

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas
James C Williams, Jr , Circuit Court Judge

ORIGINAL

Case No 08-CP-38-826

KAREEM J GRAVES AND TARA GRAVES,
INDIVIDUALLY AND AS DULY APPOINTED
PERSONAL REPRESENTATIVES OF THE
ESTATE OF INDIA IYANNA GRAVES

Appellants,

vs

CAS MEDICAL SYSTEMS, INC

Respondent

APPENDIX TO RECORD ON APPEAL

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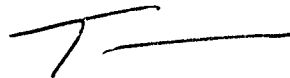
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CONSENT TO SUPPLEMENT RECORD ON APPEAL

Pursuant to Rule 212(b), SCACR, the undersigned attorney for Appellants hereby consents to the supplement of the Record on Appeal by the inclusion of this Appendix, which is comprised of Scott Lambert deposition pages 81-87 inadvertently omitted from the Record on Appeal, and appearing here as Appendix pages 1-7



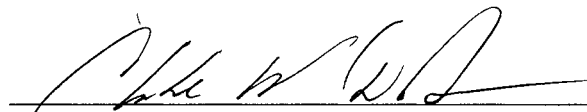
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INDEX OF APPENDIX TO RECORD ON APPEAL

1 Deposition of Scott Lambert at 81-87

1-7

The undersigned certifies, pursuant to Rule 209(c), SCAR, that the Appendix to Record on Appeal contains no matter which is irrelevant to the Appeal



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1
2 STATE OF SOUTH CAROLINA
3 IN THE COURT OF COMMON PLEAS
4 COUNTY OF RICHLAND
5 CIVIL ACTION NO 06-CP-40-7398

6 Kareem J Graves and Tara Graves,
7 individually and as duly appointed personal
8 representatives of the Estate of India Iyanna
9 Graves,

10 Plaintiff,

11 -vs-

12 CAS Medical Systems, Inc ,

13 Defendant

14 -----
15 VIDEOTAPED DEPOSITION

16 OF

17 SCOTT A LAMBERT
18 -----
19

20
21
22
23
24
25 DATE TAKEN 12/16/08 BY Amy L Larson, RPR

1 Q Explain to us what that means We talked
2 about it a little bit, but give the jury a
3 little more detail about what that means

4 A Well, this is one of the functions of the
5 redundant alarm system where you have the
6 front and rear alarms and the microphone
7 verification

8 And so in this case the monitor intended
9 to sound the front alarm, but the microphone
10 did not hear that the front alarm had been
11 sounded and so it logged this event that the
12 front alarm was not heard

13 Q And is that what the download should look
14 like if the front alarm is not heard?

15 A Correct

16 Q Is that, in other words, the way the monitor
17 is designed, to indicate if the alarm was not
18 heard?

19 A That's correct

20 Q And did that in fact occur here?

21 A It did

22 Q You weren't there, obviously Do you know
23 why the front alarm was not heard?

24 A I don't know why I can -- I can give you a
25 couple of reasons why it could have happened,

1 at least one reason why it could have
2 happened

3 Q And what would that be?

4 A If you were to muffle the alarm, so put your
5 hand over it, for example Because these
6 alarms are quite loud So if you go into the
7 room, the alarm is blaring and it's hurting
8 your ears, you -- a natural reaction is to
9 cover the alarm up with your hand If you do
10 that that can reduce the sound pressure
11 coming out of the -- the alarm such that the
12 microphone won't hear it

13 Q Well, when the front alarm is not heard, we
14 talked about it a little bit, but what
15 happens inside the monitor at that point?
16 How does the monitor react to the front alarm
17 not being heard?

18 A What it does is it then sounds the rear alarm
19 and then listens for it And if it hears it,
20 then it continues on, but it indicates on the
21 front of the monitor that a problem has
22 occurred that the front alarm was not heard

23 Q Do you take a front alarm not heard indicator
24 in a log like the one we're looking at here
25 as an indication that the monitor is -- or

1 the alarm in the monitor is defective or
2 faulty?

3 A No

4 Q Why not?

5 A It's a possibility But since it didn't
6 reoccur, I would assume that it was a
7 momentary thing like I described, some --
8 someone had muted the alarm by covering it

9 Q You're not particularly familiar with this
10 download, I don't think In fact, there are
11 several front alarm not heard events on here

12 A Okay

13 Q I'll draw your attention to a couple more of
14 them on the same page down at 2/28 at
15 21 55 44, about the fifth one from the
16 bottom

17 A Yup

18 Q What do you find there?

19 A "Front alarm not heard "

20 Q What activity preceded the, "Front alarm not
21 heard," there, Mr Lambert?

22 A Well, what you see is that there -- there is
23 the monitor being turned off and then turned
24 back on again, followed by an alarm, a loose
25 lead alarm, and then this front alarm not

1 heard

2 Q How long was the loose lead alarm, do we
3 know?

4 A It says 26 seconds

5 Q And then what happened?

6 A And then there was a subsequent loose lead
7 alarm for three seconds, and then the battery
8 getting low alarm, another loose lead alarm
9 for a second, and the monitor was then
10 powered down

11 Q Can the monitor power down by itself?

12 A No

13 Q How do you power the monitor down?

14 A You turn -- you hold the reset and hit the
15 power switch

16 Q So that has to be done by somebody taking
17 care of the baby?

18 A Correct

19 Q Does the fact -- excuse me

20 Mr Lambert, does the fact that there are
21 other front alarm not heards, in fact, one or
22 more rear alarm not heard indicators in this
23 download, indicate to you that the monitor or
24 the alarm function of it is defective?

25 A No, it does not

1 Q Why not?

2 A Well, in each case that I've reviewed so far
3 over several pages, there's typically a
4 singular event where it's the front alarm not
5 heard And in one occasion I can see -- and
6 it's preceded by equipment alarms or during
7 equipment alarms

8 So the alarm is sounding and it's been
9 sounding for a while and then you get this,
10 "Front alarm not heard " So -- and you don't
11 get it when the monitor is turned on

12 When the monitor is first turned on it
13 does its own self-test And one of the
14 things that it checks is it beeps the front
15 alarm, listens for it with the microphone,
16 beeps the rear alarm, listens for it with the
17 microphone, and then also looks to see that
18 the microphone doesn't hear an alarm when
19 there shouldn't be one sounding

20 And it does this each and every time you
21 turn power on And in each of these cases
22 the front alarm not heard isn't coincident
23 with the power being turned on, it comes
24 later after the alarm has been sounding So
25 I would suspect, I wasn't there, so I can't

1 say for sure, but it would look to me like
2 this is something where the alarm is going
3 off, and they are very loud and they're very
4 annoying, and what most people would do is
5 cover it up to try and save their hearing,
6 because these are very loud

7 And so when you do that you run the risk
8 of that muting the alarm such that the
9 microphone won't hear it And in another
10 case there's a front alarm not heard with
11 several equipment alarms followed by a rear
12 alarm not heard much later after -- after
13 many loose lead alarms

14 And there I would suspect what happens is
15 the alarm is blaring and you've covered it up
16 and now the microphone doesn't hear the front
17 alarm, so it stops sounding that one and it
18 turns the rear alarm on, now that one
19 continues to alarm and be annoying And it
20 can hurt your ears

21 So what I would suspect had happened is
22 they would then cover up the rear alarm
23 following the same kind of procedure and that
24 would mute it enough where the rear alarm
25 would not be heard and -- and -- by the

1 microphone and this event would then be
2 logged

3 Q Mr Lambert, on this same Exhibit 5 there are
4 a couple of apnea events indicated on the
5 All Study Logs, for example, on page 2 of the
6 log down on May 5th (sic) at 17 08 27 and
7 17 11 21

8 A Yes

9 Q All right And out to the right of the word
10 "apnea" on each event is an asterisk

11 A Yes

12 Q All right Do you know the significance of
13 the asterisk out from the patient event, the
14 apnea event there?

15 A I -- I don't recall what that means I'm
16 sure it's defined in the manual, but it's
17 been a long time I believe it might mean
18 that it caused an alarm There are two types
19 of events that can be recorded in the log

20 You can set limits for events to be
21 recorded but not necessarily alarmed for
22 For example, you can set an apnea alarm So
23 breathing will stop for a certain time
24 period, and you can set a setting of ten
25 seconds for breathing to stop before you

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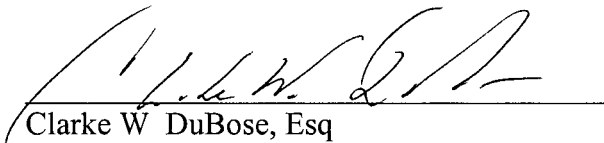
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CERTIFICATE OF SERVICE

I do hereby certify that I have this 7th day of January, 2011, caused the foregoing **Appendix to Record on Appeal** to be served via U S mail, postage prepaid, on Appellants' counsel of record at the address shown below

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