

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Edward Eli Saleeby, III,)
)
 Appellant,)
)
 vs.)
)
 South Carolina Department of)
 Motor Vehicles & South Carolina)
 Department of Public Safety,)
 Respondents.)
 _____)

Docket No. 11-ALJ-21-0563-AP
SCDL No. 11290751
Docket No. 10-OMVH-01-3433-CC

APPELLANT'S MOTION
TO RENEW STAY OF DRIVER'S
LICENSE SUSPENSION

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)	SCDL No. 11290751
Appellant,)	Docket No. 10-OMVH-01-3433-CC
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vs.)	APPELLANT'S MOTION
)	TO RENEW STAY OF DRIVER'S
)	LICENSE SUSPENSION
South Carolina Department of)	
Motor Vehicles & South Carolina)	
Department of Public Safety,)	
Respondents.)	
_____)	

Appellant respectfully requests that this Honorable Court *renew* the prior Order of August 15, 2013 which granted a stay of the suspension of Appellant's Driver's License. Appellant is proceeding with an Appeal to the South Carolina Court of Appeals and believes that Rule 241 of the South Carolina Appellate Court generally stipulates that the grant of a stay or Supersedeas may be granted by the trial court. In this matter, it appears an exception to this general rule may apply to matters involving a State Agency decision as in the instant case, however, this exception is not clear. This Court's prior Order staying the driver's license suspension expired when Appellant's motion for reconsideration was denied. Based upon the herein attached Notice of Appeal, this stay should be Renewed until the Court of Appeals renders a decision or Appellant has exhausted his appellate rights.

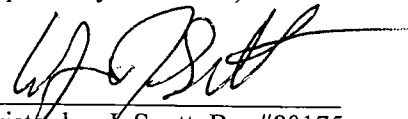
Appellant believes this motion is governed by Rule 241 of the South Carolina Appellate Court Rules which states in part, "As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order...and to automatically stay the relief ordered in the appealed order." In the event that this Court's Order falls under the eleventh exception to Rule 241, (appeals from administrative tribunals pursuant to S.C. Code§ 1-23-380 (A)(2) and §1-23-600 (G)(5)), the Appellate Court rules allow any party to move for an order imposing a supersedeas of matters decided in the Order, and provide that "In determining whether an order should issue pursuant to this Rule, the lower court, administrative tribunal, appellate court, or judge, or justice of the appellate court should consider

whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot.”¹ If the stay of Appellant’s driver’s license suspension was not granted, then the Appellant’s right to appeal before the Court of Appeals would become moot, as the suspension would have been served prior to the perfection of the appeal. This Court has the authority to grant Appellant’s motion pursuant to S.C. Code Ann. § 1-23-610 (2) “Upon motion, the administrative law judge may grant, or the court of appeals may order, a stay upon appropriate terms.”

WHEREFORE, the Appellant previously received a notice of suspension of his driving privileges by the Respondent SCDMV, and has shown that his right to appeal would be moot and that his due process rights would be prejudiced if the suspension is not stayed. The Appellant prays for relief by way of an Order *renewing* the previously granted stay or supersedeas of his driver’s license suspension by the Respondent until his appellate rights, whether by way of the reconsideration of this Court or through the Appellate Court process, are exhausted.

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Respectfully submitted,



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¹ S.C. Appellate Court Rule 241 (C) (2)