

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen Tevis Mullen, Circuit Court Judge

Case No. 2011-CP-07-1610

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

v.

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

and

Sonia S. King....., Defendant.

**APPELLANTS' RETURN TO RESPONDENT'S MOTION
FOR INVOLUNTARY DISMISSAL**

Respondent Elizabeth O'Meara, without consultation between counsel, has filed an unusual (and novel) Motion. She argues that Brookdale Senior Living, Inc. and Southern Assisted Living, LLC ("Appellants") should be responsible for the court reporter's neglect in completing the transcript. She seeks a dismissal—a harsh and drastic remedy—for something that is out of Appellants' control. The Motion is frivolous and should never have been filed.

A. Background

The Appellants' counsel has repeatedly tried to secure the transcript in this case but with no success. Appellants filed their Notice of Appeal on September 22, 2011.

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JUN 25 2012
SC Court of Appeals

Five days later, on September 27, Appellants wrote the court reporter to order a copy of the transcript (**Exhibit A**). The letter came back as “box closed,” so the assistant for the Appellants’ counsel sent an email to the court reporter on October 13, 2011 asking for her correct address. The court reporter also said she “[w]ill get this invoice out for you tomorrow asap (Wednesday).” (**Exhibit B**). The court reporter never sent the invoice (or the transcript), so Appellants’ counsel again wrote her on November 30, 2011. (**Exhibit C**).

Roughly two weeks later, on December 15, 2011, Respondent’s counsel went on maternity leave. (**Exhibit D**). On February 21, 2012, the Court inquired about the status of the transcript. (**Exhibit E**). Appellant’s counsel informed the Court on February 22 that it had not yet received the transcript and provided the Court with the correspondence exchanged with the court reporter. (**Exhibit F**). On April 3 and April 19, counsel for Appellants again wrote the court reporter requesting the transcript. (**Exhibit G and H**).

When Respondent’s counsel returned from maternity leave, counsel for both parties began the process of scheduling a mediation in order to try to resolve the case without need for an appeal or trial. A mediation was held on June 12, 2012, but the mediation ended at an impasse. Three days later on June 15—and without first consulting Appellants’ counsel in order to try to work out a solution regarding the court reporter’s delay—the Respondent filed this Motion.

B. There is No Basis to Dismiss an Appeal Based on the Neglect of the Court Reporter When Appellants’ Counsel Has Written the Court Reporter Five Times Trying to Secure the Transcript

It appears that the Respondent is frustrated that the court reporter has failed to deliver the transcript. However, rather than file a Motion to Compel the court reporter to

deliver the transcript or seek other relief against the court reporter, the Respondent filed a Motion to Dismiss the Appellants' appeal. As stated above, Appellants' counsel has written the court reporter five times seeking the transcript, but it exercises no control over the court reporter. The Respondent has likewise tried and failed to secure the transcript from the court reporter. (**Exhibit I**). The Appellants would have willingly filed a joint motion with the Respondent to compel the court reporter to produce the transcript—and the Appellants are still willing to take this approach—but the Respondent took matters into her own hands just three days after a failed mediation and sought to blame the Appellants for events outside their control. This Motion should be denied.

Although the Respondent cites Henning v. Kaye, 307 S.C. 436, 415 S.E.2d 794 (1992) for the proposition that the Appellate Court Rules “are not mere technicalities,” that case actually suggests this motion should be denied. In that case, the appellant was the actual party committing a number of formatting and other errors in its the brief. Nevertheless, the Court refused to dismiss the appeal. In this case, however, a third party has caused the delay. There is simply no basis to deny Appellants' appeal based on the actions of a third party over which the Appellants exercise no control.

The only “errors” committed by the Appellants are trivial. The Appellants failed to notify the court 60 days after failing to receive the transcript after it was initially ordered and the Appellants failed to copy opposing counsel on two letters to the court reporter. Those trivial errors, however, had no bearing on the status of the appeal.¹ Counsel promptly informed the Court when it inquired about the status of the transcript.

¹ Rule 207 contains a mechanism for compelling the court reporter to provide the transcript: “The willful failure of a court reporter to comply with the provisions of this Rule shall constitute contempt of court enforceable by order of the Supreme Court.” Rule 207(a)(6), SCACR. The Rule, however, lacks a similar mechanism that would assign fault to the Appellant for the court reporter's delay.

And Respondent's counsel has been kept informed about the status of the transcript. For Respondent now to claim she is "prejudiced" by these trivialities is disingenuous. Indeed on April 19, 2012, when Appellants' counsel wrote Respondent's counsel about the status of the transcript, Respondent's counsel responded, "[t]hat is really weird about the court reporter. Any luck getting mediation dates?" (**Exhibit J**).

Up until now, the Respondent has made no effort to compel the court reporter to provide the transcript. And if the Respondent truly believed she had grounds to dismiss the appeal when Appellants did not write a letter to the Court 60 days after not receiving the transcript, *the Respondent should have filed her motion then*. Instead, the Respondent waited seven months, continued to communicate with Appellants' counsel regarding the transcript and the mediation, and participated in a mediation on June 12, 2012.

C. Respondent's Motion Contains Several Misrepresentations

The Respondent's Motion contains several misrepresentations. Significantly, the Respondent's Motion alleges that Appellants are intentionally delaying this appeal. The Motion states that Appellants' "intentional delay has prevented their appeal from going forward[.]" (Motion at p. 2). Appellants' counsel is very disappointed that Respondent would make this assertion. If Respondent is going to assert such a serious accusation, she should provide some proof in support. The numerous times that Appellants have tried to secure the transcript is proof enough that they are not "intentionally delaying" this appeal.

The Motion also alleges that "[i]n the nearly four months since this Court's letter to Appellants, they have taken no other action to move their appeal forward and have communicated no intent to do so to this Court or Respondent." (Motion p. 4). This

statement is not true, and Respondent knows this. On April 3 and April 19, 2012, Appellants wrote the court reporter seeking the status of the transcript, copying the Court on both letters. On April 19, Appellants' counsel apologized for failing to copy her on the letter dated April 3, but Respondent's counsel merely responded that, "That is really weird about the court reporter." (**Exhibit J**). Until this Motion was filed, Appellants were unaware that the Respondent took issue with the Appellants efforts to secure the transcript.

Finally, the Respondent alleges that "Appellants have made no effort, other than filing a Notice of Appeal, to prosecute their appeal of this interlocutory order." (Motion p. 4). Again, this is false, as evidenced by the five times Appellants have tried to secure the transcript. The Appellants have done everything required under the rules to prosecute their appeal. If any party is guilty of allowing the appeal to languish, it is the court reporter.

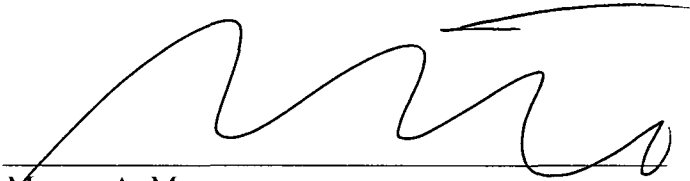
Appellants understand that the Respondent's counsel must advocate zealously on behalf of the client. But the rhetoric should be toned down and, at the very least, be accurate.

D. Appellants Reserve the Right to Seek Sanctions Under Rule 269

Under Rule 269, SCACR, this Court may sanction a party for filing a frivolous motion. At this time, Appellants are not seeking sanctions. Instead, Appellants would encourage the Respondent to withdraw this Motion and work with Appellants to find a way to secure the transcript or find a solution to move forward without it. Appellants, however, reserve the right to seek sanctions.

E. Conclusion

This is a Motion that should never have been filed. The Respondent seeks the unusual (and novel) relief that the appeal should be dismissed for the neglect of the court reporter. The Respondent also makes some unsupported accusations. There is no basis for dismissing the appeal, and this Court should deny the Respondent's Motion.



Marcus A. Manos
Manton M. Grier, Jr.
NEXSEN PRUET, LLC
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Post Office Drawer 2426
Columbia, South Carolina 29202
PHONE: 803.771.8900
FACSIMILE: 803.253.8277
MManos@nexsenpruet.com

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

June 25, 2012

Columbia, South Carolina

EXHIBIT A

NEXSEN|PRUET

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

September 27, 2011

Deborah E. Everett
Post Office Box 4461
Beaufort, South Carolina 29903

**Re: Elizabeth O'Meara v. Brookdale Senior Living, Inc., Southern
Assisted Living, LLC and Sonia S. King / Case No. 2011-CP-07-1610**

Dear Ms. Everett:

I am writing to order a copy of the hearing transcript in the above-referenced matter which was heard before Judge Carmen T. Mullen on June 23, 2011 in Beaufort County. Please forward an invoice for the transcript to me and I will promptly return payment.

Charleston

Charlotte

Columbia

Greensboro

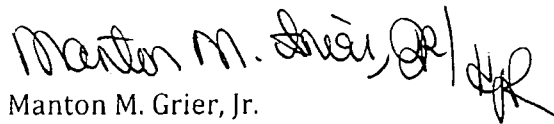
Greenville

Hilton Head

Myrtle Beach

Raleigh

Very truly yours,



Manton M. Grier, Jr.

MMG/hjr

cc: The Honorable Tanya Gee
The Honorable Jerri Ann Roseneau
Kelly M. Jolley, Esquire

1230 Main Street
Suite 700 (29201)
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Nexsen Pruet, LLC
Attorneys and Counselors at Law

EN PRUET

F2128
2128



\$00.44⁰⁰

ZIP 29201
01101608630

David E. Pruet
Post Office Box 443
Beaufort, South Carolina 29502

323 N7E 1 911F 00 10/09/11
EVERETT RETURN TO SENDER

BOX CLOSED
UNABLE TO FORWARD
RETURN TO SENDER
BC: 29202242626 *1434-06121-05-40

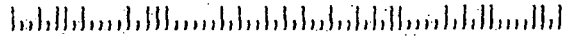


EXHIBIT B

Mitchell, VickiLynn

From: Everett, Deborah E. <deverett@sccourts.org>
Sent: Tuesday, October 18, 2011 9:41 PM
To: Richardson, Joyce
Subject: RE: Case Nos. 2011-CP-07-1610 and 2011-CP-07-1700 [IWOV-NPCOL1.FID1212471]
Attachments: image001.png; image003.png; image004.png

Will get this invoice out for you tomorrow asap..(.Wednesday)

Deborah E. Everett
Resident Court Reporter
Beaufort County
The Honorable Judge Carmen T. Mullen
14th Judicial Circuit
404 931 3589

From: Richardson, Joyce [JRichardson@nexsenpruet.com]
Sent: Thursday, October 13, 2011 12:46 PM
To: Everett, Deborah E.
Cc: Mullen, Carmen T. Law Clerk (Robin Graham); Grier, Manton M.; Mitchell, VickiLynn
Subject: Case Nos. 2011-CP-07-1610 and 2011-CP-07-1700 [IWOV-NPCOL1.FID1212471]

Debbie, I have tried on two occasions to send these letters to you via mail. Changed zip code to 29902 from 29903 but they both came back BOX CLOSED. Please forward me your correct address.

Joyce Richardson
Administrative Assistant to
Marcus A. Manos
J. David Black
Manton M. Grier, Jr.
VickiLynn Mitchell
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, South Carolina 29201
T: 803.771.8900 ext. 3350 F: 803.253.8277 JRichardson@nexsenpruet.com<<mailto:JRichardson@nexsenpruet.com>>
www.nexsenpruet.com<<http://www.nexsenpruet.com>>
[Description: Nexsen Pruet] <<http://www.nexsenpruet.com/>>

[\[cid:image004.png@01CC89A6.0DA44E70\]](#) [Description: http://www.nexsenpruet.com/L/links_s.png]
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EXHIBIT C

NEXSEN|PRUET

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

November 30, 2011

Deborah E. Everett
1104 Greene Street
Beaufort, South Carolina 29902

**Re: Elizabeth O'Meara v. Brookdale Senior Living, Inc., Southern
Assisted Living, LLC and Sonia S. King / Case No. 2011-CP-07-1610**

Dear Ms. Everett:

I am writing to order a copy of the hearing transcript in the above-referenced matter which was heard before Judge Carmen T. Mullen on June 23, 2011 in Beaufort County. Please forward an invoice for the transcript to me and I will promptly return payment.

Charleston

Charlotte

Columbia

Greensboro

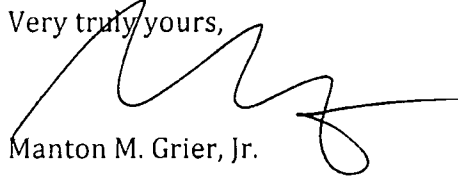
Greenville

Hilton Head

Myrtle Beach

Raleigh

Very truly yours,


Manton M. Grier, Jr.

MMG/hjr

1230 Main Street
Suite 700 (29201)
PO Drawer 2426
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T 803.540.2116
F 803.727.1439
E MGrier@nexsenpruet.com
Nexsen Pruet, LLC
Attorneys and Counselors at Law

EXHIBIT D

Grier, Manton M.

From: Jolley, Kelly <KJolley@MCNAIR.NET>
Sent: Thursday, December 15, 2011 10:45 AM
To: Grier, Manton M.
Subject: Re: Are you on maternity leave yet?

I can talk this afternoon - Go on leave today. My cell is 843-290-9212

Kelly M. Jolley
Special Counsel
kjolley@mcnair.net

McNair Law Firm, P.A.
<http://www.mcnair.net>

Hilton Head Island Office Shelter Cove Executive Park, 23-B Shelter Cover Lane | Suite 400 | Hilton Head Island, SC 29928
843 785 2171 Main | 843 686 5991 Fax
Mailing Post Office Drawer 3 | Hilton Head Island, SC 29938

From: Grier, Manton M. [<mailto:MGrier@nexsenpruet.com>]
Sent: Thursday, December 15, 2011 10:43 AM
To: Jolley, Kelly
Subject: Are you on maternity leave yet?

If not, are you available to talk this afternoon?

If you are, hope everything went well and I will just catch up with you when you return.

Manton

Manton M. Grier, Jr.
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, SC 29201
T: 803.540.2116, F: 803.253.8277
mgrier@nexsenpruet.com
www.nexsenpruet.com

NEXSEN PRUET



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EXHIBIT E



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

February 21, 2012

Marcus A. Manos, Esquire
Manton M. Grier, Jr., Esquire
Nexsen Pruet, LLC
P.O. Drawer 2426
Columbia, SC 29202

Re: O'Meara, Elizabeth v. Brookdale Senior
2011199666

Dear Counsel:

Our records indicate that the transcript in the above matter should have been delivered by November 28, 2011. As of today's date, we have received no information indicating that the court reporter has been granted an extension, nor have we received your initial brief.

If you have not yet received the transcript, you must contact the Office of Court Administration per Rule 207 of the South Carolina Appellate Court Rules. The address for Court Administration is as follows:

South Carolina Office of Court Administration
1015 Sumter Street, Suite 201
Columbia, SC 29201

Be sure to copy the Court and opposing counsel with all correspondence concerning the transcript.

Please advise the Court of the status of the transcript within ten (10) days of the date of this letter, or your appeal may be dismissed.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/ma

cc: Kelly McPherson Jolley, Esquire

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FEB 22 2012

NEXSEN PRUET, LLC

NEXSEN PRUET, LLC

EXHIBIT F

NEXSEN|PRUET

Marcus A. Manos
Member
Admitted in SC, NC, DC

February 22, 2012

South Carolina Office of Court Administration
ATTENTION: V. CLAIRE ALLEN, DEPUTY
1015 Sumter Street, Suite 201
Columbia, South Carolina 29201

**Re: O'Meara, Elizabeth v. Brookdale Senior
2011199666**

Dear Ms. Allen:

I am responding to your letter of February 21, 2012 regarding the transcript for the above referenced matter. We have not received the transcript from the Court Reporter as of this date. Please find correspondence we have sent to the Court Reporter and received from the Court Reporter.

Charleston

Charlotte

Columbia

Greensboro

Greenville

Hilton Head

Myrtle Beach

Raleigh

With best regards, I am

Very truly yours,



Marcus A. Manos

MAM/hjr

Enclosure

cc: Kelly McPherson Jolley, Esquire

1230 Main Street
Suite 700 (29201)
PO Drawer 2426
Columbia, SC 29202
www.nexsenpruet.com

T 803.253.8275
F 803.727.1487
E MManos@nexsenpruet.com
Nexsen Pruet, LLC
Attorneys and Counselors at Law

NEXSEN | PRUET

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

November 30, 2011

Deborah E. Everett
1104 Greene Street
Beaufort, South Carolina 29902

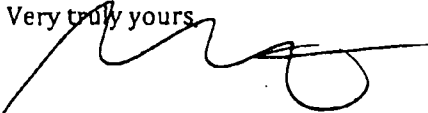
Re: **Yvonne Carrie Pruett v. Brookdale Senior Living, Inc., Southern
Assisted Living, LLC and Sonia S. King / Case No. 2011-CP-07-1700**

Dear Ms. Everett:

I am writing to order a copy of the hearing transcript in the above-referenced matter which was heard before Judge Carmen T. Mullen on June 23, 2011 in Beaufort County. Please forward an invoice for the transcript to me and I will promptly return payment.

Charleston
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Columbia
Greensboro
Greenville
Hilton Head
Myrtle Beach
Raleigh

Very truly yours,



Manton M. Grier, Jr.

MMG/hjr

1230 Main Street
Suite 700 (29201)
PO Drawer 2428
Columbia, SC 29202
www.nexsenpruet.com

T 803.540.2118
F 803.727.1439
E MGrier@nexsenpruet.com
Nexsen Pruet, LLC
Attorneys and Counselors at Law

Richardson, Joyce

From: Everett, Deborah E. <deverett@sccourts.org>
Sent: Tuesday, October 18, 2011, 9:41 PM
To: Richardson, Joyce
Subject: RE: Case Nos. 2011-CP-07-1610 and 2011-CP-07-1700 [IWOV-NPCOL1.FID1212471]
Attachments: image001.png; image003.png; image004.png

Will get this invoice out for you tomorrow asap..(.Wednesday)

Deborah E. Everett
Resident Court Reporter
Beaufort County
The Honorable Judge Carmen T. Mullen
14th Judicial Circuit
404 931 3589

From: Richardson, Joyce [JRichardson@nexsenpruet.com]
Sent: Thursday, October 13, 2011 12:46 PM
To: Everett, Deborah E.
Cc: Mullen, Carmen T. Law Clerk (Robin Graham); Grier, Manton M.; Mitchell, VickiLynn
Subject: Case Nos. 2011-CP-07-1610 and 2011-CP-07-1700 [IWOV-NPCOL1.FID1212471]

Debbie, I have tried on two occasions to send these letters to you via mail. Changed zip code to 29902 from 29903 but they both came back BOX CLOSED. Please forward me your correct address.

Joyce Richardson
Administrative Assistant to
Marcus A. Manos
J. David Black
Manton M. Grier, Jr.
VickiLynn Mitchell
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, South Carolina 29201
T: 803.771.8900 ext. 3350 F: 803.253.8277 JRichardson@nexsenpruet.com<<mailto:JRichardson@nexsenpruet.com>>
www.nexsenpruet.com<<http://www.nexsenpruet.com>>
[Description: Nexsen Pruet] <<http://www.nexsenpruet.com/>>

[cid:image004.png@01CC89A6.0DA44E70] [Description: http://www.nexsenpruet.com/L/links_s.png]

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NEXSEN|PRUET

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

September 27, 2011

Deborah E. Everett
Post Office Box 4461
Beaufort, South Carolina 29903

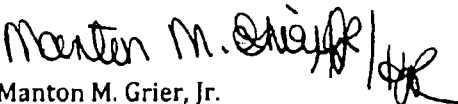
**Re: Yvonne Carrie Pruett v. Brookdale Senior Living, Inc., Southern
Assisted Living, LLC and Sonia S. King / Case No. 2011-CP-07-1700**

Dear Ms. Everett:

I am writing to order a copy of the hearing transcript in the above-referenced matter which was heard before Judge Carmen T. Mullen on June 23, 2011 in Beaufort County. Please forward an invoice for the transcript to me and I will promptly return payment.

Charleston
Charlotte
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Greensboro
Greenville
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Myrtle Beach
Raleigh

Very truly yours,


Manton M. Grier, Jr.

MMG/hjr

cc: The Honorable Tanya Gee
The Honorable Jerri Ann Roseneau
Kelly M. Jolley, Esquire

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Suite 700 (29201)
PO Drawer 2426
Columbia, SC 29202
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T 803.540.2116
F 803.727.1439
E MGrier@nexsenpruet.com
Nexsen Pruet, LLC
Attorneys and Counselors at Law

322 N7E 1 911F 00 10/08/11
EVERETT RETURN TO SENDER

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RETURN TO SENDER
BC: 29202242626 *1434-05121-03-40

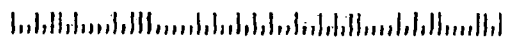


EXHIBIT G

NEXSEN | PRUET

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

April 3, 2012

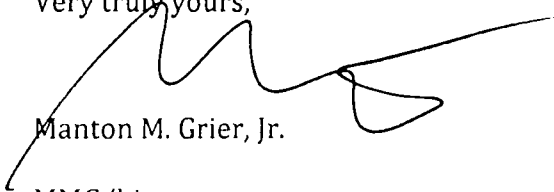
Deborah E. Everett
1104 Greene Street
Beaufort, South Carolina 29902

Re: Elizabeth O'Meara v. Brookdale Senior Living, Inc., Southern Assisted Living, LLC and Sonia S. King / Case No. 2011-CP-07-1610

Dear Ms. Everett:

I am writing again to order a copy of the hearing transcript in the above-referenced matter which was heard before Judge Carmen T. Mullen on June 23, 2011 in Beaufort County. Please forward an invoice for the transcript to me and I will promptly return payment.

Very truly yours,


Manton M. Grier, Jr.

MMG/hjr
cc: The Honorable V. Claire Allen, Deputy

Charleston

Charlotte

Columbia

Greensboro

Greenville

Hilton Head

Myrtle Beach

Raleigh

EXHIBIT H

NEXSEN|PRUET

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

April 19, 2012

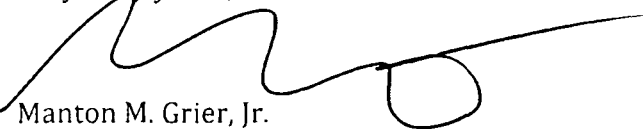
Deborah E. Everett
1104 Greene Street
Beaufort, South Carolina 29902

**Re: Elizabeth O'Meara v. Brookdale Senior Living, Inc., Southern
Assisted Living, LLC and Sonia S. King / Case No. 2011-CP-07-1610**

Dear Ms. Everett:

I am writing again for a status of the hearing transcript in the above-referenced matter which was heard before Judge Carmen T. Mullen on June 23, 2011 in Beaufort County. Please forward an invoice for the transcript to me and I will promptly return payment.

Very truly yours,


Manton M. Grier, Jr.

MMG/hjr

cc: The Honorable V. Claire Allen, Deputy, South Carolina Court of Appeals
Kelly M. Jolley, Esquire

Charleston
Charlotte
Columbia
Greensboro
Greenville
Hilton Head
Myrtle Beach
Raleigh

1230 Main Street
Suite 700 (29201)
PO Drawer 2426
Columbia, SC 29202
www.nexsenpruet.com

T 803.540.2116
F 803.727.1439
E MGrier@nexsenpruet.com
Nexsen Pruet, LLC
Attorneys and Counselors at Law

EXHIBIT I

MCNAIR
ATTORNEYS

November 7, 2011

Amber B. Martella

amartella@mcnair.net
T (803) 799-9800
F (803) 753-3278

Deborah E. Everett
P.O. Box 4461
Beaufort, South Carolina 29903

Re: Elizabeth O'Meara v. Brookdale Senior Living, Inc., Southern Assisted
Living, LLC, and Sonia S. King / Case No. 2011-CP-07-1610

Dear Ms. Everett:

I would like to order a copy of the transcript for the above-captioned case, heard on June 23, 2011, before the Honorable Carmen T. Mullen in Beaufort County, South Carolina. Please forward an invoice, or advise if you require payment in advance.

Sincerely,



Amber B. Martella

ABM:dh

cc: ✓ Manton M. Grier, Jr.

McNair Law Firm, P. A.
1221 Main Street
Suite 1600
Columbia, SC 29201

RECEIVED

NOV - 9 2011

Mailing Address
Post Office Box 11390
Columbia, SC 29211

mcnair.net

MCNAIR
ATTORNEYS

November 28, 2011

Amber B. Martella

amartella@mcnair.net
T (803) 799-9800
F (803) 753-3278

Deborah E. Everett
1104 Greene Street
Beaufort, South Carolina 29902

Re: Elizabeth O'Meara v. Brookdale Senior Living, Inc., Southern Assisted
Living, LLC, and Sonia S. King / Case No. 2011-CP-07-1610

Dear Ms. Everett:

I would like to order a copy of the transcript for the above-captioned case, heard on June 23, 2011, before the Honorable Carmen T. Mullen in Beaufort County, South Carolina. Please forward an invoice, or advise if you require payment in advance.

Sincerely,



Amber B. Martella

ABM:dh

cc: ✓ Manton M. Grier, Jr.

McNair Law Firm, P. A.
1221 Main Street
Suite 1600
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

mcnair.net

RECEIVED

NOV 30 2011

NEXSEN PRUET, LLC

EXHIBIT J

Grier, Manton M.

From: Jolley, Kelly <KJolley@MCNAIR.NET>
Sent: Thursday, April 19, 2012 1:58 PM
To: Grier, Manton M.
Subject: Re: Carolina House cases [IWOV-NPCOL1.FID1212471]

Sorry, I missed the attachment in your earlier email. That is really weird about the court reporter. Any luck getting mediation dates?

Kelly

On Apr 19, 2012, at 1:07 PM, "Grier, Manton M." <MGrier@nexsenpruet.com> wrote:

> That was our bad. Did you get the attached in the previous email?

>

> By the way, we have written the court reporter again for the third time. Still no response. I don't know what's going on there. You would think they could reproduce that transcript fairly quickly.

>

> -----Original Message-----

> From: Jolley, Kelly [mailto:KJolley@MCNAIR.NET]

> Sent: Thursday, April 19, 2012 12:55 PM

> To: Grier, Manton M.

> Cc: Huey, Linda

> Subject: Re: Carolina House cases

>

> Thank you. Please send us a copy - we didn't receive one.

>

> Kelly

>

> On Apr 19, 2012, at 11:43 AM, "Grier, Manton M." <MGrier@nexsenpruet.com> wrote:

>

>>

>>

>> From: Richardson, Joyce

>> Sent: Friday, April 13, 2012 10:14 AM

>> To: Grier, Manton M.

>> Subject: RE: Carolina House cases

>>

>> Yes, we wrote one to the Court, see attached.

>>

>> From: Grier, Manton M.

>> Sent: Thursday, April 12, 2012 5:24 PM

>> To: Richardson, Joyce

>> Subject: Fw: Carolina House cases

>>

>> Do you remember whether we wrote a letter to the court. Also can you remind me to write a letter on the motion to reconsider. Thanks

>>

>> From: Jolley, Kelly [mailto:KJolley@MCNAIR.NET]<mailto:[mailto:KJolley@MCNAIR.NET]>

>> Sent: Thursday, April 12, 2012 04:11 PM

>> To: Grier, Manton M.

>> Subject: Carolina House cases

>>

>> Manton:

>>

>> Any news on mediation? Are you going to contact the court about removing O'Meara and Pruet from trial roster for May 14 or regarding the pending motion for reconsideration in Scheerle?

>>

>> Mrs. Pruet and Mrs. O'Meara are both ailing so my clients are pushing me to get something moving.

>>

>> Thanks,

>> Kelly

>>

>> [cid:image003.jpg@01CD195E.26C83E50]

>>

>>

>>

>> Kelly Jolley

>>

>> Special Counsel

>>

>> kjolley@mcnair.net<mailto:kjolley@mcnair.net>

>>

>>

>> McNair Law Firm, P.A.

>>

>> Hilton Head Island Office Shelter Cove Executive Park, 23-B Shelter Cove Lane | Suite 400 | Hilton Head Island, SC 29928

>>

>> 843 785 2171 Main | 843 341 9830 Fax

>>

>> Mailing Post Office Drawer 3 | Hilton Head Island, SC 29938

>>

>> VCard <<http://ecard.mcnair.net/ContactCards/KJolley.vcf>> | Bio URL <<http://www.mcnair.net/Professionals/kjolley>> | Web site <<http://www.mcnair.net>>

>>

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>>

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>> <image002.jpg>

>> <image003.jpg>

>> <4-3-12 Letter to Clerk of Court Regarding Matters on 5-14-12 Jury Trial Roster.PDF>

>

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>

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CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any US Federal Tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (I) avoiding penalties under the internal revenue code or (II) promoting, marketing or recommending to another party any transaction or matter addressed herein. This advice may not be forwarded (other than within the taxpayer to which it has been sent) without our express written consent. To read more about this disclosure, please see http://www.mcnair.net/D1D330/portalresource/IRS_Circular_230.pdf

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen Tevis Mullen, Circuit Court Judge

Case No. 2011-CP-07-1610

RECEIVED

JUN 25 2012

SC Court of Appeals

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

v.

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

and

Sonia S. King,.....Defendant.

PROOF OF SERVICE

The undersigned certifies that a copy of the **Appellants' Return To Respondent's Motion For Involuntary Dismissal** 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 25th day of June, 2012, 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
Amber B. Martella, Esquire
McNAIR LAW FIRM, P.A.
Post Office Drawer 3
Hilton Head Island, South Carolina 29938


NEXSEN PRUET, LLC

NEXSEN | PRUET

June 25, 2011

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street (29201)
Post Office Box 11629
Columbia, South Carolina 29211

**Re: Elizabeth O'Meara v. Brookdale Senior Living, Inc., Southern
Assisted Living, LLC and Sonia S. King
Case No. 2011-CP-07-1610**

Dear Ms. Kitchings:

Enclosed for filing with the Court is an original and seven copies of the **Appellants' Return To Respondent's Motion For Involuntary Dismissal and Proof Of Service** in the above-referenced matter. Please return a clocked-in copy 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 a copy of the above Return.

Thank you for your assistance in this matter

Very truly yours,


Manton M. Grier, Jr.

MMG/hjr

Enclosure

cc w/encl.: Kelly M. Jolley, Esquire/Amber B. Martella, Esquire
Susan Wall, Esquire

Manton M. Grier, Jr.
Special Counsel
Attorney at Law
Columbia, SC

RECEIVED

JUN 25 2012

SC Court of Appeals

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