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Jun 03 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

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APPEAL FROM ADMINISTRATIVE LAW COURT  
Phillip Lenski, Administrative Law Judge

Appellate Case No. 2024-000251

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

v.

Bridgette Chabot, Appellant.

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**MOTION TO STRIKE RESPONDENT WELLS FARGO'S INITIAL BRIEF**

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In accordance with Rule 208 of the South Carolina Appellate Court Rules, Appellant Bridgette Chabot, Pro Se Litigant, hereby moves to strike/dismiss Respondent Wells Fargo's Initial Brief from the Record/Appeal; the Statement of the Case; defined as:

(C) **Statement of the Case** ... "the statement shall not contain contested matters."

1. On Page 1 of the Respondent Wells Fargo's Initial Brief states in their "**Statement of the Case: A. Factual Background**" : "Wells Fargo maintains a policy in its handbook requiring branch employees to seek manager approval .. ("Approver Not Present Policy")" with citation to McCarthy's testimony on the record. Although Tracy McCarthy, Wells Fargo's witness, testified that the "Approver Not Present Policy" is found in the Employee Handbook, the Employee Handbook was not entered in to evidence. Wells Fargo's Employee Handbook, in

fact, does not contain the “Approver Not Present Policy.” The “Procedures: Branch Banking” policy printed and submitted by McCarthy (*ROA, pg100-109*) is not found in the Employee Handbook (and the Appellant had never seen this particular outline of procedures before.) The Hearing Officer did not corroborate where the “Approver Not Present Policy” is available to employees during trial.

2. Therefore, an acknowledgment signed by Appellant Chabot of receiving Wells Fargo’s Employee Handbook is irregardless. On Page 1 in the “**Statement of the Case,**” Respondent Wells Fargo’s Initial Brief, “Appellant signed an acknowledgment that she received Wells Fargo’s employee handbook containing the Approver Not Present Policy.” Again, this is a false claim as the “Approver Not Present Policy” which is the policy the Appellant is accused of violating, is not found in the Employee Handbook. (Please also note that the signed acknowledgment was not entered in to evidence and not found in the Record.) As the Hearing Officer did not corroborate where the policy is found, it can not therefore be used as a basis used to justify a termination, based on the Appellant’s or any employee’s understanding of the policy, as even Branch Manager McCarthy does not know where to find the policy herself.

3. On Page 2 of the “**Statement of the Case**” of Respondent Wells Fargo’s Initial Brief:

“Appellant went behind McCarthy’s desk and retrieved Nadi’s employee ID and unilaterally approved the transaction.” Respondent Wells Fargo’s citation is the Appellant’s testimony on her role in the transaction, however, the decision was not made “unilaterally” :

Hearing Officer asks; “who was the teller that actually completed the transaction?” McCarthy answers: “Tyler Faizo. It was done on his computer.” (*ROA, pg53 lines20-22*)

The Appellant Chabot goes on record consistently to testify that it was Tyler Faizo who completed the transaction and Faizo who printed the cashier's check. The Appellant thoroughly contests throughout the trial on record that Faizo completed the transaction and therefore, the **Respondent's claim in their "Statement of the Case" relies on contested matters.** On Page 3 of the **"Statement of the Case"** Respondent Wells Fargo's Initial Brief: "During her interview with McCarthy, Appellant admitted she engaged in the aforementioned misconduct." Again, this statement is based on testimony from the sole hearsay witness McCarthy (*ROA, pg.51-52, lines18-29, lines1-2*) and was contested by the Appellant Chabot: "Tyler printed the cashier's check to complete his transaction for his customer." (*ROA, pg60 lines19-20*). "I took responsibility only for the investigative part of looking over the transaction." (*ROA, pg62, lines16-18*). Contested statements include that this transaction was not, in fact made "unilaterally." To be repetitively clear, McCarthy was not present the week nor the day the transaction took place and her whole testimony is hearsay. (*ROA, pg51 lines3-4*)

4. On Page 3 of the **"Statement of the Case"** of Respondent Wells Fargo's Initial Brief: "Wells Fargo reviewed surveillance footage that corroborated Wells Fargo's findings that Appellant had violated the Approver Not Present Policy." Again, the Hearing Officer did not corroborate McCarthy's hearsay testimony. Nor does McCarthy ever state on the record that she herself actually watched the surveillance footage. The Appellant contested thoroughly what the surveillance footage captured: "Tyler printed the cashier's check to complete his transaction from his computer. He told me, Tyler reported back to me that he had tried calling, I think, the North Myrtle Beach branch, I believe he told me three times and nobody answered" (*ROA, pg60 lines19-23*) and the Appellant Chabot confronted the Hearing Officer by trying to object

to McCarthy's testimony: "I just want to state that this is false-" [interrupted by Hearing Officer when Appellant tries to object.] (*ROA, pg57 line19*) and the Appellant also asks to corroborate McCarthy's testimony: "I would be happy for somebody to subpoena that video and watch it." (*ROA, pg61 line8-9*). (In which the Hearing Officer replies the Appellant would of had to subpoena the footage beforehand, but even so, the Hearing Officer continuously questions the hearsay witness on hearsay surveillance footage.) Again, the surveillance footage McCarthy used to justify the Appellant's responsibility of the transaction and consequently her termination, was not entered in to evidence and not found in the record. **What the surveillance footage captured was thoroughly contested by the Appellant throughout trial.**

The Respondent Wells Fargo's Initial Brief outlines their argument, on page6 of their brief, which refers to "substantial evidence", thus their argument is entrenched on their Statement of the Case, in which, the "facts" stated are based on one sole hearsay witness McCarthy (who, established on record, was not present the week nor the day of the transaction in question, *ROA pg.51, lines3-4*). There was no evidence entered: Employee Handbook, Employee Handbook signed acknowledgement, Interview transcripts, Investigative findings, No other witnesses, NOR the Surveillance Footage to corroborate Wells Fargo's sole hearsay witness's account. Nor did the Hearing Officer ask for any evidence to corroborate these statements. **The Appellant thoroughly contested all statements outlined in this motion, as found on the Record.**

Contested statements that are found in favor of a hearsay witness's testimony does not induce a fact. A fact is "an event that actually happened, or a statement presented as objective truth." A fact cannot be stated by a hearsay witness, contested and then not corroborated with any evidence. The Respondent's Initial Brief is based on the argument relying on the "**Statement of**

**the Case.” Again, the Statement of the Case “shall not contain contested matters” in accordance with Rule 208 of the South Carolina Appellate Court Rules.**

Appellant moves to strike and dismiss Respondent Wells Fargo’s Initial Brief.

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