

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT
S. Phillip Lenski, Administrative Law Judge

Case No. 23-ALJ-22-0379-AP
Appellate Case No.: 2024-000251

Bridgette Chabot Appellant

v.

South Carolina Department of Employment and
Workforce; Wells Fargo & Company, Inc. Respondents

RETURN TO APPELLANT’S MOTION FOR PRESERVATION OF EVIDENCE

Pursuant to Rule 240(e) of the South Carolina Appellate Court Rules, Respondent, Wells Fargo and Company, Inc. (“Wells Fargo”), hereby submits this return in response to Appellant’s Motion for Preservation of Evidence dated March 20, 2024 (“Motion”).

In the Motion, Appellant requests that Wells Fargo retain all correspondence, records and files, surveillance footage, and paperwork pertaining to her employment and separation of employment with Wells Fargo. Wells Fargo represents that the Company has issued a litigation hold and will continue to preserve all available evidence in accordance with its obligations to do so.

To the extent Appellant’s Motion is construed as a request to produce the enumerated documents and recordings, Wells Fargo responds that such a request is improper. As stated in Appellant’s Motion, the evidence at issue was not part of the administrative record and, therefore, should not be considered by this Court. *See* Rule 210(h), SCACR (“[T]he appellate court will not

consider any fact which does not appear in the Record on Appeal.”); *see also State v. Jackson*, 384 S.C. 29, 34, 681 S.E.2d 17, 20 (Ct. App. 2009) (“Excluded testimony must be proffered to the trial court to preserve the issue of its exclusion for appellate review.”); *State v. Rogers*, No. 23-UP 209 (S.C. Ct. App. May 24, 2023) (declining to review the admissibility of evidence from a video because it was not proffered and was not included in the record on appeal).

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Dated this 29th day of April, 2024

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CERTIFICATE OF SERVICE

I certify that I have served the Return to Appellant’s Motion for Preservation of Evidence by emailing a copy to *Pro Se* Appellant, Bridgette Chabot and by depositing a copy of it in the United States Mail, postage prepaid, on April 29, 2024, addressed as follows:

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