

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
J. Michael Baxley, Circuit Court Judge

Case Nos. 2008-CP-26-9047
2008-CP-26-9368

Sean D. Fay, as Personal Representative for the
Estate of Kelly L. Fay, deceased, Respondent/Appellant,

v.

Grand Strand Regional Medical Center, LLC,
d/b/a South Strand Ambulatory Care Center
Stephen W. Law, D.O., Richard Young, M.D.,
and Grand Strand Urology, LLP, Defendants,

Of whom Grand Strand Regional Medical
Center, LLC d/b/a South Strand Ambulatory
Care Center is Appellant/Respondent,

And of whom Stephen W. Law, D.O. is Respondent/Appellant,

And of whom Richard Young, M.D. and
Grand Strand Urology, LLP are, Respondents.

SECOND SUPPLEMENTAL
RECORD ON APPEAL

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INDEX

Trial Transcript, pp. 352, 354-356 1
Certificate of Counsel 5

1 fact witnesses are going to testify as to their relationship -
2 --

3 THE COURT: Right.

4 MR. FOSTER: ---And prior to -- immediately prior to
5 her death. Does the Court -- is the Court taking -- do you
6 believe that that's opening the door because they testified
7 that he loved her? I mean the parents have testified to that,
8 the friends have testified to that?

9 THE COURT: No, I don't think something that oblique
10 would be opening the door, but it could get into issues of --
11 and this is an obvious and direct one -- there's something
12 about, you know, were they faithful to one another, or
13 something of that nature, obviously you begin to open the door
14 when you get into those issues.

15 MR. FOSTER: Oh, yes sir, yes sir, if you ask something
16 like ---

17 And may we approach just one moment very quickly?

18 THE COURT: All right.

19 MR. AIKEN: Well, I mean I'm not -- I'm not sure we are
20 finished on the record yet.

21 MR. FOSTER: Okay.

22 THE COURT: All right. However I cannot -- and I
23 remember when I was -- served in -- my privilege to serve in
24 the General Assembly. Speaker Sheheen used to always say,
25 well I can't give advisory rulings. I just -- I don't know

1 that need to be redacted, Your Honor.

2 THE COURT: All right, then ---

3 MS. SCALISE: I guess, Your Honor, with that vain, Dr.
4 Kommu's records -- I guess that set -- was unredacted, would
5 be a Court's Exhibit as well.

6 THE COURT: Right. Well, what I'm understanding from
7 this conversation is that Joint Exhibit 6, if that's what it
8 was, I believe, is not in evidence at this time. In order to
9 be in evidence it would have to be redacted, but we're going
10 to make the complete document a Court's Exhibit for purposes
11 of Appellate review.

12 (CAPE FEAR VALLEY BEHAVIORAL HEALTH SYSTEM RECORDS
13 MARKED COURT'S EXHIBIT NUMBER 1, NOT TO GO TO THE JURY.)

14 MS. SCALISE: Right, Your Honor, and that was Exhibit
15 Number 6, the Cape Fear Behavioral Health System records, but
16 Exhibit 5 is Dr. Kommu's records, so Exhibit 5 is in evidence,
17 and I believe that they were going to put a redacted copy is
18 evidence to be -- full unredacted, to be a Court's exhibit.

19 MR. FOSTER: Yes sir, number ---

20 THE COURT: All right, I misunderstood then. I
21 misstated that -- and it and -- very good, then we'll proceed
22 in that fashion.

23 MR. FOSTER: I'm sorry.

24 May we approach just for thirty seconds, Your Honor?

25 THE COURT: You may.

1 Do you have that, Madame Court Reporter? You've got
2 that straight?

3 MR. TODD: The jury is not here. Why don't we just
4 talk here where we can all hear? I can't hear you when you
5 talk up there. I'm just -- I mean, is this something the
6 witnesses don't need to hear?

7 MR. FOSTER: Yes sir.

8 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

9 THE COURT: All right. Well, let me just say, if you
10 have something you wish to say I'm going to let you say it on
11 the record, rather than us have this discussion up here.

12 MR. FOSTER: Yes, right.

13 (DISCUSSION TAKES PLACE OFF THE RECORD PERTAINING TO
14 MARKING EXHIBITS.)

15 MR. FOSTER: May it please the Court.

16 (DISCUSSION BETWEEN THE COURT AND THE COURT REPORTER
17 PERTAINING TO EXHIBITS.)

18 THE COURT: That's right. Court's Exhibit 1. And the
19 Exhibit 6 is not agreed to go to the jury, so it comes off the
20 exhibits list for the jury, and gone on as a Court's exhibit,
21 Number 1, I believe.

22 MR. TODD: Your Honor, it never was in evidence.
23 Number 6 never was in evidence.

24 THE COURT: All right. It was just offered, and it
25 wasn't put in. Okay.

1 COURT REPORTER: It's now Court's Exhibit Number 1.

2 THE COURT: One.

3 All right, now let's go back on the record and let's --
4 let me say that Plaintiff's Counsel asked to have a bench
5 conference. There was some disagreement here at the bench
6 about the issue that Counsel wishes discussed, so what I told
7 Plaintiff's Counsel was, if he has something he wishes to say
8 state it from his desk, on the record, and let's make whatever
9 response is necessary from the Court.

10 MR. AIKEN: Thank you, Your Honor.

11 MR. FOSTER: Your Honor, in regard to -- in regard to
12 the testimony -- the lay testimony of the stepfather, the
13 mother, the brother and the sister-in-law of Kelly Fay, Your
14 Honor, I was at their depositions, I took their depositions --
15 you've ruled on several -- I mean, you've ruled on several --
16 at least one motion in limine in regard to their testimony in
17 our favor, that there is -- and other motions. that there is
18 to be -- as of yet there is to be no mention of any
19 remarriage, any dating, whether they support the lawsuit,
20 whether they think the doctors did anything wrong, anything of
21 that nature, and what I would submit to the Court is that they
22 seem to have an agenda to where they want to get that into
23 evidence regardless of what question is answered -- asked.
24 And I asked one question, I believe, of the brother, about
25 whether Kelly -- although everybody else said Sean loved

CERTIFICATE OF COUNSEL

The undersigned counsel certifies that the Second Supplemental Record on Appeal contains all material proposed to be included by all parties and not any other material.

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CERTIFICATE OF COMPLIANCE

The undersigned counsel for the Respondent-Appellant Stephen W. Law, D.O., certifies that the Second Supplemental Record on Appeal complies with the Supreme Court's Order of August 13, 2007, regarding personal identifiers and sensitive information.

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CERTIFICATE OF SERVICE

The undersigned employee of Davidson & Lindemann, P.A., attorneys for the Respondent-Appellant, Stephen W. Law, D.O., does hereby certify that service of the **Second Supplemental Record on Appeal** was made upon all counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 1st day of August 2013:

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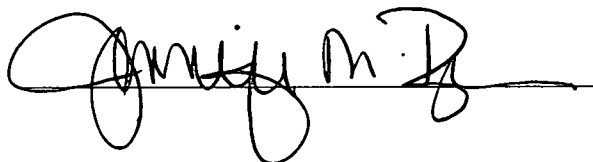
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A handwritten signature in black ink, appearing to read "Monteith P. Todd", written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke extending to the right.