

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Sep 15 2021

SC Court of Appeals

Appeal from Spartanburg County
Court of Common Pleas

Grace Gilchrist Knie, Circuit Court Judge

Case No. 2020-CP-42-03593

Trina Dawkins,
as Personal Representative of the Estate of William Dawkins,

Respondent,

v.

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

Appellants.

**APPELLANTS' MOTION FOR LEAVE TO MOVE OUT OF TIME
TO EXTEND THE TIME TO FILE/SERVE INITIAL BRIEF AND
MOTIONS TO EXTEND THE TIME TO FILE/SERVE INITIAL BRIEF OF
APPELLANTS BY TWO PERIODS OF 30 DAYS' EACH**

CLEMENT RIVERS, LLP
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Attorneys for Appellants

NOW COME, Appellants, Fundamental Clinical and Operational Services, LLC; Fundamental Administrative Services, LLC; THI of South Carolina, LLC; THI of South Carolina at Spartanburg, LLC; THI of South Carolina at Magnolia Manor-Spartanburg, LLC d/b/a Magnolia Manor-Spartanburg,¹ by and through their undersigned counsel, and, on the grounds set forth below, hereby move this Honorable Court (a) to grant them leave to file/serve the within motions to extend the time for filing/serving their initial brief and corresponding designation of matter to be included in the record on appeal out of time; (b) to grant them a first extension of 30 days' time, i.e., from August 16, 2021, to September 15, 2021; and (c) to grant them a second extension of 30 days' time, i.e., from September 15, 2021, to October 15, 2021:

1. Unbeknownst to Appellants' undersigned counsel, the court reporter emailed him the transcript needed for this appeal on July 16, 2021.

2. Thus, pursuant to Rules 208(a)(1) and 209(a), SCACR, the original 30-day deadline for Appellants to file/serve their initial brief and designation of matter began to run on July 16, 2021, and expired on Monday, August 16, 2021.

¹ Appellants are named consistent with the way Plaintiff/Respondent named them as Defendants in this action. Accordingly, the named Appellants include the named Defendants "THI of South Carolina at Spartanburg, LLC" and "THI of South Carolina at Magnolia Manor-Spartanburg, LLC d/b/a Magnolia Manor-Spartanburg;" however, the correct legal name for the entity doing business as Magnolia Manor-Spartanburg is "THI of South Carolina at Spartanburg, LLC."

3. Through inadvertence, the undersigned overlooked the court reporter's email with the transcript.

4. Consequently, the undersigned did not alert the Court and opposing counsel of his receipt of the transcript and did not properly note the original deadline (Monday, August 16, 2021) to file/serve Appellants' initial brief and designation matter on his calendar.

5. With gratitude to support staff for catching the aforementioned oversight, the undersigned now moves for the relief requested herein.

6. With apologies to the Court and opposing counsel for the aforementioned oversight, the undersigned humbly submits that good cause exists to grant the relief requested herein, which relief, the undersigned submits, is in the interests of justice and will not cause any undue prejudice to Respondent.

7. As an initial matter, the undersigned would assure the Court that the aforementioned oversight was simply the result of inadvertence and by no means reflective of any intentional disregard for the proper appellate process.

8. Again with gratitude to support staff for catching the aforementioned oversight, it was caught soon enough so as not to unduly delay the progress of this appeal.

9. In the roughly 15 years in which the undersigned has regularly practiced in this Court, it has been his experience that the Court has generally

graciously allowed parties two 30-day extensions of the time to file/serve their principal initial briefs.

10. Notwithstanding the unusual way (procedurally speaking) in which it is being sought herein, in terms of actual time, the Court's allowance of the additional time requested herein (which is, ultimately, an extension of time through October 15, 2021) keeps this appeal on the same schedule as it would have been on had Appellants timely requested a first 30-day extension on August 16, 2021, and then timely requested a second 30-day extension on September 15, 2021.

11. Besides the foregoing explanation of the aforementioned oversight, the additional time requested herein is being requested because of other time commitments (work-related and non-work-related), as well as because of a recent positive test for COVID-19 and associated symptoms, which have adversely affected the undersigned's normal work schedule.

Wherefore, the undersigned hereby moves this Honorable Court (a) to grant Appellants leave to file the within motions to extend the time for filing/serving their initial brief and corresponding designation of matter to be included in the record on appeal; (b) to grant Appellants a first extension of 30 days' time, i.e., from August 16, 2021, to September 15, 2021; and (c) to grant Appellants a second extension of 30 days' time, i.e., from September 15, 2021, to October 15, 2021. Moreover, the undersigned asks that the Court hold Appellants' initial

briefing/designation of matter deadline in abeyance until it rules upon the foregoing requests for relief.

Respectfully submitted,
CLEMENT RIVERS, LLP

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Attorneys for Appellants

Charleston, South Carolina

September 15, 2021

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THI of South Carolina at Spartanburg, LLC;
THI of South Carolina at Magnolia Manor-Spartanburg, LLC
d/b/a Magnolia Manor-Spartanburg,

Appellants.

PROOF OF SERVICE

CLEMENT RIVERS, LLP

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Attorneys for Appellants

I, Russell G. Hines, of Clement Rivers, LLP, attorneys for Appellants, hereby certify that **APPELLANTS' MOTION FOR LEAVE TO MOVE OUT OF TIME TO EXTEND THE TIME TO FILE/SERVE INITIAL BRIEF AND MOTIONS TO EXTEND THE TIME TO FILE/SERVE INITIAL BRIEF OF APPELLANTS BY TWO PERIODS OF 30 DAYS' EACH** was served on Respondent on September 15, 2021, by emailing (see attached email) a copy of the same to Respondent's counsel of record:

William A. Jordan III, Esquire
william@jordanlawcenter.com
JORDAN LAW CENTER, LLC
622 Wade Hampton Boulevard
Greenville, SC 29609

Attorney for Respondent

Respectfully submitted,
CLEMENT RIVERS, LLP

By: s/Russell G. Hines
Russell G. Hines (SC Bar No. 72100)
Attorneys for Appellants

Charleston, South Carolina

September 15, 2021

From: [Hines, Russell](#)
To: ["William Jordan"](#)
Cc: teri@jordanlawcenter.com; [Justman, Aimee](#); [Bell, Pollyana \(Polly\)](#)
Subject: 2021-000707 (Trina Dawkins v. Fundamental Clinical) -- Motion
Date: Wednesday, September 15, 2021 8:52:04 PM
Attachments: [image001.png](#)
[Dawkins v. Fundamental -- Motion for Leave to Request Extension.pdf](#)

Attached with respect to the above-referenced appeal, please find **Appellants' Motion for Leave to Move Out of Time to Extend the Time to File/Serve Initial Brief and Motions to Extend the Time to File/Serve Initial Brief of Appellants by Two Periods of 30 Days' Each.**

Russell G. Hines
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