

RECEIVED

May 15 2023

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

Appeal from the
ADMINISTRATIVE LAW COURT
The Honorable Shirley C. Robinson, Administrative Law Judge

Appellate Case No. 2020-000837
Case No. 19-ALJ-17-0001-CC

Eighteen Ink, LLC, d/b/a Group Therapy Respondent

v.

South Carolina Department of Revenue Respondent

and

Thomas R. Gottshall, April C. Lucas, and Michael Drennan Intervenors/Appellants

**Respondent Eighteen Ink, LLC’S Motion
for Judicial Notice and to Supplement the Record on Appeal**

John R. Alphin (Bar No. 72583)
Bakari T. Sellers (Bar No. 79714)
Matthew B. Robins (Bar No. 103685)
Strom Law Firm, LLC
6923 N. Trenholm Road, Suite 200
Columbia, SC 29206
(803) 252-4800
JAlphin@stromlaw.com
BSellers@stromlaw.com
MRobins@stromlaw.com

Whitney B. Harrison (Bar No. 100111)
McGowan, Hood, Felder, & Phillips, LLC
1517 Hampton Street
Columbia, SC 29201
(803) 779-0100

Attorneys for Respondent Eighteen Ink, LLC

Respondent Eighteen Ink, LLC (“Group Therapy”) requests this Court take judicial notice of the Administrative Law Court’s (“the ALC”) filings related to Group Therapy’s license status for the 2020-2022 licensing period, as well as the 2022-2024 period. *See* Rule 201(f), SCRE (“Judicial notice may be taken at *any stage* of the proceeding.” (emphasis added)). Additionally, for purposes of preserving the record and general best practices, Group Therapy requests the Court also supplement the Record on Appeal with these materials pursuant to Rules 212(b) and 240 of the South Carolina Appellate Court Rules.

Since the filing of briefs in this matter, three key filings have occurred in the ALC surrounding Group Therapy’s licenses. First, the Department of Revenue, Intervenor, and Respondent Group Therapy reached an agreement on Group Therapy’s 2020-2022 license—thereby, agreeing Group Therapy should be allowed to continue to operate. Together, they jointly filed a consent motion for issuance of Group Therapy’s permit and license with agreed upon restrictions. *See Exhibit A*, August 13, 2021 Consent Motion for Issuance of Permit and License with Restrictions. Second, in response to this consent motion, the ALC issued a final order, which allowed Group Therapy to sell alcohol for the 2020-2022 period. *See Exhibit B*, September 21, 2021 Final Order—*Eighteen Ink, LLC, d/b/a Group Therapy v. South Carolina Department of Revenue*, Docket number 21-ALJ-17-0055-CC; *see also Exhibit C*, Group Therapy’s 2020-2022 On Premises Beer & Wine Permit and Business Liquor by the Drink License. Third, on August 22, 2022, the Department of Revenue issued Group Therapy a 2022-2024 permit and license. *See Exhibit D*, Group Therapy’s 2022-2024 On Premises Beer & Wine Permit and Business Liquor by the Drink License. Notably, this permit and license were issued without protest. *Id.*

When taken together, these filings demonstrate that Group Therapy has been issued two distinct licenses. One by consent of the Department of Revenue and all of the Intervenor in this

present matter, and subsequently issued another one without protest. (See Exhibit A, pg. 2, ¶ 2 & pg. 3, ¶ 1; Exhibit C; Exhibit D).

Judicial Notice and supplementation are appropriate. As to judicial notice, these materials fall squarely into the purpose and use of this evidentiary rule. See Rule 201, SCRE. As to supplementation, these materials should be allowed on procedural and substantive grounds. First, as to procedure, these materials are relevant to the issues currently before this Court and occurred following the filing of briefs. As to the merits, these materials illustrate there is no judicial controversy and, therefore, this appeal is moot.¹ It is well-settled that appellate courts should not issue advisory opinions on questions for which no meaningful relief can be granted. See *Sloan v. Greenville Cty.*, 356 S.C. 531, 590 S.E.2d 338 (Ct. App. 2003) (“[C]ases or issues which have become moot or academic in nature are *not a proper subject of review.*” (emphasis added) (quoting *Wallace v. City of York*, 276 S.C. 693, 694, 281 S.E.2d 487, 488 (1981)); see also *Matter of Angela Suzanne C.*, 286 S.C. 186, 189, 332 S.E.2d 542, 543 (Ct. App. 1985) (“It is settled law that this Court *will not issue advisory opinions* on questions for which no meaningful relief can be granted.” (emphasis added)).

For the foregoing reasons, Respondent Group Therapy respectfully requests that the Court take judicial notice of these ALC filings and include them in the Record on Appeal.

Signature included on following page

¹ Practically, whether Respondent Group Therapy was entitled to renewal of its August 2018 through August 2020 permit and license has effectively been rendered moot. In their Final Reply Brief, Appellants argue the question of Group Therapy’s 2018-2020 licensure status was not moot because Group Therapy was operating under that license, pursuant to S.C. Code § 1-23-370(b), while the protests to the 2020-2022 license renewal were being resolved. (Appellant’s Final Reply Brief, pg. 6). However, because Appellants withdrew their protests to the 2020-2022 license renewal and Group Therapy received renewals of its permit and license, Group Therapy is no longer reliant on its 2018-2020 permit and license and any determination regarding that licensing period will have no practical legal effect.

Respectfully submitted,



John R. Alphin (Bar No. 72583)
Bakari T. Sellers (Bar No. 79714)
Matthew B. Robins (Bar No. 103685)
Strom Law Firm, LLC
6923 N. Trenholm Road, Suite 200
Columbia, SC 29206
(803) 252-4800
JAlphin@stromlaw.com
BSellers@stromlaw.com
MRobins@stromlaw.com

Whitney B. Harrison (Bar No. 100111)
McGowan, Hood, Felder, & Phillips, LLC
1517 Hampton Street
Columbia, SC 29201
(803) 779-0100

Attorneys for Respondent Eighteen Ink, LLC

Columbia, South Carolina

May 15, 2023