

B10 (Official Form 10) (04/13)

UNITED STATES BANKRUPTCY COURT		Northern District of Georgia	PROOF OF CLAIM
Name of Debtor: Hutcheson Medical Center, Inc.		Case Number: 14-42863	
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.			
Name of Creditor (the person or other entity to whom the debtor owes money or property): Stacy Mashburn			
Name and address where notices should be sent: P.O. Box 278 Rossville, GA 30741		Telephone number: (706) 861-6003 email: tlindsay@townleylindsay.com	COURT USE ONLY
Name and address where payment should be sent (if different from above):		Telephone number: email:	<input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____
Name and address where payment should be sent (if different from above):		Telephone number: email:	<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.
1. Amount of Claim as of Date Case Filed: \$ <u>3,000,000.00</u> If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.			
2. Basis for Claim: <u>Pending Suit in Catoosa County Superior Court</u> (See instruction #2)			
3. Last four digits of any number by which creditor identifies debtor: _____		3a. Debtor may have scheduled account as: _____ (See instruction #3a)	3b. Uniform Claim Identifier (optional): _____ (See instruction #3b)
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate _____ % <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable (when case was filed)		Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____	
5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.			
<input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B).		<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. § 507 (a)(4).	
<input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7).		<input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8).	
		<input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5).	
		<input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)(____).	
		Amount entitled to priority: \$ _____	
*Amounts are subject to adjustment on 4/01/16 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.			
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)			



B10 (Official Form 10) (04/13)

2

7. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, security agreements, or, in the case of a claim based on an open-end or revolving consumer credit agreement, a statement providing the information required by FRBP 3001(c)(3)(A). If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. If the claim is secured by the debtor's principal residence, the Mortgage Proof of Claim Attachment is being filed with this claim. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:


8. Signature: (See instruction #8)

Check the appropriate box.

- I am the creditor. I am the creditor's authorized agent. I am the trustee, or the debtor, or their authorized agent. I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.) (See Bankruptcy Rule 3004.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Thomas F. Lindsay
 Title: Attorney
 Company: Townlev & Lindsay, LLC
 Address and telephone number (if different from notice address above):

 4-30-15
 (Signature) (Date)

Telephone number: _____ email: _____

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, exceptions to these general rules may apply.

Items to be completed in Proof of Claim form

Court, Name of Debtor, and Case Number:
 Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

Creditor's Name and Address:
 Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:
 State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:
 State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:
 State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

3a. Debtor May Have Scheduled Account As:
 Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

3b. Uniform Claim Identifier:
 If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

4. Secured Claim:
 Check whether the claim is fully or partially secured. Skip this section if the

claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a).
 If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:
 An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

7. Documents:
 Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest and documents required by FRBP 3001(c) for claims based on an open-end or revolving consumer credit agreement or secured by a security interest in the debtor's principal residence. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

8. Date and Signature:
 The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

DEFINITIONS

Debtor

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

Creditor

A creditor is a person, corporation, or other entity to whom debtor owes a debt that was incurred before the date of the bankruptcy filing. See 11 U.S.C. §101 (10).

Claim

A claim is the creditor's right to receive payment for a debt owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

Proof of Claim

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

Secured Claim Under 11 U.S.C. § 506 (a)

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien.

A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

Claim Entitled to Priority Under 11 U.S.C. § 507 (a)

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor must show only the last four digits of any social-security, individual's tax-identification, or financial-account number, only the initials of a minor's name, and only the year of any person's date of birth. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information.

Evidence of Perfection

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

INFORMATION

Acknowledgment of Filing of Claim

To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim or you may access the court's PACER system (www.pacer.psc.uscourts.gov) for a small fee to view your filed proof of claim.

Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.

IN THE SUPERIOR COURT OF CATOOSA COUNTY
STATE OF GEORGIA

STACY MASHBURN,)
Plaintiff,)
)
vs.)
)
KISAN G. PATEL, and)
HUTCHESON MEDICAL CENTER, INC.,)
Defendants.)

CIVIL ACTION FILE
NO. 2011-SU-CV-1398

SUPERIOR COURT
CATOOSA COUNTY, GA
FILED IN OFFICE

July 23 2014
Debbie Orlive
CLERK/DEPUTY CLERK

AMENDED COMPLAINT

Comes now Plaintiff Stacy Mashburn and submits her Amended Complaint, amending
both her Complaint and Amendment to Complaint, as follows:

1.

Defendant Kisan G. Patel may be served with Summons and Complaint by duplicate
original at his residence located at 7715 Asherton Lane, Chattanooga, Tennessee 37421.

2.

Defendant Hutcheson Medical Center may be served with Summons and Complaint by
serving its registered agent, Jeffrey W. Woodard, or an officer, managing agent, or other agent at
its registered address located at 100 Gross Crescent Circle, Fort Oglethorpe, Georgia 30742-
3643.

3.

The Defendants are thus subject to the personal jurisdiction and venue of this Court.

4.

On July 30, 2009, Plaintiff Stacy Mashburn, an adult over age 21, was a patient at
Defendant Hutcheson Medical Cnter, Inc., having been admitted to the hospital and assigned to a

room on the floor, where she was being treated, with a diagnosis of pancreatitis.

5.

A hepatobiliary scan, also known as a HIDA scan, was ordered for Plaintiff Stacy Mashburn. This procedure involves putting radiopharmaceuticals into the body of the patient and tracking the gamma rays as the radioisotope component of the substance passes through certain organs.

6.

Because a foreign substance is to be placed inside the patient's body, here one that radiates gamma rays, the patient's informed consent is required.

7.

In the case of Plaintiff Stacy Mashburn, the chosen substance is known as Cholotec and it does utilize radiopharmaceuticals that give off gamma rays as it passes through certain organs.

8.

Before any patient at Defendant Hutcheson Medical Center, Inc., can have a foreign substance introduced into his or her body, the patient is entitled to be advised of the risks and to have his or her informed consent obtained by an employee of Defendant Hutcheson Medical Center, Inc., in the course and scope of employment by such employee or by an agent in the course and scope of such agent's authority by Defendant Hutcheson Medical Center, Inc., as principal.

9.

Plaintiff Stacy Mashburn had been suffering symptoms that included nausea and vomiting that day.

10.

Cholotec has known side effects that include nausea and vomiting.

11.

No one at Defendant Hutcheson Medical Center, Inc., including Defendant Kisan G. Patel, explained the use, risks or side effects of radiopharmaceuticals to Plaintiff Stacy Mashburn, who was awake and able to make decisions. Hence, she was deprived of the opportunity to decide for herself whether she wished to increase her nausea and vomiting, or the likelihood of increased nausea and vomiting.

12.

At 1300 hours, an order was entered that Plaintiff should not have any Morphine, Demerol or Phenergan for 4 to 6 hours prior to her HIDA scan, which would mean that her HIDA scan should begin no sooner than 1700-1900 hours that day.

13.

At 13153 hours, there is an entry on Plaintiff's chart that she received 3 mg Morphine.

14.

Plaintiff Stacy Mashburn was thereafter taken from her room in Hutcheson Medical Center to the Nuclear Medicine Room in the Radiology Department, where Defendant Kisan G. Patel was on duty as radiographic technologist. At all times pertinent herein, Defendant Kisan G. Patel was in the course and scope of his employment by Defendant Hutcheson Medical Center, Inc.

15.

At some time at or after 1609 hours on July 30, 2009, Defendant Kisan G. Patel

administered the Cholotec to Plaintiff Stacy Mashburn without anyone, including himself, obtaining a signed Informed Consent Form from Stacy Mashburn or even from one of her adult relatives who were at the hospital. Moreover, the HIDA scan began earlier than the entry at 1300 hours prescribed.

16.

Nonetheless, Defendant Kisan G. Patel proceeded forward with the HIDA screen after administering the Cholotec and failing to obtain a signed Informed Consent Form or verifying the existence or absence of a signed Informed Consent Form for the use of radiopharmaceuticals or Cholotec or even the HIDA scan.

17.

Plaintiff Stacy Mashburn did suffer nausea and vomiting after she arrived in the Nuclear Medicine Department and she had to be moved away from the machine on occasions of vomiting. She also specifically stated that she did not want to continue the procedure. Defendant Kisan G. Patel nonetheless knowingly and intentionally continued the procedure over Plaintiff Stacy Mashburn's objections.

18.

At some point after completing the imaging at the 30-minute point of the first stage of the HIDA scan, Defendant Kisan G. Patel rolled Plaintiff out from under the machine involved and noticed that Plaintiff Stacy Mashburn had agonal breathing, her head while lying down was pointed back, and she was non-responsive.

19.

A code was called at that time. The first entry of the code team was by a respiratory

therapist and began at 1710 hours on July 30, 2009. Two more members of the code team arrived at 1719 hours, and a fourth member of the code team, a nurse, arrived at 1720 hours. When the fourth member arrived, the crash cart was found to have a malfunctioning defibrillator.

20.

The Radiology Department has four crash carts with defibrillators in rooms other than the Nuclear Medicine room. The Radiology Department assigns one or more nurses from that Department, as part of her duties, to check each of the four crash carts with onboard defibrillators at the beginning of the 7 a.m. (0700 hours) shift, and one or more nurses to check each crash cart with onboard defibrillators at the beginning of the 7 p.m. (1900 hours) shift. All the crash carts with defibrillators are required to be checked each shift, each day.

21.

On July 30, 2009, after the first crash cart was found to have a malfunctioning defibrillator, a second crash cart from elsewhere in the Radiology Department was brought to the code team in the Nuclear Medicine room where Plaintiff was located. This time the defibrillator worked.

22.

The code team was then finally able to generate 200 Joules to Plaintiff at 1725 hours. A second 200 Joules was generated at 1726 hours and given to Plaintiff, finally restoring a regular heart beat to Plaintiff.

23.

Earlier on that same day, Plaintiff Stacy Mashburn had a chest X-ray that showed clear lungs. A subsequent chest X-ray after the aforesaid HIDA scan and code, taken that day or the

next day, showed pneumonia in a lower lobe of her lung.

24.

As a result of the vomiting, she had aspirated some of the vomit, cutting off her air supply, resulting in the code and near death.

25.

A subsequent test on her heart after the HIDA scan and code showed Stacy Mashburn's heart to be as healthy as an earlier test the preceding December, meaning that she had not had a cardiac incident, other than normal for a human whose oxygen had been cut off.

26.

The consequences of this event were that Plaintiff Stacy Mashburn has had to undergo extensive rehabilitation and therapy, including learning to walk independently again. She had slurred speech and has undergone speech therapy and other forms of physical and other therapy. She still has difficulty writing, cannot grasp normally with her hands, is now dyslexic, cannot count change, and has other mental deficits.

27.

Plaintiff Stacy Mashburn has suffered extensive physical, emotional and painful injury, has incurred extensive medical expenses, and will continue to incur medical and therapeutic expenses due to future medical care and treatment.

28.

Plaintiff Stacy Mashburn has had a diminished ability to work since this incident, described above, and her future earning capacity has been diminished also, resulting in further damages to her.

COUNT ONE: BATTERY

29.

Plaintiff realleges the allegations contained in paragraphs 1 through 28, inclusively, and incorporates them as if more fully set out herein.

30.

The lack of informed consent and the intentional continuation of the procedure over Plaintiff's objection and request to stop, make the unconsented to procedure in the Nuclear Medicine Department a battery by Defendant Kisan G. Patel.

31.

Defendant Hutcheson Medical Center, Inc., is liable under the doctrine of respondeat superior for the conduct of Defendant Kisan G. Patel, either as an employee in the course and scope of his employment or as agent in the course and scope of his relationship with Defendant Hutcheson Medical Center, Inc., as his principal.

32.

Defendants are jointly and severally liable to Plaintiff Stacy Mashburn for her compensatory damages in such amount in excess of \$10,000.00 as the jury may find from the evidence, and due to the wilful and intentional misconduct shown above, in disregard for the rights of Plaintiff Stacy Mashburn, these Defendants are jointly and severally liable for punitive damages in such amount as the jury may find in its enlightened conscience.

COUNT II: PROFESSIONAL NEGLIGENCE

33.

Plaintiff realleges the allegations contained in paragraphs 1 through 28, inclusively, and

incorporates them as if more fully set out herein.

34.

The standard of care applicable to nurses in a hospital setting is to ensure that crash carts in their respective departments are correctly inspected, when assigned to such inspection, and to assure that all components of the crash cart are present and in working order. Failure to perform this function can lead to a crash cart with a defibrillator that does not work properly being taken to the site where a code has been called and the patient being unable to receive the appropriate shock because the defibrillator malfunctions. Such failure is a deviation below the standard of care.

35.

Here the failure of the nurses in the Radiology Department, in the course and scope of their employment by Hutcheson Medical Center, to ensure that all four crash carts had working defibrillators was a deviation below the applicable standard of care, and this failure led to an aggravation or exacerbation of the injury suffered by Stacy Mashburn in the Nuclear Medicine Room on July 30, 2009. Such acts and omissions constitute professional negligence.

36.

Defendant Hutcheson Medical Center, Inc., is liable under the doctrine of respondeat superior for the aforesaid acts and omissions of the Radiology Department nurses, either as employees in the course and scope of their employment or as agents in the course and scope of their relationship with Defendant Hutcheson Medical Center, Inc., as their principal.

37.

Defendant Hutcheson Medical Center, Inc., is liable to Plaintiff Stacy Mashburn for her

compensatory damages proximately caused by such professional negligence in such amount in excess of \$10,000.00 as the jury may find from the evidence.

38.

Pursuant to O.C.G.A. 9-11-9.1, the Affidavit of Karen M. Young, RN, a active licensed Registered Nurse, is appended hereto.

COUNT III: SIMPLE NEGLIGENCE

39.

Plaintiff realleges the allegations contained in paragraphs 1 through 38, inclusively, and incorporates them as if more fully set out herein.

40.

In the alternative to Count II, the aforesaid acts or omissions of the nurses in the Radiology Department regarding the daily check-off lists involving the defibrillators were an administrative task not requiring professional judgment and expertise. Accordingly, their acts or omissions, as aforesaid, constitute simple negligence and such simple negligence proximately caused or exacerbated injury to Plaintiff.

41.

Defendant Hutcheson Medical Center, Inc., is liable under the doctrine of respondeat superior for the aforesaid acts and omissions of the Radiology Department nurses, either as employees in the course and scope of their employment or as agents in the course and scope of their relationship with Defendant Hutcheson Medical Center, Inc., as their principal.

42..

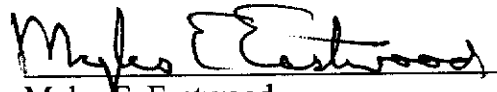
Defendat Hutcheson Medical Center, Inc., is liable to Plaintiff Stacy Mashburn for her

compensatory damages proximately caused by such simple negligence in such amount in excess of \$10,000.00 as the jury may find from the evidence,

WHEREFORE, Plaintiff Stacy Mashburn prays and demands that:


- A. As to Count I, Judgment be entered against Defendants, jointly and severally, awarding Plaintiff her compensatory damages in such amount in excess of \$10,000.00 as the jury may find from the evidence;
- B. As to Count II, or alternatively Count III, Judgment be entered against Defendant Hutcheson Medical Center, Inc., awarding Plaintiff her compensatory damages in such amount in excess of \$10,000.00 as the jury may find from the evidence;
- C. Punitive damages be awarded against Defendants, jointly and severally, for punitive damages in such amount as the jury may find in its enlightened conscience.
- D. A jury trial be had as to all issues so triable;
- D. Costs be cast against Defendants; and
- E. She have such other and further relief as the Court may deem just and proper.

Respectfully submitted,


Myles E. Eastwood
Georgia Bar No. 237700

3101 Towercreek Parkway, Suite 475
Atlanta, GA 30339
Atlanta, GA 30339
Tel: (770) 628-0199

Townley & Lindsay, LLC
P.O. Box 278
Rossville, GA 30741
Tel: (706) 861-6003


Christopher A. Townley (by MEE with permission)
Georgia Bar No. 714925

Attorneys for Plaintiff Stacy Mashburn

PLAINTIFF DEMANDS TRIAL BY JURY

IN THE SUPERIOR COURT OF CATOOSA COUNTY
STATE OF GEORGIA

STACY MASHBURN,)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION FILE
)	NO. 2011-SU-CV-1398
KISAN G. PATEL, and)	
HUTCHESON MEDICAL CENTER,)	
INC.,)	
Defendants.)	

AFFIDAVIT OF KAREN M. YOUNG, RN

STATE OF GEORGIA
COUNTY OF _____

Before the undersigned officer duly authorized to administer oaths personally appeared
KAREN M. YOUNG who after being sworn deposed and stated as follows:

1.

I, Karen M. Young, RN, am a Registered Nurse (“RN”) actively licensed to practice nursing in the State of Georgia. In 1996 I received my Bachelors of Science in Nursing from Columbus State University in Columbus, Georgia. During 1996-1999, I worked in the Emergency Room (“ER”) at The Medical Center, Columbus Regional Healthcare System for two years and in Medical Surgery for one year. From 1999-2000 I was an RN with Cross Country Staff Agency in Boca Raton, Florida, with travel nursing in Mills-Peninsula Hospital, Burlingame, California, and Crawford Long-Emory University ER, Atlanta, Georgia. I then served as an RN at the Emory University Hospital, Atlanta, Georgia, in the 5E ICU Surgical/Liver Transplant unit during 2002-2005, as both Staff Nurse and Charge Nurse. During 2000-2009 I also served as an RN at Gwinnett Medical Center, Lawrenceville, Georgia, as

Affidavit of Karen M. Young -

Emergency Department Supervisor, Charge Nurse, Neuro Resource nurse, and Staff nurse. While at Gwinnett Medical Center I worked in Trauma, Adult, Fastrack, CDU and Children's ER; precepted nursing students and EMT students; and was ACLS Course Director for one year. From 2009 to 2012 I served as Manager of the Emergency Department at Rockdale Medical Center, Conyers, Georgia, where we treated and cared for over 50,000 patients per year. From December 2012 to May 30, 2014, I have served at Rockdale Medical Center as Director of Emergency Department, Cardiology, Cardiac Rehab and Ambulatory Care Unit and Stroke Coordinator. I currently am PRN with the Emergency Department and IT Department at Rockdale Medical Center. In addition to my active RN licensure in Georgia, certifications include Trauma Core Curriculum Instructor, Advanced Cardiac Life Support Instructor, Basic Life Support, and Advanced Stroke Life Support.

2.

I have reviewed the medical chart on Stacy Mashburn concerning her medical care and treatment at Hutcheson Medical Center from July 30, 2009 through August 17, 2009, and I have reviewed the deposition transcripts of Stacy Mashburn, Kisan G. Patel, Sherry Mashburn, Alicia Headrick, Dr. Radian Florea, Dr. David H. Gordon, Nurse Katrina Park, Nurse Barbara Burton, Nurse Kathy Landstreet, and Respiratory Therapist Kevin Hopkins. I have also reviewed the Amended Complaint to which this Affidavit is attached. I have assumed that the facts stated in the medical chart, the depositions and the Amended Complaint are true for purposes of this Affidavit. Based on said review, the facts which I assume to be true and on which I base this Affidavit are as follows:

Stacy Mashburn was treated in the ER of Hutcheson Medical Center on the morning of

July 30, 2009, with complaint of stomach pain and nausea. She was admitted to the hospital and transferred to a room on the floor. Her initial diagnosis was pancreatitis. A hepatobiliary, also known as HIDA, scan was ordered for Ms. Mashburn. There was an order at 1300 hours that she should not have any Morphine, Demerol or Phenergan for 4 to 6 hours prior to her HIDA scan, which would mean that her HIDA scan should begin no earlier than 1700-1900 hours. At 1315 hours she received 3 mg of Morphine. Ms. Mashburn was taken from her room to the Nuclear Medicine Room in the Radiology Department. The HIDA scan has two stages, with the first stage lasting 30 minutes, during which imaging was done at the 5 minute point, the 15 minute point, and the 30 minute point per Mr. Patel's deposition. During this first stage, Ms. Mashburn was nauseous and vomited on different occasions after being rolled out from under the machine. At some point after the last imaging during this stage, Mr. Kisan Patel rolled Ms. Mashburn out and noticed that her eyes were rolled back, she had agonal breathing, and she was non-responsive, even to pats on the side of her face. A code was called. Although the code sheet shows the code called at 1719 hours, Kevin Hopkins, a respiratory therapist who responded as a member of the code team, began his entry of what he did during the code, at 1710 hours. Drs. Mull and Morrow arrived at 1719 hours, and Nurse Katrina Parks arrived at 1720 hours. Dr. Florea arrived after the others were already there. Nurse Parks saw that the defibrillator on the crash cart was not working and thus someone had to then go get a second crash cart with a defibrillator that worked. After the second crash cart arrived, Ms. Mashburn received 200 Joules at 1725 hours, and at 1726 hours she received another 200 Joules, which revived her. The code ended at 1731 hours, and Ms. Mashburn was transported to ICU.


The Radiology Department at Hutcheson Medical Center has four crash carts with

defibrillators on them in rooms in the Radiology Department other than the Nuclear Medicine room. The Radiology Department assigns one or more nurses from that Department, as part of her duties, to check each of the crash carts with onboard defibrillators once at the beginning of the 7 a.m. shift, with all crash carts and defibrillators being checked. The Department assigns one or more nurses to check each of the crash carts with onboard defibrillators at the beginning of the 7 p.m. shift. More than one nurse may be checking crash carts with defibrillators on any given day, with all defibrillators being inspected.. The required inspection twice a day includes turning the defibrillator on to make sure it has a charge and is working. On July 30, 2009, as noted above, one crash cart with defibrillator was brought to the Nuclear Medicine room and attempted to be used, but the defibrillator malfunctioned. A second crash cart had to be obtained and its defibrillator did perform its function upon arrival at the Nuclear Medicine room. Accordingly, the twice daily inspection of the four defibrillators failed to ensure that each and every one of the four defibrillators could be used in the event of a code being called.


3.

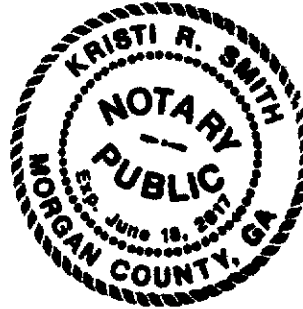
The standard of care applicable to nurses employed in a hospital setting is to ensure that crash carts in their respective departments are correctly inspected, when assigned to such inspection, and to ensure that all components of the crash cart are present and in working order. Failure to perform this function can lead to a crash cart with a defibrillator that does not work properly being taken to the site where a code has been called and the patient being unable to receive the appropriate shock because the defibrillator malfunctions. Such failure by the nurses is a deviation below the standard of care. The standard of care is to check the defibrillator by ensuring the device is charged and has the ability to perform a shock test. If the defibrillators

had been checked properly a failure or problem with the machine would have been noted and the device removed from service. This device's failure led to a delay in care of this patient and delay in defibrillation from a lethal rhythm, and this was below the applicable standard of care. Further Affiant saith not.


KAREN M. YOUNG, RN

Sworn to and subscribed
before me this 17th
day of July, 2014.


Notary Public
My commission expires June 18, 2017



CERTIFICATE OF SERVICE

I hereby certify that I have caused the within and foregoing pleading to be served upon opposing counsel by first class U.S. mail in an envelope bearing sufficient postage to ensure delivery and properly addressed to counsel as follows:

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This the 21st day of July, 2014.

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Northern District of Georgia Claims Register

[14-42863-pwb Hutcheson Medical Center, Inc.](#)

Judge: Paul W. Bonapfel **Chapter:** 11
Office: Rome **Last Date to file claims:** 05/01/2015
Trustee: **Last Date to file (Govt):**

Creditor: (19003366) Stacy Mashburn P.O. Box 278 Rossville, GA 30741	Claim No: 164 <i>Original Filed</i> Date: 04/30/2015 <i>Original Entered</i> Date: 04/30/2015	Status: Filed by: AT Entered by: Thomas F. Lindsay Modified:
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Amount claimed: \$3000000.00				
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History:

Details	164-1	04/30/2015	Claim #164 filed by Stacy Mashburn, Amount claimed: \$3000000.00 (Lindsay, Thomas)
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Description: (164-1) Pending Suit in Catoosa County Superior Court

Remarks:

Claims Register Summary

Case Name: Hutcheson Medical Center, Inc.
Case Number: 14-42863-pwb
Chapter: 11
Date Filed: 11/20/2014
Total Number Of Claims: 1

Total Amount Claimed*	\$3000000.00
Total Amount Allowed*	

*Includes general unsecured claims

The values are reflective of the data entered. Always refer to claim documents for actual amounts.

	Claimed	Allowed
Secured		
Priority		
Administrative		