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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM YORK COUNTY
Daniel D. Hall, Circuit Court Judge

Appellate Case No. 2025-000563
Case No. 2016-CP-46-3181

Rita Pratt, Individually and as the Personal Representative of the Estate of William Pratt, Deceased, ... Respondent,

v.

Amisub of South Carolina, Inc. d/b/a Piedmont Medical Center; Jaleesa Heyward, RN; South Carolina Emergency Physicians, LLC; Jonas Varaly, DO; Rock Hill Radiology Associates, LLC; and Geoffrey T. Gilleland, MD, ... Defendants,

Of Which, Rock Hill Radiology Associates, LLC, and Geoffrey T. Gilleland, MD are ..... Petitioners.

PETITIONERS' RETURN TO RESPONDENT'S MOTION TO SUPPLEMENT THE RECORD ON APPEAL

The Respondent has filed a Motion for Leave to Supplement the Record on Appeal to add three pages from the trial transcript, which consist of a title page for Volume V of that transcript, the identification of appearances, and the identification of exhibits for Volume V. The Petitioners do not believe that this supplementation is necessary or warranted. The

Respondent concedes that those three pages "contain no substantive information from the trial proceedings."

In seeking this relief, the Respondent incorrectly represents to the Court that the Petitioners have asserted in their Reply Brief that "three pages are missing at this point in the transcript." In actuality, as the Reply Brief correctly states, *that is a direct quote from page 26 of the Court of Appeals' opinion*. When addressing the placement of the allocated settlement with Amisub on the record, the Court of Appeals noted that "this discussion is absent from the trial transcript" but further pointed out that "[t]hree pages are missing at this point in the transcript." (App. 26). While it is not necessarily clear what the Court of Appeals may be referencing, the Respondent is only speculating that the Court of Appeals referred to the pages that are now sought to be supplemented. It may very well be, but that is not certain because of the lack of completeness or accuracy of the transcript as which hindered this appeal from the start.

In fairness, this should be deemed an immaterial issue that the Respondent is continuing to press – *despite her concessions to the contrary*. Notably, the record demonstrates that in response to post-trial motions, the Respondent conceded that "[w]hen the settlement was announced to the Court during trial, the parties suggested the settlement funds might be allocated with 90% apportioned to the loss of consortium claim and 5% allocated respectively to the survival and wrongful death claims." (R. 97). Similarly, in its opinion, the Court of Appeals wrote: "Wife properly conceded in her memorandum in opposition to Appellants' post-trial motion that when the settlement was announced mid-trial, 'the parties suggested the settlement funds might be allocated with 90% apportioned to the loss of consortium claim and 5% allocated respectively to the survival and wrongful death claims.'" (App. 26). Moreover,

during the hearing to approve the settlement, the Petitioners' counsel pointed out to the trial court that "at the time of the settlement during the trial, the settlement was actually put on the record and allocation at that time was announced was ninety percent to loss of consortium, five percent to wrongful death, five percent to the survival." (R. 905). In response, the trial court acknowledged that "at the time the settlement was agreed upon during the course of the trial that was made a part of the record." (R. 907).

As the Court of Appeals observed, and the parties' counsel can attest, the attempts to obtain a complete and accurate trial transcript from the court reporter in this appeal proved quite difficult and even elusive. There are certainly examples of colloquy during trial that are missing from the transcript as prepared by the court reporter, one of which was acknowledged by the Court of Appeals. (App. 15-16). Thus, a questionable transcript should not carry the day over the representations and concessions made by the parties and the trial court as to the fact that an allocated settlement was placed on the record when the settlement with Amisub was indeed announced at trial.

In short, the requested relief to supplement the Record on Appeal at this late juncture in order to merely speculate as to what was intended by a footnote in the Court of Appeals' opinion is unnecessary, and in the Petitioners' view, it may be denied on that basis.

Respectfully submitted,

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December 12, 2025