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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Jennifer B. McCoy, Circuit Court Judge

Case No. 2021-CP-10-05289
Appellate Case No. 2022-001431

Medical University of South Carolina and University Medical
Associates of the Medical University of South Carolina,..... Petitioners,

v.

HCA Healthcare, Inc.; Trident Medical Center, LLC;
Terry A. Day; Betsy Kay Davis; Joshua D. Hornig;
Eric J. Lentsch; David M. Neskey; and Anand K. Sharma..... Defendants.

Of whom HCA Healthcare, Inc. and Trident Medical Center, LLC;
are the..... Respondents.

**SUPPLEMENTAL APPENDIX FOR RETURN TO THE
PETITION FOR WRIT OF CERTIORARI**

Respondents HCA Healthcare, Inc. and Trident Medical Center, LLC (“Respondents”) submit the following documents to supplement the Appellants’ Appendix to Petition for Writ of Certiorari. The document included in this Supplemental Appendix is numbered to begin following the last page of the Appellants’ Appendix; therefore, the document in this Supplemental Appendix begins at page 599.

INDEX FOR SUPPLEMENTAL APPENDIX

Other Materials or Documents

Affidavit of Dr. Peter Horwich599

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

MEDICAL UNIVERSITY OF SOUTH)
CAROLINA and UNIVERSITY MEDICAL)
ASSOCIATES OF THE MEDICAL)
UNIVERSITY OF SOUTH CAROLINA,)

Civil Action No. 2021-CP-10-05289

Plaintiffs,)

v.)

**AFFIDAVIT OF DR. PETER
HORWICH**

HCA HEALTHCARE, INC.; TRIDENT)
MEDICAL CENTER, LLC; TERRY A. DAY;)
BETSY KAY DAVIS; JOSHUA D. HORNIG;)
ERIC J. LENTSCH; DAVID M. NESKEY;)
and ANAND K. SHARMA,)

Defendants.)

I, Dr. Peter Horwich, first being duly sworn, do hereby make oath and affirm as follows:

1. I am over (18) years of age, of sound mind, capable of making this oath, and fully competent to testify to the matters stated herein.

2. I am currently a member of the medical staff and performing surgeries at Trident Medical Center.

3. I have personal knowledge regarding the matters referenced herein.

4. I was a fellow at MUSC from July 1, 2019 to June 30, 2020 studying under the physicians who are parties to this litigation.

5. Because of the COVID pandemic, there were few opportunities for employment so I entered into another fellowship program in head and neck ablation and reconstructive surgery at LSU Health Shreveport.

6. In order to be hired at my second fellowship and be privileged at LSU Health Shreveport, I was required to and did provide case logs from MUSC for purposes of credentialing at LSU and to demonstrate my previous surgical experiences.

7. Because I was a fellow, I did not have my own preference cards to forward to LSU. Instead, because Dr. Hornig was my primary reconstructive mentor, I asked the MUSC Nurse Coordinator to provide Dr. Hornig's preference cards to me, which I then used as a template to choose my preferred instruments at LSU.

8. At no time did anyone from MUSC assert that the case logs or preference cards were a trade secret, or confidential, or proprietary, and no one at MUSC objected to the transfer of the case logs or Dr. Hornig's preference cards to LSU.

9. On or about September 1, 2021, Dr. Hornig contacted me regarding an opportunity to work at the head and neck program at Trident Medical Center.

10. Based upon the information provided by Dr. Hornig, I pursued membership on the medical staff at Trident.

11. As part of my duties at Trident over the past few months, I have been responsible for the establishment of a multidisciplinary clinic for the care of head and neck oncology patients.

12. Additionally, I have provided advice to Trident on the selection and implementation of equipment to be used by physicians and staff at the head and neck oncology program at Trident. The information and advice I have provided to Trident includes such information as that on the equipment lists and physician preference cards at issue in this litigation. Similar information was made available to me, without restriction, during my time at MUSC.

13. I have also provided advice and direction to Trident on the purchase and setup of clinical instruments and all supplies necessary for surgical head and neck oncology and reconstructive surgery at Trident.

14. I have also provided training for new staff members and coordinated with Trident hospital administration regarding all aspects of the head and neck oncology program.

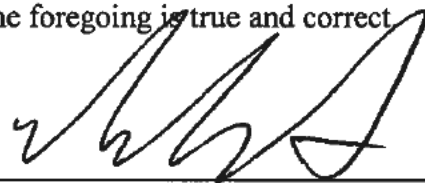
15. I arrived at Trident Medical Center on October 19, 2021, when I began my administrative duties for the program.

16. The head and neck oncology reconstructive practice has been fully implemented at Trident and is currently performing surgeries for patients in need of such care.

17. Having previously worked at MUSC and LSU, I believe that the facilities and infrastructure of the Trident head and neck oncology program are state-of-the-art, and the best with which I have ever worked. For example: a.) Trident has a brand new 10-bed ICU dedicated to head and neck patients and neurosurgery patients. b.) The instruments and supplies provided by Trident are brand new, state-of-the-art, and the best instruments and supplies available for purchase today. c.) The head and neck cancer clinic established by Trident is a brand new custom designed, multidisciplinary focused ambulatory clinic with the ability to treat patients from initial diagnosis through to survivorship. All of the surgical equipment provided at Trident is state-of-the-art and is the best collection of equipment for the treatment of head and neck oncology patients that I have seen in any setting. The clinic that has been established at Trident is a comprehensive, multidisciplinary clinic which includes providers of all ancillary services necessary for the optimal care for head and neck cancer patients.

18. I declare under penalty of perjury that the foregoing is true and correct

FURTHER AFFIANT SAYETH NOT.



Dr. Peter Horwich
Physician

SWORN and subscribed to before me this
17th day of December 2021

Frank R. Battle

Notary Public for 08/13/2031 South Carolina

My Commission expires: 67

