

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Spartanburg County
Court of Common Pleas

J. Mark Hayes, II, Circuit Court Judge

Appellate Case No. 2020-
Case No. 2018-CP-42-03447

RECEIVED

Aug 12 2020

SC Court of Appeals

Estate of Barbara Owens, by and through her Personal
Representative, Mary Jane McCraw, Individually and on behalf of
Statutory Beneficiaries,

Respondent,

v.

Fundamental Clinical and Operational Services, LLC;
Fundamental Administrative Services, LLC; THI of South
Carolina, LLC; THI Of South Carolina at Spartanburg, LLC d/b/a
Magnolia Manor-Spartanburg,

Appellants.

NOTICE OF APPEAL

YOUNG CLEMENT RIVERS, LLP
Stephen L. Brown (SC Bar No. 66468)
D. Jay Davis, Jr. (SC Bar No. 12084)
Russell G. Hines (SC Bar No. 72100)
Kate C. Mettler (SC Bar No. 103762)
25 Calhoun Street, Suite 400 (29401)
P.O. Box 993
Charleston, South Carolina 29402
(843) 720-5488

Attorneys for Appellants

Other Counsel of Record:

Gary W. Poliakoff
Raymond P. Mullman, Jr.
Edward John Waelde
POLIAKOFF & ASSOCIATES, P.A.
215 Magnolia Street
Spartanburg, South Carolina 29306
P.O. Box 1571 (29304)
(864) 582-5472

and

Patrick E. Knie
PATRICK E. KNIE LAW OFFICES
250 Magnolia Street
Spartanburg, South Carolina 29306
P.O. Box 5159 (29304)
(864) 582-5118

Attorneys for Respondent

Defendants, Fundamental Clinical and Operational Services, LLC; Fundamental Administrative Services, LLC; THI of South Carolina, LLC; THI Of South Carolina at Spartanburg, LLC d/b/a Magnolia Manor-Spartanburg (collectively, "Appellants"), hereby appeal the following orders of the Honorable J. Mark Hayes, II, Circuit Court Judge:

- Form 4 Order filed August 23, 2019;
- Order Denying Defendant THI of South Carolina at Spartanburg, LLC d/b/a Magnolia Manor Spartanburg's Motion to Dismiss, Compel Arbitration and Stay Proceedings, filed October 25, 2019;
- Form 4 Order filed June 25, 2020;
- Order Granting in Part and Denying in Part Defendants' Motion to Alter, Amend, and/or Reconsider, filed July 13, 2020; and
- Confidentiality Order, filed July 13, 2020.

Copies of the appealed orders are attached hereto and incorporated herein by reference. Appellants received written notice of entry of the most recent order on July 13, 2020.

Respectfully submitted,

YOUNG CLEMENT RIVERS, LLP

By:



Stephen L. Brown (SC Bar No. 66468)

D. Jay Davis, Jr. (SC Bar No. 12084)

Russell G. Hines (SC Bar No. 72100)

Kate C. Mettler (SC Bar No. 103762)

25 Calhoun Street, Suite 400 (29401)

P.O. Box 993

Charleston, South Carolina 29402

(843) 720-5488

Attorneys for Appellants

Charleston, South Carolina

Dated: 8/12/20

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Spartanburg County
Court of Common Pleas

J. Mark Hayes, II, Circuit Court Judge

Appellate Case No. 2020-
Case No. 2018-CP-42-03447

Estate of Barbara Owens, by and through her Personal
Representative, Mary Jane McCraw, Individually and on behalf of
Statutory Beneficiaries,

Respondent,

v.

Fundamental Clinical and Operational Services, LLC;
Fundamental Administrative Services, LLC; THI of South
Carolina, LLC; THI Of South Carolina at Spartanburg, LLC d/b/a
Magnolia Manor-Spartanburg,

Appellants.

PROOF OF SERVICE

YOUNG CLEMENT RIVERS, LLP
Stephen L. Brown (SC Bar No. 66468)
D. Jay Davis, Jr. (SC Bar No. 12084)
Russell G. Hines (SC Bar No. 72100)
Kate C. Mettler (SC Bar No. 103762)
25 Calhoun Street, Suite 400 (29401)
P.O. Box 993
Charleston, South Carolina 29402
(843) 720-5488

Attorneys for Appellants

RECEIVED

Aug 12 2020

SC Court of Appeals

I, Russell G. Hines, of Young Clement Rivers, LLP, counsel for the Appellants above named, do hereby certify that I have served the **NOTICE OF APPEAL** on the above-named Respondent by depositing a copy of the same in the United States Mail, postage prepaid, on August 12, 2020, addressed as follows to Respondent's counsel (as well as via email to atty@gpoliakoff.com, mullmanjr@gpoliakoff.com, jwaelde@gpoliakoff.com, and pknie@knielaw.com (see attached copy of the sent email) and via E-filing the Notice of Appeal in the lower court, which will also effect service of the Notice of Appeal on Respondent's counsel):

Gary W. Poliakoff, Esquire
Raymond P. Mullman, Jr., Esquire
Edward John Waelde, Esquire
Poliakoff & Associates, P.A.
P.O. Box 1571
Spartanburg, SC 29304

and

Patrick E. Knie, Esquire
Patrick E. Knie Law Offices
250 Magnolia Street
Spartanburg, SC 29304
Attorneys for Respondent

YOUNG CLEMENT RIVERS, LLP

By:



Russell G. Hines (SC Bar No. 72100)

Attorneys for Appellants

Charleston, South Carolina

Dated: 8/12/20

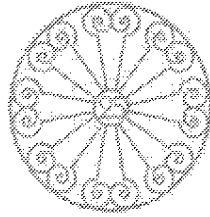
From: [Hines, Russell](mailto:Hines_Russell)
To: jwaelde@cpoliakoff.com; atty@cpoliakoff.com; RMullmanir@gmail.com; "Pat Knie"
Cc: carv@cpoliakoff.com; carv@cpoliakoff.com; Amanda@cpoliakoff.com; [Bell, Pollyana \(Polly\)](#); [Bell, Pollyana \(Polly\)](#)
Subject: Estate of Barbara Owens v. Fundamental (Case No. 2018-CP-42-03447) -- Notice of Appeal
Date: Wednesday, August 12, 2020 7:23:00 PM
Attachments: [Owens v. Fundamental - Notice of Appeal.pdf](#)
[2019 8-23 -- Form 4 re MTCA.pdf](#)
[2019 10-25 -- Order Denying MTCA.pdf](#)
[2020 6-26 -- Form 4 re MTR.pdf](#)
[2020 7-13 -- Order Granting in Part - Denying in Part MTR.pdf](#)
[2020 7-13 -- Confidentiality Order.pdf](#)
[image002.png](#)

Attached please find a Notice of Appeal with respect to the above-referenced matter and copies of the appealed orders.

Russell G. Hines
YOUNG CLEMENT RIVERS, LLP
www.ycrlaw.com
25 Calhoun Street, Suite 400
Charleston, South Carolina 29401
P.O. Box 993 (29402)
Phone: (843) 720-5488
Fax: (843) 579-1327
Email: rhines@ycrlaw.com

RECEIVED
Aug 12 2020
SC Court of Appeals





YCR LAW

Russell G. Hines
Partner

Direct Dial: (843) 720-5488
Direct Fax: (843) 579-1327
E-mail: RHines@ycrlaw.com

August 12, 2020

VIA FAX (803-734-1839)

Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED

Aug 12 2020

SC Court of Appeals

Re: Estate of Barbara Owens v. Fundamental Clinical and Operational Services, LLC
Case No.: 2018-CP-42-03447
YCR File: 14347-20180214

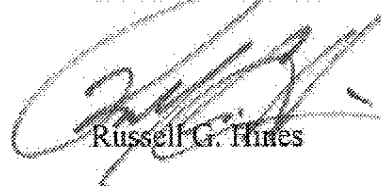
Dear Ms. Kitchings:

Enclosed for filing please find a **Notice of Appeal**, attached to which is a copy of each of the appealed orders, and a **Proof of Service** regarding the same. The filing fee will be forwarded to the Court under separate cover.

With best wishes and kindest regards, I am

Sincerely,

YOUNG CLEMENT RIVERS, LLP

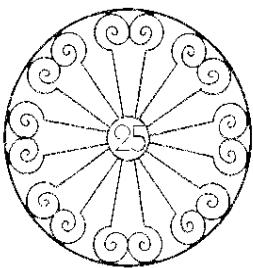


Russell G. Hines

RGH/amj
Enclosures
ce Via US Mail, E-Mail, and E-Filing:

Gary W. Poliakoff, Esquire
Raymond P. Mullman, Jr., Esquire
Edward John Waelde, Esquire
Patrick E. Knie, Esquire
Amy W. Cox, Spartanburg County Clerk of Court

ce Via E-Filing:



YCR LAW

Young Clement Rivers, LLP

All Business, Insurance, Real Estate and Regulatory Matters
Admiralty/Marine • Appellate • Commercial Litigation
Commercial Real Estate • Commercial Transactions
Community Association Law • Construction Law
Employment and Labor Law • Health Care • Insurance Coverage
Products Liability • Professional Liability • Retail Liability
Special Task Litigation • Tax, Estate Planning and Probate
Trucking and Transportation • Workers Compensation

THE FOLLOWING PAGES ARE FOR IMMEDIATE DELIVERY

To: 18037341839
From: rhines@ycrlaw.com
Date: August 12, 10:50:07 PM EDT
Subj: Estate of Barbara Owens v. Fundamental (Case No. 2018-CP-42-03447) --Notice of Appeal, Appealed Order
Pages: 51

Please see the attached **Cover Letter** and **Notice of Appeal** for filing with respect to the above-referenced matter, along with **Copies of the Appealed Orders** and a **Proof of Service** for the same.

Russell G. Hines
YOUNG CLEMENT RIVERS, LLP
www.ycrlaw.com
25 Calhoun Street, Suite 400
Charleston, South Carolina 29401
P.O. Box 993 (29402)
Phone: (843) 720-5488
Fax: (843) 579-1327
Email: rhines@ycrlaw.com

RECEIVED
Aug 12 2020
SC Court of Appeals



In view of current conditions and for the foreseeable future, YCR will be operating pursuant to its plan for continuous business services. With the imperative of safety in mind, our attorneys and staff will be working remotely as well as in our offices. In any event, we expect and intend to be able to respond in a timely manner to the needs and the requirements of clients, courts, colleagues, and friends. Thank you.

Young Clement Rivers, LLP
<http://www.ycrlaw.com>
Charleston: (843) 577-4000

Attachments larger than 40MB may be rejected by the firm's server. If you are sending an attachment of this size or larger, please contact the intended recipient to inform him/her of your transmission.

"ATTORNEY-CLIENT PRIVILEGED; DO NOT FORWARD WITHOUT PERMISSION." The information contained in this transmission is privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone or by email to email@ycrlaw.com or by replying to this message and destroy all copies of this message and all attachments.

Charleston Office
25 Calhoun Street, Suite 400 * Charleston, SC 29401
P.O. Box 993 * Charleston, SC 29402-0993

TELEPHONE: (843) 577-4000
WEBSITE: www.ycrlaw.com