

SUMMONS: NOTICE OF MISSISSIPPI TORT CLAIM ACT AND MEDICAL
MALPRACTICE PURSUANT TO: (MISS. CODE SEC 11-46-11(2))

NOTICE IS HEREBY GIVEN THAT, DEAN C. BOYD #167698, PLAINTIFF,
PRO-SE IN THE ABOVE NAMED TITLE, HEREBY GIVEN NOTICE OF MISSISSIPPI
TORT CLAIM ACT PURSUANT TO: MISS. CODE SEC 11-46-11(2) NINETY (90) DAY
NOTICE REQUIREMENT AND A MEDICAL MALPRACTICE UPON CHIEF OFFICER BARRY
MOSS AT THE LOCATION OF MERIT HEALTH GROUP, 1860 CHADWICK DR, SUITE 256,
JACKSON, MS, 39204-3404,

MISS. CONST. ART. 3 § 24 (1890) PROVIDES: ALL COURTS SHALL BE OPEN; AND
EVERY PERSON FOR AN INJURY DONE HIM IN HIS LANDS, GOODS, PERSON,
OR REPUTATION SHALL HAVE REMEDY BY DUE COURSE OF LAW, AND RIGHT
AND JUSTICE SHALL BE ADMINISTERED WITHOUT SALE, DENIAL OR DELAY.
This, the 3rd day of MAY, 2021.

RESPECTFULLY SUBMITTED,
BY: DEAN C. BOYD #167698

5-3-2021

Appendix - A - Summons

SUMMONS: NOTICE OF MISSISSIPPI STATE LAW MEDICAL MALPRACTICE TORT / CLAIM
UPON MEDICAL DOCTOR MENARVIA NIXON BADDIS PURSUANT TO: MISS
CODE ANN. SECTIONS § 15-1-36 (15) SIXTY (60) DAY PRE-NOTICE

NOTICE IS HEREBY GIVEN THAT, DEAN C. BOYD #16762698, PRO-SE, IN THE NAMED
CASE, HEREBY GIVES NOTICE OF MISSISSIPPI STATE LAW MEDICAL MALPRACTICE TORT;
CLAIM UPON DEFENDANT - MEDICAL DOCTOR MENARVIA NIXON BADDIS PURSUANT TO:
MISS. CODE ANN. SECTIONS § 15-1-36 (15) SIXTY (60) DAY PRE-NOTICE REQUIREMENTS,
MISS. CONST. ART. 3 § 24 (1890) PROVIDES: ALL COURTS SHALL BE OPEN; AND
EVERY PERSON FOR AN INJURY DONE HIM IN HIS LANDS, GOODS, PERSON FOR AN INJURY DONE
HIM IN HIS LANDS, GOODS, PERSON, OR REPUTATION, SHALL HAVE REMEDY BY DUE COURSE OF LAW,
AND JUSTICE SHALL BE ADMINISTERED WITHOUT SALE, DENIAL OR DELAY.

THIS, THE 21st DAY OF MAY, 2021.

RESPECTFULLY SUBMITTED,
BY: DEAN C. BOYD #167698

EXHIBIT 6

COMBS NOW. DEMC. BOYD #12698, THEREIN- AFTER- KNOWN- AS- BOYD) PRO- SE. BOYD IS WRITING THIS AS AN OFFICIAL NOTICE THAT A FORMAL COMPLAINT WILL BE FILED AGAINST YOU WHERE HE HAS SUFFERED INJURIES AND SUSTAINED DAMAGES AS A RESULT OF YOUR MEDICAL MALPRACTICE THAT HE RECEIVED FROM TWO (2) INEFFECTIVE NECK SURGERIES. FIRST SURGERY WERE PERFORM ON THE 10TH DAY OF FEBRUARY 2020, AT THE LOCATION OF MEET HEALTH GROUP, 1860 CHADWICK DR SUITE 256, JACKSON, MS, 39204-3404, BOYD AVER THAT HE HAD MAJOR NECK SURGERY THE 14TH DAY OF SEPTEMBER 2019, WHICH CAUSED HIM TO LOSE ALL UPPER AND LOWER BODY MOBILITY A QUADRUPLE GAIN ACCEPT FOR HIS RIGHT ARM, CAUSE BOYD TO THROW UP BLOOD AS PASS BLEED IN HIS STOOL, TO HAVE BLOOD TRANSFUSIONS, NUMEROUS NEAR DEATH HOSPITAL ADMISSIONS, PERIODS OF BLINDNESS, HOUSED IN THE PRISON HOSPITAL BEDDIDDEN. BOYD AVER HIM BEING DESPERATE TO REFRAIN HIS UPPER AND LOWER BODY MOBILITY ALLOW YOU TO PERFORM YET ANOTHER NECK SURGERY ON HIM THE 10TH DAY OF FEBRUARY 2020 DUE TO THE FACT THAT A SECOND M.R.I., MISDIAGNOSED A CRITICAL ALTERATION OF HIS NECK.

FURTHERMORE, BOYD AVER ONCE AGAIN HE WAS TAKEN INTO NECK SURGERY BY YOU ON THE 10TH DAY OF FEBRUARY 2020. AT THE MEET HEALTH GROUP HOSPITAL 1860 CHADWICK DR, SUITE 256, JACKSON, MS, 39204-3404, AND THAT ONCE HE AWAKEN FROM NECK SURGERY HE WAS BLOODY WITH THE RIGHT SIDE OF HIS HEAD SWOLLEN WITH A ONE (1) INCH LACERATION IN EXCUCATING, MERCILESS PAIN, WHEN HE ASK THE HOSPITAL STAFF AS WELL AS YOU HOW DID HIS HEAD GET BURST OPEN, NONE OF YOU COULD GIVE ME AN ANSWER, AND THE SURGERY WERE A FAILURE WHERE HE STILL DID NOT REGAIN HIS UPPER AND LOWER BODY MOBILITY OTHER THAN HIS RIGHT ARM, BOYD AVER THAT HE WAS RELEASED FROM MEET HEALTH GROUP HOSPITAL IN JACKSON, MS, BY YOU THE 14TH DAY OF FEBRUARY 2020, ENDURING MASSIVE HEADACHE, THEN TRANSPORTED BY AMBULANCE TO IELAND MEDICAL CLINIC (ALLIANCE) AND RETURNED TO (MSP) PARCHMAN. UNIT 4-42 PRISON HOSPITAL HE WAS MET BY THE NURSE THAT WATCH YOU PERFORM HIS FEBRUARY 10TH 2020 NECK SURGERY, A NOCUREVER, BOYD AVER THAT NURSE DELOE (NOC) EMPLOYEE CAME OVER TO HIM AND ASK "I THOUGHT THEY KILLED YOUR ASS MAN, YOU WOKE UP, THE DOCTOR (ENDIS) ASK YOU SOMETHING, YOU STARTED MOVING AFTER THAT I SAW THEM COME OVER TO YOU, I COULDN'T SEE EXACTLY WHAT THEY WERE DOING WHEN I SAW YOU AGAIN YOU WERE UNCONSCIOUS BLEEDING AND BLOODY AS A DAM HOBOWH. DID THEY DO TO YOU MAN". BOYD RESPONDED "MAN I THOUGHT I DEANN THAT I INJURED MYSELF IN SOME WAY GOING UNCONSCIOUS WHEN I BURST MY HEAD OPEN LEAVING A ONE (1) INCH LACERATION IN THE RIGHT SIDE (TEMPLE) OF MY HEAD, WHEN IT WAS SWOLLEN BLOODY AND HAD ME IN EXCUCATING, MERCILESS PAIN STILL A QUADRUPLE GAIN OTHER THAN USES OF HIS RIGHT ARM, WHEN BOYD WAS ONLY PARALYZE FROM HIS LEFT BUTTACK DOWN UNTIL THE FAILED NECK SURGERY YOU PERFORMED ON HIM, BOYD AVER THAT HE HAS BEEN DEHUMANIZED BY OTHER PHYSICIAN DUE TO YOU PLACING A FEARFUL STATEMENT IN HIS RECORD THAT HE WAS WALKING, BOYD AVER THAT HE WAS NOT WALKING BEFORE HIS FEBRUARY

10th 2020 neck surgery and after, Boyd AVER he has not walked or been able to use his upper nor lower body other than uses of his right arm since you performed his September, 2019, neck surgery, it was only days after neck surgery Boyd was admitted into a hospital near-deaf having a blood-transfusion from throwing up blood and passing blood through his rectum from the failed neck surgery you performed on him. Boyd AVER that it was unconstitutional malpractice for you to let him injure himself doing or after surgery no matter in what way that has left Boyd enduring merciless, excruciating headaches, blurred vision, vomiting, lost of hearing in his right ear and period of blindness, in his right eye, a quadriplegia other than use of his right arm. Boyd AVER that it was an unethical act for you to fraudulently place in his medical records after his failed neck surgery that he had actually walked, you knew such a statement was fraudulently untrue, Boyd has been dehumanized by other physicians, due to that fraudulent statement, and is now a quadriplegia for life bedridden at (MSP) Parchman.

For the foregoing reason, Boyd will be filing a complaint for past, present and future pain and suffering, body harm injury, mental and emotional distress, mental anguish for the amount of five million and twenty five dollars (\$20,000,025).

However, if you are willing to discuss the settlement of this matter prior to the initiation of a lawsuit, please do not hesitate to contact Boyd in a timely manner, if he does not hear from you, he will proceed by filing a complaint against you, thanking you in advance for your time, attention and assistance in this matter, this, the 2nd day of May, 2021.

RESPECTFULLY SUBMITTED,
BY: DEAN C. Boyd #167698

CERTIFICATE OF SERVICE
I, DEAN C. Boyd #167698, do hereby declare that I have mailed a copy of the above and foregoing legal document to the address, as follows:
ATTN: ATTORNEY GENERAL, LYNN FITCH
POST OFFICE BOX 220
JACKSON, MS, 39205

So CERTIFIED, this the 2nd day of May, 2021.

RESPECTFULLY SUBMITTED,
BY: DEAN C. Boyd #167698

DEAN C. BOYD #167698
(MSP) UNIT-31, D-13
POST OFFICE BOX 1057
PARCHMAN, MS. 38738

PLAINTIFF

CIVIL ACTION NO. _____

IN RE: SUMMONS TO BE SERVED BY THIS HONORABLE CLERK ZACK WALLACE TO THE SHERIFF OF HINDS COUNTY OR
OR DIRECTLY TO THE DEFENDANT IN THIS CASE: MERIT HEALTH GROUP HOSPITAL, 1860 CHADWICK DR. SUITE 256
JACKSON, MS. 39204-3405 "SUMMONS"

ZACK WALLACE, CIRCUIT CLERK
HINDS COUNTY, FIRST DISTRICT
POST OFFICE BOX 327
JACKSON, MS. 39205

ATTORNEY GENERAL
LYNN FITCH
POST OFFICE BOX 220
JACKSON, MS. 39205

GREETING:

ENCLOSED, PLEASE FIND PLAINTIFF'S SUMMONS AND EXHIBIT "A" TO BE SERVED UPON
MERIT HEALTH GROUP HOSPITAL, 1860 CHADWICK DR. SUITE 256, JACKSON, MS. 39204-3405, BY THIS HONORABLE CIRCUIT
CLERK OF HINDS COUNTY ZACK WALLACE TO THE HIND COUNTY SHERIFF OFFICE TO DELIVER THIS SUMMON TO MERIT HEALTH
GROUP HOSPITAL OR MAIL BY THIS CIRCUIT CLERK DIRECTLY TO MERIT HEALTH GROUP HOSPITAL.
THANKING YOU IN ADVANCE FOR YOUR TIME, ATTENTION AND ASSISTANCE IN THIS MATTER.

This, the 22nd day of February, 2023

RESPECTFULLY SUBMITTED,
BY: DEAN C. BOYD #167698

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI

DEAN C. BOYD

PLAINTIFF

VS.

CAUSE NO. _____

MERIT HEALTH GROUP HOSPITAL

IN HINDS COUNTY, MISSISSIPPI

DEFENDANT

SUMMONS

TO THE SHERIFF OR PROCESS SERVER

YOU ARE COMMANDED TO SERVE: MERIT HEALTH GROUP HOSPITAL IN HINDS COUNTY, MISSISSIPPI:
1860 CHADWICK DR. SUITE 256, JACKSON, MISSISSIPPI 39204-3405

(NOTICE TO DEFENDANT)

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTIONS TO PROTECT YOUR RIGHTS. UNLESS YOU DISPUTE THE VALIDITY OF THE COMPLAINT WITHIN THIRTY (30) DAYS FROM THE RECEIPT OF THIS NOTICE THE COMPLAINT WILL BE PRESUMED TO BE VALID.

YOU ARE REQUIRED TO MAIL OR HAND-DELIVER A COPY OF THE WRITTEN RESPONSE TO THE COMPLAINT TO:
CIRCUIT COURT CLERK ZACK WALLACE OF HINDS COUNTY, FIRST DISTRICT POST OFFICE BOX 327, JACKSON, MS. 39205

(PLAINTIFF NAME AND ADDRESS)

YOUR RESPONSE MUST BE RECEIVED WITHIN (30) DAYS FROM THE DATE OF DELIVERY OF THE COMPLAINT OR A JUDGMENT BY DEFAULT WILL BE ENTERED AGAINST YOU FOR MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT. YOU MUST ALSO FILE THE ORIGINAL OF THE RESPONSE WITH THE CLERK OF THIS COURT WITHIN A REASONABLE TIME AFTERWARD.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT THIS _____ day of _____

ZACK WALLACE, CIRCUIT CLERK
HINDS COUNTY, FIRST DISTRICT
POST OFFICE BOX 327
JACKSON, MS. 39205

BY: _____

COVER SHEET

Civil Case Filing Form

(To be completed by Attorney/Party
Prior to Filing of Pleading)Mississippi Supreme Court
Administrative Office of CourtsForm AOC/01
(Rev 2016)In the CIRCUITCourt of HINDSCounty - MISSISSIPPI Judicial District

Origin of Suit (Place an "X" in one box only)

☒ Initial Filing
☐ Remanded☐ Reinstated
☐ Reopened☐ Foreign Judgment Enrolled
☐ Joining Suit/Action☐ Transfer from Other court
☒ Appeal☐ Other

Plaintiff - Party(ies) Initially Bringing Suit Should Be Entered First - Enter Additional Plaintiffs on Separate Form

Form Individual

BOYD

Last Name

DEAN

First Name

Prison No. 167698

Maiden Name, if applicable

C

M.I.

II

Jr/Sr/III/IV

Check (x) If Individual Plaintiff is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style:

Estate of BOYD DEAN C. JR., (MSP) UNIT 31, D-ZONE, Red 13, P.O. Box 1057, Parchman, Miss. 38738

Check (x) If Individual Plaintiff is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity:

D/B/A or Agency MERIT HEALTH GROUP HOSPITAL IN HINDS COUNTY, MISSISSIPPI, 1860 Chadwick Dr.Business MERIT HEALTH GROUP HOSPITAL IN HINDS COUNTY, MISSISSIPPI, SUIT 256 JACKSON MS.39204-3405

Enter legal name of business, corporation, partnership, agency - If Corporation, indicate the state where incorporated

Check (x) If Business Plaintiff is filing suit in the name of an entity other than the above, and enter below:

D/B/A MERIT HEALTH GROUP HOSPITAL IN HINDS COUNTY, MISSISSIPPI,Address of Plaintiff MISSISSIPPI STATE PENITENTIARY, Post Office Box 1057, Parchman MS. 38738

Attorney (Name & Address)

N/APRO-SE

MS Bar No.

N/A

Check (x) If Individual Filing Initial Pleading is NOT an attorney

Signature of Individual Filing: Barry Moss

Defendant - Name of Defendant - Enter Additional Defendants on Separate Form

Individual

MERIT HEALTH GROUP HOSPITAL IN HINDS COUNTY, MISSISSIPPI, C.E.O. BARRY MOSS

Last Name

First Name

Maiden Name, if applicable

M.I.

Jr/Sr/III/IV

Check (x) If Individual Defendant is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style:

Estate of MERIT HEALTH GROUP HOSPITAL IN HINDS COUNTY, MISSISSIPPI

Check (x) If Individual Defendant is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity:

D/B/A or Agency MERIT HEALTH GROUP HOSPITAL IN HINDS COUNTY AT 1860 CHADWICK DR.Business SUIT 256 JACKSON, MISSISSIPPI 39204-3405

Enter legal name of business, corporation, partnership, agency - If Corporation, indicate the state where incorporated

Check (x) If Business Defendant is acting in the name of an entity other than the above, and enter below:

D/B/A MERIT HEALTH GROUP HOSPITAL IN HINDS COUNTY, MS.

Attorney (Name & Address) - If Known

N/A PRO-SE

MS Bar No.

N/A

Check (x) If child support is contemplated as an issue in this suit.

*If checked, please submit completed Child Support Information Sheet with this Cover Sheet

Nature of Suit (Place an "X" in one box only)

- ☐
- Child Custody/Visitation
-
- ☐
- Child Support
-
- ☐
- Contempt
-
- ☐
- Divorce: Fault
-
- ☐
- Divorce: Irreconcilable Diff.
-
- ☐
- Domestic Abuse
-
- ☐
- Emancipation
-
- ☐
- Modification
-
- ☐
- Paternity
-
- ☐
- Property Division
-
- ☐
- Separate Maintenance
-
- ☐
- Term. of Parental Rights-Chancery
-
- ☐
- UIFSA (eff 7/1/97; formerly URESA)
-
- ☐
- Other

- ☐
- Administrative Agency
-
- ☐
- County Court
-
- ☐
- Hardship Petition (Driver License)
-
- ☐
- Justice Court
-
- ☐
- MS Dept. Employment Security
-
- ☐
- Municipal Court
-
- ☐
- Other

- ☐
- Accounting (Business)
-
- ☐
- Business Dissolution
-
- ☐
- Debt Collection
-
- ☐
- Employment
-
- ☐
- Foreign Judgment
-
- ☐
- Garnishment
-
- ☐
- Replevin
-
- ☐
- Other

- ☐
- Accounting (Probate)
-
- ☐
- Birth Certificate Correction
-
- ☐
- Mental Health Commitment
-
- ☐
- Conservatorship
-
- ☐
- Guardianship
-
- ☐
- Heirship
-
- ☐
- Intestate Estate
-
- ☐
- Minor's Settlement
-
- ☐
- Muniment of Title
-
- ☐
- Name Change
-
- ☐
- Testate Estate
-
- ☐
- Will Contest
-
- ☐
- Alcohol/Drug Commitment (Involuntary)

- ☐
- Alcohol/Drug Commitment (Involuntary)
-
- ☐
- Other

- ☐
- Adoption - Contested
-
- ☐
- Adoption - Uncontested
-
- ☐
- Consent to Abortion
-
- ☐
- Minor Removal of Minority
-
- ☐
- Other

- ☐
- Elections
-
- ☐
- Expungement
-
- ☐
- Habeas Corpus
-
- ☐
- Post-Conviction Relief/Prisoner
-
- ☐
- Other

- ☐
- Breach of Contract
-
- ☐
- Installment Contract
-
- ☐
- Insurance
-
- ☐
- Specific Performance
-
- ☐
- Other
-
- ☐
- Bond Validation
-
- ☐
- Civil Forfeiture
-
- ☐
- Declaratory Judgment
-
- ☐
- Injunction or Restraining Order
-
- ☐
- Other

- ☐
- Adverse Possession
-
- ☐
- Ejectment
-
- ☐
- Eminent Domain
-
- ☐
- Eviction
-
- ☐
- Judicial Foreclosure
-
- ☐
- Lien Assertion
-
- ☐
- Partition
-
- ☐
- Tax Sale: Confirm/Cancel
-
- ☐
- Title Boundary or Easement
-
- ☐
- Other

- ☐
- Bad Faith
-
- ☐
- Fraud
-
- ☐
- Intentional Tort
-
- ☐
- Loss of Consortium
-
- ☐
- Malpractice - Legal
-
- ☒
- Malpractice - Medical
-
- ☐
- Mass Tort
-
- ☐
- Negligence - General
-
- ☐
- Negligence - Motor Vehicle
-
- ☐
- Premises Liability
-
- ☐
- Product Liability
-
- ☐
- Subrogation
-
- ☐
- Wrongful Death
-
- ☐
- Other

Franklin

DEAN C. BOYD #167018
INSP UNIT-31, D-13
P.O. BOX 1057
PARMOUTH, MS. 38773

IN RE: SUMMONS NOTICE OF MISDEMEANOR COMPLAINT PURSUANT TO MISS. CODE SEC. 5-11-46(1)(2) AND 5-11-46(3) (45) DAY NOTICE REQUIREMENT AND MEDICAL WAIVER UPON CHIEF OFFICER RYAN MCGEE
AT THE LOCATION OF MISS. HEALTH GROUP HOLDING CO. 3000 S. GULF BLVD. SUITE 250 JACKSON, MS. 39204-3404. THIS SUMMONS NOTICE IS TO BE UPON MONTH 10th PROCEEDING IN CHARGE
CLARK

ATTN: ATTORNEY GENERAL
LYN J. FETTER
P.O. BOX 220
JACKSON, MS. 39225

GREETING: ATTORNEY GENERAL.
ENCLOSED PLEASE FIND PLAINT AND COMPLAINT FOR MISDEMEANOR - MONTH 10th
AND 5-11-46(1)(2) AND 5-11-46(3) (45) DAY NOTICE REQUIREMENT - TO BE SERVED AND
SERVED THROUGH THIS OFFICE OF THE ATTORNEY GENERAL UPON ALBERT HOLT JR. UPON RECEIVING TAKEN
THANKING YOU IN ADVANCE FOR YOUR ATTENTION - AND ASSISTANCE IN THIS MATTER.
THIS, THE 21st DAY OF APRIL, 2004.

RESPECTFULLY SUBMITTED
BY DEAN C. BOYD

SUMMONS: NOTICE OF MISS. TORT CLAIM ACTION PURSUANT TO MISS. CODE SEC 51-46-7(2)
NINETY DAY NOTICE REQUIREMENT

NOTICE IS HEREBY GIVEN THAT DEAN E. BOYD #16703, PLAINTIFF, RES. IN THE ABOVE NAMED
TITLE, hereby gives notice of MISS. TORT CLAIM ACTION PURSUANT TO MISS. CODE SEC 51-46-7(2)
NINETY(90) DAY NOTICE REQUIREMENT UPON HERN HOSPITAL AT 1860 STATE ST. DR.
SUIT # 256, JACKSON, MS. 39204-3244, CEO BARRY MOSS.

MISS. CONST. ART 3 § 24 (1890) PROVIDES: ALL COURTS SHALL BE OPEN AND EVERY PERSON FOR AN INJURY
done him or his family, body, PERSON OR REPUTATION SHALL HAVE REMEDY BY THE COURSE OF LAWS
AND RIGHT AND JUSTICE SHALL BE ADMINISTERED WITHOUT SALE, DENIAL OR DELAY.

This, the 3rd day of May, 2014.

RESPECTFULLY SUBMITTED,
BY DEAN E. BOYD #16703

CERTIFICATE OF SERVICE

I, DEBORAH B. BAKER do hereby declare that I have mailed a copy of the within and
enclosed legal document to the address appearing

Att. ATTORNEY GENERAL c/o a FILE

P.O. BOX 220

JACKSON MISSISSIPPI 39209

So CERTIFIED this the 3rd day of MAY 2021

RESPECTFULLY SUBMITTED
BY: DEBORAH B. BAKER

BOYD #167698
UNIT 31, D-13
P.O. Box 1057
PARCHEMAN, MS. 38738

P.K.

CAUSE NO. 3:23-CV-00313-DPS-FKB

IN RE: MOTION FOR NEW TRIAL; AMENDMENT OF JUDGMENT PURSUANT TO: FED RULE
OF CIVIL PROCEDURES RULE 59 AS WELL AS RULE 60B...

ATTN: UNITED STATE DISTRICT COURT CLERK
SOUTHERN DISTRICT OF MISS
501 E. COURT ST. STE. 2, 500
JACKSON, MISS. 39201

ATTORNEY GENERAL
LYNN FITCH
P.O. BOX 120
JACKSON, MISS. 39205

GREETING:

ENCLOSED, PLEASE FIND PETITIONER/PLAINTIFF'S MOTION FOR NEW
TRIAL; AMENDMENT OF JUDGMENT PURSUANT TO: FED. RULES OF CIVIL PROCEDURES RULE 59 AS
WELL AS RULE 60B. TO BE STAMP FILED, AND TO BE HEARD AS FURTHER PERMIT,

THANKING YOU IN ADVANCE FOR YOUR TIME, ATTENTION AND ASSISTANCE IN THIS LEGAL
MATTER. This, the 31 day of February, 2024.

RESPECTFULLY SUBMITTED,
BY: DEARL BOYD #167698

Appendix A MOTION FOR NEW TRIAL.

IN THE UNITED STATES DISTRICT COURT FOR SOUTHERN DISTRICT OF MISSISSIPPI

PLAINTIFF

CAUSE NO. 3:23-cv-313-DPJ-FVB

DEFENDANT

AMERIT HEALTH GROUP HOSPITAL

DEAN C. BOYD
vs.

MOTION FOR NEW TRIAL; AMENDMENT OF JUDGMENT PURSUANT TO: FED.
RULE OF CIVIL PROCEDURE RULE 59 AS WELL AS RULE 60 B

RESPECTFULLY SUBMITTED,
BY: DEAN C. BOYD 5/16/23

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

DEAN C. BOYD

PLAINTIFF

VS.

CAUSE NO. 3:23-cv-313-DPJ-FKB

MERIT HEALTH GROUP HOSPITAL

DEFENDANT

MOTION FOR NEW TRIAL; AMENDMENT OF JUDGMENT PURSUANT TO: FED RULE
OF CIVIL PROCEDURE RULE 59 AS WELL AS RULE 60B

COMES NOW, DEAN C. BOYD, the Plaintiff, Pro-Se, in the above-styled and numbered cause motion for new trial; Amendment of Judgment Pursuant to: Fed Rule of Civil Procedure Rule 59 as well as Rule 60B. In support thereof will show unto the Court the following facts to-wit:

I.

that the Plaintiff is a inmate confine at the Mississippi Department of Correction where he remain continuously.

II.

ISSUE NO. ONE

WHETHER THE COURT ERRORED BY GRANTING DEFENDANT'S MOTION TO DISMISS
ALLEGING PETITIONER DID NOT SUE DEFENDANT WITHIN THE STATUTES OF
LIMITATIONS.

PETITIONER/PLAINTIFF AVER that the U.S. District Court for the Southern District of Mississippi ERRORED BY GRANTING DEFENDANT MERIT HEALTH GROUP HOSPITAL (MHGH) IN JACKSON, MISSISSIPPI, MOTION TO DISMISS ALLEGING PETITIONER DID NOT SUE DEFENDANT WITHIN THE STATUTES OF LIMITATIONS when the suit (lawsuit) has been tolled, Pending in the Circuit Court of Hinds County, Clerk BARBARA DUNN, Court House 407 PASTAGOULA STREET P.O. BOX 327, JACKSON, MISSISSIPPI 39205-0327, when Plaintiff filed the Complaint therein ON OR ABOUT THE 13TH DAY OF JUNE 2022. SEE AS AN ATTACHED EXHIBIT A-K when Plaintiff had file his complaint in the wrong district which was the Circuit Court of Hinds County, Clerk BARBARA DUNN, Court House 407 PASTAGOULA STREET, P.O. BOX 327, JACKSON, MISSISSIPPI 39205-0327 when Plaintiff had absolutely no idea Hinds County had TWO (2) Circuit Courts. Thereafter, the Circuit Court Clerk for Hinds County BARBARA DUNN inform Plaintiff there was another Circuit Court in Hinds County, Mississippi, and that his lawsuit should be filed into the Circuit Court Clerk ZACK WALLACE, Hinds County, First District, P.O. BOX 327, JACKSON, MISSISSIPPI 39205. So the Circuit Clerk BARBARA DUNN forwarded his complaint to the Circuit Court Clerk ZACK WALLACE, Hinds County, First District, P.O. BOX 327, JACKSON, MISSISSIPPI 39205. Plaintiff also mailed his Complaint to the Circuit Clerk ZACK WALLACE, Hinds County, First District P.O. BOX 327, JACKSON, MISSISSIPPI 39205 and thereafter,

MOREOVER, PLAINTIFF'S lawsuit had been STAND FILED AND PENDING in the Circuit Court by Circuit Clerk BARBARA DUNN AT COURT HOUSE 407 PASADOUA STREET, P.O. BOX 327, JACKSON, MISSISSIPPI 39205-0327, FROM JUNE 13, 2022, UNTIL THE 22ND DAY OF FEBRUARY, 2023, SEE AS AN ATTACHED EXHIBIT 'A' SUMMONS AND COMPLAINT, ALSO SEE AS AN ATTACHED EXHIBIT 'B' SUMMONS AT/LOR TO HINDS COUNTY, FIRST DISTRICT, ALSO WITHIN ATTACHED EXHIBIT 'B' ON PAGE FIVE (5) IT STATES THAT PLAINTIFF COMPLAINT HAS BEEN (TILL) PENDING IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI, SINCE FOR SURE FROM THE 12TH DAY OF JULY, 2022, WHEN MISSISSIPPI STATE PENITENTIARY LEGAL ASSISTANCE PROGRAM'S NOPEY PUBLIC CHARLES HALL NOTORIZE PLAINTIFF SUMMONS AND COMPLAINT ON THE 12TH DAY OF JULY, 2022, CAUSING IT TO HAVE BEEN AN IMPOSSIBILITY FOR THE UNITED STATE DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI TO ALLEGE THAT THE PLAINTIFF DID NOT SUE DEFENDANT WITHIN THE STATUTES OF LIMITATIONS THAT APPLY TO HIS LAWSUIT, PLAINTIFF'S LAWSUIT WAS TIMELY FILED IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI, AND "MUST" BE REVERSED IN THE INTEREST OF JUSTICE, SEE Fallen vs. United State 378 U.S. 139 345, 1639, 12 L. ED 2d 760 (1964) WHERE EXCUSABLE NEGLIGENCE MAY BE SHOWN WHERE A TIMELY MAILED NOTICE WAS LATE BECAUSE OF UNANTICIPATED AND UNCONTROLLABLE DELAYS IN THE MAIL, ALSO SEE FOX vs. STATE (MISS. 1990) 571 So.2d 965 WHERE DEFENDANT DESIRING OUT-OF-TIME APPEAL MUST, AT THE VERY LEAST, SHOW THAT FAILURE TO TIME (PERFECT APPEAL) WAS THROUGH NO FAULT OF HIS OWN, ALSO SEE, MINNIFIELD vs. STATE (MISS. 1991) 535 So.2d 723 WHERE DEFENDANT WAS ENTITLED TO OUT-OF-TIME APPEAL, WHERE DEFENDANT ATTEMPTED AS BEST HE COULD, GIVEN HIS INCARCERATION, TO COMMUNICATE HIS DESIRE TO APPEAL WITHIN 30 DAYS APPEAL PERIOD, PETITIONER'S SUIT WAS TIMELY FILED, SEE EXHIBITS A-K

FURTHERMORE, PETITIONER/PLAINTIFF SUMMONS DEFENDANT (MHH) IN HINDS COUNTY, MISSISSIPPI, ON THE 3RD DAY OF MAY, 2021, WITH A SUMMONS NOTICE OF MISSISSIPPI TORT CLAIM ACT, PURSUANT TO: (MISS. CODE SEC. 31-46-11(2) NINETY (90) DAY NOTICE REQUIREMENT UPON CHIEF OFFICER BARRY MOSS (MHH) C.E.O. AT 1860 CHADWICK DR. SUIT 256, JACKSON, MISS. 39204 3404, AND HE FILED THE A COPY OF THE SUMMONS TO THE ATTORNEY GENERAL AT P.O. BOX 220, JACKSON, MISSISSIPPI 39205, SEE AS AN ATTACHED EXHIBIT 'C' STAMP FILED BY THE CIRCUIT COURT CLERK CASE: 25-241: 21-CV-00024-TTG DOCUMENT #: 5. FILED: 09/07/2021 PAGE (3 OF 18),

PETITIONER'S LAWSUIT WAS TIMELY FILED AS WELL AS HIS SUMMONS TO THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI. SEE AS AN ATTACHED EXHIBITS A, B, C, D, E, F, G, H, I, J, K,
ISSUE NO. TWO

WHETHER THE DEFENDANT MERIT HEALTH GROUP HOSPITAL SHOULD BE HELD LIABLE FOR PETITIONER'S SUFFERING INJURIES AND SUSTAINED DAMAGES AS A RESULT OF THE NEGLIGENCES MEDICAL MALPRACTICE TREATMENT THAT HE RECEIVED AT MERIT HEALTH GROUP HOSPITAL IN JACKSON, MISSISSIPPI, WHEN HE WAS INJURED BY TWO (2) NECK SURGERIES PERFORMED BY MEDICAL DOCTOR MENIVAR NIXON GADDS WHICH

DEFENDANT ALLOWED AND/OR GAVE PERFORM TWO(2) NECK SURGERIES THEREON
ON SEPTEMBER 11, 2019, AND THE OTHER ON FEBRUARY 10, 2020, LEAVING HIM A QUAD-
RIPLEGIC WITH ONLY LIMITED USAGE OF HIS RIGHT ARM AND A BURSTED HEAD WITH A LACERATED
ONE INCH LONG.

That the Plaintiff is a offender in the custody of (MDOC) at the time of the incident
giving rise to this action, he was incarcerated at Central Mississippi Correctional Fac-
ility ("CMCF") in Pearl Mississippi, and both his injuries were at the location of MERIT
HEALTH GROUP C.E.D. BARRY MISS. 1860 CHADWICK DR. SUIT CHADWICK DR. 256, JACKSON, MISS.

39 204-3404, Plaintiff AVER that (MNGH) is where he has suffered injuries and sustained
damages as a result of the negligent medical malpractice treatment that he received
at (MNGH) (herein-after (MNGH) MERIT HEALTH GROUP hospital, Plaintiff AVERS he had been a patient
of Medical Doctor MENARVA NIXON GADDIS (herein-after Gaddis) where he has suffered injuries
and sustain damages, because of her medical malpractice that he received from a total (2)
ineffective neck surgeries. First surgery was performed on the 11th day of September, 2019, at the
location of (MNGH), when (MNGH) held an overseer duty for each and every patient even Plaintiff's
health and safety. See SEALOCK vs. Colorado, 218 F.3d 1205 (2000) The Eighth Amendment forbids
unnecessary and wanton inflictions of pain, Plaintiff AVERS that he had a major neck surgery
the 11th day of September, 2019, through the front of his neck by (Gaddis) when there after
he lost all upper and lower body mobility became a quadriplegic with only usage of his
right arm limited usage, causing him to throw up blood, to pass blood, his stool to have blood
transfusions, numerous near death hospital admissions, periods of blindness unable to
swallow food correctly, housed in a prison old patient hospital bed ridden, Plaintiff AVERS
with him being desperate to regain his upper and lower body mobility, once again
he allowed (Gaddis) perform another life threatening neck surgery on him the 10th day of
February, 2020, to correct the mistake she made in the first neck surgery. See Wilson
vs. Seiter, 501 U.S. 294, 297 U.S. Ct. 2321, 115 L. Ed 2d 297 (1991) "No prison inmate can de-
monstrate an Eighth Amendment violation by showing that a prison official refused to
treat him, ignored his complaints, intentionally treated him incorrectly or engaged in
any similar conduct that would clearly evince a wanton disregard for any serious
medical needs" Id at 464 Quoting - Quilley, see as two attached exhibits A through K.

Furthermore Plaintiff AVER once again he was taken into neck surgery by (Gaddis)
on the 10th day of February, 2020, at the (MNGH) only five (5) months from the first
failed neck surgery, and that once he awakens from the second neck surgery he
was bloody with the right side of his head swollen approximately the size of a baseball
with a one (1) inch laceration in the center of the said knot which had him in excru-

indicating pain when he ask the hospital (MCHH) medical staff how did his head get burst open; they inquire that he ask (Gaddis) how did his head possibly get burst open when the surgery was to be on the back of his neck, Plaintiff avers even when he ask (Gaddis) what happen to the right side of his head injury, not only was he in excruciating pain from the side of his head burst with a inch laceration in the center of the knot the size of a baseball, his right eye had become blurred, lost of hearing in right ear, and the right side of his face went numb on top of these new conditions of illness the second neck surgery also was a total failure leaving him in his current state and/or conditions and this second neck surgery left him with a huge scar down the back of his neck and a huge knot the size of a baseball with a one (1) inch laceration in the center of the knot on the right side of his head, blurred vision in his right eye, lost of hearing in his right ear, right side of face numb, and sadly, (Gaddis) place in her record all his extremity were moving, if that may have been or not, it had taken a large toll when he awoken, the surgery was as the prior surgery just five (5) months on September 11th 2019, a complete failure, when he has gain one other thing from the 10th day of February 2020, limited usage of his right arm, Plaintiff avers he repeatedly has been dehumanized from (Gaddis) writing in his medical records that all his extremity were working perfect after surgery, this cause Plaintiff to be dehumanize by prison staff as well as by physicians, Plaintiff avers this was a breach of Supervisory duty (MCHH) had a supervisory duty as overseers to be responsible for the health and safety of Plaintiff while a patient at (MCHH) according to the eighth Amendment of the Constitution, and it were (MCHH) who gave (Gaddis) permission to perform the two (2) fail neck surgeries on Plaintiff that has left him a quadriplegic with only limited usage of his right arm, this happen at (MCHH) facility (hospital), causing Plaintiff to endure "cruel and unusual punishment" see: FARMER VS BREWER, 511 U.S. 825-114 S.Ct. 1976, 128 L.Ed.2d 511 (1994) The Supreme Court noted that in its Prohibition of cruel and unusual punishment the eighth Amendment place restraints on prison officials, who may not for example use of excessive physical force against prisoners, the Amendment also imposes duties on these officials must take reasonable measures to guarantee the safety of the inmates, also see: HARDER VS SHOWERS, 174 2d 716 (1998) "The Constitution does not mandate comfortable prisons, . . . but neither does it permit inhuman ones, and it is now settle that the treatment a prisoner receives in prison and the conditions under which he is confined are subject to scrutiny under the eighth Amendment." Plaintiff avers his eighth Amendment's which forbids "deliberate indifference, cruel and unusual punishment" as well as a failure-to-protect has been violated see: HUDSON VS McMillian, 503 U.S. (1992) citing ESTELLE, SUPRA 129 U.S. AT 102, 97 S.Ct. AT 290 "Proscribing torture and barbarous punishment was the primary concern of the drafter

of the Eighth Amendment; WILKERSON VS. UTAH 99 U.S. 130-136 25 L. Ed. 345 (1874) (It is safe to affirm that Punishment of torture... and all others in the same line of unnecessary cruelty, are forbidden by [the Eighth Amendment] Constitutional Right Against "deliberate indifference" and "Cruel and unusual Punishment" Also see: HUDSON VS. McMillian 503 U.S. 1 (1992) citing ESTELLE VS. GAMBLE 429 U.S. At 103-104 97 S.Ct. At 290) When Prison official maliciously and sadistically use force to cause harm contemporary standard of decency always are violated. This is true whether or not significant injury is evident otherwise, the Eighth Amendment would permit any physical punishment no matter how inhumane or inhuman infliction less than some arbitrary quantity of injury such result would have been as unacceptable to the drafter of the Eighth Amendment as it is today, and the Plaintiff avers that his Eighth Amendment has been violated by defendant, Plaintiff avers he were released from (MAH) on the 14th day of February, 2000, by (Gaddis), he were transported by ambulance to Allegiance Specialty Hospital in Greenville ("ASH"), later he were returned to (MSP) at Parchman Miss. Unit #42 Prison hospital, there he was met by the nurse that wanted (Gaddis) perform his February, 2000, neck surgery, moreover, Plaintiff avers that Nurse Pector came over to him and ask "I thought they killed your ass man, you wake up or went to moving after that I saw the come over to you, I couldn't see exactly what they were doing to you, when I saw you again, you were unconscious bleeding, bloody as a damn hole, what did they do to you man, I think they dropped you and/or you fell?" Plaintiff responded "Man I thought I dream that I awaken from surgery and was asked can you walk, I grabbed for the side of the bed and went unconscious, when I awaken I was in a hospital room with blood all over my clothes, my face and head had a excruciating knot the sides of a baseball on the right side of my head with a one (1) inch laceration in the center of the knot on the right side of my head (Temple area) still a quadriplegic other than limited usage of my right arm" SEEDN, Wilson vs. Seiter 501 U.S. 294, 297 (U.S. Ct. 232) U.S. Ct. 232 U.S. Ct. 232 (1992) A 410 Prison inmate can demonstrate an Eighth Amendment violation by showing that a Prison official and/or Physician refuse to treat him, ignored his complaints, intentionally treated him incorrectly or engaged in any similar conduct that would clearly evince a wanton disregard for any serious medical care, see as attached exhibits A, B, C, D, E, F, G, H, I, K, Plaintiff was only paralyzed from his left buttock down before the two (2) failed neck surgeries (Gaddis) performed on him, Plaintiff avers that he has been dehumanized by other Physicians, due to (Gaddis) placing a statement in his medical record all his extremities were working fine after surgery, as stated above whether that may have been or not an unbearable toll of his extremities had stopped working when he awaken from surgery, see Rhodes vs. Chapman 452 U.S. 337, 345-346, 101 S.Ct. 2392, 2398, 399 L. Ed. 2185 (1976) The Eighth Amendment prohibits its all Punishments, physical and mental which is totally without

Penological Justifications). Such brutality is the equivalent of torture, and is offensive to any modern standard of human dignity. See as an attach exhibits A, B, C, D, E, F, G, H, I, J, K.

LASTLY, PLAINTIFF AVERS THAT IT WERE (MCHH) RESPONSIBILITY TO PROTECT THE HEALTH AND SAFETY OF HIM AS A PATIENT, WHEN PLAINTIFF WAS ROLLED THROUGH (MCHH) HOSPITAL DOORS SEPTEMBER 11TH, 2019, AS WELL AS IN FEBRUARY 10TH, 2020, AND TURN OVER TO (MCHH) HE IMMEDIATELY BECAME (MCHH) MEDICAL RESPONSIBILITY. PLAINTIFF AVERS THAT BEING OR HAVING NOW A PERMANENT SPINE INJURY ENDANGERING HIS LIFE AND HAS LEFT HIM A QUADRIPELEGIC WITH ONLY LIMITED USAGE OF HIS RIGHT ARM, PERMANENT BODY HARM INJURIES, MERCILESS HEADACHES, PERMANENT LOSS OF VISION IN RIGHT EYE, LOSS OF HEARING IN RIGHT EAR, RIGHT SIDE OF FACE NUMB, WHICH WERE NOT FORMALLY A PART OF HIS SENTENCE TO PAY SOCIETY. PLAINTIFF AVERS IT WAS (MCHH) WHO TOOK AN AFFIRMATIVE DUTY UNDER THE MISSISSIPPI CONSTITUTION TO PROVIDE FOR THE SAFETY OF PLAINTIFF WAS NOT TO BE TAKEN LIGHT. SEE ON, SEALOCK VS. COLORADO, 213 F.3D 1305 (2000) THE EIGHTH AMENDMENT FORBIDS UNNECESSARY AND WANTON INFLICTIONS OF PAIN. U.S. CONST. AMEND 8. PLAINTIFF AVERS THE SUBSTANDARD CARE RENDERED BY (MCHH) IN JACKSON, MISSISSIPPI, BY (GADDIS) AND ITS EMPLOYEES PROXIMATELY CAUSE OR WAS A PROXIMATE CONTRIBUTING CAUSE FOR PLAINTIFF INJURIES, A SPINE INJURY THAT CAUSE HIM TO NOW BE A QUADRIPELEGIC WITH ONLY LIMITED USAGE OF HIS RIGHT ARM, CAUSE A ONE INCH LACERATION IN THE RIGHT SIDE OF HIS HEAD (TEMPLE AREA) CAUSE HIM TO HAVE BLURRED VISION IN HIS RIGHT EYE, LOSS OF FIFTY PERCENT (50%) OF HEARING IN HIS RIGHT EAR AND NUMBNESS DOWN THE RIGHT SIDE OF HIS FACE BECAUSE (GADDIS) AND (MCHH) EMPLOYEES DID NOT ACT IN GOOD FAITH TOWARD PLAINTIFF SERIOUS MEDICAL NEEDS, AND ACTED WITH INTENT UNETHICAL CONDUCT THAT CAUSED THE PLAINTIFF HARM, CAUSING SERIOUS BODY HARM TO PLAINTIFF, AND (MCHH), (GADDIS) AND (MCHH) EMPLOYEES SHOULD BE HELD LIABLE UNDER EXISTING STATE AND FEDERAL LAWS WHICH CAUSED PLAINTIFF TO HAVE ENDURED "CRUEL AND UNUSUAL PUNISHMENT AS WELL AS A FAILURE-TO-PROTECT". SEE ON, Hudson vs. McMillian, 503 U.S. (1992) CITING ESTELLE'S SUPRA-119 113, AT 102, 975, CT. AT 290) PROSCRIBING TORTURE AND BARBARIC PUNISHMENT WAS THE PRIMARY CONCERN OF THE PRIMARY CONCERN OF THE DRAFTER OF THE EIGHTH AMENDMENT. WILKERSON VS. OHIO, 1994 113, 130, 136, 25 LER 345 (1979) (IT IS SAFE TO AFFIRM THAT PUNISHMENT OF TORTURE... AND ALL OTHERS IN THE SAME LINE OF UNNECESSARY CRUELTY ARE FORBIDDEN BY [THE EIGHTH AMENDMENT]) CONSTITUTIONAL RIGHT AGAINST "DELIBERATE INDIFFERENCE AND 'CRUEL AND UNUSUAL PUNISHMENT'".

THE HORROR EXPERIENCED BY PLAINTIFF DONE BY (MCHH) (GADDIS) AND (MCHH) MEDICAL STAFF BORDER ON THE UNIMAGINABLE. THE CRUEL AND UNUSUAL PUNISHMENT PLAINTIFF ENDURED, THE FAILURE OF (MCHH) FAILURE-TO-PROTECT HIM WHILE A PATIENT AT (MCHH) WAS POTENTIALLY DEVASTATING TO THE HUMAN SPIRIT, SHAME, DEPRESSION, BODY HARM INJURIES BLURRED VISION, LOSS OF HEARING, RIGHT SIDE OF FACE NUMB, A KNOT ON THE RIGHT SIDE OF HIS HEAD THE SIZE OF A BASEBALL WITH A ONE (1) INCH LACERATION IN THE CENTER OF THE KNOT ON THE RIGHT SIDE OF HIS HEAD, A QUADRIPELEGIC WITH ONLY LIMITED USAGE OF HIS RIGHT ARM, AND A SHATTERING LOSS OF SELF-ESTEEM ACCOMPANY THE PERPETUAL TERROR PLAINTIFF HEREIN AFTER MUST ENDURE. THIS MUST BE REVERSE AND REMANDED BACK INTO THIS COURT IN THE INTEREST OF JUSTICE, AND IF NOT IT WOULD RENDER A MISARRANGE OF JUSTICE. SEE AS AN ATTACHED EXHIBITS A, B, C, D, E, F, G, H, I, J, K,

ISSUE NO. THREE

Penological Justification). Such brutality is the equivalent of torture, and is offensive to any modern standard of human dignity. See attached exhibits A-D, G, H, I, J, K.

ISSUE NO. THREE

WHETHER IF THERE HAD BEEN AN EVIDENTIARY HEARING HELD THERE LIE A STRONG PROBABILITY THAT THERE WOULD HAVE BEEN A TOTALLY DIFFERENT OUTCOME IN THIS CASE

PLAINTIFF AVERS THAT IF THERE HAD BEEN AN EVIDENTIARY HEARING HELD IN THIS LAWSUIT THERE LIE A STRONG PROBABILITY THAT THERE WOULD HAVE BEEN A TOTALLY DIFFERENT OUTCOME IN THIS CASE, BECAUSE A GENUINE DISPUTE OF MATERIAL FACTS MEANS THAT EVIDENCE IS SUCH (WITNESSES, TESTIMONY, MEDICAL RECORDS ETC...) THAT A REASONABLE JURY COULD RETURN A VERDICT. SEE ON ROYAL VS. CCCC & TRESKAR HOLES 1:11-786 F.3d 396, 400 (5th Cir. 2013) QUOTING ANDERSON VS. LIBERTY CLOVE VS. INC. 447 U.S. 242, 248 (1980) PLAINTIFF AVERS THAT HIS COMPLAINT CONTAINS SUFFICIENT FACTUAL MATTER. SEE, ASH CRAFT VS. TOTAL 556 U.S. 467 678 QUOTING BELL ATLANTIC CORP. VS. TWOMBLY, 550 U.S. 544 AT 762. SEE ATTACHED EXHIBITS A-K.

PLAINTIFF AVERS THAT THE COMPLAINT (LAWSUIT) HEREIN WAS STAMP FILED IN THE CIRCUIT COURT OF HINDS COUNTY, CLERK BARBARA DUNN, COURT HOUSE 407 PASTAGOULA STREET, P.O. BOX 327, JACKSON, MISSISSIPPI 39205-7327 WHEN PLAINTIFF FILED THE COMPLAINT THEREIN ON OR ABOUT THE 13TH DAY OF JULY, 2022. SEE AS AN ATTACHED EXHIBIT A-K. THEREAFTER WHEN HIS COMPLAINT (LAWSUIT) HAD BEEN PENDING FOR APPROXIMATELY EIGHT (8) MONTHS, THE CIRCUIT COURT CLERK OF HINDS COUNTY BARBARA DUNN ADVISED PLAINTIFF THAT SHE WAS FORWARDING HIS COMPLAINT (LAWSUIT) TO THE CIRCUIT COURT CLERK ZACK WALLACE IN HINDS COUNTY, FIRST DISTRICT P.O. BOX 327, JACKSON, MISSISSIPPI 39205 ON OR ABOUT FEBRUARY 22ND 2023. SEE AS AN ATTACHED EXHIBIT A SUMMONS AND COMPLAINT. PLAINTIFF ALSO MAILED HIS SUMMONS AND COMPLAINT TO THE CIRCUIT COURT CLERK ZACK WALLACE IN HINDS COUNTY, FIRST DISTRICT, P.O. BOX 327, JACKSON, MISS. 39205.

PLAINTIFF WAS UNAWARE THAT HINDS COUNTY HAD TWO (2) CIRCUIT COURTS. SEE AS AN ATTACHED EXHIBIT A SUMMONS AND COMPLAINT. ALSO SEE AS AN ATTACHED EXHIBIT B SUMMONS AT OR TO HINDS COUNTY FIRST DISTRICT CIRCUIT COURT PAGE FIVE (5) IT SUFFICE THAT PLAINTIFF'S COMPLAINT HAD BEEN (TOLL) PENDING IN THE CIRCUIT COURT OF HINDS COUNTY, MISS. SINCE THE 12TH DAY OF JULY, 2022, WHERE MISSISSIPPI STATE PENITENTIARY (MSP) LEGAL ASSISTANCE PROGRAM'S NOTARY PUBLIC CHARLES HILL, NOTARIZE PLAINTIFF'S SUMMONS AND COMPLAINT ON THE 12TH DAY OF JULY, 2022, AND NOTIFIED IT INTO HINDS COUNTY CIRCUIT COURT, CAUSING IT TO HAVE BEEN AN IMPOSSIBILITY FOR THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI TO ALLEGED THAT THE PLAINTIFF DID NOT SUE DEFENDANT (CRAIG) WITHIN THE STATUTES OF LIMITATIONS, THEREAFTER, DEFENDANT (M. HILL) AND PLAINTIFF LAWSUIT (COMPLAINT) REMOVED FROM THE HINDS COUNTY, FIRST DISTRICT CIRCUIT COURT INTO THIS HONORABLE COURT THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI FOR ITS OWN REASON AND

Plaintiff's lawsuit (complaint) was timely filed in the Circuit Court of Hinds County, Mississippi, and "must" should be reversed in the interest of justice. See MINNIFIELD VS. STATE, (Miss. 1991) 585 So. 2d 993 where defendant was entitled to out-of-time appeals where defendant attempted as best he could, given his incarceration, to communicate his desire to appeal within 30 days appeal period, PETITIONERS suit was timely filed. See as an attached exhibits A, B, C, D, E, F, G, H, I, J, K.

Plaintiff avers after diligently researching this case, speaking with his witness, abuse report, negligent medical malpractice treatment that he received at (M. H. H.), he is apprise that there exist genuine issues for trial. See LITTLE vs. Liquid Detergents 87 F.3d 1069, 1075/56 Cir. 1994. Plaintiff avers if given his constitutional right of the Seventh Amendment's jury trial demand as this court has not granted him, he would go beyond the pleadings and designate specific facts showing that there is a genuine issue for trial. See exhibits A-K, drawing together the above threads of issue/complaints considered above Plaintiff conclude that his claims are constitutionally alive and he is entitled to an award, and not to award Plaintiff to or upon said damages, and individual capacity relief, and not to award Plaintiff to or upon said damages would amount to a deprivation without due process of law in violation of the First, Fifth, Sixth, seventh, eighth and fourteenth Amend. of the United States Constitution and the Mississippi Constitution. Plaintiff lawsuit (complaint) should be reversed, for his lawsuit was timely file within the statutes of limitation and not to reverse would be a miscarriage of justice. See attached exhibits A, B, C, D, E, F, G, H, I, J, K.

CONCLUSION

WHEREFORE PREMISES CONSIDERED, DEAN C. ROYD, the Plaintiff, Pray this honorable Court would enter an order granting his Motion for New Trial; Amendment of Judgment. Pursuant to: Fed. Rule of Civil Procedures rule 59 as well as Rule 60B, and/or grant Plaintiff Plaintiff request for redress (monetary damage) for Past, Present and future Pain and Suffering's PERMANENT body harm, body harm injuries, mental and emotional and mental anguish he will settle for twenty-five million dollars (\$25,000,000), all court cost generated in this suit, and/or any other relief this honorable Court deem equitable and consistent with the above complaint. Thanking you in advance for your time, attention and assistance in this matter.

This the 31st day of February, 2024.

RESPECTFULLY SUBMITTED,

By: DEAN C. ROYD #162668

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this motion for new trial... was placed in the PROX MAILING SYSTEM ON 1-5-2024 Date.

SIGNATURE OF PLAINTIFF

SWORN TO AND SUBSCRIBED, before me this the _____ day of _____

2024,

NOTARY PUBLIC

STATE OF MISSISSIPPI
COUNTY OF _____

AFFIDAVIT OF OATH

PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED AUTHORITY IN AND FOR THE AFORESAID JURISDICTION, DEAN L. BOYD, M.D., D.C. # 167688, WHO, BEING DULY SWORN ON HIS OATH, DOES DEPOSE AND SAYETH:

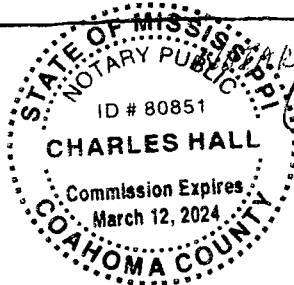
I, DEAN L. BOYD, D.C. SOLEMNLY SWEAR/AFFIRM THAT THE ABOVE COMPLAINT HEREIN SHOWS PROBABLE CAUSE THAT IT SHOULD BE BELIEVED THAT AN OFFENSE HAS BEEN COMMITTED, AND THAT THE DEFENDANT MERIT HEALTH GROUP HOSPITAL IN HINDS COUNTY, LAST KNOWN ADDRESS: 1860 CHADWICK DR. SUITE 256 JACKSON, MISSISSIPPI 39204-3404, COMMITTED A NEGLIGENT MEDICAL MALPRACTICE TREATMENT THAT HE RECEIVED AT MERIT HEALTH GROUP HOSPITAL IN JACKSON, MISSISSIPPI ON TWO (2) SEPARATE OCCASIONS, ONE ON SEPTEMBER 11, 2019 AND THE OTHER ON FEBRUARY 10, 2020, AND DEAN BOYD, PRAY THAT IN THIS CASE THAT IT BE REVERSE AND REMANDED BACK TO THE DISTRICT BECAUSE THE FILING OF HIS LAWSUIT WAS WITHIN THE STATUTES OF LIMITATION AS DEMONSTRATED ABOVE AND THAT HE BE GRANTED REDRESS MONETARY DAMAGES FOR PAST, PRESENT AND FUTURE DAMAGES ARISING FROM THIS CONSTITUTIONAL VIOLATION AND ALL COURT GENERATED FROM THIS LAWSUIT, AND/OR ANY OTHER RELIEF THIS HONORABLE COURT DEEM EQUITABLE AND CONSISTENT WITH THE ABOVE COMPLAINT FOR A SUM OF TWENTY-FIVE MILLION DOLLARS (\$25,000,000.00); AND THAT, TO THE BEST OF MY BELIEF, I AM ENTITLED TO THE REDRESS WHICH I SEEK IN "RELIEF SOUGHT/CONCLUSION" HEREIN SEEK BY SUCH SORT, SEE AS AN ATTACHED EXHIBITS A, B, C, D, E, F, G, H, I, J, K.

I DECLARE (OR CERTIFY, VERIFY, OR STATE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS PETITION UNDER 28 U.S.C. § 2254 FOR MOTION FOR NEW TRIAL, WAS PLACED IN THE PRISON MAILING SYSTEM ON 1-5-2024 2024

[Signature]
SIGNATURE OF PLAINTIFF

SWORN TO AND SUBSCRIBED, BEFORE ME THIS the 5TH day of

February, 2024.



CERTIFICATE OF SERVICE

THIS is to CERTIFY that I, the undersigned, have this day AND date mailed,
via UNITED STATES MAIL, Postage Pre-paid, a true and correct copy of the foregoing AND
attached instruments to the following:

UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF MISS.
501 E. COURT ST. STE. 21500
JACKSON, MS. 39201

ATTORNEY GENERAL
LYNN FITCH
P.O. BOX 220
JACKSON, MS. 39205

THIS the 3rd day of ~~Jan~~ Feb 2024.

RESPECTFULLY SUBMITTED,
BY: DEAN C. BOYD #67698

DEAN C. BOYD #167698
(MSD) UNIT-31, D-13
P.O. BOX 1057
PARHAM, MS. 38738

PETITIONER

CAUSE NO. _____

IN RE: COMPLAINT

CIRCUIT COURT CLERK
BARBARA DUNN

COURT HOUSE 407 PASCAGOULA STREET
POST OFFICE BOX 327
JACKSON, MS. 39205-0327

ATTORNEY GENERAL
POST OFFICE BOX 220
JACKSON, MS. 39205

GREETING:

ENCLOSED, PLEASE FIND PLAINTIFF'S COMPLAINT ALONG WITH A SUMMONS TO BE
STAMP FILED AS TIME PERMIT, THANKING YOU IN ADVANCE FOR YOUR TIME, ATTENTION AND
ASSISTANCE IN THIS MATTER. THIS, THE 15th DAY OF JUNE, 2022.

RESPECTFULLY SUBMITTED,

BY: DEAN C. BOYD #167698

"6-13-2022"

APPENDIX B COMPLAINT

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI

DEAN C. BOYD #167698

PLAINTIFF

VS.

CAUSE NO. _____

MERIT HEALTH GROUP HOSPITAL

IN HINDS COUNTY, MISSISSIPPI

DEFENDANT

COMPLAINT

COMES NOW, DEAN C. BOYD, PETITIONER, AND files this his Complaint and would show unto this Honorable Court the following, to-wit:

I.

PREVIOUS ACTIONS

HAVE YOU BEGUN ANY OTHER ACTION(S) IN STATE OR FEDERAL COURT DEALING WITH THE SAME FACTS INVOLVED IN THIS ACTION OR OTHERWISE RELATING TO YOUR IMPRISONMENT? YES ☒ NO? IF YOUR ANSWER TO THE ABOVE QUESTION IS YES, DESCRIBE THE ACTION IN THE SPACES PROVIDED BELOW. (IF THERE ARE ADDITIONAL ACTIONS, USE A SEPARATE SHEET OF PAPER FOR EACH ADDITIONAL ACTION)

A. PARTIES TO THE PREVIOUS ACTION:

PETITIONER(S) N/A

RESPONDENT(S) N/A

B. COURT: N/A

C. DOCKET NUMBER: N/A

D. NAME OF JUDGE TO WHOM THE CASE WAS ASSIGNED: N/A

E. DISPOSITION OF THE CASE: N/A

F. DATE OF FILING OF THE ACTION: N/A

G. DATE OF DISPOSITION: N/A

II.

PLACE OF CONFINEMENT

IS THERE A PRISONER GRIEVANCE PROCEDURE IN YOUR INSTITUTION? YES ☒ NO ☐
DID YOU PRESENT THE FACTS RELATING TO YOUR COMPLAINT TO THE INSTITUTION'S GRIEVANCE PROCEDURE? YES ☒ NO ☐

IF YOUR ANSWER WAS YES,

A. WHAT STEPS DID YOU TAKE? PURSUED GRIEVANCE TO CONCLUSION

B. WHAT WAS THE RESULT? GRIEVANCE WAS REJECTED

IF YOUR ANSWER WAS NO, EXPLAIN WHY NOT: N/A

IF THERE IS NO GRIEVANCE PROCEDURE IN THE INSTITUTION, DID YOU COMPLAIN TO PRISON AUTHORITIES? YES ☒ NO ☐

IF YOUR ANSWER WAS YES,

A. WHAT STEPS DID YOU TAKE? PURSUED GRIEVANCE THROUGH CONCLUSION

B. WHAT WAS THE RESULT? GRIEVANCE WAS REJECTED

III.

PARTIES TO THIS ACTION

I, DEAN L. BOYD, AM THE PETITIONER IN THIS ACTION AND AM HOUSED AT MISSISSIPPI STATE PENITENTIARY
RESPONDENT: MERIT HEALTH GROUP HOSPITAL, TALLAHASSEE COUNTY, FLA. EMPLOYED AS MERIT
HEALTH GROUP, TALLAHASSEE COUNTY, FLA.

IV.

STATEMENT OF CLAIMS

THE FOLLOWING IS A BRIEF SUMMARY OF THE FACTS OF THE CASE. (DESCRIBE HOW EACH RESPONDENT IS INVOLVED, INCLUDING DATES, PLACES AND NAMES. DO NOT GIVE LEGAL ARGUMENTS OR CITE ANY CASES / STATUTES. IF YOU INTEND TO ALLEGE A NUMBER OF RELATED CLAIMS, NUMBER AND SET FORTH EACH CLAIM IN A SEPARATE PARAGRAPH. USE ADDITIONAL PAGES IF NECESSARY.)

THAT THE PLAINTIFF IS A OFFENDER IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTION ("MDOC") AT THE TIME OF THE INCIDENT GIVING RISE TO THIS ACTION. HE WAS INCARCERATED AT CENTRAL MISSISSIPPI CORRECTIONAL FACILITY ("CMCF") IN PEARL, MISSISSIPPI, AND BOTH HIS INJURIES WERE AT THE LOCATION OF MERIT HEALTH MEDICAL GROUP, C.B.O. BARRY MOSS, AT THE LOCATION OF MERIT HEALTH GROUP, C.B.O. BARRY MOSS, AT THE LOCATION OF 1860 CHADWICK DR. SUITE CHADWICK DR. 256, JACKSON, MS. 39204-3404. PLAINTIFF AVER THE MERIT HEALTH MEDICAL GROUP IS WHERE HE HAS SUFFERED INJURIES AND SUSTAINED DAMAGES AS A RESULT OF THE NEGLIGENT MEDICAL MALPRACTICE TREATMENT THAT HE RECEIVE AT MERIT HEALTH GROUP HOSPITAL (HEREIN-AFTER KNOWN-AS-AMHG), PLAINTIFF AVER HE HAD BEEN A PATIENT OF MEDICAL DOCTOR MENARVIN NIXON GADDIS WHERE HE HAS SUFFERED INJURIES AND SUSTAINED DAMAGES BECAUSE OF HER MEDICAL MALPRACTICE THAT HE RECEIVED FROM TWO (2) INEFFECTIVE NECK SURGERIES. FIRST SURGERY WAS PERFORM ON THE 11TH DAY OF SEPTEMBER 2019, AT THE LOCATION OF MERIT HEALTH GROUP 1860 CHADWICK DR. SUITE 256 JACKSON, MISSISSIPPI 39204-3404, WHERE (AMHG) HAD AN OVERSEER DUTY FOR EACH AND EVERY PATIENT EVEN PLAINTIFF HEALTH AND SAFETY. PLAINTIFF AVER THAT HE HAD MAJOR NECK SURGERY THE 11TH DAY OF SEPTEMBER, 2019, THROUGH THE FRONT OF HIS NECK BY (GADDIS) WHEN THEIR AFTER HE LOST ALL UPPER AND LOWER BODY MOBILITY BECAME A QUADRIPLEGIC WITH ONLY USES OF HIS RIGHT ARM, CAUSE HIM TO THROW UP BLOOD, TO PASS BLOOD IN HIS STOOL, TO HAVE BLOOD TRANSFUSIONS, NUMEROUS NEAR DEATH HOSPITAL ADMISSIONS, PERIODS OF BLINDNESS UNABLE TO SWALLOW FOOD CORRECTLY HOUSED IN A PRISON HOSPITAL BEDRIDDEN. PLAINTIFF AVER WITH HIM BEING DESPERATE TO REGAIN HIS UPPER AND LOWER BODY MOBILITY. ONCE AGAIN HE ALLOWED DR. GADDIS TO TAKE ANOTHER (MISTAKE) WHICH MIMICED HER MISTAKE HE ALLOW DR. GADDIS TO PERFORM. YET ANOTHER NECK SURGERY ON HIM THE 11TH DAY OF FEBRUARY, 2020. FURTHER MORE, PLAINTIFF AVER ONCE AGAIN HE WAS TAKEN INTO NECK SURGERY BY DR. GADDIS ON THE 10TH DAY OF FEBRUARY, 2020, AT THE MERIT HEALTH GROUP HOSPITAL 1860 CHADWICK DR. SUITE 256, JACKSON, MS. 39204-3404 (ONLY ABOUT FIVE MONTHS APART), AND THAT ONCE HE AWOKEN FROM NECK SURGERY HE WERE BLOODY WITH THE RIGHT SIDE OF HIS HEAD SWOLLEN APPROXIMATELY THE SIZE OF A BASE BALL WITH A ONE (1) INCH INCORPORATION DIRECTLY IN THE CENTER OF THE KNOT (KNOT) WHICH

had him in EXCRUCIATING, MERCILESS PAIN, WHEN HE ASK THE HOSPITAL STAFF THEY INQUIRE HE ASK DR. GADDIS HOW DID HIS HEAD POSSIBLY GET BURST OPEN WHEN THE SURGERY WAS TO BE ON THE BACK OF HIS NECK, PLAINTIFF AVER EVEN WHEN HE ASK DR. GADDIS WHAT HAPPEN TO THE SIDE OF HIS HEAD HE WAS ONLY ANSWERED WITH ANOTHER QUESTION RECEIVING NO SURE ANSWER OF WHAT CAUSE HIS HEAD INJURY WHEN NOT ONLY WAS HE IN EXCRUCIATING PAIN FROM THE SIDE OF HIS HEAD BURST WITH A ONE INCH LACERATION IN THE CENTER OF IT, HIS RIGHT EYE HAD BECOME BLURRED, A LOSE OF HEARING IN RIGHT EAR AND THE RIGHT SIDE OF HIS FACE NUMB ON TOP OF THESE NEW CONDITIONS THE SURGERY HAD LEFT HIM IN HIS PRIOR STATE, AND THIS SECOND NECK SURGERY LEFT HIM WITH A HUGE SCAR DOWN THE BACK OF HIS NECK AND LARGE KNOT THE SIZE OF A BASEBALL WITH A LARGE ONE INCH LACERATION IN THE CENTER OF THAT KNOT, THIS SURGERY ADDED PROBLEMS RIGHT SIDE OF FACE NUMB, LOSE OF HEARING IN RIGHT EAR, BLURRED VISION IN RIGHT EYE, WHEN DR. GADDIS PLACE IN HER RECORD ALL HIS EXTREMITY, IF THAT MAY HAVE BEEN OR NOT, IT HAD TAKEN A LARGE TOLL WHEN HE AWAKEN, THE SURGERY WERE AS THE PRIOR SURGERY JUST FIVE MONTHS A COMPLETE FAILURE WHEN HE STILL DID NOT REPAIR HIS UPPER AND LOWER BODY MOBILITY OTHER THAN HIS RIGHT ARM, PLAINTIFF AVER HE HAS GAIN ONE OTHER THING FROM THE 10th DAY OF FEBRUARY, 2020, SURGERY AND THAT REPEATEDLY BEING DEHUMANIZE BY DR. GADDIS WRITING IN HIS MEDICAL RECORDS THAT ALL HIS EXTREMITY WERE WORKING PERFECT AFTER SURGERY, THIS CAUSE HIM TO BE DEHUMANIZE BY PRISON STAFF AS WELL AS BY PHYSICIANS, PLAINTIFF AVER & HIS POSSIBLE A BREACH OF SUPERVISORY DUTY, MERIT HEALTH GROUP HOSPITAL HAD A SUPERVISORY DUTY AS OVERSEERS TO BE RESPONSIBLE FOR THE HEALTH AND SAFETY OF PLAINTIFF ACCORDING TO THE EIGHTH AMENDMENT OF THE CONSTITUTION, AND IT WERE MERIT HEALTH GROUP HOSPITAL GAVE DR. GADDIS TO PERFORM SURGERIES AT THEIR FACILITY (HOSPITAL), PLAINTIFF AVER HIS EIGHTH AMENDMENTS WHICH FORBID'S DELIBERATE INDIFFERENCE, CRUEL AND USUAL PUNISHMENT AND FAILURE TO PROTECT HAS BEEN VIOLATED, PLAINTIFF AVER HE WERE RELEASED FROM MERIT HEALTH GROUP HOSPITAL ON THE 14th DAY OF FEBRUARY, 2020, BY DR. GADDIS, TRANSPORTED BY AMBULANCE TO ALLEGIANCE SPECIALTY HOSPITAL IN GREENVILLE, TN, HE RETURNED TO (MISSISSIPPI STATE PENITENTIARY) AT PARCHMAN, MS, UNIT 42- PRISON HOSPITAL, THERE HE WAS MET BY THE NURSE THAT WATCH DR. GADDIS PERFORM HIS FEBRUARY 10th 2020, NECK SURGERY, AND OVER, PLAINTIFF AVER THAT NURSE PROCTOR CAME OVER TO HIM AND ASK "I THOUGHT THEY KILLED YOUR ASS MAN, YOU WOKE UP OR WENT TO MOVING AFTER THAT I SAW THEM COME OVER TO YOU, I COULDN'T SEE EXACTLY WHAT THEY WERE DOING WHEN I SAW YOU AGAIN YOU WERE UNCONSCIOUS BLEEDING BLOODY AS A DAM HOB, WHAT DID THEY DO TO YOU MAN" PLAINTIFF RESPONDED "MAN I THOUGHT I DREAM THAT MYSELF IN SOME WAY GOING UNCONSCIOUS WHEN I BURST MY HEAD OPEN LEAVING A ONE INCH LACERATION IN THE RIGHT SIDE (TEMPLE AREA) OF MY HEAD WHEN IT WAS SWOLLEN APPROXIMATELY THE SIZE OF A BASEBALL BLOODY AND HAD WAS IN EXCRUCIATING, MERCILESS PAIN STILL A QUADRIPLEGIA OTHER THAN USES OF HIS RIGHT ARM, PLAINTIFF WAS ONLY PARALYZE FROM HIS LEFT BUTTOCK DOWN UNTIL THE TWO (2) FAILED NECK SURGERY'S DR. GADDIS PERFORMED ON HIM, PLAINTIFF AVER THAT HE HE HAS BEEN DEHUMANIZED BY OTHER PHYSICIANS DUE TO DR. GADDIS PLACING A STATEMENT IN HIS MEDICAL RECORD ALL HIS EXTREMITIES WERE WORKING FINE AFTER SURGERY, AS STATED ABOVE

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI

DEAN C. BOYD #167698

PLAINTIFF

Summons and
Complaint

VS.

CAUSE NO. _____

MERIT HEALTH GROUP HOSPITAL

IN HINDS COUNTY, MISSISSIPPI

DEFENDANT

COMPLAINT

COMES NOW, DEAN C. BOYD, PETITIONER, AND files this his Complaint AND would show
unto this Honorable Court the following to-wit:

I.

PREVIOUS ACTIONS

HAVE YOU BEGUN ANY OTHER ACTION(S) IN STATE OR FEDERAL COURT DEALING WITH THE
SAME FACTS INVOLVED IN THIS ACTION OR OTHERWISE RELATING TO YOUR IMPRISONMENT?
YES NO? IF YOUR ANSWER TO THE ABOVE QUESTION IS YES, DESCRIBE THE ACTION IN
THE SPACES PROVIDED BELOW. (IF THERE ARE ADDITIONAL ACTIONS, USE A SEPARATE SHEET OF PA-
PER FOR EACH ADDITIONAL ACTION.)

A. PARTIES TO THE PREVIOUS ACTIONS:

PETITIONER(S) N/A

RESPONDENT(S) N/A

B. COURT: N/A

C. DOCKET NUMBER: N/A

D. NAME OF JUDGE TO WHOM THE CASE WAS ASSIGNED: N/A

E. DISPOSITION OF THE CASE: N/A

F. DATE OF FILING OF THE ACTIONS: N/A

G. DATE OF DISPOSITION: N/A

II.

PLACE OF CONFINEMENT

IS THERE A PRISONER GRIEVANCE PROCEDURE IN YOUR INSTITUTION? YES NO
DID YOU PRESENT THE FACTS RELATING TO YOUR COMPLAINT TO THE INSTITUTION'S GRIEVANCE
PROCEDURE? YES NO.

IF YOUR ANSWER WAS YES,

A. WHAT STEPS DID YOU TAKE? PURSUED GRIEVANCE TO CONCLUSION

B. WHAT WAS THE RESULT? GRIEVANCE WAS REJECTED

IF YOUR ANSWER WAS NO, EXPLAIN WHY NOT: N/A

IF THERE IS NO GRIEVANCE PROCEDURE IN THE INSTITUTION, DID YOU COMPLAIN TO PRISON
AUTHORITIES? YES NO

IF YOUR ANSWER WAS YES,

A. WHAT STEPS DID YOU TAKE? PRISON GRIEVANCE PROCEDURE FOLLOWED

B. WHAT WAS THE RESULT? GRIEVANCE WAS REJECTED

III.

PARTIES TO THIS ACTION

I, DENN L. BOYD, AM THE PLAINTIFF IN THIS ACTION AND AM HOUSED AT MISSISSIPPI STATE PENITENTIARY.
RESPONDENT MERIT HEALTH GROUP HOSPITAL, TOLSON COUNTY, MISS. EMPLOYED AS MERIT
HEALTH GROUP, TOLSON COUNTY, MISS.

IV.

STATEMENT OF CLAIMS

THE FOLLOWING IS A BRIEF SUMMARY OF THE FACTS OF THE CASE. (DESCRIBE HOW EACH RESPONDENT IS INVOLVED, INCLUDING DATES, PLACES AND NAMES. DO NOT GIVE LEGAL ARGUMENTS OR CITE ANY CASES / STATUTES. IF YOU INTEND TO ALLEGES A NUMBER OF RELATED CLAIMS, NUMBER AND SET FORTH EACH CLAIM IN A SEPARATE PARAGRAPH. USE ADDITIONAL PAGES IF NECESSARY.)

That the Plaintiff is an offender in the custody of the Mississippi Department of Corrections ("MDOC") at the time of the incident giving rise to this action. HE WAS INCARCERATED IN CENTRAL MISSISSIPPI CORRECTIONAL FACILITY ("CANCE") IN Pearl, Mississippi, AND BOTH HIS INJURIES WERE AT THE LOCATION OF MERIT HEALTH MEDICAL GROUP, C.B.D. BARRY MOSS, AT THE LOCATION OF MERIT HEALTH GROUP, C.B.D. BARRY MOSS, AT THE LOCATION OF 1860 CHADWICK DR. SUITE 256, JACKSON, MS. 39204-3404. PLAINTIFF AVER THE MERIT HEALTH MEDICAL GROUP IS WHERE HE HAS SUFFERED INJURIES AND SUSTAINED DAMAGES AS A RESULT OF THE NEGLIGENT MEDICAL MALPRACTICE TREATMENT THAT HE RECEIVED AT MERIT HEALTH GROUP HOSPITAL (HEREIN-AFTER KNOWN-AS-MHGH), PLAINTIFF AVER HE HAD BEEN A PATIENT OF MEDICAL DOCTOR MENARVIN NIXON GADDIS WHERE HE HAS SUFFERED INJURIES AND SUSTAINED DAMAGES BECAUSE OF HER MEDICAL MALPRACTICE THAT HE RECEIVED FROM TWO (2) INEFFECTIVE NECK SURGERIES. FIRST SURGERY WAS PERFORMED ON THE 11TH DAY OF SEPTEMBER 2019, AT THE LOCATION OF MERIT HEALTH GROUP 1860 CHADWICK DR. SUITE 256 JACKSON, MISSISSIPPI 39204-3404, WHERE (MHGH) HELD AN OVERSEER DUTY FOR EACH AND EVERY PATIENT EVEN PLAINTIFF HEALTH AND SAFETY. PLAINTIFF AVER THAT HE HAD MAJOR NECK SURGERY THE 11TH DAY OF SEPTEMBER, 2019 THROUGH THE FRONT OF HIS NECK BY (GADDIS) WHEN & THEIR AFTER HE LOST ALL UPPER AND LOWER BODY MOBILITY BECAME A QUADRIPLEGIC WITH ONLY USES OF HIS RIGHT ARM. CHASE HIM TO THROW UP BLOOD, TO PASS BLOOD IN HIS STOOL, TO HAVE BLOOD TRANSFUSIONS, NUMEROUS NEAR-DEATH HOSPITAL ADMISSIONS, PERIODS OF BLINDNESS UNABLE TO SWALLOW FOOD CORRECTLY HOUSED IN A PRISON HOSPITAL BEDRIDDEN. PLAINTIFF AVER WITH HIM BEING DESPERATE TO REGAIN HIS UPPER AND LOWER BODY MOBILITY. ONCE AGAIN HE ALLOWED DR. GADDIS TO TAKE ANOTHER (NECK) WHICH MIMICRED HER MISTAKE HE ALLOW DR. GADDIS TO PERFORM. YET ANOTHER NECK SURGERY ON HIM THE 10TH DAY OF FEBRUARY, 2020. FURTHER MORE, PLAINTIFF AVER ONCE AGAIN HE WAS TAKEN INTO NECK SURGERY BY DR. GADDIS ON THE 10TH DAY OF FEBRUARY, 2020, AT THE MERIT HEALTH GROUP HOSPITAL 1860 CHADWICK DR. SUITE 256, JACKSON, MS. 39204-3404, ONLY ABOUT FIVE MONTHS AFTER, AND THAT ONCE HE AWAKEN FROM NECK SURGERY HE WERE BLOODY WITH THE RIGHT SIDE OF HIS HEAD SWOLLEN APPROXIMATELY THE SIZE OF A BASE BALL WITH A ONE INCH LACERATION DIRECTLY IN THE CENTER OF THE "KNOT" (HEAD) WHICH

had him in EXCRUCIATING, MERCILESS PAIN, when he ask the hospital staff they inquiring he ask Dr. Gaddis how did his head possibly get burst open when the surgery was to be on the back of his neck. Plaintiff never even when he ask Dr. Gaddis what happen to the side of his head he was only answered with another question RECEIVING NO SURE ANSWER OF WHAT CAUSE HIS HEAD INJURY WASN NOT ONLY WAS HE IN EXCRUCIATING PAIN FROM THE SIDE OF HIS HEAD BURST WITH A 1 INCH LACERATION IN THE CENTER OF IT, HIS RIGHT EYE had become blurred, a loss of hearing in right ear and the right side of his face numb. In fact of these new conditions the surgery and left him in his Prison State, and this second neck surgery left him with a huge scar down the back of his neck and made Knot the size of a baseball with a large one inch laceration in the center of that Knot. This surgery cause Problems right side of face numb, loss of hearing in right ear, blurred vision in right eye. When Dr. Gaddis Place in her record all his extremities if that may have been or not, it had taken a large toll when he awaked, the surgery was as the prior surgery just five months a complete failure when he still did not regain his upper and lower body mobility other than his right arm. Plaintiff never he has gain one other thing from the 10th day of February, 2020, surgery and that repeatedly being dehumanize by Dr. Gaddis writing in his medical records that all his extremities were working perfect after surgery, this cause him to be dehumanize by Prison staff as well as by physicians. Plaintiff never + his possible a breach of supervisory duty. Merit Health Group hospital had a supervisory duty as OVERSEERS to be responsible for the health and safety of Plaintiff according to the Eighth Amendment of the Constitution, and it were Merit Health Group hospital gave Dr. Gaddis to perform surgeries at their facility (hospital). Plaintiff over his Eighth Amendments which forbid's 'deliberate indifference', cruel and unusual punishment and failure-to-protect has been violated. Plaintiff never he were released from Merit Health Group hospital on the 14th day of February, 2020. by Dr. Gaddis, transported by ambulance to Allegiance Specialty Hospital in Greenville, later returned to (Mississippi State Penitentiary) at Parchman, MS, UNIFORM PRISON hospital, there he was met by the nurse that watch Dr. Gaddis perform his February 10th 2020, neck surgery, moreover, Plaintiff over that nurse Proctor came over to him and ask "I thought they killed your ass man, you woke up or went to moving after that I saw them come over to you, I couldn't see exactly what they were doing when I saw you again you were unconscious bleeding bloody as a dam hog, what did they do to you man?" Plaintiff responded "man I thought I dream that myself in some way going unconscious when I burst my head open leaving a one inch laceration in the right side (Temple area) of my head when it was swollen approximately the size of a baseball bloody and had had in EXCRUCIATING, MERCILESS PAIN still a Quadriplegia other than uses of his right arm. Plaintiff was only Paralyze from his left buttock down until the two (2) failed neck surgery's Dr. Gaddis performed on him. Plaintiff over that he has been dehumanized by other physician due to Dr. Gaddis placing a statement in his medical record all his extremities were working fine after surgery, as stated above

AS STATED ABOVE WHETHER THAT MAY HAVE BEEN OR NOT AN ABUNDANT TOLL OF HIS EXTREMITIES
HAD STOP WORKING. WHEN HE AWAKENED, PLAINTIFF AVER HE WERE IN A WHEEL CHAIR WITH HIS LEFT
LEG PARALYZE UNTIL ABOUT A WEEK AFTER HIS SEPTEMBER 2019, HE LOST MOBILITY FROM HIS NECK
DOWN AND HAS ONLY REMAIN USES OF HIS RIGHT ARM WHICH IS PARTICULAR NUMB AND AFTER HIS SEPTEMBER
2019, SURGERY HE HAS BEEN ADMITTED INTO NUMEROUS HOSPITAL NEAR-DEATH HAVING BLOOD
TRANSFUSIONS FROM THROWING UP BLOOD AND PASSING BLOOD THROUGH HIS RECTUM FROM THE FAILED
NECK SURGERY DR. GADDIS PERFORMED ON HIM. PLAINTIFF AVER THAT IT WAS UNCONSTITUTIONAL
MALPRACTICE FOR DR. GADDIS TO LET HIM INJURE HIMSELF DOING OR AFTER SURGERY NO
MATTER THE HOW, NO MATTER IN WHAT WAY THAT LEFT HIM WORSE ENDURING MERCILESS,
EXCRUCIATING HEADACHES, BLURRED VISION IN RIGHT EYE, LOST OF HEARING IN RIGHT EAR, OCCASIONAL
VOMITTING, A QUADRIPLEGIA FOR LIFE WITH USES OF HIS RIGHT ARM. PLAINTIFF AVER THAT DR. GADDIS
CAUSING HIM TO ENDURE A MAJOR SPINE INJURY AND HAS BECOME A QUADRIPLEGIA FOR LIFE
MERIT HEALTH GROUP WHO SUPPORT HER IN THESE SURGERY AND OR A QUADRIPLEGIA FOR LIFE BE
RIDDEN WAS NOT FORMALLY A PART OF HIS SENTENCE TO PHYSICIAN. PLAINTIFF AVER DR. GADDIS
SUPPORTED BY MERIT HEALTH GROUP HOSPITAL DID NOT ACT IN GOOD FAITH TOWARD HIS WELFARE,
ACTED WITH MALICE, ACTED WITH INTENT UNETHICAL CONDUCT THAT CAUSE PLAINTIFF HARM
AND AS A RESULT MERIT HEALTH GROUP HOSPITAL SUPPORTER OF DR. GADDIS SHOULD BOTH BE HELD LIABLE
UNDER EXISTING STATE AND FEDERAL LAW. PLAINTIFF AVER THIS WAS A VIOLATION OF MERIT
HEALTH GROUP HOSPITAL NEGLIGENCE FOR SUPPORTING DR. GADDIS, IF MERIT HEALTH GROUP HOSPITAL
WOULD HAVE TOOK THE PROPER MEASURE OF SAFETY AND KEPT CLOSE SCRUTINY UPON DR.
GADDIS THERE IS A STRONG PROBABILITY THERE WOULD HAVE BEEN A DIFFERENT OUTCOME,
OTHER THAN THE TRAGEDY OF PLAINTIFF A QUADRIPLEGIA BE RIDDEN LOCKED AWAY IN A
DISABILITY UNIT ENDURING EXCRUCIATING HEADACHES, BLURRED VISION IN RIGHT EYE, LOST OF HEARING IN
RIGHT EAR, PERIOD OF VOMITTING UNTIL THIS PRESENT TIME.

LASTLY, PLAINTIFF AVER THAT IT WERE MERIT HEALTH GROUP HOSPITAL RESPONSIBILITY TO PROTECT
THE HEALTH AND SAFETY OF HIM AS A PATIENT. WHEN PLAINTIFF ROLL UP ON OR ABOUT SEPTEMBER 2019
MERIT HEALTH GROUP HOSPITAL GROUND AND HAND OVER HANDLER TO MERIT HEALTH GROUP AS A PATIENT
HE IMMEDIATELY BECAME MERIT HEALTH GROUP HOSPITAL HE BECAME THERE MEDICAL RESPONSIBILITY.
PLAINTIFF AVER THAT BEING OR HAVING NOW A PERMANENT SPINAL INJURY ENDURING
IN HIS LIFE AND HIS LEFT A QUADRIPLEGIA WITH USES OF HIS RIGHT ARM, PERMANENT BODY HERNIA
MERCILESS HEADACHES, PERMANENT LOST OF VISION IN RIGHT EYE AND ALSO RIGHT SIDE OF FACE
VOMITTING WHICH WERE NOT FORMALLY PART OF HIS SENTENCE TO PHYSICIAN. PLAINTIFF
AVER IT WAS MERIT HEALTH GROUP HOSPITAL WHO TOOK A AFFIRMATIVE DUTY UNDER THE AMERICAN
CONSTITUTION TO PROVIDE FOR THE SAFETY OF HIM WAS NOT TO BE TAKEN LIGHTLY

V.

RELIEF SOUGHT

PETITIONER RESPECTFULLY REQUESTS THAT THIS COURT FOR THE FOREGOING
REQUEST REDRESS (MONETARY DAMAGE) FOR PAST, PRESENT AND FUTURE PAIN ...
PERMANENT BODY HARM, BODY PERMANENT HARM, BODY HARM INJURIES, MENTAL AND EMOTIONAL
INJURIES, MENTAL ANGUISH HE WILL SETTLE FOR TWENTY-MILLION AND TWENTY-FIVE DOLLARS (\$20,000,000)
ALL COURT COST INCURRED IN THIS SUIT AND FOR ANY OTHER RELIEF THIS HONORABLE COURT DEEM
EQUITABLE.

Don Buf.
RESPECTFULLY SUBMITTED ABOVE BY

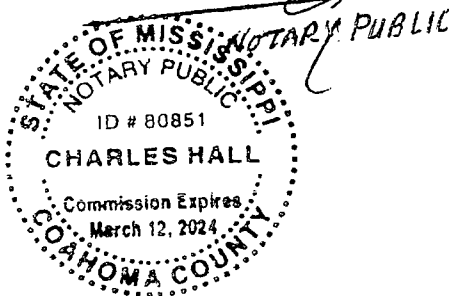
Don Buf.
PETITIONER

STATE OF MISSISSIPPI

COUNTY OF Shenandoah

PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED AUTHORITY IN AND FOR SAID JURISDICTION
THE WITHIN NAMED PETITIONER, WHO, AFTER FIRST BEING BY ME DULY SWORN, STATED ON OATH THAT
THE STATEMENTS SET FORTH IN THE ABOVE AND FOREGOING ARE TRUE AND CORRECT AS THEREIN
STATED.

SWORN TO AND SUBSCRIBED BEFORE ME, THIS THE 12th day of July, 2022.



APPLICATION TO PROCEED IN FORMA PAUPERIS
IN THE COURTS OF THE STATE OF MISSISSIPPI

PETITIONER

DEAN C. BOYD

CAUSE NO. _____

VS.

RESPONDENT

MERIT HEALTH GROUP HOSPITAL
IN HINDS COUNTY, MISSISSIPPI

I, DEAN C. BOYD, an inmate within the Mississippi

Department of Corrections, request this Honorable Court to allow me to proceed without
prepayment of costs and declare that I am unable to pay the fees and am entitled to
proceed as a Pauper. In support thereof, I would show the following, to-wit:

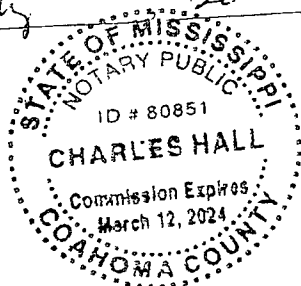
1. I receive income, if any, in the amount of \$ 0 per week/ month/ year.
2. I have the amount of \$ 0 in a checking and/or savings
account located at 0
3. List all other assets such as real estate, bonds, notes, etc.
 - a. 0
 - b. 0
 - c. 0

STATE OF MISSISSIPPI
COUNTY OF Sunflower

Dean Boyd
PETITIONER

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for
said jurisdiction, the within named Petitioner, who, after first being by me duly sworn,
stated on oath that the statements set forth in the above and foregoing are true and correct
as therein stated.

SWORN TO AND SUBSCRIBED before me, this the 12th day of
July 2022



Charles Hall
NOTARY PUBLIC

Received

JUL 06 2022

Inmate Legal Assistance

**FINANCIAL AUTHORIZATION
TO BE COMPLETED BY PETITIONER**

Authorization for Release of Institution Account Information
and Payment of the Filing Fees

I, DEAN L BOYD, MDOC# 167698,
authorize the Clerk of Court to obtain, from the agency having custody of my person,
information about my institutional account, including balances, deposits and withdrawals.
The Clerk of Court may obtain my account information from the past six (6) months and
in the future, until the filing fee is paid. I also, authorize the agency having custody of
my person to withdraw funds from my account and forward payments to the Clerk of
Court, in accord with section 47-5-76 of the Mississippi Code Annotated.

July 5, 2022
Date

DEAN L.
Signature of Petitioner

IT IS THE PETITIONER'S RESPONSIBILITY TO HAVE THE APPROPRIATE
PRISON OFFICIAL COMPLETE AND CERTIFY THE CERTIFICATE BELOW

**CERTIFICATE
(Inmate Accounts Only)
TO BE COMPLETED BY AUTHORIZED OFFICER**

I certify that the Petitioner named herein has the sum of \$ 0
on account to his credit at MSP, MDOC Facility, where
he is confined. I further certify that the Petitioner has the following securities to his
credit according to the records of said institution: N/A

I further certify that during the last six (6) months the
Petitioner's average monthly balance was \$ 1.80

I further certify that during the last six (6) months the
Petitioner's average monthly deposit was \$ 0

I further certify that Petitioner has made the following withdrawals within
the past thirty (30) days: 6/18 17.23

601-359-57614
Telephone Number

7-6-22
Date

Appeal State

Gia McLeod
Authorized Officer of Inmate Accounts
Gia McLeod
Print Name of Authorized Officer

CERTIFICATE OF SERVICE

This is to certify that DEAN C. ROYD, DO HEREBY DECLARE THAT I HAVE MAILED A COPY OF THE ABOVE AND FOREGOING LEGAL DOCUMENT AS FOLLOWS:

JACK WALLACE, CIRCUIT CLERK
HANDS COUNTY, FIRST DISTRICT
P.O. BOX 327
JACKSON, MS. 39205

ATTORNEY GENERAL
LYNN FITCH
POST OFFICE BOX 220
JACKSON, MS. 39205

SO CERTIFIED: this the 12th day of July, 2022.

RESPECTFULLY SUBMITTED,
BY: DEAN C. ROYD #162698

CLOSED,FKB,JURY,REMOVAL

U.S. District Court
Southern District of Mississippi (Northern (Jackson))
CIVIL DOCKET FOR CASE #: 3:23-cv-00313-DPJ-FKB

ten 2

Boyd v. Merit Health Group Hospital
Assigned to: Chief District Judge Daniel P. Jordan, III
Referred to: Magistrate Judge F. Keith Ball
Case in other court: Circuit - Hinds, 25CI1:23-cv-0141-
DHG
Cause: 28:1446 Petition for Removal

Date Filed: 05/17/2023
Date Terminated: 01/19/2024
Jury Demand: Plaintiff
Nature of Suit: 555 Prisoner Petitions
- Prison
Jurisdiction: Federal Question

Plaintiff

Dean C. Boyd
also known as
Dean C. Boyd, II

represented by **Dean C. Boyd**
#167698
MSP
Unit 31, D-13
Post Office Box 1057
Parchman, MS 38738
PRO SE

V.

Defendant

Merit Health Group Hospital
doing business as
Jackson HMA, LLC
doing business as
Merit Health Central

represented by **John W. Chapman**
PAGE, KRUGER & HOLLAND, P.A.
P. O. Box 320999
10 Canebrake Blvd., Ste. 200 (39232)
Flowood, MS 39232-0999
601/420-0333
Fax: 601/420-0033
Email: jchapman@pagekruger.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Interested Party**Pro Se Department***APPENDIX-C*

Date Filed	#	Docket Text	"Civil Docket For Case"
------------	---	-------------	-------------------------

05/17/2023	<u>1</u>	NOTICE OF REMOVAL by Merit Health Group Hospital from Circuit - Hinds, case number 25CI1:23-cv-0141-DHG. (Filing fee \$ 402 receipt number AMSSDC-5118171) <i>Ten 2</i> If the complete state court record is not attached as an Exhibit to the Petition for Removal, pursuant to Rule L.U.Civ.R. 5(b): within 14 days removing party must electronically file the entire state court record as a single filing; and all parties shall, within fourteen days after the Case Management Conference, file as separate docket items any unresolved motions that were filed in state court which they wish to advance. (Attachments: # <u>1</u> Exhibit 1 Complaint and Summons, # <u>2</u> Exhibit 2 State Court File, # <u>3</u> Civil Cover Sheet)(cwl) (Entered: 05/17/2023)
06/12/2023	<u>2</u>	ANSWER to Complaint by Merit Health Group Hospital.(Chapman, John) (Entered: 06/12/2023)
06/12/2023	<u>3</u>	MOTION to Dismiss by Merit Health Group Hospital (Attachments: # <u>1</u> Exhibit Complaint, # <u>2</u> Exhibit 1st Complaint, # <u>3</u> Exhibit Docket)(Chapman, John) (Entered: 06/12/2023)
06/12/2023	<u>4</u>	MEMORANDUM in Support re <u>3</u> MOTION to Dismiss filed by Merit Health Group Hospital (Chapman, John) (Entered: 06/12/2023)
06/23/2023	<u>5</u>	Response in Opposition (Objection) re <u>2</u> ANSWER to Complaint by Merit Health Group Hospital.(Chapman, John) filed by Dean C. Boyd. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Cover Letter, # <u>4</u> Envelope) (PG) (Entered: 06/23/2023)
06/23/2023	<u>6</u>	RESPONSE in Opposition(Objection) re <u>3</u> MOTION to Dismiss filed by Dean C. Boyd. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Cover Letter, # <u>4</u> Envelope)(PG) (Entered: 06/23/2023)
06/23/2023	<u>7</u>	RESPONSE to Memorandum (Objection) re <u>4</u> Memorandum in Support of <u>3</u> MOTION to Dismiss filed by Dean C. Boyd (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Cover Letter, # <u>4</u> Envelope)(PG) (Entered: 06/23/2023)
06/26/2023	<u>8</u>	MOTION for Leave of Court in a Request for Jury Trial; Demand Pursuant to: Fed. Rule Civil Procedure Under Rule 38(A) by Dean C. Boyd. (Attachments: # <u>1</u> Cover Letter, # <u>2</u> Envelope)(LAT) (Entered: 06/26/2023)
07/24/2023	<u>9</u>	Rule 16(a) Initial Order Telephonic Case Management Conference set for 9/29/2023 11:00 AM before Magistrate Judge F. Keith Ball. No later than seven (7) days prior to the TCMC, a confidential memorandum AND a proposed Case Management Order shall be submitted via e mail to ball_chambers@mssd.uscourts.gov. Counsel for Plaintiff shall set up the conference and, once all the parties are on the line, contact the Court at 601-608-4460. (A copy has been mailed to Pro Se Plaintiff at the address on the docket.)(JEJ) (Entered: 07/24/2023)

08/09/2023		TEXT-ONLY ORDER cancelling the telephonic case management conference set for September 29, 2023. No further written order shall issue from the Court. Signed by Magistrate Judge F. Keith Ball on 8/9/2023. (JEJ) (Entered: 08/09/2023)
08/09/2023		***Deadlines/Hearings terminated: TCMC set for 9/29/2023 is terminated. (JEJ) (Entered: 08/09/2023)
10/11/2023	<u>10</u>	Response to TEXT-ONLY ORDER cancelling the telephonic case management conference set for September 29, 2023, filed by Dean C. Boyd. (Attachments: # <u>1</u> Envelope)(ND) (Entered: 10/11/2023)
10/26/2023	<u>11</u>	MOTION for Hearing by Dean C. Boyd. (Attachments: # <u>1</u> Envelope)(CO) (Entered: 10/26/2023)
10/26/2023	<u>12</u>	DEMAND for Trial by Jury by Dean C. Boyd. (Attachments: # <u>1</u> Envelope) (CO) (Entered: 10/26/2023)
11/09/2023	<u>13</u>	MOTION To Execute or Service of Summons by Dean C. Boyd (Attachments: # <u>1</u> Cover Letter, # <u>2</u> Envelope)(cwl) (Entered: 11/09/2023)
01/19/2024	<u>14</u>	ORDER granting <u>3</u> Motion to Dismiss, and Boyds Complaint is dismissed with prejudice. A separate judgment will be entered under Federal Rule of Civil Procedure 58. Signed by Chief District Judge Daniel P. Jordan, III on 1/19/2024 (PG) (Entered: 01/19/2024)
01/19/2024	<u>15</u>	JUDGMENT. For the reasons stated in the Order entered on this date, the Court grants Jackson HMAs Motion to Dismiss <u>3</u> , and Boyds Complaint is dismissed with prejudice. Signed by Chief District Judge Daniel P. Jordan, III on 1/19/2024 (PG) (Entered: 01/19/2024)
02/02/2024	<u>16</u>	Letter from plaintiff requesting status. (Attachments: # <u>1</u> Envelope) (cwl) (Entered: 02/02/2024)

Ted *June*
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

DEAN C. BOYD, PRO SE

PLAINTIFF

V.

CAUSE NO. 3:23-cv-313-DPJ-FKB

MERIT HEALTH GROUP HOSPITAL

DEFENDANT

MEMORANDUM OF AUTHORITIES IN SUPPORT OF MOTION TO DISMISS

COMES NOW, Defendant, Jackson HMA, LLC d/b/a Merit Health Central Hospital ("Central"), through counsel, and submits its Brief in Support of its Motion to Dismiss. In support of said brief Defendant would show as follows, to-wit:

APPLICABLE FACTS AND HISTORY

Plaintiff previously filed a pro se Complaint against numerous Defendants including Dr. Menarvia Nixon Gaddis, which was litigated as case number 3:20-cv-420- *pendently* TSL-RHW. [Motion Exhibit 2] The Complaint alleged medical negligence against Dr. Gaddis, a physician with staff privileges at Central, when she performed surgery on the Plaintiff at Central. In addition to medical negligence the Complaint attempted to allege deliberately indifferent care on the part of Dr. Gaddis in the care and treatment of Plaintiff.

Plaintiff's state law claim of medical malpractice claim was dismissed by the District Court on September 3, 2021. [Motion Exhibit 3, Docket No. 48]

Plaintiff appealed the Order of Dismissal to the Fifth Circuit Court of Appeals with no relief granted to the Plaintiff from the Order of Dismissal of the state law medical negligence claim.

'6-12-2023'
"JUDGEMENT ORDER"
APPENDIX 'D'

On September 7, 2022, Dr. Gaddis filed her motion for summary judgment as to the deliberate indifference claim of Plaintiff. [Motion Exhibit 3, Docket No. 71]

On November 4, 2022, the Magistrate entered its report and recommendation that Doctors Brazier and Gaddis be granted Summary Judgment [Motion Exhibit 3, Docket No. 75] The District Court entered its Order adopting the report and recommendations on December 6, 2022. [Motion Exhibit 3, Docket No. 76] and the matter was dismissed with prejudice on that date. [Motion Exhibit 3, Docket No. 77]

Plaintiff's motion to reconsider was denied on December 7, 2022. [Motion Exhibit 3, Docket No. 79]

Since that time Plaintiff has attempted to proceed with some type of further appeal to the Fifth Circuit and the Court has denied Plaintiff's Motion to Reopen the Time to Appeal. [Motion Exhibit 3, Docket No. 89] and has denied Plaintiff's Motion to Appeal In Forma Pauperis [Motion Exhibit 3, Docket No. 90] *Case pending*

Subsequent to this Plaintiff filed a separate lawsuit in the Circuit Court of the First Judicial District of Hinds County, Mississippi on March 1, 2023, attempting to name as the sole Defendant Jackson HMA, LLC d/b/a Merit Health Central (improperly named in the Complaint as Merit Health Group Hospital). This Complaint was properly and timely removed to this Court on May 17, 2023.

A comparison of the two complaints establishes the allegations against Central are exactly the same as the allegations against Dr. Gaddis in the previous lawsuit except alleging Central was responsible for the actions of Dr. Gaddis and for allowing her to take those actions. Plaintiff has had the opportunity to prove all of the allegations regarding Dr. Gaddis in the previously named lawsuit and failed to do so.

Further, by Plaintiff's own admission in the present Complaint Dr. Gaddis' first surgery was performed on Plaintiff on September 11, 2019. [Motion Exhibit 2] and the second surgery was performed on February 10, 2020. [Motion Exhibit 2] At the very latest February 10, 2020 is the date the statute of limitations began running as to any claim against the hospital for medical negligence. Plaintiff has failed to file suit within the two (2) year period prescribed by § 15-1-36 (Miss. Code Ann.) for pursuing a medical negligence claim.

Also, as with the original claim of medical negligence against Dr. Gaddis, Plaintiff has wholly failed to provide pre-suit notice to Central of any litigation as required by §15-1-36(15) (Miss. Code Ann.)

ARGUMENT

A. **THIS SUIT IS BARRED BY § 15-1-36 (MISS. CODE ANN.) AS THE STATUTE OF LIMITATIONS HAS EXPIRED**

§ 15-1-36(2) (Miss. Code Ann.) reads in pertinent part as follows:

(2) For any claim accruing on or after July 1, 1998, and except as provided in this section, no claim in tort may be brought against any licensed physician, osteopath, dentist, hospital, institution for aged or inform, nurse, pharmacist, podiatrist, optometrist or chiropractor for injuries or wrongful death arising out of the course of medical, surgical or other professional services unless it is filed within two (2) years from the date the alleged act, omission or negligent shall or with reasonable diligence might have been known or discovered, and, except as described in paragraphs (a) and (b) of this subsection, in no event more than seven (7) years after the alleged act, omission or neglect occurred:...

Plaintiff's Complaint alleges Dr. Menarvia Nixon Gaddis performed neck surgery on him at Defendant hospital on September 11, 2019, and a second surgery at the hospital on February 10, 2020. [Motion Exhibit 1] The present suit was filed by Plaintiff on March 1, 2023, over three (3) years after the last possible date for the statute of limitations to begin to run. Clearly, on its face the Complaint evidences Plaintiff has

failed to state a viable claim against this Defendant and the matter should be dismissed with prejudice.

B. PLAINTIFF FAILED TO GIVE SIXTY (60) DAYS PRE-SUIT NOTICE PRIOR TO FILING THE CLAIM

Pre-Suit Notice is Required and is Jurisdictional

Section 15-1-36(15) Miss. Code Ann. reads in pertinent part as follows:

(15) No action based upon the health care provider's professional negligence may be begun unless the defendant has been given at least sixty (60) days' prior written notice of the intention to begin the action. No particular form of notice is required, but it shall notify the defendant of the legal basis of the claim and the type of loss sustained, including with specificity the nature of the injuries suffered. If the notice is served within sixty (60) days prior to the expiration of the applicable statute of limitations, the time for the commencement of the action shall be extended sixty (60) days from the service of the notice for said health care providers and others. This subsection shall not be applicable with respect to any defendant whose name is unknown to the plaintiff at the time of filing the complaint and who is identified therein by fictitious name.

This portion of §15-1-36 requires a prospective plaintiff to give notice of intent to sue and allow the potential defendant sixty days to investigate any allegations prior to suit being filed.

The failure of a Plaintiff to provide such notice requires his Complaint be dismissed without prejudice *Spann v. Wood* 269 So. 3d 10 12 (Mississippi 2018) citing *Fowler v. White* 85 So. 3d 287, 291 (Mississippi 2012). Clearly strict compliance with §15-1-36(15) is required. Also, a dismissal with prejudice would have been appropriate in this instance as the statute of limitations had expired.

C. THIS MATTER SHOULD BE DISMISSED PLAINTIFF IS ESTOPPED FROM PURSUING

Collateral estoppel is a common law doctrine establishing issue preclusion. The doctrine prevents a party from relitigating a previously litigated issue or issues. It

precludes relitigation of issue in a lawsuit on a different cause of action involving a party to the original case.

As we have seen, Plaintiff in this cause previously sued Dr. Menarvia Nixon Gaddis for alleged medical negligence and deliberate indifference in her care and treatment of him. [Motion Exhibit 2] Plaintiff has repeatedly had this cause dismissed.

Plaintiff has now filed separate litigation against this Defendant alleging the exact same set of facts but now alleging the hospital is responsible for the acts of Dr. Gaddis.

It is well established that federal common law permits the use of collateral estoppel upon showing the issue before the Court is identical to one involved in prior litigation and the issue has been litigated. *Mark Hicks v. Quaker Oats Co.*, 662 F.2d 1158, 1166 (Fifth CA 1981). ^{not merit health hospital}

Clearly, Plaintiff has previously asserted these claims, litigated them, had a judgment entered against him on these issues against a related defendant. *The Estate of Portnoy v. Cessna Aircraft Co.*, 612 F. Supp. 1147, 1150 (S.D. Miss. 1985).

CONCLUSION

Plaintiff originally filed suit against Defendant, Dr. Gaddis, who practiced neurosurgery at Merit Health Central based upon staff privileges granted her. After losing on every issue when that case was before the Court Plaintiff has now chosen to file suit against the hospital for Dr. Gaddis' actions.

In doing so, Plaintiff has failed to give the hospital the required sixty (60) days notice prior to filing suit. In addition to that, Plaintiff clearly filed a suit outside of the applicable statute of limitations. Dr. Gaddis' surgery was performed in September of

2019 and in February 2020. Plaintiff did not file suit against the hospital until March 2023, clearly over two (2) years after the actions he claims gave rise to this litigation.

Finally and as icing on the cake, the common law doctrine of collateral estoppel precludes Plaintiff from attempting to relitigate the same issues he has already lost in this forum against another defendant.

Without question the Court should dismiss this matter with prejudice.

THIS, the 12th day of June, 2023.

Respectfully submitted,

JACKSON HMA, LLC d/b/a MERIT
HEALTH CENTRAL, Defendant

BY: /s/ John W. Chapman

STEPHEN P. KRUGER
JOHN W. CHAPMAN

OF COUNSEL:

STEPHEN P. KRUGER - MSB # 4266
JOHN W. CHAPMAN - MSB # 5961
Page, Kruger & Holland, P.A.
10 Canebrake Blvd., Suite 200 [39232-2215]
Post Office Box 320999
Flowood, Mississippi 39232-0999
Telephone: 601-420-0333
Facsimile: 601-420-0033
E-Mail: skruger@pagekruger.com
jchapman@pagekruger.com

CERTIFICATE OF SERVICE

I, John W. Chapman, counsel for Defendant, Jackson HMA, LLC d/b/a Merit Health Central, do hereby certify that I have this day mailed, by United States Mail, a true and correct copy of the above and foregoing to:

Dean C. Boyd, #167698
MSP Unit 31
D-Zone, Bed 13
Post Office Box 1057
Parchman, Mississippi 38738

THIS, the 12th day of June, 2023.

/s/ John W. Chapman

JOHN W. CHAPMAN

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

DEAN C. BOYD, PRO SE

PLAINTIFF

V.

CAUSE NO. 3:23-cv-313-DPJ-FKB

MERIT HEALTH GROUP HOSPITAL

DEFENDANT

ANSWER AND DEFENSES

COMES NOW, Defendant, Jackson HMA, LLC d/b/a Merit Health Central Hospital (hereinafter "Central"), (incorrectly named in the Complaint at Merit Health Group Hospital), through counsel, and files its Answer and Defenses to the Complaint and in support would show as follows, to-wit:

FIRST DEFENSE

prejudice

This Defendant moves to dismiss this matter as the Complaint fails to state a claim cognizable at law or in fact against this Defendant pursuant to Rule 12(b) of the Federal Rules of Civil Procedure.

SECOND DEFENSE

This claim is barred by § 15-1-36 (Miss. Code Ann.), the applicable statute of limitations for medical negligence claims. The Complaint was filed more than two (2) years after the actions Plaintiff claims gives rise to this litigation.

THIRD DEFENSE

This matter should be dismissed as Plaintiff has failed to comply with § 15-1-36(15) (Miss. Code Ann.) in that no notice of intent to sue was furnished to this Defendant at any time before the filing of this Complaint.

FOURTH DEFENSE

Plaintiff has previously filed litigation against Dr. Menarvia Nixon Gaddis alleging the same actions as alleged in this Complaint against Central. Judgment has been rendered on behalf of Dr. Gaddis on all claims made in the previous litigation. This matter should be dismissed as Plaintiff is collaterally estopped from pursuing the same claim after having had the previous claim decided against him on all issues. *claim pending Fifth Circuit*

ANSWER

Plaintiff's pro se Complaint is written in "stream of conscious style" and is impossible to answer in a traditional sense. This Defendant hereby denies each and every allegation whether at law or in fact contained in Plaintiff's Complaint and denies that it has admitted any acts or failed to commit any act which would subject it to liability in this matter.

This Defendant denies each and every allegation cognizable at law or in fact contained in that paragraph V. style "Relief Sought" and denies Plaintiff is entitled to any relief whatsoever in this matter.

THIS, the 12th day of June, 2023.

Respectfully submitted,

JACKSON HMA, LLC d/b/a MERIT
HEALTH CENTRAL, Defendant

BY: /s/ John B. Chapman

STEPHEN P. KRUGER
JOHN W. CHAPMAN

OF COUNSEL:

STEPHEN P. KRUGER - MSB # 4266
JOHN W. CHAPMAN - MSB # 5961
Page, Kruger & Holland, P.A.
10 Canebrake Blvd., Suite 200 [39232-2215]
Post Office Box 320999
Flowood, Mississippi 39232-0999
Telephone: 601-420-0333
Facsimile: 601-420-0033
E-Mail: skruger@pagekruger.com
jchapman@pagekruger.com

CERTIFICATE OF SERVICE

I, John W. Chapman, counsel for Defendant, Jackson HMA, LLC d/b/a Merit Health Central, do hereby certify that I have this day mailed, by United States Mail, a true and correct copy of the above and foregoing to:

Dean C. Boyd, #167698
MSP Unit 31
D-Zone, Bed 13
Post Office Box 1057
Parchman, Mississippi 38738

THIS, the 12th day of June, 2023.

/s/ John W. Chapman

JOHN W. CHAPMAN

Orders on Motions

3:23-cv-00313-DPJ-FKB Boyd v. Merit
Health Group Hospital **CASE CLOSED**
on 01/19/2024

CLOSED, APPEAL, FKB, JURY, REMOVAL

U.S. District Court

Southern District of Mississippi

Notice of Electronic Filing

The following transaction was entered on 4/10/2024 at 11:13 AM CDT and filed on 4/10/2024

Case Name: Boyd v. Merit Health Group Hospital

Case Number: 3:23-cv-00313-DPJ-FKB

Filer:

WARNING: CASE CLOSED on 01/19/2024

Document Number: 25

Docket Text:

ORDER denying [19] Motion for New Trial as set out in the Order. Signed by Chief District Judge Daniel P. Jordan III on April 10, 2024. (SP)

3:23-cv-00313-DPJ-FKB Notice has been electronically mailed to:

John W. Chapman jchapman@pagekruger.com, pbennett@pagekruger.com, rdunaway@pagekruger.com

3:23-cv-00313-DPJ-FKB Notice has been delivered by other means to:

Dean C. Boyd

#167698

MSP

Unit 31, D-13

Post Office Box 1057

Parchman, MS 38738

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1081288797 [Date=4/10/2024] [FileNumber=6794015-0]
] [55cfd2b1a1dac58f5ca8127bd5afacc0b60993f5ae80483fee1188c73aa9f4d4a52
fc75a56c8c64068b306db73ba2c1edbeffdfa66480a23460cf0a8ff90ac85]]

1-19-2024

"JUDGEMENT ORDER"

APPENDIX - 'E'

Dean C. Boyd, #167698
MSP
Unit 31, D-13
Post Office Box 1057
Parchman, MS 38738

Black

Rem OK
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

DEAN C. BOYD

PLAINTIFF

V.

CIVIL ACTION NO. 3:23-CV-313-DPJ-ASH

MERIT HEALTH GROUP HOSPITAL

DEFENDANT

ORDER

Pro se Plaintiff Dean C. Boyd is an inmate who says doctors under Defendant's supervision botched two surgeries on his neck. Compl. [1-1]. He brought claims under state and federal law, which the Court dismissed on January 19, 2024. Order [14]; Judgment [15]. On February 8, 2024, Boyd moved for a new trial [19]. Though Defendant never responded to the motion, the Court now denies it.

I. Facts and Procedural History

Boyd claimed in his Complaint that he "suffered injuries and sustained damages as a result of the negligent medical malpractice treatment that he receive[d] at Merit Health Group Hospital" in Jackson, Mississippi. Compl. [1-1] at 3. According to him, his injuries were immediately apparent after neck surgeries performed on September 11, 2019, and February 10, 2020. *Id.* at 3-4.

Over three years later, on March 1, 2023, Boyd sued Defendant in the Circuit Court of Hinds County, Mississippi (No. 1:23-cv-141-DHG). Jackson HMA, which runs the Jackson hospital doing business as Merit Health Central Hospital (miscalled "Merit Health Group Hospital" in the Complaint), removed the case based on diversity jurisdiction. Notice [1] at 2. Jackson HMA then moved to dismiss the claims as untimely [3], and the Court granted its motion.

II. Standard

Boyd simultaneously moved for a new trial under Federal Rule of Civil Procedure 59 and filed a notice of appeal under Federal Rule of Appellate Procedure 4. But because his case was dismissed without a trial, his motion for new trial is properly construed as a motion for reconsideration under Rule 59(e). *Patin v. Allied Signal, Inc.*, 77 F.3d 782, 785 n.1 (5th Cir. 1996).

The notice of appeal does not affect the Court's jurisdiction to hear Boyd's motion for reconsideration. "It is well-established that a timely Rule 59(e) motion renders the underlying judgment nonfinal until the district court disposes of that post-judgment motion"; the court of appeals lacks jurisdiction over the appeal until the district court rules. *Simmons v. Reliance Standard Life Ins. Co.*, 310 F.3d 865, 867–68 (5th Cir. 2002) (noting that Rule 4(a)(4) suspends the time for review); *see also* Fed. R. App. P. 4(a)(4)(iv) (stating time to file an appeal runs for all parties from entry of order disposing of Rule 59(e) motion).

The standard for reconsideration of a judgment is difficult to meet:

A Rule 59(e) motion "calls into question the correctness of a judgment." *In re Transtexas Gas Corp.*, 303 F.3d 571, 581 (5th Cir. 2002). This Court has held that such a motion is not the proper vehicle for rehashing evidence, legal theories, or arguments that could have been offered or raised before the entry of judgment. *Simon v. United States*, 891 F.2d 1154, 1159 (5th Cir. 1990). Rather, Rule 59(e) "serve[s] the narrow purpose of allowing a party to correct manifest errors of law or fact or to present newly discovered evidence." *Waltman v. Int'l Paper Co.*, 875 F.2d 468, 473 (5th Cir. 1989) (internal quotations omitted). Reconsideration of a judgment after its entry is an extraordinary remedy that should be used sparingly. *Clancy v. Employers Health Ins. Co.*, 101 F. Supp. 2d 463, 465 (E.D. La. 2000) (citing 11 CHARLES A. WRIGHT, ARTHUR R. MILLER & MARY KAY KANE, *Federal Practice & Procedure* § 2810.1, at 124 (2d ed. 1995)).

Templet v. HydroChem Inc., 367 F.3d 473, 478–79 (5th Cir. 2004).

III. Discussion

Boyd says the statute of limitations for his claims tolled when he first filed them on June 13, 2022, in Hinds County Circuit Court. Mot. [19] at 2–3. To support that argument, he submits 49 pages of mostly handwritten documents, a few of which suggest that Hinds County opened a suit in 2021. *See id.* at 17–20 (reflecting docketing information). There are two problems. First, Boyd’s documents do not reveal enough to know whether his federal claim would have tolled or for how long. Second, Boyd knew about his state-court filings when he responded to Jackson HMA’s motion to dismiss, so they are not new evidence under Rule 59(e). *Templet*, 367 F.3d at 478–79. And because Boyd could have argued tolling in response to Defendant’s motion, he may not rely on it now. *Brown v. Ill. Cent. R.R. Co.*, No. 3:09-CV-296-WHB-LRA, 2010 WL 11530401, at *2 (S.D. Miss. Mar. 10, 2010) (rejecting tolling argument raised for first time post-judgment). His motion is denied.¹

IV. Conclusion

The Court has considered all arguments; any not specifically addressed would not have changed the outcome. Boyd’s motion [19] is denied.

SO ORDERED AND ADJUDGED this the 10th day of April, 2024.

s/ Daniel P. Jordan III
CHIEF UNITED STATES DISTRICT JUDGE

¹ Boyd offers additional arguments in his motion, but they too fail under Rule 59(e).

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

DEAN C. BOYD

PLAINTIFF

V.

CIVIL ACTION NO. 3:23-CV-313-DPJ-FKB

MERIT HEALTH GROUP HOSPITAL

DEFENDANTS

ORDER

Pro se Plaintiff Dean C. Boyd is an inmate who claims that doctors under Defendant's supervision botched two surgeries on his neck. Compl. [1-1]. Boyd therefore sued "Merit Health Group Hospital," asserting medical-malpractice claims under state law and civil-rights claims, presumably under 42 U.S.C. § 1983. While Boyd says the surgeries left him quadriplegic, he did not sue Defendant within the statutes of limitations that apply to his claims. For that reason, the Court grants Defendant's motion to dismiss. *See* Mot. [3].

I. Facts and Procedural History

According to his handwritten Complaint, Boyd "suffered injuries and sustained damages as a result of the negligent medical malpractice treatment that he receive[d] at Merit Health Group Hospital" in Jackson, Mississippi. Compl. [1-1] at 3. He says that he was injured by two neck surgeries performed there, one on September 11, 2019, and the other on February 10, 2020. *Id.* Boyd explains that the injuries from these surgeries were immediately apparent. *Id.* at 3-4.

Over three years later, on March 1, 2023, Boyd sued Defendant in the Circuit Court of Hinds County, Mississippi (No. 1:23-cv-141-DHG). Jackson HMA, which runs the Jackson hospital doing business as Merit Health Central Hospital (miscalled "Merit Health Group Hospital" in the Complaint), removed the case based on diversity jurisdiction. Notice [1] at 2. It then answered the Complaint and moved to dismiss. Boyd responded to Jackson HMA's motion, brief, and answer; all three filings were substantially the same. *See* Resps. [5, 6, 7]. Jackson

HMA never replied, and the time to do so has passed. The Court finds that it has both diversity and federal-question jurisdiction.

II. Standard

Because Jackson HMA moved to dismiss after filing an answer, the Court construes its motion as one for judgment on the pleadings, governed by Federal Rule of Civil Procedure 12(c). When considering a Rule 12(c) motion, the “court accepts ‘all well-pleaded facts as true, viewing them in the light most favorable to the plaintiff.’” *Martin K. Eby Constr. Co. v. Dall. Area Rapid Transit*, 369 F.3d 464, 467 (5th Cir. 2004) (quoting *Jones v. Greninger*, 188 F.3d 322, 324 (5th Cir. 1999)). To overcome a Rule 12(c) motion, the plaintiff must have pleaded “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). “Factual allegations must be enough to raise a right to relief above the speculative level, on the assumption that all the allegations in the complaint are true (even if doubtful in fact).” *Id.* at 555 (citations and footnote omitted).

These These standards apply to pro se complaints even though they “are held to less stringent standards than formal pleadings drafted by lawyers.” *Miller v. Stanmore*, 636 F.2d 986, 988 (5th Cir. 1981) (citing *Haines v. Kerner*, 404 U.S. 519, 520 (1972)). Thus, “pro se plaintiffs must still plead factual allegations that raise the right to relief above the speculative level.” *Chhim v. Univ. of Tex.*, 836 F.3d 467, 469 (5th Cir. 2016) (citing *Taylor v. Books A Million, Inc.*, 296 F.3d 376, 378 (5th Cir. 2002); *Twombly*, 550 U.S. at 555)). And “even for pro se plaintiffs, . . . ‘conclusory allegations or legal conclusions masquerading as factual conclusions will not suffice’ to state a claim for relief.” *Coleman v. Lincoln Par. Det. Ctr.*, 858 F.3d 307, 309 (5th Cir. 2017) (quoting *Taylor*, 296 F.3d at 378).

Nor does the Court's "responsibility to construe pro se filings liberally . . . mean that we will invent, out of whole cloth, novel arguments on behalf of a pro se plaintiff in the absence of meaningful, albeit imperfect, briefing." *Jones v. Alfred*, 353 F. App'x 949, 952 (5th Cir. 2009) (*italics omitted*) (quoting *Sossamon v. Texas*, 560 F.3d 316, 322 n.3 (5th Cir. 2009)).

Finally, dismissal under Rule 12(c) "may be appropriate based on a successful affirmative defense [that] appear[s] on the face of the complaint." *Alexander v. Verizon Wireless Servs., L.L.C.*, 875 F.3d 243, 249 (5th Cir. 2017) (quoting *Kelly v. Nichamoff*, 868 F.3d 371, 374 (5th Cir. 2017)). But dismissing a case based on a statute-of-limitations defense occurs only when "it is evident from the plaintiff's pleadings that the action is barred and the pleadings fail to raise some basis for tolling or the like." *Jones v. Alcoa, Inc.*, 339 F.3d 359, 366 (5th Cir. 2003).

III. Discussion

Jackson HMA seeks dismissal on three grounds: (1) failure to give pre-suit notice of a medical-malpractice claim as Mississippi Code section 15-1-36(15) requires; (2) failure to sue within the statutes of limitations; and (3) collateral estoppel based on a 2020 lawsuit Boyd filed against the surgeons who performed the two neck surgeries. Mot. [3] at 2. This Order focuses on the applicable statutes of limitations.

Even though Boyd's alleged injuries are serious, he had to file his claims within the applicable statutes of limitations. Starting with his medical-malpractice claims, Mississippi law requires that such claims be brought against the provider (including a hospital) within two years "from the date the alleged act, omission or neglect shall or with reasonable diligence might have been first known or discovered." Miss. Code Ann. § 15-1-36(2). Boyd never suggests that anything prevented him from knowing or discovering that the hospital was negligent; indeed he suggests that he knew as soon as he woke up from the two neck surgeries. *See* Compl. [1-1] at

3–4. Even if he had claimed some impediment to discovering the alleged negligence, he sued the doctors who performed the neck surgeries in June 2020, alleging malpractice as he does here. Mem. [4] at 1; *see also* Compl. [3-2]. He therefore knew the basis for his malpractice claim no later than June 2020. Assuming he is entitled to toll the two-year limitations period by 60 days for giving pre-suit notice under Mississippi Code section 15-1-36(15), any malpractice claims filed after August 2022 would be untimely. Boyd sued in March 2023.

The Eighth Amendment claim has a different limitations period. To begin, the only way Boyd could assert a constitutional claim would be through § 1983, which allows suit when a “person” violates someone’s federal rights while acting under color of state law. Boyd never mentions § 1983, but that would not make such a claim deficient. *See Johnson v. City of Shelby*, 574 U.S. 10, 11 (2014) (reversing dismissal where complaint claimed constitutional violations without referencing § 1983).

The statute of limitations under § 1983 is the same as the forum state’s general or residual personal-injury statute of limitations, which in Mississippi is three years. *Edmonds v. Oktibbeha County*, 675 F.3d 911, 916 (5th Cir. 2012) (citing *Owens v. Okure*, 488 U.S. 235, 249–50 (1989)); *see also* Miss. Code Ann. § 15-1-49. Boyd left Jackson HMA’s hospital on February 14, 2020, after his second neck surgery on February 10. Compl. [1-1] at 4. At that time, he already claimed that the surgeries had injured him. *See id.* at 3–4. So even under the three-year limitations period, the Complaint he signed February 22, 2023, is untimely.¹ Compl. [1-1] at 1.

¹ It is not apparent from the Complaint whether Boyd could state a claim against Jackson HMA under § 1983, but Defendant did not seek dismissal on that basis.

IV. Conclusion

The Court has considered all arguments. Those not specifically addressed would not have changed the outcome. The Court grants Jackson HMA's Motion to Dismiss [3], and Boyd's Complaint is dismissed with prejudice. A separate judgment will be entered under Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED this the 19th day of January, 2024.

s/ Daniel P. Jordan III
CHIEF UNITED STATES DISTRICT JUDGE

Other Orders/Judgments

3:23-cv-00313-DPJ-FKB Boyd v. Merit
Health Group Hospital **CASE CLOSED
on 01/19/2024**

CLOSED,FKB,JURY,NO_CMC,REMOVAL

U.S. District Court**Southern District of Mississippi****Notice of Electronic Filing**

The following transaction was entered on 1/19/2024 at 11:17 AM CST and filed on 1/19/2024

Case Name: Boyd v. Merit Health Group Hospital

Case Number: 3:23-cv-00313-DPJ-FKB

Filer:

WARNING: CASE CLOSED on 01/19/2024

Document Number: 15

Docket Text:

JUDGMENT. For the reasons stated in the Order entered on this date, the Court grants Jackson HMAs Motion to Dismiss [3], and Boyds Complaint is dismissed with prejudice. Signed by Chief District Judge Daniel P. Jordan, III on 1/19/2024 (PG)

3:23-cv-00313-DPJ-FKB Notice has been electronically mailed to:

John W. Chapman jchapman@pagekruger.com, pbennett@pagekruger.com, rdunaway@pagekruger.com

3:23-cv-00313-DPJ-FKB Notice has been delivered by other means to:

Dean C. Boyd
#167698
MSP
Unit 31, D-13
Post Office Box 1057
Parchman, MS 38738

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1081288797 [Date=1/19/2024] [FileNumber=6719987-0
] [6b822ed526b39f759cbbc664d2a51d962a6f30686f43fde4ead79208cc3dda1251e
7484aeb808a94d9e74e4d3f2b540cc3507e2011993a1b52875d02b548203c]]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

DEAN C. BOYD

PLAINTIFF

V.

CIVIL ACTION NO. 3:23-CV-313-DPJ-FKB

MERIT HEALTH GROUP HOSPITAL

DEFENDANTS

JUDGMENT

For the reasons stated in the Order entered on this date, the Court grants Jackson HMA's Motion to Dismiss [3], and Boyd's Complaint is dismissed with prejudice.

SO ORDERED AND ADJUDGED this the 19th day of January, 2024.

s/ Daniel P. Jordan III
CHIEF UNITED STATES DISTRICT JUDGE

s on Motions

3-cv-00313-DPJ-FKB Boyd v. Merit
Health Group Hospital **CASE CLOSED**
on 01/19/2024

CLOSED,APPEAL,FKB,JURY,REMOVAL

U.S. District Court

Southern District of Mississippi

Notice of Electronic Filing

The following transaction was entered on 2/12/2024 at 1:55 PM CST and filed on 2/12/2024

Case Name: Boyd v. Merit Health Group Hospital

Case Number: 3:23-cv-00313-DPJ-FKB

Filer:

WARNING: CASE CLOSED on 01/19/2024

Document Number: 23

Docket Text:

ORDER denying [21] Motion for Leave to Appeal in forma pauperis as set out in the Order. Signed by Chief District Judge Daniel P. Jordan III on February 12, 2024. (SP)

3:23-cv-00313-DPJ-FKB Notice has been electronically mailed to:

John W. Chapman jchapman@pagekruger.com, pbennett@pagekruger.com, rdunaway@pagekruger.com

3:23-cv-00313-DPJ-FKB Notice has been delivered by other means to:

Dean C. Boyd

#167698

MSP

Unit 31, D-13

Post Office Box 1057

Parchman, MS 38738

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1081288797 [Date=2/12/2024] [FileNumber=6741237-0
] [5f94730484eb369b0e387afa5694321c374df7938295ec65857a00cef0760214e77
8b892c734fc737f0cb69d9cef0a0da1c9a55c7ee16918a091873e4b01f89d]]

**Additional material
from this filing is
available in the
Clerk's Office.**