

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
In the Court of Common Pleas for the Ninth Circuit

J.C. Nicholson, Jr., Circuit Court Judge

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Appellate Case No. 2016-002326

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**RECEIVED**

FEB 17 2017

**SC Court of Appeals**

Shon Turner, as Personal Representative of the Estate of Charles  
Mikell, Deceased.....Appellant/Respondent

v.

The Medical University of South Carolina.....Respondent/Appellant

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RESPONDENT/APPELLANT THE MEDICAL UNIVERSITY OF SOUTH CAROLINA'S  
DESIGNATION OF MATTER FOR INCLUSION IN THE RECORD ON APPEAL

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***Attorneys for Appellant/Respondent Shon  
Turner, as Personal Representative of the  
Estate of Charles Mikell, Deceased***

Pursuant to Rule 209 of the South Carolina Appellate Court Rules, Respondent/Appellant The Medical University of South Carolina ("MUSC") hereby designates the following materials to be included in the Record on Appeal in this matter in connection with its Appellants' Brief. Unless otherwise expressly stated, each item designated is to include all attachments or exhibits to the original of the referenced item. MUSC intends to designate each and every item from the record that it cited in its Initial Appellant's Brief in this matter. MUSC expressly reserves the right to seek supplementation of the record pursuant to Rules 209 and 212, SCACR. MUSC designates the following matters for inclusion in the Record on Appeal:

1. November 6, 2012 Plaintiff's Complaint
  2. January 31, 2013 Plaintiff's Amended Complaint
  3. January 31, 2013 Affidavit of W. Andrew Kofke, M.D.
  4. March 15, 2013 MUSC's Answer to Amended Complaint
  5. September 13, 2013 Plaintiff's Motion to Determine Applicability of Privileges Asserted by Defendant
  6. Ex. B to December 16, 2013 MUSC's Reply to Plaintiff's Motion to Determine Applicability of Privileges Asserted (July 11, 2013 MUSC's Supplemental Answers to Plaintiff's First Discovery Requests)
  7. May 15, 2014 Order Denying Plaintiff's Motion to Determine Applicability of Privileges Asserted by Defendant
  8. June 30, 2014 Plaintiff's Motion to Compel
  9. January 30, 2015 Plaintiff's Motion to Compel
  10. March 6, 2015 Order
  11. September 9, 2015 Plaintiff's Motion for Discovery Sanctions
  12. October 14, 2015 Plaintiff's Supplemental Memorandum in Support of Plaintiff's Motion for Discovery Sanctions
- Ex. A May 17, 2013 MUSC's Answers to Plaintiff's First Discovery Requests

- Ex. B MUSC Medical Center Policy Manual – "Emergency Medical Response" (Section PC-19, No. C-14)
- Ex. D September 4, 2014 Letter from Attorney Ransom to Attorney Fleming
- Ex. F October 24, 2014 MUSC's Response to Plaintiff's Second Request for Admissions
- Ex. K Database Printout (BWPH4962-87)
- Ex. N October 15, 2013 MUSC Enterprise Data Warehouse at a Glance
- Ex. O December 5, 2014 Letter from Attorney Ransom to Attorney Fleming
- Ex. Q January 22, 2015 Letter from Attorney Fleming to Attorney Ransom
- Ex. R February 27, 2015 MUSC's Response to Plaintiff's Third Request for Admissions
- Ex. S July 2, 2015 MUSC's Fifth Supplemental Answers to Plaintiff's First Discovery Requests
- Ex. T August 24, 2015 Deposition of Patricia Elaine Aysse, MSN, RN . (Cover page and pages 22-23)
- Ex. U September 14, 2015 Letter from Attorney Fleming to Attorney Ransom
- Ex. V February 27, 2015 Audit Trail (BWPH 4948-51)
- Ex. X September 21, 2015 MUSC's Amended Response to Plaintiff's Second Request for Admissions and MUSC's Amended Response to Plaintiff's Third Request for Admissions (with BWPH4988-90)
- Ex. Y September 22, 2015 Deposition of Scott T. Reeves, M.D. (Cover page and pages 22-31)
- Ex. Z August 26, 2014 Deposition of Donna B. Embrey, CNRA
- 13. October 15, 2015 MUSC's Memorandum in Opposition to Plaintiff's Motion for Discovery Sanctions
  - Ex. A Pages from Anesthesia/PACU Record
  - Ex. F November 4, 2014 Deposition of George Joseph Guldan, III, MD (Cover page and pages 8-12)

Ex. H July 23, 2015 Letter from Attorney Fleming to Attorney Ransom

Ex. I August 24, 2015 Deposition of Sheila Hall Scarborough (Cover page and pages 11-16, 25-28)

14. December 7, 2015 MUSC's Affidavit of Annette Thompson, R.N.
15. December 7, 2015 MUSC's Affidavit of John L. Fisher
16. January 6, 2016 Affidavit of Robert B. Ransom, Esq.
17. January 7, 2016 Supplemental Affidavit of Robert B. Ransom, Esq.
18. February 22, 2016 Plaintiff's Second Amended Complaint
19. March 2, 2016 MUSC's Affidavit of Alissa Fleming, Esq.
20. March 10, 2016 MUSC's Notice of Motion and Motion to Dismiss (Second Amended Complaint)
21. March 10, 2016 MUSC's Answer to Second Amended Complaint
22. April 7, 2016 Order on Defendant's Motion to Dismiss (Second Amended Complaint)
23. April 18-26, 2016 Trial Transcript (Cover page and pages 171, 176, 887, 891-903)
24. May 4, 2016 Second Supplemental Affidavit of Robert B. Ransom, Esq.
25. May 11, 2016 Third Supplemental Affidavit of Robert B. Ransom, Esq.
26. May 11, 2016 MUSC's Supplemental Memorandum in Opposition to Plaintiff's Motion for Discovery Sanctions

Ex D PACU Record Pages


27. June 15, 2016 Plaintiff's Reply Memorandum on Issue of Attorneys' Fees
  28. September 28, 2016 Order for Sanctions (with all attachments)
- Ex. December 10, 2015 Email from Attorney Ransom to Judge Nicholson's Law Clerk (with prior emails in chain)
- Ex. December 10, 2015 Email from Attorney Fleming to Judge Nicholson's Law Clerk (with prior emails in chain)
- Ex. December 10, 2015 Letter from Attorney Fleming to Judge Nicholson

- Ex. January, 2016 Email from Attorney Ransom to Judge Nicholson's Law Clerk (with prior emails in chain)
- Ex. February 24, 2016 Letter from Attorney Ransom to Judge Nicholson (with prior emails in chain)
- Ex. February 22, 2016 Plaintiff's Motion to Seal
- Ex. March 1, 2016 Letter from Attorneys Cooke and Fleming to Judge Nicholson
- Ex. March 3, 2016 Email from Attorney Ransom to Judge Nicholson's Law Clerk (with prior emails in chain)
- Ex. March 17, 2016 Email from Attorney Cooke to Judge Nicholson's Law Clerk (with prior emails in chain)
- Ex. March 18, 2016 Letter from Attorneys Cooke and Fleming to Judge Nicholson
- Ex. March 28, 2016 Letter from Attorney Ransom to Judge Nicholson
- Ex. September 9, 2016 Email from Attorney Fleming to Judge Nicholson's Law Clerk
- Ex. January 4, 2016 Affidavit of Robert B. Ransom
- Ex. January 5, 2016 Supplemental Affidavit of Robert B. Ransom
- Ex. May 2, 2016 Second Supplemental Affidavit of Robert B. Ransom
- Ex. September 2, 2016 Third Supplemental Affidavit of Robert B. Ransom
- Ex. May 4, 2016 Affidavit of Alex Apostolou
- 29. October 11, 2016 MUSC's Motion for Reconsideration
- 30. October 13, 2016 Form 4 Order (denying Motion for Reconsideration)
- 31. October 31, 2016 MUSC's Notice of Appeal
- 32. November 17, 2016 Plaintiff's Notice of Cross-Appeal
- 33. Trial Court's Court Exhibit 2 – February 22, 2016 Deposition of Donna Embrey (Cover page and pages 109-16, 122-23)

MUSC certifies, pursuant to S.C.A.C.R., Rule 209(c), that the designations set forth above are relevant to the appeal in this matter, and that it has not designated any matter that is irrelevant to the issues before the Court.

February 16, 2017

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**PROOF OF SERVICE**

I certify that I have served the Respondent/Appellant The Medical University of South Carolina's Designation of Matter for Inclusion in the Record on Appeal on the above-referenced Appellant/Respondent by depositing a copy of it in the United States Mail, postage prepaid, on February 16, 2017, addressed to his attorneys of record:

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I certify that I have served the Respondent/Appellant The Medical University of South Carolina's Initial Appellant's Brief on the above-referenced Appellant/Respondent by depositing a copy of it in the United States Mail, postage prepaid, on February 16, 2017, addressed to his attorneys of record:

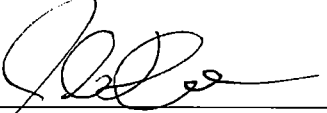
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