

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Appellate Case No. 2016-001266

RECEIVED

APR 23 2018

SC Court of Appeals

PERSONAL CARE, INC. Appellant,

vs.

Jerry N. Theos; URICCHIO, HOWE, KRELL,
JOHNSON, TOPOREK THEOS & KEITH, PA;
Cheryl D. Shoun; and TAYLOR, SHOUN,
BOWLEY & BYRD, LLC, Respondents.

**MOTION TO BE RELIEVED AS COUNSEL AND
FOR EXTENSION OF TIME TO RESPOND TO MOTION
TO DISMISS APPEAL AS MOOT**

Pursuant to Rule 240, SCACR; Rule 11(b), SCRCP; and Rule 1.7(a)(2), RPC, Rule 407, SCACR, the undersigned counsel moves this Court, for good cause shown, for an Order permitting the undersigned counsel to withdraw from the representation of Appellant, PERSONAL CARE, INC. ("PERSONAL CARE") in this case, and for an extension of time to respond to Respondents' Joint Motion to Dismiss the Appeal as Moot. The grounds for this motion are based upon a conflict of interest that has arising between PERSONAL CARE and the undersigned counsel.

The basis for this motion is further stated as follows:

1. PERSONAL CARE has filed a pleading in the Court of Common Pleas in Charleston County asserting claims against Thomas A. Pendarvis, which gives rise to a significant risk that the undersigned's representation of PERSONAL CARE in this matter will be materially limited. As such, a concurrent conflict of interest exists pursuant to Rule 1.7(a)(2), RPC, Rule 407, SCACR.

2. This motion is based upon the concurrent conflict of interest between the undersigned counsel and PERSONAL CARE, the South Carolina Rules of Civil Procedure, the South Carolina Rules of Professional Conduct, and the South Carolina Rules of Appellate Procedure, any other law as may be applicable and may be supported by the pleadings, filings in this matter, as well as such other evidence or argument as the Court may allow.

3. Counsel requests this court permit Thomas A. Pendarvis and Christopher W. Lempeis, Jr., to withdraw as counsel of record in this matter and that all future correspondence regarding this matter be directed to Appellant at the following address:

Bernie Cignavitch
PERSONAL CARE, INC.
941 Straight St.
Charleston SC 29407
bcignavitch@comcast.net

4. On April 11, 2018, Respondents filed and serve the undersigned counsel with Respondents' Joint Motion to Dismiss Appeal as Moot, the response to which is set to be filed pursuant to Rule 240, SCACR, on or before Monday, April 23, 2018.

WHEREFORE, the undersigned Counsel prays that this Court grant their motion to withdraw from representation of Appellant, PERSONAL CARE, INC., in this matter.

Furthermore, Counsel requests that the Court suspend all time deadlines, including the time to respond to Respondents' Joint Motion to Dismiss the Appeal As Moot, and permit the Appellant ninety (90) days to seek other counsel.

Respectfully submitted,

PENDARVIS LAW OFFICES, P.C.



Thomas A. Pendarvis (SC Bar # 064918)
Christopher W. Lempesis, Jr. (SC Bar # 77012)
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Counsel for Appellant, PERSONAL CARE, INC.

Beaufort, South Carolina
April 19, 2018

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JOHNSON, TOPOREK THEOS & KEITH, PA;
Cheryl D. Shoun; and TAYLOR, SHOUN,
BOWLEY & BYRD, LLC,

Respondents.

PROOF OF SERVICE

I, Christopher W. Lempeis, a lawyer with PENDARVIS LAW OFFICES, P.C.,
certify that I have served one (1) copy of the APPELLANT'S MOTION TO BE RELIEVED
AS COUNSEL AND FOR EXTENSION OF TIME TO RESPOND TO MOTION TO DISMISS APPEAL
AS MOOT, upon counsel for Respondents, by depositing a copy of the same in the
United States Mail, postage prepaid, on the 19th day of April, 2018, addressed to:

M. Dawes Cooke, Jr., J.D.
Phillip S. Ferderigos, J.D.
BARNWELL, WHALEY, PATTERSON & HELMS, LLC
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Attorneys for Defendants Jerry N. Theos
and URICCHIO, HOWE, KRELL, JACOBSON,
TOPOREK, THEOS & KEITH, P.A.

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Attorney for Cheryl D. Shoun

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Attorney for Defendant TAYLOR
BOWLEY AND BYRD, LLC

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Attorney for Defendant TAYLOR
BOWLEY AND BYRD, LLC

Respectfully submitted,

PENDARVIS LAW OFFICES, P.C.



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Counsel for PERSONAL CARE, INC.

Beaufort, South Carolina
April 19, 2018

PENDARVIS LAW OFFICES, PC



April 19, 2018

VIA US MAIL

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

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SC Court of Appeals

Re: *Personal Care, Inc., v. Jerry N. Theos, et al.*
Appellate Case No. 2016-001266

Dear Ms. Kitchings:

Enclosed for filing, please find the original and six copies of the MOTION TO BE RELIEVED AS COUNSEL AND FOR EXTENSION OF TIME TO RESPOND TO MOTION TO DISMISS APPEAL AS MOOT in the above-referenced matter.

Please return a clocked copy of the Motion and Proof of Service in the postage pre-paid, self-addressed return envelope, enclosed for your convenience. Thank you in advance for your attention to this matter.

With kind regards, I remain

Sincerely,

PENDARVIS LAW OFFICES, P.C.

Christopher W. Lempesis

CWL/mnd
Enclosures

cc w/encls: M. Dawes Cooke, Jr., J.D.
Phillip S. Ferderigos, J.D.
George J. Kefalos, J.D.
Jennifer H. Thiem, J.D.
Karen E. Spain, J.D.
Oana D. Johnson, J.D.

ec w/encls: Bernard Cignavitch

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