

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY**

DANA TAYLOR,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. N15C-03-131 ALR
	)	
CHRISTIANA CARE HOSPITAL,	)	
et al.,	)	
	)	
Defendants.	)	

*Upon Defendants' Motion to Dismiss  
Medical Negligence Claims Under 18 Del. C. Sec. 6853*  
**GRANTED**

Defendants have filed a motion to dismiss Plaintiff's medical malpractice action on the grounds that Plaintiff has not complied with the Delaware statute which requires that medical negligence claims be supported by affidavit(s) of merit filed with the complaint. Plaintiff has not filed any response to the pending motion. More importantly, Plaintiff has not filed affidavit(s) of merit in support of his medical negligence claims. Upon consideration of Defendant's motion and the applicable statutory and decisional law, the Court finds as follows:

1. The complaint was filed on March 19, 2015.
2. Delaware law requires that claims asserting medical negligence be supported by an affidavit of merit stating that there are reasonable grounds to

believe that there has been healthcare medical negligence committed by each defendant. 18 Del. C. Sec. 6853(a)(1).

3. An affidavit of merit was not filed with the complaint.

4. Defendants' motion to dismiss was filed on April 17, 2015 requesting dismissal of the action on the grounds that Plaintiff had not filed an affidavit of merit as required by Delaware statute.

5. The Court sent Plaintiff a letter dated April 20 allowing thirty days for Plaintiff's response to Defendants' motion. The deadline for response was May 20, 2015.

6. Plaintiff did not file a response to Defendants' motion or an affidavit of merit. However, Plaintiff did make a submission to the Court dated May 22 which was received on May 26 but the filing was rejected by the Prothonotary on May 27 as non-conforming.

7. Although Plaintiff had not made a timely motion for a single 60-day extension for good cause pursuant to 18 Del. C. Sec. 6853(a)(2), in consideration of Plaintiff's self-represented status and his rejected filing on May 26, by letter dated May 29, 2015, the Court granted an additional 60 days for the filing of an affidavit of merit, until July 29, 2015.

8. No affidavit(s) of merit have been filed.

9. This medical negligence action must be dismissed because Plaintiff has not complied with the Delaware statute that requires that claims asserting medical negligence be supported by an affidavit of merit stating that there are reasonable grounds to believe that there has been healthcare medical negligence committed by each defendant. 18 Del. C. Sec. 6853(a)(1).

**NOW, THEREFORE, this 17<sup>th</sup> day of August, 2015, Defendants' Motion to Dismiss is hereby GRANTED. Plaintiff's lawsuit asserting medical negligence is hereby dismissed for Plaintiff's failure to provide affidavit(s) of merit stating that there are reasonable grounds to believe that there has been healthcare medical negligence committed by each defendant.**

**IT IS SO ORDERED.**

*Andrea L. Rocanelli*

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The Honorable Andrea L. Rocanelli