

**RECEIVED**

AUG 14 2015

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

---

Appeal from Spartanburg County  
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

---

Appellate Case No. 2012-212871 (Supreme Court)  
Appellate Case No. 2011-204166 (Court of Appeals)  
Case No. 2007-CP-42-4601 (Circuit Court)

---

Lawrence E. Morrow and Evelyn M. Morrow,

Appellants/Respondents,

v.

Fundamental Long-Term Care Holdings, LLC; Fundamental Clinical Consulting, LLC; Fundamental Administrative Services, LLC; THI of Baltimore, Inc.; THI of South Carolina, LLC; THI of Baltimore Management, LLC; THI of South Carolina at Magnolia Place at Spartanburg, LLC d/b/a Magnolia Place at Spartanburg,

Respondents/Appellants.

---

**AGREEMENT TO DISMISS APPEAL**

---

BLUESTEIN, NICHOLS,  
THOMPSON & DELGADO, LLC  
John S. Nichols  
Blake A. Hewitt  
P.O. Box 7965  
Columbia, South Carolina 29202  
(803) 779-7599  
**ATTORNEYS FOR  
APPELLANTS/RESPONDENTS**

YOUNG CLEMENT RIVERS, LLP  
D. Jay Davis, Jr.  
William L. Howard, Sr.  
Russell G. Hines  
P.O. Box 993  
Charleston, South Carolina 29402  
(843) 577-4000  
**ATTORNEYS FOR  
RESPONDENTS/APPELLANTS**

POLIAKOFF & ASSOCIATES, PA  
Gary W. Poliakoff  
Raymond P. Mullman, Jr.  
P.O. Box 1571  
Spartanburg, South Carolina 29304  
(864) 582-5472  
**ADDITIONAL ATTORNEYS FOR  
APPELLANTS/RESPONDENTS**

COOPER & SCULLY, PC  
Lori D. Proctor  
815 Walker Street, Suite 1040  
Houston, Texas 77002  
(713) 236-6820  
**ADDITIONAL ATTORNEY FOR  
RESPONDENTS/APPELLANTS**

COME NOW Appellants/Respondents and Respondents/Appellants above named (the "Parties"), by and through their respective undersigned counsel, pursuant to Rule 260(b), SCACR, and hereby advise this Honorable Court of the Parties' agreement that this proceeding be dismissed, in its entirety.<sup>1</sup>

WHEREAS, the Parties have reached agreement providing for the full and final resolution of all claims relating to this case and its subject matter;

NOW, THEREFORE, the Parties agree that this appeal should be dismissed, in its entirety, and the Parties jointly request an order of dismissal from the Court, with the Parties bearing their own costs on appeal, i.e., with no costs, fees, or other expenses being awarded to, or assessed against, any party.

**<SIGNED ON THE FOLLOWING PAGE>**

---

<sup>1</sup> Following Appellants/Respondents' successful petition for a writ of certiorari, this appeal is now pending in this Court in accordance with our Supreme Court's recent decision in Morrow v. Fundamental Long-Term Holdings, LLC, Op. No. 27532 (S.C. Sup. Ct. filed Jun 17, 2015) (Shearouse Adv. Sh. No. 23 at 24). Out of an abundance of caution, while agreeing that this appeal should be dismissed, in its entirety, Appellants/Respondents would make clear that the instant agreement does not include or otherwise reflect agreement by the Appellants/Respondents that dismissal of the appeal should have any effect on the Supreme Court's decision, and that, by filing the instant agreement, the Appellants/Respondents are not asking for the Supreme Court's decision to be affected in any way.

SO AGREED:

By: *Blake A. Hewitt* *w/express permission*  
BLUESTEIN, NICHOLS,  
THOMPSON & DELGADO, LLC  
For John S. Nichols  
Blake A. Hewitt  
P.O. Box 7965  
Columbia, South Carolina 29202  
(803) 779-7599

-AND-

POLIAKOFF & ASSOCIATES, PA  
Gary W. Poliakoff  
Raymond P. Mullman, Jr.  
P.O. Box 1571  
Spartanburg, South Carolina 29304  
(864) 582-5472

**ATTORNEYS FOR  
APPELLANTS/RESPONDENTS**

SO AGREED:

By: *William L. Howard, Sr.* *w/express permission*  
YOUNG CLEMENT RIVERS, LLP  
D. Jay Davis, Jr.  
William L. Howard, Sr.  
For Russell G. Hines  
P.O. Box 993  
Charleston, South Carolina 29402  
(843) 577-4000

-AND-

COOPER & SCULLY, PC  
Lori D. Proctor  
815 Walker Street, Suite 1040  
Houston, Texas 77002  
(713) 236-6820

**ATTORNEYS FOR  
RESPONDENTS/APPELLANTS**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

RECEIVED

AUG 14 2015

Appeal from Spartanburg County  
Court of Common Pleas

SC Court of Appeals

J. Derham Cole, Circuit Court Judge

---

Appellate Case No. 2012-212871 (Supreme Court)  
Appellate Case No. 2011-204166 (Court of Appeals)  
Case No. 2007-CP-42-4601 (Circuit Court)

---

Lawrence E. Morrow and Evelyn M. Morrow,

Appellants/Respondents,

v.

Fundamental Long-Term Care Holdings, LLC; Fundamental Clinical  
Consulting, LLC; Fundamental Administrative Services, LLC; THI of  
Baltimore, Inc.; THI of South Carolina, LLC; THI of Baltimore  
Management, LLC; THI of South Carolina at Magnolia Place at  
Spartanburg, LLC d/b/a Magnolia Place at Spartanburg,  
Respondents/Appellants.

---

**PROOF OF SERVICE**

---

YOUNG CLEMENT RIVERS, LLP  
D. Jay Davis, Jr.  
William L. Howard, Sr.  
Russell G. Hines  
P.O. Box 993  
Charleston, South Carolina 29402  
(843) 577-4000  
**ATTORNEYS FOR**  
**RESPONDENTS/APPELLANTS**

COOPER & SCULLY, PC

Lori D. Proctor

815 Walker Street, Suite 1040

Houston, TX 77002

(713) 236-6820

***ADDITIONAL ATTORNEY FOR  
RESPONDENTS/APPELLANTS***

I, Catherine H. Chase, of Young Clement Rivers, LLP, counsel for Respondents, do hereby certify that a copy of the **AGREEMENT TO DISMISS APPEAL** was served upon counsel for Appellants/Respondents via United States Mail, properly posted, on August 14, 2015, addressed as follows:

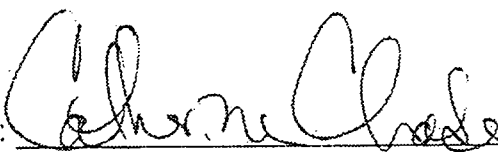
John S. Nichols, Esquire  
Blake A. Hewitt, Esquire  
Bluestein, Nichols, Thompson & Delgado, LLC  
P.O. Box 7965  
Columbia, SC 29202

*-AND-*

Gary W. Poliakoff, Esquire  
Raymond P. Mullman, Jr., Esquire  
Poliakoff & Associates, PA  
P.O. Box 1571  
Spartanburg, SC 29304

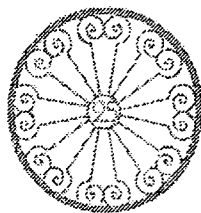
***ATTORNEYS FOR APPELLANTS/RESPONDENTS***

YOUNG CLEMENT RIVERS, LLP

By:   
Catherine H. Chase

Charleston, South Carolina

Dated: August 14, 2015



**YCR LAW**

Young Clement Rivers, LLP

CELEBRATING 50 YEARS OF LEGAL SERVICE

Aimee M. Justman  
Legal Assistant

Direct Dial: (843) 720-5460  
Direct Fax: (843) 579-1385  
E-mail: [Ajustman@ycrlaw.com](mailto:Ajustman@ycrlaw.com)

**RECEIVED**

AUG 14 2015

**SC Court of Appeals**

August 14, 2015

**VIA FACSIMILE AND US MAIL**

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

Re: Lawrence E. Morrow and Evelyn M. Morrow vs. Fundamental Long-Term Care Holdings, LLC; Fundamental Clinical Consulting, LLC; Fundamental Administrative Services, LLC; THI of Baltimore, Inc.; THI of South Carolina, LLC; THI of Baltimore Management, LLC; THI of South Carolina at Magnolia Place at Spartanburg, LLC d/b/a Magnolia Place at Spartanburg  
Appeal Case Tracking Number: 2011204166  
Supreme Court Case Tracking Number: 2012-212871  
Case No.: 2012-212871  
Claim No.: AIG Claim# 027-089-388/ HBLM# 0723767  
YCR File: 14347-20100252

Dear Ms. Kitchings:

Enclosed for filing in the above-referenced appeal, please find the original and seven (7) copies of an **Agreement to Dismiss Appeal** and the original and one (1) copy of a **Proof of Service** regarding the same. Kindly file the original and return one court-stamped copy to me using the pre-stamped envelope provided. With best wishes and kindest regards, I am

Sincerely,

YOUNG CLEMENT RIVERS, LLP

Aimee M. Justman  
Legal Assistant

/amj

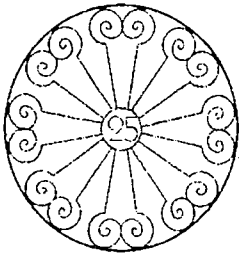
Enclosures

cc: (All below via Email and US Mail)

John S. Nichols, Esquire, Bluestein Nichols Thompson Delgado, LLC  
Blake A. Hewitt, Esquire, Bluestein Nichols Thompson Delgado, LLC  
Gary W. Poliakoff, Esquire, Poliakoff & Associates, P.A.  
Raymond P. Mullman, Jr., Esquire, Poliakoff & Associates, PA  
Lori D. Proctor, Cooper & Scully, PC

25 CALHOUN STREET, SUITE 400, P.O. BOX 993, CHARLESTON, SC 29402 • (843) 577-4000 • [www.ycrlaw.com](http://www.ycrlaw.com)

Charleston • Columbia



# YCR LAW

Young Clement Rivers, LLP

All Business, Insurance, Real Estate and Regulatory Matters  
Admiralty/Marine • Appellate • Commercial Litigation  
Commercial Real Estate • Commercial Transactions  
Community Association Law • Construction Law  
Employment and Labor Law • Health Care • Insurance Coverage  
Products Liability • Professional Liability • Retail Liability  
Special Task Litigation • Tax, Estate Planning and Probate  
Trucking and Transportation • Workers' Compensation

**THE FOLLOWING PAGES ARE FOR IMMEDIATE DELIVERY**

To: 18037341839  
From: kbarnes@ycrlaw.com  
Date: August 14, 09:29:48 AM EDT  
Subj: Morrow v. Fundamental, et al; Case No.: 2012-212871  
Pages: 10

**RECEIVED**

AUG 14 2015

**SC Court of Appeals**

Dear Ms. Kitchings,

Attached please find correspondence in the above-referenced matter filing an Agreement to Dismiss Appeal. The original and copies have been placed in the mail today. Please let us know if you need anything further.

Thank you,

Katy B. Barnes  
Commercial Litigation Secretary  
Stephen L. Brown, Russell G. Hines & Joanna B. Stroud  
Young Clement Rivers, L.L.P.  
25 Calhoun Street, Suite 400  
Charleston, SC 29401  
Telephone: (843) 724-6610  
Facsimile: (843) 579-1369



25 Calhoun Street, Suite 400, Charleston, SC 29401  
www.ycrlaw.com

Building on a Strong Foundation

Charleston Office  
25 Calhoun Street, Suite 400 \* Charleston, SC 29401  
P.O. Box 993 \* Charleston, SC 29402-0993

TELEPHONE: (843) 577-4000  
WEBSITE: www.ycrlaw.com

Young Clement Rivers, LLP  
<http://www.ycrlaw.com>  
Charleston: (843) 577-4000

Attachments larger than 40MB may be rejected by the firm's server. If you are sending an attachment of this size or larger, please contact the intended recipient to inform him/her of your transmission.

"ATTORNEY-CLIENT PRIVILEGED; DO NOT FORWARD WITHOUT PERMISSION." The information contained in this transmission is privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone or by email to [email@ycrlaw.com](mailto:email@ycrlaw.com) or by replying to this message and destroy all copies of this message and all attachments.

---

This email has been scanned for email related threats and delivered safely by Mimecast.  
For more information please visit <http://www.mimecast.com>

---