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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable H.W. Funderburk, Jr., Administrative Law Judge

APPELLATE CASE NO.: 2019-001159
ADMINISTRATIVE LAW COURT CASE No.: 18-ALJ-07-0100-CC

Trident Medical Center, LLC, d/b/a Trident Medical Center Respondent,
v.

South Carolina Department of Health and Environmental Control
and Medical University Hospital Authority d/b/a MUSC Radiation Therapy Center
– Berkeley County Respondents,

Of Which Medical University Hospital Authority d/b/a MUSC Radiation
Therapy Center – Berkeley County is the Appellant.

**BRIEF OF THE RESPONDENT TRIDENT MEDICAL CENTER LLC
IN RESPONSE TO THE JOINT BRIEF OF THE AMICI CURIAE**

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INTRODUCTION

The Respondent Trident Medical Center, LLC (“Trident”) offers this brief in response to the Joint Amicus Brief (“Joint Brief”) of the Medical University of South Carolina (“MUSC”) and its affiliated not-for-profit corporation, MUSC Strategic Ventures (“MSV,” and together with MUSC, the “Amici Curiae”). In their Joint Brief, the Amici Curiae argue in support of the efforts of their affiliated entity, the Appellant Medical University Hospital Authority d/b/a MUSC Radiation Therapy Center – Berkeley County (“MUHA”), to overturn the decision of the Administrative Law Court (“ALC”) denying MUHA’s Certificate of Need (“CON”) application. Because the arguments of the Amici Curiae in their Joint Brief are duplicative of the arguments made by MUHA in its main briefs, Trident incorporates herein by reference all of its statements and arguments in response to MUHA in Trident’s Brief of the Respondent filed with the Court on March 19, 2020. (“Trident Brief”).

STATEMENT OF THE CASE

On May 22, 2017, MUHA submitted its CON application to add a sixth linear accelerator to its inventory to be located in a proposed radiation therapy center in Berkeley County (“Proposed Project”). (**R. pp. 1595-1817**). Trident appeared before the Respondent Department of Health and Environmental Control (“DHEC”) as an affected person to oppose MUHA’s Proposed Project. (**R. p. 1818**). On November 22, 2017, DHEC approved MUHA’s Proposed Project. (**R. pp. 1969-1972**). The DHEC Board declined to conduct a final review conference of its staff’s decision and, thereafter, Trident petitioned the ALC for contested case review. (**R. pp. 37-89, 54-55**).

At the conclusion of the contested case hearing before the ALC, Trident made an oral motion, requesting judgment as a matter of law on the grounds that MUHA’s Proposed Project, as presented to DHEC in MUHA’s CON application, involves an unlawful and unconstitutional joint

venture, which by its unlawful nature cannot comply with applicable CON standards and criteria. **(R. p. 1297, line 17 – p. 1310, line 13)**. Concurrent with its oral motion, Trident submitted its written Motion for Directed Verdict and Memorandum in Support reiterating its oral motion and arguments. As its sole relief, Trident requested that the ALC reverse DHEC’s decision and deny MUHA’s CON application as being inconsistent with the State Health Plan and CON law.¹ **(R. pp. 1999-2030)**.

On May 14, 2019, after providing MUHA the opportunity to fully brief its response to all of the issues raised, the ALC issued its Order Granting Petitioner’s Motion for Judgment as a Matter of Law and Denying Certificate of Need on Other Grounds (“Final Order”). **(R. pp. 1-35)**. After the ALC denied MUHA’s Motion to Reconsider **(R. 36)**, MUHA filed its Notice of Appeal with this Court on July 15, 2019. On March 1, 2021, this Court granted the Motion of the Amici Curiae for Leave to File a Joint Amicus Brief and permitted Trident to file this brief in response to the Joint Amicus Brief.

ARGUMENT

This is a Certificate of Need case that began with the filing of a CON application by MUHA. In its application, MUHA presented DHEC with certain basic information concerning the ownership and management of the Proposed Project. Indeed, the CON law requires that a CON application contain such disclosures.

For example, an applicant must identify the name and address of the parties or entities that will own the proposed project and the parties or entities that will be engaged to manage or operate

¹ Under the CON Act, DHEC is prohibited from granting a CON to an applicant unless the project as proposed complies with the State Health Plan and the Project Review Criteria and other requirements set forth in the CON regulations. S.C. Code Ann. § 44-7-210(B) (2018). The CON regulations also mandate that “no project may be approved unless it is consistent with the State Health Plan.” S.C. Code Ann. Regs. 61-15, § 801(3) (Supp. 2019).

the facility. S.C. Code Ann. Regs. 61-15 § 202(2)(b)(8). The law also requires an applicant to affirm that “the facility will be operated and maintained in accordance with the standards prescribed by law and regulations for the maintenance and operation of such facilities.” S.C. Code Ann. Regs. 61-15 § 202(d)(6). Further, the applicable project review criteria in this case require, among other things, the examination of the Record of the Applicant (Owner and/or Administrator). S.C. Code Ann. Regs. 61-15; § 802(13).

MUHA’s CON application lists MUSC Health Cancer Care Network, LLC (“MUSC Network”) as the manager/operator of the Proposed Project. **(R. pp. 1599-1600)**. MUHA describes MUSC Network as a Delaware limited liability company licensed to do business in South Carolina and indicates that ownership of this for-profit entity is split between Alliance Oncology, LLC, a private for-profit Delaware limited liability company, which owns 51% of the company, and MUSC Strategic Ventures, which has a 49% ownership interest.² **(R. pp. 1524; 1529; 1600-1601; and 1529; R. p. 798, lines 7-8)**.

Upon the DHEC staff’s approval of MUHA’s CON application, Trident appealed DHEC’s decision and the parties thereafter litigated this matter before the DHEC Board and the ALC under, the processes established by the State Certification of Need and Health Facility Licensure Act (S.C. Code Ann. §§ 44-7-110, *et seq.* (2018 and Supp. 2019) (the “CON Act”)), the regulations set forth at S.C. Code Ann. Regs. 61-15 (Supp. 2019), and the State Health Plan (collectively the “CON Law”). Based on evidence elicited during the contested case discovery process and at the

² Trident assumes that MUHA’s identification of these entities and its use of their expertise and services to seek approval from DHEC for the Proposed Project was done with their permission. Thus, although they were not applicants before DHEC or parties in the ALC proceeding, by selecting and naming MUSC Network as the manager/operator of the Proposed Project, MUHA subjected these entities and their ability to comply with applicable CON requirements to the scrutiny of DHEC and the ALC.

hearing before the ALC, Trident contended that the structure and ownership of MUSC Network rendered MUHA unable to comply with the CON criteria and standards discussed above.³ (**R. pp. 15-16; 27-29**). In considering Trident's contentions, the ALC analyzed the issues in the context of the CON Law, and, ultimately, it granted only the type of relief that is appropriate under CON law, *i.e.*, the denial of the CON application that MUHA presented to DHEC.

In their Joint Brief, the Amici Curiae summarize their "fundamental" arguments in support of MUHA's CON application as follows: (a) as Executive Branch agencies, neither DHEC nor the ALC has the constitutional or statutory authority to determine the interests of the Amici Curiae because they were not parties to the proceedings; and (b) assuming that such authority does exist, the ALC should not have considered the issues in this case without first notifying the Amici Curiae and allowing them to intervene as parties. (Joint Brief, p. 4). Both of these arguments are based on the premise that the ALC strayed outside the confines of the CON Law and rendered a decision that directly affected the independent rights of the Amici Curiae. This premise is false. This is a Certificate of Need case that was considered and decided by the ALC as such.

A. The ALC possesses the statutory and constitutional authority to determine the issues presented by Trident in this case.

As their first issue, the Amici Curiae contend that, under the separation of powers doctrine only an Article V court, such as this Court, possesses the authority to determine whether the organizational structure and ownership of MUHA's chosen operator/manager for its Proposed Project violates S.C. Const. art. X, §11 and/or exceeds the statutory authority granted to MUSC and MUHA. To support their contentions, the Amici Curiae argue that the ruling of the ALC in

³ The ALC also determined that the unlawful nature of the proposed manager/operator of the project negatively impacted MUHA's ability to comply with other project review criteria such as § 802(14) Ability to Complete the Project and (15) Financial Feasibility. (**R. pp. 15-16; 27-29**).

this case is identical to a facial challenge to a statute or a regulation, which an Executive Branch entity cannot decide. (Joint Brief, pp. 9-13). The Amici Curiae also contend that, as an Executive Branch court, the ALC has only the powers granted by statute and that no statute covers the ALC's decision in this case.⁴

The two-part argument Trident presented to the ALC at the conclusion of the contested case hearing was: (a) MUSC Network, the facility manager and operator proposed by MUHA in its CON application, is an unlawful and unconstitutional joint venture formed in violation of S.C. Const. art. X, § 11; and (b) therefore, MUHA's Proposed Project as presented to DHEC does not comply with the standards and criteria of the CON Law and must be denied. **(R. pp. 1999 - 2030)**. Briefly summarized, Trident argued that, as a creature of statute, MUSC has only those powers expressly conferred or necessarily implied for it to effectively fulfill the duties with which it is charged. *See Captain's Quarters Motor Inn, Inc. v. S.C. Coastal Council*, 306 S.C. 488, 490, 413 S.E.2d 13, 14 (1991).

In its enabling legislation, MUSC's governing board is given the authority to elect officers and to appoint professors and to fix their compensation, to make bylaws and regulations, to confer the appropriate degrees in medicine, dental medicine, pharmacy, nursing, health-related professions, and graduate studies upon persons qualified to receive them, and to make contracts and hold, purchase, lease or sell real estate and personal property for corporate purposes. S.C. Code Ann. § 59-123-60(A) (2020). MUSC has no statutory authority to create a subsidiary or affiliated corporation to perform the educational functions it is charged with performing.

⁴ Trident addresses these same issues in greater detail in response to MUHA's identical arguments. *See* Trident Brief, Argument I, pp. 12-19.

MUSC’s lack of authority to create subsidiary or affiliated corporations is further demonstrated by the fact that, in the same legislation in which it established MUSC as a state agency charged with educating healthcare providers, the General Assembly also established MUHA as a separate state agency charged with operating the healthcare facilities used by MUSC to perform its educational function. In direct contrast to MUSC’s limited powers, the General Assembly granted MUHA the express power to:

establish such not-for-profit corporations as the board considers necessary to assist the authority in carrying out its functions; provided, that any entity created pursuant to this subsection is considered to be an entity of the authority and subject to all laws and regulations applicable to the authority under this section. The formation of for-profit corporations by the authority is strictly prohibited.

S.C. Code Ann. § 59-123-60(E)(13) (2020).

The ALC agreed with Trident’s arguments and determined that the creation of MSV by MUSC was an *ultra vires* act, outside the scope of authority granted to MUSC under its enabling legislation. Therefore, the ALC concluded that, as an unlawful entity, MSV could not be a joint owner of MUSC Network. (**R. pp. 19-23**).

Trident further argued that, even if MSV were a lawful affiliated entity of MUSC and/or MUHA, MUSC Network itself constitutes an unlawful joint venture in violation of the constitutional prohibition against joint ownership by a state agency in a private corporation. Under S.C. Const. art. X, § 11, “neither the State nor any of its political subdivisions shall become a joint owner of or stockholder in any company, association, or corporation.” *See Nichols v. South Carolina Research Auth.*, 290 S.C. 415, 421, 351 S.E.2d 155, 158 (1986)(“The Constitution clearly prohibits public agencies . . . from engaging in joint ownership with private parties.”). In a later case, *O’Brien v. S.C. ORBIT*, the Supreme Court clarified that public bodies also cannot circumvent this constitutional prohibition by using other nongovernmental entities as go-betweens.

380 S.C. 38, 43, 668 S.E.2d 396, 398-399 (2008). Thus, based on the facts before it concerning the corporate structure of MUSC Network, the ALC determined, as a matter of law, that MSV could not be used by MUSC or MUHA to indirectly attain a joint ownership interest in MUSC Network.⁵ (*See R. pp. 23-27*).

The ALC performed the above legal analysis and made the stated conclusions, not as an end in itself, but only as a prerequisite to addressing and accepting Trident's ultimate argument. As found by the ALC, the participation of MSV in MUSC Network in violation of the law and the Constitution renders MUSC Network incapable of managing and operating the Proposed Project as presented in MUHA's CON application.⁶ MUSC Network cannot lawfully lease the facility space, employ all of the technical and administrative staff of the facility, provide or procure the financing for the facility, or own all of the equipment, including the linear accelerator, to be used at the facility. (**R. p. 35**). Therefore, the ALC determined that MUHA's CON application did not comply with the CON Law and ordered that the decision of DHEC be reversed and MUHA's CON application be denied.

⁵ As specifically acknowledged by Patrick Cawley, M.D., who is the Chief Executive Officer of MUSC Strategic Ventures (as well as the Vice-President of Health Affairs for MUSC and the Executive Director of MUHA), MUSC Strategic Ventures "predominantly joint ventures with for-profit companies that we otherwise couldn't work with as part of MUHA or MUSC." (**R. p. 2015, lines 11-18**). This testimony was elicited during the contested case discovery process. Dr. Cawley later confirmed his understanding of MUSC Strategic Ventures' purpose in his hearing testimony. (**R. p. 769, lines 6-12**).

⁶ The Court must presume that such ownership information about the entity managing the proposed facility is required by regulation for a reason and that such information must therefore be considered by DHEC in evaluating a proposed project. Otherwise, the requirement for such information would be useless. *See U.S. Fid. & Guar. Co. v. Sec. Fire & Indem. Co.*, 248 S.C. 307, 314-315, 149 S.E.2d 647, 650-651 (1966) ("While the statute does not expressly state that the coverage of a certified policy will continue in force if the insurer fails to comply with the notice requirement, such is the clear intent and result of the language used. . . . Any other construction would render useless the requirement that notice be given.").

In its Final Order, the ALC discussed in detail how the legality of MUSC Network directly implicates the Proposed Project's ability to comply with the critical standards and criteria that must be met in order to obtain a CON. The ALC concluded that, because the inquiry into the legality of MUSC Network requires consideration of the applicable criteria and standards under the CON Law, the ALC has the statutory authority, and, indeed, the statutory obligation, to address Trident's issues in deciding the ultimate question of whether MUHA's CON application should be denied.⁷ **(R. p. 16).**

The ALC further found that the constitutional prohibition against consideration by the ALC of facial challenges to statutes and regulations, as articulated in *Travelscape, LLC v. S.C. Dep't of Revenue*, 391 S.C. 89, 705 S.E.2d 28 (2011) is not implicated at all in this matter because the ALC did not address or determine the constitutionality of any statute or regulation.⁸ Instead, the ALC applied the facts of the case before it to the provisions of S.C. Const. art. X, § 11 and determined that the operating entity of the Proposed Project, MUSC Network, existed in violation of the prohibition against joint ownership found in that section of the constitution. Thus, the ALC

⁷ As noted by the ALC, "MUSC submitted the Application for review with a constitutionally suspect joint venture company as the management entity and MUHA as the licensee. In doing so, the Application heavily, and inextricably, relies on the beneficial aspects of each entity as strategically presented to DHEC to render a more favorable application of the CON standards and criteria. For this reason, and in this case, a very meaningful nexus does, in fact, exist between the determination of the Network's constitutionality and the agency's application of the CON standards in the State Health Plan and the [Project Review Criteria]. Because the claim arises from the information provided by MUSC to facilitate the Department's application of the CON standards . . . the ALC does have subject matter jurisdiction. Further, the remedy requested by Trident, to overturn DHEC's approval of the Application and deny the CON, is a remedy authorized to be granted by the ALC as relief." **(R. p. 16).**

⁸ In *Travelscape*, the South Carolina Supreme Court held that, while the ALC, as part of the executive branch, is without power to pass on the constitutional validity of a statute or regulation, the ALC is empowered to make factual determinations and find a statute or regulation unconstitutional as applied to a specific party. *Id.* at 108-109, 705 S.E.2d at 38-39 (2011).

determined that it was not prohibited as an Executive Branch court from determining the issues raised by Trident in this case. **(R. p. 17).**

As a final element of their arguments regarding the alleged lack of authority of the ALC over the issues raised by Trident, the Amici Curiae argue that under the CON Law, the ALC has the authority to consider only those issues presented to or considered by DHEC in its review of a CON application. The Amici Curiae contend that, because Trident did not challenge the constitutionality of MUSC Network and the validity of MUSC Strategic Ventures before DHEC staff, the ALC is prohibited by S.C. Code Ann. § 44-7-210(E) (2018) from considering these issues.⁹ (Joint Brief, pp. 18-21).

MUHA was required to, and did, address in its CON application the ownership of the Proposed Project to include the Questionnaire A discussion of the manager and operator of the facility, the record of the applicant, including the record of both the owner and the manager of the facility, the ability of the applicant to complete the Proposed Project, and the financial feasibility of the Proposed Project. *See* S.C. Code Ann. Regs. 61-15 § 202 and § 802 (Supp. 2019). MUHA also was required to, and did, assure DHEC that the facility would be operated in accordance with the law. *Id.* at § 202(d)(6). Thus, the issue of ownership of the Proposed Project and its effect on the Project's ability to comply with CON criteria and standards was presented to DHEC and considered by it in evaluating the Proposed Project. As found by the ALC, under S.C. Code Ann. § 44-7-210(E), the ALC had the authority to consider and determine the issues raised by Trident because they were both presented to and considered by DHEC.¹⁰ **(R. pp. 17-19).**

⁹ Again, this issue asserted by the Amici Curiae was also argued by MUHA, and Trident has responded in detail in its main brief. *See* Trident Brief, pp. 19-22.

¹⁰ Regarding the claim that Trident failed to bring to DHEC's attention the exact evidence ultimately relied upon by the ALC in making its decision, the ALC found that Trident did not have a complete picture of MUSC Network's structure and its integral role in the operation and

Under the *Marlboro Park* doctrine, the ALC has the authority to consider evidence on the issues even when such evidence is first revealed after the completion of the DHEC staff review. *Marlboro Park*, 358 S.C. at 578, n. 2, 595 S.E.2d at 853, n.2. In this case, Trident asked the ALC to consider the evidence of MUSC Network's unconstitutional ownership contained in the Network Operating Agreement and the Management Agreement and, in addition, the testimony of Dr. Cawley, presented in MUHA's case-in-chief. All of this evidence, which was not produced until after DHEC staff review, pertained to the ownership and management of the Proposed Project, and the court's consideration of whether MUHA's CON application met the requirements of the applicable CON Law.

B. The Amici Curiae were not entitled to notice and an opportunity to be heard prior to the issuance of the ALC's Final Order.

As their second fundamental issue, the Amici Curiae argue that S.C. Const. art. I, § 22¹¹ and Rules 19 and 21, SCRCP¹², required the ALC and Trident to provide them with notice and the opportunity to be heard as parties on Trident's challenge to MUSC Network's ability to comply with the CON Law as the proposed manager of MUHA's project. (Joint Brief, pp. 23-26). As discussed above, this argument is based on the false premise that the ALC made a decision in this case that materially affected the interests of the Amici Curiae. To the contrary, the ALC's findings regarding MSV and MUSC Network do not constitute improper adjudications of a non-party's

financing of the Proposed Project until the completion of discovery and completion of the testimony presented by MUHA during the hearing. (**R. pp. 18-19**).

¹¹ S.C. Const. art. I, § 22 requires, as a matter of due process, that a person be given notice and opportunity to be heard before such person can be finally bound by a decision of an administrative agency.

¹² Rules 19 and 21, SCRCP, concern the joinder and misjoinder of parties to an action brought in circuit court. The Amici Curiae concede in their Joint Brief that the use of these rules is in the sole discretion of the ALC. (Joint Brief, p. 23, n. 48).

rights, as alleged by both MUHA and the Amici Curiae. Because they chose to participate in the Proposed Project, the named entities were required to be identified by MUHA in its CON Application as entities involved in the ownership and management of the Proposed Project. In order to consider whether to grant or deny MUHA's CON application, the ALC as of necessity had to consider issues related to those entities.

Moreover, the ALC did not order any relief, including dissolution, against MUSC or MSV. The sole relief granted by the ALC was to deny MUHA's CON application, as presented to DHEC. (R. pp. 34-35). This ultimate conclusion of the ALC, that MUHA's CON application must be denied, does not affect any entity with regard to any matter outside of the MUHA CON matter in this case. The effect of the Final Order of the ALC is to adjudicate MUHA's CON application *in this case* and to prohibit MUHA from receiving a CON for the Proposed Project as presented to DHEC *in this case*. The Appellant MUHA alone is the subject of the court's relief.

In its main brief in response to MUHA's argument that the ALC improperly adjudicated the rights of non-parties, Trident argues that, because MUHA did not raise this issue in its Motion to Reconsider, it failed to preserve the issue for review by this Court on appeal.¹³ (Trident Brief, pp. 22-24); The Amici Curiae now seek to cure MUHA's oversights by appearing as "friends of the court" and asserting these arguments. Because such curative efforts exceed the scope of their role in this case, the Amici Curiae should be precluded from raising this issue. *See James v. Anne's, Inc.*, 390 S.C. 188, 193-194, 701 S.E.2d 730, 733 (2010) ("In the current appeal, it is not a party, but the amici[,] who are attempting to belatedly raise standing, but we find they are similarly

¹³ See *Brown v. S. C. Dep't of Health & Envtl. Control*, 348 S.C. 507, 519, 560 S.E.2d 410, 417 (2002) (Issues not raised to and ruled on by the ALC are not preserved for appellate consideration.).

precluded from asserting the issue on error preservation grounds because the amici can argue only the issues that were raised by the parties) (citing Rule 213, SCACR).¹⁴

C. The Court does not have to reach the non-party issues because the ALC's additional sustaining ground alone supports its denial of MUHA's CON application.

In its Final Order, the ALC made numerous factual findings regarding the authority and responsibilities of the various entities involved in the management and operation of the Proposed Project.¹⁵ As a result of these findings, the ALC concluded as an additional sustaining ground that MUHA was not the proper applicant or licensee under the law. (**R. pp. 29-34**). This conclusion by the ALC is based on its finding that, in the Proposed Project as structured and presented to DHEC, Alliance, the for-profit majority owner of MUSC Network, was actually the “legal entity who, or whose governing body, has the ultimate responsibility and authority for the conduct of the facility or services.” *See* S.C. Code Ann. Regs. 61-15, § 202(2)(b)(8)(b) (Supp. 2019).

¹⁴ The Amici Curiae also assert that they are akin to “minors and incompetents,” whom the court is required to protect, and, therefore, they should be allowed to raise the issue of adjudication of non-party rights for the first time on appeal. (Joint Brief, pp. 25-26). This argument is disingenuous at best. MUHA, MUSC, and MSV are affiliated entities with overlapping board members and administrative officers. Dr. Patrick Cawley, who appeared before the ALC as a witness and representative of the applicant MUHA, is the Vice-President of Health Affairs for MUSC, the Executive Director of MUHA, and the Chief Executive Officer of MSV. (**R. p. 677, lines 3-5; p. 677, line 19 - p. 678, line 5; and p. 681, lines 5-7**). Thus, a senior administrative officer of each of the Amici Curiae had notice of Trident's challenge to the legality of MUSC Network at the time the challenge was made. The hearing concluded on January 24, 2019 and MUHA did not file its written response to Trident's motion until February 25, 2019. (**R. p. 1223, lines 11-12; p. 2031**). At some point during that thirty-day time period, MUSC or MSV or MUHA could have asserted the alleged right of MUSC or MSV to appear and/or make arguments in response to Trident's motion.

¹⁵ For example, based on the organizational documents pertaining to MUSC Network, which were produced for the first time during the contested case discovery period, the ALC found in its Final Order that Alliance is actually the entity granted the right of control over the operations of MUSC Network and the Proposed Project. (**R. pp. 30-31**).

This additional sustaining ground alone supports the ALC's reversal of DHEC's decision and the denial of MUHA's CON application and it does not involve the adjudication of any rights of MUSC or MSV. Therefore, this Court can sustain the decision of the ALC to reverse the decision of DHEC and deny MUHA's CON application without consideration or determination of the claims asserted by the Amici Curiae.¹⁶

CONCLUSION

For the reasons stated above, the Court should affirm the Final Order of the ALC reversing the decision of DHEC and denying MUHA's CON application.

Respectfully submitted,



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¹⁶ MUHA disputes the additional sustaining ground of the ALC and Trident addresses MUHA's arguments in detail in its main brief. (**Trident Brief, pp. 35-39**).

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- Berkeley County Respondents,

Of Which Medical University Hospital Authority d/b/a MUSC Radiation
Therapy Center - Berkeley County is the.....Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Brief of the Respondent Trident Medical
Center, LLC in Response to the Joint Brief of the Amici Curiae in the above-referenced matter
complies with Rule 211(b), SCACR.

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