

**IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT**

HUGH B. GALLAGHER, III, AND	:	No. 608 EAL 2005
JOANNE GALLAGHER, GUARDIANS OF	:	
THE ESTATE OF HUGH B.	:	
GALLAGHER, IV ,	:	Petition for Allowance of Appeal from the
	:	Order of the Superior Court at 574 EDA
Respondents	:	2004 dated September 15, 2005 affirming
	:	in part; reversing in part the order of the
v.	:	Court of Common Pleas Philadelphia
	:	County at 002643 dated February 12,
TEMPLE UNIVERSITY HOSPITAL,	:	2004
	:	
Petitioner	:	

ORDER

PER CURIAM

AND NOW, this 20th day of June, 2006, it is hereby ordered that the Petition for Allowance of Appeal is GRANTED. It is further hereby ordered that the portion of the Order of the Superior Court affirming the judgment on the verdict with respect to liability for medical malpractice and compensatory damages is VACATED.

This Court concludes that the reason the Superior Court gave for its determination that Petitioner sustained no prejudice as a result of the trial court's error is insufficient to support that determination. Therefore, it is hereby ordered that this case be REMANDED to the Superior Court, with instructions to review the record and reconsider whether Petitioner has demonstrated that it has suffered prejudice from the trial court's error.

If the Superior Court concludes that, given the record before it, it is not in a position to decide the matter, and that Petitioner is entitled to a new trial, the Superior Court shall remand the case to the trial court to conduct a new trial. Jurisdiction relinquished. See Harman v. Borah, 756 A.2d 1116 (Pa. 2000); Morrison v. Commonwealth, Dep't of Public Welfare, 646 A.2d 565 (Pa. 1994).