

IN THE STATE OF SOUTH CAROLINA )  
 COUNTY OF BARNWELL )  
 MEGAN FOLK, )  
 on behalf of herself and others )  
 similarly situated, )  
 Plaintiffs, )  
 vs. )  
 SC HEALTHCARE INVESTMENT, LLC )  
 d/b/a SOUTHERN PALMETTO )  
 HOSPITAL, )  
 Defendants. )

IN THE COURT OF COMMON PLEAS  
 FOR THE SECOND JUDICIAL CIRCUIT  
 CASE NO.: 2016-CP-06- 00034

**CLASS ACTION COMPLAINT**  
 (Jury Trial Demanded)

FILED FOR RECORD  
 2016 JAN 22 PM 4:22  
 RHONDA D. McEIVEN  
 CLERK OF COURT  
 BARNWELL COUNTY, S.C.

Now comes the Plaintiff, above-named, on behalf of themselves and others similarly situated and for their complaint state as follows:

**PARTIES**

1. Plaintiff brings this action on behalf of herself and on behalf of the others similarly situated as herself. The named Plaintiff is a citizen of the State of South Carolina and the remainder of the Plaintiff's class are all citizens of the State of South Carolina or a vast majority of which are citizens of the State of South Carolina.
2. Plaintiff is a resident of Barnwell County, State of South Carolina and a majority of the Plaintiff's class is thought to be residents of Barnwell County, South Carolina.
3. Plaintiff and those similarly situated were all employed, at the Defendant's Barnwell, South Carolina location known as Southern Palmetto Hospital (hereinafter "SPH").
4. Plaintiff and the Plaintiff class (hereinafter referred to collectively as "Plaintiffs"), as employees of SPH and at SPH, were notified for the first time on or around January 19,

STATE OF SOUTH CAROLINA,  
 I, Rhonda D. McEivlen, Clerk of Court for Barnwell County,  
 South Carolina do hereby certify that the foregoing  
 constitutes a true and correct copy of the original  
 documents which have been filed in my office.

By: *[Signature]*  
 Clerk of Court, Barnwell County, SC  
 Date: 1/22/16

2016 at approximately 4:00 p.m. that a mass lay off or plant closing would occur of all employees as the Defendant would be shutting down its hospital, SPH.

5. Plaintiffs were not notified of the Defendant's intentions to shut down the said premises until January 19, 2016.
6. The above-named Plaintiff is similarly situated to all other former employees of SPH who cannot afford to hire an attorney, and therefore a just result can only be accomplished by this action being granted class-action certification, in an effort to answer the common questions of law and/or fact.
7. Defendant SC Healthcare Investment, LLC doing business as SPH is an entity incorporated in the State of Delaware and its principal place of business is believed to be in the State of South Carolina.

#### JURISDICTION

8. This court has subject matter jurisdiction over this action and venue in the County of Barnwell, State of South Carolina is proper as it is the home county of Defendant SPH and the occurrences which gave rise to these actions occurred in Barnwell County.
9. This court has personal jurisdiction over the Defendants in this action.
10. The South Carolina Court of Common Pleas has concurrent jurisdiction over this cause of action as this Court may hear causes of action based on federal questions.

#### FACTUAL ALLEGATIONS

11. Plaintiffs were employees of SPH, the only hospital sitting in Barnwell County which was at service to the Barnwell County community.

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12. SPH employed approximately one hundred and forty (140) persons at the time the mass lay off or plant closing occurred.
13. Prior to June of 2013, SPH was known as Barnwell County Hospital. It was at this time that Defendant SC Healthcare Investments, LLC purchased Barnwell County Hospital, eventually renaming it "Southern Palmetto Hospital."
14. On approximately January 19, 2016 at around 4:00 p.m., an emergency meeting was called whereby the Director of Nursing informed the employees that they would be laid off on or approximately on January 21, 2016 and would receive two (2) weeks of severance pay. The Chief Executive Officer nor any other hospital administrator was present at this meeting.
15. After being led to believe that jobs would remain and healthcare would be available, SPH decided to shut its doors with no regard for the employees.
16. Instead of providing employees notice of the plant closing or mass lay off, to allow employees the opportunity to look for new jobs so that hopefully they could provide for their own families, SPH and SC Healthcare Investment, LLC decided the best action was to provide for themselves, disregarding federal law, more specifically, the Worker Adjustment and Retraining Notification Act.

**FOR A FIRST CAUSE OF ACTION**  
**(WARN ACT)**

17. The allegations contained above are re-alleged and restated herein verbatim.
18. That Plaintiffs bring this action as former employees of the Defendant SPH.

19. That Defendant SPH is an "employer" as defined in 29 U.S.C.A. § 2101(a)(1) as SPH hired 100 or more employees, excluding part-time employees or hired 100 or more employees who in the aggregate worked at least 4,000 hours per week (exclusive of hours of overtime).
20. That Defendant SPH, failed to give the required sixty (60) day notice for a plant closing or mass lay off as required by 29 U.S.C.A. § 2102(a).
21. That Defendant SPH and the actions of SPH do not fall under any of the exemptions to this act as set forth in 29 U.S.C.A. § 2103.
22. That, pursuant to 29 U.S.C.A. § 2104, Defendant SPH is liable to Plaintiffs for this unlawful plant closing or mass lay off in violation of 29 U.S.C.A. § 2102 and shall be liable to each aggrieved employee for back pay for each day of violation at a rate of compensation not less than the higher of: (1) the average regular rate received by such employee during the last 3 years of the employee's employment; or (2) the final regular rate received by such employee; and benefits under an employee benefit plan described in 29 U.S.C.A § 1002(3) of this title, including the cost of medical expenses incurred during the employment loss would have been covered under an employee benefit plan if the employment loss had not occurred.
23. That the liability to each employee should be back pay for each day in violation of the WARN Act for each employee pursuant to 29 U.S.C.A. § 2104.
24. That Defendants deliberately ignored the WARN Act in laying off its employees in an effort to avoid paying them any more wages other than two (2) weeks of promised severance pay.

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**CLASS ACTION AVERMENTS**

25. This case is brought as a class action under Rule 23 of the South Carolina Rules of Civil Procedure. The proposed class would be defined as follows:

**Damages Relief Class:** All former employees of Defendant SPH who were presently working at the time of the initial notice of the plant closing which occurred on January 19, 2016.

This case is properly brought as a class action under Rule 23 of the South Carolina Rules of Civil Procedure for the reasons set forth in the following paragraphs:

26. That named Plaintiff is a member of the proposed class.

27. That named Plaintiff is similarly situated to multiple Plaintiffs, including, among themselves, all others who were employed by the Defendant SPH and may not yet be aware of their legal rights.

28. Plaintiffs believe that the class is composed of up to one hundred forty (140) former employees of Defendant SPH and as such, a class action would be the most efficient form of adjudication of claims. That joinder of all former employees in one lawsuit is impracticable, and the disposition of claims in this transaction will provide a substantial benefit both to the parties and to the court.

29. Plaintiff is entitled to have this cause of action maintained as a class action, pursuant to Rule 23 for the following non-exclusive reasons:

- a) The persons constituting the Plaintiff class is so numerous that individual joinder of all parties is impracticable;
- b) Common questions of law and fact exist between the class representatives and the unnamed members of the Plaintiff class;

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- c) The class representatives' claims are typical of the claims of the class;
  - d) The Defendant's defenses against the class representatives, to the extent any will be asserted, are typical of the claims of the class;
  - e) The named Plaintiffs are representative of the Plaintiff class and members of the Plaintiffs' class and are so situated as to provide adequate representation for the unnamed Plaintiff class-members as their claims are common to the class;
  - f) This case is for monetary relief, to force Defendants to pay back moneys owed to Plaintiffs pursuant to 29 U.S.C.A § 2104;
  - g) There are common questions and issues of law and fact involved in this matter which predominate over questions affecting individual class members;
  - h) Each Plaintiff's damages are equal to or greater than \$100; and
  - i) That prosecution as separate actions by Plaintiff class members will create a serious risk of inconsistent or varying adjudication which may prejudicially affect the claims of the other class members and subsequent litigation.
30. The prosecution of separate actions by individual Plaintiff class members possess the risk that separate adjudication respecting the individual Plaintiffs would not be entirely dispositive of the interest of Plaintiff class members not parties to the litigation but would otherwise substantially impair or impede the ability of the Plaintiff class members to protect their interests.
31. A single, determinative adjudication would better instruct the Defendants on how to behave with regards to past, present and future employees rather than multiple adjudications with potentially varying results.
32. The class action is a superior procedural vehicle for this litigation because the primary objective of the class action, economies of time and effort and expense, will be achieved and the class action may be more easily managed than some other procedural vehicle considering the opportunity to afford reasonable notice of significant phases of the

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litigation, including, *inter alia*, discovery to the Plaintiff class members and the Defendant.

33. The named Plaintiffs' damages are not substantially different from the damages of other members of the Plaintiff class. Plaintiffs will fully and adequately protect the interests of the other members of the Plaintiffs' class, who are too numerous to be named individually and to individually appear in this proceeding.
34. There is a well-defined community of interest and the questions of law and fact affecting the parties to be represented.
35. The claims or defenses of the representative parties are typical of the claims or defenses applicable to the entire class.
36. The Plaintiffs have retained counsel competent in the prosecution of this type of litigation.
37. The questions of law and fact applicable to the entire Plaintiffs' class predominate over questions that may affect other members, including the following determinative critical issues:
  - a) Whether Defendants unlawfully began a plant closing or mass layoff;
  - b) Whether Defendants provided any sort of notice prior to January 19, 2016; and
  - c) Whether Defendants complied with the WARN act, more specifically, 29 U.S.C.A. § 2102.

Because of the size of many of the individual class member claims, few, if any, class members could afford to seek legal action for the wrongs complained herein.

38. The Plaintiff and the class allege that the Defendants acted and/or omitted to act in such ways as to violate 29 U.S.C.A. § 2102.

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39. The Plaintiff and members of the class have suffered damages as a result of the Defendant's actions and/or omissions to act and damages should be awarded to the Plaintiffs pursuant to 29 U.S.C.A § 2104 with interest, along with attorney's fee and costs.


**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs, on behalf of themselves and all others similarly situated, pray that this Honorable Court enter judgment against Defendant as follows:

1. For an Order declaring that the action be maintained as a class action under the appropriate provision of Rule 23 of the South Carolina Rules of Civil Procedure, and appointing Plaintiffs and their counsel to represent the Class;
2. For actual and compensatory damages against Defendants in favor of Plaintiffs for pay and benefits pursuant to 29 U.S.C.A. §2104; and
3. For the costs and disbursements of this action, including reasonable attorney's fees.

Respectfully Submitted,

Kirkland & Kirkland, LLC

By:   
 Kent C. Kirkland, Esquire  
 K. Clint Kirkland, Jr., Esquire  
 P.O. Box 1122  
 95 Allen Street  
 Barnwell, SC 29812  
 (803) 259-4455

1/22/16, 2016  
 Barnwell, South Carolina

ATTORNEYS FOR PLAINTIFFS

*Handwritten initials/signature*



**NATIONAL REGISTERED AGENTS, INC.**  
**SERVICE OF PROCESS SUMMARY TRANSMITTAL FORM**

To: John Hopfensperger  
FRHI Managing Member, LLC  
1205 Concord Hunt Dr  
Brentwood, TN 37027-8760

SOP Transmittal # 528551324

800-592-9023 - Telephone

Entity Served: SC HEALTHCARE INVESTMENTS, LLC (Domestic State: DELAWARE)

Enclosed herewith are legal documents received on behalf of the above captioned entity by National Registered Agents, Inc. or its Affiliate in the State of SOUTH CAROLINA on this 29 day of January, 2016. The following is a summary of the document(s) received:

- 1. **Title of Action:** Megan Folk, etc., Pltf. vs. SC HEALTHCARE INVESTMENTS, LLC, etc., Dft.
- 2. **Document(s) Served:** Other: Reply Envelope, Letter, Acceptance, Cover Sheet(s), Summons(es), Complaint(s)
- 3. **Court of Jurisdiction/Case Number:** Barnwell County Court of Common Pleas, SC  
Case # 2016CP0600034
- 4. **Amount Claimed, if any:** N/A
- 5. **Method of Service:**  
 Personally served by:       Process Server       Deputy Sheriff       U. S Marshall  
 Delivered Via:       Certified Mail       Regular Mail       Facsimile  
 Other (Explain):
- 6. **Date of Receipt:** 01/29/2016
- 7. **Appearance/Answer Date:** Within 30 days after service, exclusive of the day of service
- 8. **Received From:** K. Clint Kirkland, Jr.  
Kirkland and Kirkland, LLC  
95 Allen Street  
P.O. Box 1122  
Barnwell, SC 29812  
803-259-4455
- 9. **Federal Express Airbill #** 782272938057
- 10. **Call Made to:** Not required
- 11. **Special Comments:**  
SOP Papers with Transmittal, via Fed Ex 2 Day

NATIONAL REGISTERED AGENTS, INC.

Copies To:

Transmitted by Amy McLaren

The information contained in this Summary Transmittal Form is provided by National Registered Agents, Inc. for informational purposes only and should not be considered a legal opinion. It is the responsibility of the parties receiving this form to review the legal documents forwarded and to take appropriate action.

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