

LAW OFFICES  
**PETERS, MURDAUGH, PARKER, ELTZROTH & DETRICK**

PROFESSIONAL ASSOCIATION  
690 NORTH GREEN STREET  
P.O. BOX 2500  
RIDGELAND, SC  
29936-2500

RANDOLPH MURDAUGH, SR.  
(1887-1940)  
RANDOLPH MURDAUGH, JR.  
(1815-1998)  
J. ROBERT PETERS, JR.  
(1827-2008)

TELEPHONE  
(843) 728-6131  
TOLL FREE  
(866) 943-2113  
FACSIMILE  
(843) 728-8057  
WEBSITE  
[www.pmped.com](http://www.pmped.com)

JOHN E. PARKER  
CLYDE A. ELTZROTH, JR.  
J. PAUL DETRICK  
DANIEL E. HENDERSON  
MARK D. BALL  
RANDOLPH MURDAUGH, IV  
RONNIE L. CROSBY  
R. ALEXANDER MURDAUGH  
BERT G. UTSEY, III  
RANDOLPH MURDAUGH, III  
GRAHAME E. HOLMES  
LEE D. COPE  
MATTHEW V. CREECH  
LEAGUE B. CREECH  
STEVEN D. MURDAUGH  
WILLIAM P. BARNES, III  
AUSTIN H. CROSBY

\* INACTIVE

November 12, 2015

**RECEIVED**  
NOV 12 2015  
S.C. SUPREME COURT

VIA U.S. MAIL

The Honorable Daniel E. Shearouse  
CLERK OF COURT  
S.C. SUPREME COURT  
1231 Gervais Street  
Columbia, S.C. 29211

Re: *Linda Johnson v. Heritage Healthcare, et al.*;  
**SC Supreme Court Case No. 2014-002502**  
Notice of Related Case and New Authority

Dear Mr. Shearouse:

Pursuant to Rule 208(b)(7) of the South Carolina Appellate Court Rules, we are writing to notify the Court of a pertinent and significant authority that was issued by the South Carolina Court of Appeals subsequent to the filing of final briefs in this matter, *Flexon v. PHC-Jasper, Inc.*, 776 S.E.2d 397 (Ct. App. 2015). A copy of this opinion is attached. This new authority directly addressed the issues of this Appeal and that of waiver.

First, in *Flexon* the Court of Appeals recognizes and affirmed the precedent that the issue of waiver must be reviewed through a fact based analysis, the formula of which depends on each case. *Id.* at 24. Second, the Court of Appeals acknowledged the directive that instead of expending the other parties' time and resources on determining the arbitrability of the dispute, the party should simply file its own motion to compel arbitration. *Id.* at 25. Lastly, when determining timeliness, the Court of Appeals considered all the opportunities that the party seeking arbitration had to make such motion. *Id.* The Court of Appeals ultimately held that the party seeking arbitration must take "the steps necessary to protect its own interests in a timely manner." *Id.* at 26.

By copy of this letter to counsel shown below, I am serving a copy of same upon them by mail. Thank you for your consideration.

With kind regards, I am,

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Creech', with a stylized flourish at the end.

Matthew V. Creech

Enclosures

cc: Monteith P. Todd, Esquire  
Jason Bring, Esquire  
Jerad Rissler, Esquire  
Margie Bright-Matthews, Esquire  
Matthew Creech, Esquire  
Josh Whitley, Esquire