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Jan 27 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Case No. 2016-CP-07-2541
Appellate Case No. 2022-000231

Forum Benefits, LLC, Appellant,

v.

Brian Bannon and Assured Partners, NL, Respondents.

RESPONDENTS' MOTION TO AMEND THE RECORD ON APPEAL

NOW COME Respondents, Brian Bannon (“Mr. Bannon”) and Assured Partners, NL, (“AssuredPartners”)(collectively “Respondents”), by and through their undersigned counsel, hereby move to amend the Record on Appeal to add seven pages from the Trial Transcript that were inadvertently omitted from Respondent’s initial designation of the Record on Appeal. Respondents seek to add the Trial Transcript pages 603 – 609 to the Record on Appeal. Respondents cited these transcript pages in their Initial Brief (footnote 6). In their Final Brief (footnote 5), Respondents noted these pages were not included in the official Record on Appeal. However, at the time, Respondents assumed this was a copying error. In reviewing the parties’ prior designations, it appears that there was an oversight/error by Respondents in not including these seven pages from the Trial Transcript that were cited in their Initial Brief. By

citing these pages in their Initial Brief, Respondents clearly intended these pages to be included in the Record on Appeal.

Respondents recently submitted a letter to the Court notifying it of this issue and providing these pages as a supplement to the Record on Appeal. The Court indicated that a formal motion would be necessary to address this oversight. Accordingly, Respondents file this motion seeking to add these seven pages to the Record on Appeal. These pages are bates numbered 2259 to 2265, are attached to this Motion as **Attachment 1**, and are cited in Respondent's Petition for Rehearing as "Supp. R." followed by the relevant page number(s). Respondents request that the Court consider these seven pages and include them in the Record on Appeal. Respondents submit that there will be no prejudice to Appellants by these seven pages from the Trial Transcript being added to the Record on Appeal.

Respectfully Submitted,

January 27, 2025

s/ Jeffrey A. Lehrer

Jeffrey A. Lehrer (SC Bar No. 16687)
Matthew J. Gilley (S.C. Bar No. 75726)
FORDHARRISON LLP
100 Dunbar Street, Suite 300
Spartanburg, South Carolina 29306
Telephone: (864) 699-1100
Email: jlehrer@fordharrison.com
Email: mgilley@fordharrison.com

William B. Harvey, III
Harvey & Battey, P.A.
P.O. Box 1107
Beaufort, SC 29901
Telephone: (843) 379-3645
Email: bharvey@harveyandbattey.com

Attorneys for Respondents

Attachment 1

Missing Transcript Pages

Attachment 13

1 MR. LEHRER: Okay.

2 THE COURT: And that, you know, will -- that will take
3 30 minutes for us to -- to go through those, and then if I
4 need to take those under advisement or whatever, I can do
5 that, as well. If I don't think I need to take it under
6 advisement, then that will maybe address some of the issues
7 that you may have for tomorrow, so let's just keep working
8 until 4:00 and --

9 MR. LEHRER: Okay.

10 THE COURT: -- then I'll let them go.

11 MR. LEHRER: Could -- could I have five minutes just
12 to consult with my clients on who we're going to call and
13 when and all that?

14 (Whereupon, the Court takes a brief recess.)

15 THE COURT: All right, did you decide which witness
16 you want to call first.

17 MR. LEHRER: Yeah, I've got -- Your Honor, I --
18 actually, I've got two witnesses, and then that may be it
19 for today, so may not get to 4:00. Like I said, I've got
20 two clients that I'm -- I'm anticipating for them in the
21 morning, but then they'll be short.

22 THE COURT: Okay.

23 MR. LEHRER: I mean these are gonna be short, too.

24 THE COURT: All right, bring them out.

25 (Whereupon, the Jury enters the courtroom.)

1 BAILIFF: The Jury is seated, Your Honor.

2 THE COURT: All right, thank you very much.

3 All right, Ladies and gentlemen of the Jury, what
4 we've decided to do is that there are two witnesses that
5 were unable to be here today, and so they are going to be
6 very short witnesses in the morning, but we're just going
7 to work today until four o'clock, and then I'm just gonna
8 let you go for the rest of the afternoon, and we'll just
9 start back in the morning and we'll be done, all right? So
10 just for planning purposes, that's -- that's how we foresee
11 it moving forward. As you've seen, sometimes there's
12 little hiccups, but that's what we're proposing, so we will
13 just go ahead and see if we can work 'til 4:00. All right,
14 call your next witness.

15 MR. LEHRER: All right, the defense calls Paula Gant.

16 **PAULA GANT,**
17 having been duly sworn,
18 testifies as follows:

19 MADAM CLERK: Please state your name and spell your
20 last name.

21 WITNESS: Paula Gant, G-A-N-T.

22 **DIRECT EXAMINATION**

23 BY MR. LEHRER:

24 Q Good afternoon, Ms. Gant, my name is Jeff Lehrer,
25 we -- we've -- we've talked before, I represent the

1 Defendants Brian Bannon and AssuredPartners partners in
2 this case. Tell the Jury who you work for.

3 A Alpha Genesis.

4 Q How long have you worked for Alpha Genesis?

5 A Sixteen years.

6 Q I know it's been a long time, but when did you
7 first meet Brian Bannon?

8 A Honestly, I don't remember the exact year, that'd
9 have to be maybe five, six years ago, --

10 Q Okay.

11 A -- something like that.

12 Q How did you meet Mr. Bannon?

13 A I believe he just came by the office asking, if,
14 you know, he could quote us, you know.

15 Q And did you give him the -- the permission to
16 give a quote?

17 A Yes. I -- I told him our requirements, what I
18 was looking for and, yes.

19 Q Okay. And so does your job entail dealing with
20 this type of issue, kind of getting quotes and dealing with
21 insurance agents?

22 A Yes.

23 Q What is your job at Alpha Genesis?

24 A I'm the Director of Accounting and Human
25 Resources.

1 Q Did -- did you -- what was your decision with
2 regard to Mr. Bannon and -- and his soliciting of you to
3 become his -- the agent?

4 A Oh, we agreed to allow him to quote us, and we
5 agreed to the terms once everything was -- once we -- he
6 gave me all the information that I needed as far as all --
7 making sure that we -- our needs were met. I agreed to
8 what he had to offer, so --

9 Q Did Mr. Bannon do a good job meeting your needs?

10 A Yes, I had a lot of needs, and so he agreed to
11 make sure everything was done in the manner that I
12 requested, so I was happy with that.

13 Q Did you -- did you start to develop some type of
14 trust for Mr. Bannon that he was able to help you with what
15 you needed?

16 A Yes, because up until that point what had been
17 provided to us was not up-to-par as far as I was concerned.
18 My needs weren't met before, and everything I asked of
19 Brian he actually delivered, so, yes.

20 Q Okay. In 2016, who did you consider to be the --
21 Alpha Genesis' insurance agent?

22 A Brian Bannon.

23 Q Okay, and in 2017, who did you consider to be
24 Alpha Genesis' insurance agent?

25 A Brian Bannon.

1 Q Was there ever a time in -- in that -- those two
2 years that you didn't think Mr. Bannon was your agent?

3 A No.

4 Q Did you at all times during those two years
5 authorize Mr. Bannon to have access to Alpha Genesis' plan
6 information?

7 A Yes.

8 Q At some point, did Mr. Bannon tell you that he
9 was moving to AssuredPartners?

10 A Yes.

11 Q Tell the Jury what you recall about that.

12 A Not every word, of course, but I just remember
13 him -- a conversation that he mentioned that he was in the
14 process of, you know, possibly thinking about moving to a
15 different company.

16 Q Did he give you the option to -- to move with
17 him?

18 A Yes, he, you know, he said we could stay where we
19 were or have the choice of moving over.

20 Q Did he -- did he use any type of specific
21 information, confidential-looking information to solicit
22 you to move?

23 A No.

24 Q What was your decision on moving with Mr. Bannon
25 to AssuredPartners?

1 said before you moved -- when -- let me -- let me say this
2 again. My confusion is you understand that Brian Bannon
3 changed over to AssuredPartners, right?

4 A Yes. In my error, in answering that question,
5 like I stated, it was just Brian Bannon that I considered
6 my agent. I wasn't really considering Forum to Assured,
7 but, yes, I am aware that he moved from Forum to Assured.

8 Q Right. So my confusion is, you -- I think you
9 testified that before -- you transferred because the
10 service you were getting was not very good.

11 A Well, we -- we had someone before Brian, who that
12 company was, I'm not sure. I can't remember. I remember
13 Brian because he did provide us with the services, and he
14 was, you know, basically, our agent, and was very personal,
15 that's why I really remember him. I don't remember who was
16 before Brian, or if it was a different company, or the same
17 company, I just remember Brian.

18 MR. LEBLANC: I don't have any further questions.
19 Thank you.

20 THE COURT: Anything as follow-up?

21 MR. LEHRER: Nothing further, Your Honor.

22 THE COURT: All right, thank you so very much for
23 being here, ma'am, and have a wonderful rest of your day.

24 THE WITNESS: You too.

25 THE COURT: All right, call your next witness.

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PROOF OF SERVICE

I, Jeffrey A. Lehrer, of FordHarrison, LLP, counsel for Brian Bannon and Assured Partners, NL, hereby certify that the foregoing **RESPONDENTS' MOTION TO AMEND THE RECORD ON APPEAL** by Brian Bannon and Assured Partners, NL has been served upon opposing counsel, pursuant to the 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), by e-mailing a copy to counsel at their AIS e-mail address, as reflected below:

Timothy David St. Clair, Esq.
Parker Poe Adams & Bernstein LLP
110 East Court Street, Suite 200
Greenville, SC 29601
timstclair@parkerpoe.com

Katon Edwards Dawson, Jr., Esq.
Parker Poe Adams & Bernstein LLP
1221 Main Street, Suite 1100
Columbia, SC 29201
katondawson@parkerpoe.com

Steven R. LeBlanc, Esq.
P.O. Box 9198
Greenville, South Carolina 29604
steve@leblancllc.com
Attorneys for Appellant

Respectfully submitted,

s/ Jeffrey A. Lehrer
Jeffrey A. Lehrer (SC Bar No. 16687)
Matthew J. Gilley
FORDHARRISON LLP
100 Dunbar Street, Suite 300
Spartanburg, South Carolina 29306
Telephone: (864) 699-1100
Email: jlehrer@fordharrison.com
Email: mgilley@fordharrison.com
Attorneys for Respondents

Dated: January 27, 2025

Writer's Direct Contact:

JEFFREY A. LEHRER
864-699-1152
jlehrer@fordharrison.com

January 27, 2025

VIA E-FILE AND FIRST CLASS MAIL
ctappfilings@sccourts.org

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

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Re: Forum Benefits, LLC v. Brian Bannon and AssuredPartners, NL
Appellate Case No. 2022-000231

Dear Ms. Kitchings:

Please find attached Respondents' Motion to Amend the Record on Appeal along with the Proof of Service. Also enclosed is Check No. 1240 in the amount of \$50.00 for the filing fee of this Motion.

Thank you for your attention to this matter. Please let me know if you have any questions or require additional information.

Sincerely,

FORD & HARRISON LLP



JEFFREY A. LEHRER

JAL/aat
Enclosures

cc: Via Email To:
Steven R. LeBlanc, Esq.
Timothy David St. Clair, Esq.
Katon Edwards Dawson, Jr., Esq.