



IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

IN RE: RALEIGH HEART CLINIC LITIGATION CIVIL ACTION NO. 18-C-5000

THIS DOCUMENT APPLIES TO:

**J.C. v. Raleigh Heart Clinic, Inc., et al.
G.S. v. Raleigh Heart Clinic, Inc., et al.
R.S. v. Raleigh Heart Clinic, Inc., et al.
K.F. v. Raleigh Heart Clinic, Inc., et al.
M.H. v. Raleigh Heart Clinic, Inc., et al.
W.B. v. Raleigh Heart Clinic, Inc., et al.
L.L. v. Raleigh Heart Clinic, Inc., et al.
S.M. v. Raleigh Heart Clinic, Inc., et al.
T.P. v. Raleigh Heart Clinic, Inc., et al.**

**Civil Action No. 16-C-387 RAL
Civil Action No. 16-C-388 RAL
Civil Action No. 16-C-389 RAL
Civil Action No. 16-C-390 RAL
Civil Action No. 17-C-103 RAL
Civil Action No. 17-C-245 RAL
Civil Action No. 18-C-132 RAL
Civil Action No. 18-C-134 RAL
Civil Action No. 18-C-136 RAL**

**F.A. v. Raleigh Heart Clinic, Inc., et al.
M.A., as Admin. of the Est. of Z.A. v.
Raleigh Heart Clinic, Inc., et al.
T.A. v. Raleigh Heart Clinic, Inc., et al.
D.A. v. Raleigh Heart Clinic, Inc., et al.
C.B. v. Raleigh Heart Clinic, Inc., et al.
D.B. v. Raleigh Heart Clinic, Inc., et al.
G.B. v. Raleigh Heart Clinic, Inc., et al.
S.B. v. Raleigh Heart Clinic, Inc., et al.
D.B. v. Raleigh Heart Clinic, Inc., et al.
M.B. v. Raleigh Heart Clinic, Inc., et al.
K.B. v. Raleigh Heart Clinic, Inc., et al.
L.B. v. Raleigh Heart Clinic, Inc., et al.
B.B. as Admin. of Est. of G.B. v.
Raleigh Heart Clinic, Inc., et al.
M.B. v. Raleigh Heart Clinic, Inc., et al.
M.B. v. Raleigh Heart Clinic, Inc., et al.
M.B. v. Raleigh Heart Clinic, Inc., et al.
T.C. v. Raleigh Heart Clinic, Inc., et al.
D.C. v. Raleigh Heart Clinic, Inc., et al.
K.C. v. Raleigh Heart Clinic, Inc., et al.
M.C. v. Raleigh Heart Clinic, Inc., et al.
A.B. as Admin. of Est. of B.C. v.
Raleigh Heart Clinic, Inc., et al.
M.C. v. Raleigh Heart Clinic, Inc., et al.
C.C. v. Raleigh Heart Clinic, Inc., et al.
J.C. v. Raleigh Heart Clinic, Inc., et al.
J.C. v. Raleigh Heart Clinic, Inc., et al.
T.C. v. Raleigh Heart Clinic, Inc., et al.
B.C. v. Raleigh Heart Clinic, Inc., et al.**

**Civil Action No. 18-C-60 RAL
Civil Action No. 18-C-14 RAL**

**Civil Action No. 17-C-649 RAL
Civil Action No. 17-C-648 RAL
Civil Action No. 18-C-28 RAL
Civil Action No. 17-C-651 RAL
Civil Action No. 17-C-652 RAL
Civil Action No. 17-C-642 RAL
Civil Action No. 18-C-143 RAL
Civil Action No. 17-C-626 RAL
Civil Action No. 17-C-628 RAL
Civil Action No. 17-C-629 RAL
Civil Action No. 18-C-13 RAL**

**Civil Action No. 17-C-625 RAL
Civil Action No. 17-C-627 RAL
Civil Action No. 17-C-653 RAL
Civil Action No. 17-C-641 RAL
Civil Action No. 17-C-639 RAL
Civil Action No. 17-C-631 RAL
Civil Action No. 17-C-634 RAL
Civil Action No. 17-C-650 RAL**

**Civil Action No. 17-C-632 RAL
Civil Action No. 17-C-638 RAL
Civil Action No. 17-C-640 RAL
Civil Action No. 17-C-630 RAL
Civil Action No. 17-C-645 RAL
Civil Action No. 17-C-647 RAL**

L.D. v. Raleigh Heart Clinic, Inc., et al.
L.D. v. Raleigh Heart Clinic, Inc., et al.
G.D. v. Raleigh Heart Clinic, Inc., et al.
V.D. v. Raleigh Heart Clinic, Inc., et al.
M.D. v. Raleigh Heart Clinic, Inc., et al.
G.S. as Admin. of Est. of J.E. v.
Raleigh Heart Clinic, Inc., et al.
D.E. v. Raleigh Heart Clinic, Inc., et al.
K.E. v. Raleigh Heart Clinic, Inc., et al.
P.E. v. Raleigh Heart Clinic, Inc., et al.
E.F. v. Raleigh Heart Clinic, Inc., et al.
K.F. v. Raleigh Heart Clinic, Inc., et al.
T.F. v. Raleigh Heart Clinic, Inc., et al.
M.F. v. Raleigh Heart Clinic, Inc., et al.
S.F. v. Raleigh Heart Clinic, Inc., et al.
D.H. v. Raleigh Heart Clinic, Inc., et al.
H.H. v. Raleigh Heart Clinic, Inc., et al.
M.H. v. Raleigh Heart Clinic, Inc., et al.
N.H. v. Raleigh Heart Clinic, Inc., et al.
F.H. as Exec. of Est. of N.H. v.
Raleigh Heart Clinic, Inc., et al.
J.H. v. Raleigh Heart Clinic, Inc., et al.
J.H. v. Raleigh Heart Clinic, Inc., et al.
D.H. v. Raleigh Heart Clinic, Inc., et al.
D.H. v. Raleigh Heart Clinic, Inc., et al.
D.H. v. Raleigh Heart Clinic, Inc., et al.
S.H. v. Raleigh Heart Clinic, Inc., et al.
H.H. v. Raleigh Heart Clinic, Inc., et al.
I.H. v. Raleigh Heart Clinic, Inc., et al.
S.H. v. Raleigh Heart Clinic, Inc., et al.
K.W.B., T.W. as Execs. of Est. of R.D.J. v.
Raleigh Heart Clinic, Inc., et al.
K.J. v. Raleigh Heart Clinic, Inc., et al.
W.J. v. Raleigh Heart Clinic, Inc., et al.
J.R. as Admin. of Est. of G.L. v.
Raleigh Heart Clinic, Inc., et al.
J.L. v. Raleigh Heart Clinic, Inc., et al.
L.L. v. Raleigh Heart Clinic, Inc., et al.
J.L. v. Raleigh Heart Clinic, Inc., et al.
T.L. v. Raleigh Heart Clinic, Inc., et al.
S.M. v. Raleigh Heart Clinic, Inc., et al.
G.M. v. Raleigh Heart Clinic, Inc., et al.
K.M. v. Raleigh Heart Clinic, Inc., et al.
W.M. v. Raleigh Heart Clinic, Inc., et al.
H.M. v. Raleigh Heart Clinic, Inc., et al.
I.M. v. Raleigh Heart Clinic, Inc., et al.

Civil Action No. 17-C-643 RAL
Civil Action No. 18-C-12 RAL
Civil Action No. 17-C-644 RAL
Civil Action No. 17-C-635 RAL
Civil Action No. 17-C-654 RAL
Civil Action No. 17-C-637 RAL

Civil Action No. 17-C-636 RAL
Civil Action No. 17-C-687 RAL
Civil Action No. 17-C-686 RAL
Civil Action No. 18-C-11 RAL
Civil Action No. 17-C-685 RAL
Civil Action No. 17-C-684 RAL
Civil Action No. 17-C-683 RAL
Civil Action No. 17-C-682 RAL
Civil Action No. 17-C-691 RAL
Civil Action No. 17-C-692 RAL
Civil Action No. 17-C-693 RAL
Civil Action No. 17-C-694 RAL
Civil Action No. 17-C-695 RAL

Civil Action No. 17-C-696 RAL
Civil Action No. 17-C-701 RAL
Civil Action No. 17-C-702 RAL
Civil Action No. 17-C-697 RAL
Civil Action No. 17-C-699 RAL
Civil Action No. 17-C-700 RAL
Civil Action No. 17-C-670 RAL
Civil Action No. 17-C-671 RAL
Civil Action No. 17-C-672 RAL
Civil Action No. 17-C-732 RAL

Civil Action No. 17-C-673 RAL
Civil Action No. 18-C-27 RAL
Civil Action No. 17-C-674 RAL

Civil Action No. 17-C-675 RAL
Civil Action No. 17-C-680 RAL
Civil Action No. 17-C-681 RAL
Civil Action No. 17-C-676 RAL
Civil Action No. 17-C-679 RAL
Civil Action No. 17-C-678 RAL
Civil Action No. 17-C-677 RAL
Civil Action No. 17-C-754 RAL
Civil Action No. 17-C-755 RAL
Civil Action No. 18-C-10 RAL

J.M. v. Raleigh Heart Clinic, Inc., et al.
S.M. v. Raleigh Heart Clinic, Inc., et al.
R.M. v. Raleigh Heart Clinic, Inc., et al.
J.M. v. Raleigh Heart Clinic, Inc., et al.
P.M. v. Raleigh Heart Clinic, Inc., et al.
V.M. v. Raleigh Heart Clinic, Inc., et al.
O.M. v. Raleigh Heart Clinic, Inc., et al.
M.N. v. Raleigh Heart Clinic, Inc., et al.
D.N. v. Raleigh Heart Clinic, Inc., et al.
S.O. v. Raleigh Heart Clinic, Inc., et al.
J.P. v. Raleigh Heart Clinic, Inc., et al.
A.P. v. Raleigh Heart Clinic, Inc., et al.
E.P. v. Raleigh Heart Clinic, Inc., et al.
T.P. v. Raleigh Heart Clinic, Inc., et al.
R.P. v. Raleigh Heart Clinic, Inc., et al.
J.P. v. Raleigh Heart Clinic, Inc., et al.
E.P. v. Raleigh Heart Clinic, Inc., et al.
J.R. v. Raleigh Heart Clinic, Inc., et al.
M.R. v. Raleigh Heart Clinic, Inc., et al.
M.R. v. Raleigh Heart Clinic, Inc., et al.
A.S. v. Raleigh Heart Clinic, Inc., et al.
L.S. v. Raleigh Heart Clinic, Inc., et al.
D.S. v. Raleigh Heart Clinic, Inc., et al.
J.S. v. Raleigh Heart Clinic, Inc., et al.
K.S. v. Raleigh Heart Clinic, Inc., et al.
B.S. v. Raleigh Heart Clinic, Inc., et al.
C.S. v. Raleigh Heart Clinic, Inc., et al.
S.S. v. Raleigh Heart Clinic, Inc., et al.
R.T. v. Raleigh Heart Clinic, Inc., et al.
D.B. as Admin. of Est. of K.T. v.
Raleigh Heart Clinic, Inc., et al.
C.T. v. Raleigh Heart Clinic, Inc., et al.
T.T. v. Raleigh Heart Clinic, Inc., et al.
D.T. v. Raleigh Heart Clinic, Inc., et al.
D.U. v. Raleigh Heart Clinic, Inc., et al.
M.V. v. Raleigh Heart Clinic, Inc., et al.
J.V. v. Raleigh Heart Clinic, Inc., et al.
R.W. v. Raleigh Heart Clinic, Inc., et al.
D.W. as Amin. of Est. of R.W. v.
Raleigh Heart Clinic, Inc., et al.
M.W. v. Raleigh Heart Clinic, Inc., et al.
D.W. v. Raleigh Heart Clinic, Inc., et al.
G.W. v. Raleigh Heart Clinic, Inc., et al.
A.W. v. Raleigh Heart Clinic, Inc., et al.
E.Y. v. Raleigh Heart Clinic, Inc., et al.

Civil Action No. 17-C-756 RAL
Civil Action No. 18-C-67 RAL
Civil Action No. 17-C-757 RAL
Civil Action No. 17-C-758 RAL
Civil Action No. 17-C-770 RAL
Civil Action No. 17-C-771 RAL
Civil Action No. 17-C-772 RAL
Civil Action No. 17-C-773 RAL
Civil Action No. 17-C-760 RAL
Civil Action No. 17-C-761 RAL
Civil Action No. 17-C-762 RAL
Civil Action No. 17-C-763 RAL
Civil Action No. 18-C-26 RAL
Civil Action No. 17-C-765 RAL
Civil Action No. 17-C-766 RAL
Civil Action No. 17-C-767 RAL
Civil Action No. 17-C-768 RAL
Civil Action No. 17-C-769 RAL
Civil Action No. 17-C-734 RAL
Civil Action No. 17-C-733 RAL
Civil Action No. 18-C-57 RAL
Civil Action No. 17-C-735 RAL
Civil Action No. 17-C-736 RAL
Civil Action No. 17-C-737 RAL
Civil Action No. 17-C-750 RAL
Civil Action No. 17-C-751 RAL
Civil Action No. 17-C-752 RAL
Civil Action No. 18-C-8 RAL
Civil Action No. 17-C-753 RAL
Civil Action No. 17-C-646 RAL

Civil Action No. 17-C-749 RAL
Civil Action No. 17-C-738 RAL
Civil Action No. 17-C-739 RAL
Civil Action No. 17-C-740 RAL
Civil Action No. 17-C-742 RAL
Civil Action No. 17-C-743 RAL
Civil Action No. 18-C-141 RAL
Civil Action No. 17-C-745 RAL

Civil Action No. 18-C-29 RAL
Civil Action No. 17-C-744 RAL
Civil Action No. 17-C-746 RAL
Civil Action No. 18-C-142 RAL
Civil Action No. 17-C-747 RAL

R.C. as Exec. Of Est of C.C. v. Raleigh Heart Clinic, Inc., et al.	Civil Action No. 17-C-708 RAL
T.H. v. Raleigh Heart Clinic, Inc., et al.	Civil Action No. 17-C-707 RAL
P.R. v. Raleigh Heart Clinic, Inc., et al.	Civil Action No. 18-C-138 RAL
L.S. v. Raleigh Heart Clinic, Inc., et al.	Civil Action No. 18-C-133 RAL
S.S. v. Raleigh Heart Clinic, Inc., et al.	Civil Action No. 18-C-140 RAL
T.S. v. Raleigh Heart Clinic, Inc., et al.	Civil Action No. 16-C-550 RAL
M.T. v. Raleigh Heart Clinic, Inc., et al.	Civil Action No. 17-C-706 RAL
 M.W. v. Raleigh Heart Clinic, Inc., et al.	 Civil Action No. 17-C-719 RAL
 V.D. & A.D. v. Raleigh Heart Clinic, Inc., et al.	 Civil Action No. 16-C-603 RAL
L.H. v. Raleigh Heart Clinic, Inc., et al.	Civil Action No. 16-C-604 RAL
H.M. & E.M. v. Raleigh Heart Clinic, Inc., et al.	Civil Action No. 16-C-606 RAL
L.J. & K.J. v. Raleigh Heart Clinic, Inc., et al.	Civil Action No. 17-C-232 RAL
B,E. v. Raleigh Heart Clinic, Inc., et al.	Civil Action No. 18-C-135 RAL
D.G. v. Raleigh Heart Clinic, Inc., et al.	Civil Action No. 18-C-137 RAL
R.G. v. Raleigh Heart Clinic, Inc., et al.	Civil Action No. 18-C-139 RAL

**ORDER DENYING CARDINAL HEALTH 414, LLC’S
MOTIONS TO DISMISS IN SPECIFIED CASES**

Pending before the Court are Defendant Cardinal Health 414, LLC’s Motions to Dismiss, filed in the above-styled cases. The Court has reviewed and fully considered the Motions, Plaintiffs’ Responses in Opposition, together with the Complaints and/or Amended Complaints filed in the above-styled cases, as well as the arguments presented by counsel. The Presiding Judges assigned to the Raleigh Heart Clinic Litigation have also conferred with one another to ensure uniformity of their decisions, as contemplated by West Virginia Trial Court Rule 26.07(a).

The Motions to Dismiss filed by Cardinal Health were made pursuant to Rules 12(b)(6) of the *West Virginia Rules of Civil Procedure*. In analyzing the Motions, the Court has assumed all of the allegations of the Complaints and/or Amended Complaints to be true. See *Sedlock v. Moyle*, 160 W.Va. 530, 550, 668 S.E.2d 176, 179 (2008)(“Since the preference is to decide cases on their merits, courts presented with a motion to dismiss for failure to state a claim construe the

complaint in the light most favorable to the plaintiff, taking all allegations as true. *John W. Lodge Distrib. Co. v. Texaco, Inc.*, 161 W.Va. 603, 604–05, 245 S.E.2d 157, 158–59 (1978).” Furthermore, “a circuit court ruling on a motion to dismiss, under Rule 12(b)(6) of the West Virginia Rules of Civil Procedure, may properly consider exhibits attached to the complaint without converting the motion to a Rule 56 motion for summary judgment.” Syl. Pt. 1, *Forshey v. Jackson*, 222 W.Va. 743, 744, 671 S.E.2d 748, 749 (2008).

“The trial court, in appraising the sufficiency of a complaint on a Rule 12(b)(6) motion, should not dismiss the complaint unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief (citation omitted).” Syl. Pt. 3, *Chapman v. Kane Transfer Co.*, 160 W.Va. 530, 236 S.E.2d 207, 208 (1977).

As explained in *John W. Lodge Dist. Co. v. Texaco, Inc.*, 161 W.Va. 603, 606, 245 S.E.2d 157, 159 (W. Va. 1978):

In view of the liberal policy of the rules of pleading with regard to the construction of plaintiff’s complaint, and in view of the policy of the rules favoring the determination of actions on the merits, the motion to dismiss for failure to state a claim should be viewed with disfavor and rarely granted. The standard which plaintiff must meet to overcome a Rule 12(b)(6) motion is a liberal standard, and few complaints fail to meet it. The plaintiff’s burden in resisting a motion to dismiss is a relatively light one. (citation omitted)

After careful review of the written submissions of the parties and the applicable law, the Court **FINDS** that Cardinal Health 414, LLC’s Motions to Dismiss filed in the above-styled cases should be **DENIED**.

IT IS SO ORDERED.

ENTER: September 28, 2018.

/s/ Jay M. Hoke
Lead Presiding Judge
Raleigh Heart Clinic Litigation