical and retail level facilities to remove all affected products from distribution and return any recalled products. Additionally, the Company has suspended the manufacturing of this product until further notice. Adverse reactions may be reported to the FDA's Medwatch program

For more information regarding this recall, contact
Hikma Pharmaceuticals at 800 631-2174
Or email [usercall@ hikma.com](mailto:usercall@hikma.com).

Ketorolac (Toradol) – Side Effects, interactions, Uses, Dosage, Warnings.

Ketorolac; can increase your risk of fatal heart attack or stroke, Even if you don't have any risk factors.
Do not use this medicine just before or after a heart attack.....

Ketorolac; Side Effects, Uses, Dosage, interaction, Warnings
Warnings Nonsteroidal anti-inflammatory drugs (NSAIDs) may Increase the risk of serious cardiovascular thrombotic events, Myocardial infarction (Mi) Pfizer Medical information
<https://www.pfizermedicalinformation.com>

What is the most concerning side effect of Ketorolac?

Stop using ketorolac and get medical help right away if you notice any of the following rare but serious side effects; stomach/abdominal pain that doesn't go away, bloody or black/tarry stools, vomit that looks like coffee grounds, chest/jaw/left arm pain, shortness of breath, unusual sweating. Weakness on one side.

Ketorolac can increase your risk of fatal heart attack or stroke, especially if you use it long term or take high doses, or if you have heart disease. Even people without disease or risk factors could have a stroke or heart attack while taking this medicine

Empr.com
<https://www.empr.com>>news>inj...

Injectable Pain Med Recalled Due to Possible Microbial Contamination – MPR – eMPR.com

May 1, 2019 – A recalled of 1 lot of Ketorolac Tromethamine injection 60mg/2mL (30mg/mL.) Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut.....

Columbus Diagnostic Center
2040 10th Avenue Columbus, GA31901
Phone;706-322-3000
CDC Northside
7500 veterans Parkway suite C
Phone; 706-323-7622

Location; Columbus Diagnostic center
Patient Name; Mariette Denise Harris
DOB; 07/19/1970
ACCESSION NO;7390659-1
Ordering MD; Reinaldo MD Verson
Exam Date; 08/27/2022

Exam Performed; MRBR2 MRI BRAIN WO CONTRAST
CT count;

MRI Brain without Contrast

CLINICAL HISTORY; Migraine.

TECHNIQUE; Multiecho multiplanar imaging of the brain was
Performed without administration of IV contrast.
This study was performed on [1.5] Tesla MRI.

FINDINGS:

The brain parenchyma shows normal morphology and signal intensity. Minimal chronic microvascular ischemic changes noted. No focal parenchymal lesion identified. There is no midline shift, mass effect, or acute intracranial hemorrhage, mass lesion, or cerebral edema.

The ventricles and cortical sulci are normal. Midline structures including the pituitary, corpus callosum, and the cerebellar tonsils are unremarkable. The flow voids of the major intracranial vessels are intact. The paranasal sinus and the mastoids are unremarkable.

CONCLUSION;

1. Mild atrophy with minimal chronic microvascular ischemic
Changes noted. No acute abnormality identified.

RE; MARIETTE DENISE HARRIS ACCNT#; 7096330 DOS; 08/27/2022

Electronically signed by; Virendra Kumar 8/28/2022 1:39 PM CDT
Workstation 109-1044

Electronically signed – KUMAR, VIRENDRA 08/28/22 15:10

0343784 11/11/2019 08:25:04 Harris Mariette JACK HUGHSTON

MEMORIAL HOSP

Born 7/19/1970

Female Race; **Black**

Room; 7

Oper;AT

Rate 111 . sinus tachycardia.....rate> 99
Atrial premature complexes.....sv complexes w/ short R-R intvls
pR 159 .Left atrial enlargement.....P, p'>60mS, <-0.15mv v1
QRSD 83 . Probable left ventricular hypertrophy.....multiple LVH criteria
QT 354

QTc 481 94 RM/ Bed. PT

#.034378-

HSV; EM;

4S HARRIS MARIETTE D

-- AXIS- -

ADH; ELLIS MILES W

P 65 - ABNORMAL ECG -

Sex; F DOB; 07/19/1970

Age; 9

QRS 7

MR #

0007460

T 21

Requested by; ELLIS

unconfirmed Diagnosis

(Electronically signed by Miles W. Ellis, M.D. 11/11/2019 10:28)

Legally authenticated by ELLIS MILES W 2019-11-11