

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

C.A. NO. 3:05-CV-2858-MBS

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| UNITED STATES OF AMERICA, ex rel., |) |
| MICHAEL K. DRAKEFORD, M.D., |) |
| |) |
| Plaintiff, |) |
| v. |) |
| |) |
| TUOMEY d/b/a TUOMEY HEALTHCARE |) |
| SYSTEM, INC. |) |
| |) |
| Defendant. |) |

SECOND MOTION TO DELAY PAYMENT OF BOND

The United States of America hereby files this Second Motion to Delay Payment of Bond and says:

1. The United States Court of Appeals for the Fourth Circuit has affirmed this Court’s judgment in this case (Appeal No. 13-2219, July 2, 2015), and the Court of Appeals’ Mandate is anticipated to be issued on or soon after August 17, 2015; and
2. Upon the issuance of the Mandate, the Stay of Execution Pending Appeal issued by this Court on July 17, 2014 (D.E. 925) will expire; and
3. Pursuant to the Court’s July 17, 2014 Order, upon the issuance of the Mandate, the United States, as the prevailing party in the appeal, would have been automatically entitled to disbursement of the \$40,000,000 (plus any accrued interest) currently being held in the

Registry of the Clerk of Court as security for the judgment, and such funds would be automatically disbursed to the United States, without the necessity of any further order of this Court; and

4. Pursuant to the Court's August 13, 2015 Order, the payment of the \$40,000,000 (plus accrued interest) was delayed until October 1, 2015.

5. The parties continue to be engaged in serious and substantial settlement negotiations, but need until approximately October 9, 2015 to conclude such negotiations; and

6. Tuomey has informed the United States that if a settlement is not reached, it intends to file for protection in the Bankruptcy Court.

THEREFORE, the United States asks that this Court delay the disbursement of the \$40 million (plus any accrued interest) until October 9, 2015. The United States requests that the Order delaying the payment specifically instruct the Clerk to make such payment on October 9, 2015, without the need for any further Order from this Court, unless this Court prior to that date enters another Order giving additional instructions to the Clerk. Such payment should be made to the United States of America and sent to the United States Attorney's Office for the Eastern District of North Carolina, Attn: Financial Litigation Unit, 310 New Bern

Ave., Raleigh North Carolina 27601. Nothing in this Motion is intended to alter or impair the United States' entitlement to the funds being held in the Court's Registry pursuant to the July 17, 2014 Order.

The Defendant has authorized the United States to inform the Court that it does not oppose this motion.

Respectfully submitted this 1st day of October, 2015.

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/s/ G. Norman Acker, III

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Attorneys for the United States

CERTIFICATE OF SERVICE

I do hereby certify that I have this 1 st day of October, 2015, served a copy of the foregoing upon the below-listed parties electronically through the Court's electronic case filing system or by placing a copy of the same in the U.S. Mails, addressed as follows:

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