

STATE OF VERMONT  
ADDISON COUNTY, ss.

SEAN LINSKEY, )  
Plaintiff )  
 )  
v. )  
 )  
BARR & ASSOCIATES, P.C., )  
RUSSELL D. BARR, Esq., and )  
SHANNON E. HAUGHT, )  
Defendants )

ADDISON SUPERIOR COURT  
DOCKET NO. 83-3-10AMV

**COMPLAINT**

**THE PARTIES**

Plaintiff, Sean Linskey ("Linskey"), by and through his attorney, Law Office of Deborah W. Kirchwey, hereby complains against Defendants Barr & Associates, P.C., Russell D. Barr, Esq., and Shannon E. Haught as follows:

1. Plaintiff is a resident of Granville, Addison County, Vermont.
2. Defendant Barr & Associates, P.C. ("Barr & Associates") is a Vermont corporation engaged in the general practice of law with its principal offices in Stowe, Lamoille County, Vermont and in New York, New York.
3. Defendant, Russell D. Barr, Esq. ("Barr") is an attorney licensed to practice law in the State of Vermont. At all times relevant to this Complaint, Barr was a shareholder of Barr & Associates.
4. Defendant Shannon E. Haught ("Haught") is, on information and belief, a resident of Barre, Washington County, Vermont. On information and belief, Haught was a paralegal at Barr & Associates until on or before October, 2007.

**FACTS**

5. In all matters relevant to this Complaint, Defendants Barr & Associates and Barr maintained a direct attorney-client relationship with Linskey.

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Deborah W. Kirchwey  
P.O. Box 533  
Hartland, VT 05048

Phone: (802)436-3330  
Fax: (802) 436-3335

ADDISON SUPERIOR COURT  
FILED  
MAR 18 2010  
JO LAMARC  
CLERK

6. In all matters relevant to this Complaint, Defendant Haught was a paralegal employed by Barr & Associates.

7. A vehicle driven by Linskey was rear-ended by a hit-and-run drunk driver on June 4, 2004. Linskey was wearing his seatbelt, yet he sustained injuries to his back and neck. A copy of the police report is attached as **Exhibit A**.

8. Linskey has continued to suffer back, neck and leg pain since that time.

9. On or before June 15, 2004, Mr. Linskey engaged Barr to represent him in a claim for his injuries on a contingent fee basis.

10. In or about January 2006, Linskey moved out of state. He gave Barr & Associates his new address, and his cell phone number and e-mail address remained the same. He arranged for his mail to be forwarded to his new address, and he remained in frequent telephone contact with Barr & Associates. Linskey's telephone records reflect 13 outgoing telephone calls to Barr & Associates between January and August 2007 of varying lengths.

11. A February 28, 2006 Barr "working memo to file" in the Linskey case erroneously indicated that the statute of limitations in the case was June 4, 2007. A copy of the memo is attached as **Exhibit B**.

12. The two-year Connecticut statute of limitations on Linskey's claim ran on or about June 4, 2006. Barr & Associates never settled Linskey's claim and never filed a lawsuit on Linskey's behalf.

13. Barr & Associates and Barr missed the statute of limitations, and failed to keep Linskey informed about the status of his case prior to doing so.

14. On July 6, 2006, Barr purportedly wrote a disengagement letter to Linskey, a letter which Linskey never received, although he had remained in contact with Barr. A copy of that letter is attached as **Exhibit C**. In the letter, Barr stated that if Linskey wanted another attorney, he should act "quickly to avoid any statute of limitations deadlines," even though the statute of limitations had already expired over one month

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before the date of the letter. By sending the notice after the statute of limitations had expired, and by not sending the notice to Linskey's proper address, Barr failed to take reasonable steps to preserve the causes of action available to Linskey.

15. For over a year after this purported disengagement, Barr's employee, defendant paralegal Shannon Haught, continued to hold herself and Barr & Associates out as representing Linskey, and she continued to work on Linskey's case. She obtained medical records dated through February 12, 2007; she spoke to a bank in or about February 2007 regarding medical bills that showed up on Mr. Linskey's credit report; she spoke with Linskey's accountant in March 2007 to obtain tax returns; and she spoke with staff from Linskey's medical providers as late as June, 2007.

16. In approximately September or October 2007, Haught informed Linskey that Barr had sent a demand letter on Linskey's behalf for \$100,000, and had received an offer of \$50,000. Linskey requested a copy of the demand letter and Haught stated she would send him a copy. Linskey did not receive a copy of the letter.

17. The driver's insurance company, Allstate, denies receiving any demand letter regarding this case.

18. On October 25, 2007, Barr & Associates informed staff from Linskey's medical provider that Haught no longer worked there.

19. On November 1, 2007 Barr & Associates notified staff from Linskey's medical provider that Barr & Associates no longer represented Mr. Linskey. See **Exhibit D**.

20. On or about December 17, 2007, Linskey learned for the first time from Barr that the statute of limitations on his claim had run. Barr failed to inform Linskey of Barr's failure to timely file an action on his behalf for over 18 months. Barr advised Linskey that his remedy was to file a claim against Barr's malpractice insurance.

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COUNT I

ATTORNEY MALPRACTICE

21. Plaintiff restates each and every allegation set forth in Paragraphs 1-20 above as if fully set forth herein.

22. Defendants Barr and Barr & Associates, while handling a legal matter in their capacity as attorneys for Linskey, had a duty to represent Linskey with the degree of care, skill, diligence and knowledge commonly possessed and exercised by a reasonable, careful and prudent lawyer in the practice of law in this jurisdiction.

23. Defendant Barr, who held himself out to the public as possessing greater than ordinary knowledge and skill in the field of personal injury, had a duty to represent Linskey with the reasonable care, skill, and diligence ordinarily possessed and exercised by attorneys specializing in the field of personal injury, under similar circumstances.

24. Defendant Barr negligently failed to file suit within the statute of limitations, failed to communicate with the client, and failed to inform the client of the proper statute of limitations.

25. Defendant Barr's conduct in negligently failing to file suit within the statute of limitations, to communicate with the client, and to inform the client of the proper statute of limitations was a breach of his duty of care.

26. As a direct and proximate result of Defendant Barr's negligent failure to file suit within the statute of limitations, to communicate with the client, and to inform the client of the proper statute of limitations, Linskey sustained significant injury and loss. Specifically, Linskey lost the ability to pursue his legal rights arising from the injuries he sustained in the June 4, 2004 collision.

27. Defendant Barr's acts of malpractice were within the reasonable scope of the business of Defendant Barr & Associates. Defendant Barr & Associates is responsible for Barr's negligent failure to settle Linskey's case or to file a lawsuit on his behalf prior to the expiration of the statute of limitations since Defendant Barr had the actual or

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apparent authority to handle the matter for Linskey. Thus, Defendant Barr & Associates is vicariously liable for the negligent acts, errors, and omissions of Defendant Barr.

28. The damage sustained by Linskey was proximately caused by Defendants' breach of duty as set forth above. Linskey committed no acts of negligence that contributed to his damages.

29. Solely as a result of the negligence of Defendants Barr and Barr & Associates, Linskey has been damaged in an amount to be determined at trial, plus the costs of this suit, for which Defendants are directly and vicariously liable.

## COUNT II

### MISREPRESENTATION

30. Plaintiff restates each and every allegation set forth in Paragraphs 1-29 above as if fully set forth herein.

31. Defendant Haught knowingly or negligently misrepresented that a demand letter had been sent on Linskey's behalf, and that an offer had been received.

32. Defendant Haught knowingly or negligently held herself out to Linskey and to others as representing Linskey for over a year after Barr & Associates purportedly disengaged from representation of Linskey.

33. Linskey relied upon Haught's misrepresentations to his detriment.

34. Haught is liable for all compensatory damages arising from said misrepresentation.

35. Defendant Haught's acts were within the reasonable scope of the business of Defendant Barr & Associates. Defendant Barr & Associates is responsible for Haught's misrepresentations to Linskey since Defendant Haught had the actual or apparent authority to communicate with Linskey regarding the status of the matter. Thus, Defendant Barr & Associates is vicariously liable for the negligent or knowing acts, errors, and omissions of Defendant Haught.

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**COUNT III**

**NEGLIGENT SUPERVISION**

36. The allegations contained in paragraphs 1-35 are hereby incorporated by reference.
37. Defendants Barr and Barr & Associates owed a duty of reasonable care to Linskey.
26. Defendants Barr and Barr & Associates breached said duty in their failure to adequately supervise the actions of their paralegal, Defendant Haught.
27. Linskey was damaged as a result of said breach.
28. Defendants Barr and Barr & Associates are liable for all compensatory damages arising from said negligent supervision.

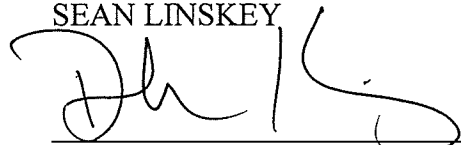
WHEREFORE, Plaintiff demands judgment against Defendants Barr, Barr & Associates, and Haught in the amount to be determined at trial, for costs and interest, and for such other and further relief as the Court deems fair and equitable.

**JURY DEMAND**

Plaintiff Sean Linskey, by and through his attorney, Law Office of Deborah W. Kirchwey, hereby demands trial by jury of all issues so triable.

Dated at Hartland, Vermont this 17<sup>th</sup> day of March, 2010.

SEAN LINSKEY



By: Deborah W. Kirchwey  
Attorney for Plaintiff

Law Office of  
Deborah W. Kirchwey  
P.O. Box 533  
Hartland, VT 05048

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CONNECTICUT UNIFORM POLICE ACCIDENT REPORT



FORM Rev. 5/94

GPS READINGS: Latitude:  
Time Longitude:

FOR DOT USE ONLY

DATE OF ACCIDENT Fri, Jun 4, 2004	MILITARY TIME 14:30	ACCIDENT SEVERITY Fatal <input type="checkbox"/> Injury <input checked="" type="checkbox"/> PDO <input type="checkbox"/>	VEHS INVOLVED # 2	PAGE # 1 of 2	POLICE CASE NO 16290-04
--------------------------------------	------------------------	---	----------------------	------------------	----------------------------

CITY or TOWN Milford	TWN CODE 084	ACCIDENT OCCURRED ON (Street Name or Route #) AT ITS INTERSECTION WITH (Street, Name or Route #) research Drive at
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IF NOT AT INTERSECTION

1. Measure Distance 1  F - Feet  T - Tenths of Mile  M - Meters  K - Kilometers

2. Direction  N - North  S - South  E - East  W - West

3. Give nearest intersecting street, town line or mile marker of  
Woodmont Road

Accident Occurred:  On Private Property  Parking Lot

TRAFFIC UNIT #1 <input checked="" type="checkbox"/> V - Vehicle, P - Pedestrian, N - Non-contact Vehicle	TRAFFIC UNIT #2 <input checked="" type="checkbox"/> V - Vehicle, P - Pedestrian, N - Non-contact Vehicle
--	--

OPER #1 or PEDESTRIAN (Last, First, MI) Peckham, Donna L.	OPER #2 or PEDESTRIAN (Last, First, MI) Linskey Sean P.
--	--

ADDRESS (Street No & Name) 30 Morehouse Avenue	PROPER LIC CLASS Y-N <input checked="" type="checkbox"/> N	ADDRESS (Street No & Name) P. O. Box 938	PROPER LIC CLASS Y-N <input type="checkbox"/>
---	---	---	--

CITY or TOWN STATE ZIP Milford Ct 06460	SEX M-F <input checked="" type="checkbox"/> F	CITY or TOWN STATE ZIP Waitsfield Vt 05673	SEX M-F <input checked="" type="checkbox"/> M
--	--	---	--

OPER LICENSE NO 154678671	STATE CT	DATE of BIRTH 03/27/64	OPER LICENSE NO 82052186	STATE	DATE of BIRTH 07/20/67
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OWNER (Last, First, MI - Enter same, if owner is operator) Carr, Jeffrey M.	OWNER'S (Last, First, MI - Enter same, if owner is operator) Linskey Sean P.
--	---

ADDRESS (Street No & Name) 30 Morehouse Avenue	ADDRESS (Street No & Name) P. O. Box 938
---	---

CITY or TOWN STATE ZIP Milford Ct 06460	BODY TYPE P/U	CITY or TOWN STATE ZIP Waitsfield Vt 05673	BODY TYPE P/U
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REGISTRATION NO 300CKU	STATE CT	VEH YEAR & MAKE 1985 Ford	REGISTRATION NO AWF701	STATE VT	VEH YEAR & MAKE 2002 Toyota
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VEH ID NO (VIN) 1FTCR1051FUB55426	VEH ID NO (VIN) 5TEWN72N122104013
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CARRIER	CARRIER
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CARRIER ADDRESS (Street, City or Town, State, Zip)	CARRIER ADDRESS (Street, City or Town, State, Zip)
--	--

SOURCE of CARRIER NAME <input type="checkbox"/> SP - Shipping Paper/Trip Manifest <input type="checkbox"/> D - Driver <input type="checkbox"/> S - Side of Vehicle	US DOT # ICC, MC #	SOURCE of CARRIER NAME <input type="checkbox"/> SP - Shipping Paper/Trip Manifest <input type="checkbox"/> D - Driver <input type="checkbox"/> S - Side of Vehicle	US DOT # ICC, MC #
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GROSS VEH WEIGHT Rating #	HAZARDOUS MATERIAL PLACARD Required Y-N <input type="checkbox"/> 4 Digit Displayed Y-N <input type="checkbox"/> 1 Digit	GROSS VEH WEIGHT Rating #	HAZARDOUS MATERIAL PLACARD Required Y-N <input type="checkbox"/> 4 Digit Displayed Y-N <input type="checkbox"/> 1 Digit
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HAZARDOUS CARGO Released Y-N <input type="checkbox"/>	ENFORCEMENT ACTION TAKEN <input checked="" type="checkbox"/> A - Arrest N - None, W - Written Warning, V - Verbal Warning	HAZARDOUS CARGO Released Y-N <input type="checkbox"/>	ENFORCEMENT ACTION TAKEN <input checked="" type="checkbox"/> N - None, W - Written Warning, V - Verbal Warning
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STATUTE or ORDINANCE NO(S) 14-240, 14-227a	SUBJ of ACTION <input checked="" type="checkbox"/> O - Operator - C-Carrier OW - Owner - P-Pedestrian	STATUTE or ORDINANCE NO(S)	SUBJ of ACTION <input type="checkbox"/> O - Operator - C-Carrier OW - Owner - P-Pedestrian
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AUTOMOBILE INS CO-NAME-POLICY# Allstate #02535893502/27	AUTOMOBILE INS CO-NAME-POLICY# Peerless #BA9601299
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PARTS of VEHICLE DAMAGED front bumper	PARTS of VEHICLE DAMAGED rear bumper
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VEHICLE TOWED TO Auto Specialists	TOWED DUE TO DAMAGE Y-N <input type="checkbox"/>	VEHICLE TOWED TO	TOWED DUE TO DAMAGE Y-N <input type="checkbox"/>
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L	M	N	NAME and ADDRESS of EACH INVOLVED PERSON			DOB	O	P	Q
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L	M	N	NAME and ADDRESS of EACH INVOLVED PERSON			DOB	O	P	Q		
1	1	N	01	TRAFFIC UNIT #1 OPERATOR or PEDESTRIAN #1				4	3	1	1
2	2	C	01	TRAFFIC UNIT #2 OPERATOR or PEDESTRIAN #2				4	3	1	2
3	2	N	03	Oster	Christine R.	P. O. Box 782 Waitsfield, VT 05673	04/30/68	4	3	1	3
4											4
5											5
6											6
7											7

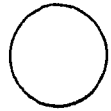
ALL INVOLVED PERSONS

ALL INVOLVED PERSONS

CL/DO

ACCIDENT DIAGRAM

INDICATE NORTH



DIRECTION of TRAVEL of EACH TRAFFIC UNIT (N - North, S - South, E - East, W - West)

Traffic Unit #1 Traveling  S on Research Drive

Traffic Unit #2 Traveling  S on Research Drive

Operator #2 stated he was southbound on Research Drive when Vehicle #1 hit Vehicle #2 from behind.

Operator #1 stated she was southbound on Research Drive and was following Vehicle #2. Operator #1 stated she could not stop before she ran into the back of Vehicle #2.

Operator #1 was found to be intoxicated and was arrested for D.W.I. Refer to Case #16291-04 for details.

Information was exchanged.

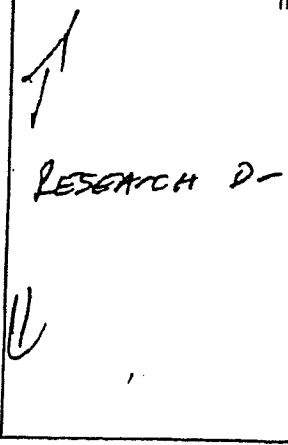
CHECK HERE IN VOL AND VEHICLES	1 DESCRIBE the NATURE and EXTENT of PROPERTY DAMAGE
	NAME and ADDRESS of PROPERTY OWNER
	2 DESCRIBE the NATURE and EXTENT of PROPERTY DAMAGE
	NAME and ADDRESS of PROPERTY OWNER

SIGNATURE of INVESTIGATING OFFICER Ofc James Kiely 2002	POLICE AGENCY ID Milford PD 084	REPORT DATE 06/04/04	CASE STATUS <input checked="" type="checkbox"/> O - Open <input type="checkbox"/> C - Closed	SUPERVISOR 311:kaw
--	------------------------------------	-------------------------	--	-----------------------



ACCIDENT DIAGRAM

INDICATE NORTH



Woodmont Rd =>

TRAFFIC UNIT # 1 TRAVELING  
 N  S  E  W ON RESEARCH Dr.

TRAFFIC UNIT # 2 TRAVELING  
 N  S  E  W ON RESEARCH Dr.

WORKING MEMO TO FILE  
ATTORNEY WORK PRODUCT

February 28, 2006

Sean Linsky  
Christine Oster  
PO Box 1055  
Waitsfield, VT 05673  
(802) 767-1186

**SOL: June 4, 2007**  
**Policy Limits:**

\*\*\*\*\*

Date of Accident: June 4, 2004

Place of Accident: Research Drive, Milford, Connecticut

Driver of other Vehicle: Donna L. Peckham

D.O.B. 3/27/64

Owner of other Vehcile: John M. Carr

Insured: Allstate

Adjuster: Tina Ashe  
Allstate Connecticut Casualty  
74 Batterson Park Road  
Farmington, CT 06032-2565

Description: Sean was driving southbound on Research drive, was hit from behind. Donna L. Peckham was arrested for DWI

Law Enforcement: Milford Police Department  
Officer James Kiely

Injuries:

Sean: Neck & back

Christine: Neck & Back

Christine has moved out of state, have not been able to contact her. Sean is of no help. Does not return calls, went to the doctors very little, he was seeing Dr. Charkalis for a while and then stopped. I have requested copies of his exam from the Spine Institute. Going to call him again today and try and get Christine's address so we can release her. I want to close this case as soon as possible.

Just got Christine's address and phone number. I have called and left a message for her (518) 337-0539. New address is 21601 Ardmore Park, St Clair Shores, MI 48081.

**BARR & ASSOCIATES, P.C.**

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125 MOUNTAIN ROAD  
STOWE, VERMONT 05672

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FAX: (802) 253-6055  
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TEL: (212) 486-3910  
FAX: (212) 973-0540

RUSSELL D. BARR\*\*  
JESSE M. GOLDFINE+  
JENNIFER J. LAJOIE\*  
DANIEL A. SEFF\*\*

SHANNON HAUGHT, PARALEGAL  
SCOTT L. KEYES, PARALEGAL  
\*\* MEMBER VT AND NY BARS  
\*MEMBER VT BAR  
+MEMBER VT, MA AND RI BARS

**VIA CERTIFIED MAIL AND U.S. MAIL**

July 6, 2006

Sean Linsky  
Christine R. Oster  
P.O. Box 938  
Waitsfield, Vermont 05673

Re: *Accident of June 4, 2004*

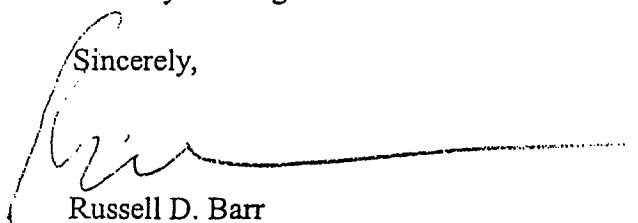
Dear Sean and Christine:

We have been trying to reach you for several months with regard to the above referenced case. Since we have had no luck in contacting you, we have decided to no longer pursue this matter. If you would like to obtain an another attorney, we recommend that you do so quickly to avoid any statute of limitations deadlines.

If you should have any questions, please feel free to call me.

Thank you and good luck.

Sincerely,



Russell D. Barr

RDB/seh

# The Valley Wellness Centers

1517 Blake Avenue, Suite 203  
Glenwood Springs, CO 81601  
(970) 947-1701 • Fax (970) 947-9916



www.drdavedc.com  
www.wininstitute.org

24451 Highway 82  
Basalt, CO 81621  
(970) 927-3701 • Fax (970) 927-1168

December 19, 2007

TO: Sean Linskey  
P.O. Box 1  
Granville, VT 05747

FROM: The Valley Wellness Centers

RE: MVA 6/4/04

To Whom It May Concern:

Mr. Linskey treated at our office from 12/29/06-2/2/07 for this accident. After his initial visit, in which new patient paperwork was filled out, several things took place to set his account up at our office.

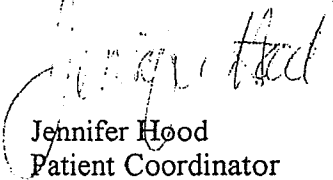
On 1/17/07 I spoke with a paralegal at Barr & Associates named Shannon. She gave me the patient's automobile insurance information and informed me that he had med-pay on his policy through Peerless. I was notified that the med-pay was exhausted in March of 2007. At this time I began sending all bills related to this accident to the patient's attorney (Barr & Associates) at 125 Mountain Road, Stowe, VT 05672. I spoke with Shannon again on 6/19/07 asking if the attorney had signed a lien related to our outstanding balance for this case. Shannon informed me that she thought the attorney did sign it, but she would find out. She also stated on this date that no demand had been made yet to settle this case.

After this second conversation with Shannon I left messages for her on 8/7/07, 8/23/07, 9/13/07, and 10/8/07 with no response. On 10/25/07 I spoke with Scott at Barr & Associates and was told Shannon no longer worked there and he was now the paralegal. Scott called me back on 11/1/07 to inform me that Mr. Linskey had been terminated last summer and they no longer represented him.

I am not sure where the miscommunication occurred, but I personally spoke with Shannon and was informed that Barr & Associated WAS handling this case. I never received a phone call after bills were sent to Barr & Associates stating they weren't handling this case, nor did I receive any calls from the several messages I left for Shannon after her departure (I assume someone was taking calls for her at that time). I hope this matter can be resolved in a timely manner, as we still have an outstanding balance that needs to be resolved.

If you have any further questions or need further information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Hood". The signature is written in a cursive style and is positioned above the printed name and title.

Jennifer Hood

Patient Coordinator

JHood@winhealthinstitute.com

970-384-4455