

# TURNER PADGET

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May 8, 2012

**VIA FACSIMILE AND U.S. MAIL**

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

**RECEIVED**  
MAY 09 2012  
SC Court of Appeals

Re: Pee Dee Health Care, P.A. v. Estate of Hugh S. Thompson  
Tracking Nos.: 2011203391 and 2011197671  
TPGL File No.: 10667.101

Dear Ms. Kitchings.:

I am writing on behalf of the respondent in these two appeals to seek your guidance and/or clarification of certain matters.

First, the Appellant in these two appeals filed a motion to consolidate the record on appeal for these two appeals. That motion is still pending before the court. The Respondent did not file a response to this motion because the Respondent has no objection to the motion -- so long as the consolidated Record on Appeal includes *all* of the components designated by the Respondent in each of the two separate appeals.

In the absence of any decision on the pending motion, the Appellant proceeded to file a Record on Appeal in the first appeal (Tracking Number 2011203391). Based upon that Record on Appeal, Respondent was able to finalize a brief in that appeal and file it with the court last week. Appellant also filed a final brief in that appeal last week. The Record on Appeal filed in that appeal (Tracking Number 2011203391), however, does not include everything designated for the record on appeal in the other appeal (Tracking Number 2011197671). Accordingly, Respondent cannot finalize its final brief without a paginated Record on Appeal that includes the additional designations.

Respondent has no objection if the Appellant prepares these additional pages as a supplement to the first Record on Appeal filed in the earlier matter, perhaps with consecutive page numbers. Because our Initial Brief and Designation of Matter in the second appeal (Tracking Number 2011197671) were filed and served on April 11, 2012, we would anticipate that the Record on Appeal for that appeal would be due by the end of this week; absent some court order addressing the motion to consolidate, that Record on Appeal will presumably need to be independent and inclusive of everything designated for that appeal. The time for filing of our

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final brief would not run until twenty (20) days after the submission of the Record on Appeal for that second appeal (Tracking Number 2011197671).

I bring this to your attention because the Appellant has proceeded to file a Final Brief in the second appeal, presumably using the record on appeal prepared for the first appeal. Again, while that may have been possible for the Appellant, the Respondent did identify additional pages needed and referenced by Respondent's Initial Brief. Appellant's cover letter for these two filed briefs, dated May 3, 2012, appears to suggest that the mere filing the motion to consolidate the record on appeal was sufficient to allow for the treatment of the initial record on appeal as approved by the court for consolidation. We do not believe this is correct.

We would appreciate your guidance in this regard. Obviously, our Initial Brief is filed in the second appeal and we are prepared to finalize our Brief using the appropriate Record on Appeal page citations -- but a comprehensive Record on Appeal, including all of our designations, has not been filed at this point.

Sincerely,

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

J. René Josey

JRJ/vlb  
Enclosures

Cc: Jay James, Esq., Co-counsel for Respondent  
Benjamin R. Matthews, Esq.  
Tony R. Megna, Esq.