

RECEIVED

Nov 02 2021

SC Court of Appeals

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

Appeal from Spartanburg County
Court of Common Pleas

Grace Gilchrist Knie, Circuit Court Judge

Case No. 2020-CP-42-03593
Appellate Case No. 2021-000707

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' DESIGNATION OF MATTER

CLEMENT RIVERS, LLP
Stephen L. Brown (SC Bar No. 66468)
D. Jay Davis, Jr. (SC Bar No. 12084)
James D. Gandy, III (SC Bar No. 11925)
Russell G. Hines (SC Bar No. 72100)
T. Ashton Phillips, III (SC Bar No. 104227)
25 Calhoun Street, Suite 400
Charleston, South Carolina 29401
(843) 720-5488

Attorneys for Appellants

Appellants, Fundamental Clinical and Operational Services, LLC (“FCOS”); Fundamental Administrative Services, LLC (“FAS”); THI of South Carolina, LLC (“THISC”); THI of South Carolina at Spartanburg, LLC (“THI Spartanburg”); and THI of South Carolina at Magnolia Manor-Spartanburg, LLC, d/b/a Magnolia Manor-Spartanburg (“THI Magnolia Manor”) (THI Spartanburg and THI Magnolia Manor are referred to collectively as the “Facility”¹), propose the following to be included in the Record on Appeal, with any duplicative matter contained therein (e.g., the Arbitration Agreement, which is attached as an exhibit to multiple filings) to appear in the Record on Appeal only once:

Orders

1. Order Regarding Defendants’ Motions to Stay and Motion to Compel Arbitration, filed April 8, 2021;
2. Initial Order Regarding Motion for Reconsideration, filed May 13, 2021;
3. Final Order Regarding Motion for Reconsideration, filed June 1, 2021;

Pleadings

4. Summons and Complaint, filed October 14, 2020;
5. Facility Answer, filed November 19, 2020;

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.”

6. FAS Answer, filed November 19, 2020;
7. THISC Answer, filed November 19, 2020;
8. FCOS Answer, filed November 19, 2020;

Transcript

9. Transcript of March 16, 2021 hearing;

Other

10. Facility Motion to Compel Arbitration, filed February 12, 2021, with:
 - Exhibit A, Arbitration Agreement;
11. FAS Motion to Stay, filed February 21, 2021;
12. THISC Motion to Stay, filed February 12, 2021;
13. FCOS Motion to Stay, filed February 12, 2021;
14. Plaintiff's Memo in Opposition, filed March 12, 2021;
15. Facility Memo in Support of Motion to Compel Arbitration, filed March 15, 2021, with:
 - Exhibit 1, Admission Agreement, Authorizations, Consents and Acknowledgments, and Progress Note;
 - Exhibit 2, Arbitration Agreement;
 - Exhibit 3, Other Signed Documents;
16. FCOS Memo in Support of Motion to Stay, filed March 15, 2021, with:
 - Exhibit 1, Facility Motion to Compel Arbitration;
 - Exhibit A, Arbitration Agreement;
17. FAS Memo in Support of Motion to Stay, March 15, 2021, with:

- Exhibit 1, Facility Motion to Compel Arbitration;
 - Exhibit A, Arbitration Agreement;
18. THISC Memo in Support of Motion to Stay, March 15, 2021, with:
- Exhibit 1, Facility Motion to Compel Arbitration;
 - Exhibit A, Arbitration Agreement;
19. Plaintiff's Reply to Facility Memo in Support of Motion to Compel Arbitration, filed March 18, 2021, with:
- Exhibit A, Request for Medical records;
 - Exhibit C, Plaintiff's NOI;
 - Exhibit D, Proof of ADR;
 - Exhibit E, Facility Motion to Compel Arbitration, with:
 - Exhibit A, Arbitration Agreement;
 - Exhibit F, Defendant Discovery Responses;
 - Exhibit G, Affidavit of Melissa Dawkins, with:
 - Exhibit A, Progress Note;
20. Plaintiff's Proposed Order, emailed to Judge Knie's chambers March 25, 2021, and transmittal email;
21. Defendants' Proposed Order, emailed to Judge Knie's chambers March 29, 2021, and transmittal email;
22. Motion to Alter, Amend, and/or Reconsider Order Regarding Defendants' Motions to Stay and Motion to Compel Arbitration, filed April 19, 2021;
23. Memorandum in Support of Motion to Alter, Amend, and/or Reconsider Order regarding Defendants' Motions to Stay and Motion

to Compel Arbitration, filed April 26, 2021, with:

- Exhibit 1, Emails between counsel and Court;
 - Exhibit 2, Emails between counsel;
 - Exhibit 3, Email showing previous service of Exhibits 1 and 2 on Plaintiff's counsel;
24. Plaintiff's Reply in Opposition to Defendants' Motion to Alter, Amend, and/or Reconsider Order Regarding Defendants' Motions to Stay and Motion to Compel Arbitration, filed May 3, 2021;
25. Defendant's Sur Reply to Plaintiff's Reply in Opposition to Defendants' Motion to Alter, Amend, and/or Reconsider Order Regarding Defendants' Motions to Stay and Motion to Compel Arbitration, filed May 21, 2021, with:
- Exhibit A, Defendants' Proposed Order, emailed to Judge Knie's chambers March 29, 2021, and transmittal email;
26. Notice of Appeal and Proof of Service, filed/served July 1, 2021.

I certify that this designation contains no matter irrelevant to this appeal.

<SIGNED ON THE FOLLOWING PAGE>

Respectfully submitted,
CLEMENT RIVERS, LLP

By: s/Russell G. Hines
Stephen L. Brown (SC Bar No. 66468)
D. Jay Davis, Jr. (SC Bar No. 12084)
James D. Gandy, III (SC Bar No. 11925)
Russell G. Hines (SC Bar No. 72100)
T. Ashton Phillips, III (SC Bar No. 104227)
25 Calhoun Street, Suite 400
Charleston, South Carolina 29401
P.O. Box 993 (29402)
(843) 720-5488
Attorneys for Appellants

Charleston, South Carolina

November 1, 2021