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Aug 03 2023

S.C. SUPREME COURT

## The South Carolina Court of Appeals

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January 05, 2023

Mr. Michael T. Coulter, Esquire  
PO Box 6728  
Greenville SC 29606

Mr. William Joseph Horvath, Esquire  
PO Box 22129  
Charleston SC 29413

Re: John Mayers v. Konan Henthorn  
Appellate Case No. 2020-000534

Dear Counsel:

In reviewing this case which is on the preliminary list for an upcoming term of court, it appears the supplemental record on appeal does not match or include the one (1) page attached to the motion seeking leave to file the supplemental record. The court will consider the materials attached to the motion, however, the parties may wish to file a corrected supplemental record on appeal. The corrected supplemental record on appeal is to be served and filed within ten (10) days from the date of this letter. A bound copy will also need to be sent to the Court.

Very truly yours,

Handwritten signature of Jenny A. Kitchings in blue ink.

CLERK

cc: Roy T. Willey, IV, Esquire  
Eric Marc Poulin, Esquire  
Alexis Wimberly McCumber, Esquire  
Angeline M Larrivee, Esquire

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
The Honorable Bentley Price, Circuit Court Judge

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Case No. 2017-CP-10-5824  
Appellate Case No.: 2020-000534

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Nov 20 2020

SC Court of Appeals

John Mayers

Appellant,

v.

Konan Henthorn

Respondent.

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**RESPONDENT'S MOTION FOR TO SUPPLEMENT RECORD ON APPEAL**

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Respondent, Konan Henthorn, pursuant to Rule 212(b) of SCACR, respectfully moves this Court to have the Record on Appeal supplemented to include a clean copy of omitted MUSC records, which are included with this Motion. [See MUSC Record].

Upon review of the Record of Appeal, Respondent notified Appellant that the MUSC record that was requested to be included on both Appellant's Designation of Matter and Respondent's Designation of Matter was absent from the Record on Appeal. On October 26, 2020, Respondent contacted Appellant and requested that the Record on Appeal be supplemented pursuant to Rule 210 SCRAP and include the entirety of Court's Exhibit 5, specifically the MUSC medical records that were inadvertently omitted from the transcript. Pursuant to Rule 212(b),

SCACR, Respondent has requested consent from Appellant to include a clean copy of the omitted record, but Appellant has declined to consent and expressed concern with regards to representing the omitted MUSC medical record as part of the contents of “Court’s Exhibit 5”.

Despite whether or not the transcript inadvertently did not include the MUSC record in “Court’s Exhibit 5,” both Appellant and Respondent requested the MUSC medical records to be included on their designations of matter on appeal and both Appellant and Respondent directly quote from the MUSC records in their briefs. Moreover, the contents of the omitted MUSC Record is the subject of Appellant’s issue number II and therefore, is necessary to be included on the Record on Appeal for the Court’s review.

Based upon the foregoing, Respondents respectfully request that this Court allow for the Record on Appeal be supplemented to include a clean copy of the omitted MUSC records.

Respectfully submitted,

s/ Michael T. Coulter

Michael T. Coulter (SC Bar #15177)

1164A Woodruff Road (29607)

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T: 864.232.4400

Attorney for Respondent Konan Henthorn



MEDICAL RECORDS  
 169 Ashley Ave Suite H102  
 MSC 250  
 Charleston SC 29425-3490  
 Inpatient Record

Mayers, John C  
 MRN: 005674039, DOB: 7/7/1973, Sex: M  
 Acct #: 508768149  
 Adm: 5/17/2016, D/C: 5/21/2016

**Consults - Encounter Notes (continued)**

**Consults by David Carter, DO at 5/17/2016 6:06 PM (continued)**

Author: David Carter, DO  
 Filed: 5/17/2016 7:34 PM  
 Editor: David Carter, DO (Resident)

Service: ORS-ORTHOPEDECS  
 Date of Service: 5/17/2016 6:06 PM

Author Type: Resident  
 Status: Signed  
 Cosigner: Charles A Reitman, MD at 5/19/2016 6:59 AM

Consult Orders:

1. Inpatient Consult to Orthopedic Surgery [90624344] ordered by Leah Nicole Herzog, MD at 05/17/16 1704

**Orthopedic Consult Note**

Date of Consult: 5/17/2016

Ortho Attending: Dr. Reitman

**HPI:**

42-year-old male with no past medical history presents as auto versus ped. Patient has obvious deformity to his right upper arm. Patient reports that HIS pain is in his right upper arm but says that he is in "shock." He was crossing the street review struck by vehicle, vehicle tried to stop. Patient also has blood coming from his 4 head. Patient drank approximately 2 24 ounce beers today. He is alert and oriented. Orthopaedics was consulted for distal humerus fracture.

**PAST MEDICAL HISTORY:** History reviewed. No pertinent past medical history.

**SURGICAL HISTORY:** No past surgical history on file.  
 Prior ORIF mandibular fracture

**SOCIAL HISTORY:**

History

Social History

- Marital Status: N/A
- Spouse Name: N/A
- Number of Children: N/A
- Years of Education: N/A

Occupational History

- Not on file.

Social History Main Topics

- Smoking status: Not on file
- Smokeless tobacco: Not on file
- Alcohol Use: Not on file
- Drug Use: Not on file
- Sexual Activity: Not on file

Other Topics

- Not on file

Concern

Social History Narrative

- No narrative on file

**THE STATE OF SOUTH CAROLINA**  
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**APPEAL FROM CHARLESTON COUNTY**  
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Civil Action No. 2017-CP-10-5824  
Appellate Case No.: 2020-000534

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**PROOF OF SERVICE**

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The undersigned attorney hereby certifies that a true copy of *Respondent's Motion to Supplement the Record on Appeal* in the above-referenced case has been served upon counsel of record via AIS email [pursuant to the Court's May 29, 2020 Operation of the Appellate Courts During the Coronavirus Emergency Order] on August 27, 2020 to the following:

Alexis W. McCumber – [alexis@akimlawfirm.com](mailto:alexis@akimlawfirm.com)

Eric M. Poulin - [eric@akimlawfirm.com](mailto:eric@akimlawfirm.com)

Roy T. Willey, IV - [roy@akimlawfirm.com](mailto:roy@akimlawfirm.com)

Team McCumber – [teammccumber@googlegroups.com](mailto:teammccumber@googlegroups.com)

*(SIGNATURE PAGE TO FOLLOW)*

s/ Michael T. Coulter

Michael T. Coulter (SC Bar #15177)

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PO Box 6728

Greenville, SC 29606

T: 864.232.4400

Attorney for Respondent Konan Henthorn

Greenville, South Carolina  
November 20, 2020