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Jun 09 2023

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Spartanburg County
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

Appellate Case No. 2023-000432
Case No. 2021-CP-42-03701

The Estate of Jo Eva Rice, deceased,
by her Personal Representative Sonya Lovett,

Respondent,

v.

Fundamental Clinical and Operational Services, LLC;
Fundamental Administrative Services, LLC; and
THI of South Carolina at Magnolia Place–Spartanburg,
a/k/a Physical Rehab and Wellness of Spartanburg,

Appellants,

**MOTION FOR EXTENSION OF TIME (IF FURTHER ACTION IS
NEEDED) TO COMPLY WITH THE COURT'S LETTER OF MAY 30, 2023**

CLEMENT RIVERS, LLP
Stephen L. Brown (SC Bar No. 66468)
D. Jay Davis, Jr. (SC Bar No. 12084)
James D. Gandy, III (SC Bar No. 11925)
Russell G. Hines (SC Bar No. 72100)
T. Ashton Phillips, III (SC Bar No. 104227)
25 Calhoun Street, Suite 400
Charleston, South Carolina 29401
P.O. Box 993 (29402)
(843) 720-5488

Attorneys for Appellants

NOW COME Appellants, Fundamental Clinical and Operational Services, LLC, Fundamental Administrative Services, LLC, and THI of South Carolina at Magnolia Place–Spartanburg, a/k/a Physical Rehab and Wellness of Spartanburg, by and through their undersigned counsel, pursuant to Rule 263(b), SCACR, and, on the grounds set forth below, hereby move for an extension of ten (10) days’ time (if further action by Appellants is needed) to comply with the Court’s letter of May 30, 2023.

On May 30, 2023, the Court sent a letter to the undersigned stating “the Court’s records reflect that the time for serving and filing the appellants’ initial brief and designation of matter has expired” and prescribing a 10-day deadline for Appellants’ to serve and file their initial brief and designation of matter, along with a motion requesting permission to serve and file them outside of the deadlines set by Rules 208 and 209 of the South Carolina Appellate Court Rules. (See **Exhibit 1**, attached hereto.) In response to the Court’s letter, on May 31, 2023, the undersigned served and filed a letter advising the Court that Appellants had not yet received one of the transcripts related to this appeal and, accordingly, that it was his understanding that the time for serving and filing Appellants’ initial brief and designation of matter had not yet begun to run under Rule 208 and 209 and asking the Court to advise whether, under the circumstances, the directive (to proceed

with serving filing Appellants' initial brief etc.) in the Court's letter still applied. (See **Exhibit 2**, attached hereto.)

Having not yet heard back from the Court in regard to his letter of May 31, 2023, and wishing very much to avoid any risk of Appellants' appeal being dismissed, the undersigned did not want to let today (Friday, June 9, 2023, the tenth (10th) day following the Court's letter of May 30, 2023) pass without making clear that he has no intention whatsoever of defying the directive in the Court's letter of May 30, 2023 (i.e., he will, of course, proceed as the Court wishes), but under the circumstances (i.e., with one of the transcripts related to this appeal yet to be received), is in good faith unsure how to proceed.¹ Accordingly, Appellants respectfully request that the deadline to comply with the Court's letter of May 30, 2023, be extended 10 days, the undersigned respectfully submitting that there is good cause to grant such relief, as it is consistent with the interests of justice and will not work any undue prejudice upon Respondent.

WHEREFORE, Appellants move this Honorable Court to grant them an extension of 10 days' time to comply with the Court's letter of May 30, 2023. With the extension requested herein, the new deadline for compliance with the letter would be Monday, June 20, 2023, according to the undersigned's

¹ As of the filing of this motion, Appellants are still yet to receive the remaining transcript. As stated in the undersigned's letter of May 31, 2023, we have been advised by the court reporter that the transcript is scheduled for completion by June 14, 2023. (See **Exhibit 2**.)

calculations. Further, Appellants respectfully request the Court hold the present deadline to comply with the May 30, 2023, letter in abeyance until it acts upon this motion.

Respectfully submitted,
CLEMENT RIVERS, LLP

By: s/Russell G. Hines
Stephen L. Brown (SC Bar No. 66468)
D. Jay Davis, Jr. (SC Bar No. 12084)
James D. Gandy, III (SC Bar No. 11925)
Russell G. Hines (SC Bar No. 72100)
T. Ashton Phillips, III (SC Bar No. 104227)
25 Calhoun Street, Suite 400
Charleston, South Carolina 29401
P.O. Box 993 (29402)
(843) 720-5488
Attorneys for Appellants

Charleston, South Carolina

June 9, 2023



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

May 30, 2023

Mr. Stephen Lynwood Brown, Esquire
PO Box 993
Charleston SC 29402-0993

Mr. Donald Jay Davis, Jr., Esquire
PO Box 993
Charleston SC 29402

Mr. James D. Gandy, III, Esquire
PO Box 993
CHARLESTON SC 29402

Mr. Russell Grainger Hines, Esquire
PO Box 993
Charleston SC 29402-0993

Mr. Ted Ashton Phillips, III, Esquire
PO Box 993
Charleston SC 29402

Re: The Estate of Jo Eva Rice v. Fundamental Clinical and Operational Services,
LLC
Appellate Case No. 2023-000432

Dear Counsel:

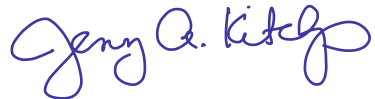
Our records reflect that the time for serving and filing the appellants' initial brief

EXHIBIT

1

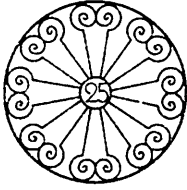
and designation of matter has expired. Within ten (10) days of the date of this letter, you must serve and file the appellants' initial brief and designation of matter, along with a motion requesting permission to serve and file the appellant's initial brief and designation of matter outside of the filing deadlines set by Rules 208 and 209 of the South Carolina Appellate Court Rules. Your appeal will be dismissed if no motion is made within ten (10) days of the date of this letter.

Very truly yours,

A handwritten signature in blue ink that reads "Jenny A. Kitzler". The signature is written in a cursive style with a large initial "J" and "K".

CLERK

cc: Warren H. Christian, Jr., Esquire
Matthew W. Christian, Esquire



CLEMENT RIVERS, LLP

ATTORNEYS AT LAW

Russell G. Hines
Partner

Direct Dial: (843) 720-5488
Direct Fax: (843) 579-1327
E-mail: RHines@ycrlaw.com

May 31, 2023

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May 31 2023

SC Court of Appeals

VIA EMAIL ONLY

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

Re: The Estate of Jo Eva Rice v. Fundamental Clinical and Operational Services, LLC
Appellate Case No.: 2023-000432
Case No.: 2021-CP-42-03701
Claim No.: HBLM# 1923547
YCR File: 14347-20210593

Dear Ms. Kitchings:

I am in receipt of your letter of May 30, 2023, advising that the Court's records reflect that the time for serving and filing the appellants' initial brief and designation of matter has expired and setting a 10-day deadline for us to serve and file the appellants' initial brief and designation of matter, along with a motion requesting permission to serve and file them outside of the deadlines set by Rules 208 and 209, SCACR.

With my sincere apologies to the Court if I am mistaken in this regard, as explained below, it is my understanding that the time for serving and filing the appellants' initial brief and designation of matter has not yet begun to run under Rules 208 and 209, because we are still awaiting receipt of one of the transcripts necessary for this appeal.

We ordered two transcripts in the above-referenced matter on March 16, 2023. (See Exhibit A attached hereto.) The first hearing was held on April 1, 2022,¹ and the second hearing was held on February 21, 2023. On April 25, 2023, my staff was contacted by Michelle Farias of Escribers regarding the February 21, 2023, transcript only, stating the transcript was expected to be completed on or before June 24, 2023. (See Exhibit B attached hereto.) On May 1, 2023, Sallie B. Todd emailed my staff a copy of the April 1, 2022, transcript as well as an invoice for the same. (See Exhibit C attached hereto.) To date, we have yet to receive the February 21, 2023, transcript, but

¹ Through a scrivener's error, the letter ordering the transcript dates the hearing as April 1, 2023, but the transcript request form has the correct date on it.

Jenny Abbott Kitchings, Clerk of Court
May 31, 2023
Page 2 of 2

we were informed this morning by Escribers that the transcript is scheduled for completion by June 14, 2023.

Accordingly, and, again, with my sincere apologies to the Court if I am mistaken in this regard, it is my understanding that the time for serving and filing the appellants' initial brief and designation of matter has not yet begun to run under Rules 208 and 209.

I would very much appreciate you letting me know whether my understanding is correct. Of course, if I am mistaken, we will certainly proceed as directed by your letter of May 30, 2023. And, as always, thank you very much for your attention to this matter.

With best wishes and kindest regards, I am

Sincerely,

CLEMENT RIVERS, LLP

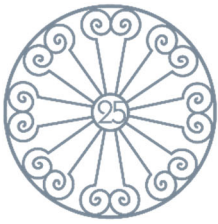
s/Russell G. Hines

Russell G. Hines

RGH/amj

Enclosures

cc: Tammie M. Holmes, South Carolina Court Administration
Matthew W. Christian, Christian & Christian, LLC
W. Harold Christian, Jr., Christian & Christian, LLC



CLEMENT RIVERS, LLP

ATTORNEYS AT LAW

Aimee M. Justman
Legal Assistant

Direct Dial: (843) 720-5460
Direct Fax: (843) 579-1385
E-Mail: Ajustman@ycrlaw.com

March 16, 2023

VIA EMAIL ONLY

Webex
1220 Senate Street, Suite 200
Columbia, SC 29201
transcripts@sccourts.org

RECEIVED
Mar 16 2023
SC Court of Appeals

Re: The Estate of Jo Eva Rice v. Fundamental Clinical and Operational Services, LLC
Appeal Case No.: 2023-000432
Underlying Case No.: 2021-CP-42-03701
Claim No.: HBLM# 1923547
YCR File: 14347-20210593

Dear Court Reporter:

This law firm represents Fundamental Clinical and Operational Services, LLC; Fundamental Administrative Services, LLC; and THI of South Carolina at Magnolia Place-Spartanburg, a/k/a Physical Rehab and Wellness of Spartanburg in the above-referenced matter. In that regard, pursuant to the attached transcript request form, I would like to request two hearing transcripts in the above-referenced matter. The first hearing was held on April 1, 2023 in front of the Honorable J. Durham Cole. The second hearing was held on February 21, 2023 also in front of the Honorable J. Durham Cole.

Please inform me if you require a deposit prior to mailing us a copy and we will send it immediately, otherwise we will remit payment upon receipt of your invoice. If you have any questions, please contact me at the telephone number listed above.

With best wishes and kindest regards, I am

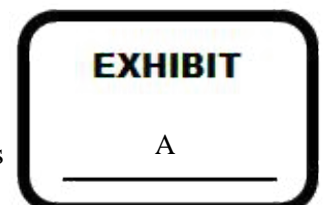
Sincerely,

CLEMENT RIVERS, LLP

Aimee M. Justman
Legal Assistant

/amj

cc: W. Harold Christian, Jr., Esquire, Christian & Christian, LLC
Matthew W. Christian, Christian & Davis LLC
Jenny Abbott Kitchings, Clerk of Court, South Carolina Court of Appeals
South Carolina Court Administration



Transcript Request Form

Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, the transcribed paper copy is the official record of court proceedings. You may request a transcript by completing this form and emailing it to the Court Reporter and to South Carolina Court Administration at transcripts@sccourts.org. Click [here](#) for instructions on how to find the court reporter's email and mailing addresses. Once the court reporter receives your request, it will be processed pursuant to Rule 207 and 607 of the SCACR. Rule 607(h) governs the fees for transcripts, which are not provided for free or at reduced rates to any party. Please send by mail a money order or certified bank check to the court reporter in order to obtain the transcript. Some court reporters may accept personal checks. Please check with the court reporter to see if this option is available. Once your request is received, you will receive a copy of this form with the bottom portion completed. Please promptly submit your payment in order for the transcript to be provided. If you need to cancel the transcript request for any reason, you are responsible for paying for the pages of the transcript that have already been completed at the time of the cancellation.

Requestor's Information			
Full Name <u>Russell G. Hines</u>		Phone Number <u>(843) 720-5488</u>	Email Address <u>ajustman@ycrlaw.com</u>
Mailing Address <u>25 Calhoun Street, Suite 400</u>		City <u>Charleston</u>	State <u>SC</u>
Transcript Information			
Docket Number <u>2021-CP-42-03701</u>		Case Caption (i.e. State v. John Doe or Smith v. Smith) <u>The Estate of Jo Eva Rice v. Fundamental Clinical and Operational Services, LLC</u>	
Date(s) of Proceeding <u>April 1, 2022</u> <u>February 21, 2023</u>		Circuit <input checked="" type="checkbox"/> Family <input type="checkbox"/>	County <u>Spartanburg</u>
Presiding Judge <u>J. Durham Cole</u>		Expedited Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Court Reporter(s) <u>Webex</u>		Opposing Counsel <u>W. Harold Christian, Jr.</u> <u>Matthew W. Christian</u>	

Requestor's Signature: s/Russell G. Hines
(Typed name will serve as signature)

Date: March 16, 2023

Note: If you are ordering a transcript pursuant to Rule 207(a)(1), SCACR, you must contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter.

For Court Reporter Use Only			
Full Name _____		Date Received _____	Email Address _____
Notice of Estimate to Requestor Party Date: _____ Number of Pages: _____ Estimated Amount _____			
Mailing Address for Payment _____		City _____	State _____
		Zip Code _____	

Justman, Aimee

From: Michelle Farias <mfarias@escribers.net>
Sent: Wednesday, April 26, 2023 3:18 PM
To: Bell, Pollyana (Polly); Sales
Cc: Justman, Aimee
Subject: RE: eScribers Transcript order no [SCJB00200] : The Estate of Jo Eva Rice v. Fundamental Clinical and Operational Services; 2021-CP-42-03701; 2/21/23

Hi,

Received, thank you. The transcript will be completed on 6/24/23.

Thanks,



Michelle Farias
Client Relations Manager
973-406-2250 | Office
800-257-0885 | Toll free
917-789-5314 | Direct

"One Click Away from All Your Reporting and Transcription Needs"

From: Bell, Pollyana (Polly) <pbell@ycrlaw.com>
Sent: Wednesday, April 26, 2023 2:17 PM
To: Sales <sales@escribers.net>
Cc: Justman, Aimee <AJustman@ycrlaw.com>
Subject: RE: eScribers Transcript order no [SCJB00200] : The Estate of Jo Eva Rice v. Fundamental Clinical and Operational Services; 2021-CP-42-03701; 2/21/23

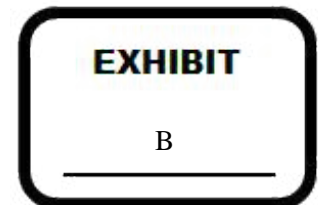
Good afternoon, attached please find our firm's check representing the deposit for this transcript which is being mailed today.

Thank you,

Pollyana Bell
Project Assistant
Commercial Litigation Practice Group
Phone:(843)720-5488 | Fax:(843)579-1369



From: eScribers Sales <sales@escribers.net>
Sent: Tuesday, April 25, 2023 12:50 PM
To: Justman, Aimee <AJustman@ycrlaw.com>
Cc: sales@escribers.net; webapp@escribers.net
Subject: eScribers Transcript order no [SCJB00200] : The Estate of Jo Eva Rice v. Fundamental Clinical and Operational Services; 2021-CP-42-03701; 2/21/23



To Russell G. Hines,

We are contacting you regarding your transcript order in the case: **The Estate of Jo Eva Rice v. Fundamental Clinical and Operational Services; 2021-CP-42-03701; 2/21/23**

We roughly estimate the transcript will be around 28.00 pages for a sixty day turnaround * \$4.25 per page = \$119.00

Before we can begin transcribing it, we will require a \$119.00 deposit.

Please be aware, turnaround time begins once we receive your deposit.

To pay by credit card via our secure website:

Please click the following link, or copy it into your browser's address bar:

<https://escribers.net/payment/?reference=SCJB00200&amount=119>

Enter your credit card information, name, email and address and click "Pay Now".

Or if you would like, we can take your credit card deposit payment over the phone.

If you have any other questions, please let us know.

eScribers LLC

Phone: 800-257-0885

Email: sales@escribers.net

7227 N 16th Street
Suite 207
Phoenix, AZ 85020

▪

Clement Rivers, LLP

<http://www.ycrlaw.com>

Charleston: (843) 577-4000

Attachments larger than 40MB may be rejected by the firm's server. If you are sending an attachment of this size or larger, please contact the intended recipient to inform him/her of your transmission.

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Justman, Aimee

From: Todd, Sallie B. <sbtodd@sccourts.org>
Sent: Monday, May 1, 2023 11:23 AM
To: Justman, Aimee
Subject: The Estate of Jo Eva Rice vs Fundamental Clinical and Operational Services, LLC
Attachments: Estate.of.Jo.Eva.Rice.04.01.2022.pdf; Estate.of.Rice.Cert.Scan.jpeg;
Rice.vs.Fundamental.5.1.23.Copy.docx

Categories: Appeal

Good morning Mr. Hines,

Please find attached a copy of the above referenced transcript, along with the Certificate Page and Invoice for the same. If you need anything further, please let me know.

Thanks,

Sallie Beth Todd

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

**EXHIBIT**

C

**RECEIVED**

**Jun 09 2023**

**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

---

Appeal from Spartanburg County  
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

---

Appellate Case No. 2023-000432  
Case No. 2021-CP-42-03701

---

The Estate of Jo Eva Rice, deceased,  
by her Personal Representative Sonya Lovett,

Respondent,

v.

Fundamental Clinical and Operational Services, LLC; Fundamental  
Administrative Services, LLC; and  
THI of South Carolina at Magnolia Place–Spartanburg, a/k/a Physical  
Rehab and Wellness of Spartanburg,

Appellants,

---

**PROOF OF SERVICE**

---

CLEMENT RIVERS, LLP  
Stephen L. Brown (SC Bar No. 66468)  
D. Jay Davis, Jr. (SC Bar No. 12084)  
James D. Gandy, III (SC Bar No. 11925)  
Russell G. Hines (SC Bar No. 72100)  
T. Ashton Phillips, III (SC Bar No. 104227)  
25 Calhoun Street, Suite 400  
Charleston, South Carolina 29401  
P.O. Box 993 (29402)  
(843) 720-5488

*Attorneys for Appellants*

I, Russell G. Hines, of Clement Rivers, LLP, attorneys for Appellants, hereby certify that Appellants' **MOTION FOR EXTENSION OF TIME (IF FURTHER ACTION IS NEEDED) TO COMPLY WITH THE COURT'S LETTER OF MAY 30, 2023** was served on Respondent on June 9, 2023, by emailing (see attached service email) a copy of the same to Respondent's counsel of record:

W. Harold Christian, Jr., Esquire  
[hchristian@cclawfirm.com](mailto:hchristian@cclawfirm.com)  
Matthew W. Christian, Esquire  
[mchristian@cclawfirm.com](mailto:mchristian@cclawfirm.com)  
CHRISTIAN & CHRISTIAN, LLC  
*Attorneys for Respondent*

Respectfully submitted,  
CLEMENT RIVERS, LLP

By: s/Russell G. Hines  
Russell G. Hines (SC Bar No. 72100)  
*Attorneys for Appellants*

Charleston, South Carolina

June 9, 2023

## Bell, Pollyana (Polly)

---

**From:** Bell, Pollyana (Polly)  
**Sent:** Friday, June 9, 2023 4:52 PM  
**To:** 'hchristian@cclawfirm.com'; 'mchristian@cclawfirm.com'  
**Cc:** Hines, Russell; Justman, Aimee  
**Subject:** Rice v. Fundamental Clinical; Appellate Case No. 2023-000432 (CR 210593)  
**Attachments:** Motion for extension - may 30 letter.pdf; Ex. 1.pdf; Ex. 2.pdf

Enclosed please find Appellants' Motion for Extension of Time (if further action is needed) to Comply with the Court's Letter of May 30, 2023, and the exhibits referenced therein which will be filed today in the above-referenced matter.

Thank you,

Pollyana Bell  
Project Assistant  
Commercial Litigation Practice Group  
Phone:(843)720-5488 | Fax:(843)579-1369



**CLEMENT RIVERS, LLP**  
25 Calhoun Street • Suite 200 • Charleston, SC 29401  
www.clementrivers.com