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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

S. Jackson Kimball, Special Circuit Court Judge

RECEIVED
DEC 03 2015
SC Court of Appeals

Appellate Case No. 2015-002174

Patricia Craig..... Appellant,

v.

E. Earl Jenkins, Jr., also known as
Everett Jenkins, Jr., M.D., Amisub of South Carolina,
d/b/a Piedmont Medical Center, and York Pathology
Associates,LLC,.....Respondents.

RESPONDENT AMISUB OF SOUTH CAROLINA d/b/a PIEDMONT MEDICAL CENTER'S MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION TO REQUEST EXTENSION OF TIME TO FILE INITIAL BRIEF

William U. Gunn
J. Hollis Inabinet
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Attorneys for Respondent Amisub

Pursuant to Rules 260 and 207 of the South Carolina Appellate Court Rules, Respondent Amisub of South Carolina d/b/a Piedmont Medical Center moves, and joins in the anticipated motion of its co-respondents, to dismiss Appellant's appeal on the grounds that Appellant has failed to request a copy of the transcript of the hearing before the trial court within the time required under Rule 207(a)(1), SCACR.

In the alternative, Respondent Amisub hereby moves to request an extension of time to file Respondent's initial brief on the grounds that Appellant failed to consult with any of the Respondents with regard to requesting a copy of the transcript of the hearing and instead unilaterally notified the court that a transcript of the proceeding was not needed. Appellant's actions are improper and prejudice Respondents in their effort to meaningfully and timely respond to this appeal.

Rule 207(a)(1), SCACR states in pertinent part:

> Where a transcript of the proceeding must be prepared by the court reporter, appellant *shall,* within the time provided for ordering the transcript, make satisfactory arrangements in writing with the court reporter for furnishing the transcript. In appeals from the court of common pleas . . . the transcript must be ordered within ten (10) days after the date of service of the notice of appeal. below.

(Emphasis added). Further, "[u]nless the parties otherwise agree in writing, appellant must order a transcript of the entire proceedings." Id. Appellant's counsel filed the Amended Notice on Appeal on October 28, 2015. Pursuant to Rule 207(a)(1), SCACR, Appellant was thus required to order the transcript from the court reporter by November 9, 2015. Instead, Appellant notified the South Carolina Court of Appeals by letter dated November 9, 2015

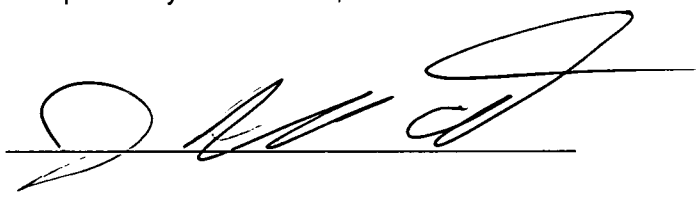
that "the Appellant does not need the transcript for perfection of the above-captioned appeal. Therefore, no transcript will be ordered in this matter." Prior to filing this notification on November 9, 2015, Appellant's counsel did not consult with Respondents' counsel regarding the transcript. Rule 207(a)(1), SCACR mandates that Appellant order a copy of the full transcript of the proceedings below unless the parties otherwise agree in writing. There is no agreement in writing, or otherwise, between the parties not to order all or a portion of the transcript.

As our supreme court has observed, "the South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State." Henning v. Kaye, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992). Failure to comply with the Rules needlessly complicates and muddies this appeal – resulting in cost and inefficiency for both the court and the parties. Moreover, Appellant's unilateral declaration that the transcript of the summary judgment hearing is unnecessary to the resolution of this appeal is without merit. Therefore, Respondent Amisub respectfully moves for this Court to dismiss Appellant's appeal based on the blatant disregard of Rule 207, SCACR, as described above.

In the alternative, Respondent Amisub respectfully moves for this court to compel Appellant to order the transcript of the hearing and grant Respondent an extension of time to file their initial brief until thirty days after a transcript of the proceedings below is produced by the court reporter. If the court is disinclined to grant this relief, Respondent Amisub respectfully asks that this motion be treated

as a request for an extension of time to file their initial brief (Respondents' initial briefs are due on December 14, 2015. If a thirty day extension is granted, the initial brief would be due on January 13, 2016).

Respectfully Submitted,



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Attorneys for Respondent Amisub

Spartanburg, South Carolina
November 30, 2015

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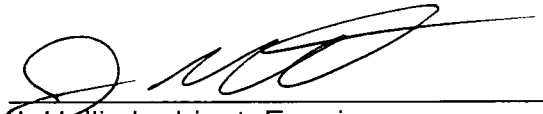
Associates, LLC .....Respondents.

PROOF OF SERVICE

I, J. Hollis Inabinet, certify that I served the following individuals a copy of the foregoing **Respondent Amisub of South Carolina, d/b/a Piedmont Medical Center's Motion to Dismiss or in the Alternative Motion to Request Extension of Time to File Initial Brief** by depositing the copies in the United States Mail, postage prepaid, return address clearly visible, addressed as follows on November 30, 2015:

Glenn Walters, Esquire
1910 Russell Street (29115)
P.O. Box 1346
Orangeburg, SC 29116

Julius W. McKay, II, Esquire
P.O. Box 7217
Columbia, SC 29202



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SC Court of Appeals

William U. Gunn
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A. Todd Darwin
Joshua T. Thompson
Kyle T. Clelland
J. Hollis Inabinet

Neville Holcombe, 1902-1983
Horace L. Bomar, 1912-1994

November 30, 2015

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

RE: Patricia Craig .....Appellant

v.

E. Earl Jenkins, Jr., also known as Everett Jenkins, Jr., M.D., Amisub of South Carolina, d/b/a Piedmont Medical Center, and York Pathology Associates, LLC .....Respondents

Appellate Case No. 2015-002174

Dear Ms. Kitchings:

Enclosed is the original and seven (7) copies of:

Respondent Amisub of South Carolina, d/b/a Piedmont Medical Center's Motion to Dismiss or in the Alternative Motion to Request Extension of Time to File Initial Brief.

Also enclosed is our Proof of Service as well as a check for $25.00 for the motion filing fee. By copy of this letter we are serving the above document on counsel for Appellant as well as counsel for the remaining Respondent.

Please return a clocked copy of this motion to us in the enclosed stamped and self-addressed envelope.

Yours truly,

J. Hollis Inabinet

/dl
Enclosures

cc: Glenn Walters, Esquire
P.O. Box 1346
Orangeburg, SC 29116

Julius W. McKay, II, Esquire
P.O. Box 7217
Columbia, SC 29202