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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Ralph K. Anderson, III, Chief Administrative Law Judge

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

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Appellate Case No. 2024-001608

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DeQuincey G. Simmons,

Appellant,

v.

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

Respondents.

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**JOINT RESPONSE BRIEF OF RESPONDENTS SOUTH CAROLINA  
DEPARTMENT OF EMPLOYMENT AND WORKFORCE AND BRIDGESTONE  
AMERICAS TIRE OPERATIONS, LLC**

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## **STATEMENT OF ISSUES ON APPEAL**

- I. DOES THIS COURT LACK JURISDICTION DUE TO APPELLANT'S UNTIMELY APPEAL?
- II. DOES THE TWO-ISSUE RULE WARRANT DISMISSAL OF THIS APPEAL?
- III. DID THE ALC ERR IN DISMISSING APPELLANT'S APPEAL DUE TO APPELLANT'S FAILURE TO FILE AN APPELLANT'S BRIEF?
- IV. HAS APPELLANT PRESENTED ANY OTHER MERITORIOUS ISSUE ON APPEAL?

## **STATEMENT OF THE CASE**

This appeal arises from a decision of the Administrative Law Court ("ALC") dismissing Appellant Dequincey Simmons' ("Appellant") appeal of a decision from the South Carolina Department of Employment and Workforce (the "Department") holding that Appellant was disqualified from receiving unemployment insurance benefits ("UI benefits") for sixteen (16) weeks based upon the Department's holding that Appellant was discharged from his employment for cause. Following the Department's denial of Appellant's claim for UI benefits, Appellant pursued his claim for UI benefits through the appeals process, ultimately appealing the Department's determination to the ALC. On July 29, 2024, Chief Judge Ralph K. Anderson, III, denied Appellant's appeal based upon his conclusion that Appellant failed to file an initial appellant brief in compliance with Rule 37 of the South Carolina Administrative Law Court Rules. Appellant then initiated this appeal seeking reversal of the ALC's order dismissing his appeal. This Court should affirm the ALC's decision to dismiss Appellant's appeal.

Appellant worked for Respondent Bridgestone Americas Tire Operations, LLC, (“Bridgestone”) from January 13, 2014, through April 16, 2023. (ALC Record on Appeal (“ALC ROA”) p. 6). Following his separation from Bridgestone, Appellant filed an initial claim for UI benefits with the Department, and Appellant filed his application for UI benefits on or about July 3, 2023. (*Id.* at pp.5-8). The Department held that the Appellant was disqualified from receiving UI benefits for sixteen (16) weeks because the Department concluded that Appellant had been discharged from his employment for cause. (*Id.* at p. 44).

On July 25, 2023, Appellant appealed the claims adjudicator’s decision to the Department’s Appeal Tribunal (the “Tribunal”). (*Id.* at p. 62). The Tribunal held a hearing on August 9, 2023, and ultimately affirmed the claims adjudicator’s determination, in a decision dated August 11, 2023, and affirmed the Department’s initial finding that Appellant was discharged for cause and therefore found Appellant ineligible for UI benefits. (*Id.* at pp. 75-112, 134-136).

Appellant then appealed the Tribunal’s decision to the Department’s Appellate Panel (the “Panel”) (*Id.* at pp. 139-142). Following oral arguments, the Panel issued a decision on September 27, 2023, affirming the Tribunal’s decision and holding that Appellant was ineligible for UI benefits. (*Id.* at pp. 1-4, pp. 151-154).

On October 23, 2023, Appellant subsequently appealed the Panel’s decision to the ALC. The ALC issued a Notice of Assignment on November 2, 2023, to notify all parties that the case had been assigned to the Honorable Judge Milton Kimpson and to establish filing schedules. (ALC Notice of Assignment, issued November 2, 2023).

On December 4, 2023, the Department filed a Motion for an Extension to file the Record on Appeal. (Department Motion for Extension, filed on December 6, 2023). On December 6, 2023, the Department and Bridgestone (collectively “Respondents”) filed a Joint Motion to Dismiss based on Appellant’s failure to properly and timely serve all parties to the action (“First Motion to Dismiss”). (Respondents’ Joint Motion to Dismiss for Lack of Jurisdiction, filed December 6, 2023). In the First Motion to Dismiss, Respondents argued that Appellant had failed to properly and timely serve his notice of appeal to the ALC. Respondents filed two (2) affidavits in support of this motion. (*Id.* at pp. 2-4).

On December 11, 2023, Appellant filed a Response in Opposition to the Department’s Motion for an Extension. (Appellant’s Response to Motion for Extension, filed December 6, 2023). On December 26, 2023, Appellant filed a Response in Opposition to Respondents’ Motion to Dismiss. (Appellant’s Response to Joint Motion to Dismiss, filed December 26, 2023). Appellant filed a new proof of service on December 28, 2023. (Appellant’s Proof of Service, filed December 28, 2023).

On March 22, 2024, Judge Kimpton issued an Order directing Respondents to supplement the First Motion to Dismiss and provide additional arguments on the issue of substitute service. (ALC Order to Supplement Motion to Dismiss, issued March 22, 2024). On April 1, 2024, Appellant filed a Motion for Clarification or Modification of the March 22, 2024, Order. (Appellant’s Motion for Clarification or Modification, filed April 1, 2024). On April 2, 2024, Appellant filed a Motion to Reconsider the Granting of an Extension to the Department. (Appellant’s Motion to Reconsider, filed April 2, 2024).

On April 4, 2024, Respondents filed a Joint Response to the March 22, 2024, Order with an additional affidavit in support of that response. (Respondents' Joint Response to ALC Order to Supplement, filed April 4, 2024). On April 29, 2024, Judge Kimpson issued an Order denying Respondents' First Motion to Dismiss. (ALC Order Denying Joint Motion to Dismiss, filed April 29, 2024).

After Judge Kimpson denied the First Motion to Dismiss, the Department timely filed the Record on Appeal on May 29, 2024. (ALC ROA). On May 30, 2024, the ALC issued an Order reassigning this case to Chief Judge Anderson following Judge Kimpson's election to the South Carolina Circuit Court. (ALC Order Reassigning the Case to Chief Judge Anderson issued May 30, 2024).

On June 4, 2024, Appellant filed a "Notice of Errors, Hardships, and Request for Correction." (Appellant's Notice of Errors, Hardships, and Requests for Correction, filed June 4, 2024). On June 18, 2024, Appellant filed a Response to the Record on Appeal ("Response"). (Appellant's Response to Record on Appeal, filed June 18, 2024). In his Response, Appellant argued that "Respondents' submission fails to meet the essential requirements of an appellate brief as outlined in SCALC Rule 37 and Rule 38." (*Id.* at 2.)

On July 8, 2024, Respondents filed a Joint Motion to Dismiss for Appellant's failure to file an Appellant's Brief in the case ("Second Motion to Dismiss"). (Respondents' Joint Motion to Dismiss for Failure to File Appellant's Brief, filed July 8, 2024). Respondents argued that the Response failed to comply with SCALC Rule 37. (*See id.*)

On July 15, 2024, Appellant filed an untitled document objecting to the Department's Motion to Dismiss. (Appellant's Response to Joint Motion to Dismiss

(Untitled), filed July 15, 2024). On July 26, 2024, Appellant filed a Motion for Summary Judgment and Sanctions. (Appellant's Motion for Summary Judgment and Sanctions filed July 26, 2024).

On July 29, 2024, Chief Judge Anderson issued an Order dismissing Appellant's appeal on the grounds that Appellant had failed to file an appellate brief in compliance with ALC Rule 37. (ALC Order Dismissing Appellant's Appeal issued July 29, 2024). Judge Anderson specifically held:

[A]lthough 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.

(*Id.* at 3). As a result, Chief Judge Anderson granted Respondents' Second Motion to Dismiss and dismissed Appellant's appeal. (*Id.*)

On August 5, 2024, Respondents filed a Response to Appellant's Motion for Summary Judgment and Sanctions. (Respondents' Joint Response to Appellant's Motion for Summary Judgment and Sanctions, filed August 5, 2024). On August 12, 2024, the ALC issued a letter stating that the case had been dismissed and the Motion for Summary Judgment and Sanctions therefore was moot. (ALC Letter Disregarding Appellant's July 26, 2024, Motion, issued August 12, 2024).

On August 13, 2024, Appellant filed a Motion for Clarification and Modification of Judgment with the ALC. (Appellant's Motion for Clarification and Modification of

Judgment, filed August 13, 2024). In this motion, Appellant argued that there were procedural errors in the handling of his claim/appeal and that he was not afforded equal treatment. Appellant specifically alleged that the procedural defects include the “rapid and unequal handling of motion,” “lack of direction in brief construction,” and an alleged “Non-Response” from the ALC. (*Id.*) He also took issue with the Record on Appeal, submitted by the Department, arguing that it did not meet the necessary standards for an appellate brief. (*Id.*)

Respondents filed a Joint Response to the Motion for Clarification and Modification of Judgment on August 19, 2024. (Respondents’ Joint Response to Appellant’s Motion for Rehearing, filed August 19, 2024). On August 22, 2024, Chief Judge Anderson issued an Order denying Appellant’s Motion for Rehearing “because the Motion was untimely and because Appellant failed to show good cause to vacate the Court’s July 29 Order of Dismissal.” (ALC Order Denying Appellant’s Motion for Rehearing as Untimely, issued August 22, 2024).

On September 23, 2024, Appellant filed a Notice of Appeal with this Court (“Notice of Appeal”). (Appellant’s Notice of Appeal to the Court of Appeals). The Notice of Appeal states that Appellant “appeals the decision of the Honorable Ralph King Anderson III dated September 1, 2006.” (*Id.*) Appellant also filed an initial brief on the same day. (Appellant’s Int. Brief). In his brief, Appellant identifies the following issues on appeal:

- (1) Respondent’s Record on Appeal, submitted to the ALC, violated SCALC Rule 37(B), which, according to Appellant, deprived him of the opportunity to respond and purportedly violated his due process rights.

(2) Respondents submitted misleading affidavits to the ALC regarding service of his initial appeal to the ALC.

(3) The ALC failed to consider and rule upon Appellant's Response to the Motion to Dismiss filed by Respondents and his Motion for Clarification of Respondents' filings, which Appellant argues violated his procedural rights under SCALC Rule 37.

(4) The appeal to the ALC was improperly reassigned to Chief Judge Ralph King Anderson, III;

(5) The ALC failed to address Appellant's Motion for Sanctions, which Appellant argues also violated his due process rights.

(6) The ALC improperly dismissed his claim, which, according to Appellant occurred on August 22, 2024, because the ALC allegedly failed to consider Appellant's filings.

*(Id. at p. 1-2.)*

In his opening brief, in the section labeled "IV. Legal Argument," Appellant offers four (4) purported arguments. He alleges that (1) "[R]espondents' submission lacked a proper legal brief and failed to meet the requirements of SCALC Rule 37(B)"; (2) Respondents submitted affidavits "contain[ing] false statements," which he alleges violated Rule 11(b)(3); (3) his motion for summary judgment, filed before the ALC, was improperly denied because "[R]espondents failed to provide substantive legal arguments or factual disputes" to that motion; and (4) he experienced "serious procedural mismanagement" of his case because the ALC provided him 15 days to respond to

Respondents' initial motion to dismiss, filed with the ALC, and that those delays purportedly prejudiced his case. (*Id.* at 3-4.)

This Court issued a deficiency letter to Appellant on September 24, 2024, which requested clarification from Appellant "on the date of the order challenged on appeal," and which provided ten (10) days for Appellant to address the deficiency identified. (Court of Appeals Deficiency Letter, issued September 24, 2024). On October 7, 2024, Appellant filed a correction to his Notice of Appeal and Proof of Service, which provides that Appellant "appeals the decision of the Honorable Ralph King Anderson III dated August 22, 2024." (Appellant Second Notice of Appeal).

On October 15, 2024, the Court issued a second deficiency letter to Appellant which provides that Appellant's "initial brief is not accompanied by a designation of matter to be included in the record on appeal," and provided Appellant ten (10) days to correct the deficiency identified. (Court of Appeals Second Deficiency Letter, issued October 15, 2024). Appellant filed his Designation of matter on November 14, 2024. (Appellant Designation of Appeal).

On October 23, 2024, Respondents filed a Joint Motion to Dismiss based on lack of jurisdiction. (Respondents' Joint Motion to Dismiss Lack of Appellate Jurisdiction, filed October 23, 2024). Respondents Motion to Dismiss argued that Appellant's Notice of Appeal was not timely filed because it was filed more than thirty (30) days after the final order was issued by the ALC and his untimely Motion for Rehearing did not stay the period of time to file a notice of appeal with this Court. (*See e.g., Id.*)

On November 1, 2024, Appellant filed a Motion to Vacate Dismissal in response to Respondents' Motion to Dismiss. (Appellant's Motion to Vacate Dismissal, filed November 1, 2024). On November 8, 2024, Respondents filed a Joint Reply to Appellant's Motion to Vacate. (Respondents' Joint Reply to Appellant's Motion to Vacate, filed November 8, 2024.) On November 18, 2024, Appellant filed a Surreply to Respondents Reply. (Appellant's Surreply, filed November 18, 2024). On December 30, 2024, this Court issued an Order denying Respondents' Motion to Dismiss without prejudice to Respondents presenting the arguments in Respondents' Brief(s).

### **STANDARD OF REVIEW**

The South Carolina Department of Employment and Workforce is an agency governed by the Administrative Procedures Act ("APA"). *See Gibson v. Florence Country Club*, 282 S.C. 384, 386, 318 S.E.2d 365, 367 (1984) (finding DEW's predecessor, the Employment Security Commission, subject to the APA). Under the APA:

The review of the administrative law judge's order must be confined to the record. The court may not substitute its judgement for the judgement of the administrative law judge as to the weight of the evidence on questions of fact. The court of appeals may affirm the decision or remand the case for further proceedings; or, it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-610(C) (Supp. 2024).

“The decision of the Administrative Law Court should not be overturned unless it is unsupported by substantial evidence or controlled by some error of law.” *Original Blue Ribbon Taxi Corp. v. S.C. Dept. of Motor Vehicles*, 380 S.C. 600, 604, 670 S.E.2d 674, 676 (Ct. App. 2008). “The ALC judge’s order should be affirmed if supported by substantial evidence in the record.” *Id.* “Substantial evidence, when considering the record as a whole, would allow reasonable minds to reach the same conclusion as the Administrative Law Court and is more than a scintilla of evidence.” *Id.* at 605, 670 S.E.2d at 676. “The mere possibility of drawing two inconsistent conclusions from the evidence does not prevent a finding from being supported by substantial evidence.” *Id.* at 605, 670 S.E.2d at 677.

### ARGUMENTS

**I. This Court lacks appellate jurisdiction over this case because Appellant’s Notice of Appeal was not timely filed from the July 29, 2024, Order of Dismissal.**

This Court lacks jurisdiction over this appeal because Plaintiff’s Motion for Rehearing was untimely and therefore did not stay the deadline for Appellant to initiate this appeal, and Plaintiff filed his Notice of Appeal more than thirty days after the ALC issued its order dismissing Appellant’s appeal.

“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) (emphasis added); *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. 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. 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). It is undisputed that Appellant filed his Notice of Appeal with this Court on September 23, 2024, and served that Notice of Appeal on Respondents on September 23, 2024. Appellant therefore filed his Notice of Appeal more than forty (40) days after the **latest** date from which he had notice of the ALC's final order dismissing his case and served that notice even later.

While Appellant filed a Motion for Rehearing with the ALC, that motion was deemed untimely by the ALC on August 22, 2024. Since 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).

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 the requisite notice of 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).

Appellant also failed to timely address the procedural deficiencies identified by this Court. On October 15, 2024, this Court issued a second Deficiency Letter to Appellant, in

which the Court directed Appellant to correct deficiencies in his filings and to do so within ten (10) days of the date of that letter. The October 15th letter provides that this Court would dismiss this action if Appellant failed to timely correct the identified deficiencies. More than ten (10) days passed before Appellant made any attempt to correct the deficiencies identified in this Court's October 15th letter.

Appellant's failure to comply with this Court's directives should not be excused as Appellant, even as a *pro se* litigant, has access to and in fact **has used** the electronic filing procedures available for proceedings before this Court. Given Appellant's failure to comply with this Court's directives, dismissal of this action is entirely proper.

## **II. The Two Issue Rule Dictates that this Appeal Should be Dismissed.**

"Under the two issue rule, where a decision is based on more than one ground, the appellate court will affirm unless the appellant appeals all grounds because the unappealed ground will become the law of the case." *Jones v. Lott*, 387 S.C. 339, 347, 692 S.E.2d 900, 903 (2010). "[A]n unchallenged ruling, **right or wrong**, is the law of the case and requires affirmance." *Id.* (citing *First Union Nat'l Bank of S.C. v. Soden*, 333 S.C. 554, 566, 511 S.E. 2d 372, 378 (Ct.App.1998)) (emphasis added).

With respect to the ALC's order dismissing Appellant's appeal of the decision concerning his application for UI benefits, Appellant has **not** offered any argument that the ALC's conclusions regarding Appellant's deficient filings are incorrect. Nothing in Appellant's "Response to Record on Appeal" argues that his filings complied with SCALC Rule 37 – as they were required to do – despite the fact that the ALC's order clearly holds that Appellant failed to file a brief that complies with SCALC Rule 37. *See* SCALC Rule

37. Similarly, Appellant's "Response to Record on Appeal" does not argue, nor could Appellant conceivably argue, that his filings with the ALC properly raised any issue on appeal, objection with the Panel's decision, identified the actual relief requested, or offered any legal argument to illustrate that the Panel's decision was incorrect.

In fact, Appellant clearly failed to present any argument – at any stage of this litigation – to refute the initial conclusion of the Department holding that Appellant was disqualified from receiving unemployment benefits for sixteen (16) weeks based on the nature of Appellant's discharged and offered reason(s) for the same. Instead, Appellant's filings have focused on irrelevant issues which bear no relationship to the Department's conclusion regarding Appellant's claim for UI benefits.

Thus, Appellant has utterly failed to raise issue with and appropriately address the entirety of the ALC's holding that Appellant's prior filings (i.e., his initial purported appellate brief and corresponding motion(s)) did not comply with ALC rules and or that he actually presented any other justiciable appellate issue. Given his failure to do so, the ALC's holdings on these issues – that Appellant's purported brief failed to comply with ALC rules and that Appellant failed to file a proper appellate brief presenting an actual appellate issue – is the law of the case and therefore applies here. In that light, this Court should affirm the ALC's holding and therefore dismiss this appeal.

Additionally, Appellant has never addressed the ALC's conclusion that his Motion for Rehearing was untimely. Once again, Appellant's failure to address this holding deems the ALC's holding on the timeliness of his Appellant's Motion for Rehearing the law of the case.

As set forth in Section I., *supra*, because Respondent failed to timely file a request for rehearing, the time for him to file a notice of appeal was not stayed; therefore, Respondent failed to timely file his Notice of Appeal with this Court. This too should be deemed the law of the case and further supports dismissal of this appeal based upon lack of appellate jurisdiction.

**III. The ALC did not err in dismissing Appellant’s appeal for failure to file an Appellant’s Brief.**

As outlined above, the ALC held that Appellant failed to file a brief in accordance with Rule 37(B) of the South Carolina Administrative Law Court Rules (“SCALC”). This conclusion is clearly supported by substantial evidence in the record; therefore, the ALC did not err in dismissing Appellant’s appeal based upon his failure to file an appellate brief with the ALC.

SCALC Rule 37 provides that “[t]he party first **noticing** the appeal shall file an original and one copy of its brief with the Court within thirty (30) days **after** the filing of the Record on Appeal.” SCALC Rule 37(A) (emphasis added). Rule 37 further provides that an appellate brief must contain (1) statement of issue(s) on appeal; (2) statement of the case; (3) argument, including citations to relevant authority; (4) a conclusion; and (5) proof of service. SCALC Rule 37(B).<sup>1</sup> SCALC Rule 38 further provides the ALC with the

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<sup>1</sup> SCALC Rule 37 clearly **does not** contemplate the filing of a brief simultaneously with or before the filing of the Record on Appeal. *See* SCALC Rule 37. Rule 36 of the Rules of Procedure for the Administrative Law Court also **makes no reference** to a brief accompanying the filing of the Record on Appeal. *See* SCALC Rule 36.

authority to dismiss an appeal “for failure to comply with any of the rules of procedure for appeals.” SCALC Rule 38.

In this case, the ALC concluded that Appellant failed to file an appellate brief in compliance with SCALC Rule 37. The ALC specifically held that “although Appellant submitted a document that could be construed as a brief, it is woefully deficient.” (ALC Order Dismissing Appellant’s Appeal at 2). The ALC further concluded that Appellant’s filing, his “Response to Record on Appeal,” “contains none of the information necessary to serve as a brief for the purposes of adjudicating an appeal before this Court.” (*Id.*) Finally, the ALC concluded that Appellant’s brief did:

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.

(*Id.*) A review of Appellant’s filings with the ALC confirms that his filing fails to identify the issues on appeal or any procedural or legal defect in the order denying his claim for UI benefits.

Appellant only filed one document which **could** be construed as a proper appellate brief, his “Response to Record on Appeal.” This filing, the “Response to Record on Appeal,” contains a copy of the Tribunal’s August 11, 2023 decision, two pages of analysis/arguments, and copies of text messages between unidentified individuals and an email drafted by Appellant on November 28, 2023, to the administrative hearing officer who issued the August 11<sup>th</sup> ruling. (Appellant Resp. to Record on Appeal). The Tribunal’s decision obviously is not an appellate brief. Likewise, the text messages and post-hearing

email Appellant included in his filings with the ALC also are not appellate briefs. Indeed, the Tribunal decision, text messages, and post-hearing email clearly do not contain the information required under SCALC Rule 37. (*See id.*)

Thus, the only pages in Appellant’s purported brief that appear to raise any potential appellate issues or present any conceivable legal argument are pages 7-8 of Appellant’s “Response to Record on Appeal.” (*Id.* at pp. 7-8.) However, even those pages lack the details necessary to comply with SCALC Rule 37 and therefore do not constitute an appellate brief under SCALC Rule 37.

Specifically, pages 7-8 of Appellant’s “Response to Record on Appeal” contains five headings: “Descriptive Language; Mary Paige Adams; Evaluation of Actions; Claimant’s Perspective; Findings and Reasoning; and Final Decision.” (*Id.* at pp. 7-8.) The purported analysis under those headings contains no legal authority, lacks legal analysis of the decision rendered by the Tribunal, and does not identify any errors in the conclusions reached by the Tribunal to disqualify Appellant from UI benefits. (*See id.*)

Instead, the text under those headings contains quotes from – what appears to be – the Tribunal’s decision and limited literary critiques of portions of that order and/or specific words in the cited sentences. (*Id.*) For example, Appellant quotes the Tribunal’s conclusions under the section labeled “Findings and Reasoning.” In that section, Appellant offers the following statement “[t]he term “disregard” is strong and negative, suggesting willful negligence.” (*Id.* at p. 7.) Appellant offers nothing further in the way of analysis of the Tribunal’s conclusion; thus, Appellant’s purported “analysis” is in fact no such thing because it contains no legal authority. Furthermore, Appellant’s offered analysis also does

not present any legitimate challenge to the holdings governing his appeal, and Appellant raises no legitimate issue with the conclusions reached by the Tribunal. Moreover, Appellant's purported analysis is wholly irrelevant to any substantive appellate issue which **could** have been presented to the ALC, including, among others, whether the Appellant was properly disqualified from receiving UI benefits.

Appellant follows this same pattern throughout the purported analysis on pages 7-8 of this filing. None of the purported analysis included on those pages, or anywhere in his "Response to Record on Appeal," identifies any legitimate appellate issue or legal authority applicable to the same.

Simply put, Appellant's "Response to Record on Appeal" does not identify any issue on appeal, present any legal authority supporting his supposed appeal, and it also lacks any actual argument on why the Tribunal's decision was incorrect or any authority to support the same. Given the obvious defects in Appellant's "Response to Record on Appeal," there is no doubt that he clearly failed to file an appellate brief that complies with SCALC Rule 37(B). Thus, the ALC properly dismissed Appellant's appeal.

Appellant's Response to Respondents' Motion to Dismiss also presents no actual opposition to Respondents' argument that Appellant failed to file a brief in compliance with SCALC Rule 37(B). Instead, Appellant mistakenly argues that the Record on Appeal "fails to meet the essential requirements of appellate brief[s] as outlined in SCALC Rules

37 and Rule 38.” (Appellant’s Resp. to Resp. Mot. to Dismiss at p. 2.)<sup>2</sup> This argument is manifestly without merit.

SCALC Rule 36, not Rule 37, applies to the filing of a record on appeal. *See* SCALC Rule 36. Moreover, there is no requirement that an initial appellate brief must be filed with the filing of the record on appeal, and Respondents were under no obligation to do so. *See* SCALC Rules 36, 37. Appellant – as the party noticing the appeal - must **first** file an appellate brief. *See* SCALC Rule 37 (emphasis added). Appellant never did so. Thus, the only substantive argument presented by Appellant in opposition to Respondents’ Motion to Dismiss is based entirely upon an erroneous interpretation of the relevant rules of procedure and is completely baseless.

Given the arguments presented by Respondent and his deficient filings, the ALC did not err in dismissing Appellant’s appeal for failure to file an Appellant’s Brief in compliance with SCALC Rule 37(B). Therefore, this Court should affirm the ALC’s decision dismissing Appellant’s appeal.

#### **IV. Appellant’s Remaining Issues on Appeal are Manifestly without Merit.**

Although this Court can dispose of this case without addressing Appellant’s remaining issues on appeal, Appellant raised the following additional issues as purported issues on appeal: (1) alleged misleading affidavits filed by Respondents; (2) the ALC’s purported failure to address Appellant’s motions; and (3) the reassignment of his appeal to Chief Judge Ralph King Anderson. None of these purported issues are legitimate appellate

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<sup>2</sup> This document is included as “Ex. D” to Plaintiff’s Notice of Appeal.

issues, nor are they relevant to the question at hand, whether the ALC properly dismissed Appellant's appeal of the Tribunal denying his claim for UI benefits. Thus, each of these issues is manifestly without merit.

First, Appellant's argument regarding previously filed affidavits is entirely without merit. Respondents previously filed affidavits in support of their Motion to Dismiss for Lack of Jurisdiction, which was filed in the ALC on December 8, 2023. The ALC ultimately denied that Motion, and, in doing so, did not find that any of the affidavits submitted by Respondent contained any false or misleading statements.<sup>3</sup> (*See* ALC Order Denying Respondents' Joint Motion to Dismiss filed April 29, 2024.) Appellant's arguments concerning these affidavits therefore is manifestly without merit.

Second, Appellant's argument that the ALC failed to consider his motions is entirely incorrect. Appellant claims that the ALC failed to address his response to Respondents' Motion to Dismiss, filed on July 8, 2024, his motion seeking clarification of the Record on Appeal, his motion for summary judgment, and his (numerous) motions for sanctions. Notably, the ALC expressly referenced Appellant's Response to the Motion to Dismiss in its order dismissing the Appellant's appeal regarding the denial of his UI benefits. (*See* ALC Order Dismissing Appellant's Appeal at 1.) Appellant's purported request "for clarification of the respondents' disorganized submission" reiterates the same arguments

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<sup>3</sup> The ALC denied this motion even though the ALC previously noted that it had no information demonstrating that Bridgestone had been properly served and even though Appellant never responded to the motion. Even so, the ALC's ruling on this motion obviously benefited Appellant contrary to his claims.

as his response in opposition to Respondents' Motion to Dismiss. Again, the ALC considered those issues and found no merit with any of those issues.

More importantly, the filing addressed in the motion, the Record on Appeal filed with the ALC, is self-explanatory, concise, and organized and further comports with ALC rules. Thus, no clarification of the Record on Appeal was necessary, which confirms that Appellant's claims related to the ALC's consideration of his prior filings is manifestly without merit.

Similarly, Appellant's argument that he was entitled to summary judgment misapprehends both the appellate process and ALC rules. Thus, Appellant's argument that the ALC's denial of his Motion for Summary judgment constitutes reversible error is also manifestly without merit.

Furthermore, Appellant's repetitive requests for sanctions also lack merit. Appellant incorrectly argues that the ALC did not consider his request for sanctions. It did, and the ALC denied that motion. This Court likewise denied an identical request for sanctions. Appellant has repeatedly sought sanctions against Respondents without any legitimate basis for that relief. Critically, Respondents have been forced to respond to each of Appellant's requests for sanctions, even though they lack merit. This conduct clearly is improper and furthermore confirms that Appellant's requests for sanctions all lack merit.

Third, Appellant identifies the reassignment of his case from Judge Milton Kimpson to Chief Judge Anderson as a purported issue on appeal. The ALC reassigned Appellant's case to Chief Judge Anderson after Judge Milton Kimpson was elected to serve on the South Carolina Circuit Court bench. (ALC Order Reassigning the Case to Chief Judge

Anderson issued May 30, 2024.)<sup>4</sup> There is no improper purpose in this reassignment, and, importantly, Appellant's case was assigned to the **chief judge** for the Administrative Law Court, who undoubtedly possesses the competency to adjudicate Appellant's claim(s). Therefore, this issue also is manifestly without merit.

### **CONCLUSION**

Respondents respectfully submit that this Court lacks jurisdiction over this appeal based upon Appellant's failure to timely file the Notice of Appeal. Secondly, the two issue rule warrants affirmance because the unappealed ruling that Appellant failed to file a proper brief at the ALC, thus violating ALC Rules, is the law of the case. Furthermore, even if this Court has jurisdiction over this matter, there is no reversible error in the ALC's decision dismissing Appellant's appeal. Finally, all of the remaining issues raised in Appellant's initial brief are manifestly without merit. This Court therefore should affirm the ALC decision dismissing Appellant's appeal.

Respectfully Submitted,



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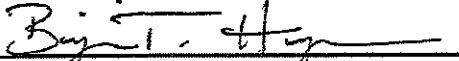
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March 12, 2025

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<sup>4</sup> This document is included in as Ex. M to Plaintiff's Notice of Appeal.

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