

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

Case No. 2016-001732

RECEIVED
MAY 15 2019
SC Court of Appeals

Hilda Stott, individually and as Personal Representative of the Estate of Jolly P. Davis, deceased,
and as Personal Representative of the Statutory Beneficiaries, Respondent,

White Oak Manor, Inc.; White Oak Management, Inc.; and White Oak Manor-Spartanburg, Inc.
d/b/a White Oak of Spartanburg, Appellants

PETITION FOR REHEARING

Appellants White Oak Manor, Inc.; White Oak Management, Inc.; and White Oak Manor-Spartanburg, Inc. d/b/a White Oak of Spartanburg hereby petition the Court of Appeals pursuant to Rule 221, SCACR, for a rehearing of its decision issued May 1, 2019.

More particularly, Appellants base this motion of the following grounds:

1. The Court of Appeals did not properly construe the Arbitration Agreement and the law applicable to interpreting the same to find that the provision of the opt-out clause served

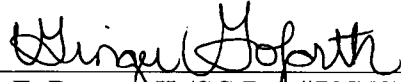
to make Hilda Stott's execution of the Arbitration Agreement timely and binding on the claims of Jolly Davis.

2. The Court of Appeals misconstrued and ignored Appellants' arguments in finding that Appellants conceded that Jolly Davis had mental capacity to sign the Arbitration Agreement himself including, but not limited to, the fact that the Progress Note Affecting Decisional Capacity was not properly executed by two physicians. Appellants did not concede that Jolly Davis had the mental capacity to sign, and argued with grounds in its Brief and Reply Brief the grounds that he did not.
3. The Court of Appeals erred in failing to address the issues raised by Appellants regarding the fact that Hilda Stott signed the Admission Agreement, Authorized Representative Agreement, AND Arbitration Agreement on behalf of Jolly Davis, and that the terms of these agreements worked together and must be interpreted together to validate the Arbitration Agreement and to bind Jolly Davis to arbitration of his claims with Appellants.
4. The Court of Appeals misconstrued the nature of Hilda Stott's appointment as Jolly Davis's health care power of attorney, and the fact that she was formally appointed by a Health Care Power of Attorney, and not by virtue of resort to the terms of the Adult Health Care Consent Act.

For these reasons, Appellants respectfully request that the Court of Appeals grant their Petition for Rehearing and reconsider the briefs/entertain oral arguments in this case.

Respectfully submitted,

THE WARD LAW FIRM, P.A.
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May 14, 2019.

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v.

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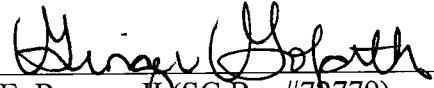
CERTIFICATE OF SERVICE

The undersigned hereby certifies that the Petition for Rehearing was served upon the following on May 14, 2019 via electronic transmission and via United States Postal Service, with proper postage affixed thereto to the following address(es):

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May 14, 2019

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VIA OVERNIGHT MAIL

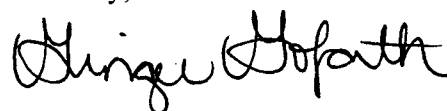
The Honorable Jenny Abbott Kitchings
Court of Appeals Clerk of Court
PO Box 11629
Columbia, SC 29211

Re: *Hilda Stott, individually and as Personal Representative of the Estate of Jolly P. Davis, deceased, and as Personal Representative of the Statutory Beneficiaries vs White Oak Manor, Inc.; White Oak Management, Inc.; and White Oak Manor-Spartanburg, Inc. d/b/a White Oak of Spartanburg*
Case No.: 2016-001732

Dear Ms. Kitchings:

Enclosed please find one (1) original and seven (7) copies of Appellants' Petition for Rehearing, as well a Certificate of Service for the same on all counsel of record. Please return a filed copy to me in the self-addressed stamped envelope provided.

Sincerely,



John E. Rogers, II
Ginger D. Goforth

GDG/mc
Enclosures

cc: Gary W. Poliakoff & Raymond P. Mullman, Jr. (w/enc)
Jordan C. Calloway (w/enc)

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