

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

DOROTHY CLARK, Individually, as)
Administratrix of the Estate of Decedent,)
RONALD H. CLARK, II, and as next)
friend of NICHOLAS CLARK,)
SALVATORE CLARK and ALEXANDER)
CLARK, minors,) C.A. No. 04C-05-214 MMJ
)
Plaintiffs,)
)
v.)
)
NEUROSURGERY CONSULTANTS,)
P.A., a Delaware corporation and BIKASH)
BOSE, M.D.,)
)
Defendants.

ORDER

Submitted: October 8, 2004
Decided: November 18, 2004

*Upon Defendants' Neurosurgery Consultants, P.A. and Bikash Bose, M.D.
Request to Determine if the Affidavit of Merit
Complies with 18 Del. C. §§ 6853 (a)(1) and (c)*

Section 6853(a)(1) of title 18 of the Delaware Code provides that all healthcare negligence complaints must be accompanied by an affidavit of merit as to each defendant signed by an expert witness, accompanied by a current *curriculum vitae* of the witness, and stating that there are reasonable grounds to

believe that there has been healthcare medical negligence committed by each defendant.

In this case, the affidavit of merit was filed under seal, as required.

Pursuant to 18 *Del. C.* § 6853(d), Defendants Neurosurgery Consultants, P.A. and Bikash Bose, M.D. requested *in camera* review of the affidavit to determine compliance with sections 6853(a)(1) and (c). The Court has reviewed the affidavit of merit and the accompanying *curriculum vitae*. The Court finds:

1. The affidavit is signed by an expert witness.
2. The affidavit is accompanied by a current *curriculum vitae*.
3. The affidavit sets forth the expert's opinion that there are reasonable grounds to believe that the applicable standard of care was breached by each named defendant.
4. The affidavit sets forth the expert's opinion that there are reasonable grounds to believe that specifically enumerated breaches by each defendant proximately caused the injuries claimed in the complaint.
5. The expert witness was licensed to practice medicine as of the date of the affidavit.

6. In the 3 years immediately preceding the alleged negligent act, the expert witness was engaged in the treatment of patients and/or in the teaching/academic side of medicine in the field of neurosurgery.

7. The expert witness is board-certified in neurosurgery.

THEREFORE, the Court having reviewed *in camera* the affidavit of merit and accompanying *curriculum vitae* of plaintiff's expert witness, the Court finds that the affidavit of merit complies with sections 6853(a)(1) and (c) of title 18 of the Delaware Code.

IT IS SO ORDERED.

The Honorable Mary M. Johnston