

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

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APPEAL FROM DARLINGTON COUNTY
Court of Common Pleas

SEP 11 2014

J. Michael Baxley, Circuit Court Judge

SC Court of Appeals

173567

CASE NO. 2010-CP-16-0332 (Probate Claim)¹
CASE NO. 2010-CP-16-0333 (Probate Court Appeal)

Tracking Number: 2014-001275

Pee Dee Health Care, P.A.Appellant-Respondent,
v.
Estate of Hugh S. ThompsonRespondent-Appellant.

**MOTION TO FILE APPELLANT’S INITIAL BRIEF AND DESIGNATION OF
MATTER OF THE RESPONDENT-APPELLANT OUT OF TIME**

Pursuant to SCACR 240 and 263, the Respondent-Appellant hereby moves for an extension of time to file its Appellant’s Initial Brief and Designation of Matter on or before October 8, 2014 – the same date that its Respondent’s Initial Brief and Designation of Matter is presently due. The Appellant’s Initial Brief and Designation of Matter *for the Respondent-Appellant* were due on September 8, 2014.

¹ While this is the only lower court case number referenced on the Appellant’s notice of appeal, the two cases are intricately related and were consolidated for consideration of the sanctions order (presently under appeal) - just as they had been previously consolidated by this Court in the initial appeal. The sanctions order on appeal now does reference both case numbers in its caption and deals with both cases. The sanctions order under appeal also applies to and is appealed by the trial court lawyers and law firm for Pee Dee Health Care; they are not identified as parties in the caption and the Estate defers to the Court on whether that is needed.

The procedural history of this case is long and convoluted, but the instant appeal is fortunately limited in scope. This is an appeal from a post-trial, post-merits appeal, trial court order of sanctions. Both parties have appealed the Order. Pee Dee Health Care seeks to overturn any award of sanctions and the Estate of Thompson seeks a greater award of sanctions. Because the two appeals related to the same order and inherently address the same issues, the dual sets of Briefs generated by these cross-appeals will likely contain considerable overlap.

Because the Respondent-Appellant anticipated a briefing schedule pursuant to Rule 206 of the SCACR, it did not file an Initial Brief on or before September 8, 2014 and anticipated filing the same on or before October 8, 2014 together with its corresponding Initial Brief in its role as a Respondent. Accordingly, the undersigned respectfully requests leave and an extension until October 8, 2014 in order to file both sets of the Estate's Initial Briefs and Designations.

Appellant-Respondent's counsel (Ms. King) has been contacted regarding this motion and has confirmed that she does not object to the same.

Respectfully Submitted,

(Signature page to follow.)

Florence, South Carolina

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

September 17, 2014



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Other Counsel of Record:

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Attorney for Appellant-Respondent

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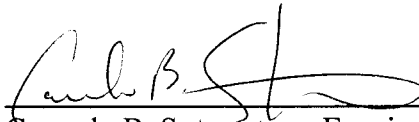
Pee Dee Health Care, P.A.Appellant-Respondent,
v.
Estate of Hugh S. ThompsonRespondent-Appellant.

PROOF OF SERVICE

I certify that I have served the **MOTION TO FILE APPELLANT’S INITIAL BRIEF AND DESIGNATION OF MATTER OF THE RESPONDENT-APPELLANT OUT OF TIME** by depositing one (1) copy of it in the United States Mail, postage prepaid, on September 17, 2014, addressed to:

James M. Griffin, Esquire
Arial E. King, Esquire
Lewis, Babcock & Griffin, L.L.P.
P.O. Box 11208
Columbia, SC 29211

(Signature page to follow.)



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September 17, 2014

VIA HAND-DELIVERY

Hon. Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Attention: Amelia Smith, Paralegal
P.O. Box 11629
Columbia, SC 29211

Re: Pee Dee Health Care, P.A. v. Estate of Hugh S. Thompson
Case No.: 2010-CP-16-0332 and 2010-CP-16-0333
Tracking No.: 2014-001275
TPGL File No.: 10667.101

Dear Ms. Kitchings:

I want to thank Amelia Smith for her call this morning and thank you for speaking to me regarding the status of this matter as well. I appreciate your clarification of the cross-appeal procedures.

As a follow-up, enclosed please find the original (unbound) and seven (7) copies of the *Respondent-Appellant's* Motion to File Appellant's Initial Brief and Designation of Matter out of time. We have also enclosed the original and one copy of the Proof of Service along with my firm's check in the amount of \$25.00 to cover the requisite filing fee. Because I wanted these matters promptly before the Court in response to our discussion, I have had them printed in our Columbia office, signed by my partner Sam Sammataro, and hand-delivered. Sam is familiar with this motion but will not remain involved in this appeal and need not be copied by other counsel in the future.

Please file the originals in your office and return a clocked copy of each to us via our office courier. By copy of this letter to counsel for the Appellant-Respondent, James M. Griffin, Esquire and Ariel E. King, Esquire, we are herewith serving them with copies of the filings. As indicated in the motion, counsel was consulted regarding the motion and Ms. King graciously responded that she did not object to the motion.

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Hon. Jenny Abbott Kitchings
September 17, 2014
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As you know, we also discussed the appropriate caption for this appeal given that it is also made on behalf of a law firm and trial court counsel; if the Court feels any change is needed in the caption, I am sure the parties would appreciate that guidance prior to submission of final briefs. We also discussed the possibility of a motion by the Estate to consolidate its briefs as Appellant and Respondent into a single brief to possibly reduce paperwork for the Court; however, I have decided not to make such a motion at this time.

If you have any questions, please give us a call.

Sincerely,

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



J. René Josey

(By Carmelo B. Sammataro, Esquire)

JRJ

Enclosures

Cc: James M. Griffin, Esquire and Ariel E. King, Esquire (w/enclosures)
John J. James, II, Esquire (w/enclosures)

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