

No. 100 Original

Office-Supreme Court, U.S.  
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**In the Supreme Court of the United States**

ALEXANDER L. STEVAS

OCTOBER TERM, 1984

MARIE C. WEBBER,

*Plaintiff,*

v.

THE STATE OF OKLAHOMA,

and

HILLCREST MEDICAL CENTER,

an Oklahoma non-profit corporation,

and

OKMULGEE MEMORIAL HOSPITAL AUTHORITY,

an Oklahoma trust,

*Defendants.*

**JOINT BRIEF OF DEFENDANTS IN OPPOSITION TO  
MOTION FOR LEAVE TO FILE COMPLAINT IN  
ORIGINAL JURISDICTION ACTION**

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March, 1985

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## TABLE OF CONTENTS

	PAGE
INTRODUCTION .....	1
PROCEEDINGS BELOW .....	2
ARGUMENT:	
I. This Action Is a Controversy Between Private Litigants and As Such, Does Not Come Within the Original Jurisdiction of This Court .....	4
II. Even If the State of Oklahoma Is a Party, the Original Jurisdiction of This Court Has Not Been Invoked .....	5
CONCLUSION .....	6
PROOF OF SERVICE follows Brief.	

## TABLE OF AUTHORITIES

Cases	PAGE(S)
<i>Florida Nursing Home Assoc. v. Page</i> , 616 F.2d 1355 (1980), cert. den. 449 U.S. 872, rev. on other grounds 450 U.S. 147, reh. den. 451 U.S. 933, on remand 648 F.2d 241 (1981) .....	5
<i>Georgia v. Pennsylvania R.R.</i> , 324 U.S. 439 (1945) .....	5
<i>Hillcrest Medical Center, Inc. and Okmulgee Memorial Hospital Authority v. Marie C. Webber</i> , Vol. 54 Okla. Bar Journal 335 (Feb. 1983) .....	3
<b>Constitutional and Statutory Provisions</b>	
United States Constitution, Article III .....	5
28 U.S.C.A. §1251 (1966 & Supp. 1984) .....	1, 4, 5
Okla. Stat. tit. 42, §43 (1981) .....	2, 3

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MARIE C. WEBBER,  
*Plaintiff,*

v.

THE STATE OF OKLAHOMA,  
and  
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and  
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*Defendants.*

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**JOINT BRIEF OF HILLCREST MEDICAL CENTER  
AND OKMULGEE MEMORIAL HOSPITAL AUTHORITY  
IN OPPOSITION TO MOTION FOR LEAVE  
TO FILE COMPLAINT IN ORIGINAL  
JURISDICTION ACTION**

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This Joint Brief will set forth the Defendants', Hillcrest Medical Center ("HILLCREST") and Okmulgee Memorial Hospital Authority ("OKMULGEE MEMORIAL"), objections to Plaintiff's Motion for Leave to File Bill of Complaint under Rule 9, United States Supreme Court Rules, and will demonstrate that the Plaintiff has failed to invoke the original jurisdiction of this Court under 28 U.S.C.A. §1251 (1966 & Supp. 1984).

### PROCEEDINGS BELOW

This action originated as litigation between private litigants in the state courts of Oklahoma. The Plaintiff, Marie C. Webber ("WEBBER"), is a citizen of the United States, residing in Oklahoma. HILLCREST is an Oklahoma non-profit corporation operating a hospital in Tulsa, Oklahoma and OKMULGEE MEMORIAL is an Oklahoma Trust operating a hospital in Okmulgee, Oklahoma. At no time has the State of Oklahoma been a party to this litigation.

This controversy arose as a result of the hospitals' efforts to collect their respective bills for medical services rendered to WEBBER. In accordance with state law, both hospitals filed hospital liens upon all recovery proceeds collected by WEBBER. The hospitals contended below that Plaintiff's uninsured motorist and medical benefit proceeds were subject to the hospitals' perfected hospital liens under Okla. Stat. tit. 42, §43 (1981). The Oklahoma Hospital Lien Law, Okla. Stat. tit. 42, §43 (1981), provides in pertinent part:

*Every hospital . . . which shall furnish emergency medical or other service to any patient injured by reason of an accident not covered by the Workmen's Compensation Act, shall, if such injured party shall assert or maintain a claim against another for damages on account of such injuries, have a lien upon that part going or belonging to such patient of any recovery or sum had or collected or to be collected by such patient . . . whether by judgment or by settlement or compromise to the amount of the reasonable and necessary charges of such hospital for the treatment, care and maintenance of such patient in such hospital up to the date of payment of such damages [provided, the lien is in-*

ferior to an attorney's lien or claim and] provided further, that the lien herein set forth *shall not be applied or considered valid against any claim for amount due under the Workmen's Compensation Act in this state.* (emphasis added)

WEBBER argued below that the Defendants' hospital liens were not applicable to the recovery derived from her own uninsured motorist and medical pay coverages. In addition, WEBBER argued that the Oklahoma Hospital Lien Statute is constitutionally invalid.

The Oklahoma Court of Appeals upheld the constitutionality of the statute and held that the hospital liens attached to the Plaintiff's uninsured motorist and medical payment insurance proceeds. *Hillcrest Medical Center, Inc. and Okmulgee Memorial Hospital Authority v. Marie C. Webber*, Volume 54, Oklahoma Bar Journal at page 335 (February 1983). The Oklahoma Supreme Court granted certiorari on May 23, 1983; however, on October 29, 1984, the Oklahoma Supreme Court issued an Order, stating that the Court found that certiorari granted on May 23, 1983, should be recalled as improvidently granted, that the Court of Appeals opinion should be withdrawn from publication, and that certiorari should be denied. The State of Oklahoma has never been a party to the litigation below.

## ARGUMENT

WEBBER has tendered her "Motion for Leave to File Complaint in Original Jurisdiction Action" and has moved for leave to file the accompanying Complaint "pursuant to Rule 9 of the Rules of this Court". Further, WEBBER has added the State of Oklahoma to the style of her pleadings and has by proof of service mailed copies of her pleadings to the Governor of Oklahoma and to the Oklahoma Attorney General. Neither the Complaint nor the Brief contain any allegation against the State of Oklahoma.

The Plaintiff is attempting to invoke the original jurisdiction of this Court. However, an examination of the Complaint reveals no basis for original jurisdiction as codified by 28 U.S.C.A. §1251. Section 1251 provides:

§1251. Original Jurisdiction

- (a) The Supreme Court shall have original and exclusive jurisdiction of all controversies between two or more States.
- (b) The Supreme Court shall have original but not exclusive jurisdiction of:
  - (1) All actions or proceedings to which ambassadors, other public ministers, consuls, or vice consuls of foreign states are parties;
  - (2) All controversies between the United States and a State;
  - (3) All actions or proceedings by a State against the citizens of another State or against aliens.

HILLCREST and OKMULGEE MEMORIAL assert that this action is a controversy between private litigants and as such, does not come within the Court's original jurisdic-



tion arising under Article III of the Constitution of the United States as codified by 28 U.S.C.A. §1251.

Even if the State of Oklahoma has been properly made a party to this action, WEBBER has still not invoked the original jurisdiction of the Court. Article III of the United States Constitution does not grant original jurisdiction to the Supreme Court over controversies between a state and its own citizens. *Florida Nursing Home Assoc. v. Page*, 616 F.2d 1355, 1359 (1980), *cert. denied* 449 U.S. 872, reversed on other grounds 450 U.S. 147, rehearing denied 451 U.S. 933, on remand, 648 F.2d 241 (1981); see also, *Georgia v. Pennsylvania R.R.*, 324 U.S. 439, 463-464 (1945), wherein the Supreme Court held, "Georgia may not of course invoke the original jurisdiction of the Court in a suit against one of her citizens. If either of the defendants who assert this defense is a citizen of Georgia and is a necessary party, leave to file would have to be denied."

The codification of this rule in 28 U.S.C.A. §1251(b) (3) provides for original, but not exclusive, Supreme Court jurisdiction of all actions between a state and citizens of *another* state. However, there is no provision in 28 U.S.C.A. §1251 for the exercise of original jurisdiction of the Supreme Court in controversies between a state and its own citizens. Therefore, WEBBER's action against the Defendants does not come within the original jurisdiction of the Supreme Court and her Motion for Leave to File Complaint in Original Jurisdiction Action should be denied.

### CONCLUSION

The Plaintiff has failed to invoke the original jurisdiction of the Supreme Court of the United States. Therefore, the Plaintiff's Motion for Leave to File Complaint in Original Jurisdiction Action should be denied.

Respectfully submitted,

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*Memorial Hospital Authority*

March, 1985

## **PROOF OF SERVICE**

I, Edwin S. Hurst, a member of the Bar of the Supreme Court of the United States and counsel of record for Defendant, Hillcrest Medical Center, hereby certify that pursuant to the Rules of the Supreme Court, I have served three (3) copies of this Joint Brief of Hillcrest Medical Center and Okmulgee Memorial Hospital Authority in Opposition to Motion for Leave to File Complaint in Original Jurisdiction Action upon the following parties:

1. Jack B. Sellers, Jack B. Sellers Law Associates, Inc., P.O. Box 730, Sapulpa, Oklahoma 74067;
2. Honorable George Nigh, Governor of the State of Oklahoma, State Capitol, Oklahoma City, Oklahoma 73105;
3. Michael C. Turpen, Attorney General of the State of Oklahoma, State Capitol, Oklahoma City, Oklahoma 73105;

by depositing said copies in the United States Mail, properly addressed and postage fully prepaid, this \_\_\_\_\_ day of March, 1985.

All parties required to be served have been served.

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Edwin S. Hurst

1. 2020年11月10日，星期一，晴。上午9:00，开始工作。首先，对昨天的工作进行总结，并整理出今天的任务清单。然后，开始处理邮件，并回复客户的咨询。下午2:00，参加部门会议，讨论当前的项目进度和存在的问题。会议结束后，继续处理邮件，并整理出一份项目报告。

2. 2020年11月11日，星期二，晴。上午9:00，开始工作。首先，对昨天的工作进行总结，并整理出今天的任务清单。然后，开始处理邮件，并回复客户的咨询。下午2:00，参加部门会议，讨论当前的项目进度和存在的问题。会议结束后，继续处理邮件，并整理出一份项目报告。

3. 2020年11月12日，星期三，晴。上午9:00，开始工作。首先，对昨天的工作进行总结，并整理出今天的任务清单。然后，开始处理邮件，并回复客户的咨询。下午2:00，参加部门会议，讨论当前的项目进度和存在的问题。会议结束后，继续处理邮件，并整理出一份项目报告。

4. 2020年11月13日，星期四，晴。上午9:00，开始工作。首先，对昨天的工作进行总结，并整理出今天的任务清单。然后，开始处理邮件，并回复客户的咨询。下午2:00，参加部门会议，讨论当前的项目进度和存在的问题。会议结束后，继续处理邮件，并整理出一份项目报告。

5. 2020年11月14日，星期五，晴。上午9:00，开始工作。首先，对昨天的工作进行总结，并整理出今天的任务清单。然后，开始处理邮件，并回复客户的咨询。下午2:00，参加部门会议，讨论当前的项目进度和存在的问题。会议结束后，继续处理邮件，并整理出一份项目报告。

6. 2020年11月15日，星期六，晴。上午9:00，开始工作。首先，对昨天的工作进行总结，并整理出今天的任务清单。然后，开始处理邮件，并回复客户的咨询。下午2:00，参加部门会议，讨论当前的项目进度和存在的问题。会议结束后，继续处理邮件，并整理出一份项目报告。

7. 2020年11月16日，星期日，晴。上午9:00，开始工作。首先，对昨天的工作进行总结，并整理出今天的任务清单。然后，开始处理邮件，并回复客户的咨询。下午2:00，参加部门会议，讨论当前的项目进度和存在的问题。会议结束后，继续处理邮件，并整理出一份项目报告。

8. 2020年11月17日，星期一，晴。上午9:00，开始工作。首先，对昨天的工作进行总结，并整理出今天的任务清单。然后，开始处理邮件，并回复客户的咨询。下午2:00，参加部门会议，讨论当前的项目进度和存在的问题。会议结束后，继续处理邮件，并整理出一份项目报告。

9. 2020年11月18日，星期二，晴。上午9:00，开始工作。首先，对昨天的工作进行总结，并整理出今天的任务清单。然后，开始处理邮件，并回复客户的咨询。下午2:00，参加部门会议，讨论当前的项目进度和存在的问题。会议结束后，继续处理邮件，并整理出一份项目报告。







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