

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Ralph King Anderson, III  
Chief Administrative Law Judge

**RECEIVED**

**Dec 04 2020**

**SC Court of Appeals**

APPELLATE CASE NO. 2020-001323

ADMINISTRATIVE LAW COURT CASE NO.: 18-ALJ-07-0358-CC  
ADMINISTRATIVE LAW COURT CASE NO.: 18-ALJ-07-0360-CC  
ADMINISTRATIVE LAW COURT CASE NO.: 18-ALJ-07-0366-CC

CareAlliance Health Services, d/b/a Roper St. Francis Healthcare,  
Roper Hospital, Inc., Bon Secours-St. Francis Xavier Hospital, Inc.,  
Roper St. Francis Berkeley Hospital and Roper Mount Pleasant  
Hospital,.....Respondent,

v.

South Carolina Department of Health and Environmental Control and  
Medical University Hospital Authority, d/b/a MUHA Community Hospital,.....Respondents,

AND

Walterboro Community Hospital, Inc., d/b/a Colleton Medical Center,.....Appellant,

v.

South Carolina Department of Health and Environmental Control and  
Medical University Hospital Authority, d/b/a MUHA Community Hospital,.....Respondents,

AND

Trident Medical Center, LLC d/b/a Trident Medical Center  
and Summerville Medical Center,.....Appellants,

v.

South Carolina Department of Health and Environmental Control and  
Medical University Hospital Authority, d/b/a MUHA Community Hospital,.....Respondents.

BOND NO. SU 1168694-0000

**APPEAL BOND SECURED BY SURETY**

WHEREAS, in the cases of Walterboro Community Hospital, Inc., d/b/a Colleton Medical Center v. South Carolina Department of Health and Environmental Control and Medical University Hospital Authority, d/b/a MUHA Community Hospital, case no. 18-ALJ-07-0360-CC, and Trident Medical Center, LLC, d/b/a Trident Medical Center and Summerville Medical Center v. South Carolina Department of Health and Environmental Control and Medical University Hospital Authority, d/b/a MUHA Community Hospital, case no. 18-ALJ-07-0366-CC, the South Carolina Administrative Law Court affirmed the staff decision of the South Carolina Department of Health and Environmental Control (“DHEC”) to approve a Certificate of Need (“CON”) to the MUHA for a \$325 million, 128 bed hospital to be located in Berkeley County, South Carolina (“CON Project”); and

WHEREAS, Petitioners Walterboro Community Hospital, Inc. and Trident Medical Center (hereinafter, “Appellants”) filed timely motions for reconsideration following the issuance of the Administrative Law Court’s Final Order, which was withdrawn and replaced by the Administrative Law Court with an Amended Final Order on September 4, 2020 that also affirmed the DHEC staff’s decision to approve MUHA’s CON Project; and

WHEREAS, on October 2, 2020, Appellants timely filed with the South Carolina Court of Appeals their Notices of Appeal, attached hereto as **Exhibit A**, seeking to reverse the ALC’s Order; and

WHEREAS, on October 7, 2020, Appellants filed a Motion for Relief from Payment of Bond required by South Carolina Code of Laws § 44-7-220(B); and

WHEREAS, on November 25, 2020, the South Carolina Court of Appeals denied Appellants Motion for Relief from Payment of Bond but permitted the Appellants to post a collective \$1.5 million bond by Friday, December 4, 2020, or Appellants’ appeals will be dismissed.

KNOW ALL MEN BY THESE PRESENTS, that we Trident Medical Center, LLC d/b/a Trident Medical Center and Summerville Medical Center, and Walterboro Community Hospital, Inc., d/b/a Colleton Medical Center (collectively, “Appellants”), as principals, and Arch Insurance Company, a Missouri corporation, as surety (the “Parties”), are held and firmly bound unto Respondent Medical University Hospital Authority (“MUHA”), in the collective maximum penal sum of one million five hundred thousand dollars (\$1,500,000.00), to the extent this sum or any portion thereof may be determined to be due to the Respondent MUHA upon final adjudication of Appellants’ appeal. This Bond, as secured by a Surety, is given pursuant to S.C. Code Ann. § 44-7-220(B) and shall be awarded 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 Appellants or waive Appellants’ right to seek relief from the provisions of S.C. Code Ann. § 44-7-220(B) or to challenge its validity.

The Parties bind ourselves and our successors and assigns, jointly and severally, firmly by these presents. Regardless of the number of years this Bond is in force, the liability of the Surety shall not be cumulative and shall in no event exceed the aforementioned maximum penal sum.


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

*[signatures on opposite page]*

WALTERBORO COMMUNITY  
HOSPITAL, INC.

By:   
Principal

TRIDENT MEDICAL CENTER, LLC

By:   
Principal

ARCH INSURANCE COMPANY

By:   
Christy M. Braile, Attorney-in-fact  
Surety

December 4, 2020

STATE OF MISSOURI

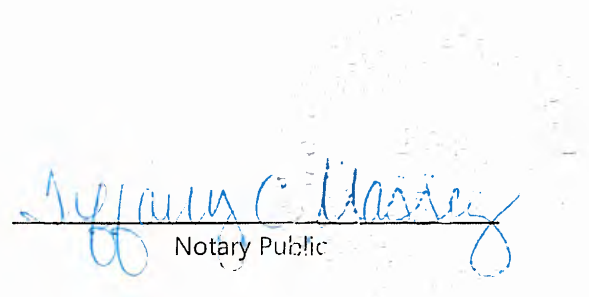
COUNTY OF JACKSON

Bond No. SU 1168694-0000

On December 4, 2020, before me, a Notary Public in and for the above county, personally appeared Christy M. Braille to me personally known, who, being by me duly sworn, did state that he/she is Attorney-in-Fact of Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, that the seal affixed to the foregoing instrument is the corporate seal of the said corporation, that the instrument was signed, sealed, and executed in behalf of said corporation by authority of its Board of Directors, and further acknowledged the said instrument and the execution thereof to be the voluntary act and deed of said corporation by her voluntarily executed.

IN WITNESS WHEREOF, I have hereunto subscribed by name and affixed my official seal the day and year first above written.

My Commission Expires: 7/26/2024



Tiffany C. Massey  
Notary Public

TIFFANY C. MASSEY  
NOTARY PUBLIC-NOTARY SEAL  
STATE OF MISSOURI  
JACKSON COUNTY  
MY COMMISSION EXPIRES 7/26/2024  
COMMISSION # 12379380

*This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated. Not valid for Note, Loan, Letter of Credit, Currency Rate, Interest Rate or Residential Value Guarantees.*

**POWER OF ATTORNEY**

**Know All Persons By These Presents:**

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal administrative office in Jersey City, New Jersey (hereinafter referred to as the "Company") does hereby appoint:

**C. Stephens Griggs, Charissa D. Lecuyer, Charles R. Teter III, Christy M. Braille, Debra J. Scarborough, Evan D. Sizemore, Jeffrey C. Carey, Kellie A. Meyer, Lauren Scott, Mary T. Flanigan, Patrick T. Pribyl, Rebecca S. Leal, Tahitia M. Fry and Veronica Lawver of Kansas City, MO (EACH)**

its true and lawful Attorney(s)-in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed. Any and all bonds, undertakings, recognizances and other surety obligations, in the penal sum not exceeding Ninety Million Dollars (90,000,000.00). This authority does not permit the same obligation to be split into two or more bonds in order to bring each such bond within the dollar limit of authority as set forth herein.

The execution of such bonds, undertakings, recognizances and other surety obligations in pursuance of these presents shall be as binding upon the said Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal administrative office in Jersey City, New Jersey.

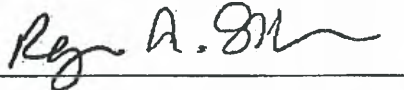
This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on September 15, 2020, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

"**VOTED**, That the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them subject to the limitations set forth in their respective powers of attorney, to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances and other surety obligations obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."


This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on September 15, 2020:

**VOTED**, That the signature of the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on September 15, 2020, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company. In Testimony Whereof, the Company has caused this instrument to be signed and its corporate seal to be affixed by their authorized officers, this 8th day of October, 2020

**Attested and Certified**

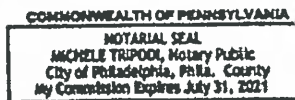
  
Regan A. Shulman, Secretary



Arch Insurance Company  
  
Richard Stock, Executive Vice President

**STATE OF PENNSYLVANIA SS  
COUNTY OF PHILADELPHIA SS**

I, Michele Tripodi, a Notary Public, do hereby certify that Regan A. Shulman and Richard Stock personally known to me to be the same persons whose names are respectively as Secretary and Executive Vice President of the Arch Insurance Company, a Corporation organized and existing under the laws of the State of Missouri, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being thereunto duly authorized signed, sealed with the corporate seal and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary acts for the uses and purposes therein set forth.

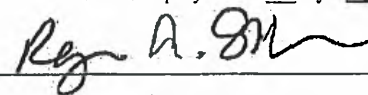


  
Michele Tripodi, Notary Public  
My commission expires 07/31/2021

**CERTIFICATION**

I, Regan A. Shulman, Secretary of the Arch Insurance Company, do hereby certify that the attached Power of Attorney dated October 8, 2020 on behalf of the person(s) as listed above is a true and correct copy and that the same has been in full force and effect since the date thereof and is in full force and effect on the date of this certificate; and I do further certify that the said Richard Stock, who executed the Power of Attorney as Executive Vice President, was on the date of execution of the attached Power of Attorney the duly elected Executive Vice President of the Arch Insurance Company.

**IN TESTIMONY WHEREOF**, I have hereunto subscribed my name and affixed the corporate seal of the Arch Insurance Company on this 4th day of December, 2020.

  
Regan A. Shulman, Secretary

This Power of Attorney limits the acts of those named therein to the bonds and undertakings specifically named therein and they have no authority to bind the Company except in the manner and to the extent herein stated.

**PLEASE SEND ALL CLAIM INQUIRIES RELATING TO THIS BOND TO THE FOLLOWING ADDRESS:**

Arch Insurance – Surety Division  
3 Parkway, Suite 1500  
Philadelphia, PA 19102



**To verify the authenticity of this Power of Attorney, please contact Arch Insurance Company at SuretyAuthentic@archinsurance.com  
Please refer to the above named Attorney-in-Fact and the details of the bond to which the power is attached.**

ARCH INSURANCE COMPANY  
STATEMENT OF FINANCIAL CONDITION  
DECEMBER 31, 2019

Assets

Cash in Banks	\$ 66,834,581
Bonds owned	\$ 2,773,669,218
Stocks	\$ 632,027,703
Premiums in course of collection	\$ 481,916,166
Accrued interest and other assets	<u>\$ 567,156,420</u>

Total Assets \$ 4,521,604,088

Liabilities

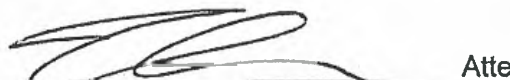
Reserve for losses and adjustment expenses	\$ 1,890,227,649
Reserve for unearned premiums	\$ 812,210,429
Ceded reinsurance premiums payable	\$ 296,890,508
Amounts withheld or retained by company for account of others	\$ 158,378,578
Reserve for taxes, expenses and other liabilities	<u>\$ 408,441,322</u>

Total Liabilities 3,566,148,486


Surplus as regards policyholders 955,455,602

Total Surplus and Liabilities \$ 4,521,604,088

By:

  
\_\_\_\_\_  
Senior Vice President, Chief  
Financial Officer and Treasurer

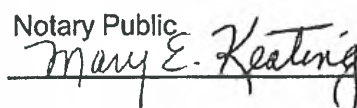
Attest:

  
\_\_\_\_\_  
Senior Vice President,  
General Counsel and Secretary

State of New Jersey )  
                                  )       SS  
County of Hudson )

Thomas James Ahern, Senior Vice President, Chief Financial Officer and Treasurer and Patrick Kenneth Nails, Senior Vice President, General Counsel and Secretary being duly sworn, of ARCH INSURANCE COMPANY, Missouri; and that the foregoing is a true and correct statement of financial condition of said company, as of December 31, 2019.

Subscribed and sworn to before me, this 29<sup>th</sup> day of February, 2020

Notary Public  
  
\_\_\_\_\_



# **EXHIBIT A**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Ralph King Anderson, III  
Chief Administrative Law Judge

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Case No.: 18-ALJ-07-0358-CC  
Case No.: 18-ALJ-07-0360-CC  
Case No.: 18-ALJ-07-0366-CC

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**RECEIVED**  
**Oct 02 2020**  
**SC Court of Appeals**

CareAlliance Health Services, d/b/a Roper St. Francis Healthcare,  
Roper Hospital, Inc., Bon Secours-St. Francis Xavier Hospital, Inc.,  
Roper St. Francis Berkeley Hospital and Roper Mount Pleasant  
Hospital,.....Petitioners/Respondents,

v.

South Carolina Department of Health and Environmental Control and  
Medical University Hospital Authority, d/b/a MUHA Community Hospital,.....Respondents.

AND

Walterboro Community Hospital, Inc., d/b/a Colleton Medical Center,.....Petitioner,

v.

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Of Which, Walterboro Community Hospital, Inc., d/b/a Colleton Medical Center is the Appellant.

AND

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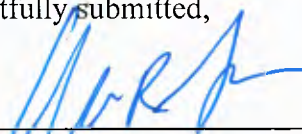
**NOTICE OF APPEAL**

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Petitioner/Appellant Walterboro Community Hospital, Inc., d/b/a Colleton Medical Center (“Petitioner/Appellant”) appeals the Amended Final Order of the Honorable Ralph King Anderson, III, filed September 4, 2020, in the above matter (the “Order”), a copy of which is attached hereto as **Exhibit A**. Petitioner/Appellant received written notice of entry of the Order that same day. Thus, pursuant to South Carolina Appellate Court Rule 203(b)(6), this Notice of Appeal is timely filed within 30 days of receipt of the Order.

October 2, 2020

Respectfully submitted,



---

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William R. Thomas (SC Bar #16348)  
Faye A. Flowers (SC Bar #2043)  
PARKER POE ADAMS & BERNSTEIN LLP  
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Colleton Medical Center*

Other Counsel of Record:

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Shannon V. Lipham, Esquire  
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*Attorneys for Petitioners/Respondents  
CareAlliance Health Services, d/b/a Roper  
St. Francis Healthcare, Roper Hospital,  
Inc., Bon Secours-St. Francis Xavier  
Hospital, Inc., Roper St. Francis Berkeley  
Hospital and Roper Mount Pleasant  
Hospital*

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Rupinderjit S. Grewal, Esquire  
South Carolina Department of Health  
and Environmental Control  
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grewalrs@dhec.sc.gov

*Attorneys for Respondent  
South Carolina Department of Health  
and Environmental Control*

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Celeste T. Jones, Esquire  
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pbaker@burr.com  
ctjones@burr.com

*Attorneys for Respondent  
Medical University Hospital Authority,  
d/b/a MUHA Community Hospital*

THE STATE OF SOUTH CAROLINA  
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**PROOF OF SERVICE**

The undersigned hereby certifies that on October 2, 2020, s/he has caused a copy of the Notice of Appeal to be served upon the agency, the Administrative Law Court, and all parties of record by electronic mail and U.S. Mail, postage prepaid, addressed as follows:

The Honorable Jana E. Shealy  
Clerk, Administrative Law Court  
1205 Pendleton Street, Suite 224  
Columbia, SC 29201

Jennifer J. Hollingsworth, Esquire  
Shannon V. Lipham, Esquire  
Nexsen Pruet, LLC  
1230 Main Street, Suite 700 (29201)  
Post Office Drawer 2426  
Columbia, SC 29202

Cheryl D. Shoun, Esquire  
Nexsen Pruet, LLC  
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Charleston, SC 29401

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South Carolina Department of Health  
and Environmental Control  
2600 Bull Street  
Columbia, SC 29201

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David B. Summer, Jr. (SC Bar #7974)  
William R. Thomas (SC Bar #16348)  
Faye A. Flowers (SC Bar #78405)  
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Columbia, South Carolina

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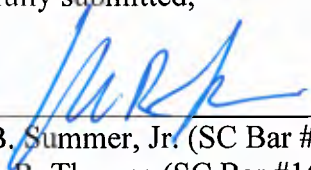
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*Attorneys for Petitioner/Appellant  
Trident Medical Center, LLC d/b/a Trident Medical  
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Other Counsel of Record:

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*Attorneys for Respondent  
South Carolina Department of Health  
and Environmental Control*

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ctjones@burr.com

*Attorneys for Respondent  
Medical University Hospital Authority,  
d/b/a MUHA Community Hospital*

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**PROOF OF SERVICE**

---

The undersigned hereby certifies that on October 2, 2020, s/he has caused a copy of the Notice of Appeal to be served upon the agency, the Administrative Law Court, and all parties of record by electronic mail and U.S. Mail, postage prepaid, addressed as follows:

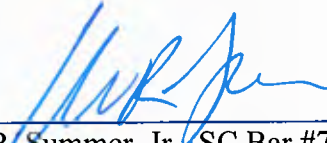
The Honorable Jana E. Shealy  
Clerk, Administrative Law Court  
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Columbia, SC 29201

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Columbia, South Carolina

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**Dec 04 2020**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Ralph King Anderson, III  
Chief Administrative Law Judge

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APPELLATE CASE NO. 2020-001323

ADMINISTRATIVE LAW COURT CASE NO.: 18-ALJ-07-0358-CC  
ADMINISTRATIVE LAW COURT CASE NO.: 18-ALJ-07-0360-CC  
ADMINISTRATIVE LAW COURT CASE NO.: 18-ALJ-07-0366-CC

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CareAlliance Health Services, d/b/a Roper St. Francis Healthcare,  
Roper Hospital, Inc., Bon Secours-St. Francis Xavier Hospital, Inc.,  
Roper St. Francis Berkeley Hospital and Roper Mount Pleasant  
Hospital,.....Appellant-Respondent,

v.

South Carolina Department of Health and Environmental Control and  
Medical University Hospital Authority, d/b/a MUHA Community Hospital,.....Respondents,

AND

Walterboro Community Hospital, Inc., d/b/a Colleton Medical Center,.....Appellant,

v.

South Carolina Department of Health and Environmental Control and  
Medical University Hospital Authority, d/b/a MUHA Community Hospital,.....Respondents,

AND

Trident Medical Center, LLC d/b/a Trident Medical Center  
and Summerville Medical Center,.....Appellant,

v.

South Carolina Department of Health and Environmental Control and  
Medical University Hospital Authority, d/b/a MUHA Community Hospital,.....Respondents.

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**PROOF OF SERVICE**

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The undersigned hereby certifies that on December 4, 2020, s/he has caused a copy of **Appellants' Trident Medical Center, LLC and Walterboro Community Hospital, Inc.'s Appeal Bond Secured by Surety** to be served upon all parties of record by electronic mail addressed as follows:

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Hospital, Inc., Bon Secours-St. Francis  
Xavier Hospital, Inc., Roper St. Francis  
Berkeley Hospital and Roper  
Mount Pleasant Hospital*

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December 4, 2020

**VIA EMAIL ONLY CTAPPFILINGS@SCCOURTS.ORG**

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

**RECEIVED**  
**Dec 04 2020**  
**SC Court of Appeals**

**Re: Appellate Case No: 2020-001323**

**CareAlliance Health Services, et al. vs. South Carolina DHEC, et al. AND  
Walterboro Community Hospital, Inc. d/b/a Colleton Medical Center v. South  
Carolina DHEC, et al. AND  
Trident Medical Center, LLC, d/b/a Trident Medical Center and Summerville  
Medical Center vs. SC DHEC, et al.**

Dear Ms. Kitchings:

Reserving all right granted to Appellants in the South Carolina Court of Appeal's Order of November 25, 2020 in the above referenced matter, enclosed for filing in connection with the above, please find Appellants Trident Medical Center, LLC and Walterboro Community Hospital, Inc.'s APPEAL BOND SECURED BY SURETY and Proofs of Service.

By copy of this letter and pursuant to the Court's standing Order, we are serving copies of the same to all counsel of record via email.

With best regards, I am

Sincerely,

*s/David B. Summer, Jr.*

David B. Summer, Jr.

DBS/tmb

Enclosures

cc: Vito M. Wicevic, Esquire (w/enclosures via email)  
Rupinderjit S. Grewal, Esquire (w/enclosures via email)  
Jennifer J. Hollingsworth, Esquire (w/enclosures via email)  
Shannon V. Lipham, Esquire (w/enclosures via email)  
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