

IN THE SUPREME COURT OF OHIO

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CASE NO. 07-0140

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ROBERT BARNES, EXECUTOR

Plaintiff-Appellee

-vs-

UNIVERSITY HOSPITALS OF CLEVELAND, *et al.*  
Defendant -Appellees.

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ON APPEAL FROM THE CUYAHOGA COUNTY  
COURT OF APPEALS  
CASE NO. 87247, 87285, 87710, 87903, 87946

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PLAINTIFF-APPELLEE'S MEMORANDUM IN OPPOSITION TO MOTION FOR  
STAY OF COURT OF APPEALS JUDGMENT BY APPELLANTS, MEDLINK OF  
OHIO AND THE MEDLINK GROUP, INC.

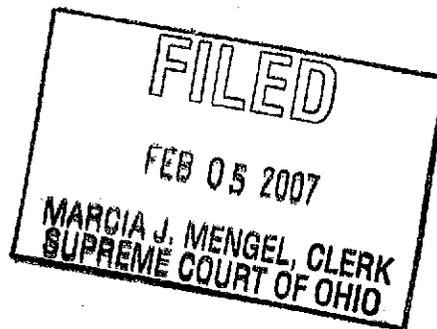
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## MEMORANDUM

Plaintiff-Appellee, Robert Barnes, Administrator of the Estate of Natalie Barnes, Deceased, hereby opposes the Motion for Stay that was filed by Defendant-Appellant, MedLink of Ohio and the MedLink Group, Inc., on January 25, 2007. At the outset, it must be observed that it is difficult to understand what Defendant-Appellants are attempting to “stay” in the “Court of Appeals” since those proceedings are now at an end. All the Eighth District Court of Appeals did was affirm the trial judge in all respects. *Barnes v. University Hosp. of Cleveland*, 8<sup>th</sup> Dist. No. 87247, 2006-Ohio-6266, 2006 W.L. 3446244 ¶ 84. No affirmative relief was issued nor was any remand authorized. *Id.* There is thus nothing that needs to be “stayed” in the Court of Appeals.

Plaintiff-Appellee suspects that Defendant-Appellants are actually seeking a stay of execution in the trial court. The judgments and interest that had been imposed against them in excess of \$8,000,000.00 (which have now been affirmed) remain unpaid. Plaintiff-Appellee never had any objection to a stay of execution, provided a sufficient *supersedeas* bond was posted for the entire amount, including post-judgment interest, with a reputable surety. This is, of course, a mandatory requirement for a stay under Civ.R. 62(B) and R.C. §2505.09. Defendant-Appellants have never been willing to make such arrangements, and their original request for a stay of execution was denied by the trial judge on September 15, 2005. In their ensuing appeals Defendant-Appellants severely criticized the trial judge upon a great number of matters, but never argued that he had abused his discretion by denying the request for a stay.

Quite clearly, granting a stay of execution at this late stage of the proceedings would be inappropriate. Judgment debtors who are unwilling to bear the costs of an adequate *supersedeas* bond should not be able to circumvent Civ.R. 62(B) and R.C. §2505.09 in such a manner. Unless and until Defendant-Appellants are willing to produce legitimate security for the entire amount of the unpaid judgments, Plaintiff-Appellee should be permitted to proceed

with execution.

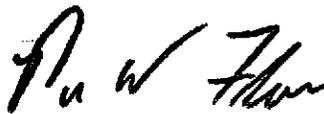
**CONCLUSION**

For the foregoing reasons, this Court should deny the Motion for Stay of Court of Appeals Judgment by Appellants MedLink of Ohio and the MedLink Group, Inc.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that the forgoing Memorandum was served via regular U.S. Mail on this 5<sup>th</sup> day of February, 2007 upon:

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