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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court Of Common Pleas

G. Thomas Cooper, Jr., Circuit Court Judge

RECEIVED
JUN 20 2014
Court of Appeals

Appellate Case No. 2013-002272
Case No. 2012-CP-40-08310

Linda Campbell, M.D.,Appellant,

v.

Allen S. Guignard and Ashlin Potterfield, Respondents.

RESPONDENT ASHLIN POTTERFIELD'S
MOTION TO STAY AND TO STRIKE

Pursuant to Rule 240, SCACR, Respondent Ashlin Potterfield ("Potterfield") moves to stay further deadlines in the instant appeal and to strike certain portions of the Final Brief and Record on Appeal served by Appellant Linda Campbell ("Campbell"). Potterfield's motion is based upon Campbell's failure to comply with the South Carolina Appellate Court Rules as discussed in greater detail below.

ARGUMENT

Campbell initiated this appeal with the filing of her Notice of Appeal in this Court on or after October 23, 2013. Appellant filed her Initial Brief and Designation of Matter to be Included in the Record on Appeal ("Designation of Matter") on or after February 14, 2014. In response, Potterfield filed her Initial Brief and Designation of Matter on

April 16, 2014. Appellant filed her Initial Reply Brief on May 9, 2014, followed by service of her Final Brief and the Record on Appeal on June 11, 2014.

With regard to Campbell's Final Brief, she has failed to abide by Rule 211(b), which provides that no changes may be made beyond correction of obvious typographical errors and revisions to conform citations to the record on appeal. Rule 211(b)(2) also explicitly states that "[n]o other changes may be made." In an attempt to resolve these issues informally, and without the Court's involvement, undersigned counsel brought these deficiencies to opposing counsel's attention and requested that they be corrected prior to filing of the instant motion. (*See* June 12, 2014 Correspondence, attached as Exhibit A) Undersigned counsel did not receive a response, and the deficiencies in Campbell's filings remain uncorrected.

Campbell is in violation of Rule 211(b)(2) in the following particulars:

1. She has added a heading for her third argument under the Table of Contents on page i.
2. In her Table of Contents, Campbell has deleted citations from her Initial Brief and inserted new citations.
3. On page 3, Campbell has inserted entirely new text and argument, beginning with the indented quote from her deposition testimony and ending with the penultimate full paragraph. Additionally, portions of text included in the Initial Brief have been removed.
4. On page 4, Campbell has inserted new text and argument beginning with the sentence "As previously stated. . . ." and ending on page 5 with the

citation to Dr. Campbell's deposition transcript. Additionally, portions of the Initial Brief have been removed from this section.

5. Finally, on page 6, Campbell has re-worded the last sentence of the first full paragraph, as well as the argument heading for Section III.

Turning to the Record on Appeal, Potterfield's deadline for service and filing of her Final Brief should be stayed until the following deficiencies are corrected:


1. The Record on Appeal is not indexed, merely recites the parties' designations of matter, and contains two No. 2 items.
2. The Affidavit of Robert W. Rushing, Jr., who also serves as counsel of record in this appeal, is included at pages 35-36. Mr. Rushing's Affidavit was not identified in Appellant's Designation of Matter and should be removed.
3. There is a break in the pagination between pages 41 and 43.
4. A court reporter's invoice appears as page 44, just before the August 6, 2013 hearing transcript. This invoice was not designated, is not material to the issues raised on appeal, and should be removed.
5. There are several pagination errors in the portions of Appellant's deposition transcript that are included in the record. For example, there is an unnumbered page between pages 86 and 87. Page 88 is followed by page 88½, and page 75 appears between pages 148 and 149. It appears that there are two pages marked as page 162.
6. Finally, counsel of record are not identified on the front cover of the record, and the record does not contain the required certification.

In light of the foregoing, Potterfield respectfully moves this Court for an order striking those portions of Campbell's Final Brief that do not comply with Rule 211(b), directing Campbell to cure the deficiencies noted herein, and setting a deadline for her compliance. In addition, Potterfield respectfully requests the Court stay further deadlines pending resolution of this motion.

CONCLUSION

For the reasons stated herein, Potterfield respectfully moves this Court for an order striking certain matters from Campbell's Final Brief and to stay further deadlines pending resolution of the deficiencies addressed in this motion.

June 20, 2014

By: 
Carmelo B. Sammataro (Bar No. 69746)
TURNER PADGET GRAHAM & LANEY P.A.
Post Office Box 1473
Columbia, SC 29202
Phone: (803) 254-2200
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ATTORNEYS FOR RESPONDENT
ASHLIN POTTERFIELD

EXHIBIT A

Carmelo B. Sammataro

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Writer's Direct Dial: (803) 227-4253

Writer's Direct Fax: (803) 400-1532

June 12, 2014

VIA REGULAR MAIL AND E-MAIL
(AttyGaryWhite@yahoo.com)

William Gary White, III, Esquire
Law Office of William Gary White, III
2009 Lincoln Street
Columbia, SC 29201

Re: Linda Campbell, M.D. v. Allen S. Guignard and Ashlin Potterfield
Appellate Case No.: 2013-002272
File No.: 612.152

Dear Mr. White:

Having received Appellant's Final Brief, Final Reply Brief, and the Record on Appeal, I write to note several deficiencies that must be corrected prior to the filing and service of Respondent's Final Brief.

With regard to Appellant's Final Brief, she has failed to abide by Rule 211(b), which provides that no changes may be made beyond correction of obvious typographical errors and revisions to conform citations to the record on appeal. In fact, Rule 211(b)(2) explicitly states that "[n]o other changes may be made." Appellant is in violation of this rule in the following particulars:

1. She has added a heading for her third argument under the Table of Contents on page i.
2. In her Table of Contents, Appellant has deleted citations from her Initial Brief and inserted new citations.
3. On page 3, Appellant has inserted entirely new text and argument, beginning with the indented quote from her deposition testimony and ending with the penultimate full paragraph. Additionally, portions of text included in the Initial Brief have been removed.

June 12, 2014

Page 2

4. On page 4, Appellant has inserted new text and argument beginning with the sentence “As previously stated. . . .” and ending on page 5 with the citation to Dr. Campbell’s deposition transcript. Additionally, portions of the Initial Brief have been removed from this section.
5. Finally, on page 6, Appellant has re-worded the last sentence of the first full paragraph, as well as the argument heading for Section III.

Turning to the Record on Appeal, I note the following deficiencies that must be corrected:

1. The record is not indexed, merely recites the parties’ designations of matter, and contains two No. 2 items.
2. The Affidavit of Robert W. Rushing, Jr., who also serves as counsel of record in this appeal, is included at pages 35-36. Mr. Rushing’s Affidavit was not identified in Appellant’s designation of matter and should be removed.
3. There is a break in the pagination between pages 41 and 43.
4. A court reporter’s invoice appears as page 44, just before the August 6, 2013 hearing transcript. This invoice was not designated, is not material to the issues raised on appeal, and should be removed.
5. There are several pagination errors in the portions of Appellant’s deposition transcript that are included in the record. For example, there is an unnumbered page between pages 86 and 87. Page 88 is followed by page 88½, and page 75 appears between pages 148 and 149. It appears that there are two pages designated as page 162.
6. Finally, counsel of record are not identified on the front cover of the record, and the record does not contain the required certification.

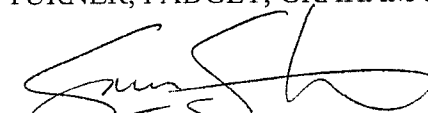
Please take immediate steps to cure these deficiencies and advise when I can expect to receive Appellant’s amended final brief and the amended record. In any event, please note that if I have not received these items by the close of business Monday, I will be forced to file the appropriate motion with the South Carolina Court of Appeals.

June 12, 2014
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With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P.A.



Carmelo B. Sammataro

CBS/tj

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Linda Campbell, M.D.,Appellant,

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Allen S. Guignard and Ashlin Potterfield, Respondents.

PROOF OF SERVICE

I certify this 20th day of June 2014 that I have served a copy of RESPONDENT ASHLIN POTTERFIELD'S MOTION TO STAY AND TO STRIKE upon other counsel of record, by mailing same, postage prepaid in the United States mail, addressed to the following:

William Gary White, III, Esquire
Law Office of William Gary White, III
2009 Lincoln Street
Columbia, SC 29201

ATTORNEYS FOR APPELLANT

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SC Court of Appeals

(Signature page to follow.)

TURNER PADGET GRAHAM & LANEY P.A.

June 20, 2014

By:



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June 20, 2014

VIA HAND DELIVERY:

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

Re: Linda Campbell, M.D. v. Allen S. Guignard and Ashlin Potterfield
Appellate Case No.: 2013-002272
File No.: 612.152

Dear Ms. Kitchings:

Enclosed please find the original and seven copies of Respondent Ashlin Potterfield's Motion To Stay And To Strike regarding the above-referenced matter. Also enclosed are the original and one copy of the Proof of Service and our check for the filing fee. Please file the original documents and return clocked copies to me via our office courier. Thank you for your assistance with this matter, and please contact me if you have any questions.

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P.A.



Carmelo B. Sammataro

CBS/tj

Enclosures

cc: William Gary White, III, Esquire (w/enc.)

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