

**APPENDIX 1**

**Supreme Court of Georgia (seal)**

**Supreme Court of Georgia Case No. S18C0953  
Atlanta, August 27, 2018**

**The Honorable Supreme Court met pursuant to  
adjournment. The following order was passed.**

**DEBORAH J DAVIS et al. v. MEHUL BHATT**

**The Supreme Court today denied the petition for  
certiorari in this case. Hines, C.J., Meltin, P. J.,  
Benham, Hunstein, Nahamias, Blackwell, Boggs,  
and Peterson, J.J., concur.**

**Court of Appeals Case No. A17A1396**

**SUPREME COURT OF THE STATE OF GEORGIA  
Clerk's Office, Atlanta**

**I certify that the above is a true extract from the  
minutes of the Supreme Court of Georgia.  
Witness my signature and the seal of said court  
hereto affixed the day and year last above written.**

**S/ Therese S Barnes, Clerk**

**APPENDIX 2**

**Court of Appeals of the State of Georgia**

**Atlanta, March 02, 2018**

**The Court of Appeals hereby passes the following order.**

**A17A1396: DEBORAH J. DAVIS et al. v. MEHUL BHATT.**

**Upon consideration of the APPELLANT'S Motion for Reconsideration in the above styled case, it is ordered that the motion is hereby DENIED.**

**Court of Appeals of  
the State of Georgia  
(Seal)**

**Court of Appeals of the State of Georgia  
Clerk's Office, Atlanta, March 02, 2018.**

**I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.**

**Witness my signature and the seal of said court hereto affixed the day and year last above written.**

**S/Stephen E. Castlen , Clerk**

**APPENDIX 3**

**SECOND DIVISION  
MILLER, P.J.,  
DOYLE, P.J., and REESE, J.**

**NOTICE: Motions for reconsideration must be physically received in our clerk's office within ten days of the date of decision to be deemed timely filed.  
<http://www.gaappeals.us/rules>**

**February 20, 2018**

**NOT TO BE OFFICIALLY  
REPORTED**

**In the Court of Appeals of Georgia**

**A17A1396, DAVIS et al. v. BHATT DO-054**

**DOYLE, Presiding Judge.**

**In this case, the following circumstances exist and are dispositive of the appeal:**

- (1)The evidence supports the judgement;**
- (2)No reversible error of law appears, and an opinion would have no precedential value;**
- (3)The judgement of the court below adequately explains the decision; and**
- (4)The issues are controlled adversely to the appellants for the reasons and authority given in the appellee's brief.**

**The judgement of the court below therefore is affirmed in accordance with Court of Appeals Rule 36.**

**Judgement affirmed. Miller, P.J., and Reese, J., concur**

**(Note: the original of this document was received without a seal and statement of the clerk.)**

**APPENDIX 4**

**IN THE SUPERIOR COURT OF CHEROKEE  
COUNTY  
STATE OF GEORGIA**

**DEBORAH J. DAVIS, INDIVIDUALLY  
AND AS SURVIVING SPOUSE OF  
FRANK HOMER DAVIS, JR.,**

**PLAINTIFF,**

**v.**

**CIVIL ACTION NO.  
16-CV-14230**

**MEHUL BHATT, M.D.**

**ORDER GRANTING DEFENDANT  
MEHUL BHATT, M.D.'S MOTION TO DISMISS**

Plaintiff, as surviving spouse of Frank Homer Davis, Jr., filed suit alleging battery by Dr. Bhatt, during the care and treatment of Mr. Davis. On August 24, 2016,

Dr. Bhatt filed an Answer and Motion to Dismiss on the grounds that (1) Plaintiff Failed to State a Claim for Battery in Light of a Valid Consent to Care Executed by Plaintiff and (2) Plaintiff failed to file an expert affidavit with her Complaint pursuant to O.C.G.A. ss9-11-9.1.

While Plaintiff's Complaint alleges the tort of "battery", her claims against Dr. Bhatt sound in medical negligence as they involve the exercise of medical skill and judgement. Plaintiff alleges Dr. Bhatt administered the drug Milrenone, which caused her husband to suffer an injury and ultimately die. Such allegations clearly invoke "medical questions" and call into question Dr. Bhatt's medical skill and judgement.

For every action alleging medical negligence, Plaintiff is required to file an affidavit of an expert competent to testify with the complaint. See O.C.G.A. (s) 9-11-9.1(a). This requirement applies, not only to claims specifically identified as ones for negligence, but to all claims based upon an alleged failure of a professional to meet his professional obligation of care. Here, Plaintiff failed to file an affidavit of an expert with her Complaint pursuant to O.C.G.A. (s) 9-11-9.1. The statute of limitations for filing medical negligence claim has now expired and Plaintiff's failure cannot be cured pursuant to O.C.G.A. 9-11-9.1 (f). Failure to file the necessary expert affidavit mandates dismissal for failure to state a claim upon which relief may be granted.

For the reasons stated above and as outlined in Dr. Bhatt's Motion to Dismiss and Brief in Support of the Motion to Dismiss, IT IS HEREBY ORDERED that Defendant Mehul Bhatt, M.D.'s Motion to Dismiss is GRANTED. This Court finds that Plaintiff's Complaint must be DISMISSED WITH PREJUDICE as to Mehul Bhatt, M.D..

**This 27 day of January , 2017  
S/ The honorable David Cannon, Jr.  
Judge, Superior Court of Cherokee County**

**Order Prepared and Submitted by:  
/s/ Heather H. Miller**

**Wayne D. McGrew, III  
Georgia Bar No. 493216**

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**Attorneys for Defendant Mehul Bhatt, M.D.**

**Copy Provided to:  
Deborah Davis, Pro Se, 200 Morris Hill Rd. Canton,  
GA 30114**

**APPENDIX 5**

Supreme Court of Georgia (seal)

Supreme Court of Georgia Case No. S18C0953  
Atlanta, September 24, 2018

The Honorable Supreme Court met pursuant to adjournment. The following order was passed.

**DEBORAH J DAVIS et al. v. MEHUL BHATT**

Upon consideration of the Motion for Reconsideration filed in this case, it is ordered that it be hereby denied.

Melton, C.J., Nahamias, P.J., Benham, Hunstein, Blackwell, Boggs, and Peterson, J.J., concur.  
Warren, J., not participating.

**SUPREME COURT OF THE STATE OF GEORGIA**  
Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.  
Witness my signature and the seal of said court hereto affixed the day and year last above written.

S/ Therese S Barnes, Clerk



## **APPENDIX 6**

2010 Georgia Code  
TITLE 9 - CIVIL PRACTICE  
CHAPTER 11 - CIVIL PRACTICE ACT  
ARTICLE 3 - PLEADINGS AND MOTIONS  
§ 9-11-9.1 - Affidavit to accompany charge of  
professional malpractice  
O.C.G.A. 9-11-9.1 (2010)  
9-11-9.1. Affidavit to accompany charge of  
professional malpractice

(a) In any action for damages alleging professional malpractice against:

(1) A professional licensed by the State of Georgia and listed in subsection (g) of this Code section;

(2) A domestic or foreign partnership, corporation, professional corporation, business trust, general partnership, limited partnership, limited liability company, limited liability partnership, association, or any other legal entity alleged to be liable based upon the action or inaction of a professional licensed by the State of Georgia and listed in subsection (g) of this Code section; or

(3) Any licensed health care facility alleged to be liable based upon the action or inaction of a health care professional licensed by the State of Georgia and listed in subsection (g) of this Code section, the plaintiff shall be required to file with the complaint

an affidavit of an expert competent to testify, which affidavit shall set forth specifically at least one negligent act or omission claimed to exist and the factual basis for each such claim.

(b) The contemporaneous affidavit filing requirement pursuant to subsection (a) of this Code section shall not apply to any case in which the period of limitation will expire or there is a good faith basis to believe it will expire on any claim stated in the complaint within ten days of the date of filing the complaint and, because of time constraints, the plaintiff has alleged that an affidavit of an expert could not be prepared. In such cases, if the attorney for the plaintiff files with the complaint an affidavit in which the attorney swears or affirms that his or her law firm was not retained by the plaintiff more than 90 days prior to the expiration of the period of limitation on the plaintiff's claim or claims, the plaintiff shall have 45 days after the filing of the complaint to supplement the pleadings with the affidavit. The trial court shall not extend such time for any reason without consent of all parties. If either affidavit is not filed within the periods specified in this Code section, or it is determined that the law firm of the attorney who filed the affidavit permitted in lieu of the contemporaneous filing of an expert affidavit or any attorney who appears on the pleadings was retained by the plaintiff more than 90 days prior to the expiration of the period of limitation, the complaint shall be dismissed for failure to state a claim.

(c) This Code section shall not be construed to extend

any applicable period of limitation, except that if affidavits are filed within the periods specified in this Code section, the filing of the affidavit of an expert after the expiration of the period of limitations shall be considered timely and shall provide no basis for a statute of limitations defense.

(d) If a complaint alleging professional malpractice is filed without the contemporaneous filing of an affidavit as permitted by subsection (b) of this Code section, the defendant shall not be required to file an answer to the complaint until 30 days after the filing of the affidavit of an expert, and no discovery shall take place until after the filing of the answer.

(e) If a plaintiff files an affidavit which is allegedly defective, and the defendant to whom it pertains alleges, with specificity, by motion to dismiss filed on or before the close of discovery, that said affidavit is defective, the plaintiff's complaint shall be subject to dismissal for failure to state a claim, except that the plaintiff may cure the alleged defect by amendment pursuant to Code Section 9-11-15 within 30 days of service of the motion alleging that the affidavit is defective. The trial court may, in the exercise of its discretion, extend the time for filing said amendment or response to the motion, or both, as it shall determine justice requires.

(f) If a plaintiff fails to file an affidavit as required by this Code section and the defendant raises the failure to file such an affidavit by motion to dismiss filed contemporaneously with its initial responsive pleading, such complaint shall not be subject to the

**renewal provisions of Code Section 9-2-61 after the expiration of the applicable period of limitation, unless a court determines that the plaintiff had the requisite affidavit within the time required by this Code section and the failure to file the affidavit was the result of a mistake.**

**(g) The professions to which this Code section shall apply are:**

- (1) Architects;**
- (2) Attorneys at law;**
- (3) Audiologists;**
- (4) Certified public accountants;**
- (5) Chiropractors;**
- (6) Clinical social workers;**
- (7) Dentists;**
- (8) Dietitians;**
- (9) Land surveyors;**
- (10) Marriage and family therapists;**
- (11) Medical doctors;**

- (12) Nurses;
- (13) Occupational therapists;
- (14) Optometrists;
- (15) Osteopathic physicians;
- (16) Pharmacists;
- (17) Physical therapists;
- (18) Physicians' assistants;
- (19) Podiatrists;
- (20) Professional counselors;
- (21) Professional engineers;
- (22) Psychologists;
- (23) Radiological technicians;
- (24) Respiratory therapists;
- (25) Speech-language pathologists; or
- (26) Veterinarians.

## **APPENDIX 7**

### **Constitutional Rights**

#### **United States Constitution ARTICLE XIV. SECTION 1.**

##### **United States Constitution Article [IV] (Amendment 4 - Search and Seizure)**

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

##### **United States Constitution Article XIV (Amendment 14 - Rights Guaranteed: Privileges and Immunities of Citizenship, Due Process, and Equal Protection)**

**1:** All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

##### **Constitution of the State of Georgia ARTICLE I. BILL OF RIGHTS SECTION I. Paragraph 1 RIGHTS OF PERSONS**

**Paragraph I:** Life, liberty, and property. No person

shall be deprived of life, liberty, or property except by due process of law.

**Constitution of the State of Georgia ARTICLE  
I. BILL OF RIGHTS SECTION I.**

**Paragraph II. Protection to person and property; equal protection. Protection to person and property is the paramount duty of government and shall be impartial and complete. No person shall be denied the equal protection of the laws.**

**Constitution of the State of Georgia ARTICLE  
I. BILL OF RIGHTS SECTION I.**

**Paragraph VII. Citizens, protection of. All citizens of the United States, resident in this state, are hereby declared citizens of this state; and it shall be the duty of the General Assembly to enact such laws as will protect them in the full enjoyment of the rights, privileges, and immunities due to such citizenship.**

**Constitution of the State of Georgia ARTICLE  
I. BILL OF RIGHTS SECTION I.**

**Paragraph XII. Right to the courts. No person shall be deprived of the right to prosecute or defend, either in person or by an attorney, that person's own cause in any of the courts of this state.**