

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

JOHN M. DONOFRIO,)
individually, and as the Executor)
of the Estate of)
ELIZABETH ANN DONOFRIO,)
TARA DONOFRIO,)
GINA MEDKEFF, heirs of)
ELIZABETH ANN DONOFRIO,)

Plaintiffs,)

v.)

ST. FRANCIS HOSPITAL and)
IMRAN MIRZA, M.D.,)

Defendants.)

C.A. No.: N14C-10-223 FSS

TRIAL BY JURY DEMANDED

Submitted: January 26, 2015

Decided: February 24, 2015

ORDER

Upon Review of the Affidavits of Merit

Plaintiffs submitted two affidavits of merit with their medical negligence complaint. On January 26, 2015, Defendant St. Francis Hospital moved to have the court review them, *in camera*, to determine whether they comply with 18 *Del. C.* § 6853(a)(1) and (c).¹

¹ 18 *Del. C.* § 6853(d).

In Delaware, a healthcare negligence lawsuit must be filed with an affidavit of merit, signed by an expert, and accompanied by the expert's *curriculum vitae*.² The expert must be licensed to practice medicine as of the affidavit's date and engaged in the same or similar field as the defendant in the three years immediately preceding the alleged negligence.³ The affidavit must state that reasonable grounds exist to believe the defendant was negligent in a way that proximately caused the plaintiff's injury.⁴

The statute's requirements are purposefully minimal. Accordingly, an affidavit of merit that tracks the statutory language complies with the statute.⁵

Plaintiffs' two affidavits address both Defendants. After *in camera* review, the court finds:

1. An expert signed each affidavit;
2. A current *curriculum vitae* was filed with each affidavit;
3. At the time each affidavit was sworn, both experts were licensed physicians who treated patients and/or taught in the same or similar field of medicine as the Defendants within the three years preceding the alleged negligence;

² *Id.* § 6853(a)(1).

³ *Id.* § 6853(c).

⁴ *Id.* § 6853(c).

⁵ See *Dishmon v. Fucci*, 32 A.3d 338, 342 (Del. 2011) (“In order to satisfy the *prima facie* burden, an Affidavit of Merit must only contain an expert's sworn statement that medical negligence occurred, along with confirmation that he or she is qualified to proffer a medical opinion.”).

4. Both experts were Board certified in the same or similar field of medicine as the Defendants;
5. The affidavits state, with reasonable medical probability, that there are grounds to believe the applicable standard of care was breached by both Defendants;
6. Both experts state Defendants' breach proximately caused Plaintiff's injuries.

Considering the above, the court finds that the affidavits of merit comply with 18 *Del. C.* § 6853(a) and (c) as to the hospital.

IT IS SO ORDERED.

/s/ Fred S. Silverman
Judge

cc: Prothonotary (Civil)
Jacqueline Genesio, Esquire
Colleen D. Shields, Esquire
Derek Layser, Esquire
Jeffrey M. Gentilotti, Esquire