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May 02 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Charleston County
Court of Common Pleas

Jennifer B. McCoy, Circuit Court Judge

Appellate Case No. 2025-000286

William Haynes as Personal Representative of the Estate of Elizabeth Varner,

Respondent,

v.

Fundamental Services LLC, Fundamental Clinical and Operational Services LLC, and Jerrolyn
Montgomery-Small,

Appellants.

**RESPONDENT'S RETURN TO APPELLANTS'
SECOND REQUEST FOR EXTENSION OF TIME TO FILE/SERVE RETURN TO
MOTION TO DISMISS**

PINKSTON LAW FIRM, LLC
Shawn Pinkston, SC Bar No. 79965
856 Lowcountry Blvd., Suite 101
Mount Pleasant, South Carolina 29464
Office: 843-814-5472

Attorney for Respondent

COMES NOW William Haynes, as Personal Representative of the Estate of Elizabeth Varner, and pursuant to Rule 240(e), SCACR, files this Return to Appellants' Second Request for Extension of Time to File/Serve Return to Respondent's Motion to Dismiss. The underlying case, *William Haynes, as Personal Representative of the Estate of Elizabeth Varner v. Fundamental Administrative Services, Fundamental Clinical and Operational Services, and Jerrolyn Montgomery-Small*s, CAFN: 2021CP1002744 ("Case 2744") was initially filed on June 11, 2021. Case 2744 was subject to a stay, with said stay being lifted on February 12, 2024. Appellants filed a Motion for Summary Judgment on June 28, 2024, and said Motion was denied on September 20, 2024. Appellants filed a Motion to Reconsider the denial of summary judgment on October 2, 2024, which was denied on October 4, 2024. Appellants then filed a Motion to Compel Arbitration on November 14, 2024, which was nothing more than a disguised Rule 59 motion to reconsider the denial of summary judgment. The Motion to Compel Arbitration was denied on February 2, 2025, with Appellants' Motion to Reconsider also denied on February 7, 2025.

Appellants filed the instant Notice of Appeal on February 18, 2025. Respondent timely filed the subject Motion to Dismiss Appellants' Notice of Appeal on April 11, 2025, once the transcript was prepared. Respondent seeks dismissal of Appellants' Notice of Appeal due to the interlocutory nature of the appealed order. Appellants' response was due on April 21, 2025. Appellants requested an extension of time "[o]n account of work-related and other time commitments," without specifying what work-related and other time commitments necessitated the delay. The request was granted and Appellants' response was due May 1, 2025. On May 1, 2025, Appellants requested a second extension of time based on the same reasoning of "work-related and other time commitments," again without any specifics that support their requested extension.

Appellants have now had more than twenty (20) days to file a return to Respondent's Motion to Dismiss and have not provided good cause for their continued delay in responding. Their generalized comments in support of their request are nothing more than work-related events every attorney in the State of South Carolina faces on a daily basis. Respondent argues in his Motion to Dismiss the Notice of Appeal that Appellants are seeking to appeal an interlocutory order (denial of summary judgment) by artfully crafting a successive Rule 59 motion to reconsider as a Motion to Compel Arbitration. Appellants, who filed the Notice of Appeal, should be required to return a filing to Respondent's Motion to Dismiss within the time limits as outlined in the SCACR without additional delays.

It has now been almost four (4) years since the lawsuit was filed, more than fourteen (14) months since the stay was lifted, and more than six (6) months since Appellants' Motion for Summary Judgment was denied. Respondent has suffered prejudice, and continues to suffer prejudice, in that he has been unable to move forward with a case where a stay has been lifted over objection of Appellants. Further, Appellants have steadfastly refused to produce discovery despite court orders and Respondent is now facing additional delays due to Appellants' inappropriate Notice of Appeal that is basically an appeal of an interlocutory order. Appellants' ought to be required to file a return to Respondent's Motion to Dismiss given this timeline and the interlocutory nature of their Notice of Appeal.

Respondent respectfully request this Court DENY Appellants' Second Motion for Extension of Time to File/Serve Return to Motion to Dismiss and request this Court order Appellants' to file a Return within twenty-four (24) hours of the entry of the denial.

[signature appears on following page]

Respectfully submitted,

PINKSTON LAW FIRM, LLC

/s/ Shawn Pinkston

Shawn Pinkston, SC Bar No. 79965

856 Lowcountry Blvd., Suite 101

Mount Pleasant, South Carolina 29464

Office: 843-814-5472

Attorney for Respondent

Mount Pleasant, South Carolina

Dated: May 2, 2025

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PROOF OF SERVICE

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Attorney for Respondent

I, Shawn Pinkston, of the Pinkston Law Firm, LLC, attorney for Appellant, hereby certify that I have served **Respondent's Return to Appellants' Second Request for Extension of Time to File/Serve Return to Respondent's Motion to Dismiss** was served on all parties by electronic mail (see attached emails) a copy of the same to Appellants' Counsel of Record:

Russell G. Hines
Stephen L. Brown (SC Bar No. 66468)
D. Jay Davis, Jr. (SC Bar No. 12084)
Matthew O. Riddle (SC Bar No. 76650)
Russell G. Hines (SC Bar No. 72100)
Young Clement Rivers LLP
25 Calhoun Street – Suite 400
Charleston, S.C. 29401

Attorneys for Appellants

Mount Pleasant, South Carolina
May 2, 2025

From: Shawn Pinkston shawnpinkston@me.com 

Subject: Re: Haynes v. Fundamental (2025-000286) -- Respondent's Return to Appellants' Second Request for Extension of Time to File/Serve Return to Respondent's Motion to Dismiss



Date: May 2, 2025 at 12:56 PM

To: Hines, Russell RHines@yclr.com, Brown, Stephen L. sbrown@yclr.com, Davis, Jay jdavis@yclr.com, Riddle, Matthew MRiddle@yclr.com

Cc: Justman, Aimee AJustman@yclr.com, Bell, Pollyana (Polly) pbell@yclr.com, Peterson, Susan speterson@yclr.com, Bohannon, Kiara kbohannon@yclr.com, Eadie, Christine ceadie@yclr.com

Russ,

See attached with corrected caption. Thanks.

Resp Return to 2d Req for Ext of Time.pdf



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On May 2, 2025, at 12:46 PM, Shawn Pinkston <shawnpinkston@me.com> wrote:

Russ,

See attached Respondent's Return to Appellants' Second Request for Extension of Time to File/Serve Return to Respondent's Motion to Dismiss, which is being filed with the Court of Appeals. Thank you.

<Resp Return to 2d Req for Ext of Time.pdf>

Shawn Pinkston
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