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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

In the Supreme Court of the State of South Carolina

APPELLATE CASE NO. 2023-001165

Charles A. Trant, M.D. , Respondent,

vs.

Mag Mutual Insurance Company,Petitioner.

**MOTION TO DETERMINE WHETHER THE
APPENDIX SHOULD BE SEALED**

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BACKGROUND

The Respondent (hereinafter “Dr. Trant”) moves the Court to determine whether the Appendix, which Dr. Trant has, herewith, submitted to the Court for in camera review in support of his brief in opposition to Appellant’s Petition for Certiorari, should be sealed from public view.

This bad faith action is before the Court on Appellant’s (hereinafter “Mag Mutual’s”) Petition for extraordinary common law writ of certiorari to review the Trial Court’s denial of Mag Mutual’s motion to stay.

This Court granted a temporary stay of the scheduled trial in this matter; pending the Court’s resolution of the petition for common law writ of certiorari and instructed the parties to brief the matter.

In their Reply to Dr. Trant’s Return to the Petition for Certiorari, which Mag Mutual filed with this Court on May 22, 2026, Mag Mutual made the offhand, though serious, allegation that Dr. Trant’s return to this Court contained “many inaccurate representations” of fact. (Mag Mutual Reply, May 22, 2026, p. 1, fn. 1). Mag Mutual made this allegation in a footnote, without any support. (Id.).

In his Opposition to Mag Mutual’s Motion to Stay before the Trial Court, Dr. Trant presented the Trial Court, for in camera¹ review, an extensive, itemized, statement of facts and supporting documents establishing the facts of the record; identified as exhibit B, and sub-exhibits B(1)-B(65) to Plaintiff’s Response in Opposition to Mag Mutual’s 2nd Motion to Stay, filed in the circuit court on April 2, 2026. (See Appx. pp. 55-1423).

¹ Most of the supporting documents in exhibit B were produced by Mag Mutual from their claim file and designated as confidential by Mag Mutual, pursuant to a Confidentiality Order governing discovery (though not applicable to trial); thus, in opposition to the pre-trial Motion to Stay, Dr. Trant presented exhibit B to the Trial Court for in camera consideration.

That exhibit, along with the relevant Orders of the Trial Court, are contained in an Appendix to Dr. Trant's responsive brief, also presented by Dr. Trant to this Court for in camera review.

Dr. Trant provides the Court this Appendix to inform the Court of the facts of the case and to challenge Mag Mutual's contention that his summary of the facts contains "many inaccurate representations." (Mag Mutual Reply, p. 1, fn. 1).

It does not.

Dr. Trant moves here to seek the Court's determination as to whether the Appendix should be sealed.

**DETERMINATION AS TO WHETHER
APPENDIX SHOULD BE SEALED**

During discovery below, the parties consented to a Confidentially Order dated May 27, 2025.

That Order provides:

General Protections. Documents designated CONFIDENTIAL under this Order shall not be used or disclosed by the parties or counsel for the parties or any other persons identified below (§ 6.b.) for any purposes whatsoever *other than preparing for and conducting the litigation in which the documents were disclosed (including any appeal of that litigation).*

(Ex. A, Order, 5/27/25, p. 2)(emphasis added).

As to filing of documents identified as confidential, the Order provides:

7. Filing of Confidential Materials.

In the event a party seeks to file any material that is subject to protection under this Order with the court, that party shall take appropriate action to ensure that the documents receive proper protection from public disclosure including:

- (1) filing a redacted document with the consent of the party who designated the document as confidential;

(2) *where appropriate (e.g. in relation to discovery and evidentiary motions), submitting the documents solely for in camera review; or*

(3) *where the preceding measures are not adequate, seeking permission to file the document under seal pursuant to the procedural steps set forth in Local Civil Rule 5.03, DSC, or such other rule or procedure as may apply in the relevant jurisdiction.*

(Order, 5/27/25, pp. 4-5)(emphasis added).

As to whether documents should be filed under seal, the Confidentiality Order provides:

Nothing in this Order shall be construed as a prior directive to the Clerk of Court to allow any document be filed under seal. The parties understand that documents may be filed under seal only with the permission of the court after proper motion pursuant to Rule 41.1 SCRCF.

(Order, 5/27/25, pp. 4-5)(emphasis added).

The Order concludes:

12. No Judicial Determination. This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating discovery. Nothing herein shall be construed or presented as a judicial determination that any specific document or item of information designated as CONFIDENTIAL by counsel is subject to protection under Rule 26(c) of the Federal Rules of Civil Procedure or otherwise until such time as a document-specific ruling shall have been made.

(Order, 5/27/25, p. 7).

The documents contained in the Appendix should not be filed under seal.

Dr. Trant opposed Mag Mutual's Motion to Seal the Complaint; which the Trial Court Denied by Order of April 4, 2025. (See Appx. pp. 17-25; Order 4/4/25). There, the Trial Court carefully analyzed Rule 41.1 SCRCF and declined to seal the Complaint.

The Trial Court's logic there applies equally to the analysis here. In fact, the majority of the documents contained in the Appendix come from the file of trial defense counsel J. Boone

Aiken and were excerpted in the Complaint which is public, and which the Trial Court declined to seal.

Nevertheless, cognizant of the provisions of the Confidentiality Order, and in the abundance of caution, Dr. Trant moves, here, that the Court determine whether the Appendix delivered to the Court for in camera review should be sealed so that the clerk may have direction as to how to treat them.

Whether the Court chooses to seal the Appendix or not, Dr. Trant urges the Court's consideration of the documents contained in the Appendix in order to shed light upon the compelling facts of this case and resolve any question as to the accuracy of Dr. Trant's summary thereof.

Respectfully submitted,

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