

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas
R. Keith Kelly, Circuit Court Judge

Case No. 2010-CP-5743

RECEIVED
JUN 28 2018
SC Court of Appeals

Gregory J. Feldman, MD, Joseph A. Boscia, III, MD, and
Upstate Lung & Critical Care Specialists, PC,Appellants,

v.

Ray E. (“Chuck”) Thompson
and Charles M. Fogarty,..... Respondents.

RESPONDENTS’ BRIEF OPPOSING
APPELLANTS’ MOTION FOR EXTENSION OF TIME
TO FILE INITIAL REPLY BRIEF

Respondents Ray E. (“Chuck”) Thompson and Charles M. Fogarty, MD (“Respondents”) hereby oppose Appellants’ “Motion for Extension of Time to File Initial Reply Brief Appellants” (“Appellants’ Extension Request”) on the following grounds:

1. On June 27, 2018, Respondents’ counsel received via U.S. Mail a copy of Appellants’ Extension Request, in which Appellants seek a 30-day extension of time to “analyze the Respondents Initial Brief, research and prepare Appellants Initial Reply Brief[.]” Appellants’ Extension Request also states that “Counsel for Respondents consents to this request.”
2. Respondents’ Counsel did not consent, and do not consent, to Appellants’ Extension Request as stated in Appellants’ motion.
3. Counsel for Respondent Thompson, Attorney Matt Henrikson, did receive a phone call from Appellants’ counsel, Attorney Milton Mann, on June 26, 2018, during which Attorney

Mann stated that his wife's grandmother had just died, and that he needed to travel out-of-state for the funeral around the time that Appellants' reply brief is currently due. Attorney Henrikson advised Attorney Mann that he did not have a problem with Appellants' seeking an extension on that basis, but that he could not speak for Respondent Fogarty's counsel.

4. Attorney Henrikson's expectation was that Attorney Mann would contact Respondent Fogarty's counsel, and that Attorney Mann would seek from this Court an extension of time equal to the 10-day reply brief period established by Rule 207, SCACR. Attorney Henrikson was not advised that Appellants sought a 30-day extension to perform analysis and research for and to prepare Appellants' reply brief, and he did not consent to an extension on that basis.

5. Neither of Respondent Fogarty's attorneys received a request from Attorney Mann for their consent to an extension of time for Appellants to file their reply brief. Respondent Fogarty's counsel did not consent, and do not consent, to a 30-day extension for the purpose of providing Appellants additional time to perform analysis and research for and to prepare Appellants' reply brief.

June 27, 2018

Matthew H. Henrikson / by *etc*
Matthew H. Henrikson (S.C. Bar #7897) *with express*
Henrikson Law Firm *permission*
1164 Woodruff Road
Greenville, SC 29607
Counsel for Defendant Ray E. Thompson

Michael B.T. Wilkes
Michael B.T. Wilkes (SC Bar #6107)
mwilkes@wilkeslaw.com
Ellen S. Cheek (SC Bar #69642)
echeek@wilkeslaw.com
WILKES LAW FIRM, PA
127 Dunbar Street, Suite 200
Spartanburg, South Carolina 29306
(864) 591-1113
Attorneys for Respondent Charles M. Fogarty, MD

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas
R. Keith Kelly, Circuit Court Judge

Trial Court Case No. 2010-CP-42-05743

Appellate Case No. 2017-002522

RECEIVED

JUN 28 2018

SC Court of Appeals

Gregory J. Feldman, MD, Joseph A. Boscia, III, MD, and
Upstate Lung & Critical Care Specialists, PC,.....Appellants,

v.

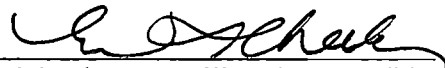
Ray E. (“Chuck”) Thompson and Charles M. Fogarty,.....Respondents.

PROOF OF SERVICE

I certify that I have served the *Respondents’ Brief Opposing Appellants’ Motion for Extension of Time to File Initial Reply Brief* upon Gregory J. Feldman, MD, Joseph A. Boscia, III, MD, and Upstate Lung & Critical Care Specialists, PC, by depositing a copy of it in the United States Mail, postage prepaid, on June 27, 2018, addressed to their attorney of record, F. Milton Mann, Jr., Esquire, at his office at 151 Harold Fleming Court, Spartanburg, South Carolina, 29303, and via email to Milty.mann@gmail.com.

Additionally, I hereby certify that I have served this same pleading upon co-respondent, Ray E. (“Chuck”) Thompson, by depositing a copy of it in the United States Mail, postage prepaid, on June 27, 2018, addressed to his attorney, Matthew H. Henrikson, Esquire, 1164 Woodruff Road, Greenville, South Carolina, 29607, and via email to matt@henriksonlaw.com.

June 27, 2018



Michael B. T. Wilkes (SC Bar #6107)

mwilkes@wilkeslaw.com

Ellen S. Cheek (SC Bar #69642)

echeek@wilkeslaw.com

WILKES LAW FIRM, PA

127 Dunbar Street, Ste. 200

Spartanburg, SC 29306

(864) 591-1113

Attorneys for Respondent

Charles M. Fogarty, M.D.

WILKES LAW FIRM P.A.

MICHAEL B.T. WILKES**
ELLEN S. CHEEK*
J. DERHAM COLE, JR.
C. DANIEL ATKINSON**
J. ALEXANDER JOYNER*

• CHARLESTON OFFICE
• ALSO MEMBER GEORGIA BAR
• ALSO MEMBER NORTH CAROLINA BAR
• CERTIFIED MEDIATOR

WILKES LAW FIRM, P.A.
Reply to: SPARTANBURG OFFICE
127 DUNBAR STREET, SUITE 200
SPARTANBURG, SOUTH CAROLINA 29306
864.591.1113
TOLL FREE 866.920.1113
FAX 864.591.1767

CHARLESTON OFFICE
200 MEETING STREET, SUITE 205
CHARLESTON, SOUTH CAROLINA 29401
843.737.6229

WWW.WILKESLAW.COM

June 27, 2018

Via UPS Overnight Mail

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201-3769

RECEIVED

JUN 28 2018

SC Court of Appeals

**Re: In the Court of Appeals for the State of South Carolina
Appeal from Spartanburg County Court of Common Pleas,
R. Keith Kelly, Circuit Court Judge
Trial Court Case No. 2010-CP-42-05743**

***Gregory J. Feldman, MD, Joseph A. Boscia III, MD, and Upstate Lung and
Critical Care Specialists PC, Appellants, v. Ray E. "Chuck" Thompson and
Charles M. Fogarty, MD, Respondents***

**In the Court of Appeals for the State of South Carolina
Appellate Case No. 2017-002522**

Dear Ms. Kitchings:

I am enclosing for filing in the referenced matter *Respondents' Brief Opposing Appellants' Motion for Extension of Time to File Initial Reply Brief and Proof of Service*. I am filing these documents on behalf of the collective Respondents, Ray E. "Chuck" Thompson, and Charles M. Fogarty, MD. Additionally, I have enclosed a "Copy" stamped version of these documents, which I would appreciate your marking filed and returning to me in the enclosed postage-prepaid envelope.

Thank you for your assistance in this regard.

✓

Sincerely,



Ellen S. Cheek
echeek@wilkeslaw.com

ESC: jjs
Enclosures

cc: F. Milton Mann, Esq. (via U.S. Mail and Email)
cc: Matthew H. Henrikson, Esq. (via U.S. Mail and Email)

Extremely Urgent

Visit ups.com or call 1-800-PICK-UPS® (1-800-742-5877) to schedule a pickup or find a drop off location near you.

Domestic Shipments

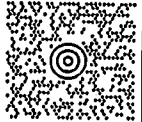



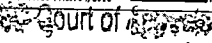
To qualify for the Le...
correspondence, ul...
weigh 8 oz. or less...
those listed on web...

International Shipments

The UPS Express In...
value. Certain coun...
ups.com/importex

To qualify for the Le...
UPS Express Envelo...

Note: Express Envelo...
containing sensitive...
or cash equivalent.

| | | |
|--|-------------|--------|
| 0.5 LBS LTR | | 1 OF 1 |
| LAW FIRM, PA 113 FIRM, PA STREET G SC 29206 | | |
| TO: THE HON. JENNY ABBOTT KITCHINGS 8037341890 CLERK OF COURT OF APPEALS 1220 SENATE STREET COLUMBIA SC 29201-3769 | | |
|  | SC 292 9-01 | |
| UPS NEXT DAY AIR | | 1 |
| TRACKING #: 1Z 46Y 87A 01 9247 7369 | | |
|  | | |
| BILLING: P/P | | |
| Reference#1: Peldman | | |
|    | | |

This envelope is for use with the following services:

- UPS Next Day Air®
- UPS Worldwide Express™
- UPS 2nd Day Air®

Apply shipping documents on this side.

Do not use this envelope for:

1740707AD1824
42A-1096
P. GREEN S. MIDORIG
7889
COLUMBIA SC 29201-3769
1220 SENATE ST
CLERK OF COURT OF APPEALS

International Shipping Notice - (single tender only) subject to the Convention on the Contract for the International Carriage of Goods.

X L-BRS

Shipping and other terms and/or conditions established by the Commission for the Unification of Certain Rules Relating to International Carriage by Air (the "Warsaw Convention") and/or the Convention on the Contract for the International Carriage of Goods by Road (the "CMR Convention") apply to this shipment. These conventions, treaties or statutes were reported from the U.S. in accordance with the Export Administration Regulations. Description remains in U.S. law published.

Serving you for more than 100 years
United Parcel Service.

