

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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JAN 16 2015

SC Court of Appeals

14794

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable S. Phillip Lenski, Administrative Law Judge

Appellate Case No. 2015-000056
Lower Court Docket No. 11-ALJ-07-0575-CC

Amisub of South Carolina, Inc. d/b/a Piedmont Medical Center
d/b/a Fort Mill Medical CenterPetitioner-Respondent,

v.

South Carolina Department of Health and Environmental Control
and The Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas
Medical Center-Fort Mill Respondents,

Of whom The Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas
Medical Center-Fort Mill, is Appellant.

BOND

WHEREAS, Appellant The Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas Medical Center-Fort Mill (“Appellant”) has filed a Notice of Appeal, effectively appealing the (1) Final Order of the Honorable S. Phillip Lenski dated March 31, 2014 (the “Final Order”) and (2) Amended Final Order dated December 15, 2014 (the “Amended Final Order”). A copy of the Notice of Appeal (without Orders) is attached hereto as **Exhibit A**;

WHEREAS, the subject appeal seeks the reversal of the Administrative Law Court’s decisions to grant a Certificate of Need to Petitioner Amisub of South Carolina,

Inc. d/b/a Piedmont Medical Center d/b/a Fort Mill Medical Center for a 100-bed hospital in Fort Mill, South Carolina, (the “Project”) and to deny a Certificate of Need to Appellant; and

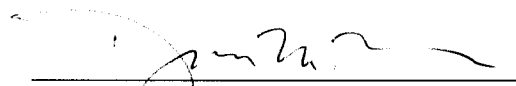
WHEREAS, pursuant to S.C. Code Ann. § 44-7-220(B), Appellant has paid unto the Office of the Clerk of the South Carolina Court of Appeals the sum of One Million Five Hundred Thousand and no/100 Dollars (\$1,500,000.00), in cash, said amount being the maximum amount payable by statute as the total cost of the Project is One Hundred and Nineteen Million Eight Hundred and Eight Thousand and Nine Hundred and Sixty-Four and no/100 Dollars (\$119,808,964.00), as set forth in Paragraph 10 of the Findings of Fact in the Amended Final Order and as alleged by Petitioner-Respondent Amisub of South Carolina, Inc. d/b/a Piedmont Medical Center d/b/a Fort Mill Medical Center.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that Appellant is bound unto the Petitioner-Respondent Amisub of South Carolina, Inc. d/b/a Piedmont Medical Center d/b/a Fort Mill Medical Center in the principal sum of One Million Five Hundred Thousand and no/100 Dollars (\$1,500,000.00), to the extent this sum or any portion thereof may be determined to be due to the Petitioner-Respondent Amisub of South Carolina, Inc. d/b/a Piedmont Medical Center d/b/a Fort Mill Medical Center upon final adjudication of Appellant’s appeal. This cash bond is given pursuant to S.C. Code Ann. § 44-7-220(B) and shall be awarded or released only upon appropriate Order of the South Carolina Court of Appeals. Nothing contained in this Bond shall be deemed an admission of any liability on the part of the Appellant or waive Appellant’s

right to seek relief from the provisions of S.C. Code Ann. § 44-7-220(B) or to challenge its validity.

Should the South Carolina Court of Appeals reverse, in whole or in part, the Final Order and Amended Final Order of the Administrative Law Court, then this cash bond shall be void and the cash returned to Appellant.

Respectfully submitted,



Douglas M. Muller, Esquire
Trudy H. Robertson, Esquire
E. Brandon Gaskins, Esquire
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Attorneys for Appellant The Charlotte-
Mecklenburg Hospital Authority, d/b/a
Carolinas Medical Center – Fort Mill

January 16, 2015

Charleston, South Carolina

EXHIBIT A

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v.

South Carolina Department of Health and Environmental Control
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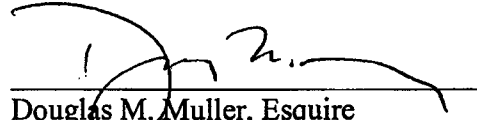
Of whom The Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas
Medical Center-Fort Mill, is Appellant.

NOTICE OF APPEAL

The Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas Medical Center-Fort Mill ("Appellant"), appeals the Final Order of the Honorable S. Phillip Lenski dated March 31, 2014 (the "Final Order") and the Amended Final Order dated December 15, 2014 (the "Amended Final Order"), which granted a Certificate of Need to Petitioner Amisub of South Carolina, Inc. d/b/a Piedmont Medical Center d/b/a Fort Mill Medical Center and denied a Certificate of Need to Appellant. Appellant received written notice of the entry of the Final Order on March 31, 2014. On April 9, 2014, Appellant timely filed a Motion to Alter or Amend the Final Order pursuant to Rule 29(d) of the Rules of

Procedure of the Administrative Law Court and Rule 59 of the South Carolina Rules of Civil Procedure. On May 2, 2014, the Honorable S. Phillip Lenski vacated the Final Order. On December 15, 2014, the Honorable S. Phillip Lenski issued the Amended Final Order.¹ Appellant received written notice of the entry of the Amended Final Order on December 15, 2014.

January 14, 2015



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Attorneys for Appellant The Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas Medical Center – Fort Mill

Other Counsel of Record:

Daniel J. Westbrook, Esquire
Stuart M. Andrews, Jr., Esquire
Nelson, Mullins, Riley & Scarborough, L.L.P.
1320 Main Street, 17th Floor
Columbia, SC 29201

Attorneys for Amisub of South Carolina, Inc. d/b/a Piedmont Medical Center d/b/a Fort Mill Medical Center

Ashley C. Biggers, Esquire
Vito M. Wicevic, Esquire
DHEC, Office of the General Counsel
2600 Bull Street
Columbia, SC 29201

Attorneys for the South Carolina Department of Health and Environmental Control

¹ The Final Order, the May 2, 2014 order vacating the Final Order, and the Amended Final Order are attached hereto as required by South Carolina Appellate Court Rule 203(d)(2)(B).

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South Carolina Department of Health and Environmental Control
And The Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas
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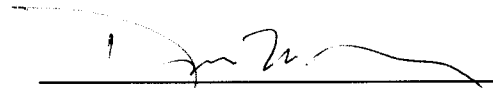
Of whom The Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas
Medical Center-Fort Mill, is Appellant.

PROOF OF SERVICE

This is to certify that I have this day served counsel of record in the foregoing matter
with a copy of the foregoing **Cash Bond** by hand delivery, addressed as follows:

Daniel J. Westbrook, Esquire
Stuart M. Andrews, Jr., Esquire
Nelson, Mullins, Riley &
Scarborough, L.L.P.
1320 Main Street, 17th Floor
Columbia, SC 29201

Ashley C. Biggers, Esquire
Vito M. Wicevic, Esquire
DHEC, Office of the General Counsel
2600 Bull Street
Columbia, SC 29201



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E. Brandon Gaskins, Esquire
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(843) 579-7000 - telephone
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Attorneys for Petitioner The Charlotte-
Mecklenburg Hospital Authority, d/b/a
Carolinas Medical Center – Fort Mill

January 16, 2015

Charleston, South Carolina

Moore & Van Allen

January 16, 2015

Douglas M. Muller,
Attorney at Law

T 843 579 7032
F 843 579 8719
doug.muller@mvalaw.com

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

Moore & Van Allen PLLC

78 Wentworth St.
Charleston, SC 29401-1428

Mailing Address:
Post Office Box 22828
Charleston, SC 29413-2828

**Re: Amisub of South Carolina, Inc., d/b/a Piedmont Medical Center d/b/a Fort Mill
Medical Center v. South Carolina Department of Health and Environmental
Control and The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas
Medical Center-Fort Mill
Appellate Case No. 2015-000056**

Dear Ms. Kitchings:

Enclosed for filing please find the original and one (1) copy of a Bond and Proof of Service in the above referenced matter. I have also enclosed a check in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00) payable to the South Carolina Court of Appeals. Please file the originals and return file stamped copies to the bearer of this letter.

By copy of this letter, I am serving all counsel of record with a copy of the same.

Thank you for your assistance in this matter.

Sincerely,

Moore & Van Allen PLLC


Douglas M. Muller

DMM/hm

Enclosures: as stated

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cc (via hand delivery):

Stuart M. Andrews, Esq.
Daniel J. Westbrook, Esq.
Ashley C. Biggers, Esq.
Vito Wicevic, Esq.