THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from the Court of Common Pleas of Beaufort County, South Carolina
The Honorable Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2011-199666

Elizabeth O'Meara,..... Respondent,

v.

Brookdale Senior Living, Inc., Southern Assisted Living, LLC, and Sonia S. King,
.....Defendants,

Of whom Brookdale Senior Living, Inc. and Southern Assisted Living, LLC
.....are the Appellants.

Yvonne Carrie Pruett,..... Respondent,

v.

Brookdale Senior Living, Inc., Southern Assisted Living, LLC, and Sonia S. King,
.....Defendants,

Of whom Brookdale Senior Living, Inc. and Southern Assisted Living, LLC,
.....are the Appellants.

Janet Sue Scheerle,..... Respondent,

v.

Brookdale Senior Living, Inc., Southern Assisted Living, LLC, and Sonia S. King,
.....Defendants,

Of whom Brookdale Senior Living, Inc. and Southern Assisted Living, LLC,
.....are the Appellants.

APPELLANTS' REPLY TO RESPONDENTS' RETURN TO APPELLANTS' MOTION TO ENFORCE THE AUTOMATIC STAY

The main issue in this consolidated appeal is whether the parties are to either (a) arbitrate these cases or (b) litigate them. By serving subpoenas, deposition notices, and other discovery, the Respondents are trying to litigate these cases while this Court must decide whether these cases should be litigated at all. They are, in other words, proceeding on issues that must be decided first by the appeal.

There is no compelling reason to ignore Rule 205's automatic stay when this Court will ultimately decide whether the arbitration clauses are valid and enforceable. If the clauses are enforceable, as the Appellants believe, then the Respondents will have their opportunity to conduct the limited discovery available to them under the arbitration provision. On the other hand, if this Court ultimately affirms the lower court, then all parties may proceed with discovery in the lower court and will have ample time to litigate the case. Why should the parties violate the automatic stay before this Court has a chance to rule on the enforceability of the arbitration provision? There is simply no compelling reason for bypassing these rules and litigating a case that is currently on appeal as to whether it may be litigated at all.

1. Discovery Is Stayed Under Rule 205.

As stated, this consolidated appeal concerns the enforceability of three arbitration provisions. The arbitration provisions provide for limited discovery that takes place "in the arbitration proceeding." (**Exhibit A** at V(A)(6)). No depositions, except expert depositions, are allowed. Id. at V(A)(6)(c). The arbitration provision does not contemplate subpoenas, as subpoenas are not listed in the provision on

limited discovery, and arbitration clauses are private agreements where parties lack subpoena power. The Respondents are trying to bypass the agreement and hold broad discovery while the arbitration agreements are pending on appeal.

The Respondents fail to cite a single case where discovery may proceed while arbitration proceeds on appeal. As one court noted, finding such a case may be a difficult task. See In re Kaiser Group Intern, Inc., 400 B.R. 140, 145 (D. Del. 2009) ("the parties have been unable to locate any case law suggesting that discovery should commence in an action that has been stated pending arbitration.").

Although the Appellants found no South Carolina case addressing whether an arbitration appeal stays discovery, the First, Seventh, and Eleventh Circuits have all addressed this scenario. In Lummus Co. v. Commonwealth Oil Refining Co., 273 F.2d 613 (1st Cir. 1959), the court addressed a motion to delay discovery pending an appeal regarding arbitrability. The court stated that "[i]t seems clear that if arbitration is to be had of the entire dispute, appellee's right to discovery must be far more restricted than if the case remains in federal court for a plenary trial of the issue of fraud. We cannot avoid the thought that the principal reason appellee has for not awaiting discovery until the decision of this court is the fear that that courser will be unavailable if such ruling proves to be adverse." Id. at 613-13.

In Bradford-Scott Data Corp., Inc. v. Physician Computer Network, Inc., 128 F.3d 504 (7th Cir. 1997), the Seventh Circuit noted that "[a]rbitration clauses reflect the parties' preference for non-judicial dispute resolution, which may be faster and cheaper. These benefits are eroded, and may be lost or even turned into net losses, if it is necessary to proceed in both judicial and arbitral forums, or to do this

sequentially." And the Eleventh Circuit held that "the underlying reasons for allowing immediate appeal of a denial of a motion to compel arbitration are inconsistent with continuation of proceedings in the district court, and a non-frivolous appeal warrants a stay of those proceedings." Blinco v. Green Tree Servicing, LLC, 366 F.3d 1249 (11th Cir. 2004).

In this case, there is no compelling reason to proceed with discovery—particularly with depositions that are forbidden under the arbitration agreements—while this Court determines whether the parties are to arbitrate or litigate this case. Instead, there are compelling reasons to honor the automatic stay in Rule 205. If this Court ultimately upholds the arbitration provision, the Appellants would be prejudiced by the Respondents continuing attempts to conduct discovery, as the Appellants have honored the agreements and served no discovery. Unless discovery is stayed, the parties risk inconsistent decisions if, for example, the lower court compels discovery on one issue while this appeal is pending, and then the arbiter subsequently finds that such discovery is unwarranted. There is no need to risk inconsistent decisions and messy proceedings when the simple solution is to honor Rule 205's automatic stay.

The Respondents will suffer no prejudice by honoring Rule 205's automatic stay. If this Court upholds the arbitration provision, the Respondents will have the opportunity for limited arbitration discovery. On the other hand, if this Court denies arbitration, the Respondents will have ample time to conduct their discovery, take their depositions, and litigate the case accordingly. There is simply no need to

bypass the automatic stay when violating the stay presents the risk of prejudice, while honoring the stay presents no risk of prejudice.

2. The Appellants Have Not "Participated In Discovery" As Respondents Suggest, Nor Have They Improperly Sought Relief in Two Courts.

First, the Respondents claim that the Appellants have "participated in discovery" is disingenuous. The Appellants have served no interrogatories, requests to produce or admit, subpoenas, or deposition notices. The Appellants have served no discovery, and all discovery served has been entirely one-sided.

The Appellants' only "participation" in discovery has been to respond to request to produce and interrogatories that were served in the Scheerle case *before* the Notice of Appeal was filed, and then to later answer requests to admit out of an abundance of caution. In the Scheerle case, there was a lengthy delay before the lower court was able to rule on the Appellants' Motion to Reconsider on its Motion to Compel Arbitration. During this delay, Respondent Scheerle served discovery, which the Appellants reluctantly answered. The Appellants also answered with the following disclaimer: "By agreeing to produce this discovery while a Motion to Reconsider is pending on the Brookdale Defendant's Motion to Compel Arbitration, the Brookdale Defendants are not waiving their right to seek arbitration under the parties' binding Residency Agreement." (**Exhibit B**, Page 1 of Appellants' Answers to Requests to Produce and Interrogatories).

As to the requests to admit in the Scheerle case, the Appellants were faced with the dilemma of either (a) answering despite the stay or (b) not answering and risking the admissions being deemed admitted. Faced with these two options, the

Appellants answered the requests to admit, subject to a similar disclaimer found in the previous answers to discovery.

Therefore, it is unfair and disingenuous to claim that the Appellants have "participated" in discovery, when the Appellants have served no discovery, and have only responded to certain discovery reluctantly out of an abundance of caution. The Appellants have consistently asserted that discovery should be stayed in these matters.

Finally, as to the assertion that the Appellants have sought relief in both lower court and this Court, the Respondents misapply Rule 12(b)(8), which deals with defenses to *pleadings,* such as a scenario when a plaintiff has filed the same complaint in two different states. In this case, the Appellants have filed motions to stay in both the lower court and this Court but they are simply covering their bases and filing both motions out of an abundance of caution.

The Appellants simply want this Court to put an end to the Respondents' continued abuse of Rule 205 and the automatic stay. The Appellants believe this Court is the proper forum to decide this issue, and have accordingly asked the lower court to delay holding a hearing until this Court rules. (**Exhibit C**, Email Request to Judge Mullen's Chambers). As of the date of this filing, the lower court has not continued the hearing on the motions in the lower court, but the lower court had to cancel the hearings that were scheduled for June 19, 2013 due to a conflict. The parties have not yet heard when the lower court intends to hold the hearings, but the Appellants ultimately believe this Court is the proper forum for determining the scope of these appeals.

3. Rule 205 Is An Automatic Stay Giving This Court *Exclusive* Jurisdiction.

Rule 205 is an automatic stay that gives the Appellant court *exclusive* jurisdiction over the appeal. It is essentially a subject-matter jurisdictional rule. Even if the Appellants wanted to do so, they could not divest this Court of its exclusive jurisdiction. See, e.g., State v. Dudley, 354 S.C. 514, 522, 581 S.E.2d 171, 175 (Ct. App. 2003) ("Jurisdiction of the subject matter cannot be waived by any act or omission of the parties.").

Further, the circumstance in which the Respondents argue waiver is inapplicable to the current discovery dispute. The Appellants did argue Rule 241 in response to an order that would sanction the Appellants at $1,000 a day if they did not produce certain internal-investigation files by a certain date. (See Exhibit 9 to Respondents Return). Importantly, that order was based on discovery that was served and answered in the Scheerle case *before* this Appeal was filed. (See **Exhibit B**). After receiving the order that would potentially sanction them $1,000 a day, the Appellants were faced with the decision of either (a) producing the files or (b) continuing to appeal the order and risk incurring sanctions that may accrue while the appeal was pending. Given that the sanctions might exceed six figures before an appeal was resolved, the Appellants chose to produce the files and withdraw the appeal *to those specific files.*

Even looking at this issue in the light most favorable to the Respondents, at best the Appellants waived the right to challenge the lower court's order on the internal-investigation files by withdrawing their appeal *as to those files.* They certainly did not waive their right to enforce Rule 205's automatic stay as it applies

to all other discovery served in the Scheerle case, particularly discovery served *after* the appeal was filed.

CONCLUSION

The Respondents have offered no compelling reason to ignore the automatic stay in Rule 205 and litigate a case that is currently on appeal as to whether it should be litigated at all. Staying discovery removes the risk of inconsistent judgments and rulings and allows the parties to proceed in an orderly fashion once this Court determines whether the parties are to either arbitrate or litigate this claim. Therefore, the Appellants ask this Court to enforce the automatic stay in Rule 205 and stay discovery until this appeal is resolved.

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Attorneys for Appellants, Brookdale Senior Living, Inc. and Southern Assisted Living, LLC

June 19, 2013

Columbia, South Carolina

EXHIBIT A

The Company will provide a written explanation if the Company terminates this Agreement with less than thirty (30) days notice.

D. TERMINATION BY EITHER PARTY

You, your Responsible Party or the Company may terminate this agreement immediately in the event of death or if a physician certifies, based upon an examination prior to moving out, that you must be relocated because of your health. The Company requests you provide written notice of your intent to terminate. Termination shall be effective the day after your last date of residence.

V. ARBITRATION AND LIMITATION OF LIABILITY PROVISION

Should any of sub-sections A, B or C provided below, or any part thereof, be deemed invalid, the validity of the remaining sub-sections, or parts thereof, will not be affected.

A. ARBITRATION PROVISION

1. Any and all claims or controversies arising out of or in any way relating to this Agreement or the Resident's stay at the Company, excluding any action for eviction, and including disputes regarding interpretation of this Agreement, whether arising out of State or Federal law, whether existing or arising in the future, whether for statutory, compensatory or punitive damages and whether sounding in breach of contract, tort or breach of statutory duties, irrespective of the basis for the duty or the legal theories upon which the claim is asserted, shall be submitted to binding arbitration, as provided below, and shall not be filed in a court of law. **The parties to this Agreement further understand that a jury will not decide their case.** The Federal Arbitration Act shall govern the procedure, except if inconsistent with this Arbitration Provision or expressly stated otherwise in this Agreement. Further, nothing in this Agreement is to be construed to contradict any applicable South Carolina statutory grievance or mediation procedure. Any party who demands arbitration must do so for all claims or controversies that are known, or reasonably should have been known, by the date of the demand for arbitration, and if learned of during the course of the arbitration proceeding shall amend the claims or controversies to reflect the same. All current damages and reasonably foreseeable damages arising out of such claims or controversies shall also be incorporated into the initial demand or amendment thereto.

2. Demand for Arbitration by Resident, his or her guardian, a person or organization acting on behalf of a Resident with the consent of the Resident or his or her guardian, or the personal representative of the estate of a deceased Resident (collectively "Resident Party") shall be made in writing and submitted to CT Corporation System, 75 Beattie Place, Two Insignia Financial Plaza, Greenville, SC 29601, via certified mail, return receipt requested. Demand for Arbitration by the Company shall be made in writing and submitted to the Resident or his or her agent, representative, successor or assign and/or Resident's Attorney-in-Fact, and/or Responsible Party via certified mail, return receipt requested.

3. The arbitration proceedings shall take place in the county in which the Community is located, unless agreed to otherwise by mutual consent of the parties.

4. The arbitration panel shall be composed of one (1) arbitrator. Subject to the requirements of section A.5. herein, the parties shall agree upon an arbitrator that must either be a retired South Carolina circuit or federal court judge or a member of the South Carolina Bar with at least ten (10) years of experience as an attorney. If the parties cannot reach an agreement on an arbitrator within twenty (20) days of receipt of the Demand for Arbitration, then the arbitration shall be submitted to the National Arbitration Forum, or other similar organization, but must still be conducted by one (1) arbitrator who is a retired South Carolina circuit or federal court judge or a member of the South Carolina Bar with at least ten (10) years of experience practicing as an attorney. If the arbitrator is selected from the National Arbitration Forum, or other similar organization, each party shall have the right to request one (1) substitution within ten (10) days of receiving notice of the identity of the arbitrator. The person requesting of the substitution shall submit a request for substitution in writing to the National Arbitration Forum, or other similar organization, and to the other party via U.S. mail.

5. The arbitrator shall be independent of all parties, witnesses, and legal counsel. No past or present officer, director, affiliate, subsidiary, or employee of a party, witness, or legal counsel may serve as an arbitrator in the proceeding.

6. Discovery in the arbitration proceeding shall be governed by the Federal Rules of Civil Procedure. However, discovery shall be modified by the following, unless agreed to otherwise by the party to whom the request is made:

   a. The Resident Party shall provide the Company with permissible discovery per the Federal Rules of Civil Procedure within twenty (20) days after Demand for Arbitration is received (and the Company shall reimburse Resident Party $0.25 per page).

   b. The Company shall provide the Resident Party with permissible discovery per the Federal Rules of Civil Procedure within twenty (20) days after the Demand for Arbitration is received (and Resident Party, unless proven indigent, shall reimburse the Company $0.25 per page).

   c. The only depositions allowed shall be of experts. No other individuals may be deposed.

   d. Resident Party shall designate any and all expert witnesses within sixty-five (65) days after Demand for Arbitration is submitted.

   e. The Company shall have thirty (30) days after Resident Party's expert designation is received in which to depose such experts.

f. The Company shall designate any and all experts one hundred and fifteen (115) days after Demand for Arbitration is submitted.

g. Resident Party shall have thirty (30) days after the Company's expert designation is received in which to depose such experts.

h. Any report or affidavit of an expert, and a list of all records contained in the expert's file, must be exchanged by the parties no later than ten (10) working days before the date of the expert's deposition.

i. The following shall be exchanged no later than fourteen (14) working days before the arbitration hearing:

1. List of witnesses to be called at the arbitration hearing (full name, title, address and phone number if known) and an outline of each witnesses' intended testimony;

2 List of documents to be relied upon at the arbitration hearing;

3. Any sworn recorded statements to be relied upon at the arbitration hearing and included therewith the full name, title, address and phone number of the person making the sworn statement.

j. The arbitration hearing shall be held no later than one hundred and eighty (180) days after Demand for Arbitration is submitted, or within a reasonable time thereafter if a conflict arises with the arbitrator's calendar.

7. The arbitrator shall designate a time and place within the county in which the Community is located, for the arbitration hearing and shall provide thirty (30) days' notice to the parties of the arbitration hearing.

8. The arbitrator shall apply the Federal Rules of Evidence and Federal Rules of Civil Procedure in the arbitration proceeding except where otherwise stated in this Agreement. Also, the arbitrator shall apply, and the arbitration decision shall be consistent with, Federal law except as otherwise stated in this Arbitration Provision.

9 The arbitration decision should be signed by the arbitrator and delivered to the parties and their counsel within thirty (30) days following the conclusion of the arbitration. The decision shall set forth in detail the arbitrator's findings of fact and conclusions of law.

10. The arbitrator's decision shall be final and binding without the right to appeal.

11. The arbitrator's fees and costs associated with the arbitration shall be divided equally among the parties, unless the Resident Party is proven indigent. The parties shall bear their own attorneys' fees and costs and hereby expressly waive any right to recover attorney fees or costs, actual or statutory.

12. The arbitration proceeding shall remain confidential in all respects, including the Demand for Arbitration, all arbitration filings, deposition transcripts, documents produced or obtained in discovery, or other material provided by and exchanged between the parties and the arbitrator's findings of fact and conclusions of law. Following receipt of the arbitrator's decision, each party agrees to return to the producing party within thirty (30) days the original and all copies of documents exchanged in discovery and at the arbitration hearing, except those documents required to be retained by counsel pursuant to law. Further the parties to the arbitration also agree not to discuss the amount of the arbitration award or any settlement, the names of the parties, or the name/location of the Community except as required by law.

13. The Limitation of Liability Provision below is incorporated by reference into this Arbitration Provision

14. This Arbitration Provision and the Limitation of Liability Provision below shall survive the death of the Resident.

X _____
(Please initial as having read and understood the provisions of section V., subsection A)

B. LIMITATION OF LIABILITY PROVISION: *Read Carefully Before Signing*

1. The parties to this Agreement understand that the purpose of this "Limitation of Liability Provision" is to limit, in advance, each party's liability in relation to this Agreement.

2. Liability for any claim brought by a party to this Agreement against the other party, including but not limited to a claim by the Company for unpaid Basic Service or Personal Service charges, or a claim by, or on behalf of, a Resident, Resident Party, or by a Resident's Estate, Agent or Legal Representative, arising out of the care or treatment received by the Resident or the Resident's occupancy or presence at the Company, including, without limitation, claims for medical negligence, shall be limited as follows:

   a. Net economic damages shall be awardable, including but not limited to, past and future medical expenses, offset by any collateral source payments such as payments made by medical insurance.

   b. Noneconomic damages, such as pain and suffering, shall be limited to a maximum of $250,000.00.

   c. Interest and/or late fees on unpaid assisted living charges shall not be awarded.

   d. Punitive damages shall not be awarded.

EXHIBIT B

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	IN THE COURT OF COMMON PLEAS
Janet Sue Scheerle, Plaintiff, vs. Brookdale Senior Living, Inc., Southern Assisted Living, Inc., and Sonia S. King, Defendants.	Case No. 2011-CP-07-2654 **BROOKDALE DEFENDANTS' RESPONSE TO PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

Defendants, Brookdale Senior Living, Inc. and Southern Assisted Living, Inc. (hereinafter "Brookdale Defendants") respond to Plaintiff's First Set of Requests for Production of Documents to Brookdale Senior Living, Inc. and Southern Assisted Living, Inc. as follows[1]:

1. All documents that were used to prepare any of Defendants' answers to Plaintiff's First Set of Interrogatories to Defendants.

RESPONSE: Brookdale Defendants object to the extent that this request seeks information prepared in anticipation of litigation, attorney work-product, or other similarly privileged materials. Subject to and without waiving this objection, Brookdale Defendants produced Plaintiff's Resident Record, Bates numbered CHHH_000001(Scheerle) through CHHH_000211(Scheerle) on July 20, 2012.

[1] By agreeing to produce this discovery while a Motion to Reconsider is pending on the Brookdale Defendant's Motion to Compel Arbitration, the Brookdale Defendants are not waiving their rights to seek arbitration under the parties' binding Residency Agreement.

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	IN THE COURT OF COMMON PLEAS
Janet Sue Scheerle, Plaintiff, vs. Brookdale Senior Living, Inc., Southern Assisted Living, Inc. and Sonia S. King, Defendants.	Case No. 2011-CP-07-2654 **BROOKDALE DEFENDANTS' ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Defendants, Brookdale Senior Living, Inc. and Southern Assisted Living, Inc. (hereinafter "Brookdale Defendants") answer Plaintiff's First Set of Interrogatories to Defendants as follows[1]:

1. Set forth the names and addresses of person known to you to be a witness concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

ANSWER:

a. Brookdale Defendants objects to the extent that the request seeks information prepared in anticipation of litigation, attorney work product, or other similarly privileged materials. Subject to and without waiving this objection, the following current and former

[1] By agreeing to produce this discovery while a Motion to Reconsider is pending on the Brookdale Defendant's Motion to Compel Arbitration, the Brookdale Defendants are not waiving their rights to seek arbitration under the parties' binding Residency Agreement.

EXHIBIT C

Richardson, Joyce

From: Grier, Manton M.
Sent: Wednesday, June 19, 2013 11:43 AM
To: Richardson, Joyce
Subject: FW: Request to Continue the O'Meara (2011-CP-07-1610) & Scheerle (2011-CP-07-2654) Discovery Motions Scheduled for June 19 [IWOV-NPCOL1.FID1229708]
Attachments: Motion to Stay.pdf; June 3 2013 Letter to McNair Counsel from COA Requesting Return to Automatic Stay.PDF

From: Grier, Manton M.
Sent: Thursday, June 06, 2013 11:36 AM
To: 'Mullen, Carmen T. Law Clerk (Allison C. Coppage)'
Cc: Manos, Marc A.; Mitchell, VickiLynn; Wall, Susan (SWall@mcnair.net); Chewning, Kathleen (KChewning@mcnair.net); kjolley@mcnair.net; Richardson, Joyce
Subject: Request to Continue the O'Meara (2011-CP-07-1610) & Scheerle (2011-CP-07-2654) Discovery Motions Scheduled for June 19 [IWOV-NPCOL1.FID1229708]

Allison:

As you are probably aware, Marc Manos and I represent Brookdale Senior Living and the Carolina House of Hilton Head. Please see the attached Motion to Stay that we filed late last month in the court of appeals and the letter from the court of appeals giving the plaintiffs 10 days to file a return. Under Appellate Rule 205, the appellate courts have exclusive jurisdiction over the appeal, while the circuit courts have jurisdiction over matters not affecting the appeal. The Motion to Stay is essentially asking the court of appeals whether it has jurisdiction to stay the discovery that the plaintiffs have filed, as we believe it affects the matters currently on appeal.

We are asking whether Judge Mullen will continue the discovery motions in O'Meara and Scheerle scheduled June 19 until the court of appeals has a chance to rule on this issue. This would better serve judicial economy in order to prevent inconsistent (or consistent) rulings from two different courts. If the court of appeals denies the motion, then it will be clear that the plaintiffs' motions are properly filed in state court. But if the court of appeals grants the stay, then there will be no need to have a hearing on the discovery motions.

The plaintiffs will suffer no prejudice if we continue the June 19 hearing. Final briefs and the record on appeal were just filed on Tuesday. The court of appeals has not noticed oral argument, and that may be several months down the road. Regardless of what happens, the plaintiff will have plenty of time to conduct discovery and either litigate or arbitrate these cases.

Please let me know if Judge Mullen will agree to continue this hearing until after the court of appeals decides the motion. If the court of appeals denies the motion, we will consent to having these motions heard as soon as possible after that decision.

If this request should be made in the form of a formal motion, please let me know.

Respectfully,
Manton Grier Jr.

Manton M. Grier, Jr.
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NEXSEN|PRUET

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from the Court of Common Pleas of Beaufort County, South Carolina
The Honorable Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2011-199666

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Of Whom Brookdale Senior Living, Inc. and Southern Assisted Living, LLC
.....are the Appellants.

PROOF OF SERVICE

The undersigned certifies that a copy of the **Appellants' Reply To Respondents' Return To Appellants' Motion To Enforce The Automatic Stay** has been served upon counsel of record by depositing a copy of the same, first-class postage prepaid in the United States Mail, on the 9th day of June, 2013, to the address shown below.

Susan Wall, Esquire
McNAIR LAW FIRM, P.A.
Post Office Box 1431
Charleston, South Carolina 29402

Kelly M. Jolley, Esquire
McNAIR LAW FIRM, P.A.
Post Office Drawer 3
Hilton Head Island, South Carolina 29938

NEXSEN PRUET, LLC

Columbia, South Carolina

NEXSEN|PRUET

Manton M. Grier, Jr.
Special Counsel
Admitted in SC

June 19, 2013

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of Court, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

Re: Elizabeth O'Meara, *Respondent*, Yvonne Carrie Pruett, *Respondent*, Janet Sue Scheerle, *Respondent* vs. Brookdale Senior Living, Inc., Southern Assisted Living, LLC and Sonia S. King, *Defendants* - Of Whom Brookdale Senior Living, Inc. and Southern Assisted Living, LLC d/b/a Carolina House of Hilton Head are the *Appellants* / Appellate Case No. 2011-199666

Dear Ms. Kitchings:

Enclosed for filing with the Court is the original and six copies of the **Appellants' Reply To Respondents' Return To Appellants' Motion To Enforce The Automatic Stay** and **Proof Of Service** in the above-referenced consolidated matter. Please file the original and return a copy, clocked-in, to me via our courier.

By copy of this letter and as evidenced by the attached Proof Of Service, we are serving counsel of record with three copies of the above Reply.

Thank you for your assistance.

Very truly yours,

Manton M. Grier, Jr.

MMG/hjr
Enclosure
cc w/encl.: Kelly M. Jolley, Esquire
Susan T. Wall, Esquire

Charleston
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