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Oct 23 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

Docket No. 23-ALJ-22-0429-AP

Appellate Case No. 2024-001608

DeQuincey G. Simmons,

Appellant

v.

South Carolina Department of Employment and Workforce and
Bridgestone Americas Tire Operations, LLC,

Respondents

**JOINT MOTION TO DISMISS FOR LACK OF
APPELLATE JURISDICTION**

Respondents the South Carolina Department of Employment and Workforce (the Department) and Bridgestone Americas Tire Operations (Bridgestone) hereby respectfully jointly move this Court to dismiss Appellant's appeal because this Court lacks appellate jurisdiction due to Appellant's failure to timely file his appeal with this Court or to timely serve his Notice of Appeal on the Department or the Administrative Law Court (ALC) in this case within thirty (30) days of his receipt of the ALC Order of Dismissal. This motion is made on the following grounds.

I. Factual Background¹

This case originated as an appeal to the Administrative Law Court (ALC) by Appellant from a decision by the Department's Appellate Panel (Panel) disqualifying Appellant from receiving unemployment benefits for sixteen weeks upon a finding he was discharged for cause connected to his former employment. (Exhibit A). The Panel issued its initial decision on July 19, 2023. Appellant then appealed the Panel's decision on October 20, 2023, to the ALC.

Respondents filed a Joint Motion to Dismiss for Appellant's failure to comply with the Court's rules. (Exhibit B). In that motion, Respondents argued that Appellant's appeal should be dismissed because he categorically failed to file an appellate brief as required by ALC rules. Respondents further alleged that Appellant failed to present any issue on appeal and failed to present any legal arguments supporting his purported appeal. *See id.*

On July 29, 2024, the ALC issued an Order granting Respondents' Joint Motion to Dismiss for Appellant's failure to comply with the Court's rules. (Exhibit C). The ALC expressly held that the document submitted by Appellant – his purported “brief” – was “woefully deficient.” *Id.* at 2. Indeed, the ALC held that the document filed by Appellant

¹ Respondents submit this Joint Motion to Dismiss based upon the deadlines assigned for such motions in the South Carolina Appellate Court Rules. However, in doing so, Respondents do not concede that Appellant has properly perfected this appeal and/or complied with all procedural requirements to present this appeal to this Court. Rather, Respondents deny that Appellant has done so. As such, Respondents do not waive any arguments which may be raised in a response brief in the event Appellant complies with the procedural requirements to present this appeal to this Court and intend to present such arguments if and when Appellant actually complies with the requirements for presenting this case to this Court.

failed to identify any issues on appeal, did not raise any objection with the Panel's order, and further failed to offer "any legal argument on why the Panel's decision was erroneous." *Id.* As a result, the ALC ruled that Appellant's appeal of the Panel's Order should be dismissed for failure to comply with SCALC Rule 38. *Id.* at 3.

On August 13, 2024,² Appellant filed a Motion for Rehearing with the ALC. (Exhibit D). The Motion for Rehearing indicates on its face that it was drafted on August 8, 2024. *Id.* Respondents filed a Response to Appellant's Motion on August 19, 2024. (Exhibit E).

On August 22, 2024, the ALC issued an Order denying Appellant's Motion for Rehearing, holding, "Accordingly, because the Motion was untimely and because Appellant failed to show good cause to vacate the Court's July 29 Order of Dismissal, I conclude the Motion must be denied." (Exhibit F).

On September 20, 2024, fifty-three days after the ALC's final decision in this matter, Appellant filed and served a Notice of Appeal to this Court. (Exhibit G). Appellant did not serve Respondents with the Notice of Appeal until September 23, 2024, fifty-six days after the ALC's final decision. (Exhibit H).

II. Deadlines for Filing and Service

S.C. Code Ann § 1-23-610(A)(1) states:

For judicial review of a final decision of an administrative law judge, a notice of appeal by an aggrieved party must be served and filed with the court of

² This August 13, 2024, date is found in the ALC's August 22, 2024, Order Denying Motion for Rehearing. *See* Exhibit F. The document was served on Respondents significantly later, on August 21, 2024, as indicated by the postmark on Exhibit D.

appeals as provided in the South Carolina Appellate Court Rules in civil cases and served on the opposing party and the Administrative Law Court not more than thirty days after the party receives the final decision and order of the administrative law judge.

S.C. Code Ann § 1-23-610(A)(1).

Similarly, Rule 203(b)(6) SCACR states:

Appeals From Administrative Tribunals. When a statute allows a decision of the administrative law court or agency (administrative tribunal) to be appealed directly to the Supreme Court or the Court of Appeals, the notice of appeal shall be served on the agency, the administrative law court (if it has been involved in the case) and all parties of record within thirty (30) days after receipt of the decision. If a **timely** petition for rehearing is filed with the administrative tribunal, the time to appeal for all parties shall be stayed and shall run from receipt of the decision granting or denying that motion. If a decision indicates that a more full and complete decision is to follow, a party need not appeal until receipt of the more complete decision.

SCACR 203(b)(6) (emphasis added).

Rule 203(d)(2)(B) SCACR states that “[t]he notice of appeal shall be filed with the clerk of the appellate court within the time required to serve the notice of appeal under Rule 203(b)(6)...” SCACR 203(b)(6). Per Rule 263(b), SCACR, the timelines for service may not be extended by the appellate court:

Extending and Diminishing Time Prescribed by These Rules. The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rule 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof. The time prescribed by these Rules for performing any act or taking any action may not be extended by agreement of the parties.

SCACR 263(b).

III. Timely Filing and Service as Jurisdictional Requirement

“The Court of Appeals shall have such jurisdiction as the General Assembly shall prescribe by general law.” S.C. Const. art. V, § 9.

For judicial review of a final decision of an administrative law judge, a notice of appeal by an aggrieved party must be served and filed with the court of appeals as provided in the South Carolina Appellate Court Rules in civil cases and served on the opposing party and the Administrative Law Court not more than thirty (30) days after the party receives the final decision and order of the administrative law judge.

S.C. Code Ann. § 1-23-610(A)(1).

“[T]he question of compliance with rules, regulations, and statutes governing an appeal is one of appellate jurisdiction” *Allison v. W.L. Gore & Assoc.*, 394 S.C. 185, 188, 714 S.E.2d 547, 549 (2011). “[W]ithout a timely notice of appeal, the court would have no jurisdiction.” *Burnette v. S.C. State Highway Dep’t*, 252 S.C. 568, 571, 167 S.E.2d 571, 572 (1969). “Service of the notice of intent to appeal is a jurisdictional requirement, and this Court has no authority to extend or expand the time in which the notice of intent to appeal must be served.” *Mears v. Mears*, 287 S.C. 168, 169, 337 S.E.2d 206, 207 (1985); *see also Elam v. S.C. Dept. of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004) (“The requirement of service of the notice of appeal is jurisdictional, *i.e.*, if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to ‘rescue’ the delinquent party by extending or ignoring the deadline for service of the notice.”).

“[T]he failure of a party to serve the notice of appeal within thirty days after receiving written notice of the entry of the order divests this court of jurisdiction and

requires the dismissal of the appeal.” *Wells Fargo Bank, N.A. v. Fallon Properties S.C., LLC*, 413 S.C. 642, 647, 776 S.E.2d 575, 578 (Ct. App. 2015) (citing *Canal Insurance Co. v. Caldwell*, 338 S.C. 1, 5, 524 S.E.2d 416, 418 (Ct. App. 1999)).

The ALC issued the final order in this case on July 29, 2024. (Exhibit C). As indicated by the drafting date on Appellant’s Motion for Rehearing, Appellant had notice of the ALC’s final decision no later than August 8, 2024. (Exhibit D). Appellant, at the latest, had until September 9, 2024, to appeal the ALC’s July 29, 2024, Order. *See* S.C. Code Ann § 1-23-610(A)(1). Appellant’s Motion for Rehearing was ruled untimely by the ALC on August 22, 2024. (Exhibit F). Because Appellant’s Motion for Rehearing was untimely, it did not stay the time to appeal the ALC’s final order in this case. *See* Rule 203(b)(6), SCACR (“If a **timely** petition for rehearing is filed with the administrative tribunal, the time to appeal for all parties shall be stayed....”) (emphasis added).

It is undisputed that Appellant filed his Notice of Appeal with this Court on September 20, 2024, and served that Notice of Appeal on Respondents on September 23, 2024. (Exhibits G and H). Appellant therefore filed his Notice of Appeal more than forty (40) days after the **latest** date from which he could have had notice of the ALC’s final order dismissing his case and served that notice even later. Thus, both Appellant’s filing and service of his Notice of Appeal were **untimely**. *See* S.C. Code Ann. § 1-23-610(A)(1) (“[N]otice of appeal by an aggrieved party must be served and filed with the court of appeals...and served on the opposing party and the Administrative Law Court not more than thirty days after the party receives the final decision and order of the administrative law judge.”). Because Appellant failed to timely file and serve his appeal, this Court lacks

jurisdiction in this case and must dismiss. *See Wells Fargo*, 413 S.C. at 647, 776 S.E.2d at 578; S.C. Code Ann. § 1-23-610(A)(1).

Respondents request that all other timelines and due dates be held in abeyance until the resolution of this jurisdictional motion.

Respectfully Submitted,



Benjamin T. Cook (Bar # 102216)
SC Department of Employment and Workforce
Post Office Box 8597
Columbia, SC 29202
(803) 737-0395 (phone)
(803) 737-0124 (fax)
Legal@dew.sc.gov

Attorney for Respondent
SC Dept. of Employment and Workforce

/s/ Benjamin T. Hepner
Benjamin Hepner (Bar No. 102734)
Littler Mendelson, P.C.
110 E Court St., Suite 201
Greenville, SC, 29601
(864) 775-3200 (phone); (864) 484-8663 (fax)
BHepner@littler.com

Attorney for Respondent
Bridgestone Americas Tire Operations, LLC

October 23, 2024.



23700682

Original

DEQUINCEY G SIMMONS
2503 HIERS CT
HEPHZIBAH GA 30815-6322

Decision Date: 07/19/2023
Mailing Date: 07/19/2023
Effective Date: 07/02/2023
Type: DC03
Category: Unsatisfactory Work Performance
Benefit Year Ends: 06/29/2024
RE: BRIDGESTONE AMERICAS TIRE OPERATIONS LLC
Claimant ID: 10598020
SSN: XXX-XX-6991
WBA: \$326.00
RBA: \$1,304.00

DECISION

You are held ineligible for benefits from 07/02/2023 to 10/21/2023.

DETERMINATION REASON

You were discharged from your job with your most recent bona fide employer for failing to perform assigned work to the satisfaction of the employer. This is a discharge for cause in connection with the work under the South Carolina Code Section 41-35-120(2)(b). You were discharged for failing to complete work as directed by management.

CONCLUSION

You have not met the eligibility requirements of the law, benefits are denied. You are disqualified for 16 weeks. Your maximum benefits are also reduced by 16 times your weekly benefit amount.

MONETARY INFORMATION

Weekly Benefit Amount	Maximum Potential	Less Reduction Of	Net Total Benefits	Benefit Year Ends
\$326.00	\$6,520.00	\$5,216.00	\$1,304.00	06/29/2024

UI Claims Adjudicator

IMPORTANT: This determination will be the final decision of the Department unless you file an appeal setting forth in detail the grounds for appeal by 07/31/2023. Appeals may be filed by mail addressed to the "Appeal Tribunal, Post Office Box 995, Columbia, SC 29202," or by fax to 803-737-0287, or via the CSS or ESS portals using the "Request Appeal" button. NOTE: UPLOADING DOCUMENTS TO THE PORTALS WILL NOT BE ACCEPTED AS AN APPEAL. For additional information on filing an appeal, contact the Appeals Department at 803-737-2520 or visit our website at <https://www.dew.sc.gov/individuals/appeals>.

SEE FURTHER EXPLANATIONS OF THE LAW ON PAGE TWO (2) OF THIS FORM



EXPLANATION OF DETERMINATION

South Carolina Employment and Workforce Law provides varying penalties for a claim that does not meet the requirements of the law.

The term “bona fide employer” means the employer with whom the claimant last earned at least eight (8) times the weekly benefit amount.

SECTION 41-35-110 provides that a claimant is eligible for benefits for any week only if the week is claimed according to the regulations, and the claimant has registered and continued to report to an employment office for work as required. Additionally, a claimant must be physically able to work at his usual occupation which prior training and experience show him to be qualified. Also, a claimant must be available for work, which means being ready, able, and willing to accept suitable work, and that personal circumstances would not prevent him from accepting such work.

No weeks of unemployment benefits will be paid for weeks for which the claimant is held to be unavailable. The claimant should call 1-866-831-1724 if the condition which caused the unavailability changes.

SECTION 41-35-120(1) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant left work without good cause connected with the employment. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit of the claim.

SECTION 41-35-120(2)(a) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for misconduct connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for twenty weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by twenty. Misconduct includes deliberate violations or disregard of standards of behavior the employer has the right to expect, or carelessness or negligence of such degree or recurrence as to show an intentional and substantial disregard of the employer's interest or the claimant's duties and obligations to the employer.

SECTION 41-35-120(2)(b) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for cause, other than misconduct, connected with the most recent work. The disqualification shall begin on the effective date of the claim and shall continue for not less than five nor more than nineteen weeks, with a corresponding reduction of the claimant's benefits to be calculated by multiplying the weekly benefit amount by the number of weeks of the disqualification.

SECTION 41-35-120(3) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for illegal drug use. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(4) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant was discharged for gross misconduct. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(5) provides that a claimant shall be disqualified from benefits if the Department finds the claimant failed without cause to either apply for suitable work when directed by the Department or to accept available suitable work. The disqualification shall begin on the effective the week the failure occurs and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

SECTION 41-35-120(8) provides that a claimant shall be disqualified from benefits if the Department finds that the claimant retired voluntarily from the most recent work. The disqualification shall begin on the effective date of the claim and shall continue until the claimant returns to work and earns at least eight times the weekly benefit amount of the claim.

If you are still unemployed at the end of a period of disqualification or believe you have met the requalification requirements imposed, you may reopen your claim by reporting to the local unemployment office on the earliest possible date following the end of the disqualification or after meeting the earnings requirement.

FOR ADDITIONAL INFORMATION OR QUESTIONS PLEASE CONTACT US AT 1-866-831-1724.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Dequincey G. Simmons,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of)
 Employment and Workforce and,)
 Bridgestone Americas Tire)
 Operations, LLC,)
)
 Respondent.)
 _____)

Docket No. 23-ALJ-22-0049AP

JOINT MOTION TO
DISMISS FOR
FAILURE TO COMPLY WITH ALC RULES

Respondents, South Carolina Department of Employment and Workforce (Department) and Bridgestone Americas Tire Operations, LLC (“Bridgestone”) (the Department and Bridgestone are collectively to hereinafter as the “Respondents”), by and through their undersigned attorneys, respectfully move this Court to dismiss Appellant Dequincey G. Simmons’s (“Appellant”) appeal, which seeks judicial review of a final decision of the Department, for failure to comply with ALC Rules. This Motion is made on the following grounds:

FAILURE TO COMPLY WITH ALC RULES
Failure of Appellant to Timely File a Brief Which Complies with Rule 37

On September 23, 2023, the Department’s Appellate Panel (Panel) issued a decision dismissing Appellant’s appeal to the Panel finding no bias in the record or process employed to adjudicate the matter. (ROA, pp. 001-004.) Appellant purportedly appealed that decision to this Court and on October 20, 2023, this Court issued a Notice of Assignment in the instant case.

The Department timely filed and served the Record on Appeal on May 29, 2024. Therefore, Appellant's Brief was due June 18, 2024. *See* SCALC Rule 37(A) ("...In appeals from the Department of Employment and Workforce, the appellant shall file its brief with the Court within twenty (20) days after the Record on Appeal is filed...."). On June 18, 2024, Appellant served a document which he deemed a "Response to Record on Appeal." (Appellant's Response to Record on Appeal, attached as Exhibit 1.) Appellant's filing states that it was submitted for the purposes of "addressing the Record on Appeal." (*Id.* at 2.) Critically, Appellant's filing contains *none* of the information necessary to serve as an appellate brief for the purposes of adjudicating an appeal before this Court. Indeed, Appellant's filing does not identify the issues on appeal, does not raise any objection to or issue with the Panel's decision dismissing Appellant's appeal, and does not offer any legal argument on why the Panel's decision was erroneous. (*See e.g. Id.*). Rather, Appellant's filing merely contains an assessment of some of the language in the Department's Appeal Tribunal's Decision which is nothing more than an unnecessary literary critique of a decision which is not under appeal to this Court and which is entirely insufficient to constitute an appellate brief, to identify the issues on appeal or otherwise offer *any* legal argument demonstrating that there may be any deficiency in the Panel's final decision.

Appellant's non-responsive and non-persuasive filing does not comport with the requirements of SCALC Rule 37(B) and does not raise any issues which can be addressed by either this Court or by a brief from Respondents. Pursuant to Rule 38, the Department hereby moves for this Court to dismiss Appellant's appeal for failure to comply with Rule

37(B).

SCALC Rule 37(B)(1) requires the briefs of the parties to contain a “statement of the issues presented for review” and further provides that “[o]rdinarily, no point will be considered that is not set forth in the statement of issues on appeal.” An issue is deemed abandoned if it is not supported by a citation to authority in the brief. *Potter v. Spartanburg School Dist. 7*, 395 S.C. 17, 24, 716 S.E.2d 123, 137 (Ct. App. 2011). SCALC Rule 37(B)(2) requires the briefs of the parties to contain a statement of the case which “shall contain a concise history of the proceedings, insofar as necessary to an understanding of the appeal” and further provides that the statement of the case shall contain at minimum:

the date of the commencement of the action; the nature of the action; the nature of the defense or response; the date and nature of the agency action appealed from; the date of the service of the notice of appeal; the date of and description of any orders or proceedings in the agency as may have affected the appeal, or may throw light upon the questions involved in the appeal.

SCALC Rule 37(B)(2).

Moreover, SCALC Rule 37(B)(3) requires the briefs of the parties to “be divided into as many parts as there are issues to be argued, and each such part shall bear an appropriate caption, followed by a discussion and citation of authority.” SCALC Rule 37(B)(3) further requires that any statement of facts relevant to the issues will include “reference to the record on appeal.” SCALC Rule 37(B)(3). Finally, SCALC Rule 37(B)(4) requires the briefs of the parties to contain a “short conclusion stating the precise relief requested.” *See* SCALC Rule 37(B)(4).

SCALC Rule 38 provides, in relevant part, “[u]pon motion of any party, or on its

own motion, an administrative law judge may dismiss an appeal or resolve the appeal adversely to the offending party for failure to comply with any of the rules of procedure for appeals.” SCALC Rule 38.

The document filed by Appellant does not satisfy the requirements of Rule 37(B). Appellant fails to make any statement of any issues presented for appeal or address said issues with citations to authority, it provides no history of the proceedings and contains limited citations to the Record on Appeal to support any factual assertions related to the issue under appeal, and further fails to offer any statement (or conclusion) outlining the relief requested in this action. *See* SCALC Rule 37(B). In fact, Appellant’s filing *does not* even state the basis for his appeal or otherwise identify the foundation of his challenge to any filing in this action. In other words, this Court, nor Respondents have any notion as to why Appellant takes issue with the Panel’s decision or what his legal arguments are to support his purported challenge to the same.

Indeed, Appellant fails to present any argument or citation of authority for why the Department’s decision was in error. *See* SCALC Rule 37; *see also* *Potter v. Spartanburg School Dist. 7*, 395 S.C. 17, 24, 716 S.E.2d 123, 127 (Ct. App. 2011) (“An issue is deemed abandoned if the argument in the brief is not supported by authority or is only conclusory.”). Appellant’s filing contains *no legal authority* which identifies the basis for his appeal or otherwise supports any claim raised here. Appellant’s filing was obviously prepared with no regard for the rules of the Court and is so woefully deficient that it effectively asks both the Department and this Court to guess at (1) what the issues on appeal are, (2) what Appellant relies upon to support his claim(s) on appeal, or (3) what specific

relief he is seeking.

Simply put, Appellant's filing is so deficient that neither Respondents, nor this Court are informed as to why Appellant filed this action in the first place. Certainly, such a facially deficient pleading is insufficient to constitute an appellant brief or present a legitimate, justiciable challenge to a binding order. Because Appellant has failed to comply with the fundamental requirements of Rule 37, his appeal should be dismissed pursuant to Rule 38.

Although Respondents recognize Appellant is pro se, a pro se litigant is held to the same standards as represented parties. *See* SCALC Rule 8(A) ("A party proceeding without legal representation shall remain fully responsible for compliance with these Rules and the Administrative Procedures Act."); *State v. Burton*, 356 S.C. 259, 265 n.5, 389 S.E.2d 6, 9 n.5 (2003) ("A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.").

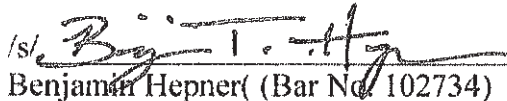
WHEREFORE, for all the reasons discussed above, the Respondents hereby request that this Court dismiss Appellant's appeal with prejudice pursuant to Rule 38 for failure to comply with Rule 37(B). Respondents also request the Court hold all further time requirements set forth in the Notice of Assignment and any other deadlines in abeyance pending resolution of this Motion.

Respectfully Submitted,



Benjamin T. Cook (Bar #: 102216)
SC Department of Employment & Workforce
Office of General Counsel
Post Office Box 8597
Columbia, South Carolina 29202
(803) 737-0395 (phone); (803) 737-0124 (fax)
legal@dew.sc.gov

Attorney for Respondent
SC Department of Employment and Workforce



Benjamin Hepner (Bar No. 102734)
Littler Mendelson, P.C.
110 E Court St., Suite 201
Greenville, SC, 29601
(864) 775-3200 (phone); (864) 484-8663 (fax)
BHepner@littler.com

Attorney for Respondent
Bridgestone Americas Tire Operations, LLC

July 8, 2024

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

DeQuincey Simmons,)	Docket No. 23-ALJ-22-0429-AP
)	
Appellant,)	
)	
v.)	
)	ORDER OF DISMISSAL
South Carolina Department of Employment)	
and Workforce and Bridgestone Americas)	
Tire Operations,)	
)	
Respondents.)	
_____)	

This matter comes before the South Carolina Administrative Law Court (ALC or Court) pursuant to an appeal by DeQuincey Simmons (Appellant) from the decision of the South Carolina Department of Employment and Workforce (Department or DEW) Appellate Panel (Panel). The Panel held Appellant was disqualified to receive unemployment benefits for sixteen weeks because he was discharged for cause from his employment with Bridgestone Americas Tire Operations (Employer).

The case was assigned on November 2, 2023.¹ The Department timely filed the Record on Appeal on May 29, 2024. Therefore, Appellant’s Brief was due June 18, 2024. *See* SCALC Rule 37(A) (“In appeals from the Department of Employment and Workforce, the appellant shall file its brief with the Court within twenty (20) days after the Record on Appeal is filed...”). On June 18, 2024, Appellant filed a document which he labeled “Response to Record on Appeal.” Then, on July 8, 2024, the Department and Employer (collectively, Respondents) filed a Joint Motion to Dismiss (Joint Motion) for failure to comply with Rule 37(B) of the Rules of Procedure for the Administrative Law Court (SCALC Rules). On July 15, 2024, Appellant filed a response to the Joint Motion asserting Respondents’ brief has significant deficiencies that has prejudiced his ability to respond effectively. Interestingly, Respondents have not filed a brief but instead filed a Joint Motion to Dismiss for **Appellant’s** failure to file a sufficient brief.

¹ The case was reassigned to the undersigned on May 30, 2024.



The SCALC Rules provide that a brief shall contain a “statement of each of the issues presented for review.” SCALC Rule 37(B)(1). Moreover, the brief “shall contain a concise history of the proceedings” and shall contain, at a minimum, the following information:

the date of the commencement of the action; the nature of the action; the nature of the defense or response; the date and nature of the agency action appealed from; the date of the service of the notice of appeal; the date of and description of any orders or proceedings in the agency as may have affected the appeal, or may throw light upon the questions involved in the appeal.

SCALC Rule 37(B)(2). Furthermore, the brief must address the issues presented with a discussion and citation to authority. SCALC Rule 37(B)(3). The brief should also contain a “short conclusion stating the precise relief requested.” SCALC Rule 37(B)(4). And, pursuant to SCALC Rule 5, the brief must be served on all parties to the proceeding.

SCALC Rule 38 further provides, in relevant part, “[u]pon motion of any party, or on its own motion, an administrative law judge may dismiss an appeal or resolve the appeal adversely to the offending party for failure to comply with any of the rules of procedure for appeals.” (emphasis added).

Here, although Appellant submitted a document that could be construed as a brief, it is woefully deficient. Specifically, the document contains none of the information necessary to serve as a brief for the purposes of adjudicating an appeal before this Court. Indeed, Appellant’s filing does not identify the issues on appeal, does not raise any objection to or issue with the Panel’s decision, and does not offer any legal argument on why the Panel’s decision was erroneous. Moreover, Appellant’s brief does not set forth sent any citations to authority supporting why the Panel’s decision was in error, or a conclusion stating the precise relief requested. *See* SCALC Rule 37; *see also* *Potter v. Spartanburg School Dist.* 7, 395 S.C. 17, 24, 716 S.E.2d 123, 127 (Ct. App. 2011) (“An issue is deemed abandoned if the argument in the brief is not supported by authority or is only conclusory.”); *State v. Porter*, 389 S.C. 27, 35, 698 S.E.2d 237, 241 (Ct. App. 2010) (“An issue is deemed abandoned and will not be considered on appeal if the argument is raised in a brief but not supported by authority.”); *Medical Univ. of South Carolina v. Arnaud*, 360 S.C. 615, 620, 602 S.E.2d 747, 750 (2004) (finding that issues raised by the appellant were deemed

abandoned because the arguments on those issues were conclusory). Appellant also attached documents to his filing.²

Although the Court recognizes Appellant is *pro se*, *pro se* litigants are held to the same standards as represented litigants. *See* SCALC Rule 8(A) (“A party proceeding without legal representation shall remain fully responsible for compliance with these Rules and the Administrative Procedures Act.”); *State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003) (“A *pro se* litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.”).

For all the above reasons the Court finds that this case should be dismissed for failure to comply with this Court’s rules. *See* SCALC Rule 38.

ORDER

IT IS THEREFORE ORDERED that the Joint Motion is **GRANTED**, and this appeal is **DISMISSED**.

AND IT IS SO ORDERED.




Ralph King Anderson, III
Chief Administrative Law Judge

July 29, 2024
Columbia, South Carolina

² The Court’s review is confined to the Record; therefore, the Court cannot consider the documents attached to the brief. S.C. Code Ann. § 1-23-380(4) (Supp. 2023) (“The review . . . must be confined to the record.”); SCALC Rule 36(G) (“The Administrative Law Judge will not consider any fact which does not appear in the Record.”); Rule 210(c), SCACR (explaining a record on appeal “shall not, however, include matter which was not presented to the lower court or tribunal”).

CERTIFICATE OF SERVICE

I, Stephanie Perez, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Stephanie Perez
Judicial Law Clerk

July 29, 2024
Columbia, South Carolina

ADMINISTRATIVE LAW COURT OF SOUTH CAROLINA

DeQuincey G. Simmons,

Appellant,

v.

**South Carolina Department of Employment and Workforce and
Bridgestone Americas Tire Operations, LLC,**

Respondents.

Docket No.: 23-ALJ-22-0429-AP

Date: August 8, 2024

Appellant's Second Rule 40 Motion for Clarification and Modification of Judgment Due to Continued Procedural Irregularities

I. Introduction

DeQuincey G. Simmons, the Appellant, respectfully submits this second Rule 40 motion to address persistent procedural irregularities and administrative errors that undermine the fairness and integrity of the judicial process in this matter. Despite all submissions being properly stamped and acknowledged by the court, crucial motions and filings have inexplicably not been addressed. This motion seeks specific clarification and modification of prior judicial orders to ensure equitable handling in accordance with established legal standards.

II. Factual Background

A. Timeline of Events

- **March 31, 2024:** Initial Rule 40 motion filed due to administrative delays and oversight.
- **June 4, 2024:** Submission of a reassignment letter with an incorrect docket number.
- **July 8, 2024:** Respondents filed a motion to dismiss for non-compliance with ALC rules.
- **July 13, 2024:** Appellant submitted multiple documents:
 - A rebuttal against the motion to dismiss.
 - A motion to clarify respondents' submissions, questioning the lack of clear instructions in the respondent's brief.
 - A motion for summary judgment and sanctions for false statements, dated July 26, 2024.
- **July 29, 2024:** Court rapidly ruled on the respondents' July 8 motion to dismiss, granting it without similar expedience or consideration given to the appellant's submissions, all of which were stamped and acknowledged by the court.

B. Specific Procedural Errors and Omissions

- **Rapid and Unequal Handling of Motions:** Notable disparity in processing of the Appellant's versus Respondents' filings, indicating potential procedural bias.
- **Lack of Direction in Brief Construction:** Respondents' submission lacked clear directives for brief structuring, which is required under SCALC Rule 37, leading to procedural confusion.
- **Court's Inexplicable Non-Response:** Despite being stamped and acknowledged, the Appellant's submissions have not been addressed, undermining confidence in judicial processes.

III. Legal Argument

A. Violation of Legal Standards for Brief Requirements

- **SCALC Rule 37** mandates that a legal brief should be structured with:
 - **Statement of Issues:** Clearly delineating the legal questions the court is being asked to decide.
 - **Statement of the Case:** Providing a concise history of the proceedings, including factual background and previous court decisions.
 - **Argument:** Discussing each issue with supporting legal authorities, and integrating facts with legal theory.
 - **Conclusion:** Summarizing the relief sought and the legal basis for such relief.

B. Lack of Substantive Content in Respondents' Brief

- The opposing parties, Bridgestone Americas and the South Carolina Workforce and Employment Agency, submitted a brief consisting of one hundred and fifty-one pages of largely duplicative and irrelevant documents, devoid of substantive legal arguments or specific factual statements. It is evident that the court assumed this submission met the necessary standards without thoroughly examining its content. This assumption, based on their status as represented parties, is unacceptable and undermines the integrity of the judicial process. I insist that the court scrutinizes their submission as rigorously as it would mine, ensuring that both parties are held to the same standards of clarity and specificity.

C. Equal Treatment for Pro Se Litigants

- As a pro se litigant, I demand that my submissions and concerns receive the same level of scrutiny and respect as those prepared by licensed attorneys. The lack of response to my detailed submissions, particularly those submitted on July thirteenth, is unacceptable and undermines the fairness of this process. Despite not holding a legal license, I am held to the same standards and should be treated with the same consideration. It is imperative that the court thoroughly reviews my submissions and addresses the issues I have raised to uphold the principles of justice and equality.

D. Procedural Challenges and Court Processes

- In navigating this case, I have felt at times as though I am contending not only with Bridgestone Americas and the South Carolina Workforce and Employment Agency but also with the processes of the Administrative Law Court itself. This perception arises from the procedural challenges and delays I have experienced. Such procedural barriers, as outlined in *Shuler v. South Carolina Department of Social Services*, 344 S.C. 436 (2001), highlight the need for courts to ensure equitable treatment and timely responses to filings, particularly when dealing with pro se litigants.

E. Relevant Case Law and Statutes

- *Harvey v. South Carolina Department of Corrections*, 338 S.C. 500 (2010) — emphasizes the necessity for consistent application of procedural rules.
- *In re Mann*, 298 S.C. 464 (1989) — underscores the court's duty to ensure all properly filed documents are reviewed and addressed timely.
- **South Carolina Code § 1-23-350 (a)(d)** — mandates that all administrative procedures uphold principles of fairness and transparency in the treatment of all parties.
- *Moseley v. Oswald*, 358 S.C. 182 (2004) — recognizes the right of pro se litigants to equal treatment under the law, emphasizing that self-representation does not diminish procedural entitlements.

IV. Evidence and Documentation

Attached are all relevant documents, including court orders, motions, and responses, demonstrating the procedural errors and highlighting the court stamps on each filing.

V. Impact and Prejudice

These procedural failures have directly compromised the Appellant's ability to engage in a fair legal process, resulting in significant emotional distress, financial burden, and an eroded trust in the judicial system's capacity to administer justice impartially and efficiently.

VI. Relief Requested

- **Clarification of Brief Requirements:** An explicit court directive on the required structure and content for briefs as per SCALC Rule 37, ensuring all parties adhere to a uniform standard that facilitates fair and just legal proceedings.
- **Review and Reconsideration of Dismissal:** A thorough review and reconsideration of the dismissal issued on July 29, 2024, alongside a detailed examination of all pending motions.
- **Corrective Action for Procedural Fairness:** Implementation of measures to prevent recurrence of these issues and to ensure equitable treatment moving forward.

VII. Conclusion

This motion calls for immediate corrective action to rectify the ongoing procedural disparities that have marred this case. The Appellant seeks to restore fairness and ensure that the judicial process is conducted transparently and justly.

Respectfully submitted,

DeQuincey G. Simmons
2503 Hiers CT

Hephzibah, GA 30815
706-495-0738
dequinceysimmons@gmail.com

8/8/2024


8/8/2024

IN THE ADMINISTRATIVE LAW COURT OF SOUTH CAROLINA

Dequincey G. Simmons, *Appellant*,

v.

South Carolina Department of Employment and Workforce and Bridgestone Americas
Tire Operations, LLC, *Respondents*.

Docket No. 23-ALJ-22-0429-AP

APPELLANT'S MOTION FOR SUMMARY JUDGMENT AND SANCTIONS FOR
FALSE STATEMENTS

I. Introduction

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Appellant Dequincey G. Simmons hereby amends his motion for summary judgment on all claims against the Respondents. This amended motion also seeks sanctions against the Respondents for submitting an affidavit by Beth Hellmann, which contains demonstrably false statements as contradicted by the evidence acknowledged by this Court.

II. Statement of Facts(Exhibits- R-S)

Dequincey G. Simmons, the Appellant, has been engaged in proceedings challenging the alleged lack of jurisdiction claimed by the Respondents, South Carolina Department of Employment and Workforce and Bridgestone Americas Tires Operations, LLC. The Respondents contended that the Appellant failed to properly serve the Notice of Appeal on Bridgestone, thus seeking a motion to dismiss for lack of jurisdiction.

In response, the Appellant provided substantial documentary evidence demonstrating that the Notice of Appeal was indeed properly served. Notably, on October 23, 2023, the Appellant utilized certified mail to send the Notice of Appeal to the address listed for Bridgestone, which is also on record in the appellate panel decision. This mailing address is P.O. Box 182366, Columbus, Ohio 43218-2366. Confirmation of this service is supported by a receipt from the U.S. Postal Service and a tracking sheet indicating that the delivery was completed on October 30, 2023.

Furthermore, in a critical ruling, this Court has acknowledged the sufficiency of the Appellant's service. On April 29, 2024, this Court refuted the Respondents' claims by recognizing that the Appellant had indeed served the Notice of Appeal in compliance with the procedures outlined in S.C. Code Ann. 41-35-750. This statute allows for an alternate method of service by leaving additional copies of the notices with the Department, which then forwards the pleadings to the concerned parties.

①



DeQuincey Simmons
2503 Hiers CT
Hephzibah, Ga 30815
dequinceysimmons@gmail.com
706-495-0738

July 13, 2024

The Honorable Ralph King Anderson III
SC Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

Re: DeQuincey Simmons v. SCDEW and Bridgestone Americas Tire Operations
Docket Number: 23-ALJ-22-0429-AP

Dear Judge Anderson,

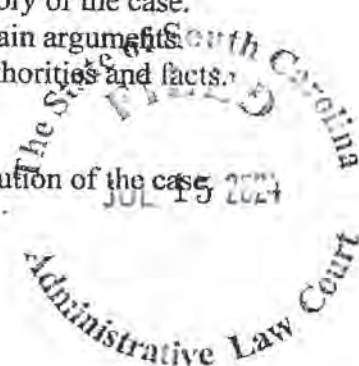
I am writing to respond to the Respondents' motion to dismiss my case, which was filed without the necessary adherence to procedural rules and has made it difficult for me to effectively respond. I respectfully request that the court deny their motion to dismiss and allow my appeal to proceed on its merits.

Definition of a Legal Brief:

A legal brief is a written document submitted to a court that presents the legal arguments and facts supporting one party's position in a case. It is a crucial part of the legal process, designed to provide the judge with a clear and concise explanation of the issues at hand, the relevant laws, and how those laws apply to the facts of the case. Key components of a properly structured legal brief include:

1. **Title Page:** Identifies the case, the parties, and the court.
2. **Table of Contents:** Lists the sections of the brief and their page numbers.
3. **Table of Authorities:** Lists the legal authorities cited in the brief, such as statutes, cases, and regulations.
4. **Statement of the Issues:** Clearly states the legal questions the court is being asked to decide.
5. **Statement of the Case:** Provides a factual and procedural history of the case.
6. **Summary of the Argument:** Offers a brief overview of the main arguments.
7. **Argument:** Presents detailed legal reasoning, supported by authorities and facts.
8. **Conclusion:** Summarizes the requested relief or outcome.

A well-crafted brief is essential for the court's understanding and resolution of the case.



Dequincey Simmons, Plaintiff

vs.

Bridgestone Americas Tire Operations, LLC and South Carolina Department of Employment and Workforce (SCDEW), Respondents

Motion to Clarify Respondents' Submission

Docket Number 23-ALJ-22-0429-AP

*Filed
7/15/2024*

Plaintiff Dequincey Simmons respectfully requests the Administrative Law Court to order the Respondents to clarify their submission, dated 7/8/2024, on the following grounds:

1. Lack of Proper Brief Structure

The Respondents' submission fails to meet the essential requirements of an appellate brief as outlined in SCALC Rule 37 and Rule 38. Specifically:

- **Absence of Statement of Issues:** The submission does not include a clear statement of the issues on appeal as required by Rule 37(B)(1). This omission leaves the Plaintiff unable to ascertain the precise legal and factual questions that the Respondents intend to address.
- **Insufficient Case History:** The submission lacks a concise history of the case, making it difficult for the Plaintiff to follow the procedural background and understand the context of the Respondents' arguments.
- **Absence of Argumentation:** The brief lacks a coherent argument section that outlines the Respondents' positions and supports them with relevant legal authorities and factual evidence.

2. Document Dumping

The Respondents have engaged in a practice commonly referred to as "document dumping" by submitting over 154 documents without any clear organization, summary, or explanation of their relevance. This practice severely hinders the Plaintiff's ability to respond effectively. Document dumping is an attempt to overwhelm and confuse, rather than to inform and clarify.

3. Inclusion of Duplicate Documents

The brief contains multiple instances of duplicate documents, which has created confusion and hindered the Plaintiff's ability to identify and address the specific arguments and evidence presented by the Respondents. This lack of clarity and organization violates the standards expected in legal submissions.

4. Lack of Professionalism

Dequincey G. Simmons
2503 Hiers CT
Hephzibah, GA 30815
dequinceysimmons@gmail.com
706-495-0738

6/4/2024

South Carolina Administrative Law Court
1205 Pendleton Street, Suit 224

Columbia, SC 29201

Re: Case No. 23-ALJ-22-0429-AP
Notice of Errors, Hardships, and Request for Correction

Dear Judge Ralph K. Anderson III,

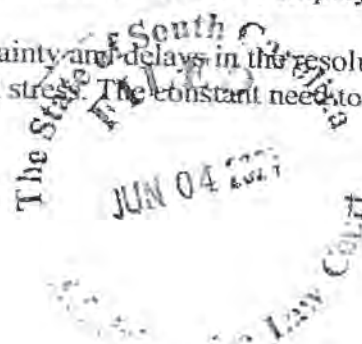
I, Dequincey G. Simmons, am writing to bring to the Court's attention several significant procedural errors that have occurred in my case, and to request immediate corrective measures to prevent further issues. These errors have caused substantial delays and significant personal and financial hardship.

1. **Overlooked Documents:** April 29, 2024 (the order is resubmitted) the Court acknowledged that documents I filed in December 2023 were overlooked. Although these documents have now been reviewed and the order changed accordingly, the delay in recognizing and considering these documents has significantly delayed the progress of my case.
2. **Incorrect Notice of Reassignment:** I recently received a Notice of Reassignment from the Court on 6/3/2024 Filed 5/30/2024 which contained incorrect information. The letter was addressed to another individual and referenced a different docket number (20-ALJ-22-0320-AP) and name (Ciara D Simmons). This error has further complicated my ability to proceed effectively with my case and has caused additional confusion and delay.

Impact of Errors and Resulting Hardship:

These errors have significantly impacted my case and personal circumstances in the following ways:

1. **Financial Hardship:** Due to the Court's delay and errors, I have been without unemployment insurance benefits from July 2, 2023, to June 4, 2024. This has severely strained my financial resources, as I have been unable to secure alternative employment while my eligibility for benefits remains unresolved.
2. **Emotional and Mental Stress:** The prolonged uncertainty and delays in the resolution of my case have caused significant emotional and mental stress. The constant need to



address procedural errors and the uncertainty of my financial situation have affected my overall well-being.

3. **Delay in Legal Proceedings:** The overlooked documents and incorrect information in the Notice of Reassignment have delayed the legal proceedings, extending the time required to resolve my appeal. This delay has further complicated my ability to plan and make necessary life adjustments based on the outcome of my case.

Request for Immediate Action:

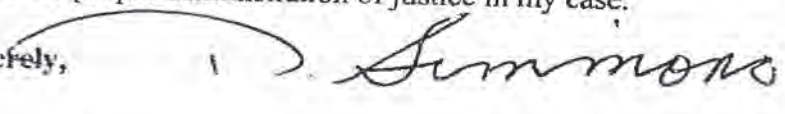
Given the substantial hardship and procedural delays caused by these errors, I respectfully request the following actions:

1. **Correction of Docket Information:** Correct the docket information and ensure that all future communications and documents reflect the correct case number (23-ALJ-22-0429-AP) and my name, Dequincey G. Simmons.
2. **Expedited Handling of My Case:** Expedite the handling of my case to mitigate further delays and hardships. Given the financial and emotional toll, timely resolution is critical.
3. **Preventative Measures:** Implement measures to ensure that such errors do not recur, ensuring fair and efficient processing of my case moving forward.

Conclusion:

I respectfully request that the Court address these issues promptly to mitigate further delays and ensure the proper administration of justice in my case.

Sincerely,

 6/4/2024

Dequincey G. Simmons

NOTICE OF REASSIGNMENT

In accordance with section 1-23-570 (2005) of the South Carolina Code, it is **ORDERED** that the cases listed below are reassigned to Chief Judge Ralph King Anderson, III. The Administrative Law Judge may be contacted by mail at 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201, and by telephone at (803) 734-0550. Pursuant to Rule 4(A) of the Rules of Procedure for the Administrative Law Court (SCALC Rules), all future filings must be filed directly with the assigned judge and shall include the docket number. This notice does not affect any time frames for filing briefs and other matters.

Ciara D. Simmons v. South Carolina Department of Employment and Workforce and Personal Cash Loans of SC, Inc. Docket No. 20-ALJ-22-0320-AP

Dequincey G. Simmons, v. South Carolina Department of Employment and Workforce and Bridgestone Americas Tire Operations, LLC, Docket No. 23-ALJ-22-0429-AP

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

May 30, 2024
Columbia, South Carolina

FILED

05/30/2024

SC Admin. Law Court

Docket No. 23-ALJ-22-0429-AP

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the **Second Rule 40 Motion for Clarification and Modification of Judgment** was served upon the following parties by mailing the same via United States Postal Service, first-class postage prepaid, to their respective addresses as listed below:

Ben Cook
Office of General Counsel-SCDEW
PO Box 8597
Columbia, SC 29202


Benjamin Hepner
110 E Court Street STE 201
Greenville, SC 29601

Employment Attorney
Bridgestone Americas Tire Operation LLC
PO Box 182366
Columbus, OH 43218-2366

South Carolina Administrative Law Court
Edgar Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

Dated this 8 day of August, 2024.

Dequincey G. Simmons
2503 Hiers CT
Hephzibah, GA
dequinceysimmons@gmail.com
706-495-0738


8/8/2024

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Dequincey G. Simmons, Appellant,

v.

South Carolina Department of Employment and Workforce and Bridgestone Americas Tire Operations, LLC, Respondents.

Docket No. 23-ALJ-22-0429-AP

APPELLANT'S MOTION FOR SANCTIONS

I. Introduction

This motion seeks sanctions against the Respondents for submitting false statements and engaging in procedural misconduct that has caused unnecessary delays, increased costs, and significant personal and emotional impacts on the Appellant.

II. Factual Background

Since July 2023, the case has faced substantial delays due to procedural missteps and misleading statements from the Respondents. On April 29, 2024, Judge Milton Kimpson addressed these issues by rejecting the Respondents' Motion to Dismiss, which falsely claimed the Appellant failed to serve Bridgestone with the Notice of Appeal.

Both the Administrative Law Court and the South Carolina Department of Employment and Workforce confirmed receipt of the Appellant's Notice of Appeal without any issues. Despite this, Bridgestone contested the receipt, supported by an affidavit from Beth Hellman, which falsely claimed non-receipt. Hellman, stationed in Davidson County, Tennessee, asserted that Bridgestone's registered agent in South Carolina did not receive the Notice.

However, the Appellant provided compelling evidence, including postal receipts and tracking information, demonstrating proper service to Bridgestone's Ohio address—an address listed in the Appellate Panel decision. The court observed that the Appellant, acting as a layperson, reasonably relied on the service address provided by the Department, which is consistent with legal expectations and requirements for serving a corporation.

The affidavit from Beth Hellman was further discredited by its failure to account for the Ohio address used by the Appellant. The Court noted that the Department's own certificate of service listed the Ohio address for Bridgestone, undermining Hellman's claims. Despite Hellman's assertions, no reply was filed by the Respondents to the Appellant's Return, reinforcing the Appellant's compliance with procedural service requirements.

Judge Kimpson's ruling acknowledged the Appellant's proper service and highlighted the procedural misconduct and inaccuracies presented in Hellman's affidavit, which sought to

mislead the court and obstruct the judicial process. This misinformation has significantly delayed proceedings, causing undue stress and financial burden to the Appellant, who has diligently managed his case as a pro se litigant despite these challenges.

III. Legal Argument

1. **Violation of Court Rules:** Under Rule 11 of the South Carolina Rules of Civil Procedure, parties must not submit pleadings or motions for improper purposes, such as to harass or cause unnecessary delay. The Respondents' false affidavit is a clear violation of this rule.
2. **False Statements or Misrepresentations:** Submitting false statements or affidavits to the court contravenes Rule 11(b)(3), which requires that factual contentions have evidentiary support.
3. **Obstruction of Justice:** The Respondents' actions obstructed the judicial process, violating principles established in *Chambers v. NASCO, Inc.*, 501 U.S. 32 (1991), which allows courts to impose sanctions for conduct that abuses the judicial process.
4. **Frivolous or Vexatious Filings:** The Respondents' actions mirror conduct addressed in *Roadway Express, Inc. v. Piper*, 447 U.S. 752 (1980), where the Supreme Court recognized the court's power to sanction parties for frivolous filings intended to harass or delay.

IV. Justification for Requested Compensation

- **Equal Standards:** As a pro se litigant, I am held to the same procedural rules and standards as a licensed attorney, requiring me to navigate complex legal systems, draft documents, and understand legal precedents without formal legal training.
- **Time and Effort:** I have invested significant time and effort into managing my case, equivalent to what a professional attorney would dedicate to similar tasks. This includes extensive legal research, document preparation, and procedural management.
- **Complexity of the Case:** The legal issues involved in my case are complex, demanding a high level of research and strategic planning, which I have undertaken without formal training or professional support.
- **Emotional and Personal Impact:** I have made considerable personal sacrifices, including time away from my family and enduring stress-related health impacts, to ensure diligent representation of my case.
- **Lack of Legal Support:** Unlike opposing counsel, I do not have access to clerks, paralegals, or other legal aides. I have shouldered the full burden of the legal process independently, which typically requires a team of professionals in a law firm setting.
- **Deterrence of Misconduct:** Awarding the requested compensation serves as a deterrent against future misconduct by the opposing party, promoting fairness and integrity in the judicial process.

V. Impact on the Case

The misconduct has resulted in increased legal expenses and emotional distress, affecting my ability to present my claims effectively and pursue employment opportunities. The delays and procedural challenges have compounded the stress and financial burden on me and my family.

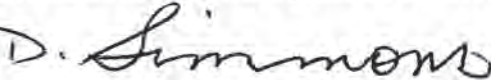
VI. Requested Sanctions

- **Monetary Fines:** I request \$60,000 in compensation for 300 hours of work at \$200 per hour, reflecting the substantial time and effort spent on this case.
- **Reimbursement of Costs:** I seek \$1,000 for filing fees, document preparation, and other related expenses incurred due to the opposing party's misconduct.
- **Adverse Inference:** I request that the court draw negative inferences from the Respondents' false statements and procedural misconduct.
- **Contempt of Court:** I request the court to hold the opposing party in contempt for their intentional obstruction of the judicial process.

VII. Conclusion

In light of the clear evidence of misconduct and its detrimental impact, I urge the court to impose the requested sanctions to address the injustices suffered and ensure a fair legal process.

Signature:



Dequincey G. Simmons

Date:

8/8/2024

Exhibits:

- **Exhibit A:** Affidavit of Beth Hellman
- **Exhibit B:** Judicial Order by Judge Milton Kimpson
- **Exhibit C:** Affidavit of Dequincey Simmons

(3)

Docket No. 23-AJ-22-0429-AP

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the **Motion For Sanction** was served upon the following parties by mailing the same via United States Postal Service, first-class postage prepaid, to their respective addresses as listed below:

Ben Cook
Office of General Counsel-SCDEW
PO Box 8597
Columbia, SC 29202

Benjamin Hepner
110 E Court Street STE 201
Greenville, SC 29601

Employment Attorney
Bridgestone Americas Tire Operation LLC
PO Box 182366
Columbus, OH 43218-2366

South Carolina Administrative Law Court
Edgar Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

Dated this 8 day of August, 2024.

Dequincey G. Simmons
2503 Hiers CT
Hephzibah, GA
dequinceysimmons@gmail.com
706-495-0738



D. Simmons
8/8/2024

5. Bridgestone has not received any Notice of Appeal to the Administrative Law Court (ALC) pertaining to the case of *Dequincey G. Simmons v. South Carolina Department of Employment and Workforce and Bridgestone Americas Tire Operations, LLC*, Docket #23-ALJ-22-0429-AP, and Bridgestone has no record of ever being served with a copy of the notice of appeal for that matter either by mail or hand delivery from Dequincey G. Simmons on Bridgestone's registered agent in South Carolina.

I declare under penalty of perjury under the laws of South Carolina that the foregoing is true and correct.

Beth Heilmann
Affiant's Name

NOTARY ACKNOWLEDGEMENT

State of Tennessee

County of Davidson

I, the undersigned Notary Public, do hereby certify that the foregoing instrument was acknowledged before me this 4th day of December 2023 and the document was executed by the above-named Affiant of her own free will.

Witness my hand and seal this 4th day of December 2023.



Anna Edge
Notary Public for Tennessee

Commission Expires: 5.5.25



STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Dequincey G. Simmons,

DOCKET NO. 23-ALJ-22-0429-AP

Appellant/Petitioner,

vs.

ORDER

South Carolina Department of Employment
and Workforce and Bridgestone Americas
Tires Operations, LLC

Respondent.

This matter is before the Administrative Law Court (“ALC” or Court”) pursuant to a Motion to Dismiss filed by the South Carolina Department of Workforce (“SCDEW” or “Department”) and Bridgestone Americas Tire Operations, LLC (“Bridgestone”)(collectively, “Respondents) alleging that this appeal should be dismissed for lack of jurisdiction because the Appellant, Dequincey G. Simmons, failed to serve the employer, Bridgestone, with his Notice of Appeal. The Court issued an Order on March 22, 2024, holding a final ruling on Respondent’s Motion to Dismiss in abeyance for fifteen (15) days to allow the Respondents to provide additional information to address concerns raised in the order. ¹

On or about April 4, 2024, the Court received Respondents’ Joint Response to March 22, 2024 Order (Response), providing legal argument on the issues raised in the March 22, 2024 order, as well as an affidavit from Krisi Chesley, a Department employee responsible for “receiving, opening and processing” mail addressed to the Department’s Office of General Counsel. Ms. Chesley’s affidavit attests that while she received Appellant’s Notice of Appeal on behalf of the Department, the Appellant failed to include an additional copy for service on Bridgestone. ²

¹ On or about April 1, 2024, the Court received documents from Appellant couched as “Motion to Clarify or Modify Judgment” requesting that the Court reconsider its March 22, 2024 order on the issue of service of the Notice of Appeal. Appellant’s certificate of service indicates that this information was served on the Department and Bridgestone.

² S.C. Code Ann. 41-35-750 provides an alternate method to serve a Notice of Appeal on other parties to an unemployment proceeding whereby a litigant may leave additional copies the notices with the Department and the Department will then mail the pleadings to the other parties. In its Motion to Dismiss, the Department provided an affidavit from a registered agent of Bridgestone, based in Charleston, SC. attesting that it had not received Appellant’s Notice of Appeal but the Motion to Dismiss did not address the alternate method of service under section 41-35-750. In the Response, the

In its March 22, 2024, Order, the Court observed that “[a]s of the date of this Order, Appellant has not filed a response to Respondents’ Motion [to Dismiss].” This statement was incorrect. Because of a filing error, the Court did not discover that Appellant had, in fact, filed a Return to the Department’s Motion to Dismiss until sometime after it had issued the March 22, 2024 order. The Appellant’s Return was dated December 26, 2023, and attached thereto as exhibits are pictures of envelopes Appellant asserts contain his Notice of Appeal addressed to the Court and copies of the same addressed to the Department and to Bridgestone.³ Appellant further attached a copy of a receipt from the U.S. Postal Service showing that the envelopes were mailed on October 23, 2023.⁴ Finally, Appellant attached a copy of what appears to be a tracking sheet from the U.S. Postal Service listing the delivery date for the envelope addressed to Bridgestone as October 30, 2024. Significantly, the envelope to Bridgestone was addressed to, and therefore, delivered to, “Bridgestone Americas Tire Operations, LLC, P.O. Box 182366, Columbus, Ohio 43218-2366.(Ohio address)” This is the exact same address listed for Bridgestone which appears in the caption of the Appellate Panel decision from which Appellant appeals.⁵

Respondents provided the appropriate affidavit from a Department employee and also offered that section 41-35-750 was not applicable. Given its disposition of the Motion, the Court need not address this issue.

³ The envelope addressed to the Court shown in the picture appears to be the envelope in the Court’s file.

⁴ Appellant’s certificate of service shows that he served the Return on the Department and Bridgestone. Assuming the pleading was served on the Respondents, they filed no reply to the Appellant’s Return.

⁵ The requirements of service of the Notice of Appeal are strict and must be followed in order to properly invoke the appellate jurisdiction of this Court. That being said, Appellant is a layperson who would not ordinarily have knowledge that proper service of a Notice of Appeal may be made by serving a corporation’s registered agent. From the Court’s perspective, the Department provided the Appellant *with a service address for Bridgestone in Ohio, and, based on the documents Appellant provided, it appears that Appellant served Bridgestone at that Ohio address.* The affidavit of Beth Hellman attached to the Respondents’ Motion to Dismiss states that she is stationed in Davidson County, Tennessee and that she is “responsible for receiving, opening and processing mail addressed to Bridgestone’s registered agent in South Carolina and received by that agent at 6650 Rivers Avenue, North Charleston, SC 29206.” The affidavit continues to assert that “Bridgestone has not received any Notice of Appeal [from Appellant]...and Bridgestone has no record of ever having been served with a copy of the notice of appeal for that matter either by mail or hand delivery from Dequincy G. Simmons on Bridgestone’s registered agent in South Carolina.” Without more, the Court interprets this affidavit as addressing only service on Bridgestone via its registered agent in Charleston and not at the Ohio address furnished by the Department for Bridgestone. The Court further notes that the Department’s certificate of service on at least one of the documents filed in this case lists the Ohio address for Bridgestone.

The Court believes that the Appellant, for the purposes of a motion to dismiss, has provided sufficient evidence that he served his Notice of Appeal on Bridgestone, at the address provided to him by the Department.⁶ Had the Court been aware of Appellant's Return at the time it considered Respondents' Motion to Dismiss, it would have denied the same. Although the Appellant's Return (as well as his Motion to Clarify or Modify Judgment) appears to have been served on the Department, the Respondents have not refuted Appellant's showing that he served Bridgestone at the Ohio address. The Respondents' Joint Response to March 22, 2024 Order addressed the Court's concern raised in its order but did nothing to refute Appellant's showing that he served Bridgestone at the Ohio address with the Notice of Appeal on October 23, 2023. Accordingly, based on the evidence provided by the Appellant indicating that he did serve his Notice of Appeal on the Department and Bridgestone, the Department's Motion to Dismiss should be denied.

THEREFORE, upon careful consideration of pleadings herein, to include Respondents' Motion to Dismiss, Appellant's Return, Respondents' Joint Response to March 22, 2024 Order and Appellant's Motion to Clarify or Modify Judgment, along with the various pictures of service envelopes attached thereto, the Court **DENIES** Bridgestone's Motion to Dismiss for Lack of Jurisdiction and the case will proceed as follows:

1. Respondents shall have 30 days from the date of this Order to submit the Record of Appeal;
2. Appellant will shall have twenty (20) days after service of the Record on Appeal to submit his initial brief to the Court with service on all parties;
3. Respondents shall submit their brief(s) twenty (20) days after the service of Appellant's brief;
4. Within ten (10) days after the service of Respondents' brief(s), Appellant may file a Reply brief.

⁶ The Court acknowledges that Appellant's certificate of service to his Notice of Appeal failed to list Bridgestone as having been served with the Notice of Appeal. Based on the documents, however, the Court is comfortable that Appellant did serve Bridgestone.

Affidavit of Dequincey Simmons

State of Georgia, County of Richmond

I, Dequincey G. Simmons, under penalty of perjury, do hereby affirm and state the following:

1. Background and Initial Dispute:

- I was employed by Bridgestone Americas Tire Operations, LLC, from January 14, 2014, until my termination on April 16, 2023. My appeal against the termination has been ongoing since July 2023.
- I initiated this appeal to seek a fair resolution regarding my unjust termination and have faced multiple procedural hurdles that have unduly prolonged the case.

2. Procedural Delays and Misconduct:

- It took four months for the court to rule on my initial order, filed on December 26, 2023, which was not addressed until late April 2024. This delay caused significant uncertainty and required continuous legal effort on my part.
- The opposing party submitted an affidavit containing false statements about the service of my Notice of Appeal, which the court later acknowledged as properly served. This misrepresentation led to unnecessary litigation and additional burdens.

3. Personal and Financial Impact:

- The prolonged litigation and court errors have severely impacted my personal life. I have spent countless hours researching legal precedents and drafting documents, resulting in lost time with my family and significant emotional distress.
- I have incurred costs for filing fees, document preparation, and lost wages due to time spent managing this case instead of pursuing employment opportunities.
- My family life has suffered, with missed family events and increased stress levels, necessitating medication to manage sleep disturbances and anxiety caused by this prolonged legal battle.

4. Request for Sanctions:

- I request the court to impose sanctions on the opposing party for submitting false statements and procedural misconduct, which have obstructed justice and caused undue hardship.
- I seek monetary compensation for 300 hours of work at \$200 per hour, totaling \$60,000, to account for the time and effort invested in self-representation.
- Additionally, I request reimbursement of \$1,000 for filing fees, document preparation, and related expenses.

Conclusion:

In light of the significant procedural misconduct and its impact on my personal and professional life, I respectfully request the court to impose sanctions to address these injustices and ensure a fair resolution of my case.

Signature: Dequincey G. Simmons

Dequincey G. Simmons

Date: 8/8/2024

State of Georgia County of Richmond
Subscribed and sworn before me on 8-8-24
Tamara Huffman (Date)
Tamara Huffman
(Notary Signature)



STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Dequincey G. Simmons,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of)
 Employment and Workforce and,)
 Bridgestone Americas Tire)
 Operations, LLC,)
)
 Respondent.)
 _____)

Docket No. 23-ALJ-22-0429AP

**JOINT RESPONSE TO
MOTION FOR REHEARING**

Respondents South Carolina Department of Employment and Workforce (“Department”) and Bridgestone Americas Tire Operations, LLC (“Bridgestone”) (the Department and Bridgestone collectively herein the “Respondents”), by and through their undersigned attorneys, respectfully submit this response in opposition to Appellant Dequincey G. Simmons’ (“Appellant”) purported Second Rule 40 Motion for Clarification and Modification of Judgment Due to Continued Procedural Irregularities (the “Motion”). Respondents submit that the Motion lacks merit and respectfully request that this Court deny Appellant’s Motion for the following reasons:

I. BACKGROUND & PROCEDURAL HISTORY

On August 14, 2024, Respondents received the Motion, in which Appellant contends that he seeks to “address persistent procedural irregularities and administrative

errors,” and “specific clarification and modification of prior judicial orders.”¹ This matter pertains to Appellant’s appeal of an Appellate Panel decision upholding a denial of benefits to Appellant. The procedural history for this action, briefly, is as follows:

- September 23, 2023: the Department’s Appellate Panel dismissed Appellants’ appeal to the Panel, finding no bias in the record or adjudicative process.
- October 20, 2023: Appellant purportedly appeals the Appellate Panel decision to this Court.
- November 2, 2023: this Court issued a Notice of Assignment;
- December 8, 2023: Respondent’s filed a Joint Motion to Dismiss seeking dismissal of the appeal to this Court based upon failure to properly serve Respondents;
- March 22, 2024: Judge Kimpson issued an order instructing the parties to address alternative service;
- April 4, 2024: Respondents filed a supplemental brief in support of their prior motion to dismiss;
- April 29, 2024; Judge Kimpson denied Respondent’s dispositive motion;
- May 29, 2024: the Department timely filed and served the Record on Appeal;
- June 18, 2024: Appellant filed a “Response to Record on Appeal;”
- July 8, 2024: Respondents filed a second Joint Motion to Dismiss, seeking dismissal of this action for failure to comply with Rule 37(B) of the Rules of Procedure for the Administrative Law Court (SCALC Rules);

¹ In addition, Appellant apparently seeks reconsideration of the Court’s July 29, 2024 Order dismissing this appeal. (Motion at 3.)

- July 29, 2024: this Court issued an order granting Respondents' second motion to dismiss.²

As the Court is aware, Respondents' second Joint Motion to Dismiss sought dismissal of this action for Appellant's failure to file a brief as required under the SCALC Rules. Appellant's June 18, 2024, filing contained none of the necessary hallmarks of an appellate brief. This Court, in its July 29th Order, correctly held that Appellant's purported brief "contains none of the information necessary to serve as a brief for the purposes of adjudicating an appeal before this Court." (July 29, 2024, Order of Dismissal ("Order") at p. 2.). Indeed, the Order correctly states that Appellant's filing did not (1) identify the issues on appeal, (2) identify any objection or issue with the Appellant Panel's decision, (3) present legal arguments on why the Appellate Panel's decision was incorrect, and (4) present a conclusion identifying the relief requested. (*Id.*) Hence, dismissal of this action was and remains entirely proper.

II. LEGAL AUTHORITY & ARGUMENT

A. Appellant's Motion Fails to Present Evidence or Argument to Satisfy the Rule 40 Requirements.

Rule 40(B) of the South Carolina Administrative Law Court applies to Motions for Rehearing and states that a Motion for Rehearing must state "with particularity the points supposed to have been overlooked or misapprehended by the court." Appellant asks this Court to reconsider the July 29, 2024, dismissal of his appeal; however, nowhere in the

² Appellant also purportedly filed a "Motion for Summary Judgment" and "Motion for Sanctions" on July 26, 2024, which Respondents did not receive until after the Court dismissed this action. Respondents timely responded to those filings, and Respondents have subsequently received notice that these Motions would be disregarded by the Court as a result of the Order of Dismissal.

Motion does he address the Court's reasons for dismissing his appeal or why rehearing is necessary.

Indeed, much of his most recent filing contains information copied and pasted from his prior filings, much of which is entirely irrelevant here, and none of which actually present a justiciable controversy pertaining to this action for this Court's consideration. In his Motion, Appellant identifies three (3) items which he labels "Specific Procedural Errors and Omission." (Mot. at 2.) Those include what he claims is a disparity in the "processing" of his filings compared to those filed by Respondents; his unfounded and incorrect assertion that Respondents' *motion* seeking dismissal of the action did not comport with SCALC Rule 37; and his false claim that this Court did not address his submissions. (*Id.*)

As this court is well aware, there is nothing actionable about the timing of this Court's determination of the issues presented in filings. Nor is there any legitimate issue with the *motion* which Respondents filed and that filing does not run afoul of the requirements of SCALC Rule 19, which applies to motions filed with this Court, or, for that matter, SCALC Rule 37 which applies to appellate briefs, not motions. Finally, this Court's July 29, 2024, Order of Dismissal clearly identifies and summarizes Appellant's filings, a clear indication that – contrary to Appellant's claims – this Court fully and adequately considered his pertinent filings.

Moreover, Appellant's appeal was dismissed for his failure to file a brief; however, Appellant is still manifestly under the mistaken impression that Respondents filed a brief which did not comply with ALC Rules. To be clear, the May 29, 2024, filing by the Department was the Record on Appeal. *See* SCALC Rule 36. From the time of that filing,

Appellant had twenty (20) days until June 18, 2024, to file his brief. *See* SCALC Rule 37. Appellant failed to file any document which could reasonably be called a brief in this case. As such, Respondents moved for dismissal and this Court granted that request on July 29, 2024.

In the Motion, Appellant does not address the substance of this Court's Order and has failed to identify any points which are supposed to have been overlooked or misapprehended by the Court. Therefore, this Court should deny Appellant's Motion to the extent it asks for rehearing of the July 29, 2024, Order of Dismissal.

B. The Motion Also Fails to Set Forth Any Facts or Legal Argument to Support Reconsideration, Alteration or Amendment of the Court's July 29, 2024 Order.

Motions for reconsideration of (or to alter/amend) a final order are addressed under the standards set forth in Rules 59 and/or 60 of the South Carolina Rules of Civil Procedure ("SCRCP"). *See* SCALC Rule 29(D). Such motions are only proper where a court "misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue" or where "an issue or argument has been raised, but not ruled on." "s is a" *Elam v. South Carolina Department of Transportation*, 361 S.C. 9, 24 (S.C. 2004).

Here, Appellant presents no cogent argument that reconsideration, under SCRCP 59 or 60, is necessary. Instead, Appellant simply states – in summary fashion – that he seeks a "review and reconsideration of the dismissal issued on July 29, 2024." (Mot. at 3.) Appellant, however, provides no argument as to why reconsideration is appropriate. His Motion simply restates several of the irrelevant information and false claims he has submitted to this Court in his prior filings.

Moreover, his Motion fails to demonstrate that any of his filings, including, among others, his response to Respondents' Second Joint Motion to Dismiss, cogently address the issue at hand. The Motion fails to articulate that any of his prior filings actually present any issues on appeal, arguments or legal authorities outlining his basis for this appeal or provide any conclusion as to the objections raised or relief sought in this action. In other words, this Motion, like his other filings, demonstrably fails to present the information necessary for this Court to entertain the relief requested by Appellant. In fact, the Motion does not even present any argument as to why reconsideration or alteration/amendment is necessary, let alone to grant that relief. Thus, there is no basis upon which this Court should reconsider the Order or to otherwise alter or amend it.

To the extent necessary, Respondent submits that this Court's Order adequately addressed all pertinent issues before the Court, clearly described and considered Appellant's filings and the deficiencies in the same, and that information is fully outlined in the Order. As noted above, Appellant failed to actually present any issues on appeal, arguments or legal authorities outlining his basis for this appeal or provide any conclusion as to the objections raised or relief sought in this action. Thus, the Court's Order is entirely correct. Accordingly, this Court should summarily deny Appellant's request for reconsideration of the Order and his request to alter or amend the Order.

C. The Remaining Issues Raised in the Motion are Moot.

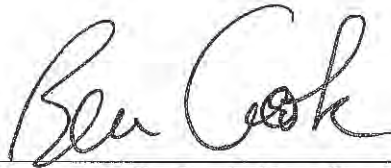
The remainder of Appellant's Motion asks this Court to clarify the briefing requirements and to implement measures to ensure fairness of the process going forward. Because Appellant's case has been dismissed and there is no longer a case in controversy

before this Court, these issues are moot and this Court should dismiss. *See Curtis v. State*, 345 S.C. 557, 567, 549 S.E.2d 591, 596 (2001) (“An appellate court will not pass on moot and academic questions or make an adjudication where there remains no actual controversy.”). Accordingly, this Court should decline to each of Appellant’s remaining requests for relief contained in the Motion.

III. CONCLUSION

For all the foregoing reasons, Respondents respectfully request that this Court deny Appellant’s Motion.

Respectfully Submitted,



Benjamin T. Cook (Bar #: 102216)
SC Department of Employment & Workforce
Office of General Counsel
Post Office Box 8597
Columbia, South Carolina 29202
(803) 737-0395 (phone); (803) 737-0124 (fax)
legal@dew.sc.gov

Attorney for Respondent
SC Department of Employment and Workforce

/s/ Benjamin T. Hepner
Benjamin Hepner((Bar No. 102734)
Littler Mendelson, P.C.
110 E Court St., Suite 201
Greenville, SC, 29601
(864) 775-3200 (phone); (864) 484-8663 (fax)
BHepner@littler.com

Attorney for Respondent
Bridgestone Americas Tire Operations, LLC

August 19, 2024

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

DeQuincey Simmons,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Employment)
 and Workforce and Bridgestone Americas)
 Tire Operations,)
)
 Respondents.)
 _____)

Docket No. 23-ALJ-22-0429-AP

**ORDER DENYING MOTION
FOR REHEARING**

This matter comes before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Motion for Rehearing (Motion) filed by DeQuincey Simmons (Appellant) on August 13, 2024. The Court originally dismissed this case on July 29, 2024, because Appellant failed to comply with this Court’s rules. A copy of the order was mailed to Appellant’s mailing address of record. Afterwards, Appellant filed this Motion in which he asserts there were procedural errors in his case, including “rapid and unequal handling of motion,” “lack of direction in brief construction,” and the Court’s “inexplicable Non-Response.” He also argues the South Carolina Department of Employment and Workforce (Department) and Bridgestone Americas Tire Operations (Employer) (collectively, Respondents) submitted a one hundred and fifty-one-page brief and that the Court “assumed this submission met the necessary standards without examining its content.” He further argues for equal treatment for pro se litigants and asserts the Court did not address all of his submissions. On August 19, 2024, Respondents filed a Joint Response to the Motion asserting the Motion lacks merit and as a result, requests it be denied.

Rule 40 of the Rules of Procedure for the Administrative Law Court (SCALC Rules) provides, in relevant part: “A motion for rehearing must be filed within ten days of receipt of the order.” The Order of Dismissal was issued on July 29, 2024, and mailed that same day. Appellant did not file this Motion until August 13, 2024, fifteen days after the Order of Dismissal was issued. Appellant did not provide the Court with the date of receipt of the Order of Dismissal. Because Appellant filed the Motion more than ten days after the Order was issued, the Court finds Appellant’s Motion was untimely. SCALC Rule 40. SCALC Rule.



Moreover, even if Appellant's Motion was timely filed, Appellant's arguments are without merit. First, Appellant appears to be confusing the Department's filing of the Record on Appeal with its legal brief. As explained in the Court's July 29 Order of Dismissal, Respondents did not file a legal brief in this matter. The one hundred and fifty-one page submission Appellant refers to in his Motion is the Record on Appeal that the Department filed pursuant to SCALC Rule 36(B). Therefore, this argument is without merit.

Next, Appellant argues the Court failed to address his submissions, however, he did not specifically state what submissions the Court failed to address. Nonetheless, the Court is only aware of Appellant's Motion for Summary Judgment and Sanctions for False Statements that the Court received on July 29, 2024, the same day the Order of Dismissal was issued. Because the case was already closed, the Court disregarded that filing. Nonetheless, even if the Court had considered it, the outcome would not have changed. Indeed, this matter was dismissed because Appellant's brief was woefully deficient; it did not identify the issues on appeal, did not raise any objections to or take issue with the Panel's decision, and did not offer any legal argument on why the Panel's decision was erroneous. *See* SCALC Rule 37(B). Moreover, Appellant's brief does not set forth sent any citations to authority supporting why the Panel's decision was in error, or a conclusion stating the precise relief requested. *See id.* Thus, Appellant failed to comply with the Court's Rules and, as such, dismissal was appropriate. *See* SCALC Rule 38 (providing an administrative law judge may resolve an appeal adversely to a party who fails to comply with the rules of procedure for appeals, including the failure to comply with time limits provided by the rules).

Finally, Appellant requests "equal treatment for pro se litigants." As the Court acknowledged in its Order of Dismissal, *pro se* litigants are held to the same standards as represented litigants. *See* SCALC Rule 8(A) ("A party proceeding without legal representation shall remain fully responsible for compliance with these Rules and the Administrative Procedures Act."); *State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003) ("A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.").

Accordingly, because the Motion was untimely and because Appellant failed to show good cause to vacate the Court's July 29 Order of Dismissal, I conclude the Motion must be denied.

IT IS THEREFORE ORDERED that the Motion for Rehearing is **DENIED**.

AND IT IS SO ORDERED.




Ralph King Anderson, III
Chief Administrative Law Judge

August 22, 2024
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Stephanie Perez, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Stephanie Perez
Judicial Law Clerk

August 22, 2024
Columbia, South Carolina

FORM 6
NOTICE OF APPEAL FROM ADMINISTRATIVE TRIBUNAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson III, Administrative Law Judge

Case No. 23-ALJ-22-0429-AP

RECEIVED
SEP 23 2024
SC Court of Appeals

Administrative
Law Court

Respondent,

v.

DeQuincey Simmons

Appellant.

NOTICE OF APPEAL

DeQuincey Simmons appeals the decision of the Honorable Ralph King Anderson III dated September 1, 2006. Appellant received a copy of this decision on August 22, 2024.

August 27, 2024

DeQuincey Simmons
2503 Hiers CT
Hephzibah, GA 30815
706-495-0738
dequinceysimmons@gmail.com

De Quincey Simmons
9/20/2024

South Columbia
Administrative Law
Court
Edgar A Brown Building
1205 Pendleton Street,
Suite 224
Columbia, South
Carolina 29201

**IN THE COURT OF APPEALS
STATE OF SOUTH CAROLINA**

**Dequincey G. Simmons,
Appellant,**

v.

**South Carolina Department of Employment and Workforce,
and Bridgestone Americas Tire Operations, LLC,
Respondents.**

September 20, 2024

Appeal from the Administrative Law Court
Docket No. 23-ALJ-22-0429-AP
Judge: Chief Judge Ralph King Anderson III

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SC Court of Appeals

APPELLANT’S BRIEF

I. Introduction:

This appeal is submitted in response to the August 22, 2024, final order by the South Carolina Administrative Law Court (SCALC), which dismissed my case against the South Carolina Department of Employment and Workforce (SCDEW) and Bridgestone Americas Tire Operations. I, Dequincey G. Simmons, as a pro se litigant, have been subject to significant procedural errors, delays, and judicial oversights that have severely impacted my right to a fair hearing. From the mishandled reassignment of my case to Chief Judge Ralph King Anderson III on May 30, 2024, to the failure of the court to address motions and evidence I submitted, this case has been marred by irregularities.

The respondents, SCDEW and Bridgestone, have compounded these issues by submitting misleading affidavits, filing disorganized and redundant documents, and abusing procedural rules to delay justice. Despite providing documented evidence, such as FedEx tracking receipts and a notarized affidavit, confirming that I followed the court’s filing requirements, my submissions were repeatedly ignored or dismissed without proper consideration. This appeal seeks to address these errors and seek appropriate remedies.

II. Statement of Issues:

1. The Respondents’ Record on Appeal Lacked Structure and a Legal Brief

The respondents' record on appeal, submitted in July 2024, consisted of 151 pages of disorganized, redundant, and irrelevant documents, without a proper legal brief outlining their legal arguments. This submission violated SCALC Rule 37(B), which requires a concise history of the proceedings and a statement of each issue presented for review. The respondents' failure to submit a proper brief deprived me of the opportunity to respond effectively, which violated my due process rights. My objections and concerns about this were outlined in my July 13, 2024, motion for clarification (Exhibit E).

2. Misleading Affidavits Submitted by Respondents

The respondents filed misleading affidavits to obstruct the judicial process. Beth Hellmann's Affidavit (December 8, 2023) falsely claimed that Bridgestone was not properly served with the Notice of Appeal at its South Carolina address, ignoring the fact that I was instructed to serve them at their Ohio address, as confirmed by Exhibit J. Similarly, Kristi Chesley's Affidavit (April 4, 2024) falsely claimed that no additional copies were provided, despite the postal receipts and tracking information in Exhibit C (FedEx Proof/Affidavit), proving proper service.

3. Court's Failure to Address My July 13, 2024 Motions

On July 13, 2024, I submitted two motions:

- A response to the respondents' July 8 motion to dismiss (Exhibit D).
- A motion for clarification of the respondents' disorganized submission (Exhibit E).

Despite these motions being timely filed, the court failed to address them. This failure left me without clear guidance on how to respond to the respondents' motion and violated my procedural rights under SCALC Rule 37.

4. Improper Reassignment and Failure to Address My Complaint

My case was improperly reassigned to Chief Judge Ralph King Anderson III on May 30, 2024, under an order that referenced the incorrect docket number (20-ALJ-22-0320-AP) and unrelated parties. On June 3, 2024, I contacted Stephanie Perez, the law clerk for Chief Judge Anderson, to express my concerns. Despite submitting a formal complaint on June 4, 2024 (Exhibit M), this issue was never addressed.

5. Court's Failure to Address My August 8, 2024, Motion for Sanctions

On August 8, 2024, I filed a motion for sanctions against the respondents for submitting false affidavits and engaging in document dumping. Despite this motion being properly filed, the court did not address it, further denying me due process (Exhibit B).

6. Improper Dismissal of My Case on August 22, 2024

The court dismissed my case on August 22, 2024, citing a lack of merit, despite the respondents' procedural misconduct and failure to comply with court rules. The court also failed to consider the documented evidence proving that my filings were made on time and in accordance with the court's instructions.

III. Factual Background (Continued):

• **March 22, 2024:** Court Grants Extension of Time

The court erroneously granted the respondents an additional 15 days to respond, despite the fact that I had already responded on December 26, 2023. This unnecessary extension further delayed my case and caused confusion. I was forced to file the same response again on April 1, 2024 (Exhibit K).

• **April 4, 2024:** Affidavit of Kristi Chesley

On April 4, 2024, Kristi Chesley submitted a false affidavit, claiming that no additional

copies of the Notice of Appeal were provided to Bridgestone. This statement ignored the documented evidence proving that Bridgestone was served at its Ohio address (Exhibit J).

- **May 30, 2024: Reassignment of the Case to Chief Judge Anderson**
On May 30, 2024, my case was reassigned to Chief Judge Ralph King Anderson III under an order that incorrectly listed the docket number 20-ALJ-22-0320-AP and unrelated parties. I contacted the court's law clerk on June 3, 2024, and submitted a formal complaint on June 4, 2024, but this issue was never addressed (Exhibit M).
- **July 26, 2024: Motion for Summary Judgment**
On July 26, 2024, I filed a motion for summary judgment, arguing that the respondents had failed to present substantive legal arguments or raise genuine issues of material fact (Exhibit A). Despite the clear merits of my motion, the court failed to address it, further delaying justice.
- **August 8, 2024: Second Rule 40 Motion and Motion for Sanctions**
In response to continued procedural irregularities, I filed a Second Rule 40 Motion for Clarification and Modification on August 8, 2024, along with a motion for sanctions against the respondents for their misconduct (Exhibits B and G). Both motions were ignored by the court.
- **August 22, 2024: Court's Final Order Dismissing the Case**
The court dismissed my case on August 22, 2024, citing a lack of merit and procedural issues, despite the overwhelming evidence of the respondents' misconduct and procedural violations. The court also failed to consider the FedEx tracking receipts and affidavit proving that my filings were submitted on time (Exhibit H).

IV. Legal Argument:

1. **Respondents' Record on Appeal Violated SCALC Rule 37(B):**
The respondents' submission lacked a proper legal brief and failed to meet the requirements of SCALC Rule 37(B), which mandates that briefs must contain clear legal arguments supported by citations. The disorganized and redundant nature of their submission was intended to confuse the court and obstruct my ability to respond. The court's failure to address my motion for clarification on July 13, 2024, violated my procedural rights (Exhibits D and E).
2. **Misleading Affidavits Violated Rule 11(b)(3):**
The affidavits submitted by Beth Hellmann and Kristi Chesley contained false statements, violating Rule 11(b)(3), which requires factual contentions to have evidentiary support. These affidavits misled the court and delayed the proceedings. In **Henderson v. Southern States Cooperative, Inc., 231 S.C. 518, 99 S.E.2d 885 (1957)**, it was held that misleading affidavits are improper and grounds for sanctions.
3. **Failure to Grant Summary Judgment:**
My motion for summary judgment, filed on July 26, 2024, should have been granted under

Rule 56(c) of the South Carolina Rules of Civil Procedure, which allows for summary judgment when no genuine issue of material fact exists. In **Morrow v. Dyches, 328 S.C. 522, 492 S.E.2d 420 (Ct. App. 1997)**, the court held that summary judgment is appropriate when no factual disputes are raised. The respondents failed to provide substantive legal arguments or factual disputes.

4. **Court's Procedural Errors and Delays:**

The court's instruction on March 22, 2024, that I had an additional 15 days to respond to the motion to dismiss was unnecessary, as I had already responded on December 26, 2023. This unnecessary extension, coupled with the over 120-day delay in issuing the April 29, 2024, order, reflects a serious procedural mismanagement that prejudiced my case.

V. Requested Relief:

1. **Reconsideration of Dismissal:**

I request that the appellate court reconsider the **August 22, 2024** dismissal and remand the case for further proceedings.

2. **Sanctions Against Respondents:**

I request that sanctions be imposed on the respondents for their procedural misconduct and submission of false affidavits.

3. **Grant of Summary Judgment:**

I request that my **July 26, 2024 motion for summary judgment** be granted, as the respondents have failed to present substantive legal arguments or raise any genuine issues of material fact.

VI. Exhibits:

- **Exhibit A:** July 26, 2024 - Motion for Summary Judgment (not addressed by the court)
- **Exhibit B:** August 8, 2024 - Motion for Sanctions (not addressed by the court)
- **Exhibit C:** FedEx Tracking Proof/Affidavit of Dequincey Simmons signed by notary, August 8, 2024
- **Exhibit D:** July 13, 2024 - Response to Respondents' Motion to Dismiss (not addressed by the court)
- **Exhibit E:** July 13, 2024 - Motion to Clarify Respondents' Submission (no response from the court)
- **Exhibit F:** May 29, 2024 - Record on Appeal Index/Letter to Judge
- **Exhibit G:** August 8, 2024 - Second Rule 40 Motion for Clarification and Modification
- **Exhibit H:** August 22, 2024 - Order Dismissing the Case

- **Exhibit I:** December 11, 2023 - Response to Motion for Extension
- **Exhibit J:** Affidavits of **Beth Hellmann** and **Kristi Chesley**
- **Exhibit K:** December 26, 2023 - Response to Joint Motion to Dismiss for Lack of Jurisdiction
- **Exhibit L:** March 22, 2024 - Order Granting Extension of Time
- **Exhibit M:** May 30, 2024 - Notice of Reassignment (incorrect docket number)
- **Exhibit N:** Motion to Reconsider Extension of Time
- **Exhibit O:** April 4, 2024 - Respondents' Joint Response to March 22, 2024, Order
- **Exhibit P:** April 29, 2024 - Order Dismissing Respondents' Motion for Lack of Jurisdiction (over 120 days later)

VII. Additional Legal Argument: Importance of Supplying a Brief with Record on Appeal

Under **SCALC Rule 37(B)**, the importance of attaching a legal brief to the **Record on Appeal** cannot be overstated. The purpose of a legal brief is to provide a structured and clear statement of each issue presented for review. It also requires a concise history of the case proceedings, facts, and the nature of each party's legal arguments. Without a properly structured brief, the **Record on Appeal** becomes disjointed and hinders the opposing party's ability to respond, thus undermining the principle of fairness and due process.

In **Potter v. Spartanburg School Dist. 7, 395 S.C. 17, 716 S.E.2d 123 (2011)**, it was held that the failure to include a legal brief with an appeal submission results in procedural deficiencies that can lead to the abandonment of issues raised. By submitting 151 pages of disorganized and redundant documents without a supporting brief, the respondents violated **SCALC Rule 37(B)**, which severely compromised my ability to respond effectively to their filing.

Dequincey G. Simmons
2503 Hiers Court
Hephzibah, GA 30815
Phone: 706-495-0738
Email: dequinceysimmons@gmail.com

De Dequincey Simmons
9/20/2024

Docket No. 23-ALJ-22-0429-AP

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the **Appeal** was served upon the following parties by mailing the same via United States Postal Service, first-class postage prepaid, to their respective addresses as listed below:

Ben Cook
Office of General Counsel-SCDEW
PO Box 8597
Columbia, SC 29202

The South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Benjamin Hepner
110 E Court Street STE 201
Greenville, SC 29601

Employment Attorney
Bridgestone Americas Tire Operation LLC
PO Box 182366
Columbus, OH 43218-2366

South Carolina Administrative Law Court
Edgar Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

Dated this 20 day of September 20, 2024, .

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SEP 23 2024

SC Court of Appeals

Dequincey G. Simmons
2503 Hiers CT
Hephzibah, GA 30815
dequinceysimmons@gmail.com
706-495-0738

Dequincey Simmons
9/20/2024

ORIGIN ID:AGSA (706) 495-0738
DEQUINCEY SIMMONS
2503 HIERS CT
HEPHZIBAH, GA 30815
UNITED STATES US

SHIP DATE: 20SEP24
ACTWGT: 1.00 LB
CAD: 261696339/INET4535

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TO SOUTH CAROLINA COURT OF APPEALS
COURTS
1220 SENATE STREET

583J2/MEF9/AE3

COLUMBIA SC 29201
REF: (803) 765-1890

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FedEx Express



TUE - 24 SEP 5:00P
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SC Court of Appeals

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1. Fold the printed page along the horizontal line.
2. Place label in shipping pouch and affix it to your shipment.

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

Reed
9/30
BC

**IN THE COURT OF APPEALS
STATE OF SOUTH CAROLINA**

**Dequincey G. Simmons,
Appellant,**

v.

**South Carolina Department of Employment and Workforce,
and Bridgestone Americas Tire Operations, LLC,
Respondents.**

September 20, 2024

Appeal from the Administrative Law Court

Docket No. 23-ALJ-22-0429-AP

Judge: Chief Judge Ralph King Anderson III

APPELLANT’S BRIEF

I. Introduction:

This appeal is submitted in response to the August 22, 2024, final order by the South Carolina Administrative Law Court (SCALC), which dismissed my case against the South Carolina Department of Employment and Workforce (SCDEW) and Bridgestone Americas Tire Operations. I, Dequincey G. Simmons, as a pro se litigant, have been subject to significant procedural errors, delays, and judicial oversights that have severely impacted my right to a fair hearing. From the mishandled reassignment of my case to Chief Judge Ralph King Anderson III on May 30, 2024, to the failure of the court to address motions and evidence I submitted, this case has been marred by irregularities.

The respondents, SCDEW and Bridgestone, have compounded these issues by submitting misleading affidavits, filing disorganized and redundant documents, and abusing procedural rules to delay justice. Despite providing documented evidence, such as FedEx tracking receipts and a notarized affidavit, confirming that I followed the court’s filing requirements, my submissions were repeatedly ignored or dismissed without proper consideration. This appeal seeks to address these errors and seek appropriate remedies.

II. Statement of Issues:

1. The Respondents’ Record on Appeal Lacked Structure and a Legal Brief

The respondents' record on appeal, submitted in July 2024, consisted of 151 pages of disorganized, redundant, and irrelevant documents, without a proper legal brief outlining their legal arguments. This submission violated SCALC Rule 37(B), which requires a concise history of the proceedings and a statement of each issue presented for review. The respondents’ failure to submit a proper brief deprived me of the opportunity to respond effectively, which violated my due process rights. My objections and concerns about this were outlined in my July 13, 2024, motion for clarification (Exhibit E).

2. Misleading Affidavits Submitted by Respondents

The respondents filed misleading affidavits to obstruct the judicial process. Beth Hellmann's Affidavit (December 8, 2023) falsely claimed that Bridgestone was not properly served with the Notice of Appeal at its South Carolina address, ignoring the fact that I was instructed to serve them at their Ohio address, as confirmed by Exhibit J. Similarly, Kristi Chesley's Affidavit (April 4, 2024) falsely claimed that no additional copies were provided, despite the postal receipts and tracking information in Exhibit C (FedEx Proof/Affidavit), proving proper service.

3. Court's Failure to Address My July 13, 2024 Motions

On July 13, 2024, I submitted two motions:

- A response to the respondents' July 8 motion to dismiss (Exhibit D).
- A motion for clarification of the respondents' disorganized submission (Exhibit E).

Despite these motions being timely filed, the court failed to address them. This failure left me without clear guidance on how to respond to the respondents' motion and violated my procedural rights under SCALC Rule 37.

4. Improper Reassignment and Failure to Address My Complaint

My case was improperly reassigned to Chief Judge Ralph King Anderson III on May 30, 2024, under an order that referenced the incorrect docket number (20-ALJ-22-0320-AP) and unrelated parties. On June 3, 2024, I contacted Stephanie Perez, the law clerk for Chief Judge Anderson, to express my concerns. Despite submitting a formal complaint on June 4, 2024 (Exhibit M), this issue was never addressed.

5. Court's Failure to Address My August 8, 2024, Motion for Sanctions

On August 8, 2024, I filed a motion for sanctions against the respondents for submitting false affidavits and engaging in document dumping. Despite this motion being properly filed, the court did not address it, further denying me due process (Exhibit B).

6. Improper Dismissal of My Case on August 22, 2024

The court dismissed my case on August 22, 2024, citing a lack of merit, despite the respondents' procedural misconduct and failure to comply with court rules. The court also failed to consider the documented evidence proving that my filings were made on time and in accordance with the court's instructions.

III. Factual Background (Continued):

- **March 22, 2024:** Court Grants Extension of Time
The court erroneously granted the respondents an additional 15 days to respond, despite the fact that I had already responded on December 26, 2023. This unnecessary extension further delayed my case and caused confusion. I was forced to file the same response again on April 1, 2024 (Exhibit K).
- **April 4, 2024:** Affidavit of Kristi Chesley
On April 4, 2024, Kristi Chesley submitted a false affidavit, claiming that no additional

copies of the Notice of Appeal were provided to Bridgestone. This statement ignored the documented evidence proving that Bridgestone was served at its Ohio address (Exhibit J).

- **May 30, 2024: Reassignment of the Case to Chief Judge Anderson**
On May 30, 2024, my case was reassigned to Chief Judge Ralph King Anderson III under an order that incorrectly listed the docket number 20-ALJ-22-0320-AP and unrelated parties. I contacted the court's law clerk on June 3, 2024, and submitted a formal complaint on June 4, 2024, but this issue was never addressed (Exhibit M).
- **July 26, 2024: Motion for Summary Judgment**
On July 26, 2024, I filed a motion for summary judgment, arguing that the respondents had failed to present substantive legal arguments or raise genuine issues of material fact (Exhibit A). Despite the clear merits of my motion, the court failed to address it, further delaying justice.
- **August 8, 2024: Second Rule 40 Motion and Motion for Sanctions**
In response to continued procedural irregularities, I filed a Second Rule 40 Motion for Clarification and Modification on August 8, 2024, along with a motion for sanctions against the respondents for their misconduct (Exhibits B and G). Both motions were ignored by the court.
- **August 22, 2024: Court's Final Order Dismissing the Case**
The court dismissed my case on August 22, 2024, citing a lack of merit and procedural issues, despite the overwhelming evidence of the respondents' misconduct and procedural violations. The court also failed to consider the FedEx tracking receipts and affidavit proving that my filings were submitted on time (Exhibit H).

IV. Legal Argument:

1. **Respondents' Record on Appeal Violated SCALC Rule 37(B):**
The respondents' submission lacked a proper legal brief and failed to meet the requirements of SCALC Rule 37(B), which mandates that briefs must contain clear legal arguments supported by citations. The disorganized and redundant nature of their submission was intended to confuse the court and obstruct my ability to respond. The court's failure to address my motion for clarification on July 13, 2024, violated my procedural rights (Exhibits D and E).
2. **Misleading Affidavits Violated Rule 11(b)(3):**
The affidavits submitted by Beth Hellmann and Kristi Chesley contained false statements, violating Rule 11(b)(3), which requires factual contentions to have evidentiary support. These affidavits misled the court and delayed the proceedings. In **Henderson v. Southern States Cooperative, Inc., 231 S.C. 518, 99 S.E.2d 885 (1957)**, it was held that misleading affidavits are improper and grounds for sanctions.
3. **Failure to Grant Summary Judgment:**
My motion for summary judgment, filed on July 26, 2024, should have been granted under

Rule 56(c) of the South Carolina Rules of Civil Procedure, which allows for summary judgment when no genuine issue of material fact exists. In **Morrow v. Dyches**, 328 S.C. 522, 492 S.E.2d 420 (Ct. App. 1997), the court held that summary judgment is appropriate when no factual disputes are raised. The respondents failed to provide substantive legal arguments or factual disputes.

4. **Court's Procedural Errors and Delays:**

The court's instruction on March 22, 2024, that I had an additional 15 days to respond to the motion to dismiss was unnecessary, as I had already responded on December 26, 2023. This unnecessary extension, coupled with the over 120-day delay in issuing the April 29, 2024, order, reflects a serious procedural mismanagement that prejudiced my case.

V. Requested Relief:

1. **Reconsideration of Dismissal:**

I request that the appellate court reconsider the **August 22, 2024** dismissal and remand the case for further proceedings.

2. **Sanctions Against Respondents:**

I request that sanctions be imposed on the respondents for their procedural misconduct and submission of false affidavits.

3. **Grant of Summary Judgment:**

I request that my **July 26, 2024 motion for summary judgment** be granted, as the respondents have failed to present substantive legal arguments or raise any genuine issues of material fact.

VI. Exhibits:

- **Exhibit A:** July 26, 2024 - Motion for Summary Judgment (not addressed by the court)
- **Exhibit B:** August 8, 2024 - Motion for Sanctions (not addressed by the court)
- **Exhibit C:** FedEx Tracking Proof/Affidavit of Dequincey Simmons signed by notary, August 8, 2024
- **Exhibit D:** July 13, 2024 - Response to Respondents' Motion to Dismiss (not addressed by the court)
- **Exhibit E:** July 13, 2024 - Motion to Clarify Respondents' Submission (no response from the court)
- **Exhibit F:** May 29, 2024 - Record on Appeal Index/Letter to Judge
- **Exhibit G:** August 8, 2024 - Second Rule 40 Motion for Clarification and Modification
- **Exhibit H:** August 22, 2024 - Order Dismissing the Case

- **Exhibit I:** December 11, 2023 - Response to Motion for Extension
- **Exhibit J:** Affidavits of **Beth Hellmann** and **Kristi Chesley**
- **Exhibit K:** December 26, 2023 - Response to Joint Motion to Dismiss for Lack of Jurisdiction
- **Exhibit L:** March 22, 2024 - Order Granting Extension of Time
- **Exhibit M:** May 30, 2024 - Notice of Reassignment (incorrect docket number)
- **Exhibit N:** Motion to Reconsider Extension of Time
- **Exhibit O:** April 4, 2024 - Respondents' Joint Response to March 22, 2024, Order
- **Exhibit P:** April 29, 2024 - Order Dismissing Respondents' Motion for Lack of Jurisdiction (over 120 days later)

VII. Additional Legal Argument: Importance of Supplying a Brief with Record on Appeal

Under **SCALC Rule 37(B)**, the importance of attaching a legal brief to the **Record on Appeal** cannot be overstated. The purpose of a legal brief is to provide a structured and clear statement of each issue presented for review. It also requires a concise history of the case proceedings, facts, and the nature of each party's legal arguments. Without a properly structured brief, the **Record on Appeal** becomes disjointed and hinders the opposing party's ability to respond, thus undermining the principle of fairness and due process.

In **Potter v. Spartanburg School Dist. 7, 395 S.C. 17, 716 S.E.2d 123 (2011)**, it was held that the failure to include a legal brief with an appeal submission results in procedural deficiencies that can lead to the abandonment of issues raised. By submitting 151 pages of disorganized and redundant documents without a supporting brief, the respondents violated **SCALC Rule 37(B)**, which severely compromised my ability to respond effectively to their filing.

Dequincey G. Simmons
2503 Hiers Court
Hephzibah, GA 30815
Phone: 706-495-0738
Email: dequinceysimmons@gmail.com

De Quincey Simmons
9/20/2024

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Dequincey G. Simmons,
Appellant/Petitioner,

DOCKET NO. 23-ALJ-22-0429-AP

vs.

ORDER

South Carolina Department of Employment
and Workforce and Bridgestone Americas
Tires Operations, LLC

Respondent.

This matter is before the Administrative Law Court (“ALC” or Court”) pursuant to a Motion to Dismiss filed by the South Carolina Department of Workforce (“SCDEW” or “Department”) and Bridgestone Americas Tire Operations, LLC (“Bridgestone”)(collectively, “Respondents) alleging that this appeal should be dismissed for lack of jurisdiction because the Appellant, Dequincey G. Simmons, failed to serve the employer, Bridgestone, with his Notice of Appeal. The Court issued an Order on March 22, 2024, holding a final ruling on Respondent’s Motion to Dismiss in abeyance for fifteen (15) days to allow the Respondents to provide additional information to address concerns raised in the order. ¹

On or about April 4, 2024, the Court received Respondents’ Joint Response to March 22, 2024 Order (Response), providing legal argument on the issues raised in the March 22, 2024 order, as well as an affidavit from Krisi Chesley, a Department employee responsible for “receiving, opening and processing” mail addressed to the Department’s Office of General Counsel. Ms. Chesley’s affidavit attests that while she received Appellant’s Notice of Appeal on behalf of the Department, the Appellant failed to include an additional copy for service on Bridgestone. ²

¹ On or about April 1, 2024, the Court received documents from Appellant couched as “Motion to Clarify or Modify Judgment” requesting that the Court reconsider its March 22, 2024 order on the issue of service of the Notice of Appeal. Appellant’s certificate of service indicates that this information was served on the Department and Bridgestone. .

² S.C. Code Ann. 41-35-750 provides an alternate method to serve a Notice of Appeal on other parties to an unemployment proceeding whereby a litigant may leave additional copies the notices with the Department and the Department will then mail the pleadings to the other parties. In its Motion to Dismiss, the Department provided an affidavit from a registered agent of Bridgestone, based in Charleson, SC, attesting that it had not received Appellant’s Notice of Appeal but the Motion to Dismiss did not address the alternate method of service under section 41-35-750. In the Response, the

FORM 6
NOTICE OF APPEAL FROM ADMINISTRATIVE TRIBUNAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson III, Administrative Law Judge

Case No. 23-ALJ-22-0429-AP

Administrative
Law Court

Respondent,

v.

DeQuincey Simmons

Appellant.

NOTICE OF APPEAL

DeQuincey Simmons appeals the decision of the Honorable Ralph King Anderson III dated September 1, 2006. Appellant received a copy of this decision on August 22, 2024.

August 27, 2024

DeQuincey Simmons
2503 Hiers CT
Hephzibah, GA 30815
706-495-0738
dequinceysimmons@gmail.com

DeQuincey Simmons
9/20/2024

South Columbia
Administrative Law
Court
Edgar A Brown Building
1205 Pendleton Street,
Suite 224
Columbia, South
Carolina 29201

Docket No. 23-ALJ-22-0429-AP

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the **Appeal** was served upon the following parties by mailing the same via United States Postal Service, first-class postage prepaid, to their respective addresses as listed below:

Ben Cook
Office of General Counsel-SCDEW
PO Box 8597
Columbia, SC 29202

The South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Benjamin Hepner
110 E Court Street STE 201
Greenville, SC 29601

Employment Attorney
Bridgestone Americas Tire Operation LLC
PO Box 182366
Columbus, OH 43218-2366

South Carolina Administrative Law Court
Edgar Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

Dated this 20 day of September 20, 2024, .

Dequincey G. Simmons
2503 Hiers CT
Hephzibah, GA 30815
dequinceysimmons@gmail.com
706-495-0738

De Quincey Simmons
9/20/2024

In its March 22, 2024, Order, the Court observed that “[a]s of the date of this Order, Appellant has not filed a response to Respondents’ Motion [to Dismiss].” This statement was incorrect. Because of a filing error, the Court did not discover that Appellant had, in fact, filed a Return to the Department’s Motion to Dismiss until sometime after it had issued the March 22, 2024 order. The Appellant’s Return was dated December 26, 2023, and attached thereto as exhibits are pictures of envelopes Appellant asserts contain his Notice of Appeal addressed to the Court and copies of the same addressed to the Department and to Bridgestone.³ Appellant further attached a copy of a receipt from the U.S. Postal Service showing that the envelopes were mailed on October 23, 2023.⁴ Finally, Appellant attached a copy of what appears to be a tracking sheet from the U.S. Postal Service listing the delivery date for the envelope addressed to Bridgestone as October 30, 2024. Significantly, the envelope to Bridgestone was addressed to, and therefore, delivered to, “Bridgestone Americas Tire Operations, LLC, P.O. Box 182366, Columbus, Ohio 43218-2366.(Ohio address)” This is the exact same address listed for Bridgestone which appears in the caption of the Appellate Panel decision from which Appellant appeals.⁵

Respondents provided the appropriate affidavit from a Department employee and also offered that section 41-35-750 was not applicable. Given its disposition of the Motion, the Court need not address this issue.

³ The enveloped addressed to the Court shown in the picture appears to be the envelope in the Court’s file.

⁴ Appellant’s certificate of service shows that he served the Return on the Department and Bridgestone. Assuming the pleading was served on the Respondents, they filed no reply to the Appellant’s Return.

⁵ The requirements of service of the Notice of Appeal are strict and must be followed in order to properly invoke the appellate jurisdiction of this Court. That being said, Appellant is a layperson who would not ordinarily have knowledge that proper service of a Notice of Appeal may be made by serving a corporation’s registered agent. From the Court’s perspective, the Department provided the Appellant with a service address for Bridgestone in Ohio, and, based on the documents Appellant provided, it appears that Appellant served Bridgestone at that Ohio address. The affidavit of Beth Hellman attached to the Respondents’ Motion to Dismiss states that she is stationed in Davidson County, Tennessee and that she is “responsible for receiving, opening and processing mail addressed to Bridgestone’s registered agent in South Carolina and received by that agent at 6650 Rivers Avenue, North Charleston, SC 29206.” The affidavit continues to assert that “Bridgestone has not received any Notice of Appeal [from Appellant]...and Bridgestone has no record of ever having been served with a copy of the notice of appeal for that matter either by mail or hand delivery from Dequincy G. Simmons on Bridgestone’s registered agent in South Carolina.” Without more, the Court interprets this affidavit as addressing only service on Bridgestone via its registered agent in Charleston and not at the Ohio address furnished by the Department for Bridgestone. The Court further notes that the Department’s certificate of service on at least one of the documents filed in this case lists the Ohio address for Bridgestone.

The Court believes that the Appellant, for the purposes of a motion to dismiss, has provided sufficient evidence that he served his Notice of Appeal on Bridgestone, at the address provided to him by the Department.⁶ Had the Court been aware of Appellant's Return at the time it considered Respondents' Motion to Dismiss, it would have denied the same. Although the Appellant's Return (as well as his Motion to Clarify or Modify Judgment) appears to have been served on the Department, the Respondents have not refuted Appellant's showing that he served Bridgestone at the Ohio address. The Respondents' Joint Response to March 22, 2024 Order addressed the Court's concern raised in its order but did nothing to refute Appellant's showing that he served Bridgestone at the Ohio address with the Notice of Appeal on October 23, 2023. Accordingly, based on the evidence provided by the Appellant indicating that he did serve his Notice of Appeal on the Department and Bridgestone, the Department's Motion to Dismiss should be denied.

THEREFORE, upon careful consideration of pleadings herein, to include Respondents' Motion to Dismiss, Appellant's Return, Respondents' Joint Response to March 22, 2024 Order and Appellant's Motion to Clarify or Modify Judgment, along with the various pictures of service envelopes attached thereto, the Court **DENIES** Bridgestone's Motion to Dismiss for Lack of Jurisdiction and the case will proceed as follows:

1. Respondents shall have 30 days from the date of this Order to submit the Record of Appeal;
2. Appellant will shall have twenty (20) days after service of the Record on Appeal to submit his initial brief to the Court with service on all parties;
3. Respondents shall submit their brief(s) twenty (20) days after the service of Appellant's brief;
4. Within ten (10) days after the service of Respondents' brief(s), Appellant may file a Reply brief.

⁶ The Court acknowledges that Appellant's certificate of service to his Notice of Appeal failed to list Bridgestone as having been served with the Notice of Appeal. Based on the documents, however, the Court is comfortable that Appellant did serve Bridgestone.

Exhibit M

Exhibit O

P.O. Box 8597
Columbia, SC 29202
dew.sc.gov



Henry McMaster
Governor

William H. Floyd, III
Executive Director

P.O. Box 8597
Columbia, South Carolina 29202
(803) 737-0395
FAX (803) 737-0124
April 4, 2024

The Honorable Milton Kimpson
SC Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

Re: DeQuincey G. Simmons v. SCDEW and Bridgestone Americas
Tire Operations
Case No: 24-ALJ-22-0429-AP

Dear Judge Kimpson:

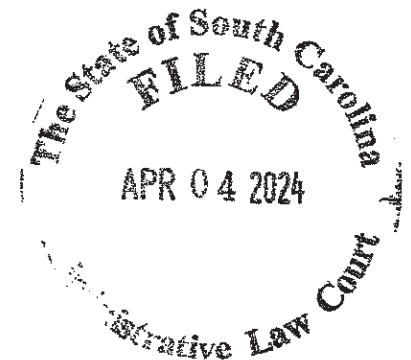
Enclosed is the Respondent's Response to Order in the above referenced case. Also enclosed is a Proof of Service to the other parties.

With kind regards, I am

Sincerely Yours,

A handwritten signature in cursive script that reads "Kristi Chesley".

Kristi Chesley
Administrative Legal Assistant for
Ben Cook
Attorney for South Carolina Department of
Employment and Workforce



STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

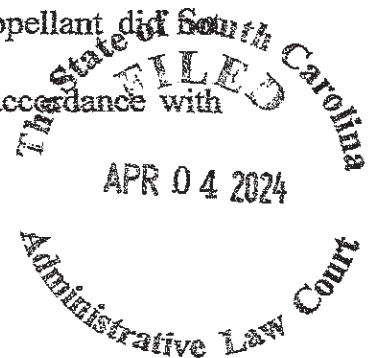
Dequincey G. Simmons,)
)
Appellant,)
)
v.)
)
South Carolina Department of)
Employment and Workforce, and)
Bridgestone Americas Tire)
Operations, LLC,)
)
Respondents.)
)
_____)

Docket No. 23-ALJ-22-0429-AP

**RESPONDENTS' JOINT RESPONSE
TO MARCH 22, 2024, ORDER**

Respondents, South Carolina Department of Employment and Workforce (“Department”) and Bridgestone Americas Tire Operations, LLC (“Bridgestone”) (the Department and Bridgestone are collectively to hereinafter as the “Respondents”), by and through their undersigned attorneys, hereby file this Joint Response to the Court’s March 22, 2024, Order, and respectfully renew the Motion to Dismiss Appellant Dequincey G. Simmons’s (“Appellant”) appeal.

On March 22, 2024, the Court issued an Order seeking additional information from the Department as to Appellant’s service of his Notice of Appeal (the “Order”). In the Order, the Court held a final ruling on Respondents’ Joint Motion to Dismiss for Lack of Jurisdiction in abeyance. In doing so, the Court relied upon S.C. Code Ann. § 41-35-750 and held that Respondents should provide further confirmation that Appellant did effectuate proper service of his Notice of Appeal on Respondents in accordance with Section 41-35-750.



Section 41-35-750 provides, in pertinent part, that service on the Department's executive director or a person designated by the Department is considered complete (i.e., proper) service on all parties of record, "but there must be left with the person served as many copies of the petition as there are defendants, and the [D]epartment promptly shall mail one copy to each defendant." In this case, Appellant did not provide any extra copies for distribution to the employer. *See* Exhibit 1 – Affidavit of Kristi Chesley. As a result, any argument that Appellant completed service under the substitute service provisions of Section 41-35-750 is unavailing.

Respondents also note that the substitute service provision of Section 41-35-750 conflicts with the service requirements of the Administrative Procedures Act ("APA") and that the APA provisions are controlling. *See* S.C. Code Ann. § 1-23-380(1) ("Proceedings for review are instituted by serving and filing notice of appeal *as provided in the South Carolina Appellate Court Rules*.... Copies of the notice of appeal must be served upon the agency and all parties of record.") (emphasis added); *see also* Rule 262, SCACR (providing that service can be accomplished only by hand delivery, delivery by U.S. mail, or by electronic means approved by the S.C. Supreme Court); *see also* *Bone v. U.S. Food Service*, 399 S.C. 566, 574, 733 S.E.2d 200, 204 (2012) ("The South Carolina General Assembly enacted the APA's mechanisms for review to provide uniform procedures after the exhaustion of administrative remedies; the APA's provisions *are controlling* in these agency matters and supersede any conflicting provisions.") (emphasis added). Because the substitute service provision in Section 41-35-750 conflicts with the service requirements in Section 1-23-380(1) and the APA

provision controls, even if extra copies had been provided to the Department, Appellant would have still been required to serve Bridgestone by hand, by mail, or by approved electronic method to properly invoke this Court's jurisdiction. However, because Appellant failed to provide any extra copies to the Department of his Notice of Appeal, this Court need not reach this question.

The Court's concerns on this matter having been addressed, Respondents renew their Motion to Dismiss for Lack of Jurisdiction for failure to serve all parties per the requirements of Section 1-23-380(1).

Respectfully Submitted,



Benjamin T. Cook (Bar #: 102216)
SC Department of Employment & Workforce
Office of General Counsel
Post Office Box 8597
Columbia, South Carolina 29202
(803) 737-0395 (phone); (803) 737-0124 (fax)
legal@dew.sc.gov

Attorney for Respondent
SC Department of Employment and Workforce

/s/ Benjamin T. Hepner

Benjamin Hepner (Bar No. 102734)
Littler Mendelson, P.C.
110 E Court St., Suite 201
Greenville, SC, 29601
(864) 775-3200 (phone); (864) 484-8663 (fax)
BHepner@littler.com

Attorney for Respondent
Bridgestone Americas Tire Operations, LLC

April 4, 2024

In the Administrative Law Court of South Carolina**Dequincey G. Simmons, Appellant, vs. South Carolina Department of Employment and Workforce and Bridgestone Americas Tire Operations, LLC, Respondents.****Docket No: 23-ALJ-22-0429-AP****Motion to Reconsider the Granting of Extension of Time**

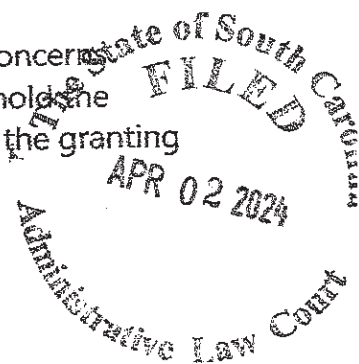
Introduction: I, Dequincey G. Simmons, the appellant in the above-mentioned case, hereby submit this motion to the Honorable Judge Milton Kimpson, seeking reconsideration of the court's decision to grant an extension of time to the respondents for filing the record on appeal.

Basis for Motion:

1. **Lack of Specific Details:** The respondents filed a motion for an extension of time on December 4, 2023, without providing specific details or justification for their request. The motion lacked clarity regarding the reasons necessitating the extension, which is essential for ensuring fairness and transparency in the legal process.
2. **Delay in Submission:** The respondents' motion was submitted after the established deadline, resulting in a significant delay in the proceedings. This delay has the potential to prejudice my interests as the appellant, causing financial strain and emotional distress due to prolonged legal proceedings.
3. **Prejudice to the Appellant:** Granting the extension without sufficient justification could unfairly prejudice my case by allowing the respondents additional time to prepare their arguments. This could undermine the integrity of the legal process and compromise the appellant's right to a timely resolution.

Request for Reconsideration: I respectfully request the Honorable Judge Milton Kimpson to reconsider the decision to grant the extension of time to the respondents. Considering the lack of specific details provided in the respondents' motion, the delay in its submission, and the potential prejudice it may cause to the appellant, I urge the court to review this matter and ensure that the principles of fairness and transparency are upheld in the proceedings.

Conclusion: In conclusion, I emphasize the importance of addressing the concerns raised in this motion to safeguard the integrity of the legal process and uphold the appellant's rights. I trust in the court's wisdom and discretion to reconsider the granting of the extension of time in light of the arguments presented herein.



address procedural errors and the uncertainty of my financial situation have affected my overall well-being.

3. **Delay in Legal Proceedings:** The overlooked documents and incorrect information in the Notice of Reassignment have delayed the legal proceedings, extending the time required to resolve my appeal. This delay has further complicated my ability to plan and make necessary life adjustments based on the outcome of my case.

Request for Immediate Action:

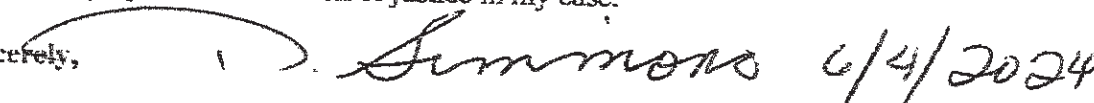
Given the substantial hardship and procedural delays caused by these errors, I respectfully request the following actions:

1. **Correction of Docket Information:** Correct the docket information and ensure that all future communications and documents reflect the correct case number (23-ALJ-22-0429-AP) and my name, Dequincey G. Simmons.
2. **Expedited Handling of My Case:** Expedite the handling of my case to mitigate further delays and hardships. Given the financial and emotional toll, timely resolution is critical.
3. **Preventative Measures:** Implement measures to ensure that such errors do not recur, ensuring fair and efficient processing of my case moving forward.

Conclusion:

I respectfully request that the Court address these issues promptly to mitigate further delays and ensure the proper administration of justice in my case.

Sincerely,

 6/4/2024

Dequincey G. Simmons

Dequincey G. Simmons
2503 Hiers CT
Hephzibah, GA 30815
dequinceysimmons@gmail.com
706-495-0738

6/4/2024

South Carolina Administrative Law Court
1205 Pendleton Street, Suit 224

Columbia, SC 29201

Re: Case No. 23-ALJ-22-0429-AP
Notice of Errors, Hardships, and Request for Correction

Dear Judge Ralph K. Anderson III,

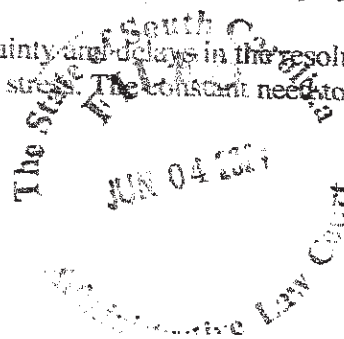
I, Dequincey G. Simmons, am writing to bring to the Court's attention several significant procedural errors that have occurred in my case, and to request immediate corrective measures to prevent further issues. These errors have caused substantial delays and significant personal and financial hardship.

1. **Overlooked Documents:** April 29, 2024 (the order is resubmitted) the Court acknowledged that documents I filed in December 2023 were overlooked. Although these documents have now been reviewed and the order changed accordingly, the delay in recognizing and considering these documents has significantly delayed the progress of my case.
2. **Incorrect Notice of Reassignment:** I recently received a Notice of Reassignment from the Court on 6/3/2024 Filed 5/30/2024 which contained incorrect information. The letter was addressed to another individual and referenced a different docket number (20-ALJ-22-0320-AP) and name (Ciara D Simmons). This error has further complicated my ability to proceed effectively with my case and has caused additional confusion and delay.

Impact of Errors and Resulting Hardship:

These errors have significantly impacted my case and personal circumstances in the following ways:

1. **Financial Hardship:** Due to the Court's delay and errors, I have been without unemployment insurance benefits from July 2, 2023, to June 4, 2024. This has severely strained my financial resources, as I have been unable to secure alternative employment while my eligibility for benefits remains unresolved.
2. **Emotional and Mental Stress:** The prolonged uncertainty and delays in the resolution of my case have caused significant emotional and mental stress. The constant need to



NOTICE OF REASSIGNMENT

In accordance with section 1-23-570 (2005) of the South Carolina Code, it is **ORDERED** that the cases listed below are reassigned to Chief Judge Ralph King Anderson, III. The Administrative Law Judge may be contacted by mail at 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201, and by telephone at (803) 734-0550. Pursuant to Rule 4(A) of the Rules of Procedure for the Administrative Law Court (SCALC Rules), all future filings must be filed directly with the assigned judge and shall include the docket number. This notice does not affect any time frames for filing briefs and other matters.

Ciara D. Simmons v. South Carolina Department of Employment and Workforce and Personal Cash Loans of SC, Inc. Docket No. 20-ALJ-22-0320-AP

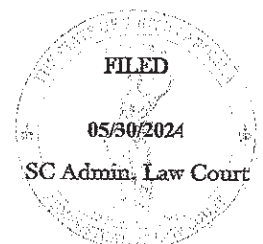
Dequincey G. Simmons, v. South Carolina Department of Employment and Workforce and Bridgestone Americas Tire Operations, LLC, Docket No. 23-ALJ-22-0429-AP

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

May 30, 2024
Columbia, South Carolina



STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Dequincey G. Simmons ,)
)
 Appellant)
)
 v.)
)
 South Carolina Department of)
 Employment Workforce and Bridgestone)
 Americas Tire Operations, LLC,)
)
 Respondents.)
)
)

Docket No. 23-ALJ-22-0429-AP

ORDER

This matter is before the Administrative Law Court (“ALC” or “Court”) pursuant to a Notice of Appeal filed by Dequincey G. Simmons (“Appellant”) on October 23, 2023. Appellant seeks review of a final decision issued by the Appellate Panel of the South Carolina Department of Employment and Workforce (“Department”), which found Appellant ineligible for unemployment insurance (“UI”) benefits on the grounds that he was discharged for cause connected with his employment with Bridgestone Americas Tire Operations, LLC (“Employer” or “Bridgestone”). The Panel’s decision effectively disqualified Appellant from receiving UI benefits for a period of sixteen (16) weeks, effective July 2, 2023, to October 21, 2023.

On December 8, 2023, the Department and Bridgestone (collectively “Respondents”) filed a Joint Motion to Dismiss for Lack of Jurisdiction (“Motion”). Respondents contend the ALC lacks jurisdiction over the appeal because Appellant failed to serve Bridgestone with a copy of his Notice of Appeal¹ as required by subsection 41-35-750 of the South Carolina Code (2021) and SCALC Rule 33. Respondents contend that Appellant’s failure to serve the Notice of Appeal on the employer warrants dismissal of his appeal.

Attached to Respondents’ Motion is a copy of Appellant’s Proof of Service for his Notice of Appeal on the Department, which was dated October 20, 2023. The document, labeled as “Exhibit B” to the Motion, only lists the Department as the recipient being served Appellant’s

1. Pursuant to subsection 41-35-750 of the South Carolina Code (2021), the procedure for obtaining judicial review by the Administrative Law Court from a decision by the Appellate Panel is by filing a “petition”.



Notice of Appeal; the document does not list Bridgestone as a recipient.² Attached to Respondents' Motion are three exhibits labeled A through C. Exhibit C is an Affidavit of Beth Hellmann, a Litigation Paralegal employed by Bridgestone, who states that she is "responsible for receiving, opening, and processing mail addressed to Bridgestone's registered agent in South Carolina and received by its registered agent at 6650 Rivers Avenue, North Charleston, SC 29406." Ms. Hellmann attests that Bridgestone has not received a Notice of Appeal from Appellant by mail or by hand delivery.

As of the date of this Order, Appellant has not filed a response to Respondents' Motion. On or about December 11, 2023, Appellant did file, however, a response to the Department's Motion for Extension of Time filed on December 4, 2023, in which Appellant objected to the Department's request for ten (10) additional days to file the Record on Appeal (Record). . Appellant's objection was based on the alleged untimeliness of the Department's request for extension. Contrary to Appellant's argument, the Department's request for extension was timely, inasmuch as the Record was due thirty (30) days after the ALC's November 2, 2023 Notice of Assignment, rendering the Record due on December 4, 2023.³ As such, to the extent still necessary, the Department's Motion for Extension is **GRANTED**.

In pertinent part, subsection 1-23-600(E) of the South Carolina Code (2005 & Supp. 2023), which governs the ALC's appellate authority, provides:

2. The Court does not have an actual copy of the document marked as Exhibit B to Respondents' Motion. Appellant's filings with the Court only include Appellant's Proof of Service on the ALC, which is likewise dated October 20, 2023 - the same date as Appellant's Proof of Service on the Department, as shown in Respondents' Exhibit B. As such, the Court presumes Appellant separately completed Proof of Service form(s) for the parties, and only included his Proof of Service on the ALC in his appeal documents filed with the Court. Although the caption on the Proof of Service lists Bridgestone as a party to this action, the Court has not been provided any indication that Bridgestone was served the Notice of Appeal. Appellant failed to file a reply to the Motion addressing his alleged failure to serve Bridgestone.

3. Pursuant to SCALC Rule 3A regarding computation of time, a prescribed time period begins the day after an action is taken (in this case, the mailing of the Notice of Assignment) and "[t]he last day of the period so computed is to be included, unless it is a Saturday, Sunday or a State or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday'." Here, the thirtieth day after the mailing of the Notice of Assignment was Saturday, December 2, 2023, which means that the last day to file and serve the Motion for Extension of Time was on Monday, December 4, 2023. The accompanying Proof of Service indicates the Motion for Extension of Time was served by mail on Appellant this same day. The date Appellant received the Motion for Extension of Time is not significant.

(E) Review by an administrative law judge of a final decision in a contested case, heard in the appellate jurisdiction of the Administrative Law Court, must be in the same manner as prescribed in Section 1-23-380 for judicial review of final agency decisions with the presiding administrative law judge exercising the same authority as the court of appeals, provided that a party aggrieved by a final decision of an administrative law judge is entitled to judicial review of the decision by the court of appeals pursuant to the provisions of Section 1-23-610.

Id.

The appeals process to the ALC, which is outlined under subsection 1-23-380(1) of the South Carolina Code (2005 & Supp. 2023) provides:

Proceedings for review are instituted by serving and filing notice of appeal as provided in the South Carolina Appellate Court Rules within thirty days after the final decision of the agency or, if a rehearing is requested, within thirty days after the decision is rendered. Copies of the notice of appeal must be served upon the agency and all parties of record.⁴

Id. (Emphasis added.)

Filing a Notice of Appeal and service of the document on all parties is essential to perfecting a valid appeal with this Court. In *Elam v. S.C. Dep't of Transportation*, 361 S.C. 9, 15, 602 S.E.2d 772, 775 (2004), the South Carolina Supreme Court made the following observation:

The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice.

Id.

While the timeliness issue in *Elam* arose under different circumstances, its principle regarding appellate jurisdiction is applicable here where the Appellant allegedly failed to serve Bridgestone with a Notice of Appeal even though the Notice of Appeal was timely filed with the Court, and presumably, the Department. Service of the Notice of Appeal itself on all parties within the appropriate time frame is necessary to perfecting the appeal. At first glance, the Appellant's

4. Rule 203(b)(6) of the South Carolina Appellate Court Rules requires that "the notice of appeal shall be served on the agency, the administrative law court (if it has been involved in the case) and all parties of record within thirty (30) days after receipt of the decision." Rule 203(b)(6), SCACR.

failure to properly serve this document on Bridgestone deprives this Court of appellate jurisdiction to hear his appeal.

However, pursuant to subsection 41-35-750 of the South Carolina Code (2021), a procedure exists to affect direct service of only the Department with a Notice of Appeal from a final decision of the Appellate Panel. In pertinent part, this code section provides:

Within thirty days from the date of mailing the department's decision, a party to the proceeding whose benefit rights or whose employer account may be affected by the department's decision may initiate an action in the administrative law court against the department for the review of its decision, in which action every other party to the proceeding before the department must be made a defendant. In this action a petition, which need not be verified but which must state the grounds on which a review is sought, must be served on the executive director or on a person designated by the department within the time specified by this section. Service is considered complete service on all parties, but there must be left with the person served as many copies of the petition as there are defendants, and the department promptly shall mail one copy to each defendant.

Id. (Emphasis added.)

As such, a plain reading of subsection 41-35-750 allows substituted service on the employer by serving the Department with the Notice of Appeal and including sufficient copies of the same so that the Department may furnish a copy of the Notice of Appeal to the employer. If this procedure is employed, “[s]ervice is considered complete service on all parties.”

Ms. Hellmann’s affidavit attests that Bridgestone has “no record of ever being served with a copy of the notice of appeal for that matter [Dequincey G. Simmons v. South Carolina Department of Employment and Workforce and Bridgestone American Tire Operation, LLC, Docket # 23-ALJ-22-0429-AP] either by mail or hand delivery from Dequincey G. Simmons or Bridgestone’s registered agent in South Carolina.” Notably, while Ms. Hellmann’s affidavit can perhaps be read broadly to encompass substituted service under subsection 41-35-750, nothing in her statement addresses whether Appellant’s Notice of Appeal in this matter was received from the Department. Furthermore, Respondents’ Motion does not address the possibility of substituted service under subsection 41-35-750 and is not supported by an affidavit from a Department employee attesting that the Appellant’s submission of his Notice of Appeal to the Department did not include copies for Bridgestone.

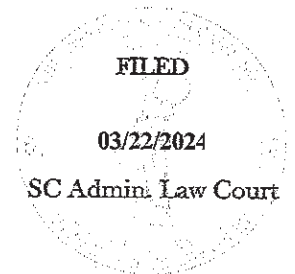
Because of this uncertainty, the Court finds it appropriate to hold a final ruling on the Respondents' Motion in abeyance. Respondents shall have an additional fifteen (15) days from the date of this Order to supplement their filing with the Court to address the concerns raised. Appellant may thereafter have fifteen (15) days from the date of Respondent's supplemental filings to respond. The Court will either grant or deny the Respondents' Motion based on these filings (or the absence thereof).

AND IT IS SO ORDERED.



Milton G. Kimpson, Judge
South Carolina Administrative Law Court

March 22, 2024
Columbia, SC



DeQuincey Simmons
2503 Hiers CT
Hephzibah, Ga 30815
12/26/2023

The Honorable Milton Kimpson
SC Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

Dequincey G. Simmons v. SCDEW and Bridgestone Americas Tire Operations
Case No: 23-ALF-22-0429-AP

Dear Judge Kimpson:

I am writing in response to the Respondents' Joint Motion to Dismiss for Lack of Jurisdiction in the above-referenced case. I wish to address the points raised by the Respondents and provide evidence supporting my compliance with the service requirements.

Lack of Jurisdiction Due to Failure to Serve Notice of Appeal:

The Respondents contend that I failed to serve Bridgestone with the Notice of Appeal within the stipulated thirty-day period, thereby asserting that the Court lacks jurisdiction over this matter.

Counterargument: Enclosed, please find:

Certified mail tracking numbers of the mailed notice to Bridgestone.

Photos of the large envelopes addressed to Bridgestone.

Post office receipt indicating the date of mailing.

Statement: The documents were sent to the address on file with the court, as provided by the records available to me.



Affidavit of Beth Hellman:

The Respondents submitted an affidavit stating that Bridgestone did not receive any Notice of Appeal related to this case.

Rebuttal: The evidence I present confirms that I fulfilled the service requirement by sending the Notice of Appeal to Bridgestone. The discrepancy in Bridgestone's receipt of the notice contradicts the evidence I provide, demonstrating compliance with the service obligation.

Legal Arguments and Jurisdictional Requirement:

The Respondents assert that failure to comply with the service requirements is a jurisdictional issue that precludes this Court from reviewing the appeal.

Legal Response: While acknowledging the importance of adherence to statutory service obligations, my submitted evidence unequivocally demonstrates my compliance with the service and filing requirements.

In light of the evidence provided and the adherence to the court-provided address, I respectfully request the Court to consider this additional information and ensure that my appeal is not dismissed on the basis of an alleged failure to serve the Notice of Appeal to Bridgestone.

Thank you for your attention to this matter. I remain committed to upholding the legal requirements and respectfully request the Court's fair consideration of the evidence I have provided.

Sincerely,

12/26/2023

DeQuincey Simmons

706-495-0738

dequinceysimmons@gmail.com



The Honorable Milton Kimpson

SC Administrative Law Court

Edgar A. Brown Building

1205 Pendleton Street, Suite 224

Columbia, South Carolina 29201

Dequincey G. Simmons v. SCDEW and Bridgestone Americas Tire Operations

Case No: 23-ALF-22-0429-AP

Statement: I would like to bring to the Court's attention the challenges I have encountered regarding the mail delivery process, particularly concerning communications from the South Carolina Department of Employment and Workforce. It's important to note that the agency responsible for initiating and processing mail, including official correspondences, holds a critical role in ensuring timely and efficient delivery.

On two separate occasions, I received correspondence using Pitney Bowes services, one of which lacked barcode information and significantly delayed delivery, arriving fourteen days after the mailing date. This delay hindered my ability to respond promptly to motions or rebuttals filed within the court's time limits.

Additional Information: On December 20, 2023, at 3:32 PM, my wife sent a text notifying me of the arrival of the delayed mail, emphasizing the significant delay experienced. Subsequently, I promptly contacted the Judge's assistant, Rob, to address the issue of the late mail.

Agency Responsibility: The agency responsible for handling and processing official mail, in this case, the South Carolina Department of Employment and Workforce, plays a pivotal role in ensuring timely delivery of legal documents. Any procedural delays or inefficiencies within their mailing processes have a direct impact on the receipt of crucial legal notifications and responses.

Evidence: Enclosed are copies of the envelopes, which serve as evidence of the delayed and barcode-lacking mail that put me at a disadvantage in meeting legal response deadlines. Additionally, if necessary, I can provide documentation or screenshots confirming the text communication regarding the late arrival of the mail, as well as any follow-up correspondence with the judge's assistant.

Statement of Concern: This recurrent delay leads me to believe that there might be a systematic issue or neglect affecting the timely delivery of important legal documents. As I navigate this legal process without legal representation, these delays place me at a significant disadvantage and hinder my ability to respond adequately and within the prescribed timelines.

The Honorable Milton Kimpson
SC Administrative Law Court
DEC 26 2023

Request: I kindly request the Court's consideration of these challenges in the context of the documented evidence I provide, acknowledging the impact of delayed mail on my ability to adhere to the Court's deadlines.

[Signature]
Simmons
12/26/2023



STATE OF SOUTH CAROLINA)	IN THE ADMINISTRATIVE LAW COURT
)	
COUNTY OF RICHLAND)	
)	
Dequincey G. Simmons,)	Docket No. 23-AJ-22-0429-AP
)	
Appellant,)	
)	
vs.)	AFFIDAVIT OF BETH HELLMANN
)	
South Carolina Department of Employment)	
and Workforce, and Bridgestone Americas)	
Tire Operations, LLC,)	
)	
Respondents.)	

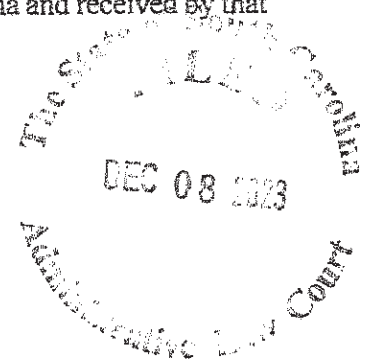
PERSONALLY appeared before me, the undersigned Notary, is Beth Hellman, who is employed in Davidson County, Tennessee, and makes this statement and affidavit upon oath and affirmation of belief and personal knowledge that the following is true and correct to the best of her knowledge:

1. My name is Beth Hellmann and I am employed by Bridgestone Americas, Inc. ("Bridgestone"), as a Litigation Paralegal. Respondent Bridgestone Americas Tire Operations, LLC, is a subsidiary of Bridgestone.

2. I am over the age of eighteen (18) and make this affidavit voluntarily. All of the facts in this affidavit are based on my personal knowledge, and I could competently testify to them if required to do so in court.

3. I have been employed by Bridgestone since November 27, 2017.

4. In my current role at Bridgestone, I am responsible for receiving, opening, and processing mail addressed to Bridgestone's registered agent in South Carolina and received by that agent at 6650 Rivers Avenue, North Charleston, SC 29406.



5. Bridgestone has not received any Notice of Appeal to the Administrative Law Court (ALC) pertaining to the case of *Dequincey G. Simmons v. South Carolina Department of Employment and Workforce and Bridgestone Americas Tire Operations, LLC*, Docket #23-ALJ-22-0429-AP, and Bridgestone has no record of ever being served with a copy of the notice of appeal for that matter either by mail or hand delivery from Dequincey G. Simmons on Bridgestone's registered agent in South Carolina.

I declare under penalty of perjury under the laws of South Carolina that the foregoing is true and correct.

Beth Heilmann
Affiant's Name

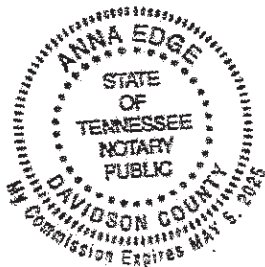
NOTARY ACKNOWLEDGEMENT

State of Tennessee

County of Davidson

I, the undersigned Notary Public, do hereby certify that the foregoing instrument was acknowledged before me this 4th day of December 2023 and the document was executed by the above-named Affiant of her own free will.

Witness my hand and seal this 4th day of December 2023.



Anna Edge
Notary Public for Tennessee

Commission Expires: 5.5.25



STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

AFFIDAVIT

PERSONALLY appeared before me, the undersigned Notary, is Kristi Chesley, who is employed in Richland County, South Carolina, and makes this her statement and affidavit upon oath and affirmation of belief and personal knowledge that the following is true and correct to the best of her knowledge:

1. I am the Office Manager for the South Carolina Department of Employment and Workforce (Department). I am responsible for receiving, opening, and processing mail addressed to: Office of General Counsel, S.C. Department of Employment and Workforce, Post Office Box 8597, Columbia, SC 29202.
2. On or about October 25, 2023, the Department received a Notice of Appeal from Dequincey G. Simmons by U.S. postal mail. No additional copies were included with Mr. Simmons's Notice of Appeal and no extra copies have been received by any method since.

Kristi Chesley
Signature of Affiant
Kristi Chesley

DATED AND SWORN to before me this the
2 day of April, 2024.

J. Starch (LS)
Notary Public for South Carolina
My Commission Expires 09/08/2025

Dequincey Simmons

12/11/2023

2503 Hiers CT.

Hephzibah. Ga 30815

dequinceysimmons@gmail.com

706-495-0738

Copies Has Been Sent To The Other Parties

The Honorable Milton Kimpson SC Administrative Law Court Edgar A. Brown Building
1205 Pendleton Street, Suite 224 Columbia, SC 29201

Re: Dequincey G. Simmons v. South Carolina Department of Employment and Workforce
and Bridgestone Americas Tire Operations, LLC Docket Number: 23-AJ-22-0429-AP

Dear Judge Kimpson:

I am writing in response to the Motion for Extension of Time filed by the South Carolina Department of Employment and Workforce (SCDEW) on December 4, 2023, seeking an additional ten days to file the record on appeal. It's imperative to highlight that the motion for an extension of time, submitted by SCDEW on December 4, 2023, arrived after the established deadline, resulting in a delay in their request.

I wish to underscore the significant financial implications that any further delay in this matter might pose for myself as the appellant. Granting this extension, especially following an untimely request, could result in substantial financial strain and hardship. As an individual representing myself in this case, each delay not only prolongs the resolution but also imposes considerable financial burdens associated with prolonged legal proceedings.

Moreover, I've been undergoing counseling since my wrongful termination, and the multiple unlawful judgments against me by the unemployment agency have significantly contributed to the stress. This has posed a real challenge to my mental health, exacerbating the difficulties I've faced during this entire process.

It was a decision made by the hearing officer, and the appellate panel confirmed the decision, leaving me perplexed about the request for more time. They should have all necessary information and documentation to argue the case.

COPY

FILED
DEC 21 2023
Administrative Law Court

While acknowledging the importance of allowing due time for preparation, the untimely submission of the requested extension, coupled with the financial strain it has cause, should be carefully weighed against SCDEW's intent to file a dispositive joint motion and collect an affidavit. may not constitute sufficiently compelling reasons to warrant the requested extension. , particularly considering the substantial financial repercussions on myself and the added strain on my mental health.

I respectfully urge the court to consider not only the financial impact but also the toll this prolonged process has taken on my mental well-being. Upholding fairness and ensuring a balanced and efficient resolution should also take into account these significant challenges.

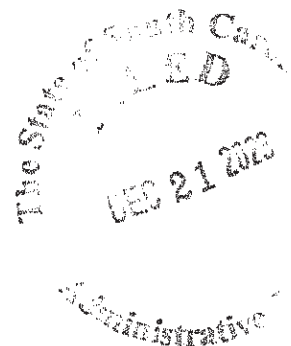
Thank you for your attention to this matter. I trust in the court's wisdom and discretion in determining the appropriate course of action.

Respectfully,

12/11/2023



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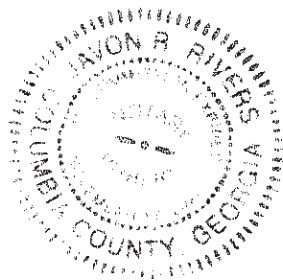
Affidavit

I, Dequincey G. Simmons, being duly sworn, depose and say as follows:

1. **Introduction:** I am the appellant in the case of Dequincey G. Simmons v. South Carolina Department of Employment and Workforce and Bridgestone Americas Tire Operations, LLC, docket number 23 ALJ 22-0429-AP. I am competent to make this affidavit and am over the age of 18.
2. **Statement of Facts:** On December 4, 2023, I am aware that the South Carolina Department of Employment and Workforce (SCDEW) filed a Motion for Extension of Time seeking an additional ten days to file the record on appeal. The motion arrived after the established deadline, resulting in a delay in their request.
3. **Financial Implications and Mental Health:** I wish to emphasize the significant financial implications that any further delay in this matter might impose on me as the appellant. The prospect of granting this extension, especially after an untimely request, could result in substantial financial strain and hardship. Furthermore, the stress from undergoing counseling since my wrongful termination and the multiple unlawful judgments against me by the unemployment agency have significantly affected my mental health. This has created a genuine challenge for me during this entire process.
4. **Perplexity Regarding Requested Extension:** I note that a decision was made by the hearing officer, and the appellate panel confirmed this decision. This leaves me perplexed about the request for more time, as I believe all necessary information and documentation to argue the case should already be available.
5. **Conclusion:** I affirm that the statements made in this affidavit are true and correct to the best of my knowledge and belief. I understand that making false statements in this affidavit may subject me to penalties under the law.

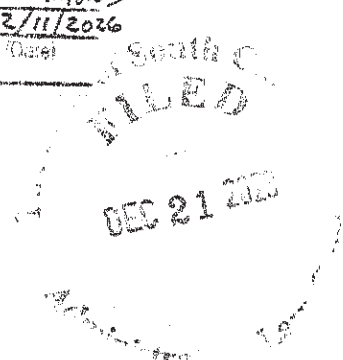
Dequincey G. Simmons 12/11/2023

Sworn to and subscribed before me on this 11th day of December, 2023.



State of GEORGIA County of RICHMOND
Subscribed and sworn to before me on 12/11/2023
J. R. Rivers
Notary Public

COPY



STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Dequincey G. Simmons,
Appellant,

Docket No. 23-AJ J-22-0429-AP

v.

South Carolina Department of Employment
and Workforce and Bridgestone Americas
Tire Operations, LLC

Proof of Service

Respondents.

I hereby certify that I have served the **Motion for Extension of Time** in the above-captioned matter by depositing it in the United State Mail, postage prepaid, on December 4, 2023 to the below named parties at their addresses of record: **Deadline was not meant**

DeQuincey Simmons
2503 Heirs Ct
Hephzibah, GA 30185

December 4, 2023



Amy Proveaux
Senior Paralegal for
Ben Cook
Attorney for Respondent
SC Department of Employment and Workforce
Post Office Box 8597
Columbia, SC 29202
803.737.0395 (phone)
803.737.0124 (fax)
legal@dew.sc.gov



COPY

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Dequincey G. Simmons,)	Docket No. 23-ALJ-22-0429-AP
)	
)	
Appellant(s),)	
v.)	
)	NOTICE OF ASSIGNMENT
)	(Appeal)
South Carolina Department of)	
Employment and Workforce and)	
Bridgestone Americas Tire Operations,)	
LLC,)	
)	
Respondent(s).)	

Judge Assigned: **Honorable Judge Milton Kimpson**

Date Assigned: 11/2/2023

In accordance with S.C. Code Ann. § 1-23-570 (2005), the above Administrative Law Judge, has been assigned to preside in this appeal. The Administrative Law Judge may be contacted by mail at 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201, and by telephone at (803) 734-0550. Pursuant to SCALC Rule 4A, all future filings must be filed directly with the above assigned Judge and shall include the docket number.

The parties are required to meet the following deadlines, unless otherwise ordered by the assigned Administrative Law Judge:

- Record on Appeal** Due within thirty (30) days of the date of this Notice (to be filed by the agency) ←
- Appellant's Brief** Due within twenty (20) days after the Record on Appeal is filed
- Respondent's Brief** Due within twenty (20) days after the Appellant's Brief is filed
- Reply Brief** Due within ten (10) days after the Respondent's Brief is filed

The parties are directed to the relevant provisions of the Rules of Procedure regarding these deadlines and other requirements applicable to the appeal process. Rules of Procedure governing matters before the Court may be obtained from the Clerk of Court or on the Court's website, www.scalc.net.

Ralph King Anderson, III
Chief Administrative Law Judge



FILED
11/2/2023
SC Admin. Law Court

COPY

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

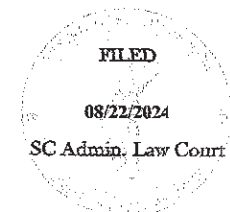
DeQuincey Simmons,)
)
 Appellant,)
)
 v.)
)
 South Carolina Department of Employment)
 and Workforce and Bridgestone Americas)
 Tire Operations,)
)
 Respondents.)
_____)

Docket No. 23-ALJ-22-0429-AP

**ORDER DENYING MOTION
FOR REHEARING**

This matter comes before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Motion for Rehearing (Motion) filed by DeQuincey Simmons (Appellant) on August 13, 2024. The Court originally dismissed this case on July 29, 2024, because Appellant failed to comply with this Court’s rules. A copy of the order was mailed to Appellant’s mailing address of record. Afterwards, Appellant filed this Motion in which he asserts there were procedural errors in his case, including “rapid and unequal handling of motion,” “lack of direction in brief construction,” and the Court’s “inexplicable Non-Response.” He also argues the South Carolina Department of Employment and Workforce (Department) and Bridgestone Americas Tire Operations (Employer) (collectively, Respondents) submitted a one hundred and fifty-one-page brief and that the Court “assumed this submission met the necessary standards without examining its content.” He further argues for equal treatment for pro se litigants and asserts the Court did not address all of his submissions. On August 19, 2024, Respondents filed a Joint Response to the Motion asserting the Motion lacks merit and as a result, requests it be denied.

Rule 40 of the Rules of Procedure for the Administrative Law Court (SCALC Rules) provides, in relevant part: “A motion for rehearing must be filed within ten days of receipt of the order.” The Order of Dismissal was issued on July 29, 2024, and mailed that same day. Appellant did not file this Motion until August 13, 2024, fifteen days after the Order of Dismissal was issued. Appellant did not provide the Court with the date of receipt of the Order of Dismissal. Because Appellant filed the Motion more than ten days after the Order was issued, the Court finds Appellant’s Motion was untimely. SCALC Rule 40. SCALC Rule.



Moreover, even if Appellant's Motion was timely filed, Appellant's arguments are without merit. First, Appellant appears to be confusing the Department's filing of the Record on Appeal with its legal brief. As explained in the Court's July 29 Order of Dismissal, Respondents did not file a legal brief in this matter. The one hundred and fifty-one page submission Appellant refers to in his Motion is the Record on Appeal that the Department filed pursuant to SCALC Rule 36(B). Therefore, this argument is without merit.

Next, Appellant argues the Court failed to address his submissions, however, he did not specifically state what submissions the Court failed to address. Nonetheless, the Court is only aware of Appellant's Motion for Summary Judgment and Sanctions for False Statements that the Court received on July 29, 2024, the same day the Order of Dismissal was issued. Because the case was already closed, the Court disregarded that filing. Nonetheless, even if the Court had considered it, the outcome would not have changed. Indeed, this matter was dismissed because Appellant's brief was woefully deficient; it did not identify the issues on appeal, did not raise any objections to or take issue with the Panel's decision, and did not offer any legal argument on why the Panel's decision was erroneous. *See* SCALC Rule 37(B). Moreover, Appellant's brief does not set forth sent any citations to authority supporting why the Panel's decision was in error, or a conclusion stating the precise relief requested. *See id.* Thus, Appellant failed to comply with the Court's Rules and, as such, dismissal was appropriate. *See* SCALC Rule 38 (providing an administrative law judge may resolve an appeal adversely to a party who fails to comply with the rules of procedure for appeals, including the failure to comply with time limits provided by the rules).

Finally, Appellant requests "equal treatment for pro se litigants." As the Court acknowledged in its Order of Dismissal, *pro se* litigants are held to the same standards as represented litigants. *See* SCALC Rule 8(A) ("A party proceeding without legal representation shall remain fully responsible for compliance with these Rules and the Administrative Procedures Act."); *State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003) ("A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.")

Accordingly, because the Motion was untimely and because Appellant failed to show good cause to vacate the Court's July 29 Order of Dismissal, I conclude the Motion must be denied.

IT IS THEREFORE ORDERED that the Motion for Rehearing is **DENIED**.

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

August 22, 2024
Columbia, South Carolina

ADMINISTRATIVE LAW COURT OF SOUTH CAROLINA

DeQuincey G. Simmons,
Appellant,

v.

South Carolina Department of Employment and Workforce and
Bridgestone Americas Tire Operations, LLC,
Respondents.

Docket No.: 23-ALJ-22-0429-AP

Date: August 8, 2024

Appellant's Second Rule 40 Motion for Clarification and Modification of Judgment Due to Continued Procedural Irregularities

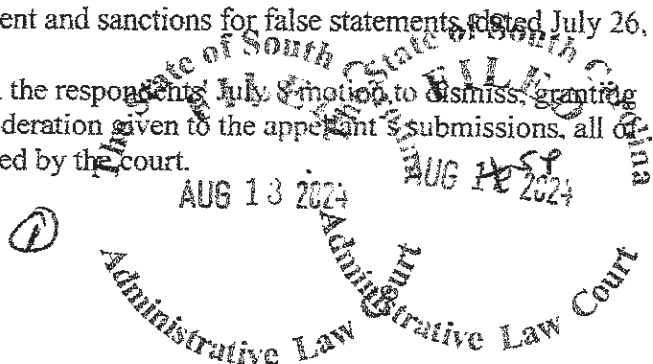
I. Introduction

DeQuincey G. Simmons, the Appellant, respectfully submits this second Rule 40 motion to address persistent procedural irregularities and administrative errors that undermine the fairness and integrity of the judicial process in this matter. Despite all submissions being properly stamped and acknowledged by the court, crucial motions and filings have inexplicably not been addressed. This motion seeks specific clarification and modification of prior judicial orders to ensure equitable handling in accordance with established legal standards.

II. Factual Background

A. Timeline of Events

- **March 31, 2024:** Initial Rule 40 motion filed due to administrative delays and oversight.
- **June 4, 2024:** Submission of a reassignment letter with an incorrect docket number.
- **July 8, 2024:** Respondents filed a motion to dismiss for non-compliance with ALC rules.
- **July 13, 2024:** Appellant submitted multiple documents:
 - A rebuttal against the motion to dismiss.
 - A motion to clarify respondents' submissions, questioning the lack of clear instructions in the respondent's brief.
 - A motion for summary judgment and sanctions for false statements, dated July 26, 2024.
- **July 29, 2024:** Court rapidly ruled on the respondents' July 8 motion to dismiss, granting it without similar expedience or consideration given to the appellant's submissions, all of which were stamped and acknowledged by the court.



B. Specific Procedural Errors and Omissions

- **Rapid and Unequal Handling of Motions:** Notable disparity in processing of the Appellant's versus Respondents' filings, indicating potential procedural bias.
- **Lack of Direction in Brief Construction:** Respondents' submission lacked clear directives for brief structuring, which is required under SCALC Rule 37, leading to procedural confusion.
- **Court's Inexplicable Non-Response:** Despite being stamped and acknowledged, the Appellant's submissions have not been addressed, undermining confidence in judicial processes.

III. Legal Argument

A. Violation of Legal Standards for Brief Requirements

- **SCALC Rule 37** mandates that a legal brief should be structured with:
 - **Statement of Issues:** Clearly delineating the legal questions the court is being asked to decide.
 - **Statement of the Case:** Providing a concise history of the proceedings, including factual background and previous court decisions.
 - **Argument:** Discussing each issue with supporting legal authorities, and integrating facts with legal theory.
 - **Conclusion:** Summarizing the relief sought and the legal basis for such relief.

B. Lack of Substantive Content in Respondents' Brief

- The opposing parties, Bridgestone Americas and the South Carolina Workforce and Employment Agency, submitted a brief consisting of one hundred and fifty-one pages of largely duplicative and irrelevant documents, devoid of substantive legal arguments or specific factual statements. It is evident that the court assumed this submission met the necessary standards without thoroughly examining its content. This assumption, based on their status as represented parties, is unacceptable and undermines the integrity of the judicial process. I insist that the court scrutinizes their submission as rigorously as it would mine, ensuring that both parties are held to the same standards of clarity and specificity.

C. Equal Treatment for Pro Se Litigants

- As a pro se litigant, I demand that my submissions and concerns receive the same level of scrutiny and respect as those prepared by licensed attorneys. The lack of response to my detailed submissions, particularly those submitted on July thirteenth, is unacceptable and undermines the fairness of this process. Despite not holding a legal license, I am held to the same standards and should be treated with the same consideration. It is imperative that the court thoroughly reviews my submissions and addresses the issues I have raised to uphold the principles of justice and equality.

D. Procedural Challenges and Court Processes

- In navigating this case, I have felt at times as though I am contending not only with Bridgestone Americas and the South Carolina Workforce and Employment Agency but also with the processes of the Administrative Law Court itself. This perception arises from the procedural challenges and delays I have experienced. Such procedural barriers, as outlined in *Shuler v. South Carolina Department of Social Services*, 344 S.C. 436 (2001), highlight the need for courts to ensure equitable treatment and timely responses to filings, particularly when dealing with pro se litigants.

E. Relevant Case Law and Statutes

- *Harvey v. South Carolina Department of Corrections*, 338 S.C. 500 (2010) — emphasizes the necessity for consistent application of procedural rules.
- *In re Mann*, 298 S.C. 464 (1989) — underscores the court's duty to ensure all properly filed documents are reviewed and addressed timely.
- **South Carolina Code § 1-23-350 (a)(d)** — mandates that all administrative procedures uphold principles of fairness and transparency in the treatment of all parties.
- *Moseley v. Oswald*, 358 S.C. 182 (2004) — recognizes the right of pro se litigants to equal treatment under the law, emphasizing that self-representation does not diminish procedural entitlements.

IV. Evidence and Documentation

Attached are all relevant documents, including court orders, motions, and responses, demonstrating the procedural errors and highlighting the court stamps on each filing.

V. Impact and Prejudice

These procedural failures have directly compromised the Appellant's ability to engage in a fair legal process, resulting in significant emotional distress, financial burden, and an eroded trust in the judicial system's capacity to administer justice impartially and efficiently.

VI. Relief Requested

- **Clarification of Brief Requirements:** An explicit court directive on the required structure and content for briefs as per SCALC Rule 37, ensuring all parties adhere to a uniform standard that facilitates fair and just legal proceedings.
- **Review and Reconsideration of Dismissal:** A thorough review and reconsideration of the dismissal issued on July 29, 2024, alongside a detailed examination of all pending motions.
- **Corrective Action for Procedural Fairness:** Implementation of measures to prevent recurrence of these issues and to ensure equitable treatment moving forward.

VII. Conclusion

This motion calls for immediate corrective action to rectify the ongoing procedural disparities that have marred this case. The Appellant seeks to restore fairness and ensure that the judicial process is conducted transparently and justly.

Respectfully submitted,

DeQuincey G. Simmons
2503 Hiers CT

Hephzibah, GA 30815
706-495-0738
dequinceysimmons@gmail.com

8/8/2024

D. Simmons
8/8/2024

P.O. Box 8597
1550 Gadsden Street
Columbia, SC 29202
dew.sc.gov



Henry McMaster
Governor

William H. Floyd, III
Executive Director

P.O. Box 8597
Columbia, South Carolina 29202
(803) 737-0395
FAX (803) 737-0124
May 29, 2024

The Honorable Milton Kimpson
SC Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

Re: DeQuincey Simmons v. SCDEW and Bridgestone
Americas Tire Operations
Docket Number: 23-ALJ-22-0429-AP

Dear Judge Kimpson:

Enclosed are the original Notice of Appearance and Record on Appeal in the above referenced case. Also enclosed is a Certificate of Service to the other parties. An electronic copy of the Record was emailed to your clerk today.

If you have any questions, please contact me at the above number.

With kind regards, I am

Sincerely Yours,

A handwritten signature in cursive script that reads "Kristi Chesley".

Kristi Chesley
Administrative Legal Assistant for
Ben Cook
Attorney for SC DEW
Legal@dew.sc.gov



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The disorganized and unstructured nature of the Respondents' submission not only fails to comply with the procedural rules but also demonstrates a lack of professionalism. The submission's inadequacy has deterred the Plaintiff's ability to understand the Respondents' arguments and prepare a proper response.

5. Prejudice to the Plaintiff

The deficiencies in the Respondents' submission have caused significant prejudice to the Plaintiff. Without a clear understanding of the issues, arguments, and supporting evidence, the Plaintiff is unable to effectively address the Respondents' claims and defend against them.

Conclusion

For the reasons stated above, the Plaintiff respectfully requests that the Court order the Respondents to resubmit their brief in compliance with SCALC Rule 37 and Rule 38. The revised submission should include:

1. A clear statement of the issues on appeal.
2. A concise history of the case.
3. A coherent argument section with supporting legal authorities and factual evidence.
4. An organized and summarized presentation of documents, explaining their relevance.

The Plaintiff also requests that the Court consider the prejudicial effect of the Respondents' current submission and take appropriate measures to ensure a fair and just resolution of this matter.

Respectfully submitted,

Dequincey Simmons
2503 Hiers CT
Hephzibah, GA
dequinceysimmons@gmail.com
706-495-0738
7/13/2024


7/13/2024

Dequincey Simmons, Plaintiff

vs.

Bridgestone Americas Tire Operations, LLC and South Carolina Department of Employment and Workforce (SCDEW), Respondents

Motion to Clarify Respondents' Submission

Filed
7/15/2024

Docket Number 23-ALJ-22-0429-AP

Plaintiff Dequincey Simmons respectfully requests the Administrative Law Court to order the Respondents to clarify their submission, dated 7/8/2024, on the following grounds:

1. Lack of Proper Brief Structure

The Respondents' submission fails to meet the essential requirements of an appellate brief as outlined in SCALC Rule 37 and Rule 38. Specifically:

- **Absence of Statement of Issues:** The submission does not include a clear statement of the issues on appeal as required by Rule 37(B)(1). This omission leaves the Plaintiff unable to ascertain the precise legal and factual questions that the Respondents intend to address.
- **Insufficient Case History:** The submission lacks a concise history of the case, making it difficult for the Plaintiff to follow the procedural background and understand the context of the Respondents' arguments.
- **Absence of Argumentation:** The brief lacks a coherent argument section that outlines the Respondents' positions and supports them with relevant legal authorities and factual evidence.

2. Document Dumping

The Respondents have engaged in a practice commonly referred to as "document dumping" by submitting over 154 documents without any clear organization, summary, or explanation of their relevance. This practice severely hinders the Plaintiff's ability to respond effectively. Document dumping is an attempt to overwhelm and confuse, rather than to inform and clarify.

3. Inclusion of Duplicate Documents

The brief contains multiple instances of duplicate documents, which has created confusion and hindered the Plaintiff's ability to identify and address the specific arguments and evidence presented by the Respondents. This lack of clarity and organization violates the standards expected in legal submissions.

4. Lack of Professionalism

Legal Requirements:

SCALC Rule 37 and Rule 38 clearly outline the requirements for an appellate brief. Specifically, Rule 37(B) states:

1. **Statement of the Issues:** "The brief shall contain a statement of the issues presented for review..."
2. **Case History:** "Provide a concise history of the proceedings..."
3. **Division and Discussion of Issues:** "Divide the issues into appropriate parts, followed by discussion and citation of authority..."
4. **Conclusion:** "Conclude with a short statement of the relief requested."

Lack of Proper Brief Structure:

The Respondents' submission fails to meet the essential requirements of an appellate brief as outlined in SCALC Rule 37 and Rule 38. Specifically:

1. **Absence of Statement of Issues:** The Respondents did not provide a clear statement of the issues on appeal as required by Rule 37(B)(1). This omission leaves the court and myself without a clear understanding of what specific legal points the Respondents are contesting.
2. **Insufficient Case History:** Rule 37(B)(2) mandates a concise history of the case, including the nature of the case, the course of proceedings, and the disposition in the lower tribunal. The Respondents' brief lacks this essential context, making it challenging to follow their arguments and understand the procedural posture of the case.

The lack of these critical elements indicates a disregard for the procedural rules designed to facilitate a clear and fair appellate process

Duplicate Copies:

In response to the respondent's brief, I argue that it is plagued by voluminous duplication, constituting over 90% of the document (approximately 130 out of 154 pages). This excessive duplication is a clear example of overproduction and abuse of process, aimed at overwhelming this court with unnecessary documentation. As a result, the respondent's brief lacks merit and should be dismissed or summarily judged in my favor.

The presence of these duplicate pages:

1. **Creates Redundancy:** It makes the brief unnecessarily lengthy and difficult to navigate.
2. **Obscures Arguments:** It is hard to discern which points are new and which are repeated, leading to potential misinterpretation.
3. **Indicates Carelessness:** Such errors suggest a lack of attention to detail and thoroughness in their submissions.

DeQuincey Simmons
2503 Hiers CT
Hephzibah, Ga 30815
dequinceysimmons@gmail.com
706-495-0738

July 13, 2024

The Honorable Ralph King Anderson III
SC Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

Re: DeQuincey Simmons v. SCDEW and Bridgestone Americas Tire Operations
Docket Number: 23-ALJ-22-0429-AP

Dear Judge Anderson,

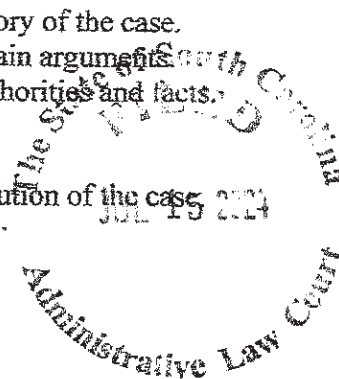
I am writing to respond to the Respondents' motion to dismiss my case, which was filed without the necessary adherence to procedural rules and has made it difficult for me to effectively respond. I respectfully request that the court deny their motion to dismiss and allow my appeal to proceed on its merits.

Definition of a Legal Brief:

A legal brief is a written document submitted to a court that presents the legal arguments and facts supporting one party's position in a case. It is a crucial part of the legal process, designed to provide the judge with a clear and concise explanation of the issues at hand, the relevant laws, and how those laws apply to the facts of the case. Key components of a properly structured legal brief include:

1. **Title Page:** Identifies the case, the parties, and the court.
2. **Table of Contents:** Lists the sections of the brief and their page numbers.
3. **Table of Authorities:** Lists the legal authorities cited in the brief, such as statutes, cases, and regulations.
4. **Statement of the Issues:** Clearly states the legal questions the court is being asked to decide.
5. **Statement of the Case:** Provides a factual and procedural history of the case.
6. **Summary of the Argument:** Offers a brief overview of the main arguments.
7. **Argument:** Presents detailed legal reasoning, supported by authorities and facts.
8. **Conclusion:** Summarizes the requested relief or outcome.

A well-crafted brief is essential for the court's understanding and resolution of the case.



Legal Requirements:

SCALC Rule 37 and Rule 38 clearly outline the requirements for an appellate brief. Specifically, Rule 37(B) states:

1. **Statement of the Issues:** "The brief shall contain a statement of the issues presented for review..."
2. **Case History:** "Provide a concise history of the proceedings..."
3. **Division and Discussion of Issues:** "Divide the issues into appropriate parts, followed by discussion and citation of authority..."
4. **Conclusion:** "Conclude with a short statement of the relief requested."

Lack of Proper Brief Structure:

The Respondents' submission fails to meet the essential requirements of an appellate brief as outlined in SCALC Rule 37 and Rule 38. Specifically:

1. **Absence of Statement of Issues:** The Respondents did not provide a clear statement of the issues on appeal as required by Rule 37(B)(1). This omission leaves the court and myself without a clear understanding of what specific legal points the Respondents are contesting.
2. **Insufficient Case History:** Rule 37(B)(2) mandates a concise history of the case, including the nature of the case, the course of proceedings, and the disposition in the lower tribunal. The Respondents' brief lacks this essential context, making it challenging to follow their arguments and understand the procedural posture of the case.

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In response to the respondent's brief, I argue that it is plagued by voluminous duplication, constituting over 90% of the document (approximately 130 out of 154 pages). This excessive duplication is a clear example of overproduction and abuse of process, aimed at overwhelming this court with unnecessary documentation. As a result, the respondent's brief lacks merit and should be dismissed or summarily judged in my favor.

The presence of these duplicate pages:

1. **Creates Redundancy:** It makes the brief unnecessarily lengthy and difficult to navigate.
2. **Obscures Arguments:** It is hard to discern which points are new and which are repeated, leading to potential misinterpretation.
3. **Indicates Carelessness:** Such errors suggest a lack of attention to detail and thoroughness in their submissions.

Impact on My Ability to Respond:

As a pro se litigant, the disorganized and incomplete nature of the Respondents' brief has significantly hindered my ability to respond effectively. The absence of a clear statement of issues and a proper case history, combined with the presence of duplicated pages, has made it challenging to identify and address the Respondents' arguments. This disorganization has deprived me of a fair opportunity to present my case.

My Compliance with Rules:

I have made every effort to comply with the procedural rules and submitted my response within the required timeframe. The Respondents' claim that I failed to respond on time is unfounded. I have adhered to the court's rules and deadlines in good faith, and the confusion caused by the Respondents' submission should not be held against me.

Conclusion:

In light of these significant deficiencies in the Respondents' brief, I respectfully request that the court deny their motion to dismiss. The Respondents' failure to comply with SCALC rules has created unnecessary confusion and has prejudiced my ability to respond effectively. I urge the court to allow my appeal to proceed so that the merits of my case can be properly considered.

Thank you for your attention to this matter.

Sincerely,
Dequincey Simmons



7/13/2024

Affidavit of Dequincey Simmons

State of Georgia, County of Richmond

I, Dequincey G. Simmons, under penalty of perjury, do hereby affirm and state the following:

1. Background and Initial Dispute:

- I was employed by Bridgestone Americas Tire Operations, LLC, from January 14, 2014, until my termination on April 16, 2023. My appeal against the termination has been ongoing since July 2023.
- I initiated this appeal to seek a fair resolution regarding my unjust termination and have faced multiple procedural hurdles that have unduly prolonged the case.

2. Procedural Delays and Misconduct:

- It took four months for the court to rule on my initial order, filed on December 26, 2023, which was not addressed until late April 2024. This delay caused significant uncertainty and required continuous legal effort on my part.
- The opposing party submitted an affidavit containing false statements about the service of my Notice of Appeal, which the court later acknowledged as properly served. This misrepresentation led to unnecessary litigation and additional burdens.

3. Personal and Financial Impact:

- The prolonged litigation and court errors have severely impacted my personal life. I have spent countless hours researching legal precedents and drafting documents, resulting in lost time with my family and significant emotional distress.
- I have incurred costs for filing fees, document preparation, and lost wages due to time spent managing this case instead of pursuing employment opportunities.
- My family life has suffered, with missed family events and increased stress levels, necessitating medication to manage sleep disturbances and anxiety caused by this prolonged legal battle.

4. Request for Sanctions:

- I request the court to impose sanctions on the opposing party for submitting false statements and procedural misconduct, which have obstructed justice and caused undue hardship.
- I seek monetary compensation for 300 hours of work at \$200 per hour, totaling \$60,000, to account for the time and effort invested in self-representation.
- Additionally, I request reimbursement of \$1,000 for filing fees, document preparation, and related expenses.

Conclusion:

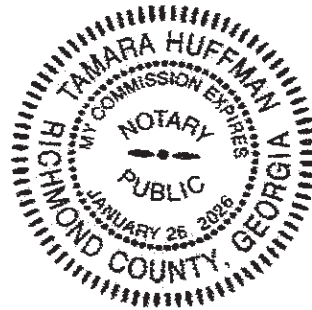
In light of the significant procedural misconduct and its impact on my personal and professional life, I respectfully request the court to impose sanctions to address these injustices and ensure a fair resolution of my case.

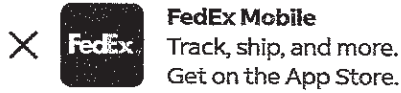
Signature: Dequincey G. Simmons

Dequincey G. Simmons

Date: 8/8/2024

State of Georgia County of Richmond
Subscribed and sworn before me on 8-8-24
Tamara Huffman (Date)
Tamara Huffman
(Notary Signature)





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Tuesday

8/13/24 at 11:28 AM

Signed for by: M. ADISON



DELIVERY STATUS

Delivered

Report missing package

TRACKING ID

777873794548



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8/13/24 8:19 AM

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COLUMBIA, SC
8/13/24 8:31 AM

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COLUMBIA, SC US
Delivered

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Dequincey G. Simmons, Appellant,

v.

South Carolina Department of Employment and Workforce and Bridgestone Americas Tire Operations, LLC, Respondents.

Docket No. 23-ALJ-22-0429-AP

APPELLANT'S MOTION FOR SANCTIONS

I. Introduction

This motion seeks sanctions against the Respondents for submitting false statements and engaging in procedural misconduct that has caused unnecessary delays, increased costs, and significant personal and emotional impacts on the Appellant.

II. Factual Background

Since July 2023, the case has faced substantial delays due to procedural missteps and misleading statements from the Respondents. On April 29, 2024, Judge Milton Kimpson addressed these issues by rejecting the Respondents' Motion to Dismiss, which falsely claimed the Appellant failed to serve Bridgestone with the Notice of Appeal.

Both the Administrative Law Court and the South Carolina Department of Employment and Workforce confirmed receipt of the Appellant's Notice of Appeal without any issues. Despite this, Bridgestone contested the receipt, supported by an affidavit from Beth Hellman, which falsely claimed non-receipt. Hellman, stationed in Davidson County, Tennessee, asserted that Bridgestone's registered agent in South Carolina did not receive the Notice.

However, the Appellant provided compelling evidence, including postal receipts and tracking information, demonstrating proper service to Bridgestone's Ohio address—an address listed in the Appellate Panel decision. The court observed that the Appellant, acting as a layperson, reasonably relied on the service address provided by the Department, which is consistent with legal expectations and requirements for serving a corporation.

The affidavit from Beth Hellman was further discredited by its failure to account for the Ohio address used by the Appellant. The Court noted that the Department's own certificate of service listed the Ohio address for Bridgestone, undermining Hellman's claims. Despite Hellman's assertions, no reply was filed by the Respondents to the Appellant's Return, reinforcing the Appellant's compliance with procedural service requirements.

Judge Kimpson's ruling acknowledged the Appellant's proper service and highlighted the procedural misconduct and inaccuracies presented in Hellman's affidavit, which sought to

mislead the court and obstruct the judicial process. This misinformation has significantly delayed proceedings, causing undue stress and financial burden to the Appellant, who has diligently managed his case as a pro se litigant despite these challenges.

III. Legal Argument

1. **Violation of Court Rules:** Under Rule 11 of the South Carolina Rules of Civil Procedure, parties must not submit pleadings or motions for improper purposes, such as to harass or cause unnecessary delay. The Respondents' false affidavit is a clear violation of this rule.
2. **False Statements or Misrepresentations:** Submitting false statements or affidavits to the court contravenes Rule 11(b)(3), which requires that factual contentions have evidentiary support.
3. **Obstruction of Justice:** The Respondents' actions obstructed the judicial process, violating principles established in *Chambers v. NASCO, Inc.*, 501 U.S. 32 (1991), which allows courts to impose sanctions for conduct that abuses the judicial process.
4. **Frivolous or Vexatious Filings:** The Respondents' actions mirror conduct addressed in *Roadway Express, Inc. v. Piper*, 447 U.S. 752 (1980), where the Supreme Court recognized the court's power to sanction parties for frivolous filings intended to harass or delay.

IV. Justification for Requested Compensation

- **Equal Standards:** As a pro se litigant, I am held to the same procedural rules and standards as a licensed attorney, requiring me to navigate complex legal systems, draft documents, and understand legal precedents without formal legal training.
- **Time and Effort:** I have invested significant time and effort into managing my case, equivalent to what a professional attorney would dedicate to similar tasks. This includes extensive legal research, document preparation, and procedural management.
- **Complexity of the Case:** The legal issues involved in my case are complex, demanding a high level of research and strategic planning, which I have undertaken without formal training or professional support.
- **Emotional and Personal Impact:** I have made considerable personal sacrifices, including time away from my family and enduring stress-related health impacts, to ensure diligent representation of my case.
- **Lack of Legal Support:** Unlike opposing counsel, I do not have access to clerks, paralegals, or other legal aides. I have shouldered the full burden of the legal process independently, which typically requires a team of professionals in a law firm setting.
- **Deterrence of Misconduct:** Awarding the requested compensation serves as a deterrent against future misconduct by the opposing party, promoting fairness and integrity in the judicial process.

V. Impact on the Case

The misconduct has resulted in increased legal expenses and emotional distress, affecting my ability to present my claims effectively and pursue employment opportunities. The delays and procedural challenges have compounded the stress and financial burden on me and my family.

VI. Requested Sanctions

- **Monetary Fines:** I request \$60,000 in compensation for 300 hours of work at \$200 per hour, reflecting the substantial time and effort spent on this case.
- **Reimbursement of Costs:** I seek \$1,000 for filing fees, document preparation, and other related expenses incurred due to the opposing party's misconduct.
- **Adverse Inference:** I request that the court draw negative inferences from the Respondents' false statements and procedural misconduct.
- **Contempt of Court:** I request the court to hold the opposing party in contempt for their intentional obstruction of the judicial process.

VII. Conclusion

In light of the clear evidence of misconduct and its detrimental impact, I urge the court to impose the requested sanctions to address the injustices suffered and ensure a fair legal process.

Signature:



Dequincey G. Simmons

Date:

8/8/2024

Exhibits:

- **Exhibit A:** Affidavit of Beth Hellman
- **Exhibit B:** Judicial Order by Judge Milton Kimpson
- **Exhibit C:** Affidavit of Dequincey Simmons

(3)

During the preparation for the hearing, significant procedural missteps occurred that significantly impaired the Appellant's ability to defend himself:

- **Submission of Evidence:** The Appellant submitted a total of 19 pages of evidence on two separate occasions—9 pages on July 20, 2023 (Exhibit D), and 10 pages on July 25, 2023 (Exhibit E), including cover sheets for both submissions. These submissions were made in good faith, expecting that they would be duly considered in the hearing.
- **Failure to Acknowledge Submitted Evidence:** Despite the substantive evidence provided, the hearing officer, Mary Paige Adams, only admitted one piece of the Appellant's evidence into the record. This oversight not only limited the scope of reviewable material but also skewed the fairness of the hearing, as essential evidence supporting the Appellant's claims was disregarded.

B. Legal Analysis

The procedural handling by SCDEW and the subsequent hearing conducted by the Administrative Hearing Officer demonstrates a troubling disregard for due process, which is outlined in the following legal frameworks and case law:

- **Right to a Fair Hearing:** Under administrative law, the right to a fair hearing is fundamental and includes the obligation to consider all relevant and material evidence submitted by the parties. The exclusion of the Appellant's evidence without just cause contravenes this principle.
- **Case Law on Fair Administrative Proceedings:**
 - **Goldberg v. Kelly, 397 U.S. 254 (1970):** Established the requirement for fair procedures in administrative hearings, including the right to present arguments and evidence.
 - **Mathews v. Eldridge, 424 U.S. 319 (1976):** Further clarifies the balance of interests in administrative procedures, emphasizing the importance of procedural fairness to prevent erroneous deprivation.

C. Documentation and Complaints

- **Documentation of Decisions (Exhibits F and G):** The decision details provided in Exhibits F and G outline the conclusions reached by the hearing officer but fail to incorporate a balanced consideration of all submitted evidence, indicating potential procedural bias.
- **Formal Complaints (Exhibits H and I):** The complaints lodged by the Appellant, detailed in Exhibits H and I, raise serious concerns about the handling of the case, particularly the exclusion of vital evidence and potential bias by the hearing officer.

D. Analysis of Bias (Exhibits J and K):

- **Descriptive Language and Bias Breakdown:** Exhibits J and K provide a detailed breakdown of the descriptive language used by the hearing officer, which may suggest bias. The analysis demonstrates how certain phrases and conclusions could indicate a

prejudiced perspective against the Appellant, further undermining the fairness of the hearing.

E. Request for Remedial Action

Given the significant procedural errors that transpired during the handling of the Appellant's case—particularly highlighted in Exhibits F through K—the Appellant requests the following remedial actions:

- **Reconsideration of Excluded Evidence:** A directive for the reconsideration of all evidence previously submitted but not admitted into the record, ensuring that no relevant material is unjustly excluded from the proceedings.
- **Sanctions and Corrective Measures:** Based on the procedural missteps, appropriate sanctions against SCDEW for their mishandling of the evidence and a formal reprimand for the hearing officer for failing to uphold the standards of procedural fairness.

F. Conclusion

The mishandling of the Appellant's evidence and the procedural irregularities during the hearing have significantly prejudiced the Appellant's ability to defend himself adequately. This court is requested to acknowledge these failings and to take appropriate measures to rectify the injustices that occurred, thus upholding the principles of fairness and justice inherent in the legal system.

VII. Challenges in Accessing and Utilizing Hearing Records

A. Difficulties in Obtaining Hearing Transcripts and Recordings

1. **Miscommunication on Recording Format (Exhibit N):**
 - **Description:** On August 14, 2023, the Appellant was informed via a letter that an audio copy of the Appeal Tribunal Hearing held on August 9, 2023, was enclosed as an MP3 file. Contrary to this claim, the Appellant received the recording on a CD, which was not only unexpected but also less accessible given modern digital standards.
 - **Impact:** This miscommunication and the use of an outdated format created significant barriers to accessing the hearing recordings promptly and efficiently, impacting the Appellant's ability to prepare for subsequent legal challenges.
2. **Inadequate Provision of Hearing Recordings (Exhibit M):**
 - **Description:** The communication stated that the audio recording could be played using standard media players, but the physical medium (CD) provided required additional efforts to access due to the obsolescence of such devices.
 - **Impact:** The difficulty in accessing the recording due to the outdated format necessitated extra steps to find compatible hardware, thus delaying the Appellant's review and preparation process.
3. **Late Receipt and Misinformation About Transcript Availability (Exhibit L):**

- **Description:** Despite initially being informed that no transcripts were available and only a CD would be provided, the Appellant later received a transcript packet just a week before a crucial hearing, contrary to earlier communications.
- **Impact:** The late provision of the transcript, following misinformation about its availability, added further complications to the Appellant's preparation, underscoring systemic issues in the administrative handling of his case.

B. Legal Framework and Case Law

- **Case Law on Access to Records:**
 - **Simmons v. Mass. Dept. of Correction, 446 Mass. 330 (2006):** Emphasizes the necessity of providing accessible formats for hearing records to ensure adequate preparation for appeals.
- **Statutory References:**
 - **S.C. Code Ann. § 41-35-750:** Highlights the requirement for administrative bodies to facilitate fair proceedings by providing necessary records in a timely and accessible manner.

C. Request for Remedial Actions

- **Provision of Accessible Digital Formats:** Advocates for the mandatory provision of all future hearing records in digital formats, specifically MP3 files, to align with modern accessibility standards.
- **Review and Correction of Record Keeping Practices:** Calls for a comprehensive review and overhaul of current practices regarding the maintenance and distribution of hearing records to prevent future discrepancies and ensure procedural integrity.

D. Conclusion

The procedural challenges, notably the miscommunication and late provision of crucial hearing records, have significantly hampered the Appellant's ability to defend effectively. This court is urged to acknowledge these procedural failings and implement necessary measures to rectify the injustices, thus maintaining the fairness and justice of the legal process.

Certainly! Here's how you can structure your summary judgment request by incorporating case law to strengthen the argument regarding the unnecessary delay caused by the request for an extension of time, and how it could potentially indicate a strategic move to delay proceedings:

Summary Judgment Request

Perplexity Regarding the Need for More Time: The request for an extension by the opposing party raises significant concerns, especially given the prior decision which should have expedited proceedings rather than extending them. The necessity for such an extension appears unjustified and potentially suggests strategic delays. This situation mirrors the concerns raised in

Armstrong v. Manzo, 380 U.S. 545 (1965), where the Supreme Court emphasized that justice delayed is often justice denied, underscoring the importance of timely resolution in legal disputes.

Impact of Delay on Procedural Fairness: The extended timeline could potentially lead to procedural disadvantages, contradicting the principles of fairness and equity in judicial proceedings. The undue delay could skew the equitable management of justice, as highlighted in **Barker v. Wingo, 407 U.S. 514 (1972)**, where the Court recognized that inappropriate delays could compromise the fairness afforded to parties.

Affidavit to Support Statements: An affidavit accompanies this request, affirming the truthfulness of the claims and underscoring the seriousness of the concerns regarding the extension. This affirmation aligns with **Fed. R. Civ. P. 56(e)**, which stipulates that an affidavit used to support or oppose a motion must be made on personal knowledge and set out facts that would be admissible in evidence.

Exhibits Referenced:

- **Exhibit O:** Motion for Extension of Time filed by the opposing party.
- **Exhibits P and Q:** Judge's order that eventually granted the extension, issued three months after the initial request.

Conclusion: The unwarranted delay in addressing the motion for extension not only impacts the appellant personally and financially but also raises questions about the integrity of the judicial process. This court is urged to consider the implications of such delays and ensure that justice is administered without undue procrastination, thereby upholding the principles laid out in the aforementioned cases.

Additional Legal Representation and Increased Costs:

The involvement of multiple legal parties, including the recent addition of a fourth lawyer by the opposing side, significantly complicates the administrative process and increases the financial burden of this case. Each party requires separate sets of documents and communication, multiplying the logistical efforts and associated costs. This escalation not only strains my personal resources but also impacts taxpayers, who ultimately fund the procedural and judicial infrastructure required to manage this case.

Exhibit-(V) Economic Impact on Taxpayers: This case, revolving around a mere \$6,520 in unemployment benefits, has inadvertently imposed significant financial burdens on taxpayers. It is estimated that the administrative and legal costs funded by taxpayers have ranged between \$200 to \$500 per session, accumulating substantial expenses over the course of more than a year. This expenditure is disproportionate to the benefits in dispute and underscores the need for a resolution that is not only just and expedient but also economically responsible. The continued drag of this case not only affects the parties involved but also places an undue burden on the public resources. Therefore, a summary judgment in this case would serve the dual purpose of delivering justice efficiently while curbing unnecessary public expenditure.

Docket No. 23-ALJ-22-0429-AP

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the **Motion For Sanction** was served upon the following parties by mailing the same via United States Postal Service, first-class postage prepaid, to their respective addresses as listed below:

Ben Cook
Office of General Counsel-SCDEW
PO Box 8597
Columbia, SC 29202

Benjamin Hepner
110 E Court Street STE 201
Greenville, SC 29601

Employment Attorney
Bridgestone Americas Tire Operation LLC
PO Box 182366
Columbus, OH 43218-2366

South Carolina Administrative Law Court
Edgar Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

Dated this 8 day of August, 2024.

Dequincey G. Simmons
2503 Hiers CT
Hephzibah, GA
dequinceysimmons@gmail.com
706-495-0738



8/8/2024

Comprehensive Conclusion

In conclusion, the detailed examination of SCDEW's non-compliance with subpoena requests, the mishandling of evidence by the hearing officer, and the systemic issues with accessing crucial hearing records collectively illustrate a pattern of procedural misconduct and disregard for due process. The evidence presented, supported by statutory references and case law, demonstrates that the Appellant has faced significant barriers to a fair trial, directly impacting his ability to defend his rights. It is imperative that the court recognize these procedural failings and grant summary judgment in favor of the Appellant. Furthermore, appropriate sanctions should be imposed on the Respondents and remedial actions taken to ensure such procedural deficiencies are rectified. This will uphold the integrity of the judicial system and prevent future occurrences of similar procedural injustices.

Respectfully submitted,

Dequincey G. Simmons


7/26/2024

IN THE ADMINISTRATIVE LAW COURT OF SOUTH CAROLINA

Dequincey G. Simmons, *Appellant.*

v.

South Carolina Department of Employment and Workforce and Bridgestone Americas Tire Operations, LLC, *Respondents.*

Docket No. 23-ALJ-22-0429-AP

APPELLANT'S MOTION FOR SUMMARY JUDGMENT AND SANCTIONS FOR FALSE STATEMENTS

I. Introduction

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Appellant Dequincey G. Simmons hereby amends his motion for summary judgment on all claims against the Respondents. This amended motion also seeks sanctions against the Respondents for submitting an affidavit by Beth Hellmann, which contains demonstrably false statements as contradicted by the evidence acknowledged by this Court.

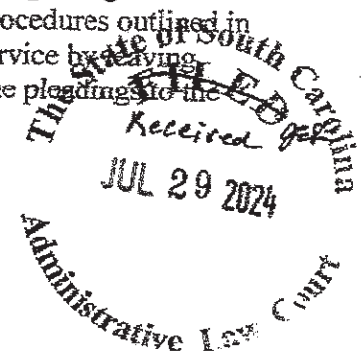
II. Statement of Facts(Exhibits- R-S)

Dequincey G. Simmons, the Appellant, has been engaged in proceedings challenging the alleged lack of jurisdiction claimed by the Respondents, South Carolina Department of Employment and Workforce and Bridgestone Americas Tires Operations, LLC. The Respondents contended that the Appellant failed to properly serve the Notice of Appeal on Bridgestone, thus seeking a motion to dismiss for lack of jurisdiction.

In response, the Appellant provided substantial documentary evidence demonstrating that the Notice of Appeal was indeed properly served. Notably, on October 23, 2023, the Appellant utilized certified mail to send the Notice of Appeal to the address listed for Bridgestone, which is also on record in the appellate panel decision. This mailing address is P.O. Box 182366, Columbus, Ohio 43218-2366. Confirmation of this service is supported by a receipt from the U.S. Postal Service and a tracking sheet indicating that the delivery was completed on October 30, 2023.

Furthermore, in a critical ruling, this Court has acknowledged the sufficiency of the Appellant's service. On April 29, 2024, this Court refuted the Respondents' claims by recognizing that the Appellant had indeed served the Notice of Appeal in compliance with the procedures outlined in S.C. Code Ann. 41-35-750. This statute allows for an alternate method of service by leaving additional copies of the notices with the Department, which then forwards the pleadings to the concerned parties.

①



Wincey Simmons
3 Hiers CT
Rhizibah, GA 30815

Retail



U.S. POSTAGE PAID
FCM LG ENV
AUGUSTA, GA 30906
SEP 23, 2024



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OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL®



9589 0710 5270 2152 4384 55

Ben Cook
Office of General Counsel - SCDEW
PO Box 8597
Columbia SC 29202

Vertical text on the right edge of the envelope, possibly a return address or tracking information.

RECEIVED

Oct 23 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE
ADMINISTRATIVE LAW COURT
Ralph King Anderson, III, Chief Administrative Law Judge

Appellate Case No. 2024-001608

DeQuincey G. Simmons.

Appellant,

v.

South Carolina Department of Employment and
Workforce and Bridgestone Americas Tire Operations LLC,

Respondents.


PROOF OF SERVICE

I certify that I have served the JOINT MOTION TO DISMISS FOR LACK OF JURISDICTION on the parties in this case by mail on October 23, 2024, addressed to the parties at their addresses of record:

DeQuincey G. Simmons
2503 Hiers Ct
Hephzibah GA 30815

Benjamin Hepner
110 E Court St, Ste 201
Greenville SC 29601

October 23, 2024



Kristi Chesley
South Carolina Department of Employment and
Workforce
Post Office Box 8597
Columbia, South Carolina 29202
(803) 737-0395

P.O. Box 995
1550 Gadsden Street
Columbia, SC 29202
dew.sc.gov



Henry McMaster
Governor

William H. Floyd, III
Executive Director

Post Office Box 8597
Columbia, SC 29202
Telephone: (803) 737-0395
Fax: (803) 737-0124

October 23, 2024

RECEIVED

Oct 23 2024

SC Court of Appeals

By Email at ctappfilings@sccourts.org
The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: DeQuincey G. Simmons v. SCDEW and Bridgestone
Americas Tire Operations LLC
Appellate Case No: 2024-001608

Dear Ms. Kitchings:

Enclosed is Joint Motion to Dismiss for Lack of Appellate Jurisdiction filed by the Respondents in the above referenced case. A proof of service is also included in this mailing.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Kristi Chesley". The signature is fluid and cursive, with a large loop at the end.

Kristi Chesley
Administrative Legal Assistant for
Ben Cook
Attorney for Respondent South Carolina
Department of Employment and Workforce