

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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S.C. Supreme Court

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

Appellate Case No. 2012-210888

Ex parte TLC Laser Eye Centers (Piedmont/Atlanta) LLC; and  
TLC The Laser Center (Institute), Inc., Intervenors ..... Appellants,

In re:

John Hollman ..... Respondent

v.

Dr. Jonathan Woolfson, Individually;  
Dr. Michael A. Campbell, Individually;  
Optical Solutions, Inc.; and Optical  
Solutions of Bluffton, LLC ..... Defendants.

In re:

Danielle Hollman ..... Respondent,

v.

Dr. Jonathan Woolfson, Individually;  
Dr. Michael A. Campbell, Individually;  
Optical Solutions, Inc.; and Optical  
Solutions of Bluffton, LLC ..... Defendants.

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**RESPONDENTS' RETURN TO APPELLANT'S MOTION TO  
ENFORCE STAY OF PROCEEDINGS IN CIRCUIT COURT**

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COVINGTON, PATRICK, HAGINS,  
STERN & LEWIS, P.A.

Douglas F. Patrick, S.C. Bar #04358  
Stephen R.H. Lewis, S.C. Bar #12947  
P.O. Box 2343  
Greenville, SC 29602  
(864) 242-9000 Phone  
(864) 233-9777 Fax  
[dpatrick@covpatlaw.com](mailto:dpatrick@covpatlaw.com)  
[slewis@covpatlaw.com](mailto:slewis@covpatlaw.com)

June 4, 2013

ATTORNEYS FOR THE RESPONDENTS

Greenville, South Carolina

**TO: THE HONORABLE JUSTICES OF THE SOUTH CAROLINA  
SUPREME COURT**

Respondents respectfully submit this return to Appellant's meritless motion to enforce an automatic stay in an appeal in which Rule 241 of the *S.C. Appellant Court Rules* does not apply. The grounds for Respondents' Return are as follows:

1) Appellants are, once again, taking an unprecedented position which flies in the face of even a liberal interpretation of Appellate practice. Appellants do not request a stay in the *Hollman* litigation which is on appeal but rather seek to stay proceedings in two cases (*Dickerson v. TLC The Laser Center (Institute), Inc., et al.*, C.A. No. 2010-CP-23-9954, and *Luce v. TLC The Laser Center (Institute), Inc., et al.*, C.A. No. 2010-CP-23-9956) which are not on appeal. Appellants' attempt to stay litigation under Rule 241 is a blatant misuse of the Appellate Rules because Rule 241 addresses stays of matters on appeal (*Hollman*) not unrelated matters not before the appellate court.

2) Appellants' had previously sought to stay the litigation in *Dickerson* and *Luce* through Writs of Certiorari, Prohibition and Mandamus filed in this court and a direct appeal filed in the S.C. Court of Appeals. Virtually, the same arguments were presented and summarily rejected by both Appellate Courts in orders remanding those cases to the lower court. The effect of those remands was to allow discovery to commence in *Dickerson* and *Luce*, an ordered result Appellants now attempt to prevent. Thus, the present actions of Appellants represent a violation of the Appellate Court decisions and an intentional refusal to comply with the lower court's discovery order.

3) Incredibly, Appellants acknowledge there is nothing in *Hollman* which requires a stay. The motion does not address a single event in *Hollman* requiring stay

enforcement. In fact, as this court is well aware, Hollman is a case that has ended with finality including the completion of a return to Appellants of all evidence subject to the Hollman Protective Order.

4) Appellants' attempt to stay Dickerson and Luce would result in a denial of due process to those litigants. By seeking the stay in Hollman, the Plaintiffs in Dickerson, and Luce have no standing to present evidence or to protect their rights to a trial by jury. By way of example, the evidence in Dickerson and Luce that is not before this Court in Hollman includes:

a) Appellants have hidden from Plaintiffs Dickerson and Luce their own medical information which may include medical diagnosis of serious eye conditions discovered by Appellants while Dickerson and Luce were active patients. Not only is this information important to Dickerson and Luce in the pending litigation but it is also important to the current physicians in treating Dickerson and Luce. Further delays can cause additional irreparable harm.

b) Appellants' motive for hiding medical information from its patients included:

(1) an improper attempt to avoid discovery of its malpractice until the claims were time barred;

(2) an intentional scheme to violate FDA rules which required timely reporting of adverse results because compliance with FDA rules would result in the discovery by the FDA of Appellants' illegal use of LASIK surgery outside of the restrictive trial studies permitted by the FDA, discovery which likely would have resulted in the loss of licensing by Appellants.

5) Appellants attempt to link Dickerson and Luce to Hollman by its spurious claim that the Dickerson and Luce lawsuits are a product of a violation of the Hollman Protective Order is wholly unsupported by the record in Hollman and thoroughly refuted by the evidence in the Dickerson and Luce cases.<sup>1</sup>

a) The evidence which reveals the existence of the database and provides the connection of other patients to the database was provided to Hollman when he requested his medical records prior to the commencement of the Hollman litigation.<sup>2</sup>

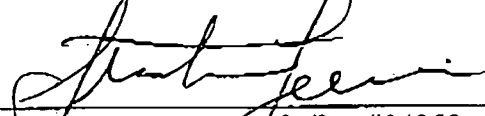
This motion reveals Appellants' true motives. It seeks a pre-emptive order protecting its wrongful conduct from any evidentiary examination by any injured parties. Appellant's motion is simply another attempt to prohibit parties separate and distinct from the Hollman litigation from proceeding with their cases. There is no automatic stay in the In Re: Hollman appeal, and this Court should not assist Appellants in manufacturing a stay in totally unrelated litigation, thereby denying those parties of their due process rights. Therefore, Respondents respectfully request this Court deny Appellant's motion, and Plaintiffs Dickerson and Luce be allowed to proceed with their cases.

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<sup>1</sup>In briefs with supporting evidence and affidavits filed in lower court proceedings in Dickerson and Luce, these contentions were thoroughly refuted without any evidence to the contrary submitted by Appellants. Of course, to present this evidence would require submission of the evidence outside of the Hollman record of appeal. In essence, this is exactly what Appellants want - a ruling of this court without consideration of relevant evidence.

<sup>2</sup>Hollman reviewed in this medical charge emails between his physicians and others are revealed he had separate unrevealed diagnosis that a number of other patients were similarly treated with their records sent to a database without their knowledge or permission.

COVINGTON, PATRICK, HAGINS,  
STERN & LEWIS P.A.



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Douglas F. Patrick, S.C. Bar #04358  
Stephen R.H. Lewis, S.C. Bar #12947  
P.O. Box 2343  
Greenville, SC 29602  
(864) 242-9000 Phone  
(864) 233-9777 Fax  
[dpatrick@covpatlaw.com](mailto:dpatrick@covpatlaw.com)  
[slewis@covpatlaw.com](mailto:slewis@covpatlaw.com)

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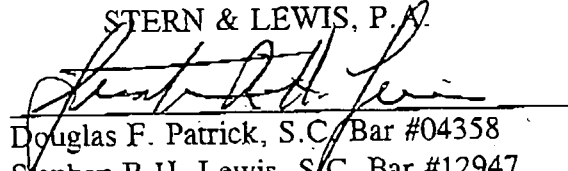
**PROOF OF SERVICE**

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I certify that on this date, I served a copy of the Respondents' Return to Appellants' Motion to Enforce Stay of Proceedings in Circuit Court on counsel of record in the above-captioned matters by hand-delivering a copy of the same, addressed as follows:

W. Howard Boyd, Jr., Esq.  
 Steven Edward Buckingham, Esq.  
 Gallivan, White & Boyd, P.A.  
 55 Beattie Place, Suite 1200  
 Greenville, SC 29601

COVINGTON, PATRICK, HAGINS,  
 STERN & LEWIS, P.A.



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