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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
In the Court of Common Pleas for the Ninth Judicial Circuit

The Honorable Kristi F. Curtis, Circuit Court Judge

Appellate Case No. 2023-000952

Kelly Bingham and Kayla Bingham..... Appellants-Respondents,

v.

Medical University of South CarolinaRespondent-Appellant.

**RESPONDENT-APPELLANT'S DESIGNATION OF MATTER FOR INCLUSION IN
THE RECORD ON APPEAL AS TO INITIAL BRIEF AS APPELLANT**

M. Dawes Cooke, Jr., Esq. (S.C. #1376)
John W. Fletcher, Esq. (S.C. #69550)
BARNWELL WHALEY PATTERSON &
HELMS, LLC
211 King Street, Suite 300 (29401)
PO Drawer H
Charleston, SC 29402
Phone: (843) 577-7700 Fax: (843) 577-7708
*Counsel for Respondent-Appellant Medical
University of South Carolina*

Pursuant to Rule 209 of the South Carolina Appellate Court Rules, Respondent-Appellant Medical University of South Carolina ("MUSC") hereby designates the following materials to be included in the Record on Appeal in this matter in connection with its Initial Brief as Appellant. Each item designated **is to include all attachments or exhibits** to the original of the referenced item. Respondent-Appellant MUSC intends to designate each and every item from the record that it cites in its Initial Brief as Appellant in this matter. Respondent-Appellant MUSC expressly reserves the right to seek supplementation of the record pursuant to Rules 209 and 212, SCACR.

Respondent-Appellant MUSC designates the following matters for inclusion in the Record on Appeal (including any and all exhibits or attachments thereto):

1. November 2, 2017 Plaintiffs' Summons and Complaint
2. Plaintiffs' May 20, 2022 Motions in Limine
3. Jury Verdict and Form 4 Judgment
4. November 28, 2022 MUSC Post-Trial Motions and all Exhibits thereto
Ex. A: Order Granting Motion for Remittitur in *Larson v. South Carolina Dep't of Corr.*
Ex. B: Chart captioned "More Accurate Probability Analysis for Identical Twins"
5. December 16, 2022 Plaintiffs' Memorandum in Opposition to MUSC's Post-Trial Motions
6. May 5, 2023 Order Granting Defendant's Motion to Reduce the Verdict Per the SCTCA and Denying Plaintiff's Motion to Determine Number of Occurrences.
7. May 15, 2023 Form 4 Order
8. June 9, 2023 Plaintiffs' Notice Of Appeal
9. June 12, 2023 Defendant's Notice of Cross Appeal
10. September 19, 2023 Order
11. October 16, 2023 Defendant's second Notice of Appeal

12. Trial Transcript, pages 176-77, 187, 213-15, 226, 233-38, 364-65, 369, 391-95, 397, 400-03, 415, 430, 454-59, 462-76, 480-81, 487-89, 491, 541-42, 555-57, 575-76, 584-87, 605-20, 724, 771-83, 787-94, 805-09, 812-14, 821-22, 830-44, 846-49, 853-54, 876-917, 946
13. Defendant's Trial Exhibit 2 → Email chain re: Block 12 Exam Instructions and Seating Assignments
14. Defendant's Trial Exhibit 3 → Email chain including Kayle Bingham and Myra Haney Singleton re: Block 12 Exam Instructions and Seating Assignments
15. Defendant's Trial Exhibit 4 → Michele Friesinger Proctor Notes
16. Defendant's Trial Exhibit 5 → Email chain re: Testing Irregularity
17. Defendant's Trial Exhibit 6 → Email chain between Dr. Laura Kasman and Joseph Ivey
18. Defendant's Trial Exhibit 7 → May 11, 2016 Letter from Dr. Laura Kasman to Joseph Ivey
19. Defendant's Trial Exhibit 8 → Caveon Data Forensics Analysis and Interpretation of Similar Tests dated May 13, 2016
20. Defendant's Trial Exhibit 9 → LXR Data for Student 108013
21. Defendant's Trial Exhibit 10 → LXR Data for Student 108014
22. Defendant's Trial Exhibit 11 → Scratch Paper for Student 108013
23. Defendant's Trial Exhibit 12 → Scratch Paper for Student 108014
24. Defendant's Trial Exhibit 13 → Individual Mastery Reports
25. Defendant's Trial Exhibit 14 → Student Exam Correlations Blocks 1-Synthesis of Year 1 and Student Exam Correlations for Blocks 7-12 of Year 2
26. Defendant's Trial Exhibit 15 → MUSC Honor Code
27. Defendant's Trial Exhibit 16 → May 13, 2015 NMBE Customized Examination Performance Profile for Plaintiffs
28. Defendant's Trial Exhibit 17 → May 9, 2016 NMBE Examinee Performance Profiles for Plaintiffs
29. Defendant's Trial Exhibit 18 → Step One Scores for Plaintiffs

30. Defendant's Trial Exhibit 21 → Email chain involving Laura-Elizabeth Smith and Inda Humes re: DATA
31. Defendant's Trial Exhibit 26 → Plaintiffs' executed Honor Code Statements
32. Defendant's Trial Exhibit 29 → Seating Chart for DDB 110
33. Plaintiffs' Trial Exhibit 28 → Letter, June 14, 2016, from Raymond N. DuBois to Kayla and Kellie re: Honor Council Hearing
34. Plaintiffs' Trial Exhibit 33 → Email Chain, August 12, 2016, including Nicholas I. Batalis, Donna Kern, Raymond N. DuBois, Kennedy Kendrick, Lauren Sausser, Jennifer Nall, Anita C. Harrell, Heather Woodwine re: Bingham
35. Plaintiffs' Trial Exhibit 35 → Message via Facebook from Lauren Sausser to Deep Sangani re: Bingham twins sanctioned for cheating during exams
36. Plaintiffs' Trial Exhibit 40 → Facebook Names and Actual Names
37. Plaintiffs' Trial Exhibit 41 → Facebook Posts
38. Plaintiffs' Trial Exhibit 42 → Facebook Posts
39. Plaintiffs' Trial Exhibit 43 → Facebook Posts
40. Plaintiffs' Trial Exhibit 44 → Facebook Posts
41. Plaintiffs' Trial Exhibit 45 → Facebook Posts
42. Plaintiffs' Trial Exhibit 46 → Facebook Posts
43. Plaintiffs' Trial Exhibit 47 → Facebook Posts
44. Plaintiffs' Trial Exhibit 48 → Facebook Posts
45. Plaintiffs' Trial Exhibit 49 → Facebook Posts
46. Plaintiffs' Trial Exhibit 50 → Facebook Posts
47. Plaintiffs' Trial Exhibit 51 → Facebook Posts
48. Plaintiffs' Trial Exhibit 52 → Facebook Posts
49. Plaintiffs' Trial Exhibit 53 → Facebook Posts
50. Plaintiffs' Trial Exhibit 54 → Facebook Posts

51. Plaintiffs' Trial Exhibit 56 → Table on the overall correlation of grades for Kayla and Kellie

52. Plaintiffs' Trial Exhibit 67 → Testing Room Pictures

Respondent-Appellant MUSC certifies, pursuant to S.C.A.C.R., Rule 209(c), that the designations set forth above are relevant to the appeal in this matter, and that it has not designated any matter that is irrelevant to the issues before the Court.

BARNWELL WHALEY PATTERSON &
HELMS, LLC

By: 

M. Dawes Cooke, Jr., Esq. (S.C. #1376)

John W. Fletcher, Esq. (S.C. #69550)

211 King Street, Suite 300 (29401)

PO Drawer H

Charleston, SC 29402

Phone: (843) 577-7700 Fax: (843) 577-7708

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PROOF OF SERVICE

I certify that I have served the **RESPONDENT-APPELLANT'S DESIGNATION OF MATTER FOR INCLUSION IN THE RECORD ON APPEAL AS TO INITIAL BRIEF AS APPELLANT** on counsel for the above-referenced Appellants-Respondents by email in accordance with the South Carolina Supreme Court's Order re: Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended May 6, 2022) on January 3, 2024, addressed to their attorneys of record:

John E. Parker, Esq.
John E. Parker, Jr., Esq.
PARKER LAW GROUP, LLP
101 Mulberry Street East
Post Office Box 487
Hampton, SC 29924-0457
Phone: (803) 943-2111

Attorneys for Appellants-Respondents Kellie Bingham and Kayla Bingham

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