

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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**Aug 12 2024**

**SC 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 M. Chabot,

Appellant,

v.

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

Respondents.

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**RESPONDENT WELLS FARGO & COMPANY, INC.'S RETURN TO  
APPELLANT'S MOTION TO STRIKE AND DISMISS INITIAL BRIEFS**

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*Pro se* Appellant Bridgette Chabot has moved this Court under Rule 3.3 of Rule 407, SCACR, to strike/dismiss Respondents' initial briefs on the grounds that she disagrees with certain facts appearing in the record (and on which all four independent adjudicators below rejected Appellant's argument). The Court should deny Appellant's motion because (1) she has failed to preserve the issues, (2) it was within her control to introduce in the proceedings below any evidence she desired, and (3) disagreement with an opposing party's arguments does not constitute a basis for striking that party's appellate brief.

This case arises out of the termination of Appellant, a former bank teller for Respondent Wells Fargo & Company, Inc., for violating company policy by using a manager's credentials without the knowledge of that manager to approve a customer's bank transaction exceeding \$100,000.00. After her termination, Appellant applied for unemployment insurance benefits. The claims adjudicator for the S.C. Department of Employment and Workforce found her disqualified

for twenty weeks because she had been discharged for misconduct. Appellant appealed that decision to the Department's Appeal Tribunal, which, after a hearing, affirmed the claims adjudicator's determination. After Appellant appealed again, the Department's Appellate Panel affirmed the Appeal Tribunal's decision. Appellant appealed yet again to the Administrative Law Court, which upheld the Appellate Panel's decision. The Administrative Law Court's order has been appealed by Appellant to this Court. (ALC Amended Final Order.)

The gist of Appellant's motion is that she disagrees with the facts in the record—that certain matters were not entered into evidence, that an individual who testified “is not a credible witness,” and that other evidence presented constitutes hearsay. (Mot. to Strike at 2-4.) She requests that the Court strike Respondents' briefs because they rely on existing facts in the record, or because she believes Respondents should have introduced particular evidence. An issue “cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review.” *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998). Appellant failed to preserve the evidentiary arguments that she now makes for the first time on appeal; therefore, her motion should be denied.

Even if Appellant's issues had been preserved, her argument is without merit because it was within her power to seek to compel production of evidence, to introduce any evidence she desired, or to object to the introduction of any evidence she found improper. She failed to do so. For example, if she wished to introduce the entire handbook or certain surveillance video into evidence, she could have subpoenaed that evidence and introduced it. She did not, so she cannot now complain that other parties failed to present that evidence at the hearing.

Finally, disagreement with the arguments expressed by an opposing party does not constitute grounds for striking that party's briefs. Wells Fargo's brief is supported by citations to

the record. Even if it were assumed that the brief was unsupported, the record is before the Court of Appeals, which can determine whether the Administrative Law Court's findings "were supported by substantial evidence or were controlled by an error of law." *See Engaging & Guarding Laurens Cnty.'s Env't v. South Carolina Dep't of Health & Env't Control*, 407 S.C. 334, 341, 755 S.E.2d 444, 448 (2014).

Therefore, the Court is respectfully urged to deny Appellant's motion.

Respectfully submitted,

s/ Matthew R. Korn  
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*Counsel for Respondent  
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Dated this 12th day of August, 2024.

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**CERTIFICATE OF SERVICE**

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I certify that I have served the Respondent Wells Fargo & Company, Inc.’s Response to Appellant’s Motion to Strike and Dismiss Respondent S.C. Department of Employment and Wells Fargo’s Initial Briefs by emailing a copy to all parties and depositing a copy of the communication in the United States Mail, postage prepaid, on August 12, 2024, addressed as follows:

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**[Signature page to follow]**

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