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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
Deadra L. Jefferson, Circuit Court Judge

RECEIVED

JUN 27 2019

SC Court of Appeals

Case No. 2011-CP-10-08011
Appellate Case No. 2018-000460

Assistive Technology Medical
Equipment Services, LLC, Respondent,

v.

Hood & Selander, CPAS, LLC; Donna C. Cash,
as Personal Representative of the Estate of
Dorothy A. Connelly; W.E. Applegate, III,
as Personal Representative of the Estate of
James B. Connelly, Kimberly Cuce; Phillip DeClemente, Defendants,

Of whom Phillip DeClemente is the Appellant.

MOTION TO EXPEDITE

This motion is made pursuant to Rule 240 of the South Carolina Appellate Court Rules. The respondent respectfully asks this Court to expedite its review of this case and of another appeal with similar parties; C-TRACK Appellate Case No. 2018-001413.

These three cases all arise out of a business relationship. The appellant—Philip DeClemente—is a former owner of the respondent—Assistive Technology Medical Equipment Services. The appellant left ATMES in 2009 as the result of a disagreement between him and the other then-partners Jeffrey Reed, Murrell Smith, and Kim Cuce.

In 2011, ATMES sued appellant and several others seeking money damages on multiple claims. The circuit court entered a default judgment against appellant.

Appellant sued in 2015. He sued ATMES, two of his former partners (Reed and Smith; Cuce was no longer part of the business), and others who were eventually dismissed. The circuit court dismissed all of appellant's claims based on the statute of limitations.

In 2017, appellant filed another suit against ATMES, Reed, and Smith. The circuit court dismissed this suit as well.

Appellant is challenging each of these rulings in this Court. This appeal concerns the 2011 case ATMES brought against appellant. Appellant's challenge to the rulings in the 2015 and 2017 cases—the cases *he* brought against ATMES and his former partners—have been consolidated in Appellate Case No. 2018-001413.

*

This Court's expedited consideration is requested in order to allow a potential sale and acquisition of this business. In December of last year, ATMES signed a broker arrangement with an individual who organizes mergers for this type of business.

ATMES promptly received an offer to be bought, however, early this year the buyer informed ATMES that it would not go forward with the purchase while these lawsuits remained pending.

It is respectfully submitted that expedited consideration benefits all parties. If any of appellant's challenges to the orders below are successful, he gains by having this Court's decision come sooner rather than later. If appellant's challenges are not successful, ATMES, its owners, and its prospective purchaser benefit from concluding litigation that has been pending since 2009.

Until recently this motion to expedite would have been premature. This appeal has been fully perfected since January of 2019, but the other cases were not perfected until appellant filed his final briefs on May 30, 2009. See C-TRACK Appellate Case No. 2018-001413.


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For the foregoing reasons the respondent respectfully requests expedited consideration of this appeal in conjunction with expedited consideration of the other appeal involving respondent and appellant.

Respectfully submitted,

June 27, 2019

James E. Smith, Jr. # 8733
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 on behalf with permission
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Attorneys for Respondent

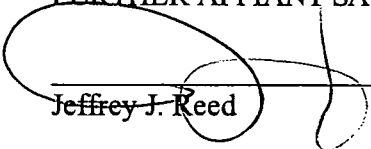
STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)
_____)

AFFIDAVIT

Jeffrey J. Reed states that he is an adult over the age of eighteen and, under oath, the following:

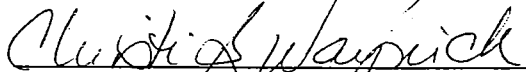
1. I am one of the owners of Assistive Technology Medical Equipment Services. The other owner is G. Murrell Smith, Jr. ATMES is in the durable medical equipment business.
2. In December of 2018, ATMES signed a broker agreement with Rick Glass, an individual who handles mergers and acquisitions in the durable medical equipment business.
3. Shortly after ATMES signed the broker agreement it received a letter of intent stating a buyer's intent to purchase the ATMES.
4. However, when ATMES disclosed to the buyer early this year that ATMES has been in litigation since 2009 the buyer responded that it would not go forward with the purchase while litigation was pending.

FURTHER AFFIANT SAYETH NOT.



Jeffrey J. Reed

Sworn to and subscribed before me
this 20 day of June 20, 2018)



Notary Public for South Carolina
My commission expires: April 9, 2023



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Of whom Phillip DeClemente is the Appellant.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below she served
counsel for the Appellant with a copy of the *Motion to Expedite* by mailing copies of the
same by United States Mail with first class postage prepaid to the following address:

Cameron L. Marshall
7 Gamecock Ave, Ste 707
Charleston, SC 29407-3379



Erin Bridges

June 27, 2019

June 27, 2019

VIA HAND DELIVERY

The Honorable Jenny Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED

JUN 27 2019

SC Court of Appeals

Re: Assistive Technology Medical v. Phillip DeClemente
Case Tracking No. 2018-000460

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven (7) copies of a *Motion to Expedite* in reference to the above matter. I have enclosed a proof of service of this document on counsel for the Appellant and a \$50.00 check for filing this motion. Please return the additional filed copy to me via our courier.

Thank you for your attention to this matter. If you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,



Erin Bridges
Paralegal to Blake A. Hewitt
Bluestein Thompson Sullivan, LLC

/emb

Enclosures

cc: James E. Smith, Jr., Esquire
Cameron L. Marshall, Esquire