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J. RENÉ JOSEY

SC Court of Appeals

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June 12, 2013

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
JUN 14 2013
SC Court of Appeals

Re: *Pee Dee Health Care, P.A. v. Estate of Hugh S. Thompson*
Case No.: 2010-CP-16-0332
Tracking No.: 2011203391
TPGL File No.: 10667.101

Dear Ms. Kitchings:

Co-counsel Jay James and I are in receipt this morning of the Appellant's renewed Motion to Vacate the lower court's Order of summary judgment. This motion is made in the above-referenced appeal which, together with two companion appeals, was heard in oral argument before the Court *last week* (on June 5, 2013). The matter was heard by Judges Huff, Williams, and Cureton. Unlike previous filings in this Court, this motion is signed by attorney Ben R. Matthews, who also served as Appellant's co-counsel in the trial court.

The issue raised in the present motion has already been addressed by the briefs submitted to the Court (Appellant's Final Brief page 30, Respondent's Final Brief pages 14-19). The suggestion of this motion is that the lower court was subject to a stay resulting from the appeal of counsel's disqualification and therefore the trial court should not have entered its order of summary judgment.

While we are fully aware that issues of subject matter jurisdiction can be raised at any time, we are not sure this is truly a question of subject matter jurisdiction. Regardless, this issue has been briefed and was even the subject of questions from the Court at oral argument last week. Thus, the instant motion amounts to a supplemental brief and supplemental argument outside of that contemplated and allowed by the Rules. Appellant has had its opportunity to brief and argue the issues (even though Appellant failed to finalize any Reply Brief in this appeal).

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The Honorable Jenny Abbott Kitchings

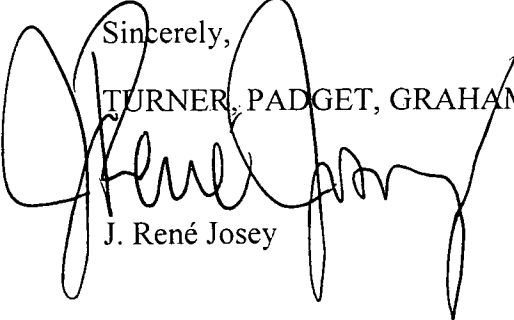
June 12, 2013

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It is the Respondents' position that the current motion is out of order and inappropriate. Because the Respondents have already incurred exorbitant legal cost, both in this Court and the trial court, we would ask for the Court's guidance on whether any response is needed or desired. The Respondents do not believe a response is needed but will be happy to respond if the Court so directs. Should the Court desire a response, we note that it would be presently be due on June 20, 2013 under SCACR 240(e).

Sincerely,

TURNER, PADGET, GRAHAM & LANEY, P.A.



J. René Josey

JRJ:mjs

Cc: Ben R. Matthews, Esq.
Jay James, II, Esq. (via email only)
Hugh Thompson, III (via email only)
Louise Thompson Dailey (via email only)