

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIRCUIT CIVIL DIVISION

THE ESTATE OF LEYMIR HERNANDEZ-
LEMUS, BY AND THROUGH SARA
IZQUIRDO-HERNANDEZ, AS THE
PERSONAL REPRESENTATIVE OF THE
ESTATE,

Plaintiff,

CASE NO.: 18-CA-000192

vs.

DIVISION: B

HCA, INC., WEST FLORIDA - TCH, LLC
D/B/ A TAMPA COMMUNITY HOSPITAL,
ELEANINE M. HARDY-HUNTER, M.D.,
ELEANINE HARDY-HUNTER, M.D., P.A.,
ARMANDO NICOLAS GUTIERREZ, M.D.,
A. NICOLAS GUTIERREZ, M.D., P.A.,
WILLIAM CROSS DUDNEY, IV, M.D.
GULF-TO-BAY ANESTHESIOLOGY
ASSOCIATES, LLC, AUTOLOGOUS
BLOOD RESOURCES, INC., ARNIE
MURAWSKI, YOLANDA WHITMORE,
NICHOLAS BROWN, TONY V. TRAN,
PHILLIP D. KRSTOFIAK, AND
HAEMONETICS CORPORATION,
Defendants.

_____/

**ORDER GRANTING DEFENDANT HAEMONETICS CORPORATION'S MOTION
TO DISMISS COUNT XVIII OF THE FIFTH AMENDED COMPLAINT**

THIS CAUSE came on to be heard before the Court on May 29, 2019, upon Defendant Haemonetics Corporation's Motion to Dismiss Count XVIII of the Fifth Amended Complaint and the Court, having reviewed the file, the Motion and the case law and having heard argument of counsel, finds as follows:

1. The Fifth Amended Complaint states that Plaintiff's decedent died on January 27, 2016.

2. The Defendant Haemonetics Corporation was not included in the action until the Fifth Amended Complaint filed on February 28, 2019, which is beyond the two-year statute of limitations for wrongful death.

3. This Count for products liability is not governed by the medical malpractice statute and therefore the statute of limitations for that claim had expired prior to filing of this action against Haemonetics Corporation.

4. The statute of limitations defense is properly raised in a Motion to Dismiss when the basis for the defense is apparent from the Complaint.

It is therefore **ORDERED AND ADJUDGED** that the Defendant Haemonetics Corporation's Motion to Dismiss is granted and that Count XVIII of the Fifth Amended Complaint as against Haemonetics Corporation is dismissed with prejudice.

DONE AND ORDERED in Chambers at Tampa, Hillsborough County, Florida,
on this _____ day of June, 2019.

ORIGINAL SIGNED
CONFORMED COPY

JUN 06 2019

RALPH C. STODDARD CIRCUIT JUDGE
Circuit Judge

Copies to:

P. Brandon Perkins, Esquire
Matthew D. Powell, Esquire
Ethan Rubin Shapiro, Esquire
David Patrick Young, Esquire
Troy Jacob Crotts, Esquire
John David Emmanuel, Esquire
Roy Clifton Acord II, Esquire
Danna Paige Clement, Esquire