STATE OF SOUTH CAROLINA COUNTY OF MARION	IN THE COURT OF COMMON PLEAS TWELFTH JUDICIAL CIRCUIT 2025-CP-34-_____
Charles A. Trant, M.D., Plaintiff, vs. Mag Mutual Insurance Company and McLeod Physician Associates, II, Defendants.	**SUMMONS FOR RELIEF** **COMPLAINT SERVED** **(Jury Trial Demanded)**

TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is hereby served upon you, and to serve a copy of your answer to the said Complaint on the subscribers at their offices at 403 Second Loop Road, Florence, S.C. within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint and judgment by default will be rendered against you.

WUKELA LAW FIRM

BY: s/*Patrick J. McLaughlin*
PATRICK J. McLAUGHLIN
SC BAR NO. 73675
STEPHEN J. WUKELA
SC BAR NO. 68351
ATTORNEY FOR PLAINTIFF
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Email: patrick@wukelalaw.com
stephen@wukelalaw.com

DATED: February 10, 2025

STATE OF SOUTH CAROLINA COUNTY OF MARION	IN THE COURT OF COMMON PLEAS TWELFTH JUDICIAL CIRCUIT 2025-CP-34-_____
Charles A. Trant, M.D., Plaintiff, vs. Mag Mutual Insurance Company and McLeod Physician Associates, II, Defendants.	**COMPLAINT** **(Jury Trial Demanded)**

TO THE DEFENDANTS ABOVE NAMED:

The Plaintiff, by and through undersigned counsel, hereby makes the following claims and allegations:

PRELIMINARY STATEMENT

1. Plaintiff, Charles A. Trant, M.D., seeks relief due to the Defendants' failure to honor their obligations under contracts, including the covenant of good faith and fair dealing implied in those contracts.

PARTIES

2. That the Plaintiff, Charles A. Trant, M.D., (hereinafter "Dr. Trant"), at all times material and relevant to this action, was a citizen and resident of the County of Florence, State of South Carolina.

3. That the Plaintiff is informed and believes that the Defendant, Mag Mutual Insurance, (hereinafter "Mag Mutual"), is an insurance company incorporated in the State of Georgia.

4. That the Plaintiff is informed and believes that the Defendant, McLeod Physician Associates, II, (hereinafter referred to alternatively as "MPA", "MPA II", or "McLeod"), is incorporated in the State of South Carolina.

JURISDICTION AND VENUE

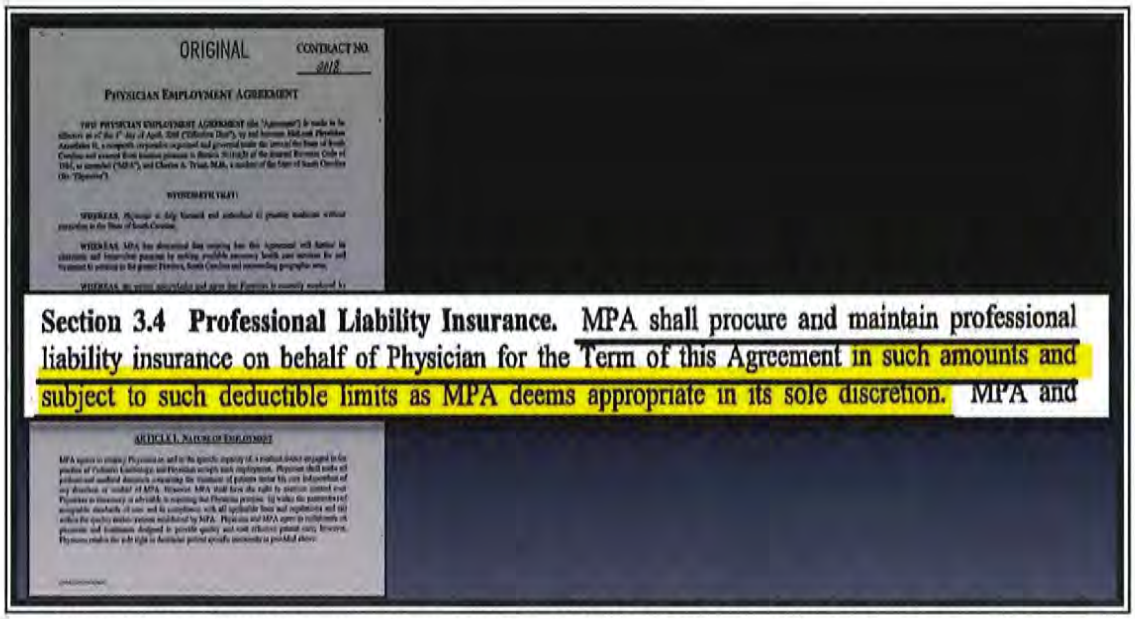
5. That venue is properly laid in this Court pursuant to §§15-7-70, 15-7-30 of the South Carolina Code of Laws Annotated.

6. That this Court has personal jurisdiction over Defendants Mag Mutual and MPA, as a substantial part of the acts and/or omissions giving rise to Plaintiff's claims occurred in this jurisdiction and litigation in this forum does not offend the traditional notions of fair play and substantial justice. Further, the Defendants' conduct substantial business in South Carolina, and the insurance contract at issue is subject to S.C. Code §38-61-10 and insured a risk located in Marion County, South Carolina.

FACTUAL ALLEGATIONS

7. That at all relevant times, Dr. Trant was a physician employed by the Defendant, McLeod Physician Associates, II ("MPA") to practice medicine in the field of pediatric cardiology.

8. That, at all relevant times, Dr. Trant's employment agreement with MPA, provided, among other things:



ORIGINAL CONTRACT NO. 2018

PHYSICIAN EMPLOYMENT AGREEMENT

Section 3.4 Professional Liability Insurance. MPA shall procure and maintain professional liability insurance on behalf of Physician for the Term of this Agreement in such amounts and subject to such deductible limits as MPA deems appropriate in its sole discretion. MPA and

(Physician Employment Agreement, 04/01/2018, Section 3.4. Professional Liability Insurance).

9. That Defendant MPA exercised "its sole discretion" to purchase a malpractice liability policy from Defendant Mag Mutual; insuring Dr. Trant and MPA with liability limits of $1.2 Million Dollars per loss.

10. That on March 17, 2022, the Estate of Taylor Price, (hereinafter "Estate"), filed and served Dr. Trant and MPA with a Notice of Intention ("NOI") to file suit in a medical malpractice action, pursuant to S.C. Code §15-79-125. *See* 2022-NI-33-0001 filed in Marion County Court of Common Pleas.

11. That the NOI alleged that, on or about January 24, 2019, Dr. Trant performed a cardiac evaluation of, then 13-year-old, Taylor Price after she suffered near syncopal episodes during a basketball game; and, that, at the conclusion of the office visit, Dr. Trant cleared Taylor to engage in sports.

12. That the NOI further alleged that on December 17, 2021, Taylor Price died from a cardiac condition, shortly after playing basketball at Mullins High School.

13. That, upon receiving notice of the Price action, Mag Mutual, retained Attorney J. Boone Aiken, III, (hereinafter "Aiken"), to represent Dr. Trant and MPA in the Price action.[1]

14. That, pursuant to S.C. Code §15-79-125, a pre-litigation mediation was conducted on June 6, 2022, before Mediator Karl Folkens, with Attorney J. Taylor Powell representing the Plaintiff and Attorneys J. Boone Aiken, III and Peter E. Keup representing the Defendants and their insurance carriers; which impassed.

15. That on July 13, 2022, the Estate of Taylor Price subsequently filed a medical malpractice action captioned: Demetrice Utley, Individually and as Personal Representative of The Estate of Taylor Danielle Price v. McLeod Physician Associates, II, Charles A. Trant, MD, and Marion County School District.

16. That Mr. Aiken investigated the claim through written discovery and depositions, retained defense experts, and reported his evaluations to Mag Mutual, Dr. Trant, and MPA.

17. That on September 14, 2022, Mag Mutual provided their claim evaluation to Dr. Trant via a five (5) page report titled "Your Claim Strategy."

18. That Mag Mutual's September 14, 2022 evaluation and "claim strategy" for Dr. Trant included an "Assessment Summary" which Mag Mutual claimed utilized "proprietary technology" to compare the claim being made against Dr. Trant "against decades of historical data and analyzes it based on nine factors we've determined have the greatest influence on it." Mag Mutual then explained to Dr. Trant "that helps us predict and plan for the most likely outcome for your case."

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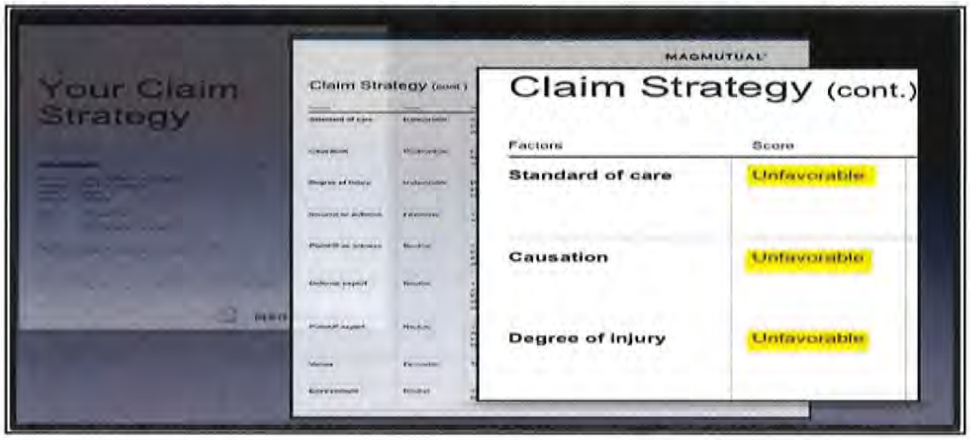
[1] The NOI and the subsequent Complaint, also named the Marion County School District as a Defendant. The District settled with the Estate prior to jury trial.

19. That among the nine (9) factors that Mag Mutual evaluated in that September 14, 2022 report, Mag Mutual's proprietary technology evaluated three (3) critical factors as unfavorable to Dr. Trant:



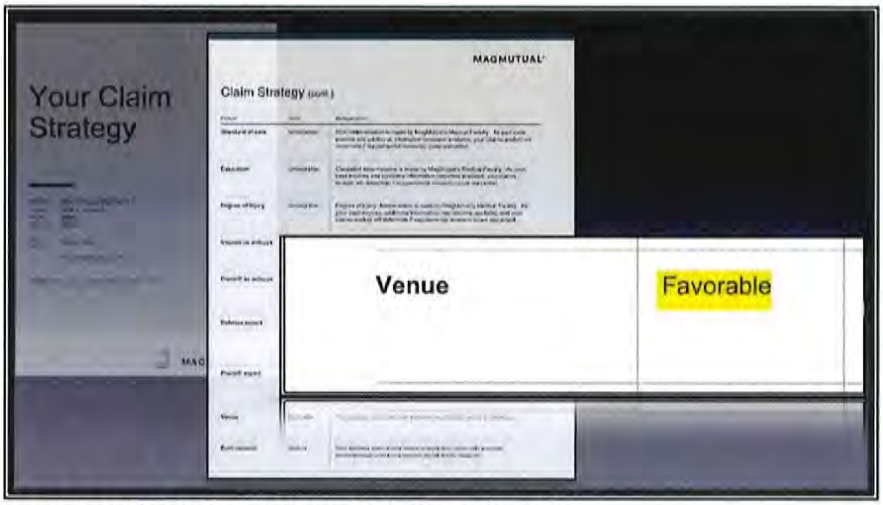
(Mag Mutual, 09/14/2022, "Your Claim Strategy").

20. That for all three (3) of those critical factors Mag Mutual evaluated and reported as "unfavorable", Mag Mutual explained to Dr. Trant that determination was "made by Mag Mutual's Medical Faculty."

21. That of the remaining six (6) factors, Mag Mutual only evaluated two (2) as favorable.

22. That of the factors Mag Mutual considered "favorable", one was Dr. Trant, himself, as a witness.

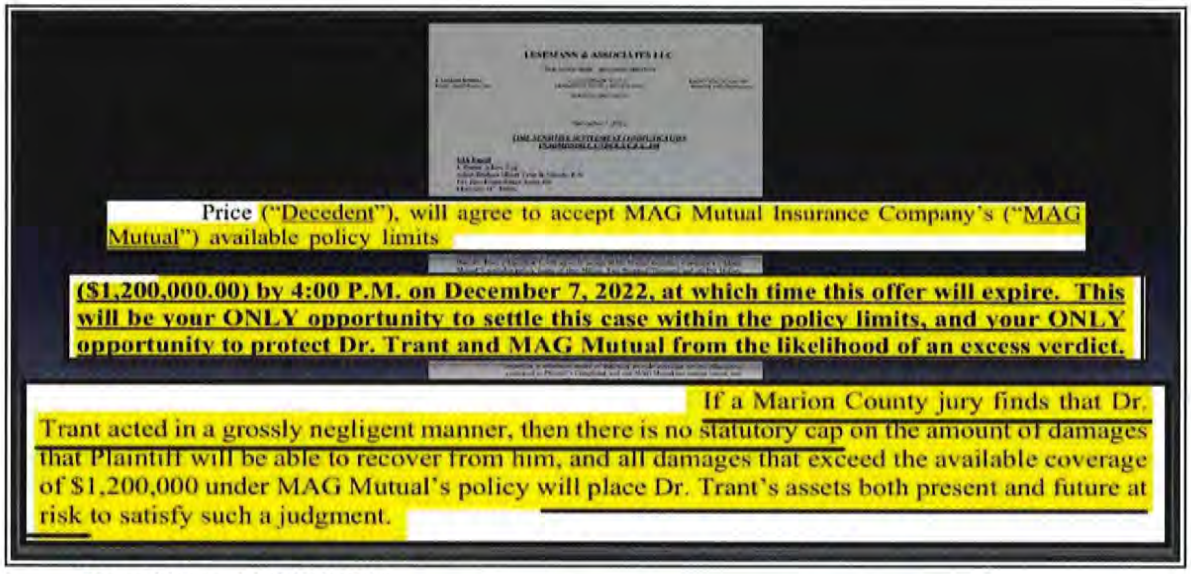
23. That, inexplicably, the only other factor Mag Mutual evaluated and reported to Dr. Trant as "favorable", was the trial venue: Marion County, South Carolina:



(Mag Mutual, 09/14/2022, "Your Claim Strategy").

24. That contrary to Mag Mutual's "proprietary technology" supported analysis, Mr. Aiken warned Mag Mutual, early and often, that Marion County was an unfavorable venue; specifically expressing "grave concerns" about trying the case to verdict in Marion County.

25. That on November 7, 2022, counsel for the Price Estate, Attorney J. Taylor Powell (hereinafter "Powell"), wrote Mag Mutual, through Attorney Aiken, with a settlement offer to resolve the case against Dr. Trant and MPA in exchange for the Mag Mutual one occurrence policy limits of $1.2 million. That offer specifically discussed the Estate's intention to pursue a gross negligence finding against Dr. Trant, a finding that would expose Dr. Trant to personal liability outside the statutory cap limits imposed by S.C. Code §33-56-180 (hereinafter "Charitable cap"):



Price ("Decedent"), will agree to accept MAG Mutual Insurance Company's ("MAG Mutual") available policy limits

($1,200,000.00) by 4:00 P.M. on December 7, 2022, at which time this offer will expire. This will be your ONLY opportunity to settle this case within the policy limits, and your ONLY opportunity to protect Dr. Trant and MAG Mutual from the likelihood of an excess verdict.

If a Marion County jury finds that Dr. Trant acted in a grossly negligent manner, then there is no statutory cap on the amount of damages that Plaintiff will be able to recover from him, and all damages that exceed the available coverage of $1,200,000 under MAG Mutual's policy will place Dr. Trant's assets both present and future at risk to satisfy such a judgment.

(Powell Ltr. 11/07/2022).

26. That Powell's November 7, 2022 letter indicated that the offer to settle the claim within the one occurrence policy limit would expire, and be revoked, if not accepted by Mag Mutual by 4:00 P.M. on December 7, 2022.

27. That coinciding with the November 7, 2022 offer to settle via letter, the Estate filed a corresponding *Offer of Judgment* on November 15, 2022 pursuant to S.C. Code §15-35-400 and Rule 68 SCRCP. The amount of that *Offer of Judgment* similarly was within the one occurrence policy limits of $1.2 million and specifically stated that in consideration of acceptance of that judgment, the Estate would "discharge any and all claims against Defendants MPA and Charles A. Trant, MD…" Pursuant to statute and rule, if not accepted within twenty (20) days, the offer shall be considered rejected, setting up a similar deadline to respond as the November 7, 2022 letter.

28. That Mag Mutual did not accept either offer, nor did they make any responsive offers at all, and the deadlines on both offers passed.

29. That Mag Mutual's decisions not to accept either offer, or attempt to negotiate a settlement, resulted in the Estate revoking their offers to settle for the one occurrence policy limit; exposing Dr. Trant to the risk of an excess verdict.

30. That Mag Mutual's decision not to respond to the offer made by the Estate of Taylor Price to settle the case within the policy limits was the result of Mag Mutual's conscious decision to place their interests ahead of those of their insured, Dr. Trant.

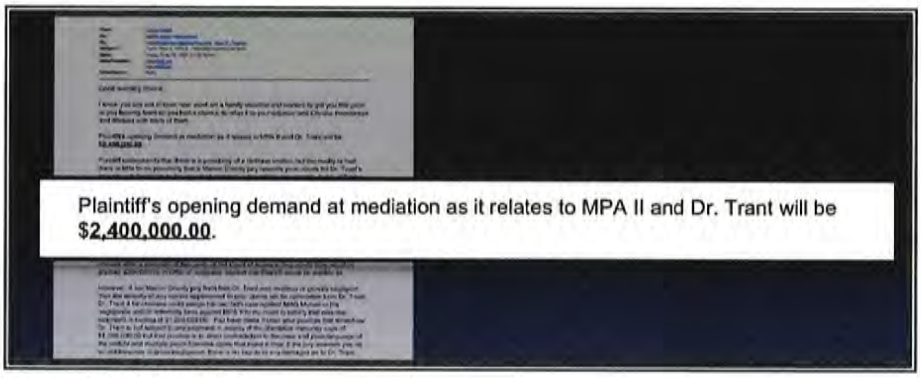
31. That Mag Mutual made the conscious decision to ignore the Estate's settlement offers and not engage in any settlement discussions despite the fact that their "Your Claim Strategy" report analysis to Dr. Trant on September 14, 2022 had determined (even with the erroneous evaluation that Marion County was a favorable venue) "the likelihood of making an indemnity payment in your case" was forty-four (44%) percent:

(Mag Mutual, 09/14/2022, "Your Claim Strategy").

32. That, thereafter, the Price litigation continued for another two (2) years; during which time, Mag Mutual made no offer to settle the case whatsoever and Dr. Trant suffered severe emotional distress and anxiety which manifested itself with physical symptoms.

33. That, ultimately, the Price action was scheduled for another mediation on July 1, 2024.

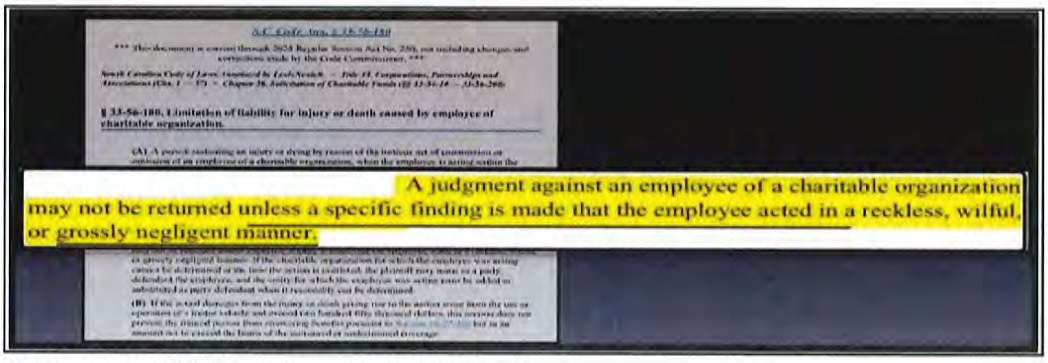
34. That on June 14, 2024, before that second mediation, Mr. Powell wrote Mr. Aiken via email:



(Powell email, 06/14/24).

35. That, in his June 14, 2024, pre-mediation offer email, as he had in his November 7, 2022 offer letter, Mr. Powell argued that, while the South Carolina Solicitation of Charitable Funds Act, S.C. Code §33-56-180, provided a $1.2 Million Dollar liability cap ("charitable cap") for MPA, that cap would not apply to and protect Dr. Trant in the event of a finding of gross negligence.

36. That, in particular, Mr. Powell noted that S.C. Code §33-56-180 specifically provides:



(S.C. Code §33-56-180, in pertinent part).

37. That, by email of June 30, 2024, Mr. Powell cited and attached case law from the S.C. Supreme Court and S.C. Court of Appeals; in support of his position that the "charitable

cap" does not protect individual employees, such as Dr. Trant, upon a finding of gross negligence.

38. That Mr. Powell made these same legal arguments, with the same citations, in a brief filed March 30, 2023, (over a year before the scheduled July 1, 2024 mediation), in support of the Estate's Motion to Compel the Production of Dr. Trant's personal financial information; a motion which the Court, ultimately, granted.

39. That, nevertheless, on Thursday, June 27, 2024, Mag Mutual advised Mr. Aiken, that Mag Mutual was not willing to offer any amount at all to settle the Price case and directed Mr. Aiken to cancel the mediation scheduled for July 1, 2024, and try the case to verdict.

40. That Mag Mutual's decision to not participate in the July 1, 2024 scheduled mediation; but, instead, to try the Price action without making any offer to settle was against the advice of their attorney, Mr. Aiken, and against the advice and warnings of McLeod's in-house counsel, Mrs. Christie Wise Henderson.

41. That having no authority from Mag Mutual to offer any amount at mediation, Mr. Aiken, at Mag Mutual's direction, cancelled the July 1, 2024 mediation.

42. That Mag Mutual made the decision to not participate in the July 1, 2024 mediation and instruct Mr. Aiken to try the case to verdict unilaterally, without consulting Dr. Trant.

43. That, immediately thereafter, Mr. Aiken advised his client, Dr. Trant, of Mag Mutual's decision not to provide any settlement authority, to cancel mediation, and of their instruction to try the Price case to verdict without making any attempt to settle the case.

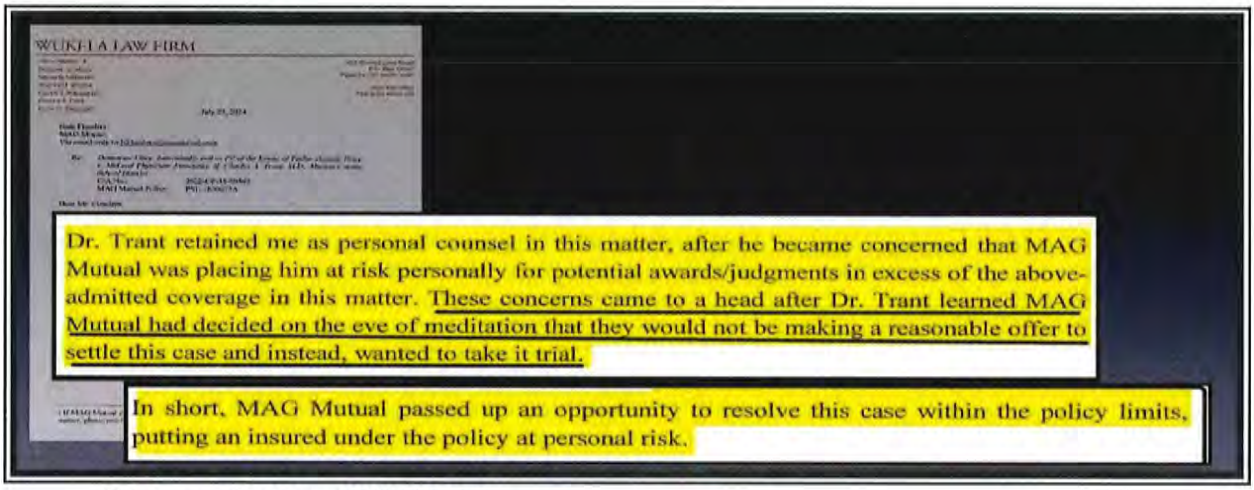
44. That, when informed of Mag Mutual's unilateral decisions, Dr. Trant expressed his concern to Mr. Aiken about Mag Mutual's handling of his claim and his disbelief that, against Mr.

Aiken's advice, Mag Mutual was unwilling to attempt to negotiate settlement, given the potential personal exposure such refusal created for Dr. Trant.

45. That, at that point, given the obvious conflict of interest between Dr. Trant and Mag Mutual, Mr. Aiken recommended that Dr. Trant consult personal counsel.

46. That, thereafter, Dr. Trant engaged the undersigned counsel as personal counsel.

47. That on July 23, 2024, Dr. Trant, through undersigned counsel, wrote Mag Mutual, to notify them of Dr. Trant's concerns with Mag Mutual's handling of the Price case: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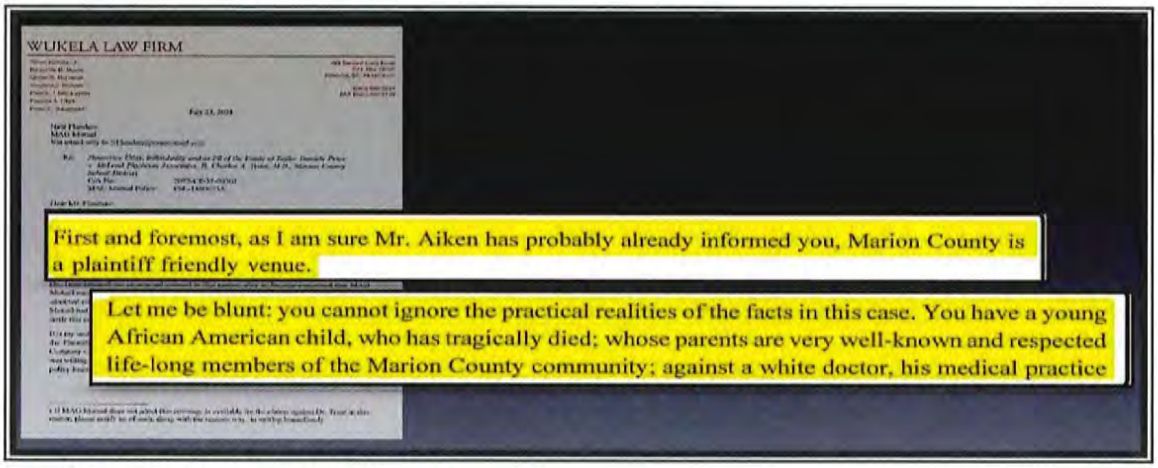
Dr. Trant retained me as personal counsel in this matter, after he became concerned that MAG Mutual was placing him at risk personally for potential awards/judgments in excess of the above-admitted coverage in this matter. These concerns came to a head after Dr. Trant learned MAG Mutual had decided on the eve of meditation that they would not be making a reasonable offer to settle this case and instead, wanted to take it trial.

In short, MAG Mutual passed up an opportunity to resolve this case within the policy limits, putting an insured under the policy at personal risk.

(McLaughlin Ltr., 07/23/2024).

48. That, through undersigned counsel's July 23, 2024 letter, Dr. Trant explained his specific concerns; such as nature of the injury, the venue, and of Taylor's parents' ties to and stature in that venue, and asked that Mag Mutual act in good faith to protect him and settle the case: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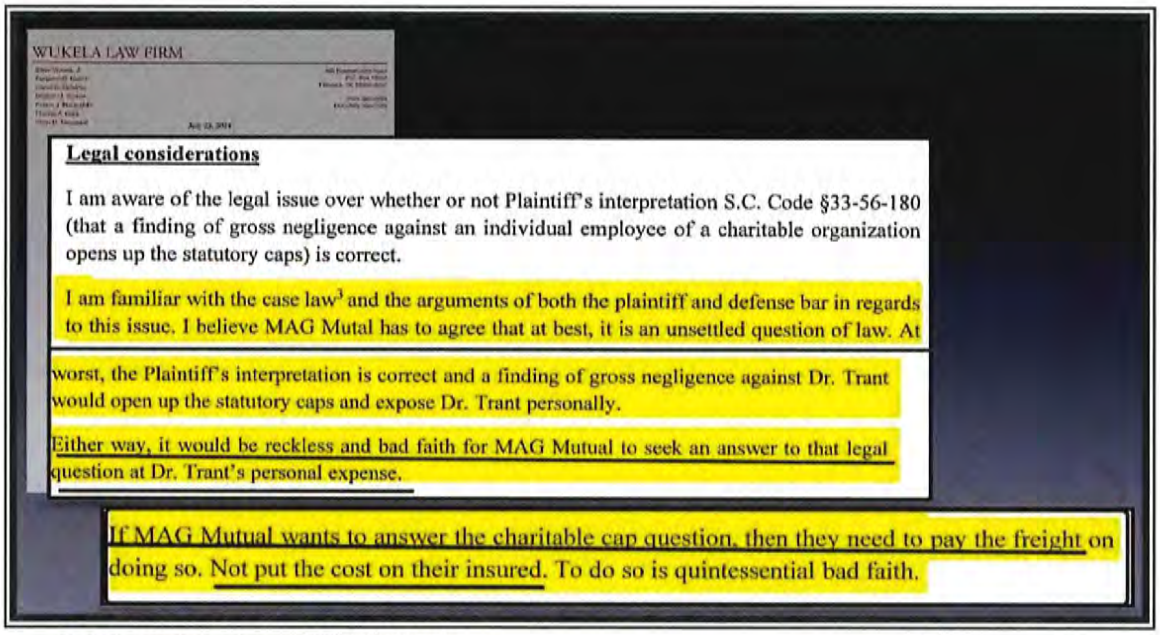
First and foremost, as I am sure Mr. Aiken has probably already informed you, Marion County is a plaintiff friendly venue.

Let me be blunt: you cannot ignore the practical realities of the facts in this case. You have a young African American child, who has tragically died; whose parents are very well-known and respected life-long members of the Marion County community; against a white doctor, his medical practice

(McLaughlin Ltr., 07/23/2024).

49. That, through undersigned counsel's July 23, 2024 letter, Dr. Trant specifically notified Mag Mutual of the risk that a potential finding of gross negligence would expose him personally, and complained that Mag Mutual's refusal to attempt to protect him from that risk was "quintessential bad faith":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Legal considerations

I am aware of the legal issue over whether or not Plaintiff's interpretation S.C. Code §33-56-180 (that a finding of gross negligence against an individual employee of a charitable organization opens up the statutory caps) is correct.

I am familiar with the case law[3] and the arguments of both the plaintiff and defense bar in regards to this issue. I believe MAG Mutal has to agree that at best, it is an unsettled question of law. At worst, the Plaintiff's interpretation is correct and a finding of gross negligence against Dr. Trant would open up the statutory caps and expose Dr. Trant personally.

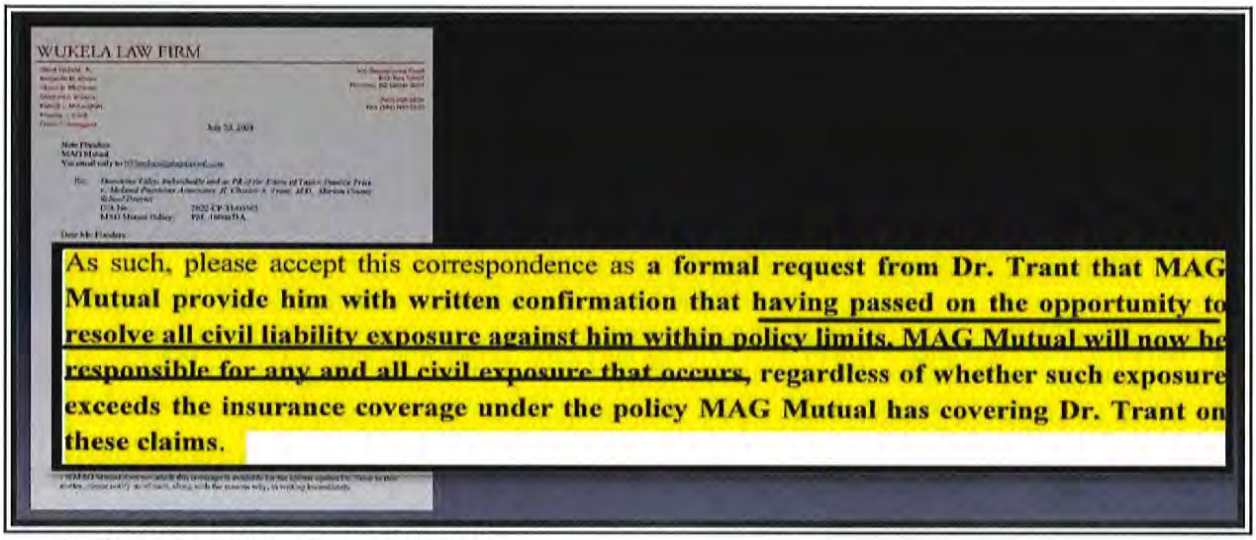
Either way, it would be reckless and bad faith for MAG Mutual to seek an answer to that legal question at Dr. Trant's personal expense.

If MAG Mutual wants to answer the charitable cap question, then they need to pay the freight on doing so. Not put the cost on their insured. To do so is quintessential bad faith.

(McLaughlin Ltr., 07/23/2024).

50. That, through undersigned counsel's July 23, 2024 letter, Dr. Trant specifically requested that, given Mag Mutual's decisions not to engage in any settlement negotiations and to

cancel mediation, Mag Mutual, at a minimum, provide Dr. Trant with written confirmation that they would be responsible for any and all civil exposure, regardless of whether that exposure exceeded the insurance coverage under the Mag Mutual policy covering Dr. Trant (a.k.a. "Blue Sky assurance"):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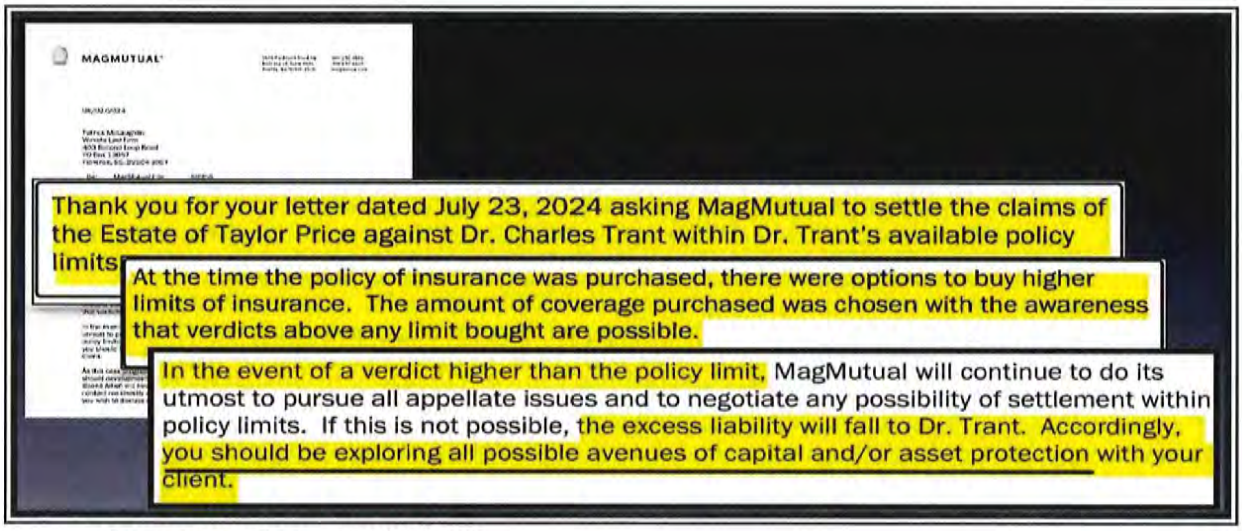
As such, please accept this correspondence as **a formal request from Dr. Trant that MAG Mutual provide him with written confirmation that having passed on the opportunity to resolve all civil liability exposure against him within policy limits, MAG Mutual will now be responsible for any and all civil exposure that occurs, regardless of whether such exposure exceeds the insurance coverage under the policy MAG Mutual has covering Dr. Trant on these claims.**

(McLaughlin Ltr., 07/23/2024).

51. That, via letter dated August 2, 2024, Mag Mutual responded; refusing to give Dr. Trant any Blue Sky assurances; and, instead, directed Dr. Trant to "explor[e] all possible avenues of capital and/or asset protection…"


MAGMUTUAL

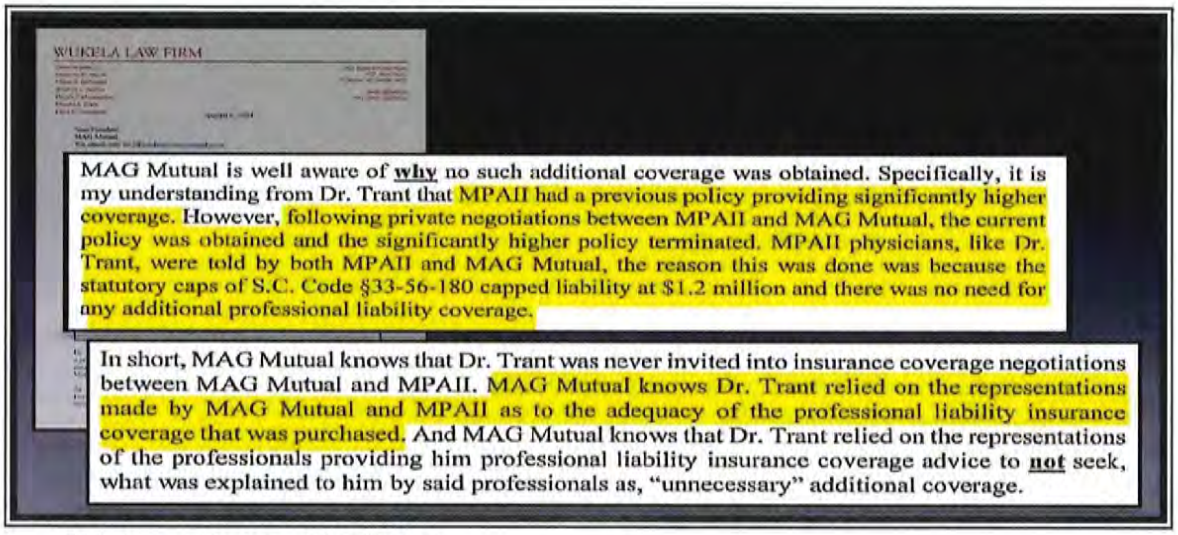
Thank you for your letter dated July 23, 2024 asking MagMutual to settle the claims of the Estate of Taylor Price against Dr. Charles Trant within Dr. Trant's available policy limits.

At the time the policy of insurance was purchased, there were options to buy higher limits of insurance. The amount of coverage purchased was chosen with the awareness that verdicts above any limit bought are possible.

In the event of a verdict higher than the policy limit, MagMutual will continue to do its utmost to pursue all appellate issues and to negotiate any possibility of settlement within policy limits. If this is not possible, the excess liability will fall to Dr. Trant. Accordingly, you should be exploring all possible avenues of capital and/or asset protection with your client.

(Mag Mutual Ltr., 08/2/2024).

52. That, on August 6, 2024, in response to Mag Mutual's August 2, 2024 representation that "At the time the policy of insurance was purchased, there were options to buy higher limits of insurance. The amount of coverage purchased was chosen with the awareness that verdicts above any limit bought were possible", Dr. Trant, through undersigned counsel, responded: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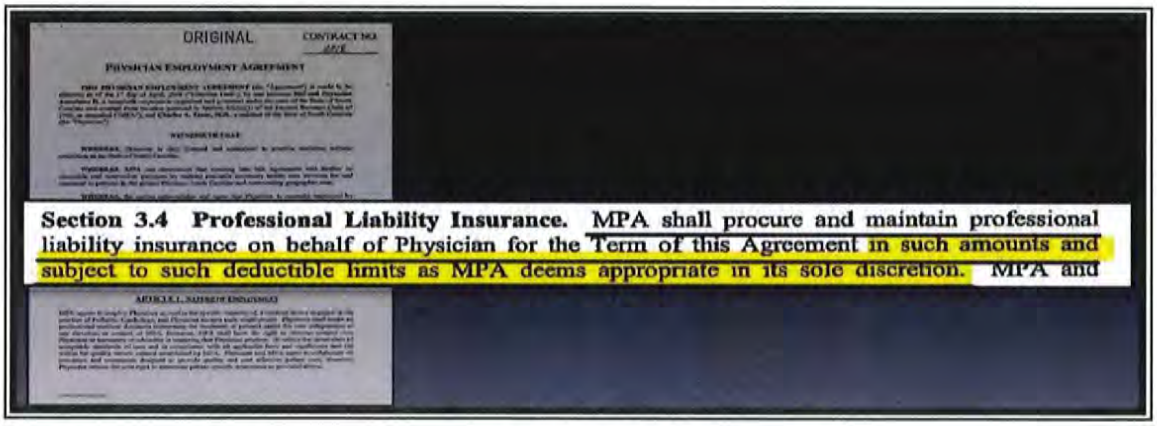
MAG Mutual is well aware of **why** no such additional coverage was obtained. Specifically, it is my understanding from Dr. Trant that MPAII had a previous policy providing significantly higher coverage. However, following private negotiations between MPAII and MAG Mutual, the current policy was obtained and the significantly higher policy terminated. MPAII physicians, like Dr. Trant, were told by both MPAII and MAG Mutual, the reason this was done was because the statutory caps of S.C. Code §33-56-180 capped liability at $1.2 million and there was no need for any additional professional liability coverage.

In short, MAG Mutual knows that Dr. Trant was never invited into insurance coverage negotiations between MAG Mutual and MPAII. MAG Mutual knows Dr. Trant relied on the representations made by MAG Mutual and MPAII as to the adequacy of the professional liability insurance coverage that was purchased. And MAG Mutual knows that Dr. Trant relied on the representations of the professionals providing him professional liability insurance coverage advice to **not** seek, what was explained to him by said professionals as, "unnecessary" additional coverage.

(McLaughlin Ltr., 08/6/2024).

53. That, in fact, the policy with limits which Mag Mutual indicated in its August 2, 2024 letter were "chosen with the awareness that verdicts above any limit bought are possible" was procured by MPA, with limits selected by MPA, in MPA's "sole discretion":

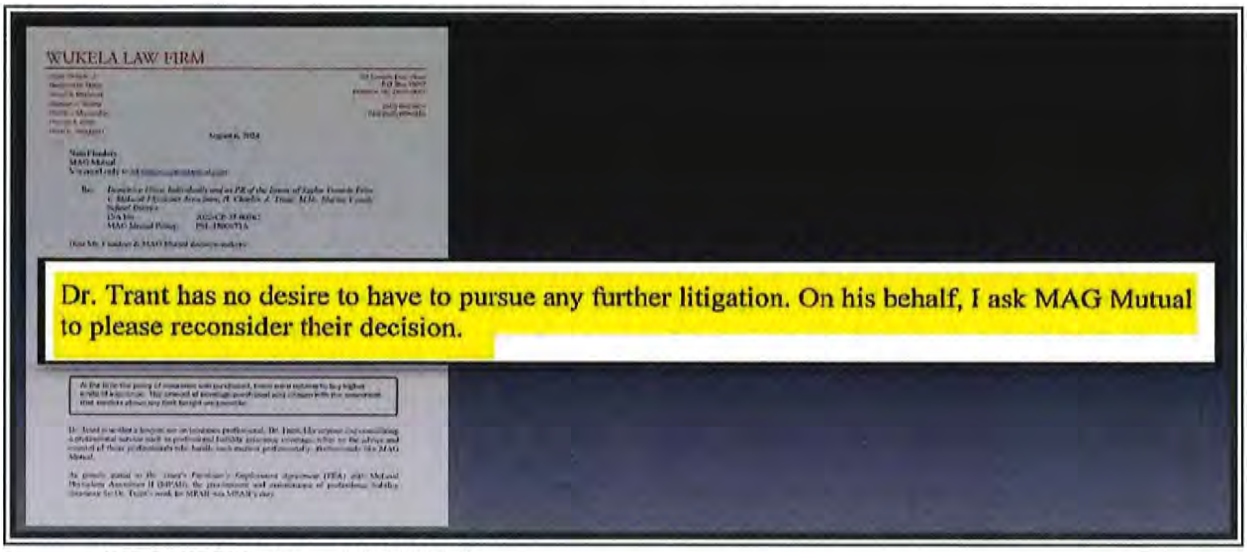

ORIGINAL

PHYSICIAN EMPLOYMENT AGREEMENT

Section 3.4 Professional Liability Insurance. MPA shall procure and maintain professional liability insurance on behalf of Physician for the Term of this Agreement in such amounts and subject to such deductible limits as MPA deems appropriate in its sole discretion. MPA and

(Physician Employment Agreement, 04/01/2008, Section 3.4).

54. That, in that August 6, 2024 letter, Dr. Trant notified Mag Mutual that their refusal to attempt to negotiate settlement and their refusal to offer Blue Sky assurances were in bad faith, and urged Mag Mutual to reconsider those decisions: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Dr. Trant has no desire to have to pursue any further litigation. On his behalf, I ask MAG Mutual to please reconsider their decision.

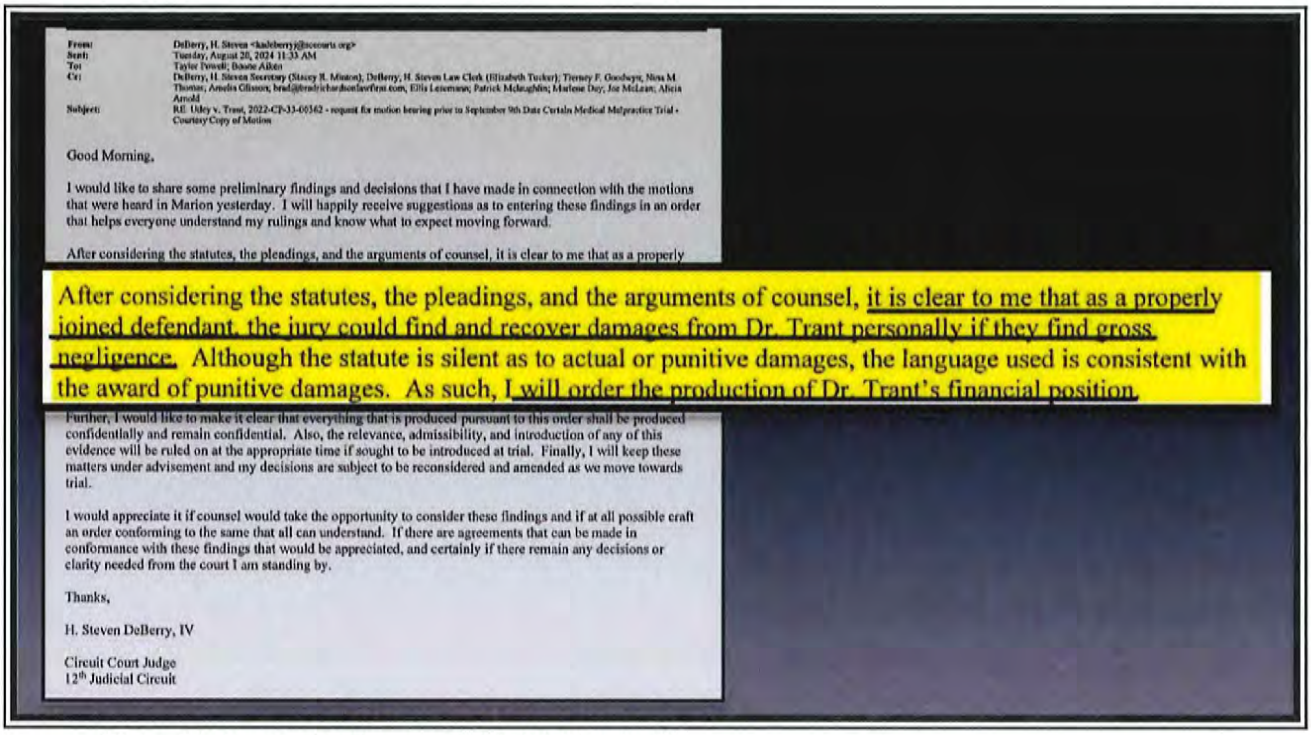
(McLaughlin Ltr., 08/6/2024).

55. That Mag Mutual refused to reconsider its refusal to make any effort to settle the Price action.

56. That, thereafter, on August 19, 2024, the Hon. H. Steven DeBerry, IV heard oral arguments from the parties in the Price action on the Estate's Motion to Compel the production of Dr. Trant's personal financial information.

57. That the Price Motion to Compel turned on the Estate's contention that the jury could award damages against Dr. Trant personally if they found gross negligence; notwithstanding the charitable cap of $1.2 million, per occurrence.

58. That, on August 20, 2024, Judge DeBerry ruled that the jury could award damages against Dr. Trant if they found gross negligence:



From: DeBerry, H. Steven <hsdeberry@iccourts.org>
Sent: Tuesday, August 20, 2024 11:33 AM
To: Taylor Powell; Dante Aiken
Cc: DeBerry, H. Steven Secretary (Stacey R. Minton); DeBerry, H. Steven Law Clerk (Elizabeth Tucker); Tierney F. Goodwyn; Nina M. Thomas; Amelia Glisson; brad@bradrichardsonlawfirm.com; Ellis Leiserman; Patrick Mclaughlin; Marlene Day; Joe McLean; Alicia Arnold
Subject: RE: Utley v. Trant, 2022-CP-33-00362 - request for motion hearing prior to September 9th Date Certain Medical Malpractice Trial - Courtesy Copy of Motion

Good Morning,

I would like to share some preliminary findings and decisions that I have made in connection with the motions that were heard in Marion yesterday. I will happily receive suggestions as to entering these findings in an order that helps everyone understand my rulings and know what to expect moving forward.

After considering the statutes, the pleadings, and the arguments of counsel, it is clear to me that as a properly joined defendant, the jury could find and recover damages from Dr. Trant personally if they find gross negligence. Although the statute is silent as to actual or punitive damages, the language used is consistent with the award of punitive damages. As such, I will order the production of Dr. Trant's financial position.

Further, I would like to make it clear that everything that is produced pursuant to this order shall be produced confidentially and remain confidential. Also, the relevance, admissibility, and introduction of any of this evidence will be ruled on at the appropriate time if sought to be introduced at trial. Finally, I will keep these matters under advisement and my decisions are subject to be reconsidered and amended as we move towards trial.

I would appreciate it if counsel would take the opportunity to consider these findings and if at all possible craft an order conforming to the same that all can understand. If there are agreements that can be made in conformance with these findings that would be appreciated, and certainly if there remain any decisions or clarity needed from the court I am standing by.

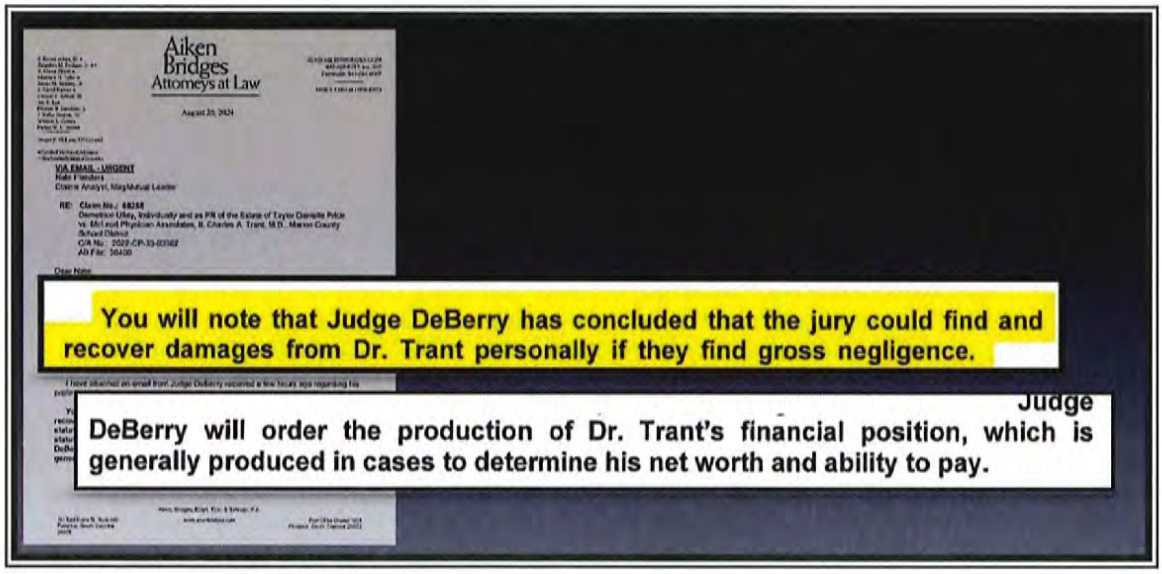
Thanks,

H. Steven DeBerry, IV

Circuit Court Judge
12th Judicial Circuit

(Hon. H. Steven DeBerry email, 08/20/2024).

59. That, on that same day, August 20, 2024, Mr. Aiken wrote Mag Mutual, advising them of Judge DeBerry's ruling:



Aiken Bridges Attorneys at Law

August 20, 2024

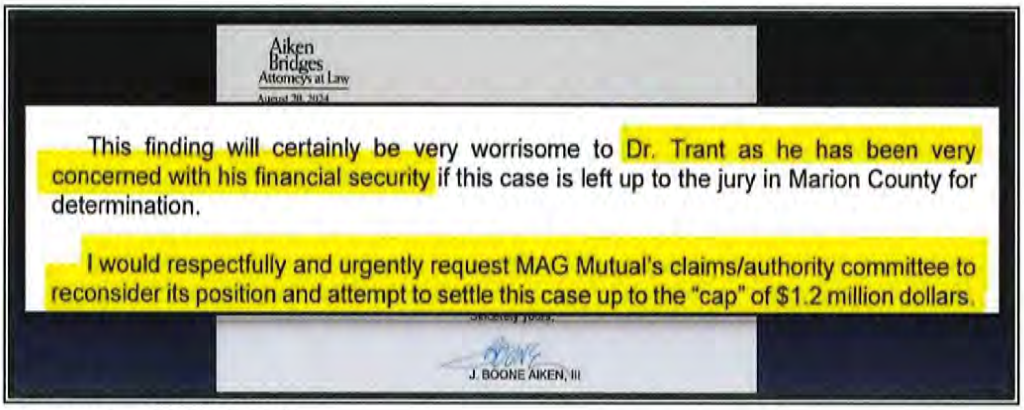
VIA EMAIL - URGENT

You will note that Judge DeBerry has concluded that the jury could find and recover damages from Dr. Trant personally if they find gross negligence.

Judge DeBerry will order the production of Dr. Trant's financial position, which is generally produced in cases to determine his net worth and ability to pay.

(Aiken Ltr., 08/20/2024).

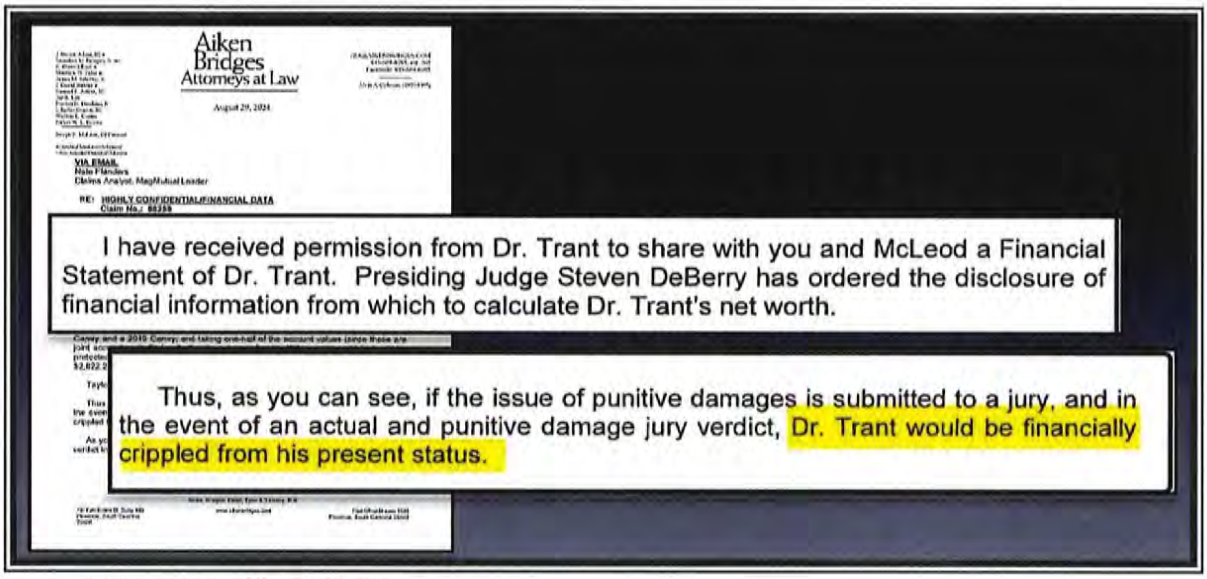
60. That Mr. Aiken, like Dr. Trant, urged Mag Mutual to protect Dr. Trant's financial security and reconsider their refusal to make any offer to settle the case against Dr. Trant:



(Aiken Ltr., 08/20/2024).

61. That, in spite of Mr. Aiken's request, Mag Mutual still refused to make any offer whatsoever to settle the case against Dr. Trant.

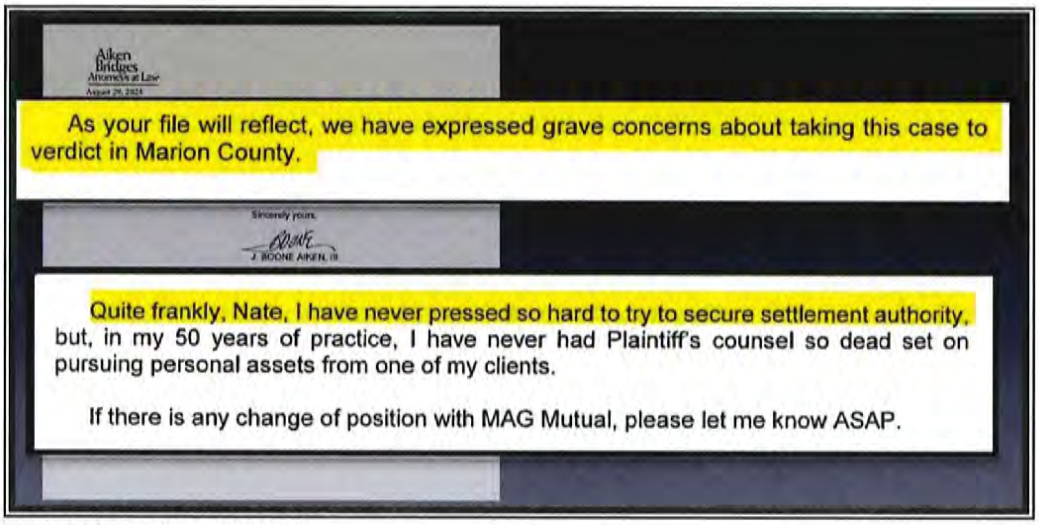
62. That again, on August 29, 2024, Mr. Aiken wrote Mag Mutual warning "Dr. Trant would be financially crippled" from a potential jury verdict.



(Aiken Ltr., 08/26/2024).

63. That, by letter of August 29, 2024, Mr. Aiken, a respected member of the trial bar, who has been practicing law for 50 years and has defended McLeod Health and countless others in

medical malpractice actions, pleaded with Mag Mutual to protect Dr. Trant by giving him settlement authority:



Aiken Bridges Attorneys at Law

As your file will reflect, we have expressed grave concerns about taking this case to verdict in Marion County.

Sincerely yours,

J. BOONE AIKEN, III

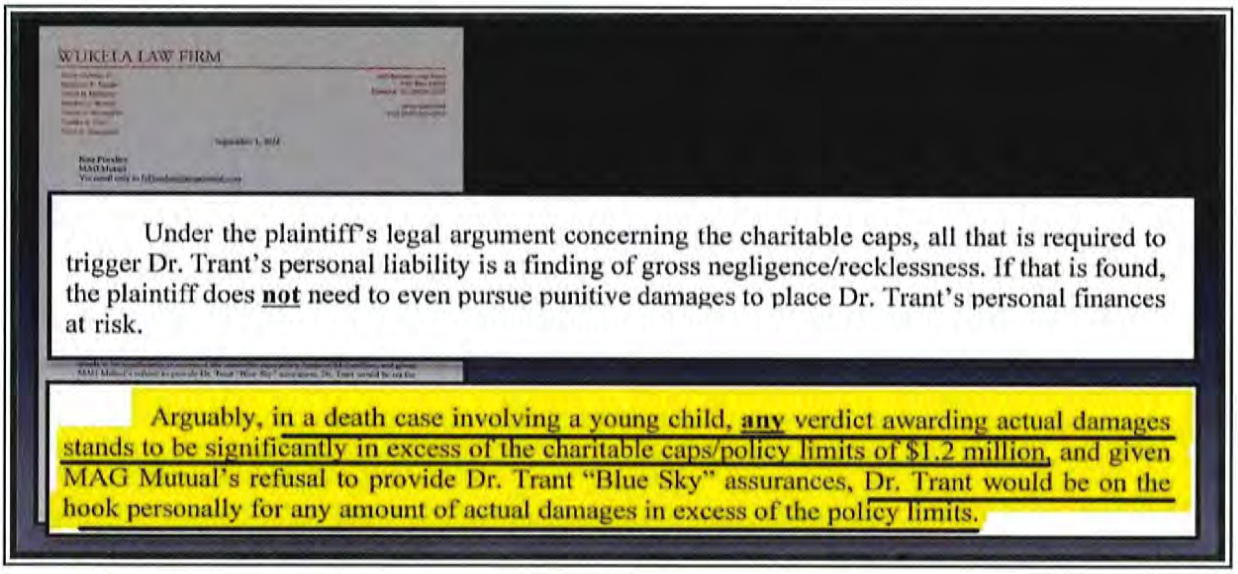
Quite frankly, Nate, I have never pressed so hard to try to secure settlement authority, but, in my 50 years of practice, I have never had Plaintiff's counsel so dead set on pursuing personal assets from one of my clients.

If there is any change of position with MAG Mutual, please let me know ASAP.

(Aiken Ltr., 08/29/2024).

64. That, in spite of Mr. Aiken's repeated requests and warnings, Mag Mutual still continued in its refusal to offer any amount at all to settle the Price Estate's case against Dr. Trant.

65. That with trial looming in the Price action, on September 3, 2024, Dr. Trant, though undesigned counsel, again pled with Mag Mutual to negotiate in good faith with the Estate, warning:



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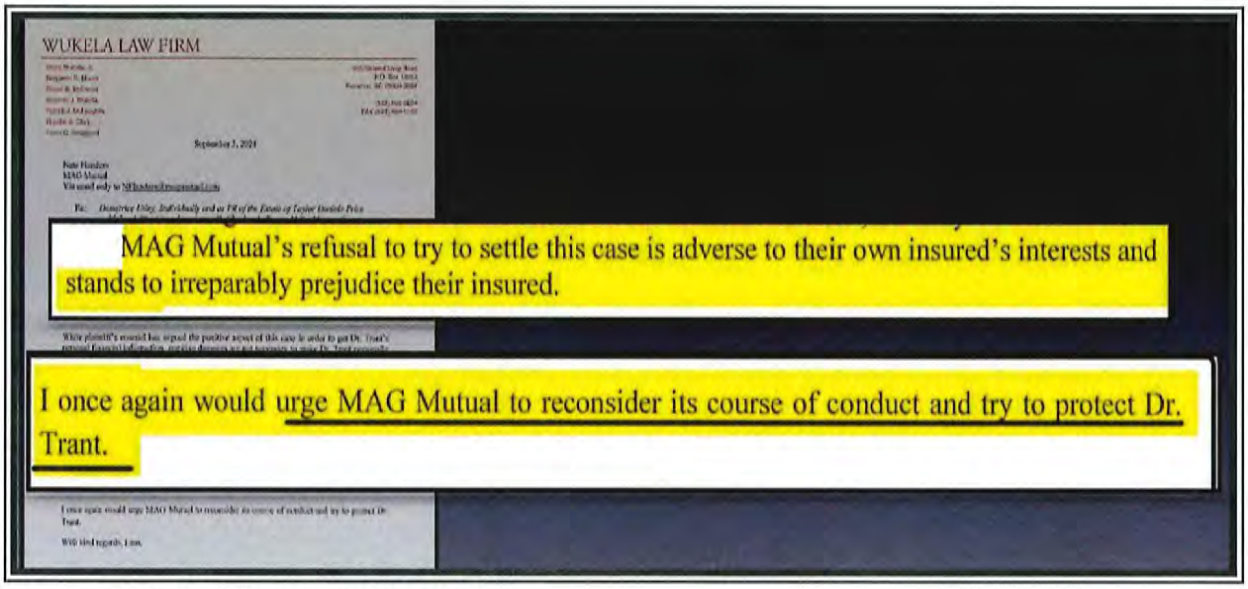
Under the plaintiff's legal argument concerning the charitable caps, all that is required to trigger Dr. Trant's personal liability is a finding of gross negligence/recklessness. If that is found, the plaintiff does **not** need to even pursue punitive damages to place Dr. Trant's personal finances at risk.

Arguably, in a death case involving a young child, **any** verdict awarding actual damages stands to be significantly in excess of the charitable caps/policy limits of $1.2 million, and given MAG Mutual's refusal to provide Dr. Trant "Blue Sky" assurances, Dr. Trant would be on the hook personally for any amount of actual damages in excess of the policy limits.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September 3, 2024

Nate Harden
MAG Mutual
Via email only to NHarden@magmutual.com

Re: Demetrius Utley, Individually and as PR of the Estate of Taylor Danielle Price

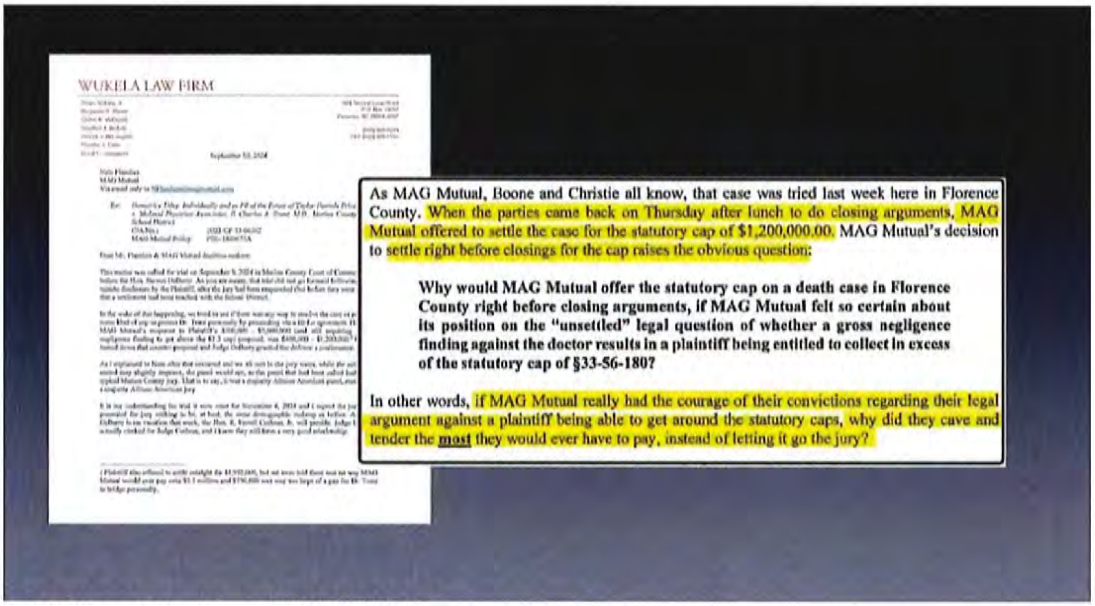
MAG Mutual's refusal to try to settle this case is adverse to their own insured's interests and stands to irreparably prejudice their insured.

I once again would urge MAG Mutual to reconsider its course of conduct and try to protect Dr. Trant.

(McLaughlin Ltr., 09/03/2024).

66. That, in spite of Dr. Trant's requests, Mag Mutual still refused to offer any amount or make any attempt whatsoever to settle the Estate's case against Dr. Trant.

67. That, through undersigned counsel, via letter dated September 30, 2024, Dr. Trant expressed bewilderment at why Mag Mutual had offered the $1.2 million cap in a recent Florence County jury trial just before closing arguments, and not in the Price case: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As MAG Mutual, Boone and Christie all know, that case was tried last week here in Florence County. When the parties came back on Thursday after lunch to do closing arguments, MAG Mutual offered to settle the case for the statutory cap of $1,200,000.00. MAG Mutual's decision to settle right before closings for the cap raises the obvious question:

Why would MAG Mutual offer the statutory cap on a death case in Florence County right before closing arguments, if MAG Mutual felt so certain about its position on the "unsettled" legal question of whether a gross negligence finding against the doctor results in a plaintiff being entitled to collect in excess of the statutory cap of §33-56-180?

In other words, if MAG Mutual really had the courage of their convictions regarding their legal argument against a plaintiff being able to get around the statutory caps, why did they cave and tender the most they would ever have to pay, instead of letting it go the jury?

(McLaughlin Ltr., 09/30/2024).

68. That September 30, 2024 letter from Dr. Trant predicted that, as in the recent Florence case, the verdict form for the Price trial would include a special interrogatory asking whether the jury found gross negligence; and, once again, Dr. Trant urged Mag Mutual to reconsider its course of conduct and protect Dr. Trant personally.

69. That, in spite of Dr. Trant's requests, Mag Mutual still refused to offer any amount or make any attempt whatsoever to settle the Estate's case against Dr. Trant, or to provide Dr. Trant any protection against an excess personal verdict.

70. That the Price action was called to trial beginning Monday, November 4, 2024, in Marion, South Carolina.

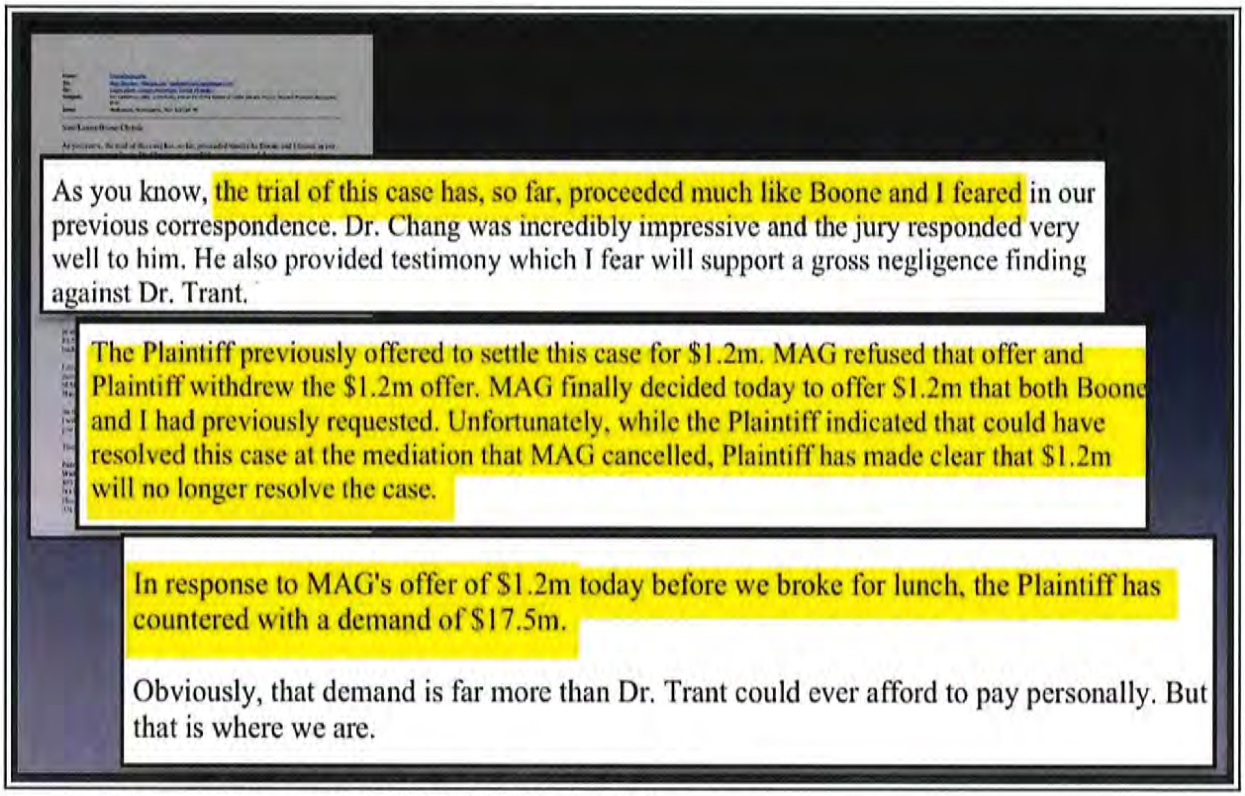
71. That, as of the beginning of trial, on November 4, 2024, contrary to the pleas and warnings of their counsel, Mr. Aiken, of Dr. Trant and of McLeod, Mag Mutual had refused offers from the Estate of $1.2 million (within the policy limit for one occurrence), and refused to participate in mediation where the Estate's opening offer was $2.4 million (within the policy limit for two occurrences).

72. That, as of the beginning of trial on November 4, 2024, MagMutal had offered nothing at all, at any point, to settle the Estate's case against Dr. Trant.

73. That, by the third day, November 6, 2024, when the trial was, as predicted, going very badly for Dr. Trant and MPA; Mag Mutual, belatedly, offered the Estate $1.2 Million to settle the case, (the same amount the Estate offered to accept two years previous, on November 7, 2022).

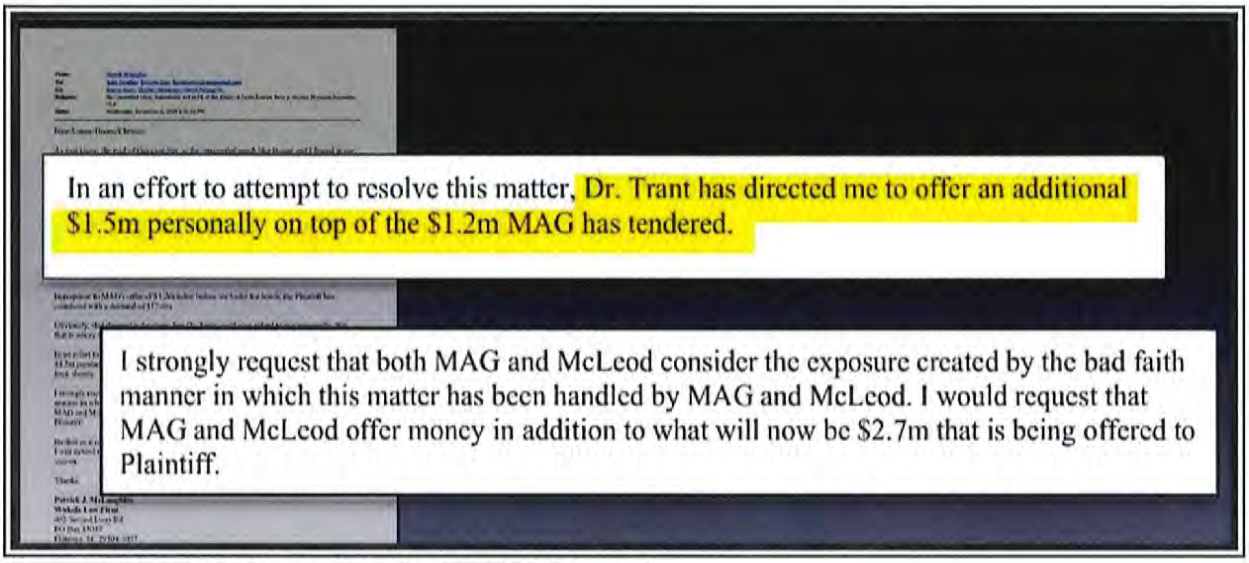
74. That the Estate declined Mag Mutual's November 6, 2024, $1.2 Million offer; although the Estate's counsel noted that the Estate would have accepted $1.2 million as recently as the July 1, 2024, mediation that Mag Mutual had refused to attend.

75. That, over the lunch break that same day, Dr. Trant, through undersigned counsel, emailed Mag Mutual, Mr. Aiken and Mrs. Henderson:



(McLaughlin email, 11/06/2024, 1:31 p.m.).

76. That, in a desperate attempt to avoid the catastrophic consequence of Mag Mutual's bad faith refusal to negotiate with the Estate until it was too late, and of MPA's failure to procure adequate coverage, Dr. Trant advised Mag Mutual and McLeod:

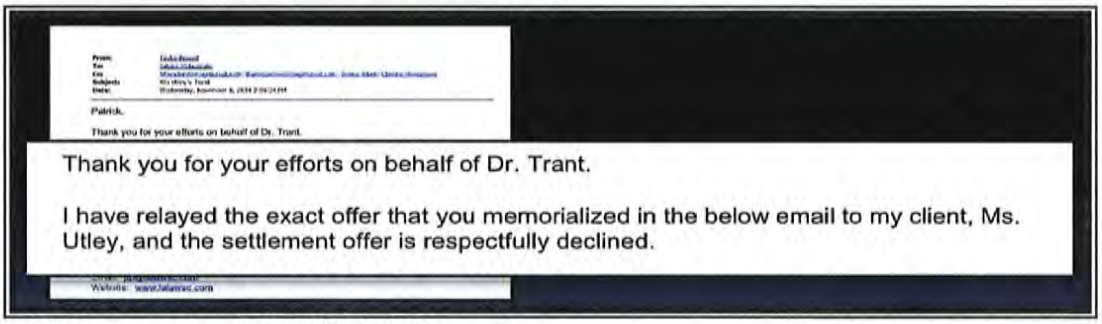


(McLaughlin email, 11/06/2024, 1:31 p.m.).

77. That following that November 6, 2024, email, both Mag Mutual and MPA refused to give any consideration to the offer of contribution made by Dr. Trant, or to offer anything additional at all.

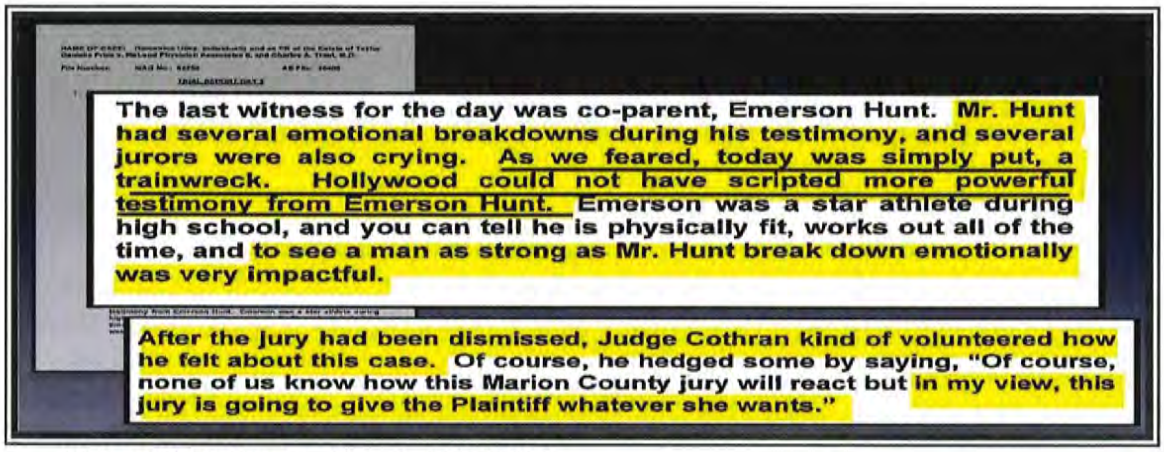
78. That, nevertheless, as undersigned counsel had indicated in that November 6th 1:31 p.m. email, Dr. Trant offered $1.5 million himself, in addition to Mag Mutual's belated offer of $1.2 million.

79. That, shortly after that total offer of $2.7 million was made, Mr. Powell, on behalf of the Estate, declined the offer:



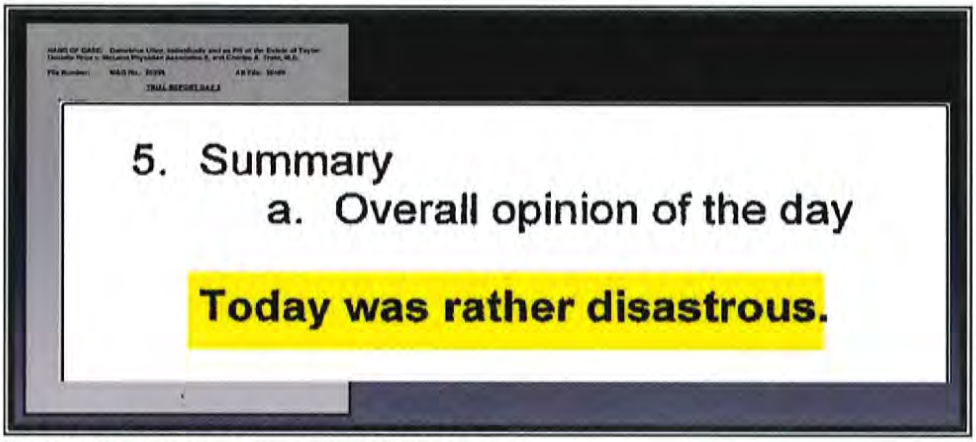
(Powell email, 11/06/2024, 2:06 p.m.).

80. That, on that same day, November 6, 2024, after trial recessed, Mr. Aiken delivered a trial report to Mag Mutual; wherein, he candidly noted:



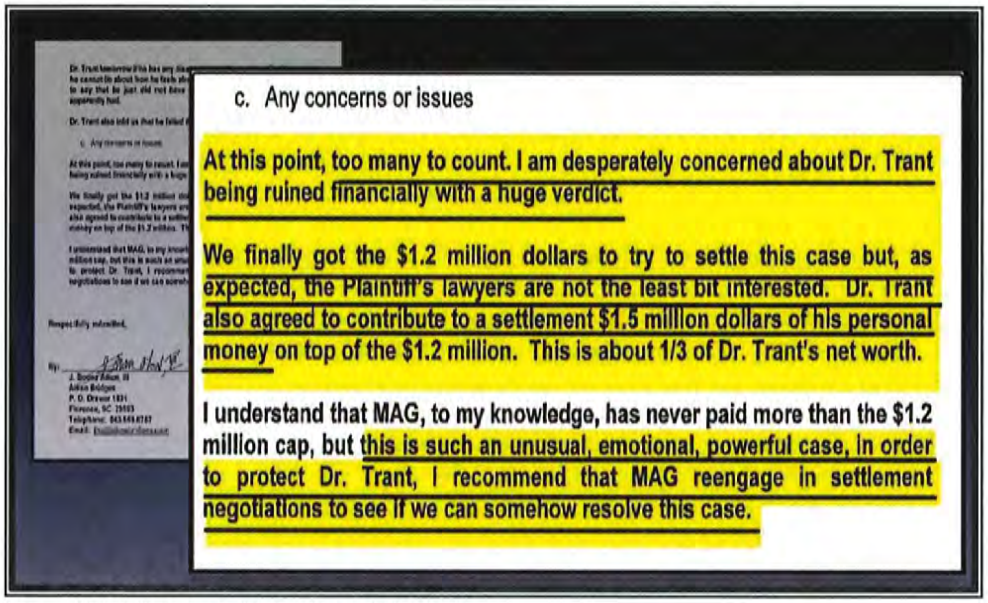
(Aiken Trial Report, Day 3, 11/6/2024).

81. That Mr. Aiken's Day 3 Trial Report, summarized the day bluntly:



(Aiken Trial Report, Day 3, 11/6/2024).

82. That Mr. Aiken concluded his Day 3 Trial report, urgently concerned about his client, Dr. Trant, with an earnest plea that Mag Mutual reconsider their long-held position to never pay more than the $1.2 million cap and "reengage in settlement negotiations" to protect Dr. Trant:



c. Any concerns or issues

At this point, too many to count. I am desperately concerned about Dr. Trant being ruined financially with a huge verdict.

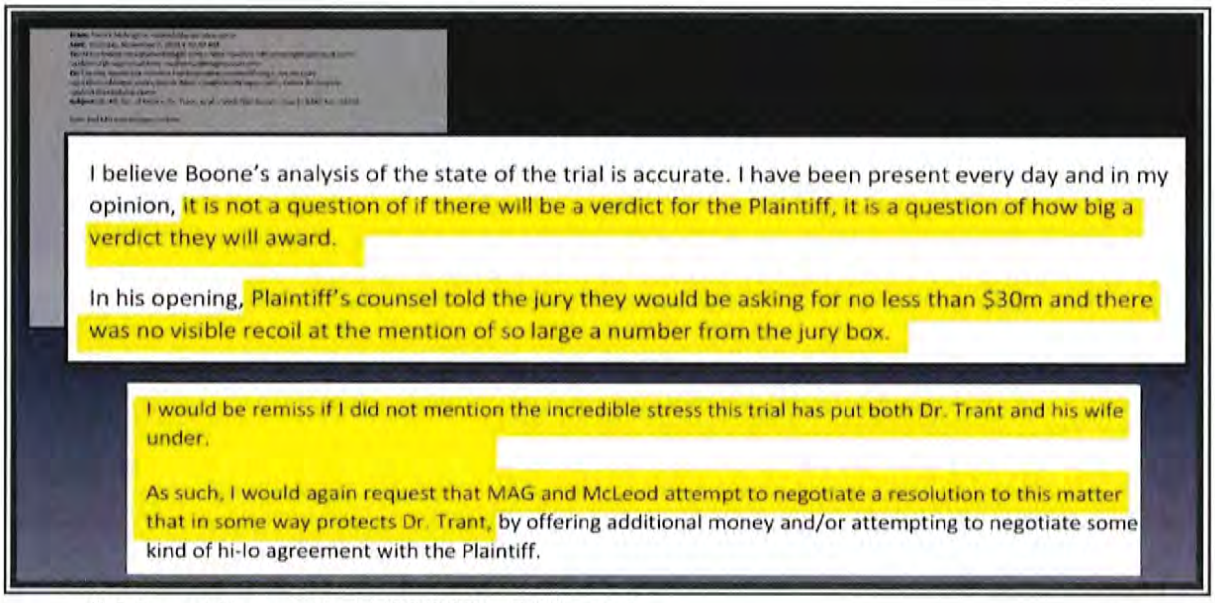
We finally got the $1.2 million dollars to try to settle this case but, as expected, the Plaintiff's lawyers are not the least bit interested. Dr. Trant also agreed to contribute to a settlement $1.5 million dollars of his personal money on top of the $1.2 million. This is about 1/3 of Dr. Trant's net worth.

I understand that MAG, to my knowledge, has never paid more than the $1.2 million cap, but this is such an unusual, emotional, powerful case, in order to protect Dr. Trant, I recommend that MAG reengage in settlement negotiations to see if we can somehow resolve this case.

(Aiken Trial Report, Day 3, 11/6/2024).

83. That, notwithstanding his report, Mag Mutual again ignored Mr. Aiken's recommendations, warnings and pleas.

84. That, the next morning, November 7, 2024, at 7:53 a.m., as the fourth day of trial was about to begin, Dr. Trant, through his undesigned personal counsel, hopelessly wrote his own insurance carrier and former employer, seeking protection from financial disaster:



I believe Boone's analysis of the state of the trial is accurate. I have been present every day and in my opinion, it is not a question of if there will be a verdict for the Plaintiff, it is a question of how big a verdict they will award.

In his opening, Plaintiff's counsel told the jury they would be asking for no less than $30m and there was no visible recoil at the mention of so large a number from the jury box.

I would be remiss if I did not mention the incredible stress this trial has put both Dr. Trant and his wife under.

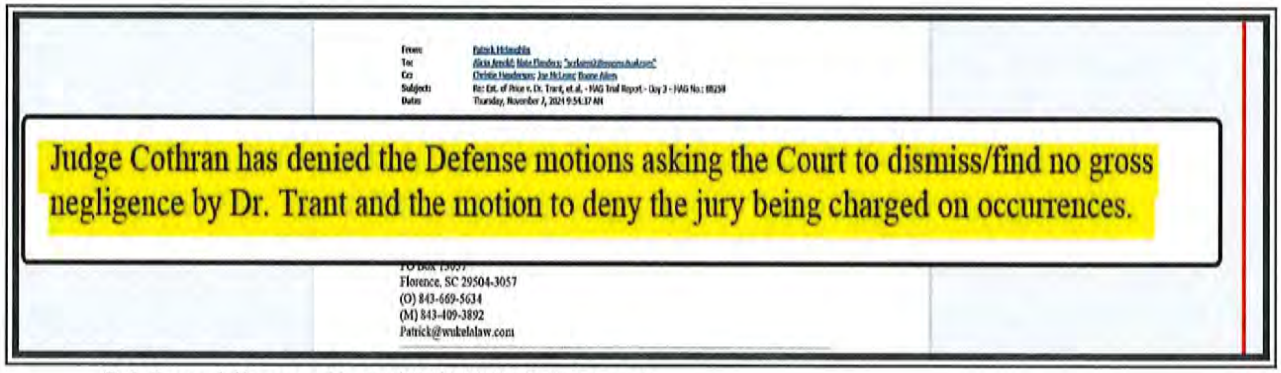
As such, I would again request that MAG and McLeod attempt to negotiate a resolution to this matter that in some way protects Dr. Trant, by offering additional money and/or attempting to negotiate some kind of hi-lo agreement with the Plaintiff.

(McLaughlin email, 11/07/2024, 7:53 a.m.).

85. That, again, Mag Mutual and MPA ignored Dr. Trant's pleas.

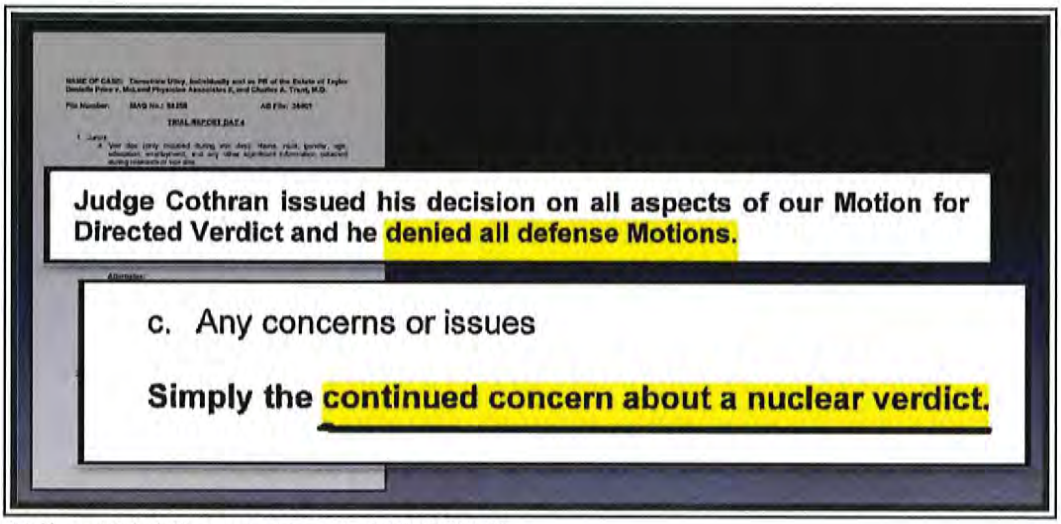
86. That at the conclusion of the Estate's case on day 4 of trial, the Defense moved for directed verdict, to dismiss the cause of action of gross negligence against Dr. Trant, and to refuse to charge the jury on occurrences.

87. That, on November 7, 2024, Dr. Trant' personal counsel notified Mag Mutual the Defense motions had been denied:



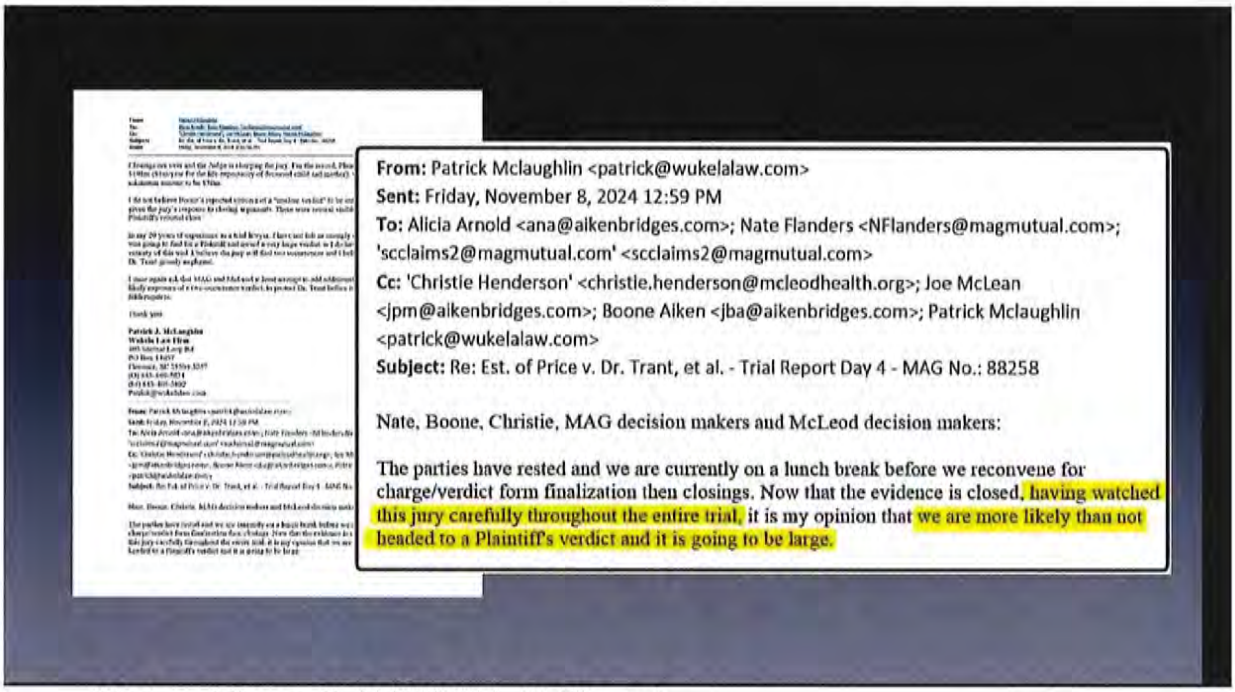
(McLaughlin email, 11/07/2024, 9:54 a.m.).

88. That, after the trial's recess on day 4, Mr. Aiken candidly reported to Mag Mutual he was concerned about a "nuclear verdict":



(Aiken Trial Report, Day 4, 11/7/2024).

89. That, on November 8, 2024, day 5 of trial, after both sides had rested and during the lunch break before closings, Dr. Trant's personal counsel, once again, emailed Mag Mutual and MPA; noting that "having watched the jury carefully through the entire trial, it is my opinion that we are more likely than not headed to a Plaintiff's verdict and it is going to be large":



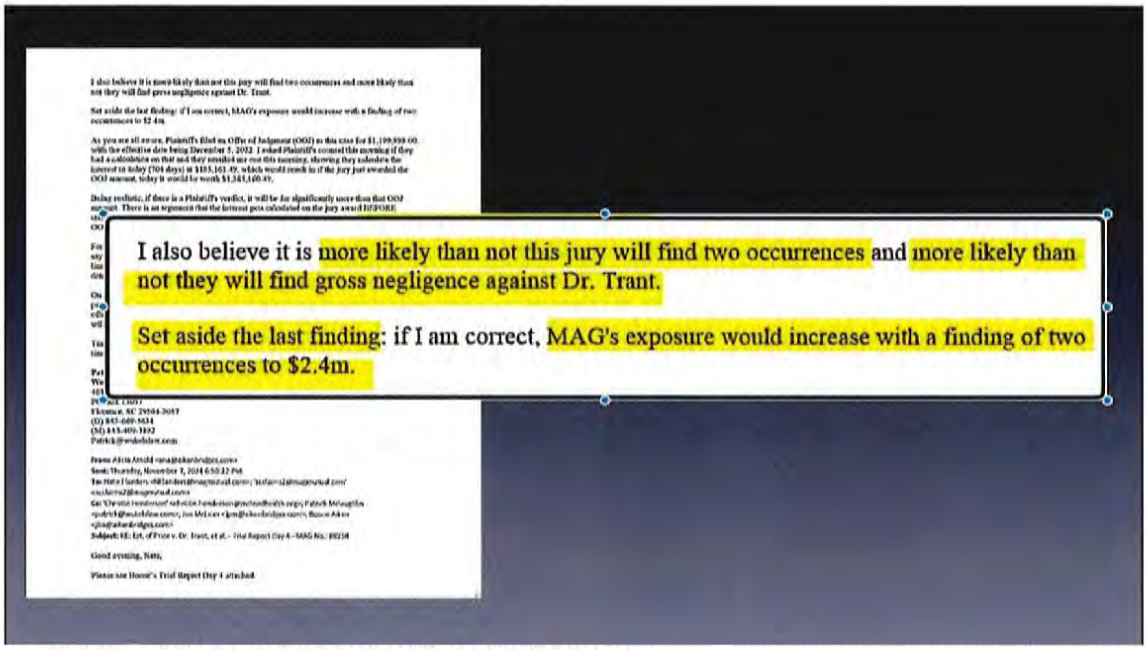
From: Patrick Mclaughlin <patrick@wukelalaw.com>
Sent: Friday, November 8, 2024 12:59 PM
To: Alicia Arnold <ana@aikenbridges.com>; Nate Flanders <NFlanders@magmutual.com>; 'scclaims2@magmutual.com' <scclaims2@magmutual.com>
Cc: 'Christie Henderson' <christie.henderson@mcleodhealth.org>; Joe McLean <jpm@aikenbridges.com>; Boone Aiken <jba@aikenbridges.com>; Patrick Mclaughlin <patrick@wukelalaw.com>
Subject: Re: Est. of Price v. Dr. Trant, et al. - Trial Report Day 4 - MAG No.: 88258

Nate, Boone, Christie, MAG decision makers and McLeod decision makers:

The parties have rested and we are currently on a lunch break before we reconvene for charge/verdict form finalization then closings. Now that the evidence is closed, having watched this jury carefully throughout the entire trial, it is my opinion that we are more likely than not headed to a Plaintiff's verdict and it is going to be large.

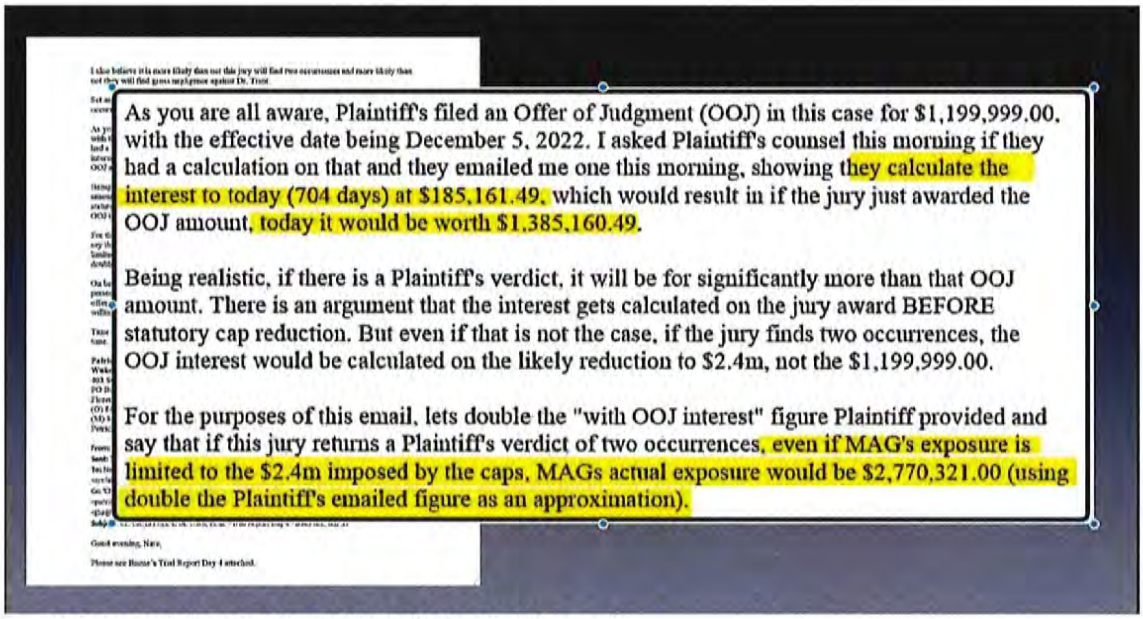
(McLaughlin email, 11/08/2024, 12:59 p.m.).

90. That, the Day 5, 12:59 p.m., email from Dr. Trant's personal counsel further warned Mag Mutual and MPA that, setting aside the gross negligence/charitable cap arguments, the likely finding of two occurrences by the jury would expose Mag Mutual to two caps, i.e., $2.4 million:



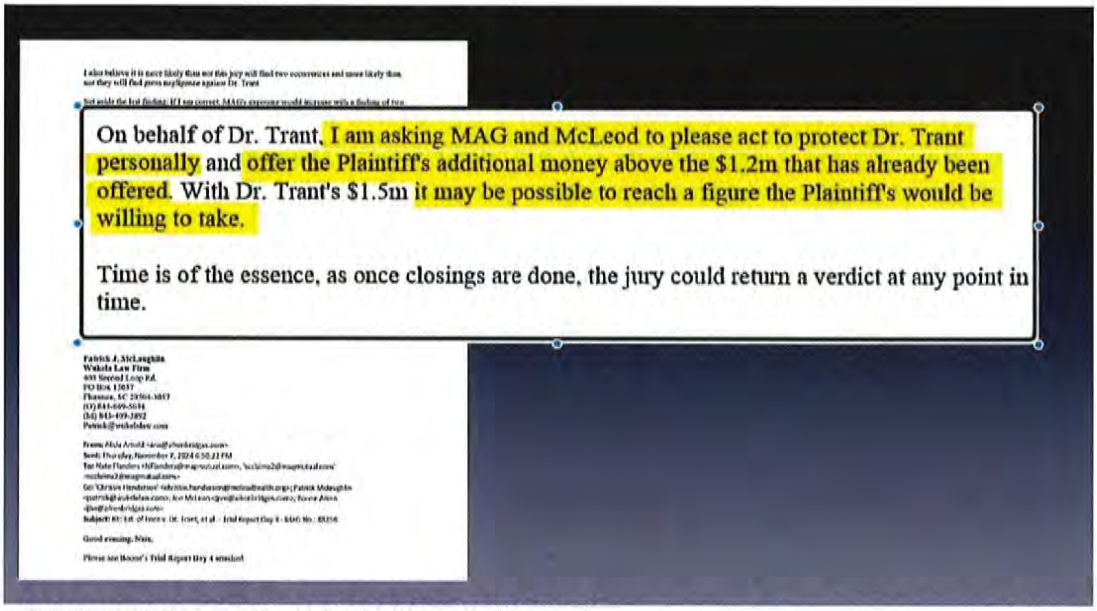
(McLaughlin email, 11/08/2024, 12:59 p.m.).

91. That, the Day 5, 12:59, p.m. email from Dr. Trant's personal counsel further warned Mag Mutual and MPA that given the likely size of a jury verdict exceeding the *Offer of Judgment* amount, accounting for OOJ interest on two occurrences, Mag Mutual's likely exposure in on a jury verdict would be $2,770,321.00:



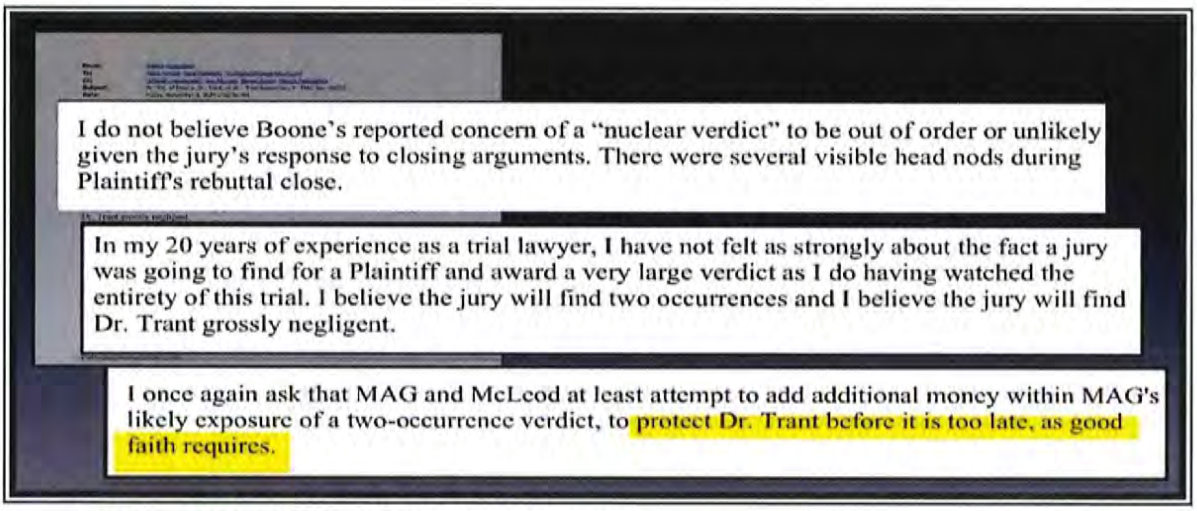
(McLaughlin email, 11/08/2024, 12:59 a.m.).

92. That, the Day 5, 12:59 p.m., email, on behalf of Dr. Trant, pleaded:



(McLaughlin email, 11/08/2024, 12:59 p.m.).

93. That after closing arguments on Day 5 of trial, Friday November 8, 2024, Dr. Trant's personal counsel (who had been present the entire trial), made one last Sisyphean attempt to convince Mag Mutual and MPA to make some attempt to salvage the consequences of their bad faith failures towards Dr. Trant, by asking them to at least attempt to add additional money within Mag Mutual's likely exposure from a two-occurrence verdict:

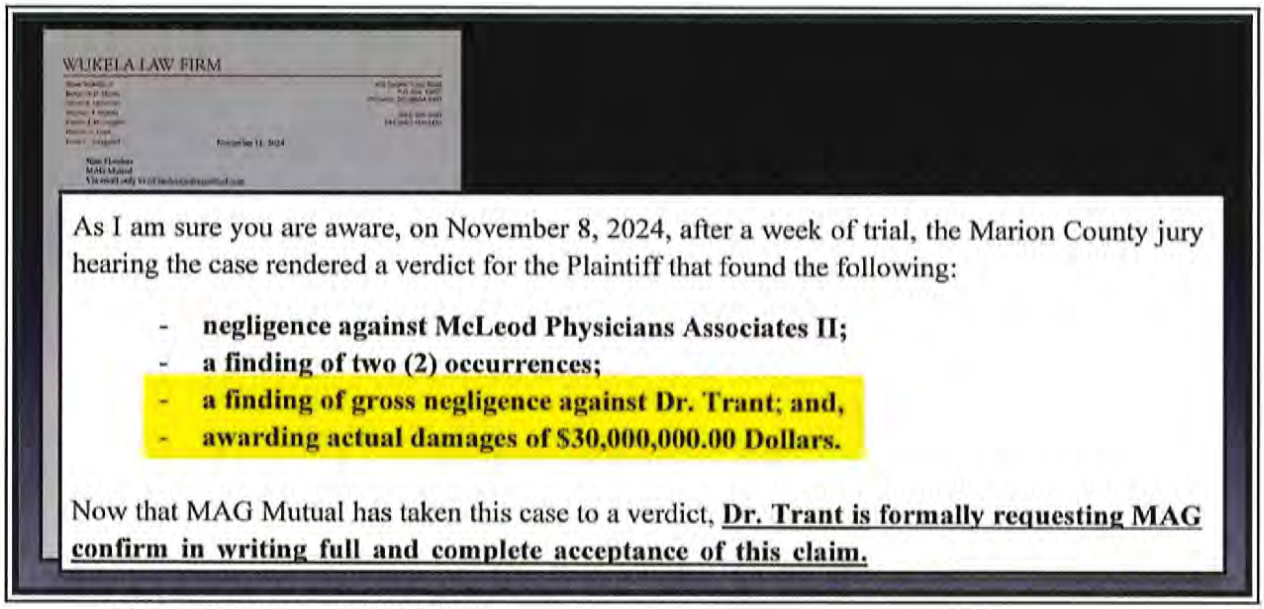


(McLaughlin email, 11/08/2024, 3:26 p.m.).

94. That Dr. Trant received no response from Mag Mutual to his final pleas on that last day of trial.

95. That, on November 8, 2024, the Marion County jury hearing the Price case returned a verdict of negligence against MPA; a finding of two (2) occurrences; a finding of gross negligence against Dr. Trant; and an award of actual damages in the amount of $30 million Dollars.

96. That, on November 11, 2024, the Monday after trial, Dr. Trant, through undersigned counsel, wrote Mag Mutual:



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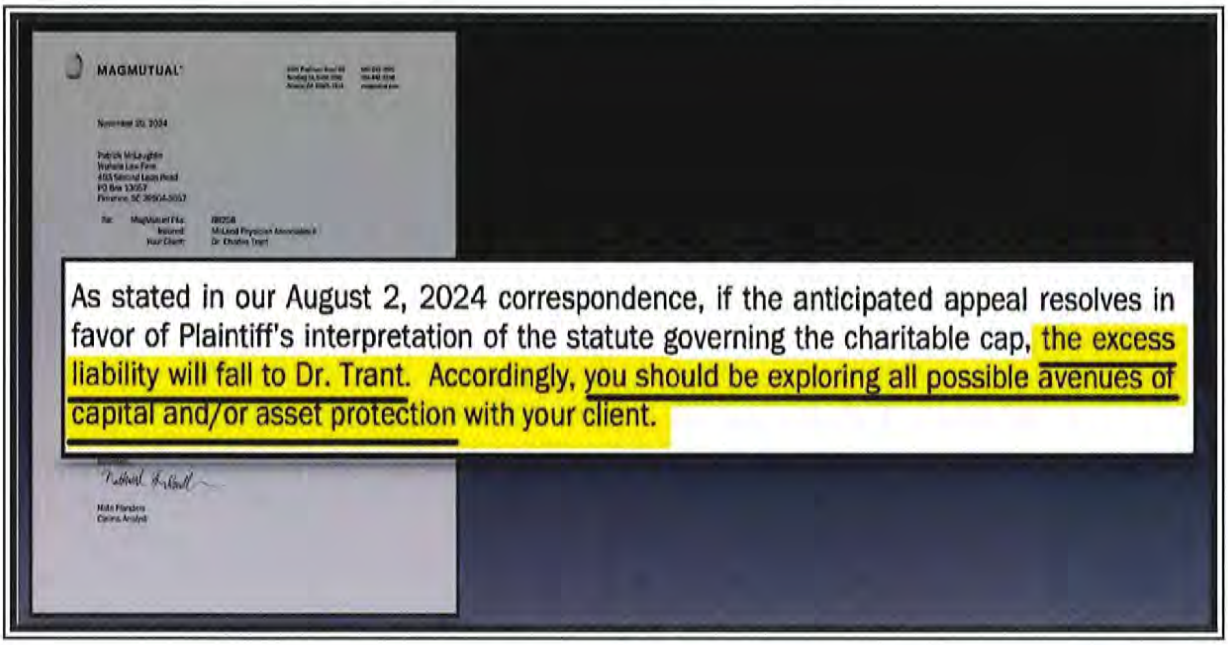
As I am sure you are aware, on November 8, 2024, after a week of trial, the Marion County jury hearing the case rendered a verdict for the Plaintiff that found the following:

- **negligence against McLeod Physicians Associates II;**
- **a finding of two (2) occurrences;**
- **a finding of gross negligence against Dr. Trant; and,**
- **awarding actual damages of $30,000,000.00 Dollars.**

Now that MAG Mutual has taken this case to a verdict, **Dr. Trant is formally requesting MAG confirm in writing full and complete acceptance of this claim.**

(McLaughlin Ltr., 11/11/2024).

97. That, Mag Mutual responded to Dr. Trant, their insured, nine (9) days later:



(Mag Mutual Ltr., 11/20/2024).

98. That after trial, Mag Mutual retained new counsel, Attorney Andrew F. Lindemann (hereinafter "Lindemann"), to argue post-trial motions and handle the appeal.

99. That on November 25, 2024, a WebEx virtual hearing on post-trial motions was held before the Hon. R. Ferrell Cothran, Jr., with Attorney Powell arguing on behalf of the Estate, and Attorney Lindemann arguing on behalf of the Defendants, including Dr. Trant.

100. During the post-trial arguments, Mr. Lindemann urged the Court to find, as a matter of law, that there were not multiple occurrences; an argument which placed Mag Mutual's interest ahead of Dr. Trant's interests; an argument which, if successful, would increase Dr. Trant's personal exposure by $1.2 million Dollars, while decreasing Mag Mutual's liability by the same amount. That argument was made while **not** arguing for a new trial *nisi remittitur*.

101. That, Mr. Lindemann did not consult either Dr. Trant, or his personal counsel, prior to making the occurrence argument; nor were any of the Defenses' post-trial motions shared with Dr. Trant or his personal counsel prior to being submitted to the Court.

102. That after post-trial motions, the Court entered Judgment against Dr. Trant in the amount of Twenty-Nine Million Eight Hundred Seventy Thousand ($29,870,000.00) Dollars.

103. That Dr. Trant, through counsel, has requested that Mag Mutual post an appellate bond so as to stay enforcement of the judgment against him during appeal, and Mag Mutual to date has refused to do so and/or confirm in writing that they would post such bond.

104. That Mag Mutual ignored multiple opportunities to settle the Price action against Dr. Trant in exchange for their policy limits.

105. That Mag Mutual made no efforts to settle and made no settlement offers whatsoever to the Price Estate before trial, even after Dr. Trant, and Mr. Aiken, Mag Mutual's counsel, expressly requested that his insurance company take steps to protect him from potential personal financial exposure.

106. That the trial was a disaster for Dr. Trant, and the jury returned a verdict against Dr. Trant for the minor plaintiff's death, and ultimately judgment was entered against him in the amount of Twenty-Nine Million Eight Hundred Seventy Thousand and 00/100 ($29,870,000.00) Dollars, and post judgment interest is accruing on the judgment at the rate of 11.5%, or approximately Two Hundred Eighty-Six Thousand Two Hundred Fifty-Four and 00/100 ($286,254.00) Dollars per month. That subsequent to the entry of judgment, in light of the substantial verdict, Mag Mutual has not made any reasonably good faith efforts to resolve the claim and has refused to post the appeals bond to protect Dr. Trant from collection efforts and/or confirm in writing they would post such bond.[2]

[2] Defendant MPA II and Trant are jointly and severally liable for $2,400,000.00 of the $29,870,000.00 amended judgment entered against Defendant Trant. Defendant Trant is solely responsible for the remainder of the amended judgment against him.

FOR A FIRST CAUSE OF ACTION
(Breach of Contract against Defendant Mag Mutual)

107. That the Plaintiff re-alleges the above paragraphs by reference as if recounted at length herein.

108. That, at all times material hereto, a binding insurance policy ("the Policy") existed between Plaintiff Dr. Trant, and Defendant Mag Mutual.

109. That the Defendant Mag Mutual owed Dr. Trant a duty under the Policy to attempt in good faith to effect prompt, fair and equitable settlement of claims.

110. That under well-settled South Carolina law[3] Defendant Mag Mutual may not conduct settlement negotiations with an eye solely to its own interests and in disregard of its insured's rights and interests.

111. That Defendant Mag Mutual is bound, under its contract of indemnity and in good faith, to sacrifice its own interests in favor of those of its insured.

112. That Defendant Mag Mutual breached the implied contractual duty of good faith and fair dealing and acted unreasonably and in bad faith in the following particulars, to-wit:

(a) in ignoring multiple opportunities to settle the Price action against Dr. Trant in exchange for their policy limits and in failing to make any settlement offer before the third day of trial despite Dr. Trant's multiple requests to settle the case and reasonable concerns about a verdict exceeding the limits of his malpractice coverage;

(b) in failing to acknowledge that, by reason of the severity of the damages, including the death of a child, any verdict in the Price

[3] See Tyger River Pine Co. v. Maryland Casualty Co., 170 S.C. 286, 170 S.E.346 (1933); Andrews v. Central Sur. Ins. Co., 271 F.Supp. 814 (D.S.C. 1967); Nichols v. State Farm, 279 S.C. 336 (S.C. 1983); Jefferson v. Allstate Insurance Co., 673 F. Supp 1401 (D.S.C. 1987); Myers v. State Farm, 950 F.Supp 148 (D.S.C. 1997); Tadlock Painting Co. v. Maryland Casualty, 322 S.C. 498 (1996); Ocean Winds v. Auto-Owners, 241 F.Supp.2d 572 (D.S.C. 2002).

action was likely to be greatly in excess of the policy limit;

(c) in failing to give due regard; and, in fact, in repeatedly rejecting, the recommendations of Mag Mutual's retained trial counsel, Mr. Aiken;

(d) in failing to give due regard; and, in fact, in repeatedly rejecting, the insured's demands that Mag Mutual settle the Price action;

(e) in failing to give due consideration to the offer of contribution made by the insured, himself;

(f) in repeatedly ignoring and refusing settlement offers proffered by the Price Estate within policy limits;

(g) by refusing to participate in a scheduled mediation;

(h) by unreasonably delaying and refusing to even attempt to effect a prompt, fair, and equitable settlement of the claim in disregard of the insured's contractual rights, his reputation, his financial position, and his emotional and physical well-being;

(i) in failing to make reasonable efforts after judgment to resolve the claim and by refusing to post the full amount of the appeal bond; leaving Plaintiff exposed to collection efforts during the pendency of the appeal;

(j) in placing its own interests above those of their insured's

113. That these acts and omissions by Defendant Mag Mutual constitute a breach of the covenant of good faith and fair dealing that arises in every contract, including the Policy issued to the Plaintiff by Defendant, and were willful, wanton, and in reckless disregard of its obligations to the Plaintiff, Dr. Trant.

114. That, as a direct and proximate result of Defendant Mag Mutual's actions and omissions, the Plaintiff has suffered the damages set out herein.

FOR A SECOND CAUSE OF ACTION
(Bad Faith; Negligence; Gross Negligence; Recklessness; Willful and Wanton Conduct; Intentional Infliction of Emotional Distress / Outrage against Defendant Mag Mutual)

115. That the Plaintiff re-alleges the above paragraphs by reference as if recounted at length herein.

116. That at all times material hereto, a binding insurance policy ("the Policy") existed between Plaintiff Dr. Trant, and Defendant Mag Mutual.

117. That, under the Policy, Defendant Mag Mutual had the exclusive authority and control over whether, or not, to offer the Price Estate any amount to settle the Estate's claim against Dr. Trant; and, thus, Mag Mutual had actual authority over Dr. Trant with the power to affect Dr. Trant's interest.

118. That the Defendant Mag Mutual owed Dr. Trant a duty under the Policy to attempt in good faith to effect prompt, fair and equitable settlement of claims.

119. That under well-settled South Carolina law[4] Defendant Mag Mutual may not conduct settlement negotiations with an eye solely to its own interests and in disregard of its insured's rights and interests.

120. That Defendant Mag Mutual is bound, under its contract to act in good faith, and to sacrifice its own interests in favor of those of its insured.

121. That Defendant Mag Mutual breached the implied contractual duty of good faith and fair dealing and acted unreasonably and in bad faith; and, moreover, Mag Mutual's conduct was reckless and intentional, extreme and outrageous, exceeded all possible bounds of

[4] See fn.3.

decency, and must be regarded as atrocious and utterly intolerable in a civilized community, in the following particulars, to-wit:

a. in ignoring multiple opportunities to settle the Price action against Dr. Trant in exchange for their policy limits and in failing to make any settlement offer before the third day of trial despite Dr. Trant's multiple requests to settle the case and reasonable concerns about a verdict exceeding the limits of his malpractice coverage;

b. in failing to acknowledge that, by reason of the severity of the damages, including the death of a child, any verdict in the Price action was likely to be greatly in excess of the policy limit;

c. in failing to give due regard; and, in fact, in repeatedly rejecting, the recommendations of Mag Mutual's retained trial counsel, Mr. Aiken;

d. in failing to give due regard; and, in fact, in repeatedly rejecting, the insured's demands that Mag Mutual settle the Price action;

e. in failing to give due consideration to the offer of contribution made by the insured, himself;

f. in repeatedly ignoring and refusing settlement offers proffered by the Price Estate within policy limits;

g. by refusing to participate in a scheduled mediation;

h. by unreasonably delaying and refusing to even attempt to effect a prompt, fair, and equitable settlement of the claim in disregard of the insured's contractual rights, his reputation, his financial position, and his emotional and physical well-being;

i. in failing to make reasonable efforts after judgment to resolve the claim and by refusing to post the full amount of the appeal bond; leaving Plaintiff exposed to collection efforts during the pendency of the appeal;

j. in placing its own interests above those of their insured's

122. That these acts and omissions by Defendant Mag Mutual constitute a breach of the covenant of good faith and fair dealing that arises in every contract, including the Policy issued to the Plaintiff by Defendant, were willful, wanton, and in reckless disregard of its

obligations to the Plaintiff, Dr. Trant, and they calculatedly inflicted suffering and heedlessly and contemptuously disregarded Dr. Trant's emotional suffering.

123. That, as a direct and proximate result of Defendant Mag Mutual's actions and omissions, the Plaintiff has suffered the damages set out herein; specifically, Mag Mutual's intentional and reckless conduct inflicted severe emotional distress that no reasonable man could be expected to endure; to which Mag Mutual was aware he was susceptible; and which Mag Mutual was substantially certain would result from their conduct.

FOR A THIRD CAUSE OF ACTION
(Statutory Bad Faith Violations against Defendant Mag Mutual)

124. That the Plaintiff re-alleges the above paragraphs by reference as if recounted at length herein.

125. That Defendant Mag Mutual acted in bad faith in its failure to honor its obligations to Plaintiff under the Policy.

126. That Defendant Mag Mutual violated S.C. Code §38-29-20.

127. That, specifically, the Plaintiff is informed and believes that:

(a) that there exists a mutually binding contract of insurance between Plaintiff and Defendant;

(b) that Plaintiff requested that Defendant make a settlement offer on behalf of Plaintiff;

(c) that the Defendant refused to make reasonable settlement offers before the third day of trial;

(d) that Defendant's refusal is the result of the insurer's bad faith or unreasonable action in breach of an implied covenant of good faith and fair dealing in the contract; and,

(e) that the refusal has caused damaged to the Plaintiff, the insured.

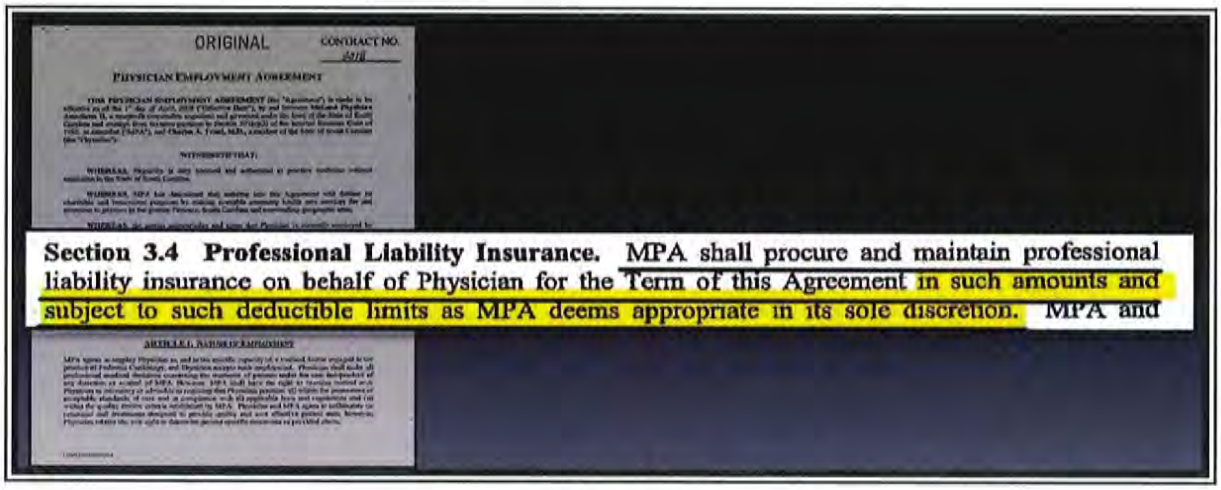
128. That, as a direct and proximate result of Defendant Mag Mutual's actions and omissions, the Plaintiff has suffered the damages set out herein.

FOR A FOURTH CAUSE OF ACTION
(Breach of Contract against Defendant MPA)

129. That the Plaintiff re-alleges the above paragraphs by reference as if recounted at length herein.

130. That, at all relevant times, the Plaintiff, Dr. Trant, and Defendant MPA were parties to an employment contract, entitled "Physician Employment Agreement" (hereinafter "contract"); wherein, in exchange for good and valuable consideration, MPA contracted to employ Dr. Trant to practice medicine in the field of pediatric cardiology.

131. That, the employment contract provided, among other things, that:


ORIGINAL CONTRACT NO. 4918

PHYSICIAN EMPLOYMENT AGREEMENT

Section 3.4 Professional Liability Insurance. MPA shall procure and maintain professional liability insurance on behalf of Physician for the Term of this Agreement in such amounts and subject to such deductible limits as MPA deems appropriate in its sole discretion. MPA and

(Physician Employment Agreement, 4/1/2008, Section 3.4).

132. That the contract, like every contract entered into in South Carolina, contained an implied covenant of good faith and fair dealing.[5]

[5] See Road, LLC v. Beaufort Cnty., 443 S.C. 11, 25 (2024).

133. That the covenant of good faith and fair dealing governed the manner in which the parties to the contract carried out their contractual duties. Id.

134. That the contract's express terms gave MPA the power and the duty to "procure and maintain professional liability insurance on behalf of [Dr. Trant]…"

135. That the contract's express terms gave MPA the "sole discretion" to procure professional liability coverage in such amounts "as MPA deems appropriate."

136. That, by operation of law, the contract contained the implied covenant that MPA would exercise its "sole discretion" reasonably and in good faith for the purposes for which that discretion was vested in them; that is, to protect Dr. Trant from professional liability.

137. That, MPA purchased professional liability coverage from Defendant Mag Mutual (hereinafter "policy") with limits of $1.2 million per loss; an amount sufficient to cover the limit to which MPA's own liability was capped by statute.

138. That, MPA failed to purchase professional liability in an amount sufficient to protect Dr. Trant from personal liability in the event a jury returned a verdict of gross negligence against him.

139. That, at the time the policy was purchased, there were options for Defendant MPA to procure higher limits of professional liability coverage.

140. That, at the time MPA procured the policy, they knew, or should have known with the exercise of reasonable diligence, that judgements against Dr. Trant, individually, in excess of the $1.2 million statutory limits of MPA's liability, were possible in the event that a jury found Dr. Trant grossly negligent.

141. That, MPA breached its contractual duty of good faith and fair dealing by procuring only enough professional liability coverage to cover their own statutorily capped liability of $1.2

million dollars per loss, and insufficient coverage to cover Dr. Trant for any liability in excess of that amount.

142. That, MPA failed to warn Dr. Trant that they had procured only enough professional liability coverage to cover their own statutorily capped liability of $1.2 million dollars per loss, and insufficient coverage to cover Dr. Trant for any liability in excess of that amount.

143. That, Dr. Trant reasonably relied upon MPA to exercise their contractual discretion in good faith.

144. That, on February 3, 2025, the Court of Common Pleas, Twelfth Judicial Circuit entered judgment in the Price action against MPA of Two Million Seven Hundred Eighty-Thousand Eight Hundred Forty-Three and 84/100 ($2,780,843.84) Dollars an amount covered by the Mag Mutual policy procured by MPA.

145. That, on February 3, 2025, the Court of Common Pleas, Twelfth Judicial Circuit, in the same action, entered judgment against Dr. Trant in the amount of Twenty-Nine Million Eight Hundred Seventy Thousand and 00/100 ($29,870,000.00) Dollars, an amount far in excess of the $1.2 million per loss coverage that MPA procured, effectively covering only their own liability.

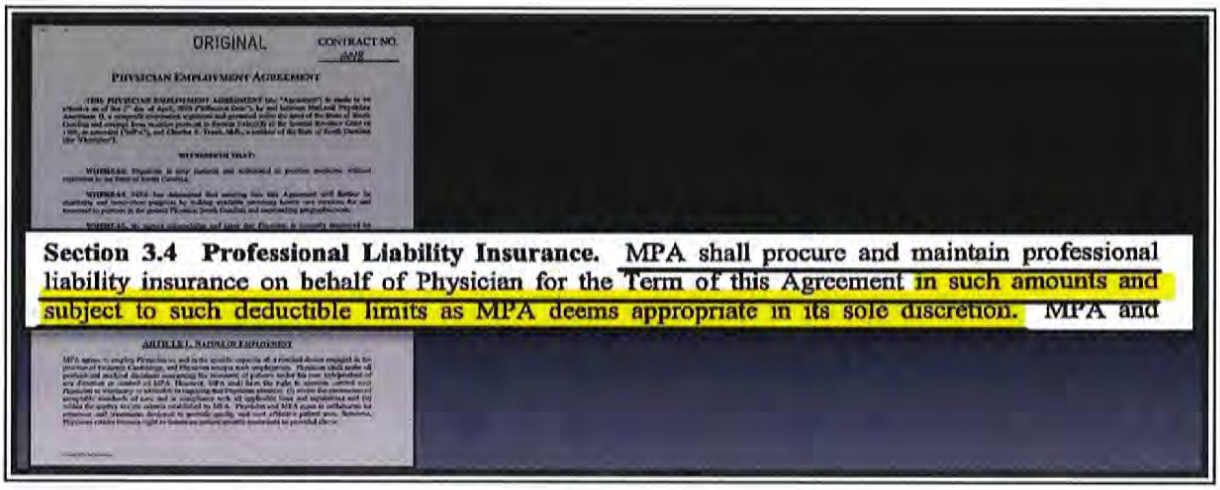
146. That, as a direct and proximate result of Defendant MPA's actions and omissions, the Plaintiff has suffered the damages set out herein.

FOR A FIFTH CAUSE OF ACTION
(Bad Faith; Negligence; Gross Negligence; Recklessness; Willful and Wanton Conduct; Intentional Infliction of Emotional Distress / Outrage against Defendant MPA)

147. That the Plaintiff re-alleges the above paragraphs by reference as if recounted at length herein.

148. That, at all relevant times, the Plaintiff, Dr. Trant, and Defendant MPA were parties to an employment contract, entitled "Physician Employment Agreement" (hereinafter "contract"); wherein, in exchange for good and valuable consideration, MPA contracted to employ Dr. Trant to practice medicine in the field of pediatric cardiology.

149. That, the employment contract provided, among other things, that:


ORIGINAL CONTRACT NO. 2008

PHYSICIAN EMPLOYMENT AGREEMENT

Section 3.4 Professional Liability Insurance. MPA shall procure and maintain professional liability insurance on behalf of Physician for the Term of this Agreement in such amounts and subject to such deductible limits as MPA deems appropriate in its sole discretion. MPA and

(Physician Employment Agreement, 4/1/2008, Section 3.4).

150. That, under the contract, Defendant MPA had the exclusive authority and control to procure liability insurance covering Dr. Trant "in such amounts and subject to such deductible limits as MPA deems appropriate in its sole discretion"; and, thus, MPA had actual authority over Dr. Trant with the power to affect Dr. Trant's interest.

151. That the contract, like every contract entered into in South Carolina, contained an implied covenant of good faith and fair dealing.[6]

152. That the covenant of good faith and fair dealing governed the manner in which the parties to the contract carried out their contractual duties. Id.

153. That the contract's express terms gave MPA the power and the duty to "procure and maintain professional liability insurance on behalf of [Dr. Trant]…"

154. That the contract's express terms gave MPA the "sole discretion" to procure professional liability coverage in such amounts "as MPA deems appropriate."

155. That, by operation of law, the contract contained the implied covenant that MPA would exercise its "sole discretion" reasonably and in good faith for the purposes for which that discretion was vested in them; that is, to protect Dr. Trant from professional liability.

156. That, MPA purchased professional liability coverage from Defendant Mag Mutual (hereinafter "policy") with limits of $1.2 million per loss; an amount sufficient to cover the limit to which MPA's own liability was capped by statute.

157. That, MPA failed to purchase professional liability in an amount sufficient to protect Dr. Trant from personal liability in the event a jury returned a verdict of gross negligence against him.

158. That, at the time the policy was purchased, there were options for Defendant MPA to procure higher limits of professional liability coverage.

159. That, at the time MPA procured the policy, they knew, or should have known with the exercise of reasonable diligence, that judgements against Dr. Trant, individually, in

[6] See Road, LLC v. Beaufort Cnty., 443 S.C. 11, 25 (2024).

excess of the $1.2 million statutory limits of MPA's liability, were possible in the event that a jury found Dr. Trant grossly negligent.

160. That, MPA breached its contractual duty of good faith and fair dealing, and acted unreasonably, in bad faith, and with willful, wanton, and reckless disregard of its obligations to Dr. Trant, by procuring only enough professional liability coverage to cover their own statutorily capped liability of $1.2 million dollars per loss, and insufficient coverage to cover Dr. Trant for any liability in excess of that amount.

161. That, MPA failed to warn Dr. Trant that they had procured only enough professional liability coverage to cover their own statutorily capped liability of $1.2 million dollars per loss, and insufficient coverage to cover Dr. Trant for any liability in excess of that amount.

162. That, Dr. Trant reasonably relied upon MPA to exercise their contractual discretion in good faith.

163. That, on February 3, 2025 the Court of Common Pleas, Twelfth Judicial Circuit, entered judgment in the Price action against MPA of Two Million Seven Hundred Eighty Thousand Eight Hundred Forty-Three and 84/100 ($2,780,843.84), an amount covered by the Mag Mutual policy procured by MPA.

164. That, on February 3, 2025, the Court of Common Pleas, Twelfth Judicial Circuit, in the same action, entered judgment against Dr. Trant in the amount of Twenty-Nine Million Eight Hundred Seventy Thousand and 00/100 ($29,870,000.00) Dollars, an amount far in excess of the $1.2 million per loss coverage that MPA procured, effectively covering only their own liability.

165. That these acts and omissions by Defendant MPA constitute a breach of the covenant of good faith and fair dealing that arises in every contract, including the contract between MPA and Dr. Trant, were willful, wanton, and in reckless disregard of its obligations to the Plaintiff, Dr. Trant, and they calculatedly inflicted suffering and heedlessly and contemptuously disregarded Dr. Trant's emotional suffering.

166. That, as a direct and proximate result of Defendant MPA's actions and omissions, the Plaintiff has suffered the damages set out herein; specifically, MPA's intentional and reckless conduct inflicted severe emotional distress that no reasonable man could be expected to endure; to which MPA was aware he was susceptible; and which MPA were substantially certain would result from their conduct.

DAMAGES

167. That the Plaintiff re-alleges the above paragraphs by reference as if recounted at length herein.

168. That as a direct and proximate result of the above set out acts and omissions of the Defendants, the Plaintiff was damaged in the following particulars:

a. actual and consequential damages, to-wit:

i. loss of Mag Mutual policy benefits;

ii. loss of MPA contractual benefits;

iii. liability for excess judgment;

iv. interest post offer of judgment;

v. loss of reputation personally and professionally;

vi. economic loss due to the pendency of the Price action, and the excess judgment;

vii. emotional distress and anxiety;

viii. physical manifestation of emotional distress and anxiety;

ix. attorney's fees and costs, pursuant to S.C. Code §38-59-40.

169. That Mag Mutual unreasonably delayed and refused to make any attempt at all to effect a prompt, fair, and equitable settlement of the Price action in disregard of Dr. Trant's contractual rights, his reputation, his financial position, and his emotional and physical well-being.

170. That Mag Mutual's delay and refusal lasted, at a minimum, from November 7, 2022, on which date the Price Estate offered to settle the Price action for the $1.2 Million per occurrence policy limit, for two years, through November 6, 2024; when on the third day of trial, Mag Mutual made a belated offer of the $1.2 Million per occurrence policy limit, which was rejected by the Estate.

171. That, in addition to proximately causing Dr. Trant's liability for the excess verdict, Mag Mutual's unreasonable delay and refusal to offer any amount to settle the Price action for, at a minimum, two years from November 7, 2022 to November 6, 2024, proximately caused damage to Dr. Trant's personal and professional reputation, impaired his financial position, and severely damaged his emotional well-being to such a degree that he has suffered physical manifestations of his severe emotional distress; moreover, such damages would have resulted from Mag Mutual's unreasonable delay to attempt to effect a settlement for two years, even if the Estate had accepted Mag Mutual's offer on November 6, 2024.

172. That MPA's acts and omissions, including but not limited to their intentional choice to procure sufficient liability coverage from Defendant Mag Mutual to cover the limit to

which their own liability was capped by statute, but no coverage whatsoever to cover Dr. Trant in the event he was sued individually and a jury returned a verdict of gross negligence against him, proximately caused Dr. Trant's liability for the excess verdict, and also proximately caused damage to Dr. Trant's personal and professional reputation, impaired his financial position, and severely damaged his emotional well-being to such a degree that he has suffered physical manifestations of his severe emotional distress; moreover, such damages would have resulted from MPA's acts and omissions, even if the Estate had accepted Mag Mutual's offer on November 6, 2024.

173. That, in addition, the Plaintiff is informed and believes that he is entitled to an award of punitive damages in an amount to be determined by a jury.

WHEREFORE, the Plaintiff prays judgment against Defendants, Mag Mutual Insurance Company and McLeod Physicians Associates, II for actual, consequential, and punitive damages against the Defendants in an amount to be determined by a jury, along with the attorney's fees, pursuant to S.C. Code §38-59-40.

WUKELA LAW FIRM

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Florence, SC
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