

WHEN IT'S WORTH FIGHTING FOR
June 12, 2018

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SERVING S.C. AND N.C.

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

RECEIVED

JUN 14 2018

SC Court of Appeals

Re: *Sisters of Charity v. Palmetto Health*,
Appellate Case No. 2017-001726.

Dear Ms. Kitchings:

This is a Freedom of Information Act ("FOIA") enforcement case. Appellant has possessed the trial transcript for more than a year. Appellant requests a third extension of time to file its initial brief. Respondent objects. A timeline of events may be helpful.

June 9, 2015	Plaintiff served a FOIA request for public records.
February 8, 2017	Trial in Circuit Court.
May 30, 2017	Trial Transcript to the Parties.
July 12, 2017	The Court rules Defendant is a "public body," citing \$26,000,000 in government grants over the last seven years, that Defendant expends public funds and manages their expenditure, and that Defendant has a history of complying with FOIA.
August 14, 2017	Order denying Motion to Reconsider.
August 15, 2017	Notice of Appeal.
November 8, 2017	Order Granting Stay during the Appeal.
November 28, 2017	Notice of Appeal on fees and request for transcript.
March 6, 2018	Appellant notifies the Court of receipt of transcript of hearing on fees.
March 15 2018	Appellant's first request for extension of time "due to conflicts in the schedule of Appellant's counsel" (nothing about knee surgery).

May 2, 2018 Appellant's second request for extension of time (no stated reason).

May 4, 2018 Second extension granted. "No further extension shall be granted **absent extraordinary circumstances.**" Order (emphasis added).

June 4, 2018 Appellant's third request for extension (third lawyer's knee surgery).

Appellant is represented by a law firm with "100 professionals in offices throughout the Carolinas" (McNair website). Two experienced partners tried the case and are counsel of record on the appeal. A third partner signed the Notice of Appeal in August, 2017. He recently had knee surgery; but he was apparently at work from the Notice of Appeal in August, 2017 through January, 2018, and again from March 5 to May 24, 2018. Surely he, or the two partners who tried the case, or someone else from among those "100 professionals" could have written Appellant's Initial Brief. Recent knee surgery to a third lawyer does not constitute "extraordinary circumstances."

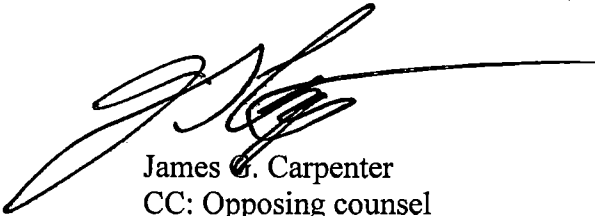
Appellant's delay has prejudiced the Respondent. Respondent serve the FOIA request more than three years ago. Respondent filed suit to enforce its FOIA request, and won a judgment. Respondent expended more than \$43,000 in the Circuit Court enforcing FOIA, and additional funds since then, but still has nothing to show for it. Appellant has not produced the first "public record." Now Appellant seeks more delay.

The General Assembly finds that **it is vital in a democratic society** that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials **at a minimum cost or delay** to the persons seeking access to public documents or meetings.

S.C. Code Ann. § 30-4-15 (emphasis added).

This record does not reflect "a minimum cost or delay." Appellants have possessed the trial transcript for more than a year, since May 30, 2017. "Justice delayed is justice denied." Appellant's third request should be denied for lack of "extraordinary circumstances" and the appeal be dismissed.

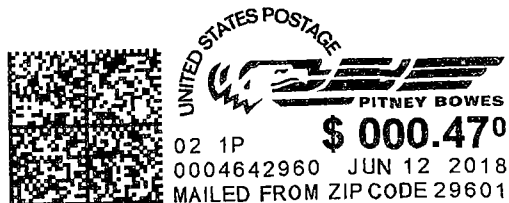
Respectfully submitted,
THE CARPENTER LAW FIRM, PC



James G. Carpenter
CC: Opposing counsel



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