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Oct 12 2021

SC Court of Appeals

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

Appeal from Calhoun County

Court of Common Pleas

Maite Murphy, Circuit Court Judge

Case No. 2019-CP-09-00220

Jeffery White,
individually and as Personal Representative
of the Estate of Lizzie White,

Respondent,

v.

St. Matthews Healthcare, LLC,
d/b/a Calhoun Convalescent Center,

Appellant.

**MOTION FOR EXTENSION OF TIME
TO FILE/SERVE INITIAL BRIEF OF APPELLANT
TO OBTAIN ADDITIONAL TRANSCRIPT
RELEVANT TO APPEAL**

CLEMENT RIVERS, LLP
Stephen L. Brown (SC Bar No. 66468)
D. Jay Davis, Jr. (SC Bar No. 12084)
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Attorneys for Appellant

NOW COMES Appellant, St. Matthews Healthcare, LLC, d/b/a Calhoun Convalescent Center, by and through its undersigned counsel, pursuant to Rule 263(b), SCACR, and, on the grounds set forth below, moves this Honorable Court for an extension of 10 days' additional time from today (Monday, October 11, 2021), i.e., to Thursday, October 21, 2021, to file/serve its initial brief and corresponding designation of matter to be included in the record on appeal.

1. Presently, by order of this Court filed September 10, 2021, the deadline for Appellant's initial brief and designation is today, October 11, 2021.¹

2. Appellant timely noticed this appeal by notice served/filed Thursday, July 1, 2021.

3. Pursuant to Rule 207(a)(1), SCACR, by correspondence emailed to court reporter Katherine A. Spires on July 12, 2021, a copy of which was simultaneously (i.e., at the same time as it was sent to Ms. Spires) filed/served the

¹ The Court's order was granted on Appellant's motion for extension filed/served September 10, 2021, which motion expressly requested an extension to "October 11, 2021," and which the Court kindly granted as requested. As it happens, October 11, 2021, is the federal holiday Columbus Day. Accordingly, it may be the case that, by rule, Appellant's current briefing deadline is carried over to tomorrow, October 12, 2021. *See* Rule 263(a) ("In computing any period of time prescribed or allowed by these Rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a state or federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday."). Out of an abundance of caution, however, Appellant assumes the deadline is indeed today, October 11, 2021.

via email to the Court, Court Administration, and opposing counsel, Appellant ordered the transcript of the motion hearing that was held in this matter before Judge Murphy on August 12, 2020.

4. That same day (July 12, 2021), Ms. Spires emailed Appellant's counsel a copy of the August 12, 2020, transcript, and on July 15, 2021, the undersigned emailed a letter to the Court (with cc to Court Administration and opposing counsel), advising that he had received the transcript on July 12, 2021, and calculating the original deadline for Appellant's initial brief and designation accordingly.²

5. While preparing Appellant's initial brief to be filed/served by today's deadline, the undersigned discovered that, through inadvertence, he had not ordered a second transcript that is relevant to this appeal (i.e., another transcript besides the transcript of the hearing held August 12, 2020), namely, the transcript of a motion for reconsideration before Judge Murphy on February 10, 2021.

6. With sincere apologies to the Court and opposing counsel for the oversight, the undersigned asks that he be allowed the additional time requested herein so that he can immediately request this additional transcript from the court reporter.

7. In making the instant request for 10 additional days' time, the

² Pursuant to Rule 208(a)(1), SCACR, that deadline was 30 days after July 12, 2021, which worked out to August 11, 2021.

undersigned intends to make contact with the court reporter as soon as possible to request an expedited transcript in hopes of being able to receive the transcript and finish Appellant's initial brief all within the requested 10 days. For the undersigned's part, if the court reporter is able to provide him with the transcript on the 10th day, that should leave sufficient time for the undersigned to finish Appellant's initial brief within the requested 10 days. Indeed, if the court reporter is able to provide him the transcript in less than 10 days, the undersigned will finish Appellant's initial brief and file/serve in less than 10 days.

8. If, however, upon making contact with the court reporter, the court reporter advises that the transcript will not be available within 10 days, the undersigned will promptly advise the Court of the same.

9. The undersigned hopes the Court will deem the circumstances worthy of the relief requested herein, the grant of which he humbly submits is warranted as an appropriately modest dispensation that is consistent with the interests of justice and will not result in any undue prejudice to Respondent or delay.

WHEREFORE, Appellant moves for an extension of ten (10) days' additional time from today (Monday, October 11, 2021), i.e., to Thursday, October 21, 2021, to file/serve its initial brief and corresponding designation of matter to be included in the record on appeal. Further, Appellant respectfully requests that the

Court hold its present initial-briefing/designation-of-matter deadline in abeyance until it acts upon this motion.

Respectfully submitted,
CLEMENT RIVERS, LLP

By: s/Russell G. Hines
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Charleston, South Carolina

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Appellant.

PROOF OF SERVICE

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Attorneys for Appellant

I, Russell G. Hines, of Clement Rivers, LLP, attorneys for Appellant, hereby certify that Appellant's **MOTION FOR EXTENSION OF TIME TO FILE/SERVE INITIAL BRIEF OF APPELLANT TO OBTAIN ADDITIONAL TRANSCRIPT RELEVANT TO APPEAL** was served on Respondent on October 11, 2021, by emailing (see attached email) a copy of the same to Respondent's counsel of record:

Jessica L. Fickling, Esquire
jfickling@stromlaw.com
Matthew B. Robins, Esquire
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Strom Law Firm, LLC
6923 N. Trenholm Road, Suite 200
Columbia, SC 29206
Attorneys for Respondent

Respectfully submitted,
CLEMENT RIVERS, LLP

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

Charleston, South Carolina

October 11, 2021

From: [Hines, Russell](#)
To: "jfickling@stromlaw.com"; "mrobins@stromlaw.com"
Subject: White v. St. Matthews Healthcare (2021-000700) -- Motion for Extension to Order Add'l Transcript
Date: Monday, October 11, 2021 11:56:34 PM
Attachments: [image001.png](#)
[White v. St. Matthews Healthcare \(2021-000700\) -- Motion for Extension to Order Add'l Transcript.pdf](#)

Attached please find Appellant's Motion for Extension in the above-referenced matter.

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