## RINGER, HENRY, BUCKLEY & SEACORD, P.A.

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ROBERT D. HENRY BHENRY@RINGERHENRY.COM

July 3, 2018

VIA EMAIL: marc@fbswlaw.com

D. Marc Warner, Esq. Warner, Sechrest & Butts, P.A. 5200 SW 91<sup>st</sup> Terrace, Suite 101 Gainesville, FL 32608

RE:

Cudnik v. Reynolds

Dear Mr. Warner:

This letter follows our recent telephone conversation concerning this matter. As I reported to you by telephone, I have spoken to Ms. Reynolds and confirmed that she and the birth center do not have coverage for this claim. In 2015, Ms. Reynolds was covered by the Lancet Insurance Company. The policy premium to renew that policy in 2016 was excessive, and so she cancelled and switched to the Florida Medical Malpractice Joint Underwriting Association. The premium for tail coverage for the Lancet was also excessive and she could not afford it. Unfortunately, the Lancet was a claims-made policy and therefore does not cover this claim because it came in after the policy expired. The FMMJUA policy is on an occurrence form, meaning that it only covers occurrences which occur during the policy period. I have enclosed an Affidavit of Ms. Reynolds with some supporting documentation.

I am trying to assist Ms. Reynolds without making an appearance. Not only does she not have insurance, but she does not have assets that would cover even a small judgment.

You indicated during our call that you would speak to your client about dismissing the case. If you need additional information or would like to discuss it further, please let me know. I look forward to hearing from you in the near future. Thank you for your consideration.

Sincerely,

Robert D. Henry

Enclosures

cc:

Amy Reynolds

L:\RDH\LT-WARNER-001 RDH:cif

## AFFIDAVIT OF AMY ELIZABETH REYNOLDS, L.M.

STATE OF FLORIDA	)
	)
COUNTY OF MARION	)

BEFORE ME, the undersigned authority, duly authorized to administer oaths and take acknowledgments, personally appeared AMY ELIZABETH REYNOLDS, L.M. who, after being first duly sworn, states as follows:

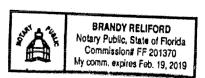
- 1. I am over the age of eighteen and I have personal knowledge of the facts and statements made herein.
- 2. I am a licensed midwife in the state of Florida and the owner of The Ocala Birth Center.
- 3. A claim has been made against me and The Ocala Birth Center by Stephanie Cudnik and Kenneth Cudnik on behalf of their child, Sawyer Cudnik. Sawyer Cudnik was delivered at the Ocala Birth Center in late 2015. At the time of his birth, I was insured by Lancet Indemnity Insurance Company with a policy effective date of July 1, 2015, and an expiration date of July 1, 2016. Said policy was not renewed in 2016 and tail coverage was not purchased. In 2016, coverage was purchased with the Florida Medical Malpractice Joint Underwriting Association, which policy is an occurrence policy.
- 4. The claim on behalf of Sawyer Cudnik has been reported to Lancet Indemnity. Lancet Indemnity has informed me that because I did not purchase tail coverage, there is no coverage for this claim. I have also contacted the Florida Medical Malpractice Joint Underwriting Association, but have been told that because they issue occurrence policies and this occurrence occurred before I purchased insurance from them in 2016, there is no coverage.

- 5. I have attached to this Affidavit a copy of my Certificate of Insurance with Lancet Indemnity, a copy of a letter from Lancet Indemnity to me, received by email, stating that I do not have coverage, and an email from my insurance agent advising that my policy with Florida Medical Malpraetice Joint Underwriting Association was on an occurrence form and purchased on July 1, 2016.
  - 6. I do not have insurance to cover the claim made on behalf of Sawyer Cudnik.

FURTHER, AFFIANT SAYETH NOT.

Amy Elizabeth Reynolds, L.M., Affiant

The foregoing instrument was acknowledged before me this 2 day of July, 2018, , by AMY ELIZABETH REYNOLDS, L.M., who is personally known to me or who has produced as identification and who did/did not take an oath.



Notary Name: Branay Leliford

My Commission Expires: Ftb 19 2019





## CERTIFICATE OF INSURANCE

(Claims Made Policy)

This is to certify that the Policy of insurance listed below has been issued to the Named insured and is in force at this time. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this Certificate may be issued or may pertain, the insurance afforded by the Policy described herein is subject to all the terms, conditions and exclusions of said Policy.

1. Name:

Amy Reynolds LM

2. Address: 5455 SE Maricamp Road. Ocala, FL 34480

3. Specialty: Midwife

4. Additional Insured's: (shared limits basis) N/A

5. Policy Number: LR091414002690

6. Policy Effective Date:

7/1/2015

7. Policy Expiration Date:

7/1/2016

8. Policy Retroactive Date: 7/1/2014

\$100,000 PER CLAIM / \$300,000 AGGREGATE

9. Limits of Liability:

10. Type of Insurance: PHYSICIANS PROFESSIONAL LIABILITY INSURANCE

Lancet Indemnity will endeavor to mail (30) days written notice to the below named Certificate Holder, but failure to mail such notice will impose NO obligation of liability of any kind upon the Company.

11. Name and Address of Certificate Holder: Amy Reynolds LM

5455 SE Maricamp Road, Ocala, FL 34480

12. Date Issued: 7/8/2015

Authorized Representative:

Anthony F. Maniscalco, COO

# Receipt of Suit: Confirmation no coverage available

Catherine Stanton [Catherine\_Stanton@westernlitigation.com]

Sent: 3/28/2018 11:14 AM

To: amy@apeacefulbeginning.com

Dear Ms. Reynolds,

We have been advised that you recently submitted a claim to Lancet Indemnity. You previously had a policy in force from 2014 – 2016. Lancet has confirmed that you did not purchase tail coverage, as such there is no active policy that would afford coverage for the loss involving Sawyer Cudnick.

If you purchased a policy elsewhere we suggest you put that carrier on notice.

Regards,

Catherine Stanton
Senior Resolution Manager



7906 Cherrytree Lane | New Port Richey, FL 34653

Mobile: 727-741-3473

www.westernlitigation.com |catherine\_stanton@westernlitigation.com

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## re:Amy Reynolds, LM

Ann Geisler [ageisler@southerncrossins.com]

Sent: 6/29/2018 11:46 AM

To: amy@apeacefulbeginning.com

Hi Amy! After reviewing your policy record...

- · Your policy with Physicians Casualty RRG expired 07/01/14, this was a claims made policy
- · We did not place coverage again for you until 07/01/16 with the FMMJUA, occurrence form

Therefore, you do not have coverage for any activities in 2015. Hope this helps. Ann

Ann A. Geisler, CPCU, AU, AAI President



#### Southern Cross Insurance Solutions home of The Midwife Plan

P.O. Box 568428, Orlando, FL 32856

Ann Geisler ext. #1 ageisler@southerncrossins.com

Phone: 407-985-3542

Ann's Cell Phone: 407-491-4007

Toll Free: 888-985-3542

Melanie Hart ext. #2 mhart@southerncrossins.com

Fax: 407-985-3556

Marilyn Praytor ext. #3 mpraytor@southerncrossins.com

We will continue to partner with Hugh Cotton Insurance on some of your policies so we can gain access to more markets for you! www.southerncrossins.com www.themidwifeplan.com

As an independent broker, we have many markets to work with. So don't forget we can assist you with your business insurance needs including General Liability, Property, Workers' Compensation, Business Auto, Bonds, Etc.

#### \*\*\*\*\*\* CONFIDENTIALITY NOTICE\*\*\*\*\*\*

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Attachments:

image001.jpg

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